THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 853

Session of 2013

INTRODUCED BY DAVIS, HEFFLEY, MILLARD, O'BRIEN, ROZZI, D. COSTA, WHEATLEY, SCHLOSSBERG, CALTAGIRONE, STURLA, V. BROWN, COHEN, MATZIE, THOMAS, HARKINS, MOLCHANY, WATSON, McGEEHAN AND PARKER, MARCH 11, 2013

REFERRED TO COMMITEE ON LOCAL GOVERNMENT, MARCH 11, 2013

AN ACT

- 1 Providing for foreclosed property maintenance; and imposing penalties.
- 3 The General Assembly of the Commonwealth of Pennsylvania
- 4 hereby enacts as follows:
- 5 Section 1. Short title.
- 6 This act shall be known and may be cited as the Foreclosed
- 7 Property Maintenance Act.
- 8 Section 2. Definitions.
- 9 The following words and phrases when used in this act shall
- 10 have the meanings given to them in this section unless the
- 11 context clearly indicates otherwise:
- "Agreement." A municipal maintenance agreement.
- 13 "Department." The Department of Community and Economic
- 14 Development of the Commonwealth.
- 15 "Foreclosed property." Any real property consisting of
- 16 buildings or grounds that, as a result of default by a purchaser
- 17 of a financial agreement between a lender and purchaser, has

- 1 been placed in the legal process by the lender to recover the
- 2 property.
- 3 "Foreclosure proceedings." Legal actions taken by a
- 4 mortgagee under section 403-C of the act of December 3, 1959
- 5 (P.L.1688, No.621), known as the Housing Finance Agency Law.
- 6 "Legal occupant." A person renting or leasing a foreclosed
- 7 property from the owner under a rental or lease contract or a
- 8 party to a mortgage agreement in which the owner has initiated
- 9 foreclosure proceedings and allows the occupants to continue to
- 10 inhabit the foreclosed property during the mitigation process.
- "Legally occupied." The rental or lease of a foreclosed
- 12 property by an owner or agreed habitation during the foreclosure
- 13 mitigation process.
- "Locally based." Residing within or maintaining one's
- 15 primary place of business within the same municipality as, or
- 16 within 20 miles of, the property being registered.
- 17 "Municipal maintenance agreement." A contractual agreement
- 18 between an owner or responsible party of a foreclosed property
- 19 and a municipality in which the owner or responsible party
- 20 compensates a municipality to maintain the foreclosed property
- 21 in accordance with section 7(a).
- "Owner." A person, entity, service company, property
- 23 manager or real estate broker who alone or severally with
- 24 others:
- 25 (1) has legal or equitable title to any dwelling,
- dwelling unit, mobile dwelling unit or parcel of land, vacant
- or otherwise, including a mobile home park;
- 28 (2) has care, charge or control of any dwelling,
- dwelling unit, mobile dwelling unit or parcel of land, vacant
- or otherwise, including a mobile home park, in any capacity

- 1 including, but not limited to, agent, executor,
- 2 administrator, trustee or quardian or holder of legal title;
- 3 (3) is a mortgagee in possession of property;
- 4 (4) is an officer or trustee of the association of unit
- 5 owners of a condominium;
 - (5) is an operator or proprietor of a rooming house; or
- 7 (6) is a trustee who holds, owns or controls mortgage
- 8 loans for mortgage-backed securities transactions and has
- 9 initiated the foreclosure process.
- "Residential property." A property that contains one or more
- 11 dwelling units used, intended or designed to be occupied as a
- 12 primary residence.

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- "Responsible party." Any of the following:
- 14 (1) a creditor including, but not limited to, service
- companies, lenders in a mortgage agreement and any agent,
- officer or employee of the mortgagee, or any successor in
- interest and assignee of the mortgagee's rights, interests or
- obligations under the mortgage agreement;
- 19 (2) a party contracted by the owner to manage the
- 20 property or to act as an agent for the owner; or
- 21 (3) a legal occupant.
- "Secure" or "securing." Rendering a property inaccessible to
- 23 unauthorized persons and the maintaining of the property or area
- 24 surrounding any building, including landscaping and rodent and
- 25 pest mitigation.
- 26 "Vacant." Not currently legally occupied.
- 27 Section 3. Foreclosed property registration.
- 28 (a) General rule. -- The owner of a foreclosed property shall
- 29 register the property with the municipality in which the
- 30 property is located within seven calendar days of initiating

- 1 foreclosure proceedings on an application developed by the
- 2 department, but provided by the municipality or obtained from
- 3 the department's Internet website.
- 4 (b) Registration applications. -- Foreclosed property
- 5 registration applications shall be signed by both the municipal
- 6 code officer and the owner or responsible party for the
- 7 foreclosed property. The application shall include the following
- 8 information:

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- 9 (1) The owner's name, telephone number and a mailing 10 address that is a non-post office box number.
- 11 (2) The name, telephone number and non-post office box 12 address for a locally based responsible party.
- 13 (3) Certification that the property was inspected and is secure.
- 15 (i) If a property is certified as vacant, the owner 16 shall designate and retain a local responsible party to 17 secure and maintain the property. This designation shall 18 include:
 - (A) The responsible party's name.
- 20 (B) The responsible party's telephone number.
- 21 (C) The responsible party's local non-post office box mailing address.
 - (D) A plan detailing regular maintenance of the property, including landscaping, rodent and pest mitigation and security checks.
 - (ii) If a property is certified as not vacant or legally occupied, the owner shall provide proof that the property is legally occupied in the form of a rent or lease agreement. Proof is not required if the property is occupied by a party to the mortgage agreement with the

- 1 consent of the owner or initiator of foreclosure
- 2 proceedings during the foreclosure mitigation process.
- 3 (c) Registrations. -- Foreclosed property registrations are
- 4 valid for one year from the date of the initial filing. An
- 5 annual registration fee of \$100 and a certified copy of the deed
- 6 to the property shall accompany the registration application.
- 7 Subsequent annual registrations and fees are due within 30 days
- 8 of the expiration of the previous registration and shall certify
- 9 whether the foreclosing or foreclosed property is or remains
- 10 vacant.
- 11 (d) Municipal notification. -- The owner or responsible party
- 12 shall notify the municipality within 15 days of closing if the
- 13 property is sold, becomes legally occupied or transferred to
- 14 another party.
- 15 (e) Transfers.--If the property is transferred to another
- 16 party, the new party must reregister the property with the
- 17 municipality within 15 calendar days of the transfer.
- 18 (f) Fees.--Except as provided under section 8(c), all
- 19 application fees, fines and penalties shall be payable to the
- 20 municipality to be used at the discretion of the municipality.
- 21 Section 4. Maintenance requirements.
- 22 (a) General rule. -- The owner or responsible party of a
- 23 foreclosed property shall ensure that the requirements for
- 24 securing and maintaining the foreclosed property are satisfied.
- 25 (b) Monthly inspection of property. -- The owner or
- 26 responsible party shall maintain the property on a monthly basis
- 27 while the property is vacant.
- 28 (c) Adherence to applicable codes. -- The owner or responsible
- 29 party shall ensure that the foreclosed property is maintained in
- 30 accordance with local sanitary codes, building codes and other

- 1 local laws, ordinances and regulations concerning external and
- 2 visible maintenance.
- 3 (d) Securing. -- Vacant property shall be secured from outside
- 4 entry by unauthorized persons or pests. Doors, windows and other
- 5 avenues for entry shall remain locked, and exterior walls and
- 6 roofs shall remain intact and without holes.
- 7 (e) Posting of contact information. -- The name and 24-hour
- 8 contact telephone number of the local responsible party or the
- 9 owner of the foreclosed property shall be posted on the front
- 10 door of the property so that it is clearly visible.
- 11 (f) Temporary securing. -- Untreated plywood or similar
- 12 structural panels or temporary construction fencing may be used
- 13 to temporarily secure doors, windows and other openings for a
- 14 maximum period of 14 days.
- 15 (q) Emergency securing. -- The municipality may take steps to
- 16 immediately secure a vacant property at its discretion in
- 17 emergency circumstances. If emergency repairs are deemed
- 18 necessary, the municipality shall receive full reimbursement
- 19 within 60 days of the completion of the repairs from the owner
- 20 or responsible party.
- 21 (h) Fire safety and security systems. -- Owners shall do the
- 22 following in accordance with applicable statutes, codes and
- 23 ordinances:
- 24 (1) Owners of nonresidential vacant buildings shall
- 25 maintain all fire protection systems, appliances and
- 26 assemblies in operating condition and maintain underwriter
- 27 laboratories monitoring of all systems.
- 28 (2) Owners of vacant properties shall remove and
- 29 properly dispose of all hazardous materials and hazardous
- 30 refuse that could present a fire hazard or contribute to the

- 1 spread of fire as well as all garbage, swill, filth or other
- 2 waste materials located in or on the vacant property.
- 3 (3) Owners of vacant properties shall properly maintain
- 4 all police protection alarm systems in operating condition.
- 5 (i) Plumbing fixtures. -- Plumbing fixtures connected to a
- 6 water system, sewage system or natural gas utility system shall
- 7 be installed and be maintained in sound condition and good
- 8 repair or removed and the service terminated in adherence with
- 9 applicable codes. The water system of a vacant building must be
- 10 protected against freezing.
- 11 (j) Electrical. -- Electrical service lines, wiring, outlets
- 12 and fixtures not installed or maintained in accordance with
- 13 codes must be repaired, removed or the electrical services
- 14 terminated in accordance with applicable codes.
- 15 (k) Lighting. -- Exterior lighting fixtures shall be
- 16 maintained in good repair, and illumination shall be provided to
- 17 the building and all walkways in the same manner as provided at
- 18 the time the building was last legally occupied.
- 19 (1) Heating. -- Heating systems in vacant buildings shall be
- 20 removed, rendered inoperable or maintained in accordance with
- 21 applicable codes.
- 22 (m) Termination of utilities. -- The following provisions
- 23 shall apply:
- 24 (1) For safety reasons, municipalities may require the
- termination of utility services to a vacant property,
- including water, sewer, electricity or gas service.
- 27 (2) Prior to the termination of any utility service, the
- 28 municipality shall provide the owner or responsible party
- 29 with written notice.
- 30 (3) Utility service required to be terminated or

- disconnected by the municipality shall not be reconnected or
- 2 restored without prior consent of the municipality.
- 3 (4) An owner or responsible party may request that
- 4 utilities be terminated or disconnected as part of a
- 5 submitted and approved maintenance plan.
- 6 (5) The municipality may authorize immediate termination
- 7 of utility services in emergency circumstances.
- 8 (n) Exterior maintenance. -- The owner or responsible party
- 9 shall comply with all applicable exterior property maintenance
- 10 statutes, codes and ordinances including, but not limited to,
- 11 the following:
- 12 (1) Any and all activity on the property that
- 13 constitutes a public nuisance shall be eliminated.
- 14 (2) Vegetation shall be regularly maintained.
- 15 (3) Abandoned vehicles and vehicles without a valid
- registration shall be removed from the property.
- 17 (4) Refuse shall be properly stored and removed from the
- 18 property.
- 19 (5) All animals and pests shall be removed from the
- 20 property.
- 21 (6) Any diseased, dead or hazardous trees or branches
- shall be removed from the property.
- 23 (7) Graffiti shall be removed from the property.
- 24 (8) Swimming pools shall be maintained in good operating
- condition, treated to prevent pest harborage or properly
- drained and emptied. All swimming pools on foreclosed
- 27 properties shall be secured.
- 28 Section 5. Inspection responsibilities.
- 29 The municipal code officials, as defined under the act of
- 30 November 10, 1999 (P.L.491, No.45), known as the Pennsylvania

- 1 Construction Code Act, shall have the authority to conduct
- 2 inspections to ensure compliance with this act.
- 3 Section 6. Emergency abatement.
- 4 In addition to the instances listed in section 4, a
- 5 municipality may authorize immediate abatement of any public
- 6 nuisance or maintenance item if the municipality deems the
- 7 property an immediate threat to the public health and safety.
- 8 Section 7. Municipal maintenance agreement.
- 9 (a) General rule. -- An owner or responsible party may enter
- 10 into a municipal maintenance agreement, developed by the
- 11 department and provided by the municipality or on the
- 12 department's Internet website, with the municipality in which a
- 13 foreclosed property is located to compensate the municipality
- 14 for performing the exterior maintenance required under section
- 15 4(n)(1), (2), (3), (4), (5), (6) or (7) in accordance with
- 16 applicable statutes, codes and ordinances.
- 17 (b) Municipal maintenance agreements. -- Municipal maintenance
- 18 agreements shall be signed by both the municipal code officer
- 19 and the owner or responsible party for the foreclosed property.
- 20 The agreement shall include the following information:
- 21 (1) The name, telephone number and non-post office box
- 22 mailing address.
- 23 (2) The name, telephone number and non-post office box
- 24 mailing address for a locally based responsible party.
- 25 (3) The municipality's responsibilities in accordance
- 26 with this act.
- 27 (c) Terms of agreement. -- A municipal maintenance agreement
- 28 is valid for one year from the initial date of filing.
- 29 Subsequent municipal maintenance agreements must be signed
- 30 within 30 days of the expiration of the existing agreement.

- 1 (d) Limitations. -- An owner or responsible party entering
- 2 into a municipal maintenance agreement shall be limited to one
- 3 registered property per agreement. Nothing may prevent an owner
- 4 or responsible party from entering into multiple municipal
- 5 maintenance agreements with a municipality.
- 6 (e) Fees.--A municipal maintenance agreement shall require
- 7 the owner or responsible party to pay a fee to the municipality
- 8 as determined by the municipality.
- 9 (f) Records and notification. -- A municipality shall maintain
- 10 accurate records of all maintenance work completed in accordance
- 11 with the municipal maintenance agreement. A municipality shall
- 12 notify the owner or responsible party of all maintenance work
- 13 performed in accordance with a municipal maintenance agreement
- 14 within 15 days of completion.
- 15 Section 8. Duties of department.
- 16 (a) General rule. -- The department shall create a standard
- 17 foreclosure registration application and standard municipal
- 18 maintenance agreement in accordance with this act.
- 19 (b) Department notification. -- The foreclosure registration
- 20 application and municipal maintenance agreement shall be made
- 21 available to municipalities and owners or responsible parties by
- 22 request. A municipality shall submit a copy of each completed
- 23 registration application to the department within 30 calendar
- 24 days of receipt of the application from the owner or responsible
- 25 party.
- 26 (c) Fees.--Ten percent of the annual registration
- 27 application fee shall be directed to the department by the
- 28 municipality for administrative costs incurred under this act.
- 29 (d) Regulations.--The department may promulgate rules and
- 30 regulations necessary to administer its duties under this act.

- 1 Section 9. Public records.
- 2 The department and municipalities shall retain completed
- 3 registration applications and municipal maintenance agreements
- 4 and maintain all records in accordance with the act of February
- 5 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.
- 6 Section 10. Penalties.
- 7 (a) Municipal authority. -- In addition to the penalties under
- 8 any other law, a municipality may impose the following fines for
- 9 violations of this act:
- 10 (1) A violation of section 3 shall be punishable by a
- fine of not more than \$500.
- 12 (2) A violation of section 4 shall be punishable by a
- fine of not more than \$1,000 for the first offense and no
- more than an additional \$500 for every five calendar-day
- period the violation is not reconciled by the owner or
- 16 responsible party.
- 17 (b) Limitations.--A municipality shall not fine an owner or
- 18 responsible party of a foreclosed property for violations of
- 19 section 4(n)(1), (2), (3), (4), (5), (6) and (7) when a
- 20 municipal maintenance agreement exists between the municipality
- 21 and the owner or responsible party of the foreclosed property.
- 22 Section 11. Effective date.
- 23 This act shall take effect in 60 days.