

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

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HOUSE PRINCIPAL CLERK

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HOUSE DRH80071-LMf-34A (02/06)

Short Title: Local Gov'ts/Vacant Housing Receivership. (Public)

Sponsors: Representatives Brandon, Hardister, Faircloth, and Collins (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT AUTHORIZING COUNTIES AND CITIES TO PETITION THE SUPERIOR  
3 COURT TO APPOINT A RECEIVER TO REHABILITATE, DEMOLISH, OR SELL A  
4 VACANT BUILDING, STRUCTURE, OR DWELLING WHERE THE OWNER HAS  
5 FAILED TO COMPLY WITH AN ORDER TO DO SO AND TO CHARGE THE  
6 OWNER AN ADMINISTRATIVE FEE.

7 The General Assembly of North Carolina enacts:

8 SECTION 1. Part 4 of Article 18 of Chapter 153A of the General Statutes is  
9 amended by adding a new section to read as follows:

10 "**§ 153A-370.1. Vacant building receivership.**

11 (a) Petition for Appointment of Receiver. – A county may petition the superior court for  
12 the appointment of a receiver to rehabilitate, demolish, or sell a vacant building or structure  
13 under this Part, or a dwelling under Part 6 of this Article, if the owner fails to do any of the  
14 following:

- 15 (1) Fails to comply with an order issued pursuant to G.S. 153A-369 from which  
16 no appeal has been taken or from which the appeal has been dismissed or  
17 denied.  
18 (2) Fails to comply with an order of the board of commissioners issued pursuant  
19 to G.S. 153A-369 following an appeal.  
20 (3) Fails to comply with an order to repair, alter, improve, remove, or demolish  
21 a structure issued under G.S. 160A-443.

22 (b) Petition Requirements. – The petition for the appointment of a receiver shall include  
23 all of the following: (i) a copy of the original violation notice or order issued by the county; (ii)  
24 a verified pleading which avers that the required rehabilitation or demolition has not been  
25 completed and identifies the proposed receiver and states the person's qualifications to serve;  
26 and (iii) the names of the respondents, which shall include the owner of the property, as  
27 recorded with the register of deeds or listed in the office of the clerk of court or tax collector,  
28 and any mortgagee with a recorded interest in the property. If the petition fails to name a  
29 respondent as required by this subsection, the proceeding may continue, but the receiver's lien  
30 for expenses incurred in rehabilitating, demolishing, or selling the vacant building, structure, or  
31 dwelling, as authorized by subsection (e) of this section, shall not have priority over any  
32 ownership claim or lien of that respondent.

33 (c) Notice of Proceeding. – Within 10 days after filing the petition, the county shall  
34 give notice of the pendency and nature of the proceeding by regular and certified mail to the  
35 last known address of all property owners and all judgment creditors and lien holders with a  
36 recorded interest in the property. Within 30 days of the date on which the notice was mailed, a



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1 judgment creditor or lien holder may apply to intervene in the proceeding and to be appointed  
2 as receiver. If the county fails to give notice to any judgment creditor or lien holder as required  
3 by this subsection, the proceeding may continue, but the receiver's lien for expenses incurred in  
4 rehabilitating, demolishing, or selling the vacant building, structure, or dwelling, as authorized  
5 by subsection (e) of this section, shall not have priority over the lien of that judgment creditor  
6 or lien holder.

7 (d) Appointment of Receiver. – The court shall appoint a receiver if the provisions of  
8 subsections (b) and (c) of this section have been satisfied. However, the court may, instead of  
9 appointing a receiver to rehabilitate or sell a vacant building, structure, or dwelling, permit an  
10 owner, mortgagee, beneficiary of a deed of trust, or other person with an interest in the property  
11 to rehabilitate or demolish the property if that person (i) demonstrates the ability to complete  
12 the rehabilitation or demolition within a reasonable time; (ii) agrees to comply with a specified  
13 schedule for rehabilitation or demolition; and (iii) posts a bond in an amount determined by the  
14 court as security for the performance of the required work in compliance with the specified  
15 schedule. If, at any time, it appears to the county that the owner, mortgagee, beneficiary of a  
16 deed of trust, or other person appointed under this subsection is not proceeding with due  
17 diligence or in compliance with the court-ordered schedule, the county may apply to the court  
18 for immediate revocation of that person's appointment and for the appointment of a receiver. If  
19 the court revokes the appointment and appoints a receiver, the court may do either of the  
20 following: (i) order that some or all of the bond posted under this subsection be returned to the  
21 appointed person because his or her efforts to rehabilitate, demolish, or sell the property prior  
22 to the appointment being revoked added value to the property or (ii) order that some or all of  
23 the bond posted be applied to the receiver's expenses in rehabilitating, demolishing, or selling  
24 the vacant building, structure, or dwelling. If no qualified person with an ownership interest in  
25 the vacant building, structure, or dwelling requests appointment to rehabilitate or demolish the  
26 property or if an appointee is dismissed, the court shall appoint a receiver for the purpose of  
27 rehabilitating and managing the property, demolishing the property, or selling the property to a  
28 qualified buyer. To be considered qualified, a person must show (i) the financial ability to  
29 complete the purchase or rehabilitation of the property; (ii) the knowledge of, or experience in,  
30 the rehabilitation of vacant real property; and (iii) the absence of any material building code  
31 violations issued by the county on other real property owned by the person or any member,  
32 principal, officer, major stockholder, parent, subsidiary, predecessor, or others affiliated with  
33 the person or the person's business.

34 (e) Receiver Authority Exclusive. – Upon the appointment of a receiver under  
35 subsection (d) of this section, all other parties are divested of any authority to rehabilitate,  
36 demolish, or sell the vacant building, structure, or dwelling subject to the receivership. Any  
37 costs or fees incurred by a receiver appointed under this section shall constitute a lien against  
38 the property, and the receiver's lien shall have priority over all other liens and encumbrances,  
39 except taxes or other government assessments.

40 (f) Receiver's Authority to Rehabilitate or Demolish. – In addition to all necessary  
41 powers, if a receiver is appointed to rehabilitate or demolish a vacant building, structure, or  
42 dwelling, the receiver shall have the right of possession with authority to do all of the  
43 following:

- 44 (1) Contract for necessary labor and supplies for rehabilitation or demolition.
- 45 (2) Borrow money for rehabilitation or demolition from an approved lending  
46 institution or through a governmental agency or program, using the  
47 receiver's lien against the property as security.
- 48 (3) Manage the property after rehabilitation, with all the powers of a landlord,  
49 for a period of up to two years and apply the rent received to current  
50 operating expenses and repayment of outstanding rehabilitation expenses.
- 51 (4) Foreclose on the receiver's lien or accept a deed in lieu of foreclosure.

1       (g) Receiver's Authority to Sell. – In addition to all necessary powers, if a receiver is  
2 appointed to sell a vacant building, structure, or dwelling, the receiver shall have the authority  
3 to do all of the following: (i) sell the property to the highest bidder at public sale, following the  
4 same notice provisions that apply to a mortgage foreclosure under Article 2A of Chapter 45 of  
5 the General Statutes or (ii) sell the property privately for fair market value if no party to the  
6 receivership objects to the amount and procedure. In the notice of public sale authorized under  
7 this subsection, it shall be sufficient to describe the property by a street address and reference to  
8 the book and page or other location where the property deed is registered. Prior to any sale  
9 under this subsection, the applicants to bid in the public sale or the proposed buyer in the  
10 private sale shall demonstrate the ability and experience needed to rehabilitate the property  
11 within a reasonable time. After deducting the expenses of the sale, the amount of outstanding  
12 taxes and other government assessments and the amount of the receiver's lien, the receiver shall  
13 apply any remaining proceeds of the sale first to the county's costs and expenses, including  
14 reasonable attorneys' fees, and then to the liens against the property in order of priority. Any  
15 remaining proceeds shall be remitted to the property owner.

16       (h) Receiver Forecloses on Lien. – A receiver may foreclose on the lien authorized by  
17 subsection (e) of this section by selling the property subject to the lien at a public sale,  
18 following public notice and notice to interested parties in the manner as a mortgage foreclosure  
19 under Article 2A of Chapter 45 of the General Statutes. After deducting the expenses of the  
20 sale and the amount of any outstanding taxes and other government assessments, the receiver  
21 shall apply the proceeds of the sale to the liens against the property, in order of priority. In lieu  
22 of foreclosure, and only if the receiver has rehabilitated the property, an owner may pay the  
23 receiver's costs, fees, including reasonable attorneys' fees, and expenses or may transfer his or  
24 her ownership in the property to either the receiver or an agreed upon third party for an amount  
25 agreed to by all parties to the receivership as being the property's fair market value.

26       (i) Deed After Sale. – Following the court's confirmation of the sale of the property  
27 under this section, the receiver shall execute a deed conveying title to the property to the buyer,  
28 free and clear of all encumbrances. Upon the sale of the property, the receiver shall promptly  
29 file with the court a final accounting and a motion to dismiss the action.

30       (j) Receiver's Tenure. – The tenure of a receiver appointed to rehabilitate, demolish, or  
31 sell a vacant building, structure, or dwelling shall extend no longer than two years after the  
32 rehabilitation, demolition, or sale of the property. Any time after the rehabilitation, demolition,  
33 or sale of the property, any party to the receivership may file a motion to dismiss the receiver  
34 upon the payment of the receiver's outstanding costs, fees, and expenses. Upon the expiration  
35 of the receiver's tenure, the receiver shall file a final accounting with the court that appointed  
36 the receiver.

37       (k) Administrative Fee Charged. – The county may charge the owner of the vacant  
38 building, structure, or dwelling, subject to the receivership, an administrative fee of one  
39 hundred dollars (\$100.00)."

40       **SECTION 2.** Part 5 of Article 19 of Chapter 160A of the General Statutes is  
41 amended by adding a new section to read as follows:

42 **"§ 160A-439.1. Vacant building receivership.**

43       (a) Petition for Appointment of Receiver. – A city may petition the superior court for  
44 the appointment of a receiver to rehabilitate, demolish, or sell a vacant building or structure  
45 under this Part, or a dwelling under Part 6 of this Article, if the owner fails to do any of the  
46 following:

- 47           (1) Fails to comply with an order issued pursuant to G.S. 160A-429 from which  
48 no appeal has been taken or from which the appeal has been dismissed or  
49 denied.
- 50           (2) Fails to comply with an order of the city council issued pursuant to  
51 G.S. 160A-429 following an appeal.

1           (3)   Fails to comply with an order to repair, alter, improve, remove, or demolish  
2           a structure issued under G.S. 160A-443.

3           (b)   Petition Requirements. – The petition for the appointment of a receiver shall include  
4           all of the following: (i) a copy of the original violation notice or order issued by the city; (ii) a  
5           verified pleading which avers that the required rehabilitation or demolition has not been  
6           completed and identifies the proposed receiver and states the person's qualifications to serve;  
7           and (iii) the names of the respondents, which shall include the owner of the property, as  
8           recorded with the register of deeds or listed in the office of the clerk of court or tax collector,  
9           and any mortgagee with a recorded interest in the property. If the petition fails to name a  
10           respondent as required by this subsection, the proceeding may continue, but the receiver's lien  
11           for expenses incurred in rehabilitating, demolishing, or selling the vacant building, structure, or  
12           dwelling, as authorized by subsection (e) of this section, shall not have priority over any  
13           ownership claim or lien of that respondent.

14           (c)   Notice of Proceeding. – Within 10 days after filing the petition, the city shall give  
15           notice of the pendency and nature of the proceeding by regular and certified mail to the last  
16           known address of all property owners and all judgment creditors and lien holders with a  
17           recorded interest in the property. Within 30 days of the date on which the notice was mailed, a  
18           judgment creditor or lien holder may apply to intervene in the proceeding and to be appointed  
19           as receiver. If the city fails to give notice to any judgment creditor or lien holder as required by  
20           this subsection, the proceeding may continue, but the receiver's lien for expenses incurred in  
21           rehabilitating, demolishing, or selling the vacant building, structure, or dwelling, as authorized  
22           by subsection (e) of this section, shall not have priority over the lien of that judgment creditor  
23           or lien holder.

24           (d)   Appointment of Receiver. – The court shall appoint a receiver if the provisions of  
25           subsections (b) and (c) of this section have been satisfied. However, the court may, instead of  
26           appointing a receiver to rehabilitate or sell a vacant building, structure, or dwelling, permit an  
27           owner, mortgagee, beneficiary of a deed of trust, or other person with an interest in the property  
28           to rehabilitate or demolish the property if that person (i) demonstrates the ability to complete  
29           the rehabilitation or demolition within a reasonable time; (ii) agrees to comply with a specified  
30           schedule for rehabilitation or demolition; and (iii) posts a bond in an amount determined by the  
31           court as security for the performance of the required work in compliance with the specified  
32           schedule. If, at any time, it appears to the city that the owner, mortgagee, beneficiary of a deed  
33           of trust, or other person appointed under this subsection is not proceeding with due diligence or  
34           in compliance with the court-ordered schedule, the city may apply to the court for immediate  
35           revocation of that person's appointment and for the appointment of a receiver. If the court  
36           revokes the appointment and appoints a receiver, the court may do either of the following: (i)  
37           order that some or all of the bond posted under this subsection be returned to the appointed  
38           person because his or her efforts to rehabilitate, demolish, or sell the property prior to the  
39           appointment being revoked added value to the property or (ii) order that some or all of the bond  
40           posted be applied to the receiver's expenses in rehabilitating, demolishing, or selling the vacant  
41           building, structure, or dwelling. If no qualified person with an ownership interest in the vacant  
42           building, structure, or dwelling requests appointment to rehabilitate or demolish the property or  
43           if an appointee is dismissed, the court shall appoint a receiver for the purpose of rehabilitating  
44           and managing the property, demolishing the property, or selling the property to a qualified  
45           buyer. To be considered qualified, a person must show (i) the financial ability to complete the  
46           purchase or rehabilitation of the property; (ii) the knowledge of, or experience in, the  
47           rehabilitation of vacant real property; and (iii) the absence of any material building code  
48           violations issued by the city on other real property owned by the person or any member,  
49           principal, officer, major stockholder, parent, subsidiary, predecessor, or others affiliated with  
50           the person or the person's business.

1       (e) Receiver Authority Exclusive. – Upon the appointment of a receiver under  
2 subsection (d) of this section, all other parties are divested of any authority to rehabilitate,  
3 demolish, or sell the vacant building, structure, or dwelling subject to the receivership. Any  
4 costs or fees incurred by a receiver appointed under this section shall constitute a lien against  
5 the property, and the receiver's lien shall have priority over all other liens and encumbrances,  
6 except taxes or other government assessments.

7       (f) Receiver's Authority to Rehabilitate or Demolish. – In addition to all necessary  
8 powers, if a receiver is appointed to rehabilitate or demolish a vacant building, structure, or  
9 dwelling, the receiver shall have the right of possession with authority to do all of the  
10 following:

11           (1) Contract for necessary labor and supplies for rehabilitation or demolition.

12           (2) Borrow money for rehabilitation or demolition from an approved lending  
13 institution or through a governmental agency or program, using the  
14 receiver's lien against the property as security.

15           (3) Manage the property after rehabilitation, with all the powers of a landlord,  
16 for a period of up to two years and apply the rent received to current  
17 operating expenses and repayment of outstanding rehabilitation expenses.

18           (4) Foreclose on the receiver's lien or accept a deed in lieu of foreclosure.

19       (g) Receiver's Authority to Sell. – In addition to all necessary powers, if a receiver is  
20 appointed to sell a vacant building, structure, or dwelling, the receiver shall have the authority  
21 to do all of the following: (i) sell the property to the highest bidder at public sale, following the  
22 same notice provisions that apply to a mortgage foreclosure under Article 2A of Chapter 45 of  
23 the General Statutes or (ii) sell the property privately for fair market value if no party to the  
24 receivership objects to the amount and procedure. In the notice of public sale authorized under  
25 this subsection, it shall be sufficient to describe the property by a street address and reference to  
26 the book and page or other location where the property deed is registered. Prior to any sale  
27 under this subsection, the applicants to bid in the public sale or the proposed buyer in the  
28 private sale shall demonstrate the ability and experience needed to rehabilitate the property  
29 within a reasonable time. After deducting the expenses of the sale, the amount of outstanding  
30 taxes and other government assessments, and the amount of the receiver's lien, the receiver  
31 shall apply any remaining proceeds of the sale first to the city's costs and expenses, including  
32 reasonable attorneys' fees, and then to the liens against the property in order of priority. Any  
33 remaining proceeds shall be remitted to the property owner.

34       (h) Receiver Forecloses on Lien. – A receiver may foreclose on the lien authorized by  
35 subsection (e) of this section by selling the property subject to the lien at a public sale,  
36 following public notice and notice to interested parties in the manner as a mortgage foreclosure  
37 under Article 2A of Chapter 45 of the General Statutes. After deducting the expenses of the  
38 sale and the amount of any outstanding taxes and other government assessments, the receiver  
39 shall apply the proceeds of the sale to the liens against the property, in order of priority. In lieu  
40 of foreclosure, and only if the receiver has rehabilitated the property, an owner may pay the  
41 receiver's costs, fees, including reasonable attorneys' fees, and expenses or may transfer his or  
42 her ownership in the property to either the receiver or an agreed upon third party for an amount  
43 agreed to by all parties to the receivership as being the property's fair market value.

44       (i) Deed After Sale. – Following the court's confirmation of the sale of the property  
45 under this section, the receiver shall execute a deed conveying title to the property to the buyer,  
46 free and clear of all encumbrances. Upon the sale of the property, the receiver shall promptly  
47 file with the court a final accounting and a motion to dismiss the action.

48       (j) Receiver's Tenure. – The tenure of a receiver appointed to rehabilitate, demolish, or  
49 sell a vacant building, structure, or dwelling shall extend no longer than two years after the  
50 rehabilitation, demolition, or sale of the property. Any time after the rehabilitation, demolition,  
51 or sale of the property, any party to the receivership may file a motion to dismiss the receiver

1 upon the payment of the receiver's outstanding costs, fees, and expenses. Upon the expiration  
2 of the receiver's tenure, the receiver shall file a final accounting with the court that appointed  
3 the receiver.

4 (k) Administrative Fee Charged. – The city may charge the owner of the vacant  
5 building, structure, or dwelling subject to the receivership an administrative fee of one hundred  
6 dollars (\$100.00)."

7 **SECTION 3.** This act becomes effective October 1, 2013, and applies to any  
8 petition filed on or after that date.