



Substitute Senate Bill No. 1070

Public Act No. 19-92

AN ACT CONCERNING ABANDONED AND BLIGHTED PROPERTY RECEIVERSHIP.

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

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

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

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

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

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

(5) "Costs of rehabilitation" means each expense for construction, stabilization, restoration, maintenance, operation or demolition of a building, or any action reasonably associated with the rehabilitation of a building, including, but not limited to, environmental remediation and architectural, engineering, legal, financing, permit and receiver's fees;

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

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

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

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

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

(11) "Owner" means the holder or holders of title to, or of legal or

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equitable interest in, a building, and shall include, provided any such interest is a matter of public record, any heir, assignee, trustee, beneficiary or lessee of such building;

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

(13) "Receiver" means any person or entity that takes possession of a building pursuant to the provisions of this section for the purpose of rehabilitating such building or otherwise disposing of such building; and

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

(b) (1) In any municipality with a population of thirty-five thousand or more, a party in interest may file a petition for the appointment of a receiver to take possession and undertake rehabilitation of a building within such municipality, which petition shall be filed in the superior court for the judicial district in which such building is located. The proceeding on the petition shall constitute an action in rem.

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(2) (A) The petition shall include a sworn statement of the petitioner that, to the best of his or her knowledge, the building meets the conditions described in subdivision (2) of subsection (c) of this section on the date the petition is filed. The petition shall also include, to the extent available to the petitioner after his or her reasonable efforts to obtain the following information, (i) a copy of any citation or order charging the owner of the building with being in violation of municipal code requirements or determining the building to be a public nuisance, blighted or unfit for human occupancy or use, (ii) a recommendation for appointment as receiver for the building, (iii) a preliminary plan detailing (I) initial cost estimates of rehabilitation of the building for purposes of compliance with the applicable municipal code and plan for the area adopted by the municipality in which the building is located, and (II) anticipated funding sources, and (iv) a schedule of each mortgage, lien or other encumbrance on the building.

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

(3) A true copy of the petition shall be served on the owner of the building and each lienholder of record, including any municipality, unless such municipality is the petitioner, in the manner provided by section 52-57 of the general statutes. In addition, the petitioner shall record a notice of lis pendens with the clerk of such municipality, in the manner provided by section 52-325 of the general statutes.

(c) (1) The court shall hold a hearing on the petition and issue a decision after completion of the hearing.

(2) The court may appoint a receiver for the building if the court finds that, on the date the petition was filed, each of the following conditions applied:

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(A) The building has not been legally occupied for at least the twelve months immediately preceding the date of such filing;

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

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

(D) The owner fails to present compelling evidence, as determined by the court, that the owner acquired the building during the twelve months immediately preceding the date of such filing, except that the provisions of this subparagraph shall not apply when ownership of such building is in dispute in any other legal proceeding. For the purposes of this subparagraph, "compelling evidence" does not include evidence that (i) the prior owner is a member of the immediate family of such owner, unless the change in ownership resulted from the death of the prior owner, and (ii) such owner or the prior owner is a corporation, partnership or other entity of which an interest in excess of five per cent is held by a principal, or a member of the immediate family of such principal, of such owner or the prior owner; and

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

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

(ii) The building requires substantial rehabilitation, and no effort to rehabilitate the building has been made during the twelve months immediately preceding the date of such filing;

(iii) The condition and any vacancy of the building materially

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increase the risk of fire to the building and any adjacent property;

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

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

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

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

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

(3) (A) Except as provided in subdivision (4) of this subsection, if the court determines that the building is an abandoned property and appoints a receiver pursuant to subdivision (2) of this subsection, the court shall certify the schedule of each mortgage, lien or other encumbrance on such abandoned property and may grant other relief as the court deems just and appropriate. Such certification shall be binding with respect to each mortgage, lien or other encumbrance, including any municipal lien, arising or attaching to the abandoned

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property prior to the date of such petition.

(B) The court shall give the most senior nongovernmental lienholder of record on the abandoned property first consideration for appointment as receiver.

(C) If such lienholder is found not competent or declines the appointment, the court may appoint a development organization or other competent entity as receiver, if such organization or entity agrees to serve as receiver. In appointing a receiver pursuant to this subparagraph, the court shall (i) consider any recommendation contained in the petition or otherwise presented by the petitioner or other party in interest, and (ii) give preference to a development organization or governmental unit over an individual.

(4) If the court determines that the building is an abandoned property and the owner represents that the conditions described in subdivision (2) of this subsection will be remedied in a reasonable period, the court may permit the owner to remedy the conditions by issuing an order that if the conditions are not remedied by the date set forth in the order, or if other specified remedial efforts have not occurred by the date or dates set forth in the order, the relief requested in the petition shall be granted.

(5) Upon a finding that the building is an abandoned property in accordance with subdivision (3) or (4) of this subsection, or that the owner is electing to sell the building, the owner shall reimburse the petitioner for all costs incurred in the preparation and filing of the petition as determined by the court.

(6) Upon appointment of the receiver by the court, the receiver (A) shall promptly take possession of the abandoned property and exercise the powers described in subsection (d) of this section, and (B) may file a lien against the abandoned property in an amount based on the costs

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incurred during the receivership, including, but not limited to, costs of rehabilitation, attorneys' fees and court costs, which amount may be adjusted as necessary.

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

(d) (1) A receiver appointed pursuant to this section shall have all powers necessary and appropriate, as approved by the court, for the efficient operation, management and improvement of the abandoned property in order to bring the same into compliance with municipal code requirements and fulfill all duties described in this subsection. Subject to approval of the court, the powers and duties shall include, but not be limited to:

(A) Taking possession and control of the abandoned property and any personal property of the owner used with respect to the abandoned property;

(B) Collecting outstanding accounts receivable;

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

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

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

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

(G) Purchasing materials, goods and supplies to repair and operate the abandoned property;

(H) Entering into a rental contract or lease for a period of time not to exceed twelve months, provided the court shall approve any such contract or lease;

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

(J) Engaging and paying legal, accounting, appraisal and other professionals to assist such receiver in such receivership;

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

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

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

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

(2) While in possession and control of the abandoned property, such

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receiver shall:

(A) Maintain, safeguard and insure such property;

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

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

(D) Implement the receiver's plan developed pursuant to subparagraph (C) of this subdivision, provided the court shall approve such plan; and

(E) Annually, or more frequently if the court deems appropriate, submit a status report to the court and each party to the action, which report shall include (i) a copy of any contract entered into by the receiver regarding the rehabilitation of the abandoned property, (ii) an account of the disposition of all revenue generated from such property, (iii) an account of all expenses, repairs and improvements, (iv) the status of developing and implementing the receiver's plan described in subparagraph (C) of this subdivision, and (v) a description of any proposed action to be taken in the six months following the date of submission of the status report to rehabilitate such property.

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

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

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

(D) The court shall issue a decision approving such receiver's plan or requiring that such plan be amended, in which case another hearing date shall be set.

(4) Upon implementation of such receiver's plan approved by the court, the receiver shall file with the court a full accounting of all income and expenditures during the time from approval of the plan to such implementation.

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(e) (1) The receiver appointed pursuant to subdivision (2) of subsection (c) of this section shall be deemed to have powers and authority equivalent to ownership and legal control of the abandoned property for the purposes of filing plans with any public agency or board, seeking or obtaining construction permits or other approvals and submitting applications for financing or other assistance to public or private entities.

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

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

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

(2) For the purpose of facilitating the borrowing of moneys for the costs of rehabilitation, the court may grant priority status to a lien given to secure payment on a debt incurred for the purposes authorized under this section, provided (A) the receiver sought to obtain the necessary financing from the most senior, nongovernmental

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lienholder and such lienholder declined to provide financing on reasonable terms for any reasonable improvement or other costs of rehabilitation, and (B) lien priority is necessary to induce another lender to provide financing on reasonable terms.

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

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

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

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

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(3) The court may authorize the receiver to sell the abandoned property free and clear of any lien, claim and encumbrance, provided the proceeds of the sale are distributed at settlement pursuant to subdivision (4) of this subsection and such distribution is approved by the court. If the proceeds are insufficient to pay each lien, claim and encumbrance, the proceeds shall be distributed according to the priorities set forth in said subdivision and each unpaid lien, claim and encumbrance that has not been assumed pursuant to subdivision (4) of subsection (f) of this section shall be extinguished.

(4) The proceeds of any such sale approved by the court shall be distributed as follows, in order of priority:

(A) Court costs;

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

(C) Costs and expenses of sale;

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

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

(F) Costs of rehabilitation and any fee or expense incurred by the receiver in connection with the sale or the safeguarding of the abandoned property for which the lien authorized under subparagraph (B) of subdivision (6) of subsection (c) of this section was filed;

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

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

(I) Unpaid obligations of the receiver; and

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

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

(6) At the conclusion of any such sale and distribution of proceeds, the receiver shall draft a deed stating that recognizable and marketable title to such property is vested in the purchaser of such property and that any prior ownership interest in such abandoned property has been extinguished. Upon approval of such deed by the court and filing in the land records of the municipality in which such property is located, transfer of ownership of such property shall be deemed fully effectuated.

(h) Upon request of the receiver or any party in interest, the court may order the termination of a receivership of an abandoned property if the court finds:

(1) The purposes of the receivership have been fulfilled, such as the

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remediation or abatement of the conditions described in subdivision (2) of subsection (c) of this section and the payment of or provision for each obligation, expense and improvement of the receivership, including any fee or expense incurred by the receiver;

(2) The owner, a mortgagee or a lienholder has requested the receivership be terminated and has provided adequate assurance to the court that the purposes of the receivership will be fulfilled, such as the remediation or abatement of the conditions described in subdivision (2) of subsection (c) of this section and the payment of or provision for each obligation, expense and improvement of such receivership, including any fee or expense incurred by such receiver;

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

(4) The receiver has been unable, after diligent effort, to (A) develop a receiver's plan pursuant to subparagraph (C) of subdivision (2) of subsection (c) of this section for approval by the court, (B) implement any court-approved plan, or (C) fulfill the purposes of the receivership for any reason.

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

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Approved July 8, 2019