

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL**No. 2188** Session of
2008

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LENTZ, PAYTON, WAGNER AND MOYER, JANUARY 23, 2008

AS REPORTED FROM COMMITTEE ON URBAN AFFAIRS, HOUSE OF
REPRESENTATIVES, AS AMENDED, MAY 6, 2008

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

1 blighted properties that have been abandoned by their owners.

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

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

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

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

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

1 Section 3. Definitions.

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

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

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

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

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

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

24 "HISTORIC PROPERTY." A PROPERTY WHICH IS LISTED ON THE
25 NATIONAL REGISTER OF HISTORIC PLACES OR IS A CONTRIBUTING
26 PROPERTY IN A NATIONAL REGISTER HISTORIC DISTRICT OR IS LOCATED
27 IN A LOCAL GOVERNMENT ORDINANCE HISTORIC DISTRICT.

28 "IMMEDIATE FAMILY." A PARENT, SPOUSE, CHILD, BROTHER OR
29 SISTER.

30 "Nonprofit corporation." A nonprofit corporation that has as

1 one of its purposes community development activities, including
2 economic development, HISTORIC PRESERVATION or the promotion or ←
3 enhancement of affordable housing opportunities.

4 "Owner." The holder or holders of title to, or of a legal or
5 equitable interest in, a residential, commercial or industrial
6 building. The term shall include an heir, ~~assign~~ ASSIGNEE, ←
7 trustee, beneficiary and lessee provided the ownership interest
8 is a matter of public record.

9 "Party in interest." A person or entity who has a direct and
10 immediate interest in a residential, commercial or industrial
11 building, including:

12 (1) The owner.

13 (2) A lienholder and other secured creditor of the
14 owner.

15 (3) A resident or business owner within 500 feet of the
16 building.

17 (4) A nonprofit corporation within the municipality
18 where the building is located, including a redevelopment
19 authority.

20 (5) A municipality or school district in which the
21 building is located.

22 "Public nuisance." A property that, because of physical
23 condition or use, has been declared a public nuisance in
24 accordance with the local housing, building, health, fire or
25 related code or is determined to be a public nuisance by the
26 court.

27 Section 4. Initiation of action.

28 (a) Filing of petition.--A petition for the appointment of a
29 conservator to take possession and to undertake the
30 rehabilitation of a building may be filed by a party in interest

1 in a court in the county in which the building is located. THE <—
2 PROCEEDING ON THE PETITION SHALL CONSTITUTE AN ACTION IN REM.

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

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

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

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

16 (C) NOTICE OF LIS PENDENS.--THE PETITIONER SHALL FILE A <—
17 NOTICE OF LIS PENDENS IN THE OFFICE OF THE RECORDER OF DEEDS FOR
18 THE COUNTY IN WHICH THE PROPERTY IS LOCATED.

19 ~~(e)~~ (D) Notification of owner, POLITICAL SUBDIVISIONS and <—
20 lienholders.--

21 (1) Upon filing the petition with the court, the
22 petitioner shall notify the current owner of the property, <—
23 ALL POLITICAL SUBDIVISIONS IN WHICH THE PROPERTY IS LOCATED
24 and all lienholders of the filing by registered or certified
25 mail to the last known address of each and by posting a copy
26 of the notice on the building.

27 (2) In the event the registered or certified mail is
28 returned with notation by the postal authorities that the
29 recipient refused to accept the mail, the petitioner may mail
30 a copy to the recipient at the same address by ordinary mail

1 with the return address of the petitioner appearing thereon.

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

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

8 (5) In the event that the personal service is not able
9 to be made after two such attempts, then the petitioner shall
10 mail the petition to the recipient at the same address by
11 ordinary mail with the return address of the petitioner
12 appearing thereon with service by ordinary mail deemed
13 complete if the mail is not returned to the petitioner within
14 15 days after the mailing.

15 (6) The petitioner shall also notify the owner and each
16 lienholder of the hearing date and provide notice that the
17 owner and lienholders may petition to intervene in the
18 action.

19 Section 5. Appointment of conservator.

20 (a) General rule.--The court shall act upon a petition
21 submitted by holding a hearing within ~~90~~ 120 days of receipt of <—
22 the petition and rendering a decision no later than 30 days
23 after completion of the hearing.

24 (b) Intervention.--Subject to the court's discretion, a
25 party in interest may intervene in the proceeding and be heard
26 with respect to the petition, the requested relief or any other
27 matter which may come before the court in connection with the
28 proceeding.

29 (c) Hearing.--At the hearing, any party in interest shall be
30 permitted to present evidence to support or contest the

1 petition.

2 (d) Conditions for conservatorship.--If a petition is filed
3 under section 4, the court may appoint a conservator if the <—
4 ~~building has not been legally occupied for at least the previous~~
5 ~~12 months, has not been actively marketed during the 60 days~~
6 ~~prior to the date of the petition and the court finds at least~~
7 ~~two of the following:~~

8 (1) ~~The building or physical structure is a public~~
9 ~~nuisance.~~

10 (2) ~~The building is in need of substantial~~
11 ~~rehabilitation and no rehabilitation has taken place during~~
12 ~~the previous 12 months.~~

13 (3) ~~The building is unfit for human habitation,~~
14 ~~occupancy or use.~~

15 (4) ~~The condition and vacancy of the building materially~~
16 ~~increases the risk of fire to the building and to adjacent~~
17 ~~properties.~~

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

20 (i) ~~the owner has failed to take reasonable and~~
21 ~~necessary measures to secure the building; or~~

22 (ii) ~~the municipality has secured the building in~~
23 ~~order to prevent such hazards after the owner has failed~~
24 ~~to do so.~~

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

28 (7) ~~The presence of vermin or the accumulation of~~
29 ~~debris, uncut vegetation or physical deterioration of the~~
30 ~~structure or grounds has created potential health and safety~~

1 ~~hazards and the owner has failed to take reasonable and~~
2 ~~necessary measures to remove the hazards.~~

3 ~~(8) The dilapidated appearance or other condition of the~~
4 ~~building negatively affects the economic well being of~~
5 ~~residents and businesses in close proximity to the building,~~
6 ~~including decreases in property value and loss of business,~~
7 ~~and the owner has failed to take reasonable and necessary~~
8 ~~measures to remedy appearance or the condition. ALL OF THE~~ <—

9 FOLLOWING APPLY:

10 (1) THE BUILDING HAS NOT BEEN LEGALLY OCCUPIED FOR AT
11 LEAST THE PREVIOUS 12 MONTHS.

12 (2) THE BUILDING HAS NOT BEEN ACTIVELY MARKETED DURING
13 THE 60 DAYS PRIOR TO THE DATE OF THE PETITION.

14 (3) THE BUILDING IS NOT SUBJECT TO AN EXISTING
15 FORECLOSURE ACTION.

16 (4) THE CURRENT OWNER FAILS TO PRESENT SUFFICIENT
17 EVIDENCE THAT HE HAS ACQUIRED THE PROPERTY WITHIN THE
18 PRECEDING SIX MONTHS. THE EVIDENCE SHALL NOT INCLUDE
19 INSTANCES WHERE THE PRIOR OWNER IS A MEMBER OF THE IMMEDIATE
20 FAMILY OF THE CURRENT OWNER, OR WHERE THE CURRENT OR PRIOR
21 OWNER IS A CORPORATION, PARTNERSHIP OR OTHER ENTITY IN WHICH
22 EITHER OWNER OR THE IMMEDIATE FAMILY OF EITHER OWNER HAS AN
23 INTEREST IN EXCESS OF 5%.

24 (5) THE COURT FINDS AT LEAST THREE OF THE FOLLOWING:

25 (I) THE BUILDING OR PHYSICAL STRUCTURE IS A PUBLIC
26 NUISANCE.

27 (II) THE BUILDING IS IN NEED OF SUBSTANTIAL
28 REHABILITATION AND NO REHABILITATION HAS TAKEN PLACE
29 DURING THE PREVIOUS 12 MONTHS.

30 (III) THE BUILDING IS UNFIT FOR HUMAN HABITATION,

1 OCCUPANCY OR USE.

2 (IV) THE CONDITION AND VACANCY OF THE BUILDING
3 MATERIALLY INCREASE THE RISK OF FIRE TO THE BUILDING AND
4 TO ADJACENT PROPERTIES.

5 (V) THE BUILDING IS SUBJECT TO UNAUTHORIZED ENTRY
6 LEADING TO POTENTIAL HEALTH AND SAFETY HAZARDS AND ONE OF
7 THE FOLLOWING APPLIES:

8 (A) THE OWNER HAS FAILED TO TAKE REASONABLE AND
9 NECESSARY MEASURES TO SECURE THE BUILDING.

10 (B) THE MUNICIPALITY HAS SECURED THE BUILDING IN
11 ORDER TO PREVENT SUCH HAZARDS AFTER THE OWNER HAS
12 FAILED TO DO SO.

13 (VI) THE PROPERTY IS AN ATTRACTIVE NUISANCE TO
14 CHILDREN, INCLUDING, BUT NOT LIMITED TO, THE PRESENCE OF
15 ABANDONED WELLS, SHAFTS, BASEMENTS, EXCAVATIONS AND
16 UNSAFE STRUCTURES.

17 (VII) THE PRESENCE OF VERMIN OR THE ACCUMULATION OF
18 DEBRIS, UNCUT VEGETATION OR PHYSICAL DETERIORATION OF THE
19 STRUCTURE OR GROUNDS HAS CREATED POTENTIAL HEALTH AND
20 SAFETY HAZARDS AND THE OWNER HAS FAILED TO TAKE
21 REASONABLE AND NECESSARY MEASURES TO REMOVE THE HAZARDS.

22 (VIII) THE DILAPIDATED APPEARANCE OR OTHER CONDITION
23 OF THE BUILDING NEGATIVELY AFFECTS THE ECONOMIC WELL-
24 BEING OF RESIDENTS AND BUSINESSES IN CLOSE PROXIMITY TO
25 THE BUILDING, INCLUDING DECREASES IN PROPERTY VALUE AND
26 LOSS OF BUSINESS, AND THE OWNER HAS FAILED TO TAKE
27 REASONABLE AND NECESSARY MEASURES TO REMEDY APPEARANCE OR
28 THE CONDITION.

29 (IX) THE PROPERTY IS AN ATTRACTIVE NUISANCE FOR
30 ILLICIT PURPOSES, INCLUDING, PROSTITUTION, DRUG USE AND

1 VAGRANCY.

2 (e) Appointment.--

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

7 (2) THE COURT SHALL GIVE FIRST CONSIDERATION FOR <—
8 APPOINTMENT AS CONSERVATOR TO THE SENIOR LIENHOLDER ON THE
9 PROPERTY.

10 ~~(2) The~~ (3) IN THE EVENT THE SENIOR LIENHOLDER IS FOUND <—
11 TO BE NOT COMPETENT OR DECLINES THE APPOINTMENT, THE court
12 may appoint a nonprofit corporation or other competent
13 entity. In appointing a conservator, the ~~court shall consider~~ <—
14 ~~any recommendations contained in the~~ COURT SHALL: <—

15 (I) CONSIDER ANY RECOMMENDATIONS CONTAINED IN THE
16 petition or otherwise presented by a party in interest; <—
17 AND

18 (II) GIVE PREFERENCE TO THE APPOINTMENT OF A
19 NONPROFIT CORPORATION OR GOVERNMENTAL UNIT OVER AN
20 INDIVIDUAL.

21 (f) Conditional relief.--

22 (1) If the court finds after a hearing that the
23 conditions for conservatorship set forth in subsection (d)
24 have been established, but the owner represents that the
25 violations or nuisance or emergency condition will be abated
26 in a reasonable period, the court may allow the owner to
27 proceed to remedy the conditions.

28 (2) If the conditions set forth in paragraph (1) have
29 been satisfied, the court shall enter an order providing
30 that, in the event that the violations or nuisance or

1 emergency conditions are not abated by the owner by a
2 specific date or that other specified remedial activities
3 have not occurred by a specific date or dates, an order
4 granting the relief requested in the petition shall be
5 entered.

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

9 (g) Hearing on conservator's final plan for abatement.--At
10 the time the court appoints a conservator, the court shall set a
11 date for hearing on the conservator's final plan for abatement
12 to be held within 120 days.

13 (h) Conservator's lien.--The conservator ~~shall~~ MAY file a <—
14 lien against the property in an amount based on the ~~estimated~~ <—
15 costs ~~to be~~ incurred during the conservatorship. The lien amount <—
16 may be adjusted from time to time.

17 (i) Immediate possession.--The conservator shall promptly
18 take possession of the building and other property subject to
19 the conservatorship and shall immediately be authorized to
20 exercise all powers of this act.

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

25 Section 6. Powers and duties of conservator.

26 (a) Full powers and duties.--The conservator shall have all
27 powers and duties necessary or desirable, from time to time, for
28 the efficient operation, management and improvement of the
29 building in order to bring it into compliance with all municipal
30 building and housing code requirements and to fulfill the

1 conservator's responsibilities under this act. Such powers and
2 duties shall include, but not be limited to, the power to:

3 (1) Take possession and control of the building,
4 appurtenant land and any personal property of the owner used
5 with respect to the building, including any bank or operating
6 account for the building.

7 (2) Collect outstanding accounts receivable.

8 (3) Pursue all claims or causes of action of the owner
9 with respect to the building and all other property subject
10 to the conservator.

11 (4) Contract for the repair and maintenance of the
12 building. The contracts shall be appropriately documented and
13 included in the reports and accounting which the ~~consevator~~ <—
14 CONSERVATOR is required to submit or file under the <—
15 provisions of this act.

16 (5) Borrow money and incur credit in accordance with
17 section 8.

18 (6) Contract and pay for the maintenance and restoration
19 of utilities to the building.

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

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

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

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

29 (11) WHEN THE BUILDING HAS BEEN DESIGNATED A HISTORIC <—
30 PROPERTY, CONSULT WITH THE MUNICIPALITY'S HISTORICAL

1 COMMISSION OR BOARD OF HISTORICAL AND ARCHITECTURAL REVIEW, A
2 LOCAL HISTORIC PRESERVATION ORGANIZATION OR, IN THE ABSENCE
3 THEREOF, THE PENNSYLVANIA HISTORICAL AND MUSEUM COMMISSION
4 FOR RECOMMENDATIONS ON PRESERVING THE PROPERTY'S HISTORIC
5 CHARACTER.

6 ~~(11)~~ (12) Apply for and receive public grants or loans. <—

7 ~~(12)~~ (13) Sell the building in accordance with section <—
8 9.

9 ~~(13)~~ (14) Exercise all authority that an owner of the <—
10 building would have to improve, maintain and otherwise manage
11 the building.

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

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

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

17 ~~(3) Develop a final plan for abatement of the conditions~~ <—

18 (3) (I) DEVELOP A FINAL PLAN FOR ABATEMENT OF THE <—
19 CONDITIONS which caused the petition to be granted or, if
20 no such feasible final plan can be developed, to develop
21 alternatives, including the closing, sealing or
22 demolition of all or part of the building.

23 (II) WHEN THE BUILDING HAS BEEN DESIGNATED A <—
24 HISTORIC PROPERTY, REHABILITATE ARCHITECTURAL FEATURES
25 THAT DEFINE THE PROPERTY'S HISTORIC CHARACTER.

26 (III) WHEN DEMOLITION OF A PROPERTY IN A HISTORIC
27 DISTRICT IS NECESSARY, DESIGN ANY REPLACEMENT
28 CONSTRUCTION ON THE SITE TO COMPLY WITH APPLICABLE
29 STANDARDS UNDER CURRENT LAW.

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

1 (3) upon approval by the court.

2 (5) Submit a status report to the court and parties to
3 the action annually or more frequently as the court may deem
4 appropriate. The status report shall include:

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

7 (ii) An account of the disposition of all revenue
8 generated from the building.

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

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

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

14 (c) Submission of final plan.--

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

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

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

24 Section 7. Ownership of property.

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

1 public or private entities.

2 (b) Liability of owner.--Notwithstanding the appointment of
3 a conservator under section 5, nothing in this act shall be
4 construed to relieve the owner of any civil or criminal
5 liability or of any obligation to pay taxes, municipal liens and
6 charges, mortgages, private liens or other fees or charges,
7 whether incurred before or after the appointment of the
8 conservator AND NO SUCH LIABILITY SHALL TRANSFER TO THE ←
9 CONSERVATOR.

10 (C) LIMITATION OF CONSERVATOR'S ENVIRONMENTAL LIABILITY.--

11 (1) NOTWITHSTANDING ANY LAW TO THE CONTRARY, THE
12 CONSERVATOR SHALL NOT BE HELD LIABLE FOR ANY ENVIRONMENTAL
13 DAMAGE TO THE BUILDING OR THE REAL PROPERTY UPON WHICH THE
14 BUILDING IS LOCATED THAT EXISTED PRIOR TO THE APPOINTMENT BY
15 THE COURT OF THE CONSERVATOR.

16 (2) PARAGRAPH (1) DOES NOT APPLY TO THE OWNER OR ANY
17 OTHER PERSON OR ENTITY REGARDING THE BUILDING AND ITS REAL
18 PROPERTY THAT IS SUBJECT TO AN APPOINTED CONSERVATOR UNDER
19 THIS ACT.

20 Section 8. Incurring indebtedness.

21 (a) Borrowing.--From time to time a conservator may borrow
22 money or incur indebtedness in order to cover the cost of
23 rehabilitation, improve, preserve, insure, manage or operate the
24 building or to otherwise fulfill the conservator's obligations
25 under this act.

26 (b) Liens.--In order to facilitate the borrowing of funds
27 for the rehabilitation of the building, the court may grant a
28 lien or security interest with priority over all other liens
29 with the exception of municipal or other governmental liens,
30 provided, however, that prior to granting a priority lien, the

1 court has found that:

2 (1) The conservator sought to obtain the necessary
3 financing from the senior lienholder, but the lienholder
4 declined to provide financing FOR REASONABLE IMPROVEMENTS on <—
5 reasonable terms.

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

8 (C) LIEN STATUS OF REHABILITATION EXPENSES.--SHOULD THE <—
9 SENIOR LIENHOLDER AGREE TO PROVIDE FINANCING FOR THE
10 REHABILITATION ON THE BUILDING, ANY FUNDS LENT TO COVER THE
11 COSTS OF SUCH REHABILITATION SHALL BE DEEMED TO BE ADDED TO THE
12 SENIOR LIENHOLDER'S PREEXISTING FIRST LIEN.

13 Section 9. Sale of property.

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

18 (b) Sale by conservator.--Upon application of the
19 conservator, the court may order the sale of the property if the
20 court finds that:

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

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

26 (c) Sale free and clear.--

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

1 (2) In the event that the proceeds of the sale are
2 insufficient to pay all existing liens, claims and
3 encumbrances, the proceeds shall be distributed according to
4 the priorities set forth in subsection (d) and all unpaid
5 liens, claims or encumbrances shall be extinguished.

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

8 (1) All court costs.

9 (2) Municipal or other governmental liens.

10 (3) Costs and expenses of sale.

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

14 (5) Costs of rehabilitation and any fees and expenses
15 incurred by the conservator in connection with the sale or
16 the safeguarding, insuring or maintaining of the property AND ←
17 FOR WHICH THE LIEN AUTHORIZED UNDER SECTION 5(H) WAS FILED.

18 (6) Valid liens and security interests in accordance
19 with their priority.

20 (7) Any unpaid obligations of the conservator.

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

23 (9) The owner.

24 (E) OWNER'S PROCEEDS AS UNCLAIMED PROPERTY.--IN THE EVENT ←
25 THE OWNER CANNOT BE LOCATED, ANY PROCEEDS FROM THE SALE WHICH
26 BELONG TO THE OWNER SHALL BE PRESUMED TO BE ABANDONED AND
27 UNCLAIMED AND SHALL BE SUBJECT TO THE CUSTODY AND CONTROL OF THE
28 COMMONWEALTH PURSUANT TO ARTICLE XIII.1 OF THE ACT OF APRIL 9,
29 1929 (P.L.343, NO.176), KNOWN AS THE FISCAL CODE.

30 Section 10. Termination of conservatorship.

1 Upon request of a party in interest or the conservator, the
2 court may order the termination of the conservatorship if it
3 determines:

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

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

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

20 (4) the conservator has been unable after diligent
21 effort to present a plan that could be approved under section
22 6(b)(3) or implement a previously approved plan or, for any
23 reason, the purposes of the conservatorship cannot be
24 fulfilled.

25 SECTION 11. INAPPLICABILITY TO SERVICE MEMBERS. ←

26 THIS ACT SHALL NOT BE APPLICABLE IF THE PROPERTY OWNER IS A
27 MEMBER OF THE PENNSYLVANIA NATIONAL GUARD OR OTHER RESERVE
28 COMPONENT OF THE ARMED FORCES OF THE UNITED STATES WHO IS CALLED
29 OR ORDERED TO ACTIVE DUTY, OTHER THAN ACTIVE DUTY FOR TRAINING,
30 AND WHO HAS VACATED THE PROPERTY IN ORDER TO PERFORM THE

1 MILITARY SERVICE.

2 Section ~~11~~ 20. Effective date.

←

3 This act shall take effect in 90 days.