

## CHAPTER 295

AN ACT encouraging the preservation of multifamily housing, amending N.J.S.2B:12-20, P.L.1985, c.222, and supplementing Title 2A of the New Jersey Statutes and P.L.1983, c.530 (C.55:14K-1 et seq.), and repealing various sections of statutory law.

**BE IT ENACTED** *by the Senate and General Assembly of the State of New Jersey:*

C.2A:42-114 Short title.

1. This act shall be known and may be cited as the "Multifamily Housing Preservation and Receivership Act."

C.2A:42-115 Findings, declarations relative to multifamily housing.

2. The Legislature finds and declares that:

a. Many citizens of New Jersey are adversely affected by blighted residential property, including both those who live in buildings that fail to meet adequate standards for health, safety and welfare or fail to meet reasonable housing code standards, and those who live in proximity to such buildings;

b. Substandard and deteriorating buildings are a public safety threat and nuisance, and their blighting effect diminishes health, public safety and property values in the neighborhoods in which they are located;

c. Left to deteriorate over time, these substandard and deteriorating buildings are likely to be abandoned, thereby endangering neighborhood residents and resulting in increased costs to the municipalities in which they are situate;

d. The abandonment of substandard buildings furthermore results in the displacement of lower income tenants, thereby increasing the demand for affordable housing, which is already in short supply, and exacerbating homelessness faced by the citizens of New Jersey;

e. The number of distressed multifamily buildings in the State which could be maintained as safe, affordable housing could be significantly increased if adequate public resources were made available to alleviate negative conditions in the rental housing stock throughout the State;

f. While it is important to provide incentives for landlords to better maintain and improve their properties, it is recognized that there are situations in which it is necessary for other parties to intervene in the operation and maintenance of multifamily buildings, a procedure known as receivership, in order to ensure that they are not abandoned, and that they are maintained as sound, affordable housing, consistent with codes and safety requirements;

g. When receivership becomes necessary, receivership activities and the implementation of receivership plans may be supported by grants and loans to be made available out of a newly-created Preservation Loan Revolving Fund, as provided hereunder; and

h. In order to ensure that the interests of all parties are adequately protected, it is essential that State law provide clear standards and direction to guide the parties with respect to all aspects of receivership.

C.2A:42-116 Definitions relative to multifamily housing.

3. As used in P.L.2003, c.295 (C.2A:42-114 et al.):

"Agency" means the New Jersey Housing and Mortgage Finance Agency established under section 4 of P.L.1983, c.530 (C.55:14K-4);

"Building" means any building or structure and the land appurtenant thereto in which at least half of the net square footage of the building is used for residential purposes; and shall not include any one to four unit residential building in which the owner occupies one of the units as his or her principal residence;

"Code" means any housing, property maintenance, fire or other public safety code applicable to a residential building, whether enforced by the municipality or by a State agency;

"Commissioner" means the Commissioner of Community Affairs;

"Department" means the Department of Community Affairs;

"Lienholder" or "mortgage holder" means any entity holding a note, mortgage or other interest secured by the building or any part thereof;

"Owner" means the holder or holders of title to a residential building;

"Party in interest" means: (1) any mortgage holder, lien holder or secured creditor of the owner; (2) any tenant living in the building; (3) any entity designated by more than 50 percent of the tenants living in the building as their representative; (4) the public officer; or (5) a non-profit entity providing community services in the municipality in which the building is located;

"Plaintiff" means a party in interest or a qualified entity that files a complaint pursuant to section 4 of P.L.2003, c.295 (C.2A:42-117.1).

"Public officer" means an officer of the municipality appropriately qualified to carry out the responsibilities set forth in P.L.2003, c.295 (C.2A:42-114 et al.) and designated by resolution of the governing body of the municipality in which the building is located, except that in municipalities organized under the "mayor-council plan" of the "Optional Municipal Charter Law," P.L.1950, c.210 (C.40:69A-1 et seq.), the public officer shall be designated by the mayor;

"Qualified entity" means any person or entity registered with the department on the basis of having demonstrated knowledge and substantial experience in the operation, maintenance and improvement of residential buildings;

"Tenant" means a household that legally occupies a dwelling unit in a residential building.

C.2A:42-117 Action to appoint receiver.

4. A summary action or otherwise to appoint a receiver to take charge and manage a building may be brought by a party in interest or qualified entity in the Superior Court in the county in which the building is situated. Any receiver so appointed shall be under the direction and control of the court and shall have full power over the property and may, upon appointment and subject to the provisions of P.L.2003, c.295 (C.2A:42-114 et al.), commence and maintain proceedings for the conservation, protection or disposal of the building, or any part thereof, as the court may deem proper.

A building shall be eligible for receivership if it meets one of the following criteria:

a. The building is in violation of any State or municipal code to such an extent as to endanger the health and safety of the tenants as of the date of the filing of the complaint with the court, and the violation or violations have persisted, unabated, for at least 90 days preceding the date of the filing of the complaint with the court; or

b. The building is the site of a clear and convincing pattern of recurrent code violations, which may be shown by proofs that the building has been cited for such violations at least four separate times within the 12 months preceding the date of the filing of the complaint with the court, or six separate times in the two years prior to the date of the filing of the complaint with the court and the owner has failed to take action as set forth in section 9 of P.L.2003, c.295 (C.2A:42-122).

A court, upon determining that the conditions set forth in subsection a. or b. of this section exist, based upon evidence provided by the plaintiff, shall appoint a receiver, with such powers as are herein authorized or which, in the court's determination, are necessary to remove or remedy the condition or conditions that are a serious threat to the life, health or safety of the building's tenants or occupants.

C.2A:42-118 Contents of complaint.

5. A complaint submitted to the court shall include a statement of the grounds for relief and:

a. Documentation of the conditions that form the basis for the complaint;

b. Evidence that the owner received notice of the conditions that form the basis for the complaint, and failed to take adequate and timely action to remedy those conditions; and

c. With respect to any building that contains non-residential facilities, including but not limited to commercial or office floor space, the complaint shall provide explicit justification for the inclusion of the non-residential facilities in the scope of the receivership order; in the absence of such justification, the court shall exclude such facilities from the scope of the receiver's duties and powers.

The complaint may include a recommendation of the receiver to be appointed.

C.2A:42-119 Serving of complaint.

6. The plaintiff shall serve the complaint and any affidavits or certifications that accompanied the complaint upon the parties in interest, the current owner of the property, and all mortgage holders and lienholders of record determined by a title search and in accordance with the Rules of Court.

Unless tenants have been provided with written notice to the contrary or the plaintiff has knowledge to the contrary, the business address at which the owner or an agent of the owner may be served shall be that address provided by the owner to the commissioner in registering the property under section 12 of P.L.1967, c.76 (C.55:13A-12).

The plaintiff shall mail notification to the public officer and the agency by registered mail or certified mail, return receipt requested, of its intent to initiate action under the provisions of P.L.2003, c.295 (C.2A:42-114 et al.) on or before the tenth day prior to service of the complaint on the owner and parties in interest. If no municipal officer has

been designated by the municipality for the purposes of P.L.2003, c.295 (C.2A:42-114 et al.), the plaintiff shall mail the notice to the municipal clerk.

C.2A:42-120 Receipt of notice, determination of ownership.

7. Upon receipt of notice given by a plaintiff in a receivership proceeding pursuant to section 6 of P.L.2003, c.295 (C.2A:42-119), the agency shall forthwith determine whether the building is owned by a limited partnership established pursuant to an allocation of low income housing tax credits by the agency or any other project over which the agency has regulatory control, and, if the building is owned by such a limited partnership, shall, within 30 days of receiving notice, provide a copy of that notice to the limited partner or partners of the limited partnership by registered mail or certified mail, return receipt requested.

A limited partner in a limited partnership established pursuant to an allocation of low income housing tax credits by the agency shall have the same rights and remedies under provisions of P.L.2003, c.295 (C.2A:42-114 et al.) as a lienholder.

C.2A:42-121 Action of court relative to complaint.

8. a. The court shall act upon any complaint submitted pursuant to section 4 of P.L.2003, c.295 (C.2A:42-117) in a summary manner;

b. At the discretion of the court, any party in interest may intervene in the proceeding and be heard with regard to the complaint, the requested relief or any other matter which may come before the court in connection with the proceedings;

c. Any party in interest may present evidence to support or contest the complaint at the hearing.

C.2A:42-122 Opposition of owner to relief sought in complaint.

9. a. If the owner opposes the relief sought in the complaint brought under subsection b. of section 4 of P.L.2003, c.295 (C.2A:42-117) and demonstrates by a preponderance of the evidence that repairs were made in timely fashion to each of the violations cited, that the repairs were made to an appropriate standard of workmanship and materials, and that the overall level of maintenance and provision of services to the building is of adequate standard, the court may dismiss the complaint.

b. If the complaint is brought by a tenant of the building which is the subject of the complaint and that tenant is in default of any material obligation under New Jersey landlord-tenant law, the court may dismiss the complaint.

c. If the court finds that the preponderance of the violations that are the basis of a complaint brought under subsection b. of section 4 of P.L.2003, c.295 (C.2A:42-117) are of a minor nature and do not impair the health, safety or general welfare of the tenants or neighbors of the property, the court may dismiss the complaint.

d. Within 10 days of filing the complaint, the plaintiff shall file a notice of lis pendens with the county recording officer of the county within which the building is located.

C.2A:42-123 Appointment of receiver, other relief.

10. a. If the court determines, after its summary hearing, that the grounds for relief set forth pursuant to section 5 of P.L.2003, c.295 (C.2A:42-118) have been established, the court may appoint a receiver and grant such other relief as may be determined to be necessary and appropriate. The court shall select as the receiver the mortgageholder, lienholder or a qualified entity, as defined pursuant to section 3 of P.L.2003, c.295 (C.2A:42-116). If the court cannot identify a receiver, the court may appoint any party who, in the judgment of the court, may not have registered with the department pursuant to section 31 of P.L.2003, c.295 (C.2A:42-142), but otherwise fulfills the qualifications of a qualified entity.

b. If the court determines, after its summary hearing, that the grounds for relief set forth pursuant to section 5 of P.L.2003, c.295 (C.2A:42-118) have been established, but the owner presents a plan in writing to the court demonstrating that the conditions leading to the filing of the complaint will be abated within a reasonable period, which plan is found by the court to be reasonable, then the court may enter an order providing that in the event the conditions are not abated by a specific date, including the completion of specific remedial activities by specific dates, or if the conditions recur within a specific period established by the court, then an order granting the relief as requested in the complaint shall be granted.

The court may require the owner to post a bond in such amount that the court, in consultation with the party bringing the complaint and the public officer, determines to be reasonable, which shall be forfeit if the owner fails to meet the conditions of the order.

c. Any sums advanced or incurred by a mortgage holder or lienholder acting as receiver pursuant to this section for the purpose of making improvements to the property, including court costs and reasonable attorneys fees, may be added to the unpaid balance due said mortgage holder or lienholder subject to interest at the same rate set forth in the note or security agreement.

d. Nothing in this section shall be deemed to relieve the owner of the building of any obligation the owner or any other person may have for the payment of taxes or other municipal liens and charges, or mortgages or liens to any party, whether those taxes, charges or liens are incurred before or after the appointment of the receiver.

e. The appointment of a receiver shall not suspend any obligation the owner may have as of the date of the appointment of the receiver for payment of any operating or maintenance expense associated with the building, whether or not billed at the time of appointment. Any such expenses incurred after the appointment of the receiver shall be the responsibility of the receiver.

C.2A:42-124 Denial of rights, remedies afforded lien, mortgage holders.

11. Notwithstanding any provision to the contrary pursuant to P.L.2003, c.295 (C.2A:42-114 et al.), a court may in its discretion deny a lienholder or mortgage holder of any or all rights or remedies afforded lienholders and mortgage holders under P.L.2003, c.295 (C.2A:42-114 et al.), if it finds that the owner of the building owns or controls more than a 50% interest in, or effective control of, the lienholder or mortgage holder, or that the familial or business relationship between the lienholder or mortgage holder and the owner precludes a separate interest on the part of the lienholder or mortgage holder.

C.2A:42-125 Submission of plan by receiver.

12. Within 60 days following the order appointing a receiver pursuant to subsection a. of section 10 of P.L.2003, c.295 (C.2A:42-123), the receiver shall submit a plan for the operation and improvement of the building to the court and provide a copy of the plan to the owner, all parties in interest which participated in the hearing and the clerk of the municipality in which the building is situated. The plan shall include an enumeration of the insurance coverage to be purchased by the receiver, including surety bonds in an amount sufficient to guarantee compliance with the terms and conditions of the receivership and in accordance with rules and regulations adopted by the commissioner pursuant to section 31 of P.L.2003, c.295 (C.2A:42-142).

The court shall approve or disapprove the plan with or without modifications.

The receiver's plan, to the extent reasonably feasible, shall take into account a recent appraisal of the property and income and expense statements for at least the preceding two years, and shall include:

a. an estimate of the cost of the labor, materials and any other costs that are required to bring the property up to applicable codes and standards and abate any nuisances that gave rise to the appointment of the receiver pursuant to section 10 of P.L.2003, c.295 (C.2A:42-123);

b. the estimated income and expenses of the building and property after the completion of the repairs and improvements;

c. the cost of paying taxes and other municipal charges; and

d. the terms, conditions and availability of any financing that is necessary in order to allow for the timely completion of the work outlined in subsection a. of this section.

The owner shall, to the extent such information is available, expeditiously provide the receiver with such income and expense statements. If the receiver's plan was submitted at the time of the hearing, the receiver may amend the plan subsequent to that hearing, and submit a revised plan to the court pursuant to this section.

The commissioner may be called upon by the court in any proceeding involving the receivership.

C.2A:42-126 Bond, surety, insurance posted by receiver, removal of receiver.

13. Upon appointment, the receiver shall post a bond or other such surety or insurance in accordance with the plan approved by the court pursuant to section 12 of P.L.2003, c.295 (C.2A:42-125).

The receiver shall take possession of the building and any other property subject to the receivership order immediately after posting the required bond, surety or insurance and, subject to the approval of the court of the bond, surety and insurance, shall immediately be authorized to exercise all powers delegated by P.L.2003, c.295 (C.2A:42-114 et al.), except that the receiver shall not undertake major non-emergent improvements to the property prior to approval of the receiver's plan by the court.

Any receiver may be removed by the court at any time upon the request of the receiver or upon a showing by a party in interest that the receiver is not carrying out its responsibilities under P.L.2003, c.295 (C.2A:42-114 et al.). The court may hold a hearing prior to removal of a receiver under this section.

C.2A:42-127 Filing, continuation of foreclosure unaffected.

14. a. Neither the filing of a complaint under section 4 of P.L.2003, c.295 (C.2A:42-117) nor the appointment of a receiver under subsection a. of section 10 of P.L.2003, c.295 (C.2A:42-123) shall stay the filing or continuation of any action to foreclose a mortgage or lien on the building or to sell the property for delinquent taxes or unpaid municipal liens.

b. In the event that ownership of the building changes as a result of foreclosure while a receiver is in possession, including possession by the municipality pursuant to a tax foreclosure action, the property shall remain subject to the receivership and the receiver shall remain in possession and shall retain all powers delegated under this action unless and until the receivership is terminated under the provisions of P.L.2003, c.295 (C.2A:42-114 et al.).

C.2A:42-128 Powers, duties of receiver.

15. The receiver shall have all powers and duties necessary or desirable for the efficient operation, management and improvement of the building in order to remedy all conditions constituting grounds for receivership under P.L.2003, c.295 (C.2A:42-114 et al.). Such powers and duties shall include the power to:

a. Take possession and control of the building, appurtenant land and any personal property of the owner used with respect to the building, including any bank or operating account specific to the building;

b. Collect rents and all outstanding accounts receivable, subject to the rights of lienholders except where affected by court action pursuant to any of the provisions of P.L.2003, c.295 (C.2A:42-114 et al.);

c. Pursue all claims or causes of action of the owner with respect to the building and other property subject to the receivership;

d. Contract for the repair and maintenance of the building on reasonable terms, including the provision of utilities to the building. If the receiver falls within the definition of a contracting unit pursuant to section 2 of P.L.1971, c.198 (C.40A:11-2), any contract entered into by the receiver shall not be subject to any legal advertising or bidding requirements, but the receiver shall solicit at least three bids or proposals, as appropriate, with respect to any contract in an amount greater than \$2,500. The receiver may enter into contracts or agreements with tenants or persons who are members of the receiver entity, as the case may be, provided that all such contracts or agreements shall be appropriately documented, and included in the receiver's expenses under P.L.2003, c.295 (C.2A:42-114 et al.). In the event that the receiver contracts for any service with an entity with which the receiver has an identity of interest relationship, it shall first disclose that relationship to the court, the owner and the parties in interest;

e. Borrow money and incur debt in accordance with the provisions of section 17 of P.L.2003, c.295 (C.2A:42-130);

f. Purchase materials, goods and supplies to operate, maintain, repair and improve the building;

- g. Enter into new rental contracts and leases for vacant units and renew existing rental contracts on reasonable terms for periods not to exceed one year;
- h. Affirm, renew or enter into contracts for insurance coverage on the building;
- i. Engage and, subject to court approval, pay legal, accounting, appraisal and other professionals to aid in carrying out the purposes of the receivership;
- j. Evict or commence eviction proceedings against tenants for cause when necessary and prudent, notwithstanding the condition of the building; and
- k. Sell the building in accordance with the provisions of P.L.2003, c.295 (C.2A:42-114 et al.).

C.2A:42-129 Responsibilities of receiver in possession of the building.

16. While in possession of the building, the receiver shall:

- a. Maintain, safeguard, and insure the building;
- b. Apply all revenue generated from the building consistent with the purposes of P.L.2003, c.295 (C.2A:42-114 et al.) and the provisions of the plan submitted to and approved by the court. In the case of an officer or agent of a municipality acting as a receiver pursuant to the provisions of section 10 of P.L.1942, c.54 (C.54:5-53.1), no revenue shall be applied to any arrears in property taxes or other municipal liens until or unless the municipal officer or agent finds that any material conditions found to exist by the court pursuant to section 10 of P.L.2003, c.295 (C.2A:42-123) have been abated, and that the building has remained free of any such conditions for a period of no less than six months of that certification;
- c. Implement the plan and, to the extent the receiver determines that any provision of the plan cannot be implemented, submit amendments to the plan to the court, with notice to the parties in interest and the owner;
- d. Submit such reports as the court may direct and submit a copy of those reports to the parties in interest and the owner. Such reports may include:
  - (1) a copy of any contract entered into by the receiver regarding repair or improvement of the building, including any documentation required under subsection d. of section 15 of P.L.2003, c.295 (C.2A:42-128);
  - (2) a report of the lease and occupancy status of each unit in the building, and any actions taken with respect to any tenant or lease;
  - (3) an account of the disposition of all revenues received from the building;
  - (4) an account of all expenses and improvements;
  - (5) the status of the plan and any amendments thereto;
  - (6) a description of actions proposed to be taken during the next six months with respect to the building; and
  - (7) itemization of any fees and expenses that the receiver incurred for which it is entitled to payment pursuant to subsection a. of section 18 of P.L.2003, c.295 (C.2A:42-131), which were not paid during the period covered by the report, or which have remained unpaid since the beginning of the receivership.

C.2A:42-130 Receiver may borrow money, incur indebtedness.

17. a. The receiver may borrow money and incur indebtedness in order to preserve, insure, manage, operate, repair, improve, or otherwise carry out its responsibilities under the terms of the receivership.

b. With the approval of the court, after notice to the owner and all parties in interest, the receiver may secure the payment of any borrowing or indebtedness under subsection a. of this section by a lien or security interest in the building or other assets subject to the receivership.

c. Where the borrowing or indebtedness is for the express purpose of making improvements to the building or other assets subject to the receivership, the court, after notice to the owner and all parties in interest, may authorize the receiver to grant a lien or security interest not in excess of the amount necessary for the improvements with priority over all other liens or mortgages, except for municipal liens. Prior to granting the receiver's lien priority over other liens or mortgages, the court shall find (1) that the receiver sought to obtain the necessary financing from the senior lienholder, which declined to provide such financing on reasonable terms; (2) that the receiver sought to obtain a voluntary subordination from the senior lienholder, which refused to provide such subordination; and (3) that lien priority is necessary in order to induce another lender to provide financing on reasonable terms. No lien authorized by the court shall take effect unless recorded in the recording office of the county in which the building is located.

d. For the purposes of this section, the cost of improvements shall include reasonable non-construction costs such as architectural fees or building permit fees customarily included in the financing of the improvement or rehabilitation of residential property incurred by the receiver in connection with the improvements.

C.2A:42-131 Receiver entitled to necessary expenses, reasonable fee.

18. a. The receiver shall be entitled to necessary expenses and to a reasonable fee, to be determined by the court. The expenses incurred by a receiver in removing or remedying a condition pursuant to P.L.2003, c.295 (C.2A:42-114 et al.) shall be met by the rents collected by the receiver or any other moneys made available for those purposes.

b. Nothing in P.L.2003, c.295 (C.2A:42-114 et al.) shall be deemed to relieve the owner of the building of any civil or criminal liability or any duty imposed by reason of acts or omissions of the owner.

c. The activities of the receiver being appropriate and necessary to carry out a public purpose, the personnel, facilities, and funds of the municipality may be made available to the receiver at the discretion of the municipality for the purpose of carrying out the duties as receiver and the cost of those services shall be deemed a necessary expense of the receiver, which shall reimburse the municipality to the extent that funds are reasonably available for that purpose.

d. If the party in interest bringing a receivership action pursuant to section 4 of P.L.2003, c.295 (C.2A:42-117) is the public officer, the municipality shall be entitled to its costs in filing an application to the court and reasonable attorney fees, to be determined by the court, which may be a lien against the premises and collectible as otherwise provided under law.

C.2A:42-132 Release of outstanding municipal liens.

19. Upon request by the receiver and following notice by the receiver to the owner of the property, any municipality may, by order of the county board of taxation, release any outstanding municipal liens on any property subject to a receivership order under P.L.2003, c.295 (C.2A:42-114 et al.). In responding to such requests, the board shall balance the effect of releasing the lien on the municipality's finances with its effect on the preservation of the building as sound affordable housing. The owner of the property shall be personally liable for payment of the tax or other municipal charge secured by the lien.

C.2A:42-133 Order for sale of building.

20. Upon application of the receiver, the court may order the sale of the building if it finds that:

- a. Notice was given to each current record owner of the building, each mortgagee or lienholder of record, and any other party in interest;
- b. The receiver has been in control of the building for more than one year at the time of application and the owner has not successfully petitioned for reinstatement under section 24 of P.L.2003, c.295 (C.2A:42-137); and
- c. The sale would promote the sustained maintenance of the building as sound, affordable housing, consistent with codes and safety requirements.

C.2A:42-134 Manner in which building sold, alternatives.

21. In its application to the court, the receiver shall specify the manner in which it proposes the building to be sold, which alternatives shall include, but not be limited to the following:

- a. Sale on the open market to an entity qualified to own and operate multifamily rental property;
- b. Sale at a negotiated price to a not-for-profit entity qualified to own and operate multifamily rental property;
- c. Sale to an entity for the purpose of conversion of the property to condominium or cooperative ownership pursuant to the provisions of "The Planned Real Estate Development Full Disclosure Act," P.L.1977, c.419 (C.45:22A-21 et seq.), provided that that option shall not be approved except with the approval in writing of a majority of the tenants of the building, and provided further that, notwithstanding any provision of "The Planned Real Estate Development Full Disclosure Act," P.L.1977, c.419 (C.45:22A-21 et seq.), no tenant in residence prior to the date the plan of conversion is approved by the court shall be subject to eviction by reason of that conversion; or
- d. In the case of a one to four family building, sale to a household that will occupy one of the units as an owner occupant, which may be a sitting tenant.

C.2A:42-135 Dismissal of receiver's application to sell property.

22. a. Upon application by the receiver to sell the property the owner or any party in interest may seek to have the receiver's application to sell the property dismissed and the owner's rights reinstated upon a showing that the owner meets all of the conditions set

forth in section 25 of P.L.2003, c.295 (C.2A:42-138) and such other conditions that the court may establish. In setting the conditions for reinstatement, the court shall invite recommendations from the receiver.

b. In connection with the sale, the court may authorize the receiver to sell the building free and clear of liens, claims and encumbrances in which event, all such liens, claims and encumbrances, including tax and other municipal liens, shall be transferred to the proceeds of sale with the same priority as existed prior to resale in accordance with section 23 of P.L.2003, c.295 (C.2A:42-136).

C.2A:42-136 Sale of property.

23. Upon approval by the court, the receiver shall sell the property on such terms and at such price as the court shall approve, and may place the proceeds of sale in escrow with the court, except that unpaid municipal liens shall be paid from the proceeds of the sale. The court shall order a distribution of the proceeds of sale after paying court costs in the following order of priority:

- a. The reasonable costs and expenses of sale actually incurred;
- b. Municipal liens pursuant to R.S.54:5-9;
- c. Repayment of principal and interest on any borrowing or indebtedness incurred by the receiver and granted priority lien status pursuant to subsection c. of section 17 of P.L.2003, c.295 (C.2A:42-130);
- d. Other valid liens and security interests, including governmental liens, in accordance with their priority, including any costs and expenses incurred by the municipality as a receiver, but with respect to non-governmental liens, those duly recorded prior to the filing of the lis pendens notice by the receiver;
- e. Any fees and expenses of the receiver not otherwise reimbursed during the pendency of the receivership in connection with the sale or the operation, maintenance and improvement of the building and documented by the receiver as set forth in paragraph (7) of subsection d. of section 16 of P.L.2003, c.295 (C.2A:42-139);
- f. Any costs and expenses incurred by parties in interest in petitioning the court for receivership; and
- g. Any accounts payable or other unpaid obligations to third parties from the receivership.

Those proceeds which remain after the distribution set forth in subsections a. through g. of this section shall be remitted to the owner.

C.2A:42-137 Petition for termination of receivership by owner.

24. The owner may petition for termination of the receivership and reinstatement of the owner's rights at any time by providing notice to all parties in interest, unless the court shall establish a minimum duration for the receivership in the order appointing the receiver, which minimum duration shall not exceed one year. The owner shall provide timely notice of the petition to the receiver and to all parties in interest. The court shall schedule a hearing on any such petition.

Prior to holding a hearing on the owner's petition, the court shall request a report from the receiver with its recommendations for action with respect to the owner's petition.

C.2A:42-138 Granting of owner's petition.

25. After reviewing the receiver's recommendations and holding a hearing, the court may grant the owner's petition if it finds that:

a. The owner's petition offers credible assurances that those elements of the plan which remain will be achieved by the owner within the time frame consistent with the plan submitted by the receiver and approved by the court;

b. The owner has paid or deposits with the court all funds required to meet all obligations of the receivership, including all fees and expenses of the receiver, except as provided in subsection c. of this section;

c. The owner agrees to assume all legal obligations, including repayment of indebtedness incurred by the receiver for repairs and improvements to the building resulting from the receivership;

d. The owner has paid all municipal property taxes, other municipal liens, and costs incurred by the municipality in connection with bringing the receivership action;

e. The owner posts a bond or other security in an amount determined to be reasonable by the court in consultation with the receiver and the public officer, but not in excess of 50% of the fair market value of the property, which shall be forfeit in the event of any future code violation materially affecting the health or safety of tenants or the structural or functional integrity of the building. Forfeiture shall be in the form of a summary proceeding initiated by the municipal officer, who shall provide evidence that such a code violation has occurred and has not been abated within 48 hours of notice, or such additional period of time as may be allowed by the court for good cause, and shall be in the amount of 100 percent of the cost of abating the violation for the first violation, 150 percent of the cost of abating the violation for the second violation, and 200 percent of the cost of abating the violation for any subsequent violation. The owner may seek approval of the court to be relieved of this requirement after five years, which shall be granted if the court finds that the owner has maintained the property in good repair during that period, that no material violations affecting the health and safety of the tenants have occurred during that period, and that the owner has remedied other violations in a timely and expeditious fashion;

f. The court may waive the requirement for a bond or other security for good cause, where it finds that such a waiver will not impair the rights or interests of the tenants of the building;

g. The reinstatement of the owner shall be in the interest of the public, taking into account the prior history of the building and other buildings within the municipality currently or previously controlled by the owner;

h. The court may establish additional requirements as conditions of reinstatement of the owner's rights as it determines reasonable and necessary to protect the interest of the tenants and the residents of the neighborhood;

i. Where the owner has conveyed the property to another entity during the pendency of the receivership, and the petition for reinstatement is brought by the new owner, the new owner shall be subject to all of the provisions of this section, unless the court finds compelling grounds that the public interest will be better served by a modification of any of these provisions; and

j. Where the new owner is a lienholder that obtained the property through foreclosure, or through grant of a deed in lieu of foreclosure, that owner shall not be subject to the provisions of this section, but may seek to terminate the receivership by filing a petition for termination of the receivership pursuant to section 27 of P.L.2003, c.295 (C.2A:42-140).

C.2A:42-139 Conditions for reinstatement of owner's rights.

26. a. The court may require as a condition of reinstatement of the owner's rights that the receiver or other qualified entity remain in place as a monitor of the condition and management of the property for such period as the court may determine, and may require such reports at such intervals as it deems necessary and appropriate from the monitor. The court may require the owner to pay a fee to the monitor in such amount as the court may determine.

b. In the event of the owner's failure to comply with the conditions established for reinstatement of the owner's rights, or evidence of recurrence of any of the conditions for receivership set forth in section 4 of P.L.2003, c.295 (C.2A:42-117), the receiver, monitor or any party in interest may petition the court for reinstatement of the receivership at any time, which may be granted by the court in a summary manner after notice to the parties and a hearing, if requested by any of the parties. If the court reinstates the receivership, the entire bond or other security shall be forfeit and shall be provided to the receiver for the operation and improvement of the property.

C.2A:42-140 Termination of receivership.

27. Upon request of a party in interest or the receiver, the court may order the termination of the receivership if it determines:

a. The conditions that were the grounds for the complaint and all other code violations have been abated or corrected, the obligations, expenses and improvements of the receivership, including all fees and expenses of the receiver, have been fully paid or provided for and the purposes of the receivership have been fulfilled;

b. (1) The mortgage holder or lienholder has requested the receivership be terminated and has provided adequate assurances to the court that any remaining code violations or conditions that constituted grounds for the complaint will be promptly abated, the obligations, expenses and improvements of the receivership, including all fees and expenses of the receiver, have been fully paid or provided for and the purposes of the receivership have been or will promptly be fulfilled;

(2) Any sums incurred or advanced by a mortgage holder or lienholder pursuant to this section, including court costs and reasonable attorney's fees, may be added to the unpaid balance due the mortgage holder or lienholder, with interest calculated at the same rate set forth in the note or security agreement.

c. (1) A new owner who was formerly a mortgage holder or lienholder and who has obtained the property through foreclosure or through grant of a deed in lieu of foreclosure has requested that the receivership be terminated and has provided adequate assurances to the court that any remaining code violations or conditions that constituted grounds for the complaint will be promptly abated, the obligations, expenses and improvements of the

receivership, including all fees and expenses of the receiver, have been fully paid or provided for and the purposes of the receivership have been or will promptly be fulfilled;

(2) The former owner of the property shall be personally liable for payment to the new owner of any costs incurred by the new owner to cover the obligations, expenses and improvements of the receiver.

d. The building has been sold and the proceeds distributed in accordance with section 23 of P.L.2003, c.295 (C.2A:42-136); or

e. The receiver has been unable after diligent effort to present a plan that can appropriately be approved by the court or is unable to implement a plan previously approved by the court or is unable for other reason to fulfill the purposes of the receivership.

In all cases under this section, the court may impose such conditions on the owner or other entity taking control of the building upon the termination of receivership that the court deems necessary and desirable in the interest of the tenants and the neighborhood in which the building is located, including but not limited to those that may be imposed on the owner under section 25 of P.L.2003, c.295 (C.2A:42-138); except that a new owner who was formerly a mortgage holder or lienholder, or an affiliate thereof, and which has obtained the property through foreclosure or through grant of a deed in lieu of foreclosure and who demonstrates sufficient financial responsibility to the court shall not be required to post a bond.

C.2A:42-141 Preservation Loan Revolving Fund to make grants, loans to receivers.

28. a. Beginning in the fiscal year in which P.L.2003, c.295 (C.2A:42-114 et al.) becomes effective, subject to the availability of funds in the Neighborhood Preservation Nonlapsing Revolving Fund established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320), the department may set aside from that fund a sum of up to \$4 million per year to establish a Preservation Loan Revolving Fund for the purpose of making grants or loans, as the case may be, to receivers to implement plans which are consistent with rules and regulations adopted by the commissioner pursuant to section 31 of P.L.2003, c.295 (C.2A:42-142). Up to three million dollars in the first year and up to four million dollars in each year thereafter may be set aside for grants and loans to receivers.

b. The department shall establish terms for providing loans from the Preservation Loan Revolving Fund, including below market interest rates, deferred payment schedules, and other provisions that will enable these funds to be used effectively for any of the purposes of receivership in situations where a receiver cannot borrow funds on conventional terms without imposing hardship on the tenants or potentially impairing the purposes of the receivership.

c. The department may make grants or loans, as the case may be, from the Preservation Loan Revolving Fund in connection with any property that is under receivership pursuant to P.L.2003, c.295 (C.2A:42-114 et al.) in order to further the purposes of P.L.2003, c.295 (C.2A:42-114 et al.).

d. The sum of \$1 million from the first four million dollars to be deposited in the Preservation Loan Revolving Fund shall be used for the purpose of providing operating grants to nonprofit entities to enable such entities to act as receivers pursuant to the provisions of P.L.2003, c.295 (C.2A:42-114 et al.) and to further housing preservation

through other activities including, but not limited to, acquisition of rental property, management of rental property, provision of technical assistance and training to property owners, and any activities that further the goal of building the capacity of nonprofit entities to act as receivers under the provisions of P.L.2003, c.295 (C.2A:42-114 et al.). In making grants under this section, the agency shall seek to assist a small number of entities that shall be geographically distributed among those areas with the greatest need to develop a high level of capacity and to benefit from economies of scale in the conduct of property management and receivership activities.

29. N.J.S.2B:12-20 is amended to read as follows:

Municipal housing court; jurisdiction.

2B:12-20. Municipal housing court; jurisdiction. A municipality in a county of the first class may establish, as a part of its municipal court, a full-time municipal housing court. Municipal housing courts shall have jurisdiction over actions for eviction involving property in the municipality which are transferred to the municipal housing court by the Special Civil Part of the Superior Court.

30. Section 20 of P.L.1985, c.222 (C.52:27D-320) is amended to read as follows:

C.52:27D-320 Neighborhood Preservation Nonlapsing Revolving Fund.

20. The Neighborhood Preservation Program within the Department of Community Affairs' Division of Housing and Development, established pursuant to the Commissioner of Community Affairs' authority under section 8 of P.L.1975, c.248 (C.52:27D-149), shall establish a separate Neighborhood Preservation Nonlapsing Revolving Fund for monies appropriated by section 33 of P.L.1985, c.222.

a. The commissioner shall award grants or loans from this fund for housing projects and programs in municipalities whose housing elements have received substantive certification from the council, in municipalities receiving State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.), in municipalities subject to builder's remedy as defined in section 28 of P.L.1985, c.222 (C.52:27D-328) or in receiving municipalities in cases where the council has approved a regional contribution agreement and a project plan developed by the receiving municipality. Programs and projects in any municipality shall be funded only after receipt by the commissioner of a written statement in support of the program or project from the municipal governing body.

b. The commissioner shall establish rules and regulations governing the qualifications of applicants, the application procedures, and the criteria for awarding grants and loans and the standards for establishing the amount, terms and conditions of each grant or loan.

c. During the first 12 months from the effective date of P.L.1985, c.222 (C.52:27D-301 et al.) and for any additional period which the council may approve, the commissioner may assist affordable housing programs which are not located in municipalities whose housing elements have been granted substantive certification or which are not in furtherance of a regional contribution agreement; provided that the

affordable housing program will meet all or part of a municipal low and moderate income housing obligation.

d. Amounts deposited in the Neighborhood Preservation Fund shall be targeted to regions based on the region's percentage of the State's low and moderate income housing need as determined by the council. Amounts in the fund shall be applied for the following purposes in designated neighborhoods;

(1) Rehabilitation of substandard housing units occupied or to be occupied by low and moderate income households;

(2) Creation of accessory apartments to be occupied by low and moderate income households;

(3) Conversion of nonresidential space to residential purposes; provided a substantial percentage of the resulting housing units are to be occupied by low and moderate income households;

(4) Acquisition of real property, demolition and removal of buildings, or construction of new housing that will be occupied by low and moderate income households, or any combination thereof;

(5) Grants of assistance to eligible municipalities for costs of necessary studies, surveys, plans and permits; engineering, architectural and other technical services; costs of land acquisition and any buildings thereon; and costs of site preparation, demolition and infrastructure development for projects undertaken pursuant to an approved regional contribution agreement;

(6) Assistance to a local housing authority, nonprofit or limited dividend housing corporation or association or a qualified entity acting as a receiver under P.L.2003, c.295 (C.2A:42-114 et al.) for rehabilitation or restoration of housing units which it administers which: (a) are unusable or in a serious state of disrepair; (b) can be restored in an economically feasible and sound manner; and (c) can be retained in a safe, decent and sanitary manner, upon completion of rehabilitation or restoration; and

(7) Other housing programs for low and moderate income housing, including, without limitation, (a) infrastructure projects directly facilitating the construction of low and moderate income housing not to exceed a reasonable percentage of the construction costs of the low and moderate income housing to be provided and (b) alteration of dwelling units occupied or to be occupied by households of low or moderate income and the common areas of the premises in which they are located in order to make them accessible to handicapped persons.

e. Any grant or loan agreement entered into pursuant to this section shall incorporate contractual guarantees and procedures by which the division will ensure that any unit of housing provided for low and moderate income households shall continue to be occupied by low and moderate income households for at least 20 years following the award of the loan or grant, except that the division may approve a guarantee for a period of less than 20 years where necessary to ensure project feasibility.

f. Notwithstanding the provisions of any other law, rule or regulation to the contrary, in making grants or loans under this section, the department shall not require that tenants be certified as low or moderate income or that contractual guarantees or deed restrictions be in place to ensure continued low and moderate income occupancy as a condition of providing housing assistance from any program administered by the department, when

that assistance is provided for a project of moderate rehabilitation if the project (1) contains 30 or fewer rental units and (2) is located in a census tract in which the median household income is 60 percent or less of the median income for the housing region in which the census tract is located, as determined for a three person household by the council in accordance with the latest federal decennial census. A list of eligible census tracts shall be maintained by the department and shall be adjusted upon publication of median income figures by census tract after each federal decennial census.

C.2A:42-142 Rules, regulations.

31. a. The commissioner shall, within six months of the enactment of P.L.2003, c.295 (C.2A:42-114 et al.), adopt rules and regulations concerning registration of qualified entities.

Pending the adoption of such rules and regulations by the commissioner, an entity shall be presumed to be qualified upon a finding by the department that approval of that entity would not be detrimental to the health, safety and welfare of the residents of the property or of the community.

b. Within six months of the enactment of P.L.2003, c.295 (C.2A:42-114 et al.), the commissioner shall adopt rules and regulations setting forth minimum amounts of insurance coverage, by category, to be maintained on buildings under their control by receivers appointed pursuant to the provisions of P.L.2003, c.295 (C.2A:42-114 et al.). In addition, the commissioner shall adopt rules and regulations governing surety bonds which a receiver shall execute and file guaranteeing compliance with the terms and conditions of the receivership and any other provisions of P.L.2003, c.295 (C.2A:42-114 et al.).

The commissioner may provide for a waiver or adjustment of any of these requirements when the commissioner finds that it would prevent an entity that is otherwise fully qualified to act as a receiver from being appointed receiver, so long as that entity can demonstrate a sufficient level of financial responsibility.

Repealer.

32. The following statutes are hereby repealed:

Sections 6 through 11 of P.L.1966, c.168 (C.2A:42-79 through 84); and

Sections 8 through 12 of P.L.1962, c.66 (C.40:48-2.12h through 2.12l).

33. This act shall take effect 180 days next following enactment, except that section 31 shall take effect immediately.

Approved January 14, 2004.