

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 653 Session of 2017

INTRODUCED BY MASSER, TAYLOR, LONGIETTI, DUNBAR, SCHLOSSBERG, ZIMMERMAN, MILLARD, JAMES, BARRAR, NEILSON, WATSON, HELM, BARBIN, A. HARRIS, WARD, STAATS, SIMMONS, M. K. KELLER, SOLOMON, COX, IRVIN, DAY, KORTZ AND PASHINSKI, FEBRUARY 28, 2017

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, JUNE 5, 2018

AN ACT

1 Amending Title 68 (Real and Personal Property) of the
2 Pennsylvania Consolidated Statutes, in real property,
3 providing for real estate foreclosure of vacant and abandoned
4 property and for sheriff's commission and ~~credit~~ or CREDITOR <--
5 attorney fees.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Title 68 of the Pennsylvania Consolidated
9 Statutes is amended by adding a chapter to read:

CHAPTER 23

REAL ESTATE FORECLOSURE

SUBCHAPTER A

VACANT AND ABANDONED PROPERTY

14 Sec.

15 2301. Short title of subchapter.

16 2302. Legislative findings and purpose.

17 2303. Definitions.

1 2304. Certification of vacant and abandoned mortgaged property.

2 2305. Requirements to certify mortgaged property as vacant and
3 abandoned.

4 2306. Effect of certification of vacancy and abandonment.

5 2307. Post-sheriff's sale possessory action, effect of
6 certification of vacancy and abandonment in action
7 for possession and disposition of abandoned personal
8 property.

9 2308. Construction.

10 § 2301. Short title of subchapter.

11 This subchapter shall be known and may be cited as the Vacant
12 and Abandoned Real Estate Foreclosure Act.

13 § 2302. Legislative findings and purpose.

14 The General Assembly finds and declares that:

15 (1) Vacant and abandoned real estate, coupled with a
16 default in the obligation to make mortgage payments secured
17 by that real estate, presents a danger to the health, safety
18 and welfare of a community.

19 (2) Vacant and abandoned real estate often is not
20 repaired, restored and returned to productive use until
21 either a creditor or municipality acquires title to the real
22 estate.

23 (3) An accelerated procedure is needed to maintain the
24 due process rights of owners of real estate and to reduce
25 unnecessary delays in an action of mortgage foreclosure or an
26 action for possession or similar actions to recover real
27 estate that is vacant and abandoned.

28 § 2303. Definitions.

29 The following words and phrases when used in this chapter
30 shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Action for possession." An action in ejectment initiated by
3 a purchaser to take control of mortgaged property.

4 "Action to quiet title." An action to resolve claims to
5 title to a mortgaged property initiated by a creditor or
6 purchaser.

7 "Creditor." A person authorized to enforce an obligation
8 secured by a mortgage or an authorized agent of the creditor,
9 including a servicer.

10 "Foreclosure action." An action initiated by a creditor to
11 enforce a mortgage obligation.

12 "FORMER OWNER." AN OWNER OR OBLIGOR, OR A SUCCESSOR IN <--
13 INTEREST OF AN OWNER OR OBLIGOR, WHOSE INTEREST IN A MORTGAGED
14 PROPERTY WAS FORECLOSED IN AN ACTION OF MORTGAGE FORECLOSURE,
15 CONVEYED BY A DEED IN LIEU OF FORECLOSURE OR DIVESTED BY COURT
16 ORDER UNDER A MORTGAGE OR OTHER OBLIGATION, INCLUDING A
17 SUCCESSOR IN INTEREST OR OTHER PERSON CLAIMING RIGHTS UNDER OR
18 THROUGH THE OWNER OR OBLIGOR.

19 "Mortgage." A consensual interest in real property that
20 secures an obligation.

21 "Mortgaged property." Real property that is subject to a
22 mortgage and improved with buildings or structures intended for
23 any type of human occupancy, including a formerly mortgaged
24 property conveyed to a purchaser at a sheriff's sale or pursuant
25 to a deed in lieu of foreclosure.

26 "Municipal board of appeals." The body designated to review
27 decisions of a municipal code enforcement officer under the act
28 of November 10, 1999 (P.L.491, No.45), known as the Pennsylvania
29 Construction Code Act.

30 "Municipal code enforcement officer." The official

1 designated to administer and enforce building codes in a
2 municipality designated under section 501 of the act of November
3 10, 1999 (P.L.491, No.45), known as the Pennsylvania
4 Construction Code Act.

5 "Municipality." A city, borough, township or incorporated
6 town.

7 "Obligation." A debt or other duty or liability of an
8 obligor secured by a mortgage.

9 "Obligor." A person that:

10 (1) owes payment or performance of an obligation;

11 (2) has signed a mortgage agreement with respect to
12 mortgaged property; or

13 (3) is otherwise accountable in whole or in part for
14 payment or performance of an obligation.

15 "Owner." A person claiming the right to ownership,
16 possession or use of a mortgaged property.

17 "Proceeding." A foreclosure action, an action for possession
18 or an action to quiet title relating to a mortgaged property.

19 "Property address." The address of a mortgaged property,
20 unless a different address is provided by the owner or obligor
21 in mortgage documents for notification of the owner or obligor
22 or in subsequent correspondence sent by the owner or obligor to
23 change the address for notification specified for use in
24 mortgage documents.

25 "Purchaser." Any of the following:

26 (1) a person that acquires equitable title to a
27 mortgaged property at a sheriff's sale conducted pursuant to
28 a foreclosure or similar action and has paid settlement funds
29 and delivered required documentation to the sheriff to obtain
30 a sheriff's deed or the owner of a property under a recorded

1 sheriff's deed to the property or the person's designee;

2 (2) the owner of a mortgaged property under a recorded
3 sheriff's deed to the mortgaged property; or

4 (3) a person that takes title to a mortgaged property
5 pursuant to a deed in lieu of foreclosure.

6 "Record." As a noun, the term means information that is
7 inscribed on a tangible medium or is stored in an electronic or
8 other medium and is retrievable in perceivable form.

9 "Residential mortgaged property." A mortgaged property
10 located within this Commonwealth containing two or fewer
11 residential units or on which two or fewer residential units are
12 to be constructed, including a residential condominium,
13 cooperative or planned community unit.

14 "Servicer." A person that is responsible for servicing an
15 obligation, including a person that holds or owns an obligation
16 or originates a mortgage loan if the person also services the
17 obligation.

18 "Vacant and abandoned property." Property that meets the
19 requirements for certification as provided under section 2305
20 (relating to requirements to certify mortgaged property as
21 vacant and abandoned).

22 "Vacant property." Mortgaged property with respect to which
23 the owner and all persons claiming through the owner, including
24 tenants, have relinquished possession. The term does not include
25 unoccupied mortgaged property that is:

26 (1) undergoing construction, renovation or
27 rehabilitation and that is proceeding with reasonable
28 diligence to completion;

29 (2) physically secured and used or held for use by the
30 homeowner as a vacation or seasonal home; or

1 (3) physically secured and the subject of a probate
2 action or other litigation in which ownership is contested.
3 § 2304. Certification of vacant and abandoned mortgaged
4 property.

5 (a) General rule.--After a creditor gives notice to an
6 obligor of a delinquency or other default with respect to an
7 obligation secured by a mortgage or initiates a foreclosure
8 action or action for possession or to quiet title, a mortgaged
9 property for which the notice is given or proceedings are
10 initiated shall be certified as vacant and abandoned if:

11 (1) a creditor or purchaser has been designated as a
12 conservator of the mortgaged property under section 5 of the
13 act of November 26, 2008 (P.L.1672, No.135), known as the
14 Abandoned and Blighted Property Conservatorship Act;

15 (2) the mortgaged property is certified as vacant and
16 abandoned by the municipality in which the mortgaged property
17 is located in the manner provided under subsection (b); or

18 (3) the mortgaged property is certified as vacant and
19 abandoned in a proceeding in the manner provided under
20 subsection (c).

21 (b) Municipal certification.--A mortgaged property shall be
22 deemed vacant and abandoned by the municipality in which the
23 mortgaged property is located if:

24 (1) A creditor requests that the municipal code
25 enforcement officer for the municipality make a determination
26 that the mortgaged property is vacant and abandoned.

27 (2) The municipal code enforcement officer inspects the
28 mortgaged property, determines that the mortgaged property is
29 vacant and abandoned under the requirements of section 2305
30 (relating to requirements to certify mortgaged property as

1 vacant and abandoned) and gives notice of the determination
2 ~~in the manner otherwise provided by law for the giving notice~~ <--
3 ~~of municipal code violations.~~ AND AN OPPORTUNITY FOR HEARING <--
4 TO THE OWNER OR AN OBLIGOR OTHER THAN THE OWNER IN THE MANNER
5 REQUIRED UNDER 2 PA.C.S. § 553 (RELATING TO HEARING AND
6 RECORD) OR AS OTHERWISE PROVIDED BY LAW FOR THE GIVING NOTICE
7 OF MUNICIPAL CODE VIOLATIONS AND TO CONTEST DETERMINATIONS
8 THAT VIOLATIONS HAVE OCCURRED.

9 (3) The creditor pays or agrees to pay a fee not to
10 exceed 110% of the reasonable costs for the municipal code
11 inspection officer to conduct an inspection of the mortgaged
12 property, to prepare a report of the inspection, to give
13 notice of the results of the inspection to the creditor and
14 the obligor and to participate in an appeal of a
15 determination that the mortgaged property is vacant and
16 abandoned.

17 (4) ~~The owner of the mortgaged property~~ OR OBLIGOR, <--
18 AFTER RECEIVING NOTICE AND AN OPPORTUNITY FOR A HEARING,
19 fails to seek review of a determination that the mortgaged
20 property is vacant and abandoned by the municipal board of
21 appeals within 30 days or, if a timely request for review is
22 filed, a final determination is made that the mortgaged
23 property is vacant and abandoned.

24 (c) Judicial certification.--A mortgaged property shall be
25 deemed certified as vacant and abandoned in a proceeding as
26 follows:

27 (1) In a proceeding, a creditor or purchaser may file a
28 request with the prothonotary to issue a rule to show cause
29 why the mortgaged property should not be certified as vacant
30 and abandoned by submitting an affidavit:

1 (i) supported as appropriate by images or other
2 appropriate evidence, alleging that the mortgaged
3 property qualifies for certification as vacant and
4 abandoned under the requirements of section 2305; and

5 (ii) submitted subject to the penalties for false
6 swearing under 18 Pa.C.S. § 4903 (relating to false
7 swearing).

8 (iii) The request may be filed together with the
9 original complaint in the proceeding or at any time
10 during the course of the proceeding.

11 (2) The affidavit that the mortgaged property is vacant
12 and abandoned may be provided by a municipal code enforcement
13 officer, the creditor or purchaser or by a competent adult
14 who has personal knowledge of the condition of the mortgaged
15 property, including a property inspector or agent retained by
16 a creditor.

17 (3) A request for a rule to show cause need not be
18 served on the owner of the mortgaged property or an obligor
19 other than the owner, but the rule issued by the prothonotary
20 shall be served on the owner or obligor in the manner
21 provided under paragraph (5).

22 (4) Within 10 business days of receipt of the request
23 for a rule to show cause, the prothonotary shall provide a
24 rule to show cause to the creditor or purchaser if the
25 affidavit contains assertions of fact that comply with the
26 requirements for certification as vacant and abandoned as
27 provided under section 2305.

28 (5) The rule to show cause shall be served on the owner
29 and an obligor other than the owner by the creditor or
30 purchaser as follows:

1 (i) If the owner or an obligor other than the owner
2 is represented by counsel in a proceeding in which the
3 rule to show cause is issued, the rule may be served by
4 delivery of the rule to show cause to counsel for the
5 owner or obligor.

6 (ii) If the owner or an obligor other than the owner
7 is not represented by counsel in the proceeding, the
8 creditor shall make at least three attempts to personally
9 serve the rule to show cause. Attempts at personal
10 service may occur at the property address and the address
11 specified in the county tax assessor's office for the
12 delivery of property tax bills for the mortgaged
13 property. The attempts shall be at least 72 hours apart
14 and at reasonable and different times of the day. If the
15 creditor cannot complete personal service on a party,
16 service may be completed by delivery of notice by first
17 class mail to the addresses at which personal service may
18 be made and by posting of the property in a conspicuous
19 manner.

20 (iii) A rule to show cause may be served on the
21 owner or an obligor other than the owner in the manner
22 provided under this paragraph regardless of whether
23 service of a complaint in a proceeding has been
24 completed.

25 (6) A copy of the rule to show cause shall be delivered
26 by the creditor or purchaser by first class mail to the
27 municipal code enforcement officer for the municipality where
28 the mortgaged property is located.

29 (7) An obligor may respond to the rule to show cause by
30 filing with the court a statement, submitted under oath or

1 affirmation that attests the statement is true and subject to
2 the penalties under 18 Pa.C.S. § 4903, that the mortgaged
3 property is not vacant and abandoned on a form provided by
4 the creditor or purchaser as specified below and containing
5 other information as may be required by the court. ONLY <--
6 RESPONSE BLOCKS TO DENY AVERMENTS OF INDICIA THAT A PROPERTY
7 IS VACANT OR ABANDONED PROVIDED IN THE REQUEST FOR ISSUANCE
8 OF THE RULE TO SHOW CAUSE SHALL BE INCLUDED IN THE FORM. THE
9 RESPONSE SHALL INCLUDE:

10 (i) Matter name and docket number.

11 (ii) Respondent or respondents.

12 (iii) Address or mortgaged property.

13 (iv) The respondent or respondents to this rule to
14 show cause certify that the mortgaged property is not
15 vacant and abandoned for the following reasons as
16 designed by checking all appropriate spaces below:

17The property is not vacant and
18 has been occupied within the
19 last 45 days by (specify name or
20 names of persons).

21Multiple windows, doors or
22 entrances on the property are
23 not boarded up, unhinged, closed
24 off, smashed in or are
25 continuously unlocked.

26The mortgaged property has not
27 been stripped of copper or other
28 metals.

29Interior furnishings, personal
30 items, appliances or fixtures

1 have not been removed from the
2 mortgaged property, including
3 window treatments, such as
4 blinds, curtains or shutters.
5 Gas, electric, water or sewer
6 utility services have not been
7 terminated to the mortgaged
8 property or are established in
9 the name of the creditor to
10 preserve the mortgaged property.
11 Newspapers, circulars, flyers or
12 mail have not accumulated on the
13 mortgaged property.
14 The United States Postal Service
15 has not discontinued delivery to
16 the mortgaged property.
17 Rubbish, trash, debris,
18 neglected vegetation or natural
19 overgrowth has not accumulated
20 on the mortgaged property.
21 Hazardous, noxious or unhealthy
22 substances or materials have not
23 accumulated on the mortgaged
24 property.
25 No communications have occurred
26 between respondents and (name of
27 the creditor or purchaser)
28 stating an intent to vacate or
29 abandon the property.
30 ~~....The following other conditions~~ <--

1 that indicate abandonment of the
2 property, namely (any relevant
3 conditions to be included on the
4 form by the creditor or
5 purchaser) are untrue or do not
6 exist.

7 With respect to the following violations of municipal building
8 or housing code (violation to be specified by the creditor or
9 purchaser).

10No citations alleging violations
11 have been received.

12Answers alleging that the
13 violations did not occur and at
14 this time no final determination
15 has been made regarding whether
16 the violations exist, or the
17 citations were dismissed.

18The violations have been
19 corrected within the preceding
20 year.

21 The respondent or respondents whose signature appears below
22 certify under the penalties provided under 18 Pa.C.S. § 4903
23 (relating to false swearing) with respect to official matters
24 that the statements above are true and correct.

25 (Signature of the respondent or
26 respondents).

27 (8) If a response to the rule to show cause is not filed
28 within 20 days AFTER BEING SERVED, the court shall render an <--
29 order certifying the mortgaged property as vacant and
30 abandoned.

1 (9) If a timely response to the rule to show cause is
2 filed, the court shall schedule a hearing to determine if
3 credible evidence exists to certify the mortgaged property as
4 vacant and abandoned within not fewer than 20 nor more than
5 30 days after proof of service of the rule to show cause in
6 the manner provided under paragraph (5).

7 § 2305. Requirements to certify mortgaged property as vacant
8 and abandoned.

9 (a) General rule.--A mortgaged property may be certified as
10 vacant and abandoned by a municipal code enforcement officer
11 under section 2304(b) (relating to certification of vacant and
12 abandoned mortgaged property) or in a judicial proceeding under
13 section 2304(c) if the mortgaged property is vacant and
14 satisfies at least ~~two~~ THREE of following indicia of <--
15 abandonment:

16 (1) Multiple windows, doors or entrances on the property
17 are boarded up, unhinged, closed off, smashed in or are
18 continuously unlocked.

19 (2) The mortgaged property has been stripped of copper
20 or other metals.

21 (3) Interior furnishings, personal items, appliances or
22 fixtures have been removed from the mortgaged property,
23 including window treatments, such as blinds, curtains or
24 shutters.

25 (4) Gas, electric, water or sewer utility services have
26 been terminated to the mortgaged property or are established
27 in the name of the creditor to preserve the mortgaged
28 property.

29 (5) Newspapers, circulars, flyers or mail has
30 accumulated on the mortgaged property or the United States

1 Postal Service has discontinued delivery to the mortgaged
2 property.

3 (6) Rubbish, trash, debris, neglected vegetation or
4 natural overgrowth has accumulated on the mortgaged property.

5 (7) Multiple municipal building or housing code
6 violations exist for the mortgaged property and the
7 violations have been documented as being uncorrected during
8 the preceding year.

9 (8) Written and signed statements have been issued by
10 the mortgaged property's adjoining neighbors, adjacent
11 neighbors, delivery persons or a municipal code enforcement
12 officer indicating that the mortgaged property is vacant and
13 abandoned.

14 (9) Hazardous, noxious or unhealthy substances or
15 materials have accumulated on the mortgaged property.

16 (10) A communication from the owner or obligor stating
17 that both the owner and any obligor have vacated or abandoned
18 the property or intend to do so.

19 ~~(11) Other credible evidence exists indicating the~~ <--
20 ~~intent of the owner or obligor to vacate and abandon the~~
21 ~~mortgaged property.~~

22 (b) Determining vacancy.--Competent evidence may be relied
23 on to determine that a mortgaged property is vacant, including
24 evidence that:

25 (1) The mortgaged property was found to be vacant at the
26 time of two inspections occurring at least 45 days apart.

27 (2) After the first inspection the mortgaged property
28 was posted with a notice advising an occupant of the
29 mortgaged property to immediately contact the person who
30 conducted the inspection and advising that failure to do so

1 may have adverse legal consequences.

2 (3) No response was received to the notice posted after
3 the first inspection from a person legally entitled to occupy
4 the mortgaged property prior to the second inspection.

5 (c) Corrective action by creditor or purchaser.--The
6 remediation of conditions that provide evidence of abandonment
7 under subsection (b) by the creditor or purchaser or corrective
8 action taken by a municipality or other person to protect the
9 public health and welfare shall not prevent a mortgaged property
10 from meeting the requirements to be certified as vacant and
11 abandoned.

12 § 2306. Effect of certification of vacancy and abandonment.

13 (a) Foreclosure action.--In a foreclosure action, a
14 mortgaged property certified as vacant and abandoned shall not
15 be subject to mediation, conciliation, diversion or other
16 program established by a local court to encourage resolution of
17 owner-occupied residential mortgage foreclosures.

18 (b) Service and notification.--Following a certification
19 that a mortgaged property is vacant and abandoned, any
20 subsequent documents required to be served on and any notices
21 required to be delivered to the owner and, any obligor other <--
22 than the owner OR A FORMER OWNER may be exclusively served and <--
23 delivered by first class mail to an address specified by the
24 owner ~~or~~, obligor OR FORMER OWNER for the receipt of <--
25 communications relating to the property or, if no address is
26 specified, by delivery to the address of the mortgaged property
27 and by posting of notice in a conspicuous location on the
28 mortgaged property.

29 (c) Scheduling of sheriff's sale.--

30 (1) If a mortgaged property is certified as vacant and

1 abandoned, upon the request of a creditor or purchaser, the
2 sheriff on receipt of an accelerated sale fee of \$500 shall
3 schedule a sale of the mortgaged property to be conducted no
4 later than 60 days following the filing of the writ of
5 execution and the sheriff's deed must be recorded no later
6 than 30 days following the sale.

7 (2) The accelerated sale fee shall be payable at the
8 time of the filing of the writ of execution and shall be
9 immediately refunded if:

10 (i) the time frames specified in this subsection are
11 not complied with; or

12 (ii) the expedited sale date is postponed or
13 continued by a party other than the creditor.

14 (d) Scheduling of execution of writ of possession.--

15 (1) If a mortgaged property is certified as vacant and
16 abandoned, upon the requests of a creditor or purchaser, the
17 sheriff on the receipt of an additional fee of \$250 shall
18 execute and serve a writ of possession no later than 20 days
19 following delivery of the writ to the sheriff.

20 (2) In order to impose the additional fee, the sheriff
21 must schedule the removal of a former owner's personal
22 property from the mortgaged property and the securing of the
23 personal property to be conducted no later than 30 days
24 following the filing of the writ of execution.

25 (3) The additional fee shall be immediately refunded if:

26 (i) the time frames provided under this section are
27 not complied with; or

28 (ii) the expedited execution is postponed or
29 continued by a party other than the purchaser.

30 (e) Possession of mortgaged property pending foreclosure.--

1 If a mortgaged property is certified as vacant and abandoned or
2 with the consent of the owner or an obligor other than the
3 owner, the creditor may enter the mortgaged property peacefully
4 for the purpose of inspecting, maintaining and repairing the
5 mortgaged property and shall not be liable to the owner for
6 trespass or for damage to the property resulting from a cause
7 other than the creditor's gross negligence or willful
8 misconduct.

9 (f) Property maintenance.--

10 (1) The maintenance obligations of a creditor that
11 exercises the right to possession pending foreclosure are
12 limited to compliance with property maintenance requirements
13 of the Federal Housing Administration for loans insured by
14 the administration or of the Federal National Mortgage
15 Association or the Federal Home Loan Mortgage Corporation for
16 mortgages held by either respective entity.

17 (2) For other creditors, the mortgaged property
18 maintenance obligations of a creditor that exercises its
19 right to possession pending foreclosure shall be limited to:

20 (i) Care for the yard and exterior of a building on
21 vacant and abandoned mortgaged property, including
22 removing excessive foliage growth that diminishes the
23 value of surrounding properties.

24 (ii) Measures reasonably necessary to prevent
25 trespassers from remaining on the mortgaged property.

26 (iii) Preventing mosquito larvae from growing in
27 standing water on the mortgaged property and infestations
28 by other vermin and insects.

29 (iv) Taking other actions needed to prevent
30 conditions on the mortgaged property that create a

1 serious and imminent hazard to public health or safety.

2 § 2307. Post-sheriff's sale possessory action, effect of

3 certification of vacancy and abandonment in action

4 for possession and disposition of abandoned personal

5 property.

6 (a) Removal of personal property by former owner.--

7 (1) When a former owner relinquishes possession of

8 mortgaged property certified as vacant and abandoned, the

9 former owner shall remove from the mortgaged property all

10 items of personal property.

11 (2) For the purposes of this section, a former owner

12 shall be deemed to have relinquished possession when the

13 former owner has:

14 (i) physically vacated the premises;

15 (ii) removed substantially all of the former owner's

16 personal property; or

17 (iii) provided a forwarding address or written

18 notice stating that the former owner has vacated the

19 premises or otherwise communicated to the creditor that

20 the former owner has relinquished possession of the

21 mortgaged property.

22 (b) Removal of personal property by purchaser.--If the

23 former owner fails to remove personal property from mortgaged

24 property certified as vacant and abandoned after delivery of a

25 sheriff's deed or a deed in lieu of foreclosure, concurrent with

26 the filing of an action for possession or at any time after the

27 action is filed, the purchaser may remove the remaining personal

28 property of the former owner in the following manner:

29 (1) The purchaser shall serve notice of intent to remove

30 personal property from the mortgaged property on the owner in

1 the manner provided under section 2306(b) (relating to effect
2 of certification of vacancy and abandonment).

3 (2) The purchaser shall conspicuously post ON THE <--
4 PROPERTY a personal property removal notice that includes:

5 (i) the date the notice was posted;

6 (ii) the address of the mortgaged property;

7 (iii) the date of the sheriff's sale or the date the
8 title was acquired by the purchaser;

9 (iv) a notice that personal property that remains on
10 the mortgaged property must be retrieved by the former
11 owner;

12 (v) a statement that:

13 (A) The former owner has 10 days from the date
14 of the notice to notify the purchaser that the former
15 owner will be retrieving the personal property.

16 (B) If the intent to retrieve is conveyed to the
17 purchaser, the personal property shall be retained by
18 the purchaser at the mortgaged property or a site of
19 the purchaser's choosing for 30 days from the date of
20 the notice.

21 (C) If no communication is made to the purchaser
22 within 10 days, the personal property may be disposed
23 of at the discretion of the purchaser; and

24 (vi) a telephone number, e-mail address or facsimile
25 number and address for the purchaser or its agent and the
26 location where the personal property can be retrieved, if
27 not at the mortgaged property, and a statement that
28 retrieval of the personal property after 10 days will
29 require the former owner to pay for costs related to the
30 storage of the personal property.

1 (3) At all times between posting of the personal
2 property removal notice and the expiration of the 10-day
3 period, the purchaser shall exercise ordinary care with
4 regard to any personal property that the former owner left in
5 or on the mortgaged property.

6 (4) At the expiration of the 10-day period, the
7 purchaser shall owe no duty to the former owner with regard
8 to caring for the personal property and may, in the
9 purchaser's discretion, dispose of the personal property
10 subject to the following:

11 (i) If the personal property is sold and proceeds
12 exceed any outstanding obligations owed to the owner or
13 obligor, the proceeds shall be forwarded to the former
14 owner by certified mail.

15 (ii) If no forwarding address has been provided to
16 the purchaser by the former owner, the owner shall hold
17 the proceeds for 30 days and, if unclaimed, may retain
18 the proceeds.

19 (5) If the purchaser has issued a personal property
20 removal notice to the former owner, the purchaser may store
21 the former owner's personal property at another location
22 within reasonable proximity to the mortgaged property subject
23 to the following:

24 (i) If the purchaser stores the personal property at
25 another location, the purchaser may remove the personal
26 property from the mortgaged property by any means
27 reasonably calculated to safeguard the personal property
28 for the time period required under this section.

29 (ii) A former owner shall not be required to pay the
30 costs related to the removal or storage of personal

1 property by the purchaser if the former owner retrieves
2 the personal property within 10 days of the date of the
3 notice.

4 (6) If the former owner or occupant retrieves the
5 personal property after 10 days of the date of the notice but
6 before 30 days, the former owner shall pay any reasonable and
7 actual costs related to the removal or storage of the
8 personal property by the purchaser for that time period.

9 § 2308. Construction.

10 Nothing in this subchapter shall be construed to limit or
11 restrict in any manner remedies available at law or in equity to
12 a creditor or purchaser in a proceeding.

13 SUBCHAPTER B

14 SHERIFF'S COMMISSION AND CREDITOR

15 ATTORNEY FEES

16 Sec.

17 § 2309. Definitions (RESERVED). <--

18 § 2310. Sheriff's commission. <--

19 § 2311. Limitation on creditor's attorney fees. <--

20 § 2312. Applicability. <--

21 § 2309. Definitions. <--

22 The following words and phrases when used in this subchapter
23 shall have the meanings given to them under section 2303
24 (relating to definitions) unless the context clearly indicates
25 otherwise. (RESERVED). <--

26 § 2310. Sheriff's commission.

27 (a) Timing of payment.--With respect to a mortgaged
28 property, the commission payable to the sheriff provided under
29 section 4(b) of the act of July 6, 1984 (P.L.614, No.127), known
30 as the Sheriff Fee Act, shall not be due unless the mortgaged

1 property is sold at the execution sale conducted by the sheriff.

2 (b) Stay, cancellation, withdrawal or postponement of
3 sale.--If the execution sale of a mortgaged property is stayed,
4 canceled, withdrawn or postponed due to bankruptcy, because the
5 mortgage is decelerated and brought current, in whole or in
6 part, is paid in full or as a result of a loan modification of
7 the mortgage loan or other resolution of the foreclosure action
8 or for another reason, the sheriff shall not be entitled to the
9 commission.

10 § 2311. Limitation on creditor's attorney fees.

11 (a) After commencement of proceedings.--

12 (1) After the commencement of foreclosure or other legal
13 action with respect to a residential mortgage that is subject
14 to the limits on attorney fees provided under section 406 of
15 the act of January 30, 1974 (P.L.13, No.6), referred to as
16 the Loan Interest and Protection Law, attorney fees that are
17 reasonable and actually incurred by the residential mortgage
18 lender may be charged to the residential mortgage debtor.

19 (2) Attorney fees are presumed to be reasonable under
20 paragraph (1) if they:

21 (i) conform with the attorney fees promulgated and
22 as may be amended from time to time by the Federal
23 National Mortgage Association, Federal Home Loan Mortgage
24 Corporation, the Department of Housing and Urban
25 Development, the Department of Veterans Affairs or their
26 respective successor organizations; and

27 (ii) are actually incurred for the enforcement of a
28 mortgage obligation in this Commonwealth.

29 (3) A party to the action may request, upon application
30 to the court, a review of the reasonableness of the attorney

1 fees claimed.

2 (b) Before commencement of proceedings.--

3 (1) ~~Prior~~ EXCEPT AS PROVIDED IN PARAGRAPH (2), PRIOR to <--
4 the commencement of foreclosure or other legal action with
5 respect to a residential mortgage, THAT IS subject to the <--
6 limits on attorney fees provided under section 406 of the
7 Loan Interest and Protection Law and paragraph (2), attorney <--
8 fees that are reasonable and actually incurred not in excess
9 of 0.1% of the amount of the then existing base figure as
10 defined in section 101 of the Loan Interest and Protection
11 Law MAY BE CHARGED TO THE RESIDENTIAL MORTGAGE DEBTOR. <--

12 (2) No attorney fees may be charged for legal expenses
13 incurred for a residential mortgage prior to or during the
14 30-day notice period provided under section 406 of the Loan
15 Interest and Protection Law.

16 § 2312. Applicability.

17 This subchapter shall apply to the extent provided under
18 sections 2310 (relating to sheriff's commission) and 2311
19 (relating to limitation on creditor's attorney fees) and shall
20 be not limited to mortgaged properties certified as vacant and
21 abandoned under Subchapter A (relating to vacant and abandoned
22 property).

23 Section 2. ~~Applicability.~~ <--

24 This act shall apply to proceedings commenced before, on or
25 after the effective date of this section.

26 Section 3. ~~Inconsistent repeals.~~ <--

27 The following parts of acts are repealed to the extent of any
28 inconsistency with 68 Pa.C.S. Ch. 23:

29 (1) Section 406(3) of the act of January 30, 1974
30 (P.L.13, No.6), referred to as the Loan Interest and

1 Protection Law.

2 (2) Section 7 of the act of July 6, 1984 (P.L.614,
3 No.127), known as the Sheriff Fee Act.

4 Section 4. This act shall take effect ~~as follows:~~ <--

5 ~~(1) The addition of 68 Pa.C.S. Ch. 23 shall take effect~~
6 ~~in 60 days.~~

7 ~~(2) The remainder of this act shall take effect~~
8 ~~immediately.~~ IN 180 DAYS. <--