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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**HOUSE BILL**

**No. 2188** Session of  
2008

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JANUARY 23, 2008

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REFERRED TO COMMITTEE ON URBAN AFFAIRS, JANUARY 23, 2008

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AN ACT

1 Providing for court-appointed conservators to bring residential,  
2 commercial and industrial buildings into municipal code  
3 compliance when owners fail to comply.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Abandoned and  
8 Blighted Property Conservatorship Act.

9 Section 2. Legislative findings and purpose.

10 The General Assembly finds and declares that:

11 (1) Pennsylvanian's older communities are important to  
12 the Commonwealth's economic health by providing a focal point  
13 for businesses and services and to this Commonwealth's  
14 quality of life with its rich histories and diverse  
15 communities. However, many older communities suffer from  
16 blighted properties that have been abandoned by their owners.

1           (2) Many citizens of this Commonwealth are adversely  
2 affected by abandoned and blighted residential, commercial  
3 and industrial properties, including those citizens who live  
4 in proximity to such substandard buildings as well as those  
5 who own property in the vicinity of such buildings.

6           (3) Substandard, deteriorating and abandoned  
7 residential, commercial and industrial structures are a  
8 public safety threat and nuisance and their blighting effect  
9 diminishes property values in the communities in which these  
10 properties are located.

11           (4) If these buildings are not rehabilitated, they are  
12 likely to remain abandoned and further deteriorate, resulting  
13 in increased costs to the Commonwealth, municipality and  
14 taxpayers to secure and ultimately demolish them.

15           (5) Providing a mechanism to transform abandoned and  
16 blighted buildings into productive reuse is an opportunity  
17 for communities to modernize, revitalize and grow and to  
18 improve the quality of life for neighbors who are already  
19 there.

20           (6) If the owner of a residential, commercial or  
21 industrial building fails to maintain the property in  
22 accordance with applicable municipal codes or standards of  
23 public welfare or safety, it is in the best interests of the  
24 Commonwealth, the municipality and the community for the  
25 court, pursuant to the provisions of this act, to appoint a  
26 conservator to make the necessary improvements before the  
27 building deteriorates further and necessitates demolition,  
28 resulting in the removal of the building from the housing  
29 supply or prohibiting future productive economic use.

30 Section 3. Definitions.

1 The following words and phrases when used in this act shall  
2 have the meanings given to them in this section unless the  
3 context clearly indicates otherwise:

4 "Building." A residential, commercial or industrial building  
5 or structure and the land appurtenant thereto.

6 "Code." A building, housing, property maintenance, fire,  
7 health or other public safety ordinance enacted by a  
8 municipality.

9 "Competent entity." A person or entity, including a  
10 governmental unit with experience in the rehabilitation of  
11 residential, commercial or industrial buildings and the ability  
12 to provide or obtain the necessary financing for such  
13 rehabilitation.

14 "Cost of rehabilitation." Costs and expenses for  
15 construction, stabilization, rehabilitation or demolition,  
16 including reasonable nonconstruction costs associated with the  
17 project, including, but not limited to, environmental  
18 remediation, architectural, engineering and legal fees, permits,  
19 financing fees and a developer's fee consistent with the  
20 standards for developers' fees established by the Pennsylvania  
21 Housing Finance Agency.

22 "Court." The appropriate court of common pleas.

23 "Nonprofit corporation." A nonprofit corporation that has as  
24 one of its purposes community development activities, including  
25 economic development or the promotion or enhancement of  
26 affordable housing opportunities.

27 "Owner." The holder or holders of title to, or of a legal or  
28 equitable interest in, a residential, commercial or industrial  
29 building. The term shall include an heir, assign, trustee,  
30 beneficiary and lessee provided the ownership interest is a

1 matter of public record.

2 "Party in interest." A person or entity who has a direct and  
3 immediate interest in a residential, commercial or industrial  
4 building, including:

5 (1) The owner.

6 (2) A lienholder and other secured creditor of the  
7 owner.

8 (3) A resident or business owner within 500 feet of the  
9 building.

10 (4) A nonprofit corporation within the municipality  
11 where the building is located, including a redevelopment  
12 authority.

13 (5) A municipality or school district in which the  
14 building is located.

15 "Public nuisance." A property that, because of physical  
16 condition or use, has been declared a public nuisance in  
17 accordance with the local housing, building, health, fire or  
18 related code or is determined to be a public nuisance by the  
19 court.

20 Section 4. Initiation of action.

21 (a) Filing of petition.--A petition for the appointment of a  
22 conservator to take possession and to undertake the  
23 rehabilitation of a building may be filed by a party in interest  
24 in a court in the county in which the building is located.

25 (b) Contents.--The petition submitted to the court shall  
26 include a concise statement of the reasons a conservator should  
27 be appointed and, to the extent available to the petitioner:

28 (1) A copy of any citation charging the owner with being  
29 in violation of municipal code requirements or declaring the  
30 building to be a public nuisance.

1           (2) A recommendation as to which person or entity should  
2 be appointed conservator.

3           (3) A preliminary plan with initial cost estimates for  
4 rehabilitation of the building to bring it into compliance  
5 with all municipal codes and duly adopted plans for the area  
6 in which the building is located and anticipated funding  
7 sources.

8           (c) Notification of owner and lienholders.--

9           (1) Upon filing the petition with the court, the  
10 petitioner shall notify the current owner of the property and  
11 all lienholders of the filing by registered or certified mail  
12 to the last known address of each and by posting a copy of  
13 the notice on the building.

14           (2) In the event the registered or certified mail is  
15 returned with notation by the postal authorities that the  
16 recipient refused to accept the mail, the petitioner may mail  
17 a copy to the recipient at the same address by ordinary mail  
18 with the return address of the petitioner appearing thereon.

19           (3) Service by ordinary mail shall be presumed complete  
20 if the mail is not returned to the petitioner within 15 days  
21 after mailing.

22           (4) In the event the registered or certified mail is  
23 returned with the notation by the postal authorities that it  
24 was unclaimed, the notice shall be personally served.

25           (5) In the event that the personal service is not able  
26 to be made after two such attempts, then the petitioner shall  
27 mail the petition to the recipient at the same address by  
28 ordinary mail with the return address of the petitioner  
29 appearing thereon with service by ordinary mail deemed  
30 complete if the mail is not returned to the petitioner within

1 15 days after the mailing.

2 (6) The petitioner shall also notify the owner and each  
3 lienholder of the hearing date and provide notice that the  
4 owner and lienholders may petition to intervene in the  
5 action.

6 Section 5. Appointment of conservator.

7 (a) General rule.--The court shall act upon a petition  
8 submitted by holding a hearing within 90 days of receipt of the  
9 petition and rendering a decision no later than 30 days after  
10 completion of the hearing.

11 (b) Intervention.--Subject to the court's discretion, a  
12 party in interest may intervene in the proceeding and be heard  
13 with respect to the petition, the requested relief or any other  
14 matter which may come before the court in connection with the  
15 proceeding.

16 (c) Hearing.--At the hearing, any party in interest shall be  
17 permitted to present evidence to support or contest the  
18 petition.

19 (d) Conditions for conservatorship.--If a petition is filed  
20 under section 4, the court may appoint a conservator if the  
21 building has not been legally occupied for at least the previous  
22 12 months, has not been actively marketed during the 60 days  
23 prior to the date of the petition and the court finds at least  
24 two of the following:

25 (1) The building or physical structure is a public  
26 nuisance.

27 (2) The building is in need of substantial  
28 rehabilitation and no rehabilitation has taken place during  
29 the previous 12 months.

30 (3) The building is unfit for human habitation,

1 occupancy or use.

2 (4) The condition and vacancy of the building materially  
3 increases the risk of fire to the building and to adjacent  
4 properties.

5 (5) The building is subject to unauthorized entry  
6 leading to potential health and safety hazards and:

7 (i) the owner has failed to take reasonable and  
8 necessary measures to secure the building; or

9 (ii) the municipality has secured the building in  
10 order to prevent such hazards after the owner has failed  
11 to do so.

12 (6) The property is an attractive nuisance to children,  
13 including, but not limited to, the presence of abandoned  
14 wells, shafts, basements, excavations and unsafe structures.

15 (7) The presence of vermin or the accumulation of  
16 debris, uncut vegetation or physical deterioration of the  
17 structure or grounds has created potential health and safety  
18 hazards and the owner has failed to take reasonable and  
19 necessary measures to remove the hazards.

20 (8) The dilapidated appearance or other condition of the  
21 building negatively affects the economic well-being of  
22 residents and businesses in close proximity to the building,  
23 including decreases in property value and loss of business,  
24 and the owner has failed to take reasonable and necessary  
25 measures to remedy appearance or the condition.

26 (e) Appointment.--

27 (1) If the court determines after a hearing that the  
28 property has met the conditions of subsection (d), the court  
29 may appoint a conservator and grant such other relief as may  
30 be just and appropriate.

1           (2) The court may appoint a nonprofit corporation or  
2 other competent entity. In appointing a conservator, the  
3 court shall consider any recommendations contained in the  
4 petition or otherwise presented by a party in interest.

5           (f) Conditional relief.--

6           (1) If the court finds after a hearing that the  
7 conditions for conservatorship set forth in subsection (d)  
8 have been established, but the owner represents that the  
9 violations or nuisance or emergency condition will be abated  
10 in a reasonable period, the court may allow the owner to  
11 proceed to remedy the conditions.

12           (2) If the conditions set forth in paragraph (1) have  
13 been satisfied, the court shall enter an order providing  
14 that, in the event that the violations or nuisance or  
15 emergency conditions are not abated by the owner by a  
16 specific date or that other specified remedial activities  
17 have not occurred by a specific date or dates, an order  
18 granting the relief requested in the petition shall be  
19 entered.

20           (3) The court may also require the owner to post a bond  
21 in the amount of the repair costs estimated in the petition  
22 as a condition to retaining possession of the building.

23           (g) Hearing on conservator's final plan for abatement.--At  
24 the time the court appoints a conservator, the court shall set a  
25 date for hearing on the conservator's final plan for abatement  
26 to be held within 120 days.

27           (h) Conservator's lien.--The conservator shall file a lien  
28 against the property in an amount based on the estimated costs  
29 to be incurred during the conservatorship. The lien amount may  
30 be adjusted from time to time.



1 (i) Immediate possession.--The conservator shall promptly  
2 take possession of the building and other property subject to  
3 the conservatorship and shall immediately be authorized to  
4 exercise all powers of this act.

5 (j) Removal by court.--A conservator may be removed by the  
6 court at any time upon the request of the conservator or upon a  
7 showing by a party to the action that the conservator is not  
8 carrying out its responsibilities under this act.

9 Section 6. Powers and duties of conservator.

10 (a) Full powers and duties.--The conservator shall have all  
11 powers and duties necessary or desirable, from time to time, for  
12 the efficient operation, management and improvement of the  
13 building in order to bring it into compliance with all municipal  
14 building and housing code requirements and to fulfill the  
15 conservator's responsibilities under this act. Such powers and  
16 duties shall include, but not be limited to, the power to:

17 (1) Take possession and control of the building,  
18 appurtenant land and any personal property of the owner used  
19 with respect to the building, including any bank or operating  
20 account for the building.

21 (2) Collect outstanding accounts receivable.

22 (3) Pursue all claims or causes of action of the owner  
23 with respect to the building and all other property subject  
24 to the conservator.

25 (4) Contract for the repair and maintenance of the  
26 building. The contracts shall be appropriately documented and  
27 included in the reports and accounting which the consevator  
28 is required to submit or file under the provisions of this  
29 act.

30 (5) Borrow money and incur credit in accordance with

1 section 8.

2 (6) Contract and pay for the maintenance and restoration  
3 of utilities to the building.

4 (7) Purchase materials, goods and supplies to accomplish  
5 repairs and operate the building.

6 (8) With the court's approval, enter into new rental  
7 contracts and leases for a period not to exceed one year.

8 (9) Affirm, renew or enter into contracts providing for  
9 insurance coverage on the building.

10 (10) Engage and pay legal, accounting, appraisal and  
11 other professionals to aid the conservator in the conduct of  
12 the conservatorship.

13 (11) Apply for and receive public grants or loans.

14 (12) Sell the building in accordance with section 9.

15 (13) Exercise all authority that an owner of the  
16 building would have to improve, maintain and otherwise manage  
17 the building.

18 (b) Affirmative duty.--While in possession of the building,  
19 the conservator shall:

20 (1) Maintain, safeguard and insure the building.

21 (2) Apply all revenue generated from the building  
22 consistent with the provisions of this act.

23 (3) Develop a final plan for abatement of the conditions  
24 which caused the petition to be granted or, if no such  
25 feasible final plan can be developed, to develop  
26 alternatives, including the closing, sealing or demolition of  
27 all or part of the building.

28 (4) Implement the final plan referred to in paragraph

29 (3) upon approval by the court.

30 (5) Submit a status report to the court and parties to

1 the action annually or more frequently as the court may deem  
2 appropriate. The status report shall include:

3 (i) A copy of any contract entered into by the  
4 conservator regarding the improvement of the building.

5 (ii) An account of the disposition of all revenue  
6 generated from the building.

7 (iii) An account of all expenses and improvements.

8 (iv) The status of developing and implementing the  
9 final plan pursuant to this subsection.

10 (v) A description of any proposed actions to be  
11 taken in the next six months to improve the building.

12 (c) Submission of final plan.--

13 (1) The final plan referred to under subsection (b)(3)  
14 shall be submitted to the court and to all parties to the  
15 action.

16 (2) After notice and an opportunity for a hearing, the  
17 court may amend the final plan.

18 (d) Accounting.--Upon the implementation of the final plan  
19 approved by the court, the conservator shall file with the court  
20 a full accounting of all income and expenditures during the  
21 period of time it took to implement the final plan.

22 Section 7. Ownership of property.

23 (a) Ownership interest of conservator.--A conservator  
24 appointed under section 5 shall be deemed to have an ownership  
25 interest in and legal control of the property for the purposes  
26 of filing plans with public agencies and boards, seeking and  
27 obtaining construction permits and other approvals and  
28 submitting applications for financing or other assistance to  
29 public or private entities.

30 (b) Liability of owner.--Notwithstanding the appointment of

1 a conservator under section 5, nothing in this act shall be  
2 construed to relieve the owner of any civil or criminal  
3 liability or of any obligation to pay taxes, municipal liens and  
4 charges, mortgages, private liens or other fees or charges,  
5 whether incurred before or after the appointment of the  
6 conservator.

7 Section 8. Incurring indebtedness.

8 (a) Borrowing.--From time to time a conservator may borrow  
9 money or incur indebtedness in order to cover the cost of  
10 rehabilitation, improve, preserve, insure, manage or operate the  
11 building or to otherwise fulfill the conservator's obligations  
12 under this act.

13 (b) Liens.--In order to facilitate the borrowing of funds  
14 for the rehabilitation of the building, the court may grant a  
15 lien or security interest with priority over all other liens  
16 with the exception of municipal or other governmental liens,  
17 provided, however, that prior to granting a priority lien, the  
18 court has found that:

19 (1) The conservator sought to obtain the necessary  
20 financing from the senior lienholder, but the lienholder  
21 declined to provide financing on reasonable terms.

22 (2) Lien priority is necessary in order to induce  
23 another lender to provide financing on reasonable terms.

24 Section 9. Sale of property.

25 (a) Sale by owner or lienholder.--If a property subject to  
26 conservatorship is sold by the owner or foreclosed upon by a  
27 lienholder or if any interest therein is transferred, such sale,  
28 foreclosure or transfer shall be subject to the conservatorship.

29 (b) Sale by conservator.--Upon application of the  
30 conservator, the court may order the sale of the property if the

1 court finds that:

2 (1) Notice was given to each record owner of the  
3 building and each lienholder of record.

4 (2) The conservator has been in control of the building  
5 for more than six months and the owner has not successfully  
6 petitioned to terminate the conservatorship under section 10.

7 (c) Sale free and clear.--

8 (1) The court may authorize the conservator to sell the  
9 building free and clear of all liens, claims and  
10 encumbrances, provided that the proceeds of the sale are  
11 distributed pursuant to subsection (d) at settlement.

12 (2) In the event that the proceeds of the sale are  
13 insufficient to pay all existing liens, claims and  
14 encumbrances, the proceeds shall be distributed according to  
15 the priorities set forth in subsection (d) and all unpaid  
16 liens, claims or encumbrances shall be extinguished.

17 (d) Distribution.--The proceeds of the sale shall be applied  
18 in accordance with the following priorities to:

19 (1) All court costs.

20 (2) Municipal or other governmental liens.

21 (3) Costs and expenses of sale.

22 (4) Principal and interest on any borrowing or  
23 incurrence of indebtedness granted priority over existing  
24 liens and security interest under section 8(b).

25 (5) Costs of rehabilitation and any fees and expenses  
26 incurred by the conservator in connection with the sale or  
27 the safeguarding, insuring or maintaining of the property.

28 (6) Valid liens and security interests in accordance  
29 with their priority.

30 (7) Any unpaid obligations of the conservator.

1 (8) Costs incurred by the petitioner in requesting the  
2 court to place the property in conservatorship.

3 (9) The owner.

4 Section 10. Termination of conservatorship.

5 Upon request of a party in interest or the conservator, the  
6 court may order the termination of the conservatorship if it  
7 determines:

8 (1) the conditions that were the grounds for the  
9 petition and all other code violations have been abated or  
10 corrected, the obligations, expenses and improvements of the  
11 conservatorship, including all fees and expenses of the  
12 conservator, have been fully paid or provided for and the  
13 purposes of the conservatorship have been fulfilled;

14 (2) the owner, mortgagee or lienholder has requested the  
15 conservatorship be terminated and has provided adequate  
16 assurances to the court that the conditions that constituted  
17 grounds for the petition will be promptly abated, all  
18 obligations, expenses and improvements of the  
19 conservatorship, including all fees and expenses of the  
20 conservator, have been fully paid or provided for and the  
21 purposes of the conservatorship have been fulfilled;

22 (3) the building has been sold by the conservator and  
23 the proceeds distributed in accordance with section 9(d); or

24 (4) the conservator has been unable after diligent  
25 effort to present a plan that could be approved under section  
26 6(b)(3) or implement a previously approved plan or, for any  
27 reason, the purposes of the conservatorship cannot be  
28 fulfilled.

29 Section 11. Effective date.

30 This act shall take effect in 90 days.