

New Pennsylvania Anti-Blight Law Should Speed Up Foreclosure Process

PUBLISHED ON
June 29, 2018

By the end of the year, residential mortgage foreclosure on abandoned Pennsylvania properties should be a lot easier.

Gov. Tom Wolf signed the Vacant and Abandoned Real Estate Foreclosure Act last week, [aimed at tackling the eyesore of blighted properties](#). It is in conjunction with another bill he signed last week allowing redevelopment authorities more power to remove blighted properties.

While the [Vacant and Abandoned Real Estate Foreclosure Act](#) is aimed at combating blight, it's also a win for mortgage servicers and lenders in that, in many counties, the act will permit abandoned properties to get to a foreclosure sale much more quickly.

The new law is similar to one [passed in Maryland in 2017](#).

The provisions of the act, effective December 19, begin once a creditor starts foreclosure action and has reason to believe a property is vacant or abandoned. Creditors may seek to certify the vacancy through the courts or by employing a municipal code officer. The court process entails filing an affidavit provided by the creditor, a code enforcement officer or any competent adult with knowledge of the condition of the property, such as a property inspector. The claim must include photographic evidence proving the claimed abandonment. The filed affidavit, along with a "Rule to Show Cause," is served upon the foreclosure defendant. If the defendant files a response certifying under oath that the property is not vacant or abandoned, the court sets a hearing and will make a final determination. If the defendant does not respond, the property may be certified vacant by default.

Creditors seeking to avoid any court delay in certifying the property vacant may also consider employing a municipal code officer. If retained by the creditor, a code enforcement officer will inspect the property and provide a report certifying its status as vacant and abandoned. The officer's report is sent to the property owner with a notice that the owner must seek a hearing to refute the vacancy determination, or the determination will be final.

Upon certification that the property is vacant, the foreclosure process becomes expedited. Vacant properties are excused from all county foreclosure diversion programs, eliminating months of delay in many counties. Service of all documents subsequent to the initial process can be completed by first class mail to an address specified by the defendant, or if no address is specified by first class mail and posting on the vacant property. Once judgment is entered and a writ of execution is filed, sheriffs must schedule certified vacant properties within 60 days upon payment of an acceleration fee by the creditor. Creditors can also exercise a limited right to possession while foreclosing to maintain the property and to remedy any possible code violations. It is expected that the act could save creditors anywhere from 90 to 180 days in getting a vacant property to sale in some counties.

In addition to tackling vacant properties, the act addresses sheriff's commissions on real property sales and creditor attorney fees. Sheriff commissions - commonly called poundage - will no longer be collected unless the property is sold at a sheriff sale. As for creditor attorney fees, reasonable and actually incurred attorney fees can be assessed to the defendant in cases with properties subject to the provisions of [Act 6 of 1974](#). Now, those fees are presumed reasonable if they conform to the fee schedules promulgated by Fannie Mae, Freddie Mac, the U.S. Department of Housing and Urban Development or the U.S. Department of Veterans Affairs.

For more information on residential mortgage foreclosures in Pennsylvania and the Vacant and Abandoned Real Estate Foreclosure Act, please [contact me](#) or anyone in the [Barley Snyder Finance & Creditors' Rights Practice Group](#).