

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 471 Session of 2017

INTRODUCED BY BLAKE, ARGALL, BARTOLOTTA, FONTANA, YUDICHAK, HAYWOOD, VULAKOVICH, RAFFERTY, COSTA, BROWNE, RESCHENTHALER, SCHWANK, WAGNER, LEACH, MENSCH, WARD AND STEFANO, MARCH 1, 2017

SENATOR WHITE, BANKING AND INSURANCE, AS AMENDED, JUNE 13, 2017

AN ACT

1 Amending Title 68 (Real and Personal Property) of the
2 Pennsylvania Consolidated Statutes, in real property,
3 providing for real estate foreclosure of vacant and abandoned
4 property and for sheriff's commission and credit or attorney
5 fees.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Title 68 of the Pennsylvania Consolidated
9 Statutes is amended by adding a chapter to read:

CHAPTER 23

REAL ESTATE FORECLOSURE

SUBCHAPTER A

VACANT AND ABANDONED PROPERTY

14 Sec.

15 2301. Short title of subchapter.

16 2302. Legislative findings and purpose.

17 2303. Definitions.

18 2304. Certification of vacant and abandoned mortgaged property.

1 2305. Requirements to certify mortgaged property as vacant and
2 abandoned.

3 2306. Effect of certification of vacancy and abandonment.

4 2307. Post-sheriff's sale possessory action, effect of
5 certification of vacancy and abandonment in action
6 for possession and disposition of abandoned personal
7 property.

8 2308. Construction.

9 § 2301. Short title of subchapter.

10 This subchapter shall be known and may be cited as the Vacant
11 and Abandoned Real Estate Foreclosure Act.

12 § 2302. Legislative findings and purpose.

13 The General Assembly finds and declares that:

14 (1) Vacant and abandoned real estate, coupled with a
15 default in the obligation to make mortgage payments secured
16 by that real estate, presents a danger to the health, safety
17 and welfare of a community.

18 (2) Vacant and abandoned real estate often is not
19 repaired, restored and returned to productive use until
20 either a creditor or municipality acquires title to the real
21 estate.

22 (3) An accelerated procedure is needed to maintain the
23 due process rights of owners of real estate and to reduce
24 unnecessary delays in an action of mortgage foreclosure or an
25 action for possession or similar actions to recover real
26 estate that is vacant and abandoned.

27 § 2303. Definitions.

28 The following words and phrases when used in this chapter
29 shall have the meanings given to them in this section unless the
30 context clearly indicates otherwise:

1 "Action for possession." An action in ejectment initiated by
2 a purchaser to take control of mortgaged property.

3 "Action to quiet title." An action to resolve claims to
4 title to a mortgaged property initiated by a creditor or
5 purchaser.

6 "Creditor." A person authorized to enforce an obligation
7 secured by a mortgage or an authorized agent of the creditor,
8 including a servicer.

9 "Foreclosure action." An action initiated by a creditor to
10 enforce a mortgage obligation.

11 "Mortgage." A consensual interest in real property that
12 secures an obligation.

13 "Mortgaged property." Real property that is subject to a
14 mortgage and improved with buildings or structures intended for
15 any type of human occupancy, including a formerly mortgaged
16 property conveyed to a purchaser at a sheriff's sale or pursuant
17 to a deed in lieu of foreclosure.

18 "Municipal board of appeals." The body designated to review
19 decisions of a municipal code enforcement officer under the act
20 of November 10, 1999 (P.L.491, No.45), known as the Pennsylvania
21 Construction Code Act.

22 "Municipal code enforcement officer." The official
23 designated to administer and enforce building codes in a
24 municipality designated under section 501 of the act of November
25 10, 1999 (P.L.491, No.45), known as the Pennsylvania
26 Construction Code Act.

27 "Municipality." A city, borough, township or incorporated
28 town.

29 "Obligation." A debt or other duty or liability of an
30 obligor secured by a mortgage.

1 "Obligor." A person that:

2 (1) owes payment or performance of an obligation;

3 (2) has signed a mortgage agreement with respect to
4 mortgaged property; or

5 (3) is otherwise accountable in whole or in part for
6 payment or performance of an obligation.

7 "Owner." A person claiming the right to ownership,
8 possession or use of a mortgaged property.

9 "Proceeding." A foreclosure action, an action for possession
10 or an action to quiet title relating to a mortgaged property.

11 "Property address." The address of a mortgaged property,
12 unless a different address is provided by the owner or obligor
13 in mortgage documents for notification of the owner or obligor
14 or in subsequent correspondence sent by the owner or obligor to
15 change the address for notification specified for use in
16 mortgage documents.

17 "Purchaser." Any of the following:

18 (1) a person that acquires equitable title to a
19 mortgaged property at a sheriff's sale conducted pursuant to
20 a foreclosure or similar action and has paid settlement funds
21 and delivered required documentation to the sheriff to obtain
22 a sheriff's deed or the owner of a property under a recorded
23 sheriff's deed to the property or the person's designee;

24 (2) the owner of a mortgaged property under a recorded
25 sheriff's deed to the mortgaged property; or

26 (3) a person that takes title to a mortgaged property
27 pursuant to a deed in lieu of foreclosure.

28 "Record." As a noun, the term means information that is
29 inscribed on a tangible medium or is stored in an electronic or
30 other medium and is retrievable in perceivable form.

1 "Residential mortgaged property." A mortgaged property
2 located within this Commonwealth containing two or fewer
3 residential units or on which two or fewer residential units are
4 to be constructed, including a residential condominium,
5 cooperative or planned community unit.

6 "Servicer." A person that is responsible for servicing an
7 obligation, including a person that holds or owns an obligation
8 or originates a mortgage loan if the person also services the
9 obligation.

10 "Vacant and abandoned property." Property that meets the
11 requirements for certification as provided under section 2305
12 (relating to requirements to certify mortgaged property as
13 vacant and abandoned).

14 "Vacant property." Mortgaged property with respect to which
15 the owner and all persons claiming through the owner, including
16 tenants, have relinquished possession. The term does not include
17 unoccupied mortgaged property that is:

18 (1) undergoing construction, renovation or
19 rehabilitation and that is proceeding with reasonable
20 diligence to completion;

21 (2) physically secured and used or held for use by the
22 homeowner as a vacation or seasonal home; or

23 (3) physically secured and the subject of a probate
24 action or other litigation in which ownership is contested.

25 § 2304. Certification of vacant and abandoned mortgaged
26 property.

27 (a) General rule.--After a creditor gives notice to an
28 obligor of a delinquency or other default with respect to an
29 obligation secured by a mortgage or initiates a foreclosure
30 action or action for possession or to quiet title, a mortgaged

1 property for which the notice is given or proceedings are
2 initiated shall be certified as vacant and abandoned if:

3 (1) a creditor or purchaser has been designated as a
4 conservator of the mortgaged property under section 5 of the
5 act of November 26, 2008 (P.L.1672, No.135), known as the
6 Abandoned and Blighted Property Conservatorship Act;

7 (2) the mortgaged property is certified as vacant and
8 abandoned by the municipality in which the mortgaged property
9 is located in the manner provided under subsection (b); or

10 (3) the mortgaged property is certified as vacant and
11 abandoned in a proceeding in the manner provided under
12 subsection (c).

13 (b) Municipal certification.--A mortgaged property shall be
14 deemed vacant and abandoned by the municipality in which the
15 mortgaged property is located if:

16 (1) A creditor requests that the municipal code
17 enforcement officer for the municipality make a determination
18 that the mortgaged property is vacant and abandoned.

19 (2) The municipal code enforcement officer inspects the
20 mortgaged property, determines that the mortgaged property is
21 vacant and abandoned under the requirements of section 2305
22 (relating to requirements to certify mortgaged property as
23 vacant and abandoned) and gives notice of the determination
24 in the manner otherwise provided by law for the giving notice
25 of municipal code violations.

26 (3) The creditor pays or agrees to pay a fee not to
27 exceed 110% of the reasonable costs for the municipal code
28 inspection officer to conduct an inspection of the mortgaged
29 property, to prepare a report of the inspection, to give
30 notice of the results of the inspection to the creditor and

1 the obligor and to participate in an appeal of a
2 determination that the mortgaged property is vacant and
3 abandoned.

4 (4) The owner of the mortgaged property fails to seek
5 review of a determination that the mortgaged property is
6 vacant and abandoned by the municipal board of appeals within
7 30 days or, if a timely request for review is filed, a final
8 determination is made that the mortgaged property is vacant
9 and abandoned.

10 (c) Judicial certification.--A mortgaged property shall be
11 deemed certified as vacant and abandoned in a proceeding as
12 follows:

13 (1) In a proceeding, a creditor or purchaser may file a
14 request with the prothonotary to issue a rule to show cause
15 why the mortgaged property should not be certified as vacant
16 and abandoned by submitting an affidavit:

17 (i) supported as appropriate by images or other
18 appropriate evidence, alleging that the mortgaged
19 property qualifies for certification as vacant and
20 abandoned under the requirements of section 2305; and

21 (ii) submitted subject to the penalties for false
22 swearing under 18 Pa.C.S. § 4903 (relating to false
23 swearing).

24 (iii) The request may be filed together with the
25 original complaint in the proceeding or at any time
26 during the course of the proceeding.

27 (2) The affidavit that the mortgaged property is vacant
28 and abandoned may be provided by a municipal code enforcement
29 officer, the creditor or purchaser or by a competent adult
30 who has personal knowledge of the condition of the mortgaged

1 property, including a property inspector or agent retained by
2 a creditor.

3 (3) A request for a rule to show cause need not be
4 served on the owner of the mortgaged property or an obligor
5 other than the owner, but the rule issued by the prothonotary
6 shall be served on the owner or obligor in the manner
7 provided under paragraph (5).

8 (4) Within 10 business days of receipt of the request
9 for a rule to show cause, the prothonotary shall provide a
10 rule to show cause to the creditor or purchaser if the
11 affidavit contains assertions of fact that comply with the
12 requirements for certification as vacant and abandoned as
13 provided under section 2305.

14 (5) The rule to show cause shall be served on the owner
15 and an obligor other than the owner by the creditor or
16 purchaser as follows:

17 (i) If the owner or an obligor other than the owner
18 is represented by counsel in a proceeding in which the
19 rule to show cause is issued, the rule may be served by
20 delivery of the rule to show cause to counsel for the
21 owner or obligor.

22 (ii) If the owner or an obligor other than the owner
23 is not represented by counsel in the proceeding, the
24 creditor shall make at least three attempts to personally
25 serve the rule to show cause. Attempts at personal
26 service may occur at the property address and the address
27 specified in the county tax assessor's office for the
28 delivery of property tax bills for the mortgaged
29 property. The attempts shall be at least 72 hours apart
30 and at reasonable and different times of the day. If the

1 creditor cannot complete personal service on a party,
2 service may be completed by delivery of notice by first
3 class mail to the addresses at which personal service may
4 be made and by posting of the property in a conspicuous
5 manner.

6 (iii) A rule to show cause may be served on the
7 owner or an obligor other than the owner in the manner
8 provided under this paragraph regardless of whether
9 service of a complaint in a proceeding has been
10 completed.

11 (6) A copy of the rule to show cause shall be delivered
12 by the creditor or purchaser by first class mail to the
13 municipal code enforcement officer for the municipality where
14 the mortgaged property is located.

15 (7) An obligor may respond to the rule to show cause by
16 filing with the court a statement, submitted under oath or
17 affirmation that attests the statement is true and subject to
18 the penalties under 18 Pa.C.S. § 4903, that the mortgaged
19 property is not vacant and abandoned on a form provided by
20 the creditor or purchaser as specified below and containing
21 other information as may be required by the court:

22 (i) Matter name and docket number.

23 (ii) Respondent or respondents.

24 (iii) Address or mortgaged property.

25 (iv) The respondent or respondents to this rule to
26 show cause certify that the mortgaged property is not
27 vacant and abandoned for the following reasons as
28 designed by checking all appropriate spaces below:

29The property is not vacant and
30 has been occupied within the

1 last 45 days by (specify name or
2 names of persons).
3 Multiple windows, doors or
4 entrances on the property are
5 not boarded up, unhinged, closed
6 off, smashed in or are
7 continuously unlocked.
8 The mortgaged property has not
9 been stripped of copper or other
10 metals.
11 Interior furnishings, personal
12 items, appliances or fixtures
13 have not been removed from the
14 mortgaged property, including
15 window treatments, such as
16 blinds, curtains or shutters.
17 Gas, electric, water or sewer
18 utility services have not been
19 terminated to the mortgaged
20 property or are established in
21 the name of the creditor to
22 preserve the mortgaged property.
23 Newspapers, circulars, flyers or
24 mail have not accumulated on the
25 mortgaged property.
26 The United States Postal Service
27 has not discontinued delivery to
28 the mortgaged property.
29 Rubbish, trash, debris,
30 neglected vegetation or natural

1 overgrowth has not accumulated
2 on the mortgaged property.

3Hazardous, noxious or unhealthy
4 substances or materials have not
5 accumulated on the mortgaged
6 property.

7No communications have occurred
8 between respondents and (name of
9 the creditor or purchaser)
10 stating an intent to vacate or
11 abandon the property.

12The following other conditions
13 that indicate abandonment of the
14 property, namely (any relevant
15 conditions to be included on the
16 form by the creditor or
17 purchaser) are untrue or do not
18 exist.

19 With respect to the following violations of municipal building
20 or housing code (violation to be specified by the creditor or
21 purchaser).

22No citations alleging violations
23 have been received.

24Answers alleging that the
25 violations did not occur and at
26 this time no final determination
27 has been made regarding whether
28 the violations exist, or the
29 citations were dismissed.

30The violations have been

1 corrected within the preceding
2 year.

3 The respondent or respondents whose signature appears below
4 certify under the penalties provided under 18 Pa.C.S. § 4903
5 (relating to false swearing) with respect to official matters
6 that the statements above are true and correct.

7 (Signature of the respondent or
8 respondents).

9 (8) If a response to the rule to show cause is not filed
10 within 20 days, the court shall render an order certifying
11 the mortgaged property as vacant and abandoned.

12 (9) If a timely response to the rule to show cause is
13 filed, the court shall schedule a hearing to determine if
14 credible evidence exists to certify the mortgaged property as
15 vacant and abandoned within not fewer than 20 nor more than
16 30 days after proof of service of the rule to show cause in
17 the manner provided under paragraph (5).

18 § 2305. Requirements to certify mortgaged property as vacant
19 and abandoned.

20 (a) General rule.--A mortgaged property may be certified as
21 vacant and abandoned by a municipal code enforcement officer
22 under section 2304(b) (relating to certification of vacant and
23 abandoned mortgaged property) or in a judicial proceeding under
24 section 2304(c) if the mortgaged property is vacant and
25 satisfies at least ~~two~~ THREE of following indicia of
26 abandonment:

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27 (1) Multiple windows, doors or entrances on the property
28 are boarded up, unhinged, closed off, smashed in or are
29 continuously unlocked.

30 (2) The mortgaged property has been stripped of copper

1 or other metals.

2 (3) Interior furnishings, personal items, appliances or
3 fixtures have been removed from the mortgaged property,
4 including window treatments, such as blinds, curtains or
5 shutters.

6 (4) Gas, electric, water or sewer utility services have
7 been terminated to the mortgaged property or are established
8 in the name of the creditor to preserve the mortgaged
9 property.

10 (5) Newspapers, circulars, flyers or mail has
11 accumulated on the mortgaged property or the United States
12 Postal Service has discontinued delivery to the mortgaged
13 property.

14 (6) Rubbish, trash, debris, neglected vegetation or
15 natural overgrowth has accumulated on the mortgaged property.

16 (7) Multiple municipal building or housing code
17 violations exist for the mortgaged property and the
18 violations have been documented as being uncorrected during
19 the preceding year.

20 (8) Written and signed statements have been issued by
21 the mortgaged property's adjoining neighbors, adjacent
22 neighbors, delivery persons or a municipal code enforcement
23 officer indicating that the mortgaged property is vacant and
24 abandoned.

25 (9) Hazardous, noxious or unhealthy substances or
26 materials have accumulated on the mortgaged property.

27 (10) A communication from the owner or obligor stating
28 that both the owner and any obligor have vacated or abandoned
29 the property or intend to do so.

30 (11) Other credible evidence exists indicating the

1 intent of the owner or obligor to vacate and abandon the
2 mortgaged property.

3 (b) Determining vacancy.--Competent evidence may be relied
4 on to determine that a mortgaged property is vacant, including
5 evidence that:

6 (1) The mortgaged property was found to be vacant at the
7 time of two inspections occurring at least 45 days apart.

8 (2) After the first inspection the mortgaged property
9 was posted with a notice advising an occupant of the
10 mortgaged property to immediately contact the person who
11 conducted the inspection and advising that failure to do so
12 may have adverse legal consequences.

13 (3) No response was received to the notice posted after
14 the first inspection from a person legally entitled to occupy
15 the mortgaged property prior to the second inspection.

16 (c) Corrective action by creditor or purchaser.--The
17 remediation of conditions that provide evidence of abandonment
18 under subsection (b) by the creditor or purchaser or corrective
19 action taken by a municipality or other person to protect the
20 public health and welfare shall not prevent a mortgaged property
21 from meeting the requirements to be certified as vacant and
22 abandoned.

23 § 2306. Effect of certification of vacancy and abandonment.

24 (a) Foreclosure action.--In a foreclosure action, a
25 mortgaged property certified as vacant and abandoned shall not
26 be subject to mediation, conciliation, diversion or other
27 program established by a local court to encourage resolution of
28 owner-occupied residential mortgage foreclosures.

29 (b) Service and notification.--Following a certification
30 that a mortgaged property is vacant and abandoned, any

1 subsequent documents required to be served on and any notices
2 required to be delivered to the owner and any obligor other than
3 the owner may be exclusively served and delivered by first class
4 mail to an address specified by the owner or obligor for the
5 receipt of communications relating to the property or, if no
6 address is specified, by delivery to the address of the
7 mortgaged property and by posting of notice in a conspicuous
8 location on the mortgaged property.

9 (c) Scheduling of sheriff's sale.--

10 (1) If a mortgaged property is certified as vacant and
11 abandoned, upon the request of a creditor or purchaser, the
12 sheriff on receipt of an accelerated sale fee of \$500 shall
13 schedule a sale of the mortgaged property to be conducted no
14 later than 60 days following the filing of the writ of
15 execution and the sheriff's deed must be recorded no later
16 than 30 days following the sale.

17 (2) The accelerated sale fee shall be payable at the
18 time of the filing of the writ of execution and shall be
19 immediately refunded if:

20 (i) the time frames specified in this subsection are
21 not complied with; or

22 (ii) the expedited sale date is postponed or
23 continued by a party other than the creditor.

24 (d) Scheduling of execution of writ of possession.--

25 (1) If a mortgaged property is certified as vacant and
26 abandoned, upon the requests of a creditor or purchaser, the
27 sheriff on the receipt of an additional fee of \$250 shall
28 execute and serve a writ of possession no later than 20 days
29 following delivery of the writ to the sheriff.

30 (2) In order to impose the additional fee, the sheriff

1 must schedule the removal of a former owner's personal
2 property from the mortgaged property and the securing of the
3 personal property to be conducted no later than 30 days
4 following the filing of the writ of execution.

5 (3) The additional fee shall be immediately refunded if:

6 (i) the time frames provided under this section are
7 not complied with; or

8 (ii) the expedited execution is postponed or
9 continued by a party other than the purchaser.

10 (e) Possession of mortgaged property pending foreclosure.--

11 If a mortgaged property is certified as vacant and abandoned or
12 with the consent of the owner or an obligor other than the
13 owner, the creditor may enter the mortgaged property peacefully
14 for the purpose of inspecting, maintaining and repairing the
15 mortgaged property and shall not be liable to the owner for
16 trespass or for damage to the property resulting from a cause
17 other than the creditor's gross negligence or willful
18 misconduct.

19 (f) Property maintenance.--

20 (1) The maintenance obligations of a creditor that
21 exercises the right to possession pending foreclosure are
22 limited to compliance with property maintenance requirements
23 of the Federal Housing Administration for loans insured by
24 the administration or of the Federal National Mortgage
25 Association or the Federal Home Loan Mortgage Corporation for
26 mortgages held by either respective entity.

27 (2) For other creditors, the mortgaged property
28 maintenance obligations of a creditor that exercises its
29 right to possession pending foreclosure shall be limited to:

30 (i) Care for the yard and exterior of a building on

1 vacant and abandoned mortgaged property, including
2 removing excessive foliage growth that diminishes the
3 value of surrounding properties.

4 (ii) Measures reasonably necessary to prevent
5 trespassers from remaining on the mortgaged property.

6 (iii) Preventing mosquito larvae from growing in
7 standing water on the mortgaged property and infestations
8 by other vermin and insects.

9 (iv) Taking other actions needed to prevent
10 conditions on the mortgaged property that create a
11 serious and imminent hazard to public health or safety.

12 § 2307. Post-sheriff's sale possessory action, effect of
13 certification of vacancy and abandonment in action
14 for possession and disposition of abandoned personal
15 property.

16 (a) Removal of personal property by former owner.--

17 (1) When a former owner relinquishes possession of
18 mortgaged property certified as vacant and abandoned, the
19 former owner shall remove from the mortgaged property all
20 items of personal property.

21 (2) For the purposes of this section, a former owner
22 shall be deemed to have relinquished possession when the
23 former owner has:

24 (i) physically vacated the premises;

25 (ii) removed substantially all of the former owner's
26 personal property; or

27 (iii) provided a forwarding address or written
28 notice stating that the former owner has vacated the
29 premises or otherwise communicated to the creditor that
30 the former owner has relinquished possession of the

1 mortgaged property.

2 (b) Removal of personal property by purchaser.--If the
3 former owner fails to remove personal property from mortgaged
4 property certified as vacant and abandoned after delivery of a
5 sheriff's deed or a deed in lieu of foreclosure, concurrent with
6 the filing of an action for possession or at any time after the
7 action is filed, the purchaser may remove the remaining personal
8 property of the former owner in the following manner:

9 (1) The purchaser shall serve notice of intent to remove
10 personal property from the mortgaged property on the owner in
11 the manner provided under section 2306(b) (relating to effect
12 of certification of vacancy and abandonment).

13 (2) The purchaser shall conspicuously post a personal
14 property removal notice that includes:

15 (i) the date the notice was posted;

16 (ii) the address of the mortgaged property;

17 (iii) the date of the sheriff's sale or the date the
18 title was acquired by the purchaser;

19 (iv) a notice that personal property that remains on
20 the mortgaged property must be retrieved by the former
21 owner;

22 (v) a statement that:

23 (A) The former owner has 10 days from the date
24 of the notice to notify the purchaser that the former
25 owner will be retrieving the personal property.

26 (B) If the intent to retrieve is conveyed to the
27 purchaser, the personal property shall be retained by
28 the purchaser at the mortgaged property or a site of
29 the purchaser's choosing for 30 days from the date of
30 the notice.

1 (C) If no communication is made to the purchaser
2 within 10 days, the personal property may be disposed
3 of at the discretion of the purchaser; and

4 (vi) a telephone number, e-mail address or facsimile
5 number and address for the purchaser or its agent and the
6 location where the personal property can be retrieved, if
7 not at the mortgaged property, and a statement that
8 retrieval of the personal property after 10 days will
9 require the former owner to pay for costs related to the
10 storage of the personal property.

11 (3) At all times between posting of the personal
12 property removal notice and the expiration of the 10-day
13 period, the purchaser shall exercise ordinary care with
14 regard to any personal property that the former owner left in
15 or on the mortgaged property.

16 (4) At the expiration of the 10-day period, the
17 purchaser shall owe no duty to the former owner with regard
18 to caring for the personal property and may, in the
19 purchaser's discretion, dispose of the personal property
20 subject to the following:

21 (i) If the personal property is sold and proceeds
22 exceed any outstanding obligations owed to the owner or
23 obligor, the proceeds shall be forwarded to the former
24 owner by certified mail.

25 (ii) If no forwarding address has been provided to
26 the purchaser by the former owner, the owner shall hold
27 the proceeds for 30 days and, if unclaimed, may retain
28 the proceeds.

29 (5) If the purchaser has issued a personal property
30 removal notice to the former owner, the purchaser may store

1 the former owner's personal property at another location
2 within reasonable proximity to the mortgaged property subject
3 to the following:

4 (i) If the purchaser stores the personal property at
5 another location, the purchaser may remove the personal
6 property from the mortgaged property by any means
7 reasonably calculated to safeguard the personal property
8 for the time period required under this section.

9 (ii) A former owner shall not be required to pay the
10 costs related to the removal or storage of personal
11 property by the purchaser if the former owner retrieves
12 the personal property within 10 days of the date of the
13 notice.

14 (6) If the former owner or occupant retrieves the
15 personal property after 10 days of the date of the notice but
16 before 30 days, the former owner shall pay any reasonable and
17 actual costs related to the removal or storage of the
18 personal property by the purchaser for that time period.

19 § 2308. Construction.

20 Nothing in this subchapter shall be construed to limit or
21 restrict in any manner remedies available at law or in equity to
22 a creditor or purchaser in a proceeding.

23 SUBCHAPTER B

24 SHERIFF'S COMMISSION AND CREDITOR

25 ATTORNEY FEES

26 Sec.

27 § 2309. Definitions.

28 § 2310. Sheriff's commission.

29 § 2311. Limitation on creditor's attorney fees.

30 § 2312. Applicability.

1 § 2309. Definitions.

2 The following words and phrases when used in this subchapter
3 shall have the meanings given to them under section 2303
4 (relating to definitions) unless the context clearly indicates
5 otherwise.

6 § 2310. Sheriff's commission.

7 (a) Timing of payment.--With respect to a mortgaged
8 property, the commission payable to the sheriff provided under
9 section 4(b) of the act of July 6, 1984 (P.L.614, No.127), known
10 as the Sheriff Fee Act, shall not be due unless the mortgaged
11 property is sold at the execution sale conducted by the sheriff.

12 (b) Stay, cancellation, withdrawal or postponement of
13 sale.--If the execution sale of a mortgaged property is stayed,
14 cancelled, withdrawn or postponed due to bankruptcy, because the
15 mortgage is decelerated and brought current, in whole or in
16 part, is paid in full or as a result of a loan modification of
17 the mortgage loan or other resolution of the foreclosure action
18 or for another reason, the sheriff shall not be entitled to the
19 commission.

20 § 2311. Limitation on creditor's attorney fees.

21 (a) After commencement of proceedings.--

22 (1) After the commencement of foreclosure or other legal
23 action with respect to a residential mortgage that is subject
24 to the limits on attorney fees provided under section 406 of
25 the act of January 30, 1974 (P.L.13, No.6), referred to as
26 the Loan Interest and Protection Law, attorney fees that are
27 reasonable and actually incurred by the residential mortgage
28 lender may be charged to the residential mortgage debtor.

29 (2) Attorney fees are presumed to be reasonable under
30 paragraph (1) if they:

1 (i) conform with the attorney fees promulgated and
2 as may be amended from time to time by the Federal
3 National Mortgage Association, Federal Home Loan Mortgage
4 Corporation, the Department of Housing and Urban
5 Development, the Department of Veterans Affairs or their
6 respective successor organizations; and

7 (ii) are actually incurred for the enforcement of a
8 mortgage obligation in this Commonwealth.

9 (3) A party to the action may request, upon application
10 to the court, a review of the reasonableness of the attorney
11 fees claimed.

12 (b) Before commencement of proceedings.--

13 (1) Prior to the commencement of foreclosure or other
14 legal action with respect to a residential mortgage, subject
15 to the limits on attorney fees provided under section 406 of
16 the Loan Interest and Protection Law and paragraph (2),
17 attorney fees that are reasonable and actually incurred not
18 in excess of 0.1% of the amount of the then existing base
19 figure as defined in section 101 of the Loan Interest and
20 Protection Law.

21 (2) No attorney fees may be charged for legal expenses
22 incurred for a residential mortgage prior to or during the
23 30-day notice period provided under section 406 of the Loan
24 Interest and Protection Law.

25 § 2312. Applicability.

26 This subchapter shall apply to the extent provided under
27 sections 2310 (relating to sheriff's commission) and 2311
28 (relating to limitation on creditor's attorney fees) and shall
29 be not limited to mortgaged properties certified as vacant and
30 abandoned under Subchapter A (relating to vacant and abandoned

1 property).

2 Section 2. Applicability.

3 This act shall apply to proceedings commenced before, on or
4 after the effective date of this section.

5 Section 3. Inconsistent repeals.

6 The following parts of acts are repealed to the extent of any
7 inconsistency with 68 Pa.C.S. Ch. 23:

8 (1) Section 406(3) of the act of January 30, 1974

9 (P.L.13, No.6), referred to as the Loan Interest and

10 Protection Law.

11 (2) Section 7 of the act of July 6, 1984 (P.L.614,

12 No.127), known as the Sheriff Fee Act.

13 Section 4. This act shall take effect as follows:

14 (1) The addition of 68 Pa.C.S. Ch. 23 shall take effect
15 in 60 days.

16 (2) The remainder of this act shall take effect
17 immediately.