

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2138 Session of
2012

INTRODUCED BY DAVIS, CALTAGIRONE, CRUZ, DALEY, DeLUCA, FREEMAN,
HALUSKA, JOSEPHS, KULA, MAHONEY, MILLARD, PAYTON, SABATINA
AND STURLA, JANUARY 23, 2012

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, JANUARY 23, 2012

AN ACT

1 Providing for foreclosed property maintenance; and imposing
2 penalties.

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

5 Section 1. Short title.

6 This act shall be known and may be cited as the Foreclosed
7 Property Maintenance Act.

8 Section 2. Definitions.

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

12 "Agreement." A municipal maintenance agreement.

13 "Department." The Department of Community and Economic
14 Development of the Commonwealth.

15 "Foreclosed property." Any real property consisting of
16 buildings or grounds that, as a result of default by a purchaser
17 of a financial agreement between a lender and purchaser, has

1 been placed in the legal process by the lender to recover the
2 property.

3 "Foreclosure proceedings." Legal actions taken by a
4 mortgagee under section 403-C of the act of December 3, 1959
5 (P.L.1688, No.621), known as the Housing Finance Agency Law.

6 "Legal occupant." A person renting or leasing a foreclosed
7 property from the owner under a rental or lease contract or a
8 party to a mortgage agreement in which the owner has initiated
9 foreclosure proceedings and allows the occupants to continue to
10 inhabit the foreclosed property during the mitigation process.

11 "Legally occupied." The rental or lease of a foreclosed
12 property by an owner or agreed habitation during the foreclosure
13 mitigation process.

14 "Locally based." Residing within or maintaining one's
15 primary place of business within the same municipality as, or
16 within 20 miles of, the property being registered.

17 "Municipal maintenance agreement." A contractual agreement
18 between an owner or responsible party of a foreclosed property
19 and a municipality in which the owner or responsible party
20 compensates a municipality to maintain the foreclosed property
21 in accordance with section 7(a).

22 "Owner." A person, entity, service company, property
23 manager or real estate broker who alone or severally with
24 others:

25 (1) has legal or equitable title to any dwelling,
26 dwelling unit, mobile dwelling unit or parcel of land, vacant
27 or otherwise, including a mobile home park;

28 (2) has care, charge or control of any dwelling,
29 dwelling unit, mobile dwelling unit or parcel of land, vacant
30 or otherwise, including a mobile home park, in any capacity

including, but not limited to, agent, executor,
administrator, trustee or guardian or holder of legal title;

(3) is a mortgagee in possession of property;

(4) is an officer or trustee of the association of unit
owners of a condominium;

(5) is an operator or proprietor of a rooming house; or

(6) is a trustee who holds, owns or controls mortgage
loans for mortgage-backed securities transactions and has
initiated the foreclosure process.

"Residential property." A property that contains one or more
dwelling units used, intended or designed to be occupied as a
primary residence.

"Responsible party." Any of the following:

(1) a creditor including, but not limited to, service
companies, lenders in a mortgage agreement and any agent,
officer or employee of the mortgagee, or any successor in
interest and assignee of the mortgagee's rights, interests or
obligations under the mortgage agreement;

(2) a party contracted by the owner to manage the
property or to act as an agent for the owner; or

(3) a legal occupant.

"Secure" or "securing." Rendering a property inaccessible to
unauthorized persons and the maintaining of the property or area
surrounding any building, including landscaping and rodent and
pest mitigation.

"Vacant." Not currently legally occupied.

Section 3. Foreclosed property registration.

(a) General rule.--The owner of a foreclosed property shall
register the property with the municipality in which the
property is located within seven calendar days of initiating

1 foreclosure proceedings on an application developed by the
2 department, but provided by the municipality or obtained from
3 the department's Internet website.

4 (b) Registration applications.--Foreclosed property
5 registration applications shall be signed by both the municipal
6 code officer and the owner or responsible party for the
7 foreclosed property. The application shall include the following
8 information:

9 (1) The owner's name, telephone number and a mailing
10 address that is a non-post office box number.

11 (2) The name, telephone number and non-post office box
12 address for a locally based responsible party.

13 (3) Certification that the property was inspected and is
14 secure.

15 (i) If a property is certified as vacant, the owner
16 shall designate and retain a local responsible party to
17 secure and maintain the property. This designation shall
18 include:

19 (A) The responsible party's name.

20 (B) The responsible party's telephone number.

21 (C) The responsible party's local non-post
22 office box mailing address.

23 (D) A plan detailing regular maintenance of the
24 property, including landscaping, rodent and pest
25 mitigation and security checks.

26 (ii) If a property is certified as not vacant or
27 legally occupied, the owner shall provide proof that the
28 property is legally occupied in the form of a rent or
29 lease agreement. Proof is not required if the property is
30 occupied by a party to the mortgage agreement with the

consent of the owner or initiator of foreclosure
proceedings during the foreclosure mitigation process.

(c) Registrations.--Foreclosed property registrations are
valid for one year from the date of the initial filing. An
annual registration fee of \$100 and a certified copy of the deed
to the property shall accompany the registration application.
Subsequent annual registrations and fees are due within 30 days
of the expiration of the previous registration and shall certify
whether the foreclosing or foreclosed property is or remains
vacant.

(d) Municipal notification.--The owner or responsible party
shall notify the municipality within 15 days of closing if the
property is sold, becomes legally occupied or transferred to
another party.

(e) Transfers.--If the property is transferred to another
party, the new party must reregister the property with the
municipality within 15 calendar days of the transfer.

(f) Fees.--Except as provided under section 8(c), all
application fees, fines and penalties shall be payable to the
municipality to be used at the discretion of the municipality.

Section 4. Maintenance requirements.

(a) General rule.--The owner or responsible party of a
foreclosed property shall ensure that the requirements for
securing and maintaining the foreclosed property are satisfied.

(b) Monthly inspection of property.--The owner or
responsible party shall maintain the property on a monthly basis
while the property is vacant.

(c) Adherence to applicable codes.--The owner or responsible
party shall ensure that the foreclosed property is maintained in
accordance with local sanitary codes, building codes and other

1 local laws, ordinances and regulations concerning external and
2 visible maintenance.

3 (d) Securing.--Vacant property shall be secured from outside
4 entry by unauthorized persons or pests. Doors, windows and other
5 avenues for entry shall remain locked, and exterior walls and
6 roofs shall remain intact and without holes.

7 (e) Posting of contact information.--The name and 24-hour
8 contact telephone number of the local responsible party or the
9 owner of the foreclosed property shall be posted on the front
10 door of the property so that it is clearly visible.

11 (f) Temporary securing.--Untreated plywood or similar
12 structural panels or temporary construction fencing may be used
13 to temporarily secure doors, windows and other openings for a
14 maximum period of 14 days.

15 (g) Emergency securing.--The municipality may take steps to
16 immediately secure a vacant property at its discretion in
17 emergency circumstances. If emergency repairs are deemed
18 necessary, the municipality shall receive full reimbursement
19 within 60 days of the completion of the repairs from the owner
20 or responsible party.

21 (h) Fire safety and security systems.--Owners shall do the
22 following in accordance with applicable statutes, codes and
23 ordinances:

24 (1) Owners of nonresidential vacant buildings shall
25 maintain all fire protection systems, appliances and
26 assemblies in operating condition and maintain underwriter
27 laboratories monitoring of all systems.

28 (2) Owners of vacant properties shall remove and
29 properly dispose of all hazardous materials and hazardous
30 refuse that could present a fire hazard or contribute to the

spread of fire as well as all garbage, swill, filth or other waste materials located in or on the vacant property.

(3) Owners of vacant properties shall properly maintain all police protection alarm systems in operating condition.

(i) Plumbing fixtures.--Plumbing fixtures connected to a water system, sewage system or natural gas utility system shall be installed and be maintained in sound condition and good repair or removed and the service terminated in adherence with applicable codes. The water system of a vacant building must be protected against freezing.

(j) Electrical.--Electrical service lines, wiring, outlets and fixtures not installed or maintained in accordance with codes must be repaired, removed or the electrical services terminated in accordance with applicable codes.

(k) Lighting.--Exterior lighting fixtures shall be maintained in good repair, and illumination shall be provided to the building and all walkways in the same manner as provided at the time the building was last legally occupied.

(l) Heating.--Heating systems in vacant buildings shall be removed, rendered inoperable or maintained in accordance with applicable codes.

(m) Termination of utilities.--The following provisions shall apply:

(1) For safety reasons, municipalities may require the termination of utility services to a vacant property, including water, sewer, electricity or gas service.

(2) Prior to the termination of any utility service, the municipality shall provide the owner or responsible party with written notice.

(3) Utility service required to be terminated or

1 disconnected by the municipality shall not be reconnected or
2 restored without prior consent of the municipality.

3 (4) An owner or responsible party may request that
4 utilities be terminated or disconnected as part of a
5 submitted and approved maintenance plan.

6 (5) The municipality may authorize immediate termination
7 of utility services in emergency circumstances.

8 (n) Exterior maintenance.--The owner or responsible party
9 shall comply with all applicable exterior property maintenance
10 statutes, codes and ordinances including, but not limited to,
11 the following:

12 (1) Any and all activity on the property that
13 constitutes a public nuisance shall be eliminated.

14 (2) Vegetation shall be regularly maintained.

15 (3) Abandoned vehicles and vehicles without a valid
16 registration shall be removed from the property.

17 (4) Refuse shall be properly stored and removed from the
18 property.

19 (5) All animals and pests shall be removed from the
20 property.

21 (6) Any diseased, dead or hazardous trees or branches
22 shall be removed from the property.

23 (7) Graffiti shall be removed from the property.

24 (8) Swimming pools shall be maintained in good operating
25 condition, treated to prevent pest harborage or properly
26 drained and emptied. All swimming pools on foreclosed
27 properties shall be secured.

28 Section 5. Inspection responsibilities.

29 The municipal code officials, as defined under the act of
30 November 10, 1999 (P.L.491, No.45), known as the Pennsylvania

1 Construction Code Act, shall have the authority to conduct
2 inspections to ensure compliance with this act.

3 Section 6. Emergency abatement.

4 In addition to the instances listed in section 4, a
5 municipality may authorize immediate abatement of any public
6 nuisance or maintenance item if the municipality deems the
7 property an immediate threat to the public health and safety.

8 Section 7. Municipal maintenance agreement.

9 (a) General rule.--An owner or responsible party may enter
10 into a municipal maintenance agreement, developed by the
11 department and provided by the municipality or on the
12 department's Internet website, with the municipality in which a
13 foreclosed property is located to compensate the municipality
14 for performing the exterior maintenance required under section
15 4(n)(1), (2), (3), (4), (5), (6) or (7) in accordance with
16 applicable statutes, codes and ordinances.

17 (b) Municipal maintenance agreements.--Municipal maintenance
18 agreements shall be signed by both the municipal code officer
19 and the owner or responsible party for the foreclosed property.
20 The agreement shall include the following information:

21 (1) The name, telephone number and non-post office box
22 mailing address.

23 (2) The name, telephone number and non-post office box
24 mailing address for a locally based responsible party.

25 (3) The municipality's responsibilities in accordance
26 with this act.

27 (c) Terms of agreement.--A municipal maintenance agreement
28 is valid for one year from the initial date of filing.

29 Subsequent municipal maintenance agreements must be signed
30 within 30 days of the expiration of the existing agreement.

1 (d) Limitations.--An owner or responsible party entering
2 into a municipal maintenance agreement shall be limited to one
3 registered property per agreement. Nothing may prevent an owner
4 or responsible party from entering into multiple municipal
5 maintenance agreements with a municipality.

6 (e) Fees.--A municipal maintenance agreement shall require
7 the owner or responsible party to pay a fee to the municipality
8 as determined by the municipality.

9 (f) Records and notification.--A municipality shall maintain
10 accurate records of all maintenance work completed in accordance
11 with the municipal maintenance agreement. A municipality shall
12 notify the owner or responsible party of all maintenance work
13 performed in accordance with a municipal maintenance agreement
14 within 15 days of completion.

15 Section 8. Duties of department.

16 (a) General rule.--The department shall create a standard
17 foreclosure registration application and standard municipal
18 maintenance agreement in accordance with this act.

19 (b) Department notification.--The foreclosure registration
20 application and municipal maintenance agreement shall be made
21 available to municipalities and owners or responsible parties by
22 request. A municipality shall submit a copy of each completed
23 registration application to the department within 30 calendar
24 days of receipt of the application from the owner or responsible
25 party.

26 (c) Fees.--Ten percent of the annual registration
27 application fee shall be directed to the department by the
28 municipality for administrative costs incurred under this act.

29 (d) Regulations.--The department may promulgate rules and
30 regulations necessary to administer its duties under this act.

1 Section 9. Public records.

2 The department and municipalities shall retain completed
3 registration applications and municipal maintenance agreements
4 and maintain all records in accordance with the act of February
5 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

6 Section 10. Penalties.

7 (a) Municipal authority.--In addition to the penalties under
8 any other law, a municipality may impose the following fines for
9 violations of this act:

10 (1) A violation of section 3 shall be punishable by a
11 fine of not more than \$500.

12 (2) A violation of section 4 shall be punishable by a
13 fine of not more than \$1,000 for the first offense and no
14 more than an additional \$500 for every five calendar-day
15 period the violation is not reconciled by the owner or
16 responsible party.

17 (b) Limitations.--A municipality shall not fine an owner or
18 responsible party of a foreclosed property for violations of
19 section 4(n)(1), (2), (3), (4), (5), (6) and (7) when a
20 municipal maintenance agreement exists between the municipality
21 and the owner or responsible party of the foreclosed property.

22 Section 11. Effective date.

23 This act shall take effect in 60 days.