

2024 -- S 2992 SUBSTITUTE A

LC005866/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

A N A C T

RELATING TO PROPERTY -- ABANDONED PROPERTY

Introduced By: Senators Kallman, McKenney, and Burke

Date Introduced: April 16, 2024

Referred To: Senate Housing & Municipal Government

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 34-44 of the General Laws entitled "Abandoned Property" is hereby
2 amended by adding thereto the following section:

3 **34-44-1.1. Inventory of abandoned properties.**

4 (a) On or before April 2, 2025, each town and city shall publish a list of all properties
5 located in each respective town or city which, based on inspection and records, may qualify as
6 abandoned property under this chapter. After April 2, 2025, the list shall be published and updated
7 annually and made available in the town or city clerk's office and on the municipal website. Notice
8 of the inclusion of a property on the abandoned properties list shall be provided to the last known
9 record owner or owners as available from the tax assessor records by first class mail, postage pre-
10 paid. The exclusion of any property from a city or town list shall not disqualify any property from
11 the provisions of this chapter, so long as the court makes the requisite findings as set forth herein.

12 (b) The publication of a list under this section shall not constitute grounds for legal claims
13 against a municipality by the record owner or any interested party.

14 SECTION 2. Sections 34-44-3, 34-44-4 and 34-44-12 of the General Laws in Chapter 34-
15 44 entitled "Abandoned Property" are hereby amended to read as follows:

16 **34-44-3. Injunctive relief and other relief.**

17 (a) In any proceeding:
18 (1) Brought ~~brought~~ under chapter 27.3 of title 23 entitled the Rhode Island state building
19 code, and any violation of the provisions of those regulations promulgated by the state building

1 code standards committee entitled SBC-1 Rhode Island state building code, SBC-2 Rhode Island
2 state one and two family dwelling code, SBC-3 Rhode Island state plumbing code, SBC-4 Rhode
3 Island state mechanical code, SBC-5 Rhode Island state electrical code, SBC-6 state property
4 maintenance code, SBC-19 state fuel gas code or any municipal ordinance or regulation concerning
5 minimum housing standards, that is before a state court, municipal court, housing division of a state
6 or municipal court, ~~or in any proceeding;~~ or

7 (2) Brought upon a verified petition for abatement filed in the state court by the municipal
8 corporation in which the property involved is located, by any neighboring landowner, or by a
9 nonprofit corporation, registered to do business in the state, that is duly organized and has as one
10 of its goals the improvement of housing conditions for low and moderate income persons in the
11 municipality in which the property in question is located, if a building is alleged to be abandoned
12 and either to be in a dangerous or unsafe condition or to be otherwise in violation of chapter 27.3
13 of title 23 entitled the Rhode Island state building code, and any violation of the provisions of those
14 regulations promulgated by the state building code standards committee entitled SBC-1 Rhode
15 Island state building code, SBC-2 Rhode Island state one and two family dwelling code, SBC-3
16 Rhode Island state plumbing code, SBC-4 Rhode Island state mechanical code, SBC-5 Rhode
17 Island state electrical code, SBC-6 state property maintenance code, SBC-19 state fuel gas code or
18 any municipal ordinance or regulation concerning building or housing; ~~the~~ the municipal corporation,
19 neighboring landowner, or nonprofit corporation may apply for an injunction requiring the owner
20 of the building to correct the condition or to eliminate the violation which request shall include
21 evidence of the condition(s) alleged satisfactory to the court, in its discretion.

22 ~~There~~ (b) Unless the court finds an immediate need, due to public safety, for a shortened
23 period, there shall be a hearing at least twenty (20) days after a summons for an injunction,
24 indicating the date and time of the hearing is served upon the owner of the building. The summons
25 shall be served by personal service, residence service, or service by certified mail pursuant to Rule
26 4 of the Superior Court Rules of Civil Procedure. If service cannot be made in one of these ways,
27 the notice shall be served by posting it in a conspicuous place on the building and by publication
28 in a newspaper of general circulation in the municipality in which the building is located. If the
29 court finds at the hearing that the building is abandoned and either is in a dangerous or unsafe
30 condition or is otherwise in violation of any ordinance or regulation concerning minimum housing
31 standards, it shall issue an injunction requiring the owner to correct the condition or to eliminate
32 the violation, or any other order that it considers necessary or appropriate to correct the condition
33 or to eliminate the violation.

34 **34-44-4. Public nuisance determination — Show cause hearing — Appointment of**

1 receiver.

2 (a) In any proceeding described in § 34-44-3 of this chapter, ~~if~~ after the court makes the
3 finding described in that section and additionally finds that the building in question constitutes a
4 public nuisance and that the owner of the building has been afforded reasonable opportunity to
5 begin correcting the dangerous or unsafe condition found or to begin eliminating the violation
6 found and has refused or failed to do so, the court shall cause notice of its findings to be served
7 upon the owner, each mortgagee or other lienholder of record, and any other interested party, and
8 shall order the parties to show cause why a receiver should not be appointed to perform, or cause
9 to be performed, any work and to furnish any material that reasonably may be required to abate the
10 public nuisance. The notice shall be served in the same manner as described in § 34-44-3 of this
11 chapter.

12 (b) Before appointing a receiver to perform, or cause to be performed, any work to abate a
13 public nuisance under this chapter, the court shall conduct a hearing at which any mortgagee of
14 record or lienholder of record, or other interested party in the order of his or her priority of interest
15 in title shall be offered the opportunity to undertake the work and to furnish the materials as are
16 necessary to abate the public nuisance.

17 (c) The court shall require the party selected to demonstrate the ability promptly to
18 undertake the work required, to provide the judge with a viable financial and construction plan for
19 the rehabilitation of the building, and to post security for the performance of the work.

20 (d) All amounts expended by the party toward abating the public nuisance shall be a lien
21 on the property if the expenditures were approved in advance by the court and if the party desires
22 such a lien. The lien shall bear the interest, and shall be payable upon the terms approved by the
23 court. The lien shall have the same priority as the mortgage of a receiver, as set forth in § 34-44-6,
24 if a certified copy of the court order that approved the expenses, the interest, and the terms of
25 payment of the lien, and a description of the property in question are filed for record, within thirty
26 (30) days of the date of issuance of the order, in the office of the recorder of deeds of the
27 municipality in which the property is located.

28 (e) If the court determines at the hearing that no party can undertake the work and furnish
29 the materials required to abate the public nuisance, or if the court determines at any time after the
30 hearing that any party who is undertaking corrective work pursuant to this chapter cannot or will
31 not proceed, or has not proceeded with due diligence, the judge may appoint a receiver to take
32 possession and control of the property. The receiver shall be appointed in the manner provided in
33 subsection ~~(e)~~(f).

34 ~~(e)~~(f) No person shall be appointed a receiver unless he or she first has provided the court

1 with a viable financial and construction plan for the rehabilitation of the property in question and
2 has demonstrated the capacity and expertise to perform, or cause to be performed, the required
3 work in a satisfactory manner.

4 (g) Prior to the appointment of a receiver the court may grant access to the property in
5 question to any person who applies to be appointed the receiver of the property, for the limited
6 purpose of developing a viable financial and construction plan for the rehabilitation of the property
7 which shall include the items set forth in § 34-44-4.1.

8 (h) The appointed receiver ~~may be a financial institution that possesses an interest of record~~
9 ~~in the property, a nonprofit corporation that is duly organized and has as one of its goals the~~
10 ~~improvement of housing conditions for low and moderate income persons in the municipality in~~
11 ~~which the property in question is located, or any other qualified property manager who certifies~~
12 ~~that any rehabilitation of the property in question will not result in the long term displacement of~~
13 ~~low and moderate income persons~~ shall be a lawyer appointed by the court who is certified by the
14 court to act as such.

15 **34-44-12. Sale of building and property by receiver.**

16 (a) If a receiver appointed pursuant to § 34-44-4 files with the judge in the civil action
17 described in § 34-44-4 a report indicating that the public nuisance has been abated, and if the judge
18 confirms that the receiver has abated the public nuisance, and if the receiver or any interested party
19 requests the judge to enter an order directing the receiver to sell the building and the property on
20 which it is located, then the judge may enter that order after holding a hearing as described in
21 subsection ~~(b)~~ (c); or

22 (b)(1) If the abatement of the nuisance has not yet occurred; and

23 (2) If the court approves the abatement plan presented by the receiver or any interested
24 party; and

25 (3) The building at the subject property is unoccupied, then the court may enter an order,
26 upon the receiver's recommendation, directing the receiver to sell the building and property upon
27 which it is located after holding a hearing as described in subsection (c) of this section. Any sale
28 order and sale deed under this subsection shall include a requirement that the transfer of the property
29 include a reverter if the abatement plan is not completed in accordance with its terms and in the
30 timeframe established in the plan. The abatement of the property by the purchaser shall be at the
31 purchaser's sole cost and expense.

32 ~~(b)(c)~~ (c) The receiver or interested party requesting an order as described in ~~subsection (a)~~
33 subsections (a) or (b) of this section shall cause a notice of the date and time of a hearing on the
34 request to be served on the owner of the building involved and all other interested parties in

1 accordance with § 34-44-3. The judge in the civil action described in § 34-44-3 shall conduct the
2 scheduled hearing. At the hearing, if the owner or any interested party objects to the sale of the
3 building and the property, the burden of proof shall be upon the objecting person to establish, by a
4 preponderance of the evidence, that the benefits of not selling the building and the property
5 outweigh the benefits of selling them. If the judge determines that there is no objecting person, or
6 if he or she determines that there is one or more objecting persons but no objecting person has
7 sustained the burden of proof specified herein, the judge may enter an order directing the receiver
8 to offer the building and the property for sale upon terms and conditions that the judge shall specify,
9 and may further order the removal of any clouds on the title to the building and property by reason
10 of any liens or encumbrances that are inferior to any claims of the receiver, as provided by § 34-
11 44-6(9), or if the receivership action is pending in a court other than the superior court, the judge
12 may order the receiver to petition the superior court to order the removal of any clouds on the title
13 to the building or property. An order by the superior court to remove any cloud on the title to the
14 building and property shall be binding upon all those claiming by, through, under, or by virtue of,
15 any inferior liens or encumbrances.

16 (d) The court may give priority in a sale to any party willing to:

17 (1) Designate and deed restrict the property for low- and moderate-income housing, as
18 defined in § 45-53-3; or

19 (2) Resell the property at least ten percent (10%) below an appraised market value; or

20 (3) Designate any residential units in the property for occupancy through any housing
21 choice voucher program; or

22 (4) Restrict use of the property to owner-occupancy for a period of not less than twenty-
23 four (24) months from the date of the issuance of a certificate of occupancy.

24 The waiver of any portion of the delinquent real estate taxes or zoning or minimum housing
25 finances pursuant to subsection (e) of this section may qualify as a municipal subsidy under § 45-53-
26 3.

27 ~~(e)~~(e) If a sale of a building and the property on which it is located is ordered pursuant to
28 subsections (a) ~~and (b)~~ through (d) and if the sale occurs in accordance with the terms and
29 conditions specified by the judge in his or her order of sale, then the receiver shall distribute the
30 proceeds of the sale and the balance of any funds that the receiver may possess, after the payment
31 of the costs of the sale, in the following order of priority and in the described manner:

32 (1) First, the amount due for delinquent taxes and assessments owed to this state or a
33 political subdivision of this state;

34 (2) Second, in satisfaction of any mortgage liability incurred by the receiver pursuant to §

1 34-44-6 of this chapter, in their order of priority;

2 (3) Third, any unreimbursed expenses and other amounts paid in accordance with § 34-44-
3 6 of this chapter by the receiver, and the fees of the receiver assessed pursuant to § 34-44-8 of this
4 chapter; and

5 (4) Fourth, the amount of any pre-receivership mortgages, liens, or other encumbrances, in
6 their order of priority.

7 ~~(d)~~(f) Following a distribution in accordance with subsection ~~(e)~~(e), the receiver shall
8 request the judge in the civil action described in § 34-44-3 to enter an order terminating the
9 receivership. If the judge determines that the sale of the building and the property on which it is
10 located occurred in accordance with the terms and conditions specified by the judge in his or her
11 order of sale under subsection ~~(b)~~(c) and that the receiver distributed the proceeds of the sale and
12 the balance of any funds that the receiver possessed, after the payment of the costs of the sale, in
13 accordance with subsection ~~(e)~~(e), and if the judge approves any final accounting required of the
14 receiver, the judge may terminate the receivership.

15 ~~(e)~~(g) If a judge in a civil action described in § 34-44-3 enters a declaration that a public
16 nuisance has been abated by a receiver, and if, within three (3) days after the entry of the
17 declaration, all costs, expenses, and approved fees of the receivership have not been paid in full,
18 the judge may enter an order directing the receiver to sell the building involved and the property
19 on which it is located. The order shall be entered, and the sale shall occur, only in compliance with
20 subsections (b) — (d), as applicable.

21 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO PROPERTY -- ABANDONED PROPERTY

- 1 This act would require towns and cities to publish a list of abandoned properties and makes
- 2 various other amendments relative to the sale of abandoned property by a receiver.
- 3 This act would take effect upon passage.

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