



General Assembly

January Session, 2019

Raised Bill No. 1070

LCO No. 5944



Referred to Committee on PLANNING AND DEVELOPMENT

Introduced by:
(PD)

**AN ACT CONCERNING ABANDONED AND BLIGHTED PROPERTY
CONSERVATORSHIP.**

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

- 1 Section 1. (NEW) (*Effective from passage*) (a) As used in this section:
- 2 (1) "Abandoned property" means any building that meets the
3 conditions described in subdivision (2) of subsection (c) of this section;
- 4 (2) "Actively marketed" means (A) a sign has been placed on a
5 property advertising sale of such property, (B) the owner of such
6 property has (i) hired a real estate broker or salesperson, licensed
7 pursuant to section 20-312 of the general statutes, to include the
8 property in the multiple listing service or to otherwise market the
9 property, (ii) placed advertisements weekly, or more frequently, in
10 print or electronic media, or (iii) distributed printed advertisements,
11 and (C) such sign contains accurate contact information for such owner
12 or real estate broker or salesperson;
- 13 (3) "Building" means a residential, commercial or industrial
14 structure and the land appurtenant to such structure, including any

15 vacant lot on which such structure was demolished;

16 (4) "Municipal code" means any building, housing, blight, property
17 maintenance, fire, health or other public safety ordinance enacted by a
18 municipality;

19 (5) "Competent entity" means a person or entity, including a
20 governmental unit, with experience in the rehabilitation of buildings
21 and the ability to provide or obtain the necessary financing for such
22 rehabilitation;

23 (6) "Costs of rehabilitation" means each expense for construction,
24 stabilization, restoration, maintenance, operation or demolition of a
25 building, or any action reasonably associated with the rehabilitation of
26 a building, including, but not limited to, environmental remediation
27 and architectural, engineering, legal, financing, permit and
28 conservator's or developer's fees;

29 (7) "Historic property" means a property listed on the National
30 Register of Historic Places, a contributing property in a national
31 register historic district or a property located in an historic district
32 established pursuant to section 7-147c of the general statutes;

33 (8) "Immediate family" means a parent, spouse, child or sibling;

34 (9) "Lienholder of record" means a lienholder owning a valid
35 interest in the abandoned property, which interest is recorded in the
36 land records of the municipality in which such abandoned property is
37 located;

38 (10) "Development organization" means a nonprofit corporation
39 established, in part, to carry out the purposes of blight remediation,
40 community development, economic development, historic
41 preservation or promotion or enhancement of affordable housing
42 opportunities;

43 (11) "Owner" means the holder or holders of title to, or of legal or
44 equitable interest in, a building, and shall include, provided any such

45 interest is a matter of public record, any heir, assignee, trustee,
46 beneficiary or lessee of such building;

47 (12) "Party in interest" means any person or entity with a direct and
48 immediate interest in a building, including (A) an owner of such
49 building, (B) a lienholder or other secured creditor of such an owner,
50 (C) a resident of or business owner in the municipality in which such
51 building is located, provided such resident's residence or such owner's
52 business is located less than two thousand feet from such building, (D)
53 a development organization (i) in the municipality in which such
54 building is located, and (ii) that has participated in a project in line
55 with such organization's purpose within a five-mile radius of such
56 building, or (E) the municipality or school district in which such
57 building is located;

58 (13) "Substantial rehabilitation" means (A) the costs of any repair,
59 replacement or improvement to a building exceed fifteen per cent of
60 the value of such building after the completion of all such repairs,
61 replacements or improvements, or (B) the replacement of two or more
62 of the following: (i) Roof structures, (ii) ceilings, (iii) wall or floor
63 structures, (iv) foundations, (v) plumbing systems, (vi) heating and air
64 conditioning systems, or (vii) electrical systems.

65 (b) (1) A party in interest may file a petition for the appointment of a
66 conservator to take possession and undertake rehabilitation of a
67 building, which petition shall be filed in the superior court for the
68 judicial district in which such building is located. The proceeding in
69 such court on such petition shall constitute an action in rem.

70 (2) (A) Any such petition shall include a sworn statement of the
71 petitioner that, to the best of his or her knowledge, such building
72 meets the conditions described in subdivision (2) of subsection (c) of
73 this section. Such petition shall also include, to the extent available to
74 such petitioner after his or her reasonable efforts to obtain the
75 following information, (i) a copy of any citation or order charging the
76 owner of such building with being in violation of municipal code

77 requirements or determining such building to be a public nuisance,
78 blighted or unfit for human occupancy or use, (ii) a recommendation
79 for appointment as conservator of such building, (iii) a preliminary
80 plan detailing (I) initial cost estimates of rehabilitation of such building
81 for purposes of compliance with the applicable municipal code and
82 plan for the area adopted by the municipality in which such building is
83 located, and (II) anticipated funding sources, and (iv) a schedule of
84 each mortgage, lien or other encumbrance on such building.

85 (B) Such petition may include any other property adjacent to such
86 building, provided (i) such other property is owned by the same owner
87 as such building, and (ii) such building and each such property are
88 used for a single or interrelated purpose.

89 (3) Such petitioner shall file a notice of lis pendens with the clerk of
90 such municipality.

91 (4) (A) Not less than fourteen, but not more than sixty, days prior to
92 the filing of such petition, such petitioner shall send by first-class mail
93 notification to the owner of such building and each lienholder of
94 record, including such municipality unless such municipality is such
95 petitioner, in accordance with section 52-57 of the general statutes
96 regarding service of process, and shall include in such notification the
97 original hearing date for adjudication of such petition and a statement
98 that such owner or lienholder may seek permission from such court to
99 intervene in such action.

100 (B) If such petitioner is unable to provide such notification, such
101 petitioner shall submit a motion for order of publication of such
102 petition, in accordance with section 52-52 of the general statutes, which
103 publication shall state the original hearing date for adjudication of
104 such petition.

105 (c) (1) Such court shall, not later than sixty days after receipt of such
106 petition or of an officer's return of service by publication, whichever is
107 later, hold a hearing on such petition and issue a decision not later
108 than thirty days after completion of such hearing. Any other party in

109 interest may seek permission of such court to intervene in such action
110 and be heard with respect to such petition, the relief requested in such
111 petition or any other matter that may come before such court in
112 connection with such petition. At such hearing, the petitioner and any
113 other party in interest may present evidence to support or oppose such
114 petition, including the schedule of each mortgage, lien or other
115 encumbrance on such building.

116 (2) Such court may appoint a conservator for such building if, as of
117 the filing of such petition, each of the following conditions apply:

118 (A) Such building has not been legally occupied for at least the
119 twelve months immediately preceding such filing;

120 (B) Such owner fails to present compelling evidence, as determined
121 by such court, that such owner has (i) actively marketed such building
122 during the sixty days immediately preceding such filing, and (ii) made
123 a good faith effort to sell such building at a price reflective of
124 circumstances and market conditions;

125 (C) Such building is not subject to a pending foreclosure action by
126 an individual or nongovernmental entity;

127 (D) Such owner fails to present compelling evidence, as determined
128 by such court, that such owner acquired such building during the six
129 months immediately preceding such filing. For the purposes of this
130 subparagraph, "compelling evidence" does not include evidence that
131 (i) the prior owner is a member of the immediate family of such owner,
132 unless the change in ownership resulted from the death of the prior
133 owner, and (ii) such owner or the prior owner is a corporation,
134 partnership or other entity of which an interest in excess of five per
135 cent is held by a principal, or a member of the immediate family of
136 such principal, of such owner or the prior owner; and

137 (E) Such court finds at least three of the following:

138 (i) Such building is a public nuisance, blighted or unfit for human

139 occupancy or use pursuant to the applicable municipal code;

140 (ii) Such building requires substantial rehabilitation, and no effort to
141 rehabilitate such building has been taken during the twelve months
142 immediately preceding such filing;

143 (iii) The condition and any vacancy of such building materially
144 increase the risk of fire to such building and any adjacent property;

145 (iv) Such building is susceptible to unauthorized entry and resulting
146 potential health and safety hazards, and (I) such owner has failed to
147 take reasonable and necessary measures to secure such building, or (II)
148 such municipality has secured such building as a result of such failure
149 by such owner;

150 (v) Such building is an attractive nuisance to children as a result of
151 the presence of abandoned wells, shafts, basements, excavations and
152 other unsafe structures;

153 (vi) Such building is an attractive nuisance for illicit purposes,
154 including, but not limited to, prostitution, drug use and vagrancy;

155 (vii) The presence of vermin or the accumulation of debris, uncut
156 vegetation or physical deterioration of such building creates potential
157 health and safety hazards, and such owner has failed to take
158 reasonable and necessary measures to remove such hazards; or

159 (viii) The appearance or other condition of such building negatively
160 impacts the economic well-being of residents or businesses in close
161 proximity to such building, which impact may include decrease in
162 property values or loss of business, and such owner has failed to take
163 reasonable and necessary measures to remedy such appearance or
164 other condition.

165 (3) (A) Except as provided in subdivision (4) of this subsection, if
166 such court determines that such building is an abandoned property
167 and appoints a conservator pursuant to subdivision (2) of this
168 subsection, such court shall certify the schedule of each mortgage, lien

169 or other encumbrance on such abandoned property and may grant
170 other relief as such court deems just and appropriate. Such certification
171 shall be binding with respect to each mortgage, lien or other
172 encumbrance, including any municipal lien, arising or attaching to
173 such abandoned property prior to the date of such petition.

174 (B) Such court shall give the most senior nongovernmental
175 lienholder of record on such abandoned property first consideration
176 for appointment as conservator.

177 (C) If such lienholder is found not competent, declines such
178 appointment or did not intervene in such action, such court may
179 appoint a development organization or other competent entity as
180 conservator, which organization or entity agrees to serve as such. In
181 appointing a conservator pursuant to this subparagraph, such court
182 shall (i) consider any recommendation contained in such petition or
183 otherwise presented by such petitioner or other party in interest, and
184 (ii) give preference to a development organization or governmental
185 unit over an individual.

186 (4) If such court determines that such building is an abandoned
187 property and such owner represents that the conditions described in
188 subdivision (2) of this subsection will be remedied in a reasonable
189 period, such court may permit such owner to remedy such conditions
190 by issuing an order that if such conditions are not remedied by the
191 date set forth in such order, or if other specified remedial efforts have
192 not occurred by date or dates set forth in such order, the relief
193 requested in such petition shall be granted. Such order shall further
194 require such owner, in order to retain possession of such abandoned
195 property, post a bond in the amount of the repair costs estimated in
196 such petition.

197 (5) Upon a finding that such building is an abandoned property in
198 accordance with subdivision (3) or (4) of this subsection, or that such
199 owner is electing to sell such building, such owner shall reimburse
200 such petitioner for (A) all costs incurred in the preparation and filing

201 of such petition, and (B) a conservator's or developer's fee, which fee
202 shall be the greatest of (i) two thousand five hundred dollars, or such
203 amount adjusted upward by two per cent for each year of
204 conservatorship, (ii) an amount equal to the costs of rehabilitation as
205 described in such conservator's or court-approved plan, adjusted
206 upward by twenty per cent, or (iii) twenty per cent of the sale price of
207 such building.

208 (6) Such conservator (A) shall promptly take possession of the
209 abandoned property and exercise the powers described in subsection
210 (d) of this section, and (B) may file a lien against such abandoned
211 property in an amount based on the costs incurred during the
212 conservatorship, including, but not limited to, costs of rehabilitation,
213 attorneys' fees and court costs, which amount may be adjusted as
214 necessary.

215 (7) Such court may remove such conservator at any time upon
216 request of such conservator or showing by such petitioner or any party
217 in action that such conservator is not carrying out the duties described
218 in subsection (d) of this section.

219 (d) (1) A conservator appointed pursuant to this section shall have
220 all powers necessary and appropriate for the efficient operation,
221 management and improvement of such abandoned property in order
222 to bring the same into compliance with municipal code requirements
223 and fulfill all duties described in this subsection. Such powers and
224 duties shall include, but not be limited to:

225 (A) Taking possession and control of such abandoned property and
226 any personal property of such owner used with respect to such
227 abandoned property, including any bank or operating account for such
228 building;

229 (B) Collecting outstanding accounts receivable;

230 (C) Pursuing all claims or causes of action on such owner with
231 respect to the property described in subparagraph (A) of this

232 subdivision;

233 (D) Contracting for the repair and maintenance of such abandoned
234 property, provided such conservator shall make a reasonable effort to
235 solicit three bids for any contract valued at more than twenty-five
236 thousand dollars unless such contractor or developer provides or
237 obtains financing for the conservatorship, and each of which contract
238 shall be appropriately documented and included in the reports and
239 accounting required to be submitted or filed by such conservator
240 pursuant to this section;

241 (E) Borrowing money and incurring credit in accordance with
242 subsection (f) of this section;

243 (F) Contracting and paying for the maintenance and restoration of
244 utilities to such abandoned property;

245 (G) Purchasing materials, goods and supplies to accomplish repairs
246 and operate such abandoned property;

247 (H) Entering into rental contracts and leases for periods not to
248 exceed twelve months, provided such court shall approve any such
249 contract;

250 (I) Affirming, renewing or entering into contracts providing for
251 insurance coverage on such abandoned property;

252 (J) Engaging and paying legal, accounting, appraisal and other
253 professionals to assist such conservator in such conservatorship;

254 (K) If such building was designated an historic property prior to
255 determination as an abandoned property, consulting with such
256 municipality's historical commission or board of historical and
257 architectural review, or a local historic preservation organization, for
258 any recommendation on preserving the historic character of such
259 abandoned property;

260 (L) Applying for and receiving public grants and loans;

261 (M) Selling the building in accordance with subsection (g) of this
262 section; and

263 (N) Exercising any right a property owner would have to improve,
264 maintain and otherwise manage such property, including to the extent
265 necessary to carry out the purposes of this section.

266 (2) While in possession and control of such abandoned property,
267 such conservator shall:

268 (A) Maintain, safeguard and insure such property;

269 (B) Apply all revenue generated from such property consistent with
270 the provisions of this section;

271 (C) Develop a final plan for abatement of the conditions described
272 in subdivision (2) of subsection (c) of this section or, if no such plan can
273 feasibly be developed, a final plan for alternatives such as the closing,
274 sealing or demolition of all or part of such abandoned property,
275 provided (i) if such building was designated an historic property prior
276 to determination as an abandoned property, such final plan for
277 abatement shall provide for the rehabilitation of architectural features
278 that define the historic character of such property, and (ii) if
279 demolition of an abandoned property located in an historic district is
280 necessary, such final plan for alternatives shall provide for the design
281 of any replacement construction on the site of such demolition to
282 comply with law;

283 (D) Implement the final plan developed pursuant to subparagraph
284 (C) of this subdivision, provided such court shall approve such plan;
285 and

286 (E) Annually, or more frequently if such court deems appropriate,
287 submit a status report to such court and each party to such action,
288 which report shall include (i) a copy of any contract entered into by
289 such conservator regarding the rehabilitation of such abandoned
290 property, (ii) an account of the disposition of all revenue generated

291 from such property, (iii) an account of all expenses, repairs and
292 improvements, (iv) the status of developing and implementing the
293 final plan described in subparagraph (C) of this subdivision, and (v) a
294 description of any proposed action to be taken in the next six months
295 to rehabilitate such property.

296 (3) (A) At the time such court appoints a conservator pursuant to
297 subdivision (2) of subsection (c) of this section, such conservator may
298 present for such court's approval a final plan described in
299 subparagraph (C) of subdivision (2) of this subsection. If no such plan
300 is presented at such time, the hearing date on such plan shall be set not
301 later than one hundred twenty days after such appointment and such
302 conservator shall submit such plan to such court and each party to
303 such action not later than thirty days prior to such hearing.

304 (B) Such plan shall (i) include a cost estimate, a financing plan and
305 either (I) a description of the rehabilitation to be done for the
306 abandoned property, or (II) if such rehabilitation is not feasible, a
307 proposal for the closing, sealing or demolition of such property, and
308 (ii) conform with the applicable municipal code, plan for the area
309 adopted by the municipality in which such building is located and
310 historic preservation requirements.

311 (C) At the time of such hearing, each party to such action may
312 comment on such final plan and such court shall consider all such
313 comments when assessing the feasibility of such plan and proposed
314 financing. In making its determination for approving such plan, the
315 costs of such conservatorship or sale of such abandoned property, such
316 court shall give reasonable regard to such conservator's assessment of
317 the scope and necessity of work to be done for rehabilitation or
318 demolition, as applicable, of such property.

319 (D) Not later than fifteen days after such hearing, such court shall
320 issue a decision approving such final plan or requiring that such plan
321 be amended, in which case another hearing date shall be set not later
322 than sixty days after such issuance.

323 (4) Upon complete implementation of such final plan approved by
324 such court, such conservator shall file with such court a full accounting
325 of all income and expenditures during the time from approval of such
326 plan to such complete implementation.

327 (e) (1) Such conservator appointed pursuant to subdivision (2) of
328 subsection (c) of this section shall be deemed to have an ownership
329 interest in and legal control of such abandoned property for the
330 purposes of filing plans with any public agency or board, seeking or
331 obtaining construction permits or other approvals and submitting
332 applications for financing or other assistance to public or private
333 entities.

334 (2) Notwithstanding the provisions of subdivision (1) of this
335 subsection, nothing in this section shall be construed to relieve the
336 owner of a building that has been determined to be an abandoned
337 property pursuant to subdivision (2) of subsection (c) of this section of
338 any civil or criminal liability or of any obligation to pay any tax,
339 municipal lien or charge, mortgage, private lien or other fee or charge
340 incurred before or after the appointment of such conservator, and no
341 such liability shall transfer to such conservator.

342 (3) Notwithstanding any provision of the general statutes, such
343 conservator shall not be liable for any environmental damage to a
344 building that has been determined to be an abandoned property
345 pursuant to subdivision (2) of subsection (c) of this section, which
346 environmental damage existed prior to such determination and the
347 appointment of such conservator, and the owner of such building shall
348 be held liable for such environmental damage.

349 (f) (1) Such conservator may borrow money or incur indebtedness in
350 order to cover the costs of rehabilitation or otherwise fulfill any duty
351 described in subsection (d) of this section.

352 (2) For the purpose of facilitating the borrowing of moneys for the
353 costs of rehabilitation, such court may grant priority status to a lien
354 given to secure payment on a debt incurred for the purposes

355 authorized under this section, provided (A) such conservator sought to
356 obtain the necessary financing from the most senior, nongovernmental
357 lienholder and such lienholder declined to provide financing on
358 reasonable terms for any reasonable improvement or other costs of
359 rehabilitation, and (B) lien priority is necessary to induce another
360 lender to provide financing on reasonable terms.

361 (3) If the most senior, nongovernmental lienholder agrees to provide
362 financing for the costs of rehabilitation, any moneys lent to cover such
363 costs shall be deemed added to such lienholder's preexisting first lien.

364 (4) Such court may approve financing for the costs of rehabilitation,
365 the terms of which may include deferred repayment and use
366 restrictions. Such terms may remain with the rehabilitated property
367 after the termination of the conservatorship and be assumed by (A) the
368 owner of the building that was determined to be an abandoned
369 property pursuant to subdivision (2) of subsection (c) of this section, if
370 such owner regains possession of such rehabilitated property, or (B) a
371 purchaser of such rehabilitated property pursuant to subsection (g) of
372 this section.

373 (g) (1) If an abandoned property is sold by such owner or foreclosed
374 upon by any lienholder, or if any interest in such property is
375 transferred, such sale, foreclosure or transfer shall be subject to such
376 conservatorship.

377 (2) Upon application of such conservator, such court may order the
378 sale of such abandoned property if such court finds that (A) notice and
379 an opportunity to provide comment to such court was given to each
380 record owner of such property and each lienholder of record, (B) such
381 conservator has been in control of such property for more than three
382 months and such owner has not successfully petitioned to terminate
383 such conservatorship pursuant to subsection (h) of this section, and (C)
384 the terms and conditions of such sale are acceptable to such court and
385 the purchaser of such property is reasonably likely to maintain such
386 property.

387 (3) Such court may authorize such conservator to sell such
388 abandoned property free and clear of any lien, claim and
389 encumbrance, provided the proceeds of such sale are distributed at
390 settlement pursuant to subdivision (4) of this subsection. If such
391 proceeds are insufficient to pay each such lien, claim and
392 encumbrance, such proceeds shall be distributed according to the
393 priorities set forth in said subdivision and each unpaid lien, claim and
394 encumbrance that has not been assumed pursuant to subdivision (4) of
395 subsection (f) of this section shall be extinguished.

396 (4) The proceeds of any such sale shall be distributed as follows, in
397 order of priority:

398 (A) Court costs;

399 (B) Except as provided in subparagraph (G) of this subdivision, liens
400 of the state, liens for unpaid property taxes and properly recorded
401 municipal liens, except as to any such lien that has been sold or
402 transferred;

403 (C) Costs and expenses of sale;

404 (D) Principal and interest on any borrowing or incurrence of
405 indebtedness that was granted priority over existing liens and security
406 interests pursuant to subdivision (2) of subsection (f) of this section;

407 (E) Costs incurred by such petitioner in preparing and filing such
408 petition in accordance with the requirements of subsection (b) of this
409 section;

410 (F) Costs of rehabilitation and any fee or expense incurred by such
411 conservator in connection with such sale or the safeguarding of such
412 abandoned property for which the lien authorized under
413 subparagraph (B) of subdivision (6) of subsection (c) was filed;

414 (G) Liens of the state, liens for unpaid property taxes and properly
415 recorded municipal liens that have been sold or transferred;

416 (H) Valid liens and security interests in accordance with the priority
417 of such liens and interests;

418 (I) Unpaid obligations of such conservator; and

419 (J) The owner of the building that was determined to be an
420 abandoned property pursuant to subdivision (2) of subsection (c) of
421 this section.

422 (5) If at the time of such distribution such owner cannot be located,
423 the proceeds of such sale that belong to such owner shall be (A)
424 presumed unclaimed and forfeited, (B) subject to the custody and
425 control of the municipality in which such sold property is located, and
426 (C) used for all associated costs to such municipality for the security
427 and remediation of blight and enforcement of any regulation enacted
428 pursuant to subparagraph (H)(xv) of subdivision (7) of subsection (c)
429 of section 7-148 of the general statutes.

430 (h) Upon request of such conservator or any party in interest, such
431 court may order the termination of a conservatorship or an abandoned
432 property if such court finds:

433 (1) The purposes of such conservatorship have been fulfilled, such
434 as the remediation or abatement of the conditions described in
435 subdivision (2) of subsection (c) of this section and the payment of or
436 provision for each obligation, expense and improvement of such
437 conservatorship, including any fee or expense incurred by such
438 conservator;

439 (2) Such owner, a mortgagee or a lienholder has requested such
440 conservatorship to be terminated and has provided adequate
441 assurance to such court that the purposes of such conservatorship will
442 be fulfilled, such as the remediation or abatement of the conditions
443 described in subdivision (2) of subsection (c) of this section and the
444 payment of or provision for each obligation, expense and
445 improvement of such conservatorship, including any fee or expense
446 incurred by such conservator;

447 (3) The abandoned property has been sold by such conservator and
 448 the proceeds of such sale have been distributed in accordance with
 449 subdivision (4) of subsection (g) of this section; or

450 (4) Such conservator has been unable, after diligent effort, to (A)
 451 develop a final plan pursuant to subparagraph (C) of subdivision (2) of
 452 subsection (c) of this section that such court could approve, (B)
 453 implement any such court-approved plan, or (C) for any reason, fulfill
 454 the purposes of such conservatorship.

455 (i) The provisions of this section shall not apply (1) to any
 456 commercial or residential building, structure or land owned by or held
 457 in trust for the United States government and regulated under the
 458 United States Housing Act of 1937, as amended from time to time, and
 459 regulations promulgated under such act, and (2) if the owner of a
 460 building that would be determined to be an abandoned property
 461 pursuant to this section has vacated such building to perform military
 462 service in time of war or armed conflict or to assist relief efforts during
 463 a declared federal or state emergency as a member of the United States
 464 armed forces or any reserve component of such armed forces.

| | | |
|---|---------------------|-------------|
| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | <i>from passage</i> | New section |

Statement of Purpose:

To provide for court-appointed conservators to bring residential, commercial and industrial buildings into municipal code compliance when owners fail to comply.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]