
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1430 Session of
2017

INTRODUCED BY TAYLOR, FREEMAN, MILLARD, DRISCOLL, DAVIS, JAMES,
W. KELLER, DAY, V. BROWN, O'BRIEN, SOLOMON, READSHAW,
NEILSON, McCLINTON, BIZZARRO, A. HARRIS AND DeLUCA,
MAY 23, 2017

REFERRED TO COMMITTEE ON URBAN AFFAIRS, MAY 23, 2017

AN ACT

1 Amending the act of November 26, 2008 (P.L.1672, No.135),
2 entitled "An act providing for court-appointed conservators
3 to bring residential, commercial and industrial buildings
4 into municipal code compliance when owners fail to comply,"
5 further providing for definitions, for initiation of action,
6 for appointment of conservator, for powers and duties of
7 conservator, for incurring indebtedness and for sale of
8 property.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. Sections 3, 4(e), 5, 6(a), 8(a) and 9(d)(4.1) of
12 the act of November 26, 2008 (P.L.1672, No.135), known as the
13 Abandoned and Blighted Property Conservatorship Act, are amended
14 to read:

15 Section 3. Definitions.

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

19 "Abandoned property." Any property that meets the
20 requirements of conditions for conservatorship as provided in

1 section 5(d).

2 "Actively marketed." A "for sale" sign has been placed on
3 the property with accurate contact information and the owner has
4 done at least one of the following:

5 (1) engaged the services of a licensee under the act of
6 February 19, 1980 (P.L.15, No.9), known as the Real Estate
7 Licensing and Registration Act, to place the property in a
8 Multiple Listing Service or otherwise market the property;

9 (2) placed weekly or more frequent advertisements in
10 print or electronic media; or

11 (3) distributed printed advertisements.

12 "Building." A residential, commercial or industrial building
13 or structure and the land appurtenant thereto, including a
14 vacant lot on which a building has been demolished.

15 "Code." A building, housing, property maintenance, fire,
16 health or other public safety ordinance enacted by a
17 municipality.

18 "Competent entity." A person or entity, including a
19 governmental unit with experience in the rehabilitation of
20 residential, commercial or industrial buildings and the ability
21 to provide or obtain the necessary financing for such
22 rehabilitation.

23 "Conservator's or developer's fee." A fee equal to the
24 greatest of the following:

25 (1) an amount equal to \$2,500, adjusted upward by 2%
26 each year;

27 [(2) a 20% markup of the costs and expenses for
28 construction, stabilization, rehabilitation, maintenance and
29 operation or demolition as described in the proposed
30 conservator's plan and any subsequent plan approved by the

1 court; or]

2 (2.1) a 20% markup of the actual and final costs and
3 expenses of construction, stabilization, rehabilitation,
4 maintenance, operation and demolition as performed by the
5 conservator;

6 (2.2) a 20% markup of the estimated costs and expenses
7 of construction, stabilization, rehabilitation, maintenance,
8 operation and demolition as provided by the conservator or
9 proposed conservator's plan or, where the conservator or
10 proposed conservator has proposed several plans, the plan
11 recommending the greater scope of remediation; or

12 (3) twenty percent of the sale price of the property or
13 an appraisal obtained by the conservator.

14 "Costs of rehabilitation." Costs and expenses for
15 construction, stabilization, rehabilitation, maintenance and
16 operation or demolition, including reasonable nonconstruction
17 costs associated with the project, including, but not limited
18 to, environmental remediation, architectural, engineering and
19 legal fees and costs, permits, financing fees and a
20 conservator's or developer's fee.

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

22 "Historic property." A property which is listed on the
23 National Register of Historic Places or is a contributing
24 property in a national register historic district or is located
25 in a local government ordinance historic district.

26 "Immediate family." A parent, spouse, child, brother or
27 sister.

28 "Interrelated function." Includes functions not limited to
29 storage, parking, farming or use as a side-yard.

30 "Legal occupation." A condition under which a property or

1 structure is occupied without being designated hazardous and
2 unsafe by the Commonwealth or municipality or is in compliance
3 with the habitability standards of the municipality.

4 "Nonprofit corporation." A nonprofit corporation that has,
5 as one of its purposes, remediation of blight, community
6 development activities, including economic development, historic
7 preservation or the promotion or enhancement of affordable
8 housing opportunities.

9 "Owner." The holder or holders of title to, or of a legal or
10 equitable interest in, a residential, commercial or industrial
11 building. The term shall include an heir, assignee, trustee,
12 beneficiary and lessee provided the ownership interest is a
13 matter of public record.

14 "Party in interest." A person or entity who has a direct and
15 immediate interest in a residential, commercial or industrial
16 building, including:

17 (1) The owner.

18 (2) A lienholder and other secured creditor of the
19 owner.

20 (3) A resident or business owner within 2,000 feet of
21 the building.

22 (4) A nonprofit corporation, including a redevelopment
23 authority, which:

24 (i) except as set forth in subparagraph (ii), [is
25 located] has a residence, office, primary mailing address
26 or registered address with the Bureau of Corporations and
27 Charitable Organizations of the Department of State in
28 the municipality where the building is located; and

29 (ii) for a building located in a city of the first
30 class, [is located] has a residence, office, primary

1 mailing address or registered address with the Bureau of
2 Corporations and Charitable Organizations of the
3 Department of State in the city and has participated in a
4 current or previous project within a five-mile radius of
5 the location of the building.

6 (5) A municipality or school district in which the
7 building is located.

8 "Pending foreclosure." During the pendency of a foreclosure
9 action, action for deficiency judgment, or ejectment action and
10 for two years thereafter.

11 "Public nuisance." A property that, because of physical
12 condition or use, has been declared by the appropriate official
13 a public nuisance in accordance with the local housing,
14 building, health, fire or related code or is determined to be a
15 public nuisance by the court.

16 "Substantial rehabilitation." Repairs to the building where:

17 (1) the cost of repairs, replacements and improvements
18 exceeds 15% of the property's value after completion of all
19 repairs, replacements and improvements; or

20 (2) more than one major building component is being
21 replaced. Major building components include:

- 22 (i) roof structures;
- 23 (ii) ceilings;
- 24 (iii) wall or floor structures;
- 25 (iv) foundations;
- 26 (v) plumbing systems;
- 27 (vi) heating and air conditioning systems; and
- 28 (vii) electrical systems.

29 Section 4. Initiation of action.

30 * * *

1 (e) Adjacent properties.--The petition may include one or
2 more adjacent properties in a single action if:

3 (1) the property that is the primary subject of the
4 action is owned by the same owner as the adjacent property;
5 and

6 (2) either of the following apply:

7 (i) the properties are or were used for a single or
8 interrelated function[.]; or

9 (ii) the adjacent properties independently meet the
10 conditions for appointment of a conservator under this
11 act.

12 Section 5. Appointment of conservator.

13 (a) General rule.--The court shall act upon a petition
14 submitted by holding a hearing within 60 days of receipt of the
15 petition and by rendering a decision no later than 30 days after
16 completion of the hearing. The court may hold a call of the list
17 every 30 days. At that time, if service has been made upon all
18 required parties, the court shall assign a hearing date to the
19 matter to be heard within 60 days.

20 (a.1) Interior property inspection.--The court shall act
21 upon a request submitted by a party of interest to grant an
22 interior property inspection within 30 days, allowing all
23 parties in interest, in coordination with up to three experts
24 per party, to remove and replace any securing mechanism and
25 enter the property for a reasonable amount of time to evaluate
26 the interior condition, upon a showing that:

27 (1) the party in interest has made a prima facie showing
28 of entitlement to the relief requested; and

29 (2) on the face of the petition, at least one of the
30 conditions specified in subsection (d) (5) has been met.

1 (b) Intervention.--A party in interest may intervene in the
2 proceeding and be heard with respect to the petition, the
3 requested relief or any other matter which may come before the
4 court in connection with the proceeding. The opinion or
5 recommendation of an intervenor may not supersede that of the
6 conservator.

7 (c) Hearing.--

8 (1) At the hearing, any party in interest shall be
9 permitted to present evidence to support or contest the
10 petition, including, but not limited to, the schedule of
11 encumbrances.

12 (2) The court may bifurcate the hearing to first
13 consider whether the property meets the conditions specified
14 in subsection (d) and, upon successful demonstration,
15 consider the appointment of a conservator under subsection
16 (f).

17 (d) Conditions for conservatorship.--If a petition is filed
18 under section 4, the court may appoint a conservator if all of
19 the following apply as of the date of filing:

20 (1) The building has not been legally occupied for at
21 least the previous 12 months.

22 (2) The owner fails to present compelling evidence that
23 he has actively marketed the property during the preceding
24 60-day period and made a good faith effort to sell the
25 property at a price which reflects the circumstances and
26 market conditions.

27 (3) The property is not subject to a pending foreclosure
28 action by an individual or nongovernmental entity.

29 (4) The current owner fails to present sufficient
30 evidence that he has acquired the property within the

1 preceding six months. The evidence shall not include
2 instances where the prior owner is a member of the immediate
3 family of the current owner, unless the transfer of title
4 results from the death of the prior owner, or where the
5 current or prior owner is a corporation, partnership or other
6 entity in which either owner or the immediate family of
7 either owner has an interest in excess of 5%.

8 (5) The court finds at least three of the following:

9 (i) The building or physical structure is a public
10 nuisance.

11 (ii) The building is in need of substantial
12 rehabilitation and no substantial rehabilitation in
13 accordance with the municipality's property maintenance
14 code has taken place during the previous 12 months.

15 (iii) The building is unfit for human habitation,
16 occupancy or legal use.

17 (iv) The condition and vacancy of the building
18 materially increase the risk of fire to the building and
19 to adjacent properties.

20 (v) The building is subject to unauthorized entry
21 [leading to potential health and safety hazards] and one
22 of the following applies:

23 (A) The owner has failed to take reasonable and
24 necessary measures to secure the building.

25 (B) The municipality has secured the building in
26 order to prevent such hazards after the owner has
27 failed to do so.

28 (vi) The property is an attractive nuisance to
29 children, including, but not limited to, the presence of
30 abandoned wells, shafts, basements, excavations and

1 unsafe structures.

2 (vii) The presence of vermin [or the accumulation of
3 debris, uncut vegetation or physical deterioration of the
4 structure or grounds] has created potential health and
5 safety hazards and the owner has failed to take
6 reasonable and necessary measures to remove the hazards.

7 (vii.1) The accumulation of garbage, debris or
8 vegetation has created a potential health and safety
9 hazard and the owner has failed to take reasonable and
10 necessary measures to remove the hazard.

11 (vii.2) The physical deterioration of the structure
12 has created a potential health and safety hazard and the
13 owner has failed to take reasonable and necessary
14 measures to remove the hazard.

15 (viii) The dilapidated appearance or other condition
16 of the building negatively affects the economic well-
17 being of residents and businesses in close proximity to
18 the building, including decreases in property value
19 [and], the ability to sell or rent nearby properties, the
20 ability to obtain insurance or loss of business, and the
21 owner has failed to take reasonable and necessary
22 measures to remedy the appearance or the condition.

23 (ix) The property is an attractive nuisance for
24 illicit purposes, including prostitution, graffiti, drug
25 use and vagrancy.

26 (x) The property, if a vacant lot with no building
27 currently erected on the lot, has received State or
28 municipal code violations for a period of at least three
29 years.

30 (e) Appointment.--

1 (1) If the court determines after a hearing that the
2 property has met the conditions of subsection (d), the court
3 may appoint a conservator, certify the schedule of
4 encumbrances and grant such other relief as may be just and
5 appropriate. The certification shall be binding with respect
6 to all mortgages, liens and encumbrances, including municipal
7 liens, arising or attaching to the property prior to the date
8 of the petition.

9 (2) The court shall give first consideration for
10 appointment as conservator to the most senior nongovernmental
11 lienholder on the property.

12 (3) In the event the senior lienholder is found to be
13 not competent or declines the appointment, the court may
14 appoint a nonprofit corporation or other competent entity. If
15 the property is located in a city of the first class, the
16 nonprofit corporation or entity must [be located] have a
17 residence, office, primary mailing address or registered
18 address with the Bureau of Corporations and Charitable
19 Organizations of the Department of State in the city and must
20 [have participated] participate in a project within a five-
21 mile radius of the location of the property. In appointing a
22 conservator, the court shall:

23 (i) consider any recommendations contained in the
24 petition or otherwise presented by a party in interest;
25 and

26 (ii) give preference to the appointment of a
27 nonprofit corporation or governmental unit over an
28 individual.

29 (f) Conditional relief.--

30 (1) [If the court finds after a hearing that the

1 conditions for conservatorship set forth in subsection (d)
2 have been established, but the owner represents that the
3 conditions, violations or nuisance or emergency condition
4 will be abated in a reasonable period, the court may allow
5 the owner to proceed to remedy the conditions.] Should the
6 owner elect conditional relief under this section, the court
7 may allow the owner to sell the property or remediate the
8 conditions of the property to a standard not lesser in scope
9 than the proposed conservator's plan.

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

19 (3) The court shall also require the owner to post a
20 bond in the amount of the repair costs estimated in the
21 [petition] proposed conservator's proposed plan recommending
22 the greater scope of remediation as a condition to retaining
23 possession of the building.

24 (3.1) The court shall require the owner electing
25 conditional relief under this subsection and intending to
26 sell the property to present to the court for approval a
27 buyer who intends to remediate the blighted conditions within
28 a reasonable time.

29 [(4) Upon a finding that:

30 (i) the petition states conditions for

1 conservatorship; or
2 (ii) the owner elects to either:
3 (A) remedy all violations and nuisance or
4 emergency conditions; or
5 (B) sell the property subject to the
6 conservatorship,
7 the owner shall reimburse the petitioner for all costs
8 incurred by the petitioner in preparing and filing the
9 petition in accordance with the requirements of section 4 and
10 the conservator's or developer's fee.]

11 (4) After a hearing and upon a finding that the
12 conditions for appointment of a conservator have been met,
13 the owner shall reimburse the petitioner for all costs of
14 rehabilitation incurred by the petitioner.

15 (5) If the owner elects to proceed prior to a hearing on
16 the merits by conditional relief under this section, the
17 owner shall reimburse the petitioner for all costs of
18 rehabilitation incurred by the petitioner and one-half of the
19 conservator's or developer's fee.

20 (g) Conservator's lien.--The conservator may file a lien
21 against the property in an amount based on the costs incurred
22 during the conservatorship, including, but not limited to, costs
23 of rehabilitation, attorney fees and court costs. The lien
24 amount may be adjusted from time to time.

25 (h) Immediate possession.--The conservator shall promptly
26 take possession of the building and other property subject to
27 the conservatorship and shall immediately be authorized to
28 exercise all powers of this act.

29 (i) Removal by court.--A conservator may be removed by the
30 court at any time upon the request of the conservator or upon a

1 showing by a party to the action that the conservator is not
2 carrying out its responsibilities under this act.

3 Section 6. Powers and duties of conservator.

4 (a) Full powers and duties.--The conservator shall have all
5 powers and duties necessary or desirable, from time to time, for
6 the efficient operation, management and improvement of the
7 building in order to bring it into compliance with all municipal
8 building and housing code requirements and to fulfill the
9 conservator's responsibilities under this act. Such powers and
10 duties, which shall not require court approval unless expressly
11 provided in this subsection, shall include, but not be limited
12 to, the power to:

13 (1) Take possession and control of the building,
14 appurtenant land and any personal property of the owner used
15 with respect to the building, including any bank or operating
16 account for the building.

17 (2) Collect outstanding accounts receivable.

18 (3) Pursue all claims or causes of action of the owner
19 with respect to the building and all other property subject
20 to the conservator.

21 (4) Contract for the repair and maintenance of the
22 building. The contracts shall be appropriately documented and
23 included in the reports and accounting which the conservator
24 is required to submit or file under the provisions of this
25 act. The conservator shall make a reasonable effort to
26 solicit three bids for contracts valued at more than \$25,000,
27 except when the contractor or developer provides or obtains
28 financing for the conservatorship.

29 (5) Borrow money and incur credit in accordance with
30 section 8.

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

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

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

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

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

12 (11) When the building has been designated a historic
13 property, consult with the municipality's historical
14 commission or board of historical and architectural review, a
15 local historic preservation organization or, in the absence
16 thereof, the Pennsylvania Historical and Museum Commission
17 for recommendations on preserving the property's historic
18 character.

19 (12) Apply for and receive public grants or loans.

20 (13) Sell the building in accordance with section 9.

21 (14) Exercise all authority that an owner of the
22 building would have to improve, maintain and otherwise manage
23 the building, including the extent to which rehabilitation
24 will satisfy the goals of the conservatorship.

25 * * *

26 Section 8. Incurring indebtedness.

27 (a) Borrowing.--From time to time, a conservator may borrow
28 money or incur indebtedness in order to cover the costs of
29 rehabilitation or to otherwise fulfill the conservator's
30 obligations under this act and the preliminary or final plan.

1 * * *

2 Section 9. Sale of property.

3 * * *

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

6 * * *

7 (4.1) Costs of rehabilitation incurred by the petitioner
8 [in preparing and filing the petition in accordance with the
9 requirements of section 4].

10 * * *

11 Section 2. This act shall take effect in 60 days.