



Housing Alliance
of Pennsylvania

Housing Alliance of Pennsylvania

- The Blighted and Abandoned Properties Conservatorship Law ACT 135 of 2008
- Passed November 26, 2008 to be effective in 90 days, February 24, 2009
- The Housing Alliance is committed to supporting municipal and neighborhood leadership in using new tools to address blighted and abandoned properties.

Act 135
CONSERVATORSHIP

BUILDING

PETITIONER

CONSERVATOR

COURT OF COMMON PLEAS

Act 135 CONSERVATORSHIP

BUILDING residential, commercial or industrial structure that meets conditions of conservatorship

PETITIONER a 'party in interest' authorized to initiate a conservatorship action & recommends a conservator on the building

Act 135 CONSERVATORSHIP

CONSERVATOR a third party that has competency to take possession and effectuate necessary rehabilitation and management of the property

COURT OF COMMON PLEAS authorized to appoint conservator, approve rehabilitation plan, accounting, status reports, create a senior lien position for conservator financing, order sale of the property

Act 135 BUILDING

Conditions for Conservatorship

ALL must apply:

- Not legally occupied for 12 months
- Not marketed for 60 days
- No foreclosure action
- Current owner longer than 6 months

PLUS three (3):

- A public nuisance
- Needs substantial rehab
- Unfit for occupancy
- Increases risk of fire
- Subject to entry
- Not secured by owner
- Attractive nuisance
- Hazards
- Decreases property values
- Illicit Activities

Act 135 PETITIONERS

Party in Interest has direct and immediate interest in blighted building including:

- owner
- lien holder
- resident or business owner w/in 500 ft
- nonprofit located in municipality*
- the municipality or school district

*special Philadelphia criteria

Act 135 CONSERVATORS

In order of preference in the law:

- Senior lienholder
- Non Profit Corporation
- Governmental Unit
- Individual

Act 135 COURT OF COMMON PLEAS

- Appoints conservator
- Approves conservator plan
- May grant a lien or security interest with priority over all other property liens
- May order sale free and clear of all liens, claims and encumbrances
- Authorized to approve distribution of proceeds of sale per Act 135

Act 135 Conservator Expectations

- Develop a preliminary plan for the building
- Take possession immediately upon appointment
- Maintain, safeguard and insure the building
- Develop a final plan to be approved by court
- Implement final plan
- Submit status reports

What about the owner?

Petitioner notifies owner(s) and lienholder(s) of

- Filing of Petition
- Hearing date on conservator appointment
- Submission of final plan

What about the owner?

- If owner responds, court may set a date for owner abatement. If none, conservator appointed
- Conservatorship does not relieve owner of any liability or its responsibilities
- Owner may petition to terminate conservatorship but must make conservator whole
- Owner is on list of distribution of proceeds

What is conservator's exit strategy?

- Code compliance achieved, conservator made whole, conservator purposes fulfilled
- Owner, mortgagee, lienholder requests termination, assures code compliance, conservator made whole, conservator purposes fulfilled;
- Conservator sale and proceeds distributed; OR
- Conservator unable to present approvable plan, or conservator purposes cannot be fulfilled.

Act 135 STEP BY STEP

- Identify/Research Property
- Prepare Court Action
- Start Court Action
- Court appoints Conservator
- Conservator takes possession and control of building
- Final plan submitted and approved
- Implement plan, submit status report
- Terminate conservatorship by fulfilling conservatorship plan, party in interest redemption, or sale

Timeframes

- Appointment hearing set within 120 days of filing;
- Appointment decision within 30 days of hearing;
- Final plan hearing set within 120 days of appointment;
- Status Reports annually, “or more frequently”
- Six (6) months of conservatorship required for court to consider sale

NEW LAW CAUTION

- Law is created over time through the process of legal challenges and appellate review of trial court decisions
- There are many unknowns and uncertainties associated with the new authorization to appoint conservators
- Traditional providers of financing, property insurance, title insurance may be unwilling or reluctant to take risk associated with conservatorship

Suggested Pilot or Test Case Criteria

- Conservator is last resort approach
- Owner is not likely to respond
- Not enough property value for lienholders to pursue or to contest
- Funding available (not dependent on conservatorship lien)
- Demolition is not out of the question

Questions, Concerns, Comments

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Housing Alliance of Pennsylvania

Housing Alliance may support prospective petitioners and conservators in using Act 135 by providing technical assistance on strategy, drafting petitions, service of process, etc.



Housing Alliance
of Pennsylvania

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