

2024 -- S 2992

LC005866

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 January 1, 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 January 1, 2025, the list shall be published and
7 updated annually and made available in the town or city clerk's office and on the municipal website.
8 Notice of the inclusion of a property on the abandoned properties list shall be provided to the last
9 known record owner or owners as available from the tax assessor records by first class mail, postage
10 pre-paid.

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

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

15 **34-44-3. Injunctive relief and other relief.**

16 (a) In any proceeding; (1) brought under chapter 27.3 of title 23 entitled the Rhode Island
17 state building code, and any violation of the provisions of those regulations promulgated by the
18 state building code standards committee entitled SBC-1 Rhode Island state building code, SBC-2
19 Rhode Island state one and two family dwelling code, SBC-3 Rhode Island state plumbing code,

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

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

31 **34-44-4. Public nuisance determination — Show cause hearing — Appointment of**
32 **receiver.**

33 (a) In any proceeding described in § 34-44-3 of this chapter, ~~if~~ after the court makes the
34 finding described in that section and additionally finds that the building in question constitutes a

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

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

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

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

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

30 ~~(e)~~(f) No person shall be appointed a receiver unless he or she first has provided the court
31 with a viable financial and construction plan for the rehabilitation of the property in question and
32 has demonstrated the capacity and expertise to perform the required work in a satisfactory manner.

33 (g) Prior to the appointment of a receiver the court may grant access to the property in
34 question to any person who applies to be appointed the receiver of the property, for the limited

1 purpose of developing a viable financial and construction plan for the rehabilitation of the property
2 which shall include the items set forth in § 34-44-4.1.

3 [\(h\)](#) The appointed receiver may be a financial institution that possesses an interest of record
4 in the property, a nonprofit corporation that is duly organized and has as one of its goals the
5 improvement of housing conditions for low and moderate income persons in the municipality in
6 which the property in question is located, or any other qualified property manager who certifies
7 that any rehabilitation of the property in question will not result in the long term displacement of
8 low and moderate income persons.

9 **34-44-12. Sale of building and property by receiver.**

10 (a) If a receiver appointed pursuant to § 34-44-4 files with the judge in the civil action
11 described in § 34-44-4 a report indicating that the public nuisance has been abated, and if the judge
12 confirms that the receiver has abated the public nuisance, and if the receiver or any interested party
13 requests the judge to enter an order directing the receiver to sell the building and the property on
14 which it is located, then the judge may enter that order after holding a hearing as described in
15 subsection ~~(b)~~[\(c\)](#); or

16 [\(b\) If the court approves the abatement plan presented by the receiver or any interested](#)
17 [party, the judge may enter an order, upon the receiver's recommendation, directing the receiver to](#)
18 [sell the building and property upon which it is located then the judge may enter that order after](#)
19 [holding a hearing as described in subsection \(c\) of this section and any sale order and sale deed](#)
20 [shall include a requirement that the transfer of the property include the possibility of a reverter if](#)
21 [the abatement plan is not completed in accordance with its terms and in the timeframe established](#)
22 [in the plan.](#)

23 ~~(b)~~[\(c\)](#) The receiver or interested party requesting an order as described in subsection (a)
24 shall cause a notice of the date and time of a hearing on the request to be served on the owner of
25 the building involved and all other interested parties in accordance with § 34-44-3. The judge in
26 the civil action described in § 34-44-3 shall conduct the scheduled hearing. At the hearing, if the
27 owner or any interested party objects to the sale of the building and the property, the burden of
28 proof shall be upon the objecting person to establish, by a preponderance of the evidence, that the
29 benefits of not selling the building and the property outweigh the benefits of selling them. If the
30 judge determines that there is no objecting person, or if he or she determines that there is one or
31 more objecting persons but no objecting person has sustained the burden of proof specified herein,
32 the judge may enter an order directing the receiver to offer the building and the property for sale
33 upon terms and conditions that the judge shall specify, and may further order the removal of any
34 clouds on the title to the building and property by reason of any liens or encumbrances that are

1 inferior to any claims of the receiver, as provided by § 34-44-6(9), or if the receivership action is
2 pending in a court other than the superior court, the judge may order the receiver to petition the
3 superior court to order the removal of any clouds on the title to the building or property. An order
4 by the superior court to remove any cloud on the title to the building and property shall be binding
5 upon all those claiming by, through, under, or by virtue of, any inferior liens or encumbrances.

6 (d) Priority in a sale shall be given to any party willing to designate and deed restrict the
7 property for low- and moderate-income housing, as defined in § 45-53-3. The waiver of any portion
8 of the delinquent real estate taxes or zoning or minimum housing fines pursuant to subsection (e)
9 of this section may qualify as a municipal subsidy under § 45-53-3.

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

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

17 (2) Second, in satisfaction of any mortgage liability incurred by the receiver pursuant to §
18 34-44-6 of this chapter, in their order of priority;

19 (3) Third, any unreimbursed expenses and other amounts paid in accordance with § 34-44-
20 6 of this chapter by the receiver, and the fees of the receiver assessed pursuant to § 34-44-8 of this
21 chapter; and

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

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

32 ~~(e)~~(g) If a judge in a civil action described in § 34-44-3 enters a declaration that a public
33 nuisance has been abated by a receiver, and if, within three (3) days after the entry of the
34 declaration, all costs, expenses, and approved fees of the receivership have not been paid in full,

1 the judge may enter an order directing the receiver to sell the building involved and the property
2 on which it is located. The order shall be entered, and the sale shall occur, only in compliance with
3 subsections (b) — (d), [as applicable](#).

4 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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