



General Assembly

Substitute Bill No. 1070

January Session, 2019



AN ACT CONCERNING ABANDONED AND BLIGHTED PROPERTY STEWARDSHIP.

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

1 Section 1. (NEW) (*Effective January 1, 2020*) (a) As used in this
2 section:

3 (1) "Abandoned property" means any building that meets the
4 conditions described in subdivision (2) of subsection (c) of this section;

5 (2) "Actively marketed" means (A) a sign has been placed on a
6 property advertising sale of such property, (B) the owner of such
7 property has (i) hired a real estate broker or salesperson, licensed
8 pursuant to section 20-312 of the general statutes, to include the
9 property in the multiple listing service or to otherwise market the
10 property, (ii) placed advertisements weekly, or more frequently, in
11 print or electronic media, or (iii) distributed printed advertisements,
12 and (C) such sign contains accurate contact information for such owner
13 or real estate broker or salesperson;

14 (3) "Building" means a residential, commercial or industrial
15 structure and the land appurtenant to such structure, including any
16 vacant lot on which such structure was demolished;

17 (4) "Municipal code" means any building, housing, blight, property

18 maintenance, fire, health or other public safety ordinance enacted by a
19 municipality;

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

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

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

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

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

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

44 (11) "Owner" means the holder or holders of title to, or of legal or
45 equitable interest in, a building, and shall include, provided any such
46 interest is a matter of public record, any heir, assignee, trustee,
47 beneficiary or lessee of such building;

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

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

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

71 (2) (A) Any such petition shall include a sworn statement of the
72 petitioner that, to the best of his or her knowledge, such building
73 meets the conditions described in subdivision (2) of subsection (c) of
74 this section. Such petition shall also include, to the extent available to
75 such petitioner after his or her reasonable efforts to obtain the
76 following information, (i) a copy of any citation or order charging the
77 owner of such building with being in violation of municipal code
78 requirements or determining such building to be a public nuisance,
79 blighted or unfit for human occupancy or use, (ii) a recommendation
80 for appointment as steward for such building, (iii) a preliminary plan

81 detailing (I) initial cost estimates of rehabilitation of such building for
82 purposes of compliance with the applicable municipal code and plan
83 for the area adopted by the municipality in which such building is
84 located, and (II) anticipated funding sources, and (iv) a schedule of
85 each mortgage, lien or other encumbrance on such building.

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

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

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

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

106 (c) (1) Such court shall, not later than sixty days after receipt of such
107 petition or of an officer's return of service by publication, whichever is
108 later, hold a hearing on such petition and issue a decision not later
109 than thirty days after completion of such hearing. Any other party in
110 interest may seek permission of such court to intervene in such action
111 and be heard with respect to such petition, the relief requested in such

112 petition or any other matter that may come before such court in
113 connection with such petition. At such hearing, the petitioner and any
114 other party in interest may present evidence to support or oppose such
115 petition, including the schedule of each mortgage, lien or other
116 encumbrance on such building.

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

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

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

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

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

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

139 (i) Such building is a public nuisance, blighted or unfit for human
140 occupancy or use pursuant to the applicable municipal code;

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

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

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

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

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

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

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

166 (3) (A) Except as provided in subdivision (4) of this subsection, if
167 such court determines that such building is an abandoned property
168 and appoints a steward pursuant to subdivision (2) of this subsection,
169 such court shall certify the schedule of each mortgage, lien or other
170 encumbrance on such abandoned property and may grant other relief

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

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

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

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

198 (5) Upon a finding that such building is an abandoned property in
199 accordance with subdivision (3) or (4) of this subsection, or that such
200 owner is electing to sell such building, such owner shall reimburse
201 such petitioner for (A) all costs incurred in the preparation and filing
202 of such petition, and (B) a steward's or developer's fee, which fee shall

203 be the greatest of (i) two thousand five hundred dollars, or such
204 amount adjusted upward by two per cent for each year of stewardship,
205 (ii) an amount equal to the costs of rehabilitation as described in the
206 plan approved by such court under subdivision (3) of subsection (d) of
207 this section, adjusted upward by twenty per cent, or (iii) twenty per
208 cent of the sale price of such building.

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

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

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

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

230 (B) Collecting outstanding accounts receivable;

231 (C) Pursuing all claims or causes of action of such owner with
232 respect to the property described in subparagraph (A) of this
233 subdivision;

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

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

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

246 (G) Purchasing materials, goods and supplies to repair and operate
247 such abandoned property;

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

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

253 (J) Engaging and paying legal, accounting, appraisal and other
254 professionals to assist such steward in such stewardship;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

353 (2) For the purpose of facilitating the borrowing of moneys for the
354 costs of rehabilitation, such court may grant priority status to a lien

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

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

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

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

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

387 property.

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

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

399 (A) Court costs;

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

404 (C) Costs and expenses of sale;

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

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

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

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

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

419 (I) Unpaid obligations of such steward; and

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

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

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

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

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

445 stewardship, including any fee or expense incurred by such steward;

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

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

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	January 1, 2020	New section

PD Joint Favorable Subst.

JUD Joint Favorable