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Title 2A.  
Chapter 42.  
Article 9. (New)  
Multifamily Housing  
Preservation and  
Receivership  
§§1-27, 28, 31 -  
C.2A:42-114  
to 2A:42-142  
§32 - Repealer  
§33 - Note to all  
sections

P.L. 2003, CHAPTER 295, *approved January 14, 2004*  
Assembly Committee Substitute (*Third Reprint*) for  
Assembly, No. 2539

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

6

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

9

10 1. (New section) This act shall be known and may be cited as the  
11 "Multifamily Housing Preservation and Receivership Act."

12

13 2. (New section) The Legislature finds and declares that:

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

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

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

27 d. The abandonment of substandard buildings furthermore results  
28 in the displacement of lower income tenants, thereby increasing the  
29 demand for affordable housing, which is already in short supply, and

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup> Assembly floor amendments adopted June 12, 2003.

<sup>2</sup> Senate SBA committee amendments adopted December 4, 2003.

<sup>3</sup> Senate floor amendments adopted December 11, 2003.

1 exacerbating homelessness faced by the citizens of New Jersey;

2 e. <sup>2</sup>The number of distressed multifamily buildings in the State  
3 which could be maintained as safe, affordable housing could be  
4 significantly increased if adequate public resources were made  
5 available to alleviate negative conditions in the rental housing stock  
6 throughout the State;

7 f.<sup>2</sup> While it is important to provide incentives for landlords to  
8 better maintain and improve their properties, it is recognized that there  
9 are situations in which it is necessary for other parties to intervene in  
10 the operation and maintenance of multifamily buildings, a procedure  
11 known as receivership, in order to ensure that they are not abandoned,  
12 and that they are maintained as sound, affordable housing, consistent  
13 with codes and safety requirements;

14 <sup>2</sup>g. When receivership becomes necessary, receivership activities  
15 and the implementation of receivership plans may be supported by  
16 grants and loans to be made available out of a newly-created  
17 Preservation Loan Revolving Fund, as provided hereunder;<sup>2</sup> and

18 <sup>2</sup>[f.] h.<sup>2</sup> In order to ensure that the interests of all parties are  
19 adequately protected, it is essential that State law provide clear  
20 standards and direction to guide the parties with respect to all aspects  
21 of receivership.

22

23 3. (New section) As used in P.L. , c. (C. ) (pending  
24 before the Legislature as this bill):

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

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

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

35 "Commissioner" means the Commissioner of Community Affairs;

36 "Department" means the Department of Community Affairs;

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

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

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

1 the building is located;

2 "Plaintiff" means a party in interest <sup>1</sup>[of] or<sup>1</sup> a qualified entity that  
3 files a complaint <sup>1</sup>[pursant] pursuant<sup>1</sup> to section 4 of P.L. , c.  
4 (C. ) (pending before the Legislature as this bill).

5 "Public officer" means an officer of the municipality appropriately  
6 qualified to carry out the responsibilities set forth in P.L. , c.  
7 (C. ) (pending before the Legislature as this bill) and designated  
8 by resolution of the governing body of the municipality in which the  
9 building is located, except that in municipalities organized under the  
10 "mayor-council plan" of the "Optional Municipal Charter Law,"  
11 P.L.1950, c.210 (C.40:69A-1 et seq.), the public officer <sup>1</sup>[may] shall<sup>1</sup>  
12 be designated by the mayor;

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

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

19

20 4. (New section) A summary action or otherwise to appoint a  
21 receiver to take charge and manage a building may be brought by a  
22 party in interest or qualified entity in the Superior Court in the county  
23 in which the building is situated. Any receiver so appointed shall be  
24 under the direction and control of the court and shall have full power  
25 over the property and may, upon appointment and subject to the  
26 provisions of P.L. , c. (C. ) (pending before the Legislature  
27 as this bill), commence and maintain proceedings for the conservation,  
28 protection or disposal of the building, or any part thereof, as the court  
29 may deem proper.

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

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

37 b. The building is the site of a <sup>1</sup>clear and convincing<sup>1</sup> pattern of  
38 recurrent code violations, <sup>1</sup>[whether or not corrected,] <sup>1</sup> <sup>2</sup>[and] which  
39 may be shown by proofs that the building<sup>2</sup> has been cited for such  
40 violations at least four <sup>2</sup>separate<sup>2</sup> times within the 12 months  
41 preceding the date of the filing of the complaint with the court, or six  
42 <sup>2</sup>separate<sup>2</sup> times in the two years prior to the date of the filing of the  
43 complaint with the court and the owner has failed to take action as set  
44 forth in section 9 of P.L. c. (C. ) (pending before the  
45 Legislature as this bill).

46 A court, upon determining that the conditions set forth in

1 subsections a. or b. of this section exist<sup>2</sup>, based upon evidence  
2 provided by the plaintiff,<sup>2</sup> shall appoint a receiver, with such powers  
3 as are herein authorized or which, in the court's determination, are  
4 necessary to remove or remedy the condition or conditions that are a  
5 serious threat to the life, health or safety of the building's tenants or  
6 occupants.

7  
8 5. (New section) A complaint submitted to the court shall include  
9 a statement of the grounds for relief and:

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

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

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

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

23  
24 6. (New section) The plaintiff shall serve the complaint and any  
25 affidavits or certifications that accompanied the complaint upon the  
26 parties in interest, the current owner of the property, and all mortgage  
27 holders and lienholders of record determined by a title search and in  
28 accordance with the Rules of Court.

29 Unless tenants have been provided with written notice to the  
30 contrary or the plaintiff has knowledge to the contrary, <sup>2</sup>[the most  
31 recent address to which tenants are directed to send or deliver rent  
32 shall be presumed to be]<sup>2</sup> the business address at which the owner or  
33 an agent of the owner may be served <sup>2</sup>shall be that address provided  
34 by the owner to the commissioner in registering the property under  
35 section 12 of P.L.1967, c.76 (C.55:13A-12)<sup>2</sup> . <sup>2</sup>[If the address of the  
36 owner in the municipal tax records is different from the address to  
37 which tenants are directed to send or deliver rent, the plaintiff shall  
38 serve the complaint upon the owner at both addresses.]<sup>2</sup>

39 The plaintiff shall mail notification to the public officer and the  
40 agency by registered mail or certified mail, return receipt requested,  
41 of its intent to initiate action under the provisions of P.L. , c.  
42 (C. ) (pending before the Legislature as this bill) on or before  
43 the tenth day prior to service of the complaint on the owner and  
44 parties in interest. If no municipal officer has been designated by the  
45 municipality for the purposes of P.L. , c. (C. ) (pending  
46 before the Legislature as this bill), the plaintiff shall mail the notice to

1 the municipal clerk.

2

3 7. (New section) Upon receipt of notice given by a plaintiff in a  
4 receivership proceeding pursuant to section 6 of P.L. , c.  
5 (C. ) (pending before the Legislature as this bill), the agency  
6 shall forthwith determine whether the building is owned by a limited  
7 partnership established pursuant to an allocation of low income  
8 housing tax credits by the agency <sup>2</sup>or any other project over which the  
9 agency has regulatory control<sup>2</sup>, and, if the building is owned by such  
10 a limited partnership, shall, within 30 days of receiving notice, provide  
11 a copy of that notice to the limited partner or partners of the limited  
12 partnership by registered mail or certified mail, return receipt  
13 requested.

14 A limited partner in a limited partnership established pursuant to  
15 an allocation of low income housing tax credits by the agency shall  
16 have the same rights and remedies under provisions of P.L. , c.  
17 (C. ) (pending before the Legislature as this bill) as a lienholder.

18

19 8. (New section) a. The court shall act upon any complaint  
20 submitted pursuant to section 4 of P.L. , c. (C. ) (pending  
21 before the Legislature as the bill) in a summary manner;

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

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

28

29 9. (New section) a. If the owner opposes the relief sought in the  
30 complaint brought under subsection b. of section 4 of P.L. , c.  
31 (C. ) (pending before the Legislature as this bill) and demonstrates  
32 by a preponderance of the evidence that repairs were made in timely  
33 fashion to each of the violations cited, that the repairs were made to  
34 an appropriate standard of workmanship and materials, and that the  
35 overall level of maintenance and provision of services to the building  
36 is of adequate standard, the court may dismiss the complaint.

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

41 c. <sup>2</sup>If the court finds that the preponderance of the violations that  
42 are the basis of a complaint brought under subsection b. of section 4  
43 of P.L. , c. (C. ) (pending before the Legislature as this bill)  
44 are of a minor nature and do not impair the health, safety or general  
45 welfare of the tenants or neighbors of the property, the court may  
46 dismiss the complaint.

1        d.<sup>2</sup> Within 10 days of filing the complaint, the plaintiff shall file a  
2 notice of lis pendens with the county recording officer of the county  
3 within which the building is located.

4  
5        10. (New section) a. If the court determines, after its summary  
6 hearing, that the grounds for relief set forth pursuant to section 5 of  
7 P.L.     , c. (C.     ) (pending before the Legislature as this bill)  
8 have been established, the court may appoint a receiver and grant such  
9 other relief as may be determined to be necessary and appropriate. The  
10 court shall select as the receiver the mortgageholder, lienholder or a  
11 qualified entity, as defined pursuant to section 3 of P.L.     , c.  
12 (C.     ) (pending before the Legislature as this bill). If the court  
13 cannot identify a receiver, the court may appoint any party who, in the  
14 judgment of the court, may not have registered with the department  
15 pursuant to section 31 of P.L.     , c. (C.     ) (pending before  
16 the Legislature as this bill), but otherwise fulfills the qualifications of  
17 a qualified entity.

18        b. If the court determines, after its summary hearing, that the  
19 grounds for relief set forth pursuant to section 5 of P.L.     , c.  
20 (C.     ) (pending before the Legislature as this bill) have been  
21 established, but the owner presents a plan in writing to the court  
22 demonstrating that the conditions leading to the filing of the complaint  
23 will be abated within a reasonable period, which plan is found by the  
24 court to be reasonable, then the court may enter an order providing  
25 that in the event the conditions are not abated by a specific date,  
26 including the completion of specific remedial activities by specific  
27 dates, or if the conditions recur within a specific period established by  
28 the court, then an order granting the relief as requested in the  
29 complaint shall be granted.

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

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

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

45        e. The appointment of a receiver shall not suspend any obligation  
46 the owner may have as of the date of the appointment of the receiver



1 for payment of any operating or maintenance expense associated with  
2 the building, whether or not billed at the time of appointment. Any  
3 such expenses incurred after the appointment of the receiver shall be  
4 the responsibility of the receiver.

5  
6 11. (New section) Notwithstanding any provision to the contrary  
7 pursuant to P.L. , c. (C. ) (pending before the Legislature  
8 as this bill), a court may in its discretion deny a lienholder or mortgage  
9 holder of any or all rights or remedies afforded lienholders and  
10 mortgage holders under P.L. , c. (C. ) (pending before the  
11 Legislature as this bill), if it finds that the owner of the building owns  
12 or controls more than a 50% interest in, or effective control of, the  
13 lienholder or mortgage holder, or that the familial or business  
14 relationship between the lienholder or mortgage holder and the owner  
15 precludes a separate interest on the part of the lienholder or mortgage  
16 holder.

17  
18 12. (New section) Within 60 days following the order appointing  
19 a receiver pursuant to subsection a. of section 10 of P.L. , c.  
20 (C. ) (pending before the Legislature as this bill), the receiver  
21 shall submit a plan for the operation and improvement of the building  
22 to the <sup>1</sup>[commissioner, in accordance with rules and regulations  
23 adopted by the commissioner pursuant to section 31 of P.L. , c.  
24 (C. ) (pending before the Legislature as this bill)] court<sup>1</sup> and  
25 provide a copy of the plan to the owner, all parties in interest which  
26 participated in the hearing and the clerk of the municipality in which  
27 the building is situated. The plan shall include an enumeration of the  
28 insurance coverage to be purchased by the receiver, including surety  
29 bonds in an amount sufficient to guarantee compliance with the terms  
30 and conditions of the receivership and in accordance with rules and  
31 regulations adopted by the commissioner pursuant to section 31 of  
32 P.L. , c. (C. ) (pending before the Legislature as this bill).

33 <sup>1</sup>[The commissioner shall review the plan and make any  
34 recommendations to the court in accordance with the regulations  
35 adopted pursuant to section 31 of P.L. , c. (C. ) (pending  
36 before the Legislature as this bill) within 30 days of receipt thereof.]<sup>1</sup>  
37 The court<sup>1</sup>[, after considering the recommendations of the  
38 commissioner,]<sup>1</sup> shall approve or disapprove the plan with or without  
39 modifications.

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

43 a. an estimate of the cost of the labor, materials and any other  
44 costs that are required to bring the property up to applicable codes and  
45 standards and abate any nuisances that gave rise to the appointment of  
46 the receiver pursuant to section <sup>1</sup>[4] 10<sup>1</sup> of P.L. , c. (C. )

- 1 (pending before the Legislature as this bill);  
2 b. the estimated income and expenses of the building and property  
3 after the completion of the repairs and improvements;  
4 c. the cost of paying taxes and other municipal charges; and  
5 d. the terms, conditions and availability of any financing that is  
6 necessary in order to allow for the timely completion of the work  
7 outlined in subsection a. of this section.

8 The owner shall, to the extent such information is available,  
9 expeditiously provide the receiver with such income and expense  
10 statements. If the receiver's plan was submitted at the time of the  
11 hearing, the receiver may amend the plan subsequent to that hearing,  
12 and submit a revised plan to the <sup>1</sup>[commissioner] court<sup>1</sup> pursuant to  
13 this section.

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

16

17 13. (New section) Upon appointment, the receiver shall post a  
18 bond or other such surety or insurance in accordance with the plan  
19 approved by the court pursuant to section 12 of P.L. , c.  
20 (C. ) (pending before the Legislature as this bill).

21 The receiver shall take possession of the building and any other  
22 property subject to the receivership order immediately after posting  
23 the required bond, surety or insurance and, subject to the approval of  
24 the court of the bond, surety and insurance, shall immediately be  
25 authorized to exercise all powers delegated by P.L. , c. (C. )  
26 (pending before the Legislature as this bill), except that the receiver  
27 shall not undertake major non-emergent improvements to the property  
28 prior to approval of the receiver's plan by the court.

29 Any receiver may be removed by the court at any time upon the  
30 request of the receiver or upon a showing by a party in interest that  
31 the receiver is not carrying out its responsibilities under P.L. , c.  
32 (C. ) (pending before the Legislature as this bill). The court  
33 may hold a hearing prior to removal of a receiver under this section.  
34

35 14. (New section) a. Neither the filing of a complaint under  
36 section 4 of P.L. , c. (C. ) (pending before the Legislature as  
37 this bill) nor the appointment of a receiver under subsection a. of  
38 section 10 of P.L. , c. (C. ) (pending before the Legislature  
39 as this bill) shall stay the filing or continuation of any action to  
40 foreclose a mortgage or lien on the building or to sell the property for  
41 delinquent taxes or unpaid municipal liens.

42 b. In the event that ownership of the building changes as a result  
43 of foreclosure while a receiver is in possession, including possession  
44 by the municipality pursuant to a tax foreclosure action, the property  
45 shall remain subject to the receivership and the receiver shall remain  
46 in possession and shall retain all powers delegated under this action

1 unless and until the receivership is terminated under the provisions of  
2 P.L. , c. (C. ) (pending before the Legislature as this bill).

3  
4 15. (New section) The receiver shall have all powers and duties  
5 necessary or desirable for the efficient operation, management and  
6 improvement of the building in order to remedy all conditions  
7 constituting grounds for receivership under P.L. , c. (C. )  
8 (pending before the Legislature as this bill). Such powers and duties  
9 shall include the power to:

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

14 b. Collect rents and all outstanding accounts receivable, subject to  
15 the rights of lienholders except where affected by court action  
16 pursuant to any of the provisions of P.L. , c. (C. )  
17 (pending before the Legislature as this bill);

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

20 d. Contract for the repair and maintenance of the building on  
21 reasonable terms, including the provision of utilities to the building.  
22 If the receiver falls within the definition of a contracting unit pursuant  
23 to section 2 of P.L.1971, c.198 (C.40A:11-2), any contract entered  
24 into by the receiver shall not be subject to any legal advertising or  
25 bidding requirements, but the receiver shall solicit at least three bids  
26 or proposals, as appropriate, with respect to any contract in an amount  
27 greater than \$2,500. The receiver may enter into contracts or  
28 agreements with tenants or persons who are members of the receiver  
29 entity, as the case may be, provided that all such contracts or  
30 agreements shall be appropriately documented, and included in the  
31 receiver's expenses under P.L. , c. (C. ) (pending before the  
32 Legislature as this bill)<sup>2</sup>. In the event that the receiver contracts for  
33 any service with an entity with which the receiver has an identity of  
34 interest relationship, it shall first disclose that relationship to the court,  
35 the owner and the parties in interest<sup>2</sup>;

36 e. Borrow money and incur debt in accordance with the provisions  
37 of section 17 of P.L. , c. (C. ) (pending before the  
38 Legislature as this bill);

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

41 g. Enter into new rental contracts and leases for vacant units and  
42 renew existing rental contracts on reasonable terms for periods not to  
43 exceed one year;

44 h. Affirm, renew or enter into contracts for insurance coverage on  
45 the building;

46 i. Engage and, subject to court approval, pay legal, accounting,

1 appraisal and other professionals to aid in carrying out the purposes of  
2 the receivership;

3 j. Evict or commence eviction proceedings against tenants for  
4 cause when necessary and prudent, notwithstanding the condition of  
5 the building; and

6 k. Sell the building in accordance with the provisions of P.L. ,  
7 c. (C. ) (pending before the Legislature as this bill).

8  
9 16. (New section) While in possession of the building, the  
10 receiver shall:

11 a. Maintain, safeguard, and insure the building;

12 b. Apply all revenue generated from the building consistent with  
13 the purposes of P.L. , c. (C. ) (pending before the Legislature  
14 as this bill) and the provisions of the plan submitted to and approved  
15 by the court. In the case of an officer or agent of a municipality acting  
16 as a receiver pursuant to the provisions of section 1 of P.L. 1942, c. 54  
17 (C. 54:5-53.1), no revenue shall be applied to any arrears in property  
18 taxes or other municipal liens until or unless the municipal officer or  
19 agent finds that any material conditions found to exist by the court  
20 pursuant to section 10 of P.L. , c. (C. ) (pending before the  
21 Legislature as this bill) have been abated, and that the building has  
22 remained free of any such conditions for a period of no less than six  
23 months of that certification;

24 c. Implement the plan and, to the extent the receiver determines  
25 that any provision of the plan cannot be implemented, submit  
26 amendments to the plan to the <sup>1</sup>[commissioner and the]<sup>1</sup> court, with  
27 notice to the parties in interest and the owner;

28 d. Submit such reports as the court may direct and submit a copy  
29 of those reports to the parties in interest and the owner. Such reports  
30 may include:

31 (1) a copy of any contract entered into by the receiver regarding  
32 repair or improvement of the building, including any documentation  
33 required under subsection d. of section 15 of P.L. , c. (C. )  
34 (pending before the Legislature as this bill);

35 (2) a report of the lease and occupancy status of each unit in the  
36 building, and any actions taken with respect to any tenant or lease;

37 (3) an account of the disposition of all revenues received from the  
38 building;

39 (4) an account of all expenses and improvements;

40 (5) the status of the plan and any amendments thereto;

41 (6) a description of actions proposed to be taken during the next  
42 six months with respect to the building; and

43 (7) itemization of any fees and expenses that the receiver incurred  
44 for which it is entitled to payment pursuant to subsection a. of section  
45 <sup>1</sup>[17] 18<sup>1</sup> of P.L. , c. (C. ) (pending before the Legislature  
46 as this bill), which were not paid during the period covered by the

1 report, or which have remained unpaid since the beginning of the  
2 receivership.

3

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

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

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

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

34

35 18. (New section) a. The receiver shall be entitled to necessary  
36 expenses and to a reasonable fee, to be determined by the court. The  
37 expenses incurred by a receiver in removing or remedying a condition  
38 pursuant to P.L. , c. (C. ) (pending before the Legislature  
39 as this bill) shall be met by the rents collected by the receiver or any  
40 other moneys made available for those purposes.

41 b. Nothing in P.L. , c. (C. ) (pending before the Legislature  
42 as this bill) shall be deemed to relieve the owner of the building of any  
43 civil or criminal liability or any duty imposed by reason of acts or  
44 omissions of the owner.

45 c. The activities of the receiver being appropriate and necessary  
46 to carry out a public purpose, the personnel, facilities, and funds of the

1 municipality may be made available to the receiver at the discretion of  
2 the municipality for the purpose of carrying out the duties as receiver  
3 and the cost of those services shall be deemed a necessary expense of  
4 the receiver, which shall reimburse the municipality to the extent that  
5 funds are reasonably available for that purpose.

6 d. If the party in interest bringing a receivership action pursuant  
7 to section 4 of P.L. , c. (C. ) (pending before the Legislature  
8 as this bill) is the public officer, the municipality shall be entitled to its  
9 costs in filing an application to the court and reasonable attorney fees,  
10 to be determined by the court, which may be a lien against the  
11 premises and collectible as otherwise provided under law.

12  
13 19. (New section) Upon request by the receiver and following  
14 notice by the receiver to the owner of the property, any municipality  
15 may, by order of the county board of taxation, release any outstanding  
16 municipal liens on any property subject to a receivership order under  
17 P.L. , c. (C. ) (pending before the Legislature as this  
18 bill). In responding to such requests, the board shall balance the effect  
19 of releasing the lien on the municipality's finances with its effect on the  
20 preservation of the building as sound affordable housing. The owner  
21 of the property shall be personally liable for payment of the tax or  
22 other municipal charge secured by the lien.

23  
24 20. (New section) Upon application of the receiver, the court may  
25 order the sale of the building if it finds that:

26 a. Notice was given to each current record owner of the building,  
27 each mortgage or lienholder of record, and any other party in interest;

28 b. The receiver has been in control of the building for more than  
29 one year at the time of application and the owner has not successfully  
30 petitioned for reinstatement under section 24 of P.L. , c. (C. )  
31 (pending before the Legislature as this bill); and

32 c. The sale would promote the sustained maintenance of the  
33 building as sound, affordable housing, consistent with codes and safety  
34 requirements.

35  
36 21. (New section) In its application to the court, the receiver shall  
37 specify the manner in which it proposes the building to be sold, which  
38 alternatives shall include, but not be limited to the following:

39 a. Sale on the open market to an entity qualified to own and  
40 operate multifamily rental property;

41 b. Sale at a negotiated price to a not for profit entity qualified to  
42 own and operate multifamily rental property;

43 c. Sale to an entity for the purpose of conversion of the property  
44 to condominium or cooperative ownership pursuant to the provisions  
45 of "The Planned Real Estate Development Full Disclosure Act,"  
46 P.L.1977, c.419 (C.45:22A-21 et seq.) , provided that that option shall

1 not be approved except with the approval in writing of a majority of  
2 the tenants of the building, and provided further that, notwithstanding  
3 any provision of "The Planned Real Estate Development Full  
4 Disclosure Act," P.L.1977, c.419 (C.45:22A-21 et seq.), no tenant in  
5 residence prior to the date the plan of conversion is approved by the  
6 court shall be subject to eviction by reason of that conversion; or

7 d. In the case of a one to four family building, sale to a household  
8 that will occupy one of the units as an owner occupant, which may be  
9 a sitting tenant.

10  
11 22. (New section) a. Upon application by the receiver to sell the  
12 property the owner or any party in interest may seek to have the  
13 receiver's application to sell the property dismissed and the owner's  
14 rights reinstated upon a showing that the owner meets all of the  
15 conditions set forth in section 25 of P.L. , c. (C. ) (pending  
16 before the Legislature as this bill) and such other conditions that the  
17 court may establish. In setting the conditions for reinstatement, the  
18 court shall invite recommendations from the receiver.

19 b. In connection with the sale, the court may authorize the  
20 receiver to sell the building free and clear of liens, claims and  
21 encumbrances in which event, all such liens, claims and encumbrances,  
22 including tax and other municipal liens, shall be transferred to the  
23 proceeds of sale with the same priority as existed prior to resale in  
24 accordance with section 23 of P.L. , c. (C. ) (pending before  
25 the Legislature as this bill).

26  
27 23. (New section) Upon approval by the court, the receiver shall  
28 sell the property on such terms and at such price as the court shall  
29 approve, and may place the proceeds of sale in escrow with the court,  
30 except that unpaid municipal liens shall be paid from the proceeds of  
31 the sale. The court shall order a distribution of the proceeds of sale  
32 after paying court costs in the following order of priority:

33 a. The reasonable costs and expenses of sale actually incurred;

34 b. Municipal liens pursuant to R.S.54:5-9;

35 c. Repayment of principal and interest on any borrowing or  
36 indebtedness incurred by the receiver and granted priority lien status  
37 pursuant to subsection c. of section 17 of P.L. , c. (C. )  
38 (pending before the Legislature as this bill);

39 d. Other valid liens and security interests, including governmental  
40 liens, in accordance with their priority, including any costs and  
41 expenses incurred by the municipality as a receiver, but with respect  
42 to non-governmental liens, those duly recorded prior to the filing of  
43 the lis pendens notice by the receiver;

44 e. Any fees and expenses of the receiver not otherwise reimbursed  
45 during the pendency of the receivership in connection with the sale or  
46 the operation, maintenance and improvement of the building and

1 documented by the receiver as set forth in paragraph (7) of subsection  
2 d. of section 16 of P.L. , c. (C. ) (pending before the Legislature  
3 as this bill);

4 f. Any costs and expenses incurred by parties in interest in  
5 petitioning the court for receivership; and

6 g. Any accounts payable or other unpaid obligations to third  
7 parties from the receivership.

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

10

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

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

22

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

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

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

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

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

40 e. The owner posts a bond or other security in an amount  
41 determined to be reasonable by the court in consultation with the  
42 receiver and the public officer, but not in excess of 50% of the fair  
43 market value of the property, which shall be forfeit in the event of any  
44 future code violation materially affecting the health or safety of tenants  
45 or the structural or functional integrity of the building. Forfeiture shall  
46 be in the form of a summary proceeding initiated by the municipal



1 officer, who shall provide evidence that such a code violation has  
2 occurred and has not been abated within 48 hours of notice, or such  
3 additional period of time as may be allowed by the court for good  
4 cause, and shall be in the amount of 100 percent of the cost of abating  
5 the violation for the first violation, 150 percent of the cost of abating  
6 the violation for the second violation, and 200 percent of the cost of  
7 abating the violation for any subsequent violation. The owner may  
8 seek approval of the court to be relieved of this requirement after five  
9 years, which shall be granted if the court finds that the owner has  
10 maintained the property in good repair during that period, that no  
11 material violations affecting the health and safety of the tenants have  
12 occurred during that period, and that the owner has remedied other  
13 violations in a timely and expeditious fashion;

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

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

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

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

31 j. Where the new owner is a lienholder that obtained the property  
32 through foreclosure, or through grant of a deed in lieu of foreclosure,  
33 that owner shall not be subject to the provisions of this section, but  
34 may seek to terminate the receivership by filing a petition for  
35 termination of the receivership pursuant to section 27 of P.L. , c.  
36 (C. ) (pending before the Legislature as this bill).

37  
38 26. (New section) a. The court may require as a condition of  
39 reinstatement of the owner's rights that the receiver or other qualified  
40 entity remain in place as a monitor of the condition and management  
41 of the property for such period as the court may determine, and may  
42 require such reports at such intervals as it deems necessary and  
43 appropriate from the monitor. The court may require the owner to pay  
44 a fee to the monitor in such amount as the court may determine.

45 b. In the event of the owner's failure to comply with the conditions  
46 established for reinstatement of the owner's rights, or evidence of

1 recurrence of any of the conditions for receivership set forth in section  
2 4 of P.L. , c. (C. ) (pending before the Legislature as this  
3 bill), the receiver, monitor or any party in interest may petition the  
4 court for reinstatement of the receivership at any time, which may be  
5 granted by the court in a summary manner after notice to the parties  
6 and a hearing, if requested by any of the parties. If the court reinstates  
7 the receivership, the entire bond or other security shall be forfeit and  
8 shall be provided to the receiver for the operation and improvement of  
9 the property.

10  
11 27. (New section) Upon request of a party in interest or the  
12 receiver, the court may order the termination of the receivership if it  
13 determines:

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

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

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

32 c. (1) A new owner who was formerly a mortgage holder or  
33 lienholder and who has obtained the property through foreclosure or  
34 through grant of a deed in lieu of foreclosure has requested that the  
35 receivership be terminated and has provided adequate assurances to  
36 the court that any remaining code violations or conditions that  
37 constituted grounds for the complaint will be promptly abated, the  
38 obligations, expenses and improvements of the receivership, including  
39 all fees and expenses of the receiver, have been fully paid or provided  
40 for and the purposes of the receivership have been or will promptly be  
41 fulfilled;

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

45 d. The building has been sold and the proceeds distributed in  
46 accordance with section 23 of P.L. , c. (C. ) (pending before

1 the Legislature as this bill); or

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

6 In all cases under this section, the court may impose such  
7 conditions on the owner or other entity taking control of the building  
8 upon the termination of receivership that the court deems necessary  
9 and desirable in the interest of the tenants and the neighborhood in  
10 which the building is located, including but not limited to those that  
11 may be imposed on the owner under section 25 of P.L. , c.  
12 (C. ) (pending before the Legislature as this bill); except that a new  
13 owner who was formerly a mortgage holder or lienholder, or an  
14 affiliate thereof, and which has obtained the property through  
15 foreclosure or through grant of a deed in lieu of foreclosure and who  
16 demonstrates sufficient financial responsibility to the court shall not be  
17 required to post a bond.

18

19 28. (New section) a. Beginning in the fiscal year in which  
20 P.L. , c. (C. ) (pending before the Legislature as this bill)  
21 becomes effective, subject to the availability of funds in the  
22 Neighborhood Preservation Nonlapsing Revolving Fund established  
23 pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320), the  
24 department <sup>2</sup>[shall] may<sup>2</sup> set aside from that fund a sum of up to \$4  
25 million per year to establish a Preservation Loan Revolving Fund for  
26 the purpose of making <sup>2</sup>grants or<sup>2</sup> loans<sup>2</sup>, as the case may be,<sup>2</sup> to  
27 receivers to implement plans which are consistent with rules and  
28 regulations adopted by the commissioner pursuant to section 31 of  
29 P.L. , c. (C. ) (pending before the Legislature as this bill).  
30 Up to three million dollars in the first year and up to four million  
31 dollars in each year thereafter <sup>2</sup>[shall] may<sup>2</sup> be set aside for grants and  
32 loans to receivers.

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

40 c. The department may make <sup>2</sup>grants or<sup>2</sup> loans<sup>2</sup>, as the case may  
41 be,<sup>2</sup> from the Preservation Loan Revolving Fund in connection with  
42 any property that is under receivership pursuant to P.L. , c. (C.  
43 ) (pending before the Legislature as this bill) in order to further the  
44 purposes of P.L. , c. (C. ) (pending before the Legislature  
45 as this bill).

46 d. The sum of \$1 million from the first four million dollars to be

1 deposited in the Preservation Loan Revolving Fund shall be used for  
2 the purpose of providing operating grants to nonprofit entities to  
3 enable such entities to act as receivers pursuant to the provisions of  
4 P.L. , c. (C. ) (pending before the Legislature as this bill)  
5 and to further housing preservation through other activities including,  
6 but not limited to, acquisition of rental property, management of rental  
7 property, provision of technical assistance and training to property  
8 owners, and any activities that further the goal of building the capacity  
9 of nonprofit entities to act as receivers under the provisions of P.L. ,  
10 c. (C. ) (pending before the Legislature as this bill). In making  
11 grants under this section, the agency shall seek to assist a small  
12 number of entities that shall be geographically distributed among those  
13 areas with the greatest need to develop a high level of capacity and to  
14 benefit from economies of scale in the conduct of property  
15 management and receivership activities.

16

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

18 2B:12-20. Municipal housing court; jurisdiction. A municipality in  
19 a county of the first class may establish, as a part of its municipal  
20 court, a full-time municipal housing court. Municipal housing courts  
21 shall have jurisdiction over actions for eviction involving property in  
22 the municipality which are transferred to the municipal housing court  
23 by the Special Civil Part of the Superior Court[, and shall have  
24 concurrent jurisdiction to appoint receivers pursuant to section 6 of  
25 P.L.1966, c.168 (C.2A:42-79) and to enforce the provisions of  
26 P.L.1971, c.224 (C.2A:42-85 et seq.)].

27 (cf: N.J.S.2B:12-20)

28

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

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

38 a. The commissioner shall award grants or loans from this fund for  
39 housing projects and programs in municipalities whose housing  
40 elements have received substantive certification from the council, in  
41 municipalities receiving State aid pursuant to P.L.1978, c.14  
42 (C.52:27D-178 et seq.), in municipalities subject to builder's remedy  
43 as defined in section 28 of P.L.1985, c.222 (C.52:27D-328) or in  
44 receiving municipalities in cases where the council has approved a  
45 regional contribution agreement and a project plan developed by the  
46 receiving municipality. Programs and projects in any municipality shall

1 be funded only after receipt by the commissioner of a written  
2 statement in support of the program or project from the municipal  
3 governing body.

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

8 c. During the first 12 months from the effective date of [this act]  
9 P.L.1985, c.222 (C.52:27D-301 et al.) and for any additional period  
10 which the council may approve, the commissioner may assist  
11 affordable housing programs which are not located in municipalities  
12 whose housing elements have been granted substantive certification or  
13 which are not in furtherance of a regional contribution agreement;  
14 provided that the affordable housing program will meet all or part of  
15 a municipal low and moderate income housing obligation.

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

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

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

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

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

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

37 (6) Assistance to a local housing authority, nonprofit or limited  
38 dividend housing corporation or association or a qualified entity acting  
39 as a receiver under P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (pending before the  
40 Legislature as this bill) for rehabilitation or restoration of housing  
41 units which it administers which: (a) are unusable or in a serious state  
42 of disrepair; (b) can be restored in an economically feasible and sound  
43 manner; and (c) can be retained in a safe, decent and sanitary manner,  
44 upon completion of rehabilitation or restoration; and

45 (7) Other housing programs for low and moderate income  
46 housing, including, without limitation, (a) infrastructure projects

1 directly facilitating the construction of low and moderate income  
2 housing not to exceed a reasonable percentage of the construction  
3 costs of the low and moderate income housing to be provided and (b)  
4 alteration of dwelling units occupied or to be occupied by households  
5 of low or moderate income and the common areas of the premises in  
6 which they are located in order to make them accessible to  
7 handicapped persons.

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

16 f. Notwithstanding the provisions of any other law, rule or  
17 regulation to the contrary, in making grants or loans under this  
18 section, the department shall not require <sup>1</sup>[income certification.]<sup>1</sup> that  
19 tenants be certified as low or moderate income or that contractual  
20 guarantees <sup>1</sup>or deed restrictions<sup>1</sup> be in place to ensure continued  
21 <sup>1</sup>[deed restrictions regarding]<sup>1</sup> low and moderate income occupancy  
22 as a condition of providing housing assistance from any program  
23 administered by the department, when that assistance is provided for  
24 a project of moderate rehabilitation if the project (1) contains 30 or  
25 fewer rental units and (2) is located in a census tract in which the  
26 median household income is 60 percent or less of the median income  
27 for the housing region in which the census tract is located, as  
28 determined for a three person household by the council in accordance  
29 with the latest federal decennial census. A list of eligible census tracts  
30 shall be maintained by the department and shall be adjusted upon  
31 publication of median income figures by census tract after each federal  
32 decennial census.

33 (cf: P.L.1995, c.83, s.3)

34

35 31. (New section) a. The commissioner shall, within six months  
36 of the enactment of P.L. , c. (C. ) (pending before the  
37 Legislature as this bill) <sup>3</sup>[ and after consultation with the  
38 Commissioner of Banking and Insurance<sup>2</sup> ] <sup>3</sup>, adopt rules and  
39 regulations concerning registration of qualified entities <sup>3</sup>[and  
40 certification of nonprofit housing managers. A nonprofit housing  
41 manager certified by the commissioner pursuant to regulations adopted  
42 under this subsection shall have full legal authority to carry out all  
43 activities necessary and desirable for the effective management of  
44 residential rental property, including collection of rents, execution of  
45 leases on behalf of owners, and eviction of tenants on behalf of  
46 owners]<sup>3</sup>.

1           <sup>3</sup>[Such rules and regulations shall designate one or more existing  
2 programs provided by qualified educational or training entities,  
3 including but not limited to the Institute for Real Estate Management,  
4 as programs for the certification of nonprofit housing managers.]<sup>3</sup>

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

10          b. Within six months of the enactment of P.L.     , c. (C.     )  
11 (pending before the Legislature as this bill), the commissioner shall  
12 adopt rules and regulations setting forth minimum amounts of  
13 insurance coverage, by category, to be maintained on buildings under  
14 their control by receivers appointed pursuant to the provisions of  
15 P.L.     , c. (C.     ) (pending before the Legislature as this bill). In  
16 addition, the commissioner shall adopt rules and regulations governing  
17 surety bonds which a receiver shall execute and file guaranteeing  
18 compliance with the terms and conditions of the receivership and any  
19 other provisions of P.L.     , c. (C.     ) (pending before the  
20 Legislature as this bill).

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

26

27          32. The following statutes are hereby repealed:

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

30          Sections 8 through 12 of P.L.1962, c.66 (C.40:48-2.12h through  
31 2.12i).

32

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

35

36

37

38

39          \_\_\_\_\_

Revises receivership statutes.

# ASSEMBLY, No. 2539

## STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED JUNE 17, 2002

**Sponsored by:**

**Assemblywoman BONNIE WATSON COLEMAN**

**District 15 (Mercer)**

**Assemblyman JERRY GREEN**

**District 22 (Middlesex, Somerset and Union)**

**Co-Sponsored by:**

**Assemblywoman Cruz-Perez and Assemblyman Hackett**

**SYNOPSIS**

Revises receivership statutes.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 10/18/2002)



1 AN ACT encouraging the preservation of multifamily housing,  
2 amending N.J.S.2B:12-20 and P.L.1991, c.441, supplementing Title  
3 2A of the New Jersey Statutes, and repealing various sections of  
4 statutory law.

5

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

8

9 1. (New section) This act shall be known and may be cited as the  
10 "Multifamily Housing Preservation and Receivership Act."

11

12 2. (New section) The Legislature finds and declares that:

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

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

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

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

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

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

40

41 3. (New section) As used in this act:

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

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 "Building" means any building or structure and the land appurtenant  
2 thereto containing one or more dwelling units;

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

6 "Competent entity" means any person or entity with experience in  
7 the operation, maintenance and improvement of residential buildings.  
8 A certified nonprofit housing manager designated pursuant to section  
9 30 of P.L. , c. (C. ) (pending before the Legislature as this  
10 bill) shall be considered a competent entity.

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

13 "Party in interest" means: (1) an owner; (2) any lien holder or  
14 secured creditor of the owner; (3) any tenant living in the building; (4)  
15 any entity designated by more than 50 percent of the tenants living in  
16 the building as their representative; (5) any nonprofit corporation  
17 carrying out community development activities within the municipality  
18 in which the building is located; (6) an officer appropriately designated  
19 by resolution of the governing body of the municipality in which the  
20 building is located, except that in municipalities organized under  
21 P.L.1950, c.210 (C.40:69A-1 et seq.), this officer shall be designated  
22 by the mayor;

23 "Tenant" means a household that legally occupies a dwelling unit in  
24 a residential building, whether or not subject to a lease.

25

26 4. (New section) A receivership petition may be brought by a  
27 party in interest and appropriate relief may be granted by the court if:

28 a. The building is in violation of any housing code requirement  
29 affecting the health and safety of the tenants as of the date of the filing  
30 of the petition with the court, and the violation or violations have  
31 persisted, unabated, for at least 90 days preceding the date of the filing  
32 of the petition with the court; or

33 b. The building has demonstrated a pattern of recurrent code  
34 violations, whether or not corrected, and has been cited for such  
35 violations at least four times within 12 months preceding the date of  
36 the filing of the petition with the court, or six times in the two years  
37 prior to the date of the filing of the petition with the court; or

38 c. The building has been the site of repeated criminal or drug-  
39 related activities which have resulted in at least four incidents on  
40 record with the municipal police department within 12 months prior to  
41 the date of filing of the petition with the court or six incidents during  
42 the two year period prior to the date of the filing of the petition.

43

44 5. (New section) A petition submitted to the court shall include  
45 a statement of the grounds for relief and to the extent available to the  
46 petitioner:

1 a. Documentation of the basis upon which the petition is being  
2 brought;

3 b. A recommendation of the receiver to be appointed;

4 c. The proposed receiver's preliminary plan for operation and  
5 improvement of the building, including preliminary cost estimates and  
6 sources of funds.

7

8 6. (New section) a. The petitioner shall notify the current owner  
9 of the property by registered or certified mail to the last known  
10 address of the owner immediately upon filing the petition with the  
11 court. Unless tenants have been provided with written notice to the  
12 contrary or the petitioner has knowledge to the contrary, the most  
13 recent address to which tenants are directed to send or deliver rent  
14 shall constitute adequate address for this notice. If the address of the  
15 owner in the municipal tax records is different from the address to  
16 which tenants are directed to send or deliver rent, the petitioner shall  
17 send notice to both addresses.

18 b. The petitioner shall notify all mortgageholders and lienholders  
19 of record by registered or certified mail no later than ten days prior to  
20 any hearing on the petition with a copy of the petition and notice of  
21 the hearing. The petitioner shall provide the court with evidence of  
22 service on mortgageholders and lienholders at the time of the hearing.

23 The petitioner shall notify the municipal officer by registered or  
24 certified mail no later than ten days prior to any hearing on the  
25 petition, with a copy of the petition and notice of the hearing. If no  
26 municipal officer has been designated by the municipality for the  
27 purposes of P.L. , c. (C. ) (pending before the Legislature  
28 as this bill), the petitioner shall provide notice to the municipal clerk.

29

30 7. (New section) a. The court shall act upon any petition  
31 submitted by holding a hearing within 30 days of receiving the petition  
32 and shall render a decision no later than 30 days after completion of  
33 the hearing.

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

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

40

41 8. (New section) a. If the court determines after hearing that the  
42 grounds for relief set forth in section 5 of P.L. , c. (C. )  
43 (pending before the Legislature as this bill) have been established, the  
44 court may appoint a receiver and grant such other relief as may be  
45 determined to be appropriate. In appointing a receiver, the court shall  
46 consider any recommendations contained in the petition or otherwise

1 presented by a party in interest at or subsequent to the hearing on the  
2 petition. The court shall ensure that the receiver, which may be a  
3 nonprofit or other entity, or an individual, is a competent entity with  
4 knowledge and experience in the operation and improvement of  
5 residential buildings.

6 b. If the court determines after hearing that the grounds for relief  
7 set forth in section 5 of P.L. , c. (C. ) (pending before the  
8 Legislature as this bill) have been established but the owner presents  
9 a plan in writing to the court demonstrating that the conditions leading  
10 to the petition will be abated within a reasonable period, which plan is  
11 found by the court to be reasonable, the court may enter an order  
12 providing that in the event the conditions are not abated by a specific  
13 date, including the completion of specific remedial activities by  
14 specific dates, or if the conditions recur within a specific period  
15 established by the court, then an order granting the relief as requested  
16 in the petition shall be granted.

17 In the case of petitions brought under subsections a. or b. of section  
18 4 of P.L. , c. (C. ) (pending before the Legislature as this  
19 bill), the court shall require the owner to post a bond in such amount  
20 that the court, in consultation with the party bringing the petition and  
21 the municipal officer, determines to be reasonable, which shall be  
22 forfeit if the owner fails to meet the conditions of the order.

23

24 9. (New section) a. Within 60 days following the order appointing  
25 a receiver pursuant to subsection a. of section 8 of P.L. , c.  
26 (C. ) (pending before the Legislature as this bill), the receiver  
27 shall submit a plan for the operation and improvement of the building  
28 to the court and provide a copy of the plan to all parties in interest  
29 which participated in the hearing. If the receiver's plan was submitted  
30 at the time of the hearing, the receiver may amend the plan subsequent  
31 to the hearing, and submit a revised plan to the court pursuant to this  
32 section.

33 b. Upon the request of any party in interest, the court shall  
34 schedule a hearing on the receiver's plan for operation and  
35 improvement of the building.

36 c. The court shall approve the plan submitted by the receiver with  
37 such amendments as the court may deem to be necessary and  
38 appropriate.

39

40 10. (New section) Upon appointment, the receiver shall furnish the  
41 court with a bond or other such surety or insurance that the court may  
42 determine to be appropriate in the circumstances of the matter.

43 The receiver shall take possession of the residential building and  
44 any other property subject to the receivership order immediately after  
45 posting the required bond, surety or insurance and shall immediately  
46 be authorized to exercise all powers delegated by P.L. , c.  
47 (C. ) (pending before the Legislature as this bill).

1 Any receiver may be removed by the court at any time upon the  
2 request of the receiver or upon a showing by a party in interest that  
3 the receiver is not carrying out its responsibilities under P.L. , c.  
4 (C. ) (pending before the Legislature as this bill). The court may  
5 hold a hearing prior to removal of a receiver under this section.  
6

7 11. (New section) a. Neither the filing of a petition under section  
8 4 of P.L. , c. (C. ) (pending before the Legislature as this  
9 bill) nor the appointment of a receiver under subsection a. of section  
10 8 of P.L. , c. (C. ) (pending before the Legislature as this  
11 bill) shall stay the filing or continuation of any action to foreclose a  
12 mortgage or lien on the building or to sell the property for delinquent  
13 taxes or unpaid municipal liens, provided that nothing shall prevent the  
14 court in which the petition is filed, after notice and hearing, from  
15 enjoining any such action if it determines: (i) that the interest of the  
16 mortgagee or lienholder in the building is adequately protected during  
17 the period that the injunction is in effect; and (ii) that the injunction is  
18 necessary in order to protect the interests of the tenants or the  
19 neighborhood in which the building is located, or both, as the case may  
20 be.

21 b. In the event that ownership of the building changes as a result  
22 of foreclosure while a receiver is in possession, including possession  
23 by the municipality pursuant to a tax foreclosure action, the property  
24 shall remain subject to the receivership and the receiver shall remain  
25 in possession and shall retain all powers delegated under this action  
26 unless and until the receivership is terminated under the provisions of  
27 P.L. , c. (C. ) (pending before the Legislature as this bill).  
28

29 12. (New section) The receiver shall have all powers and duties  
30 necessary or desirable for the efficient operation, management and  
31 improvement of the building in order to remedy all conditions  
32 constituting grounds for receivership under P.L. , c. (C. )  
33 (pending before the Legislature as this bill). Such powers and duties  
34 shall include the power to:

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

39 b. Collect rents and all outstanding accounts receivable;

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

42 d. Contract for the repair and maintenance of the building, which  
43 contracts shall not be subject to any legal advertising or bidding  
44 requirements and which may include contracts or agreements with  
45 tenants or members of the receiver organization, as the case may be,  
46 provided that all such contracts or agreements shall be appropriately

- 1 documented and included in the receiver's expenses under P.L. , c.  
2 (C. ) (pending before the Legislature as this bill);
- 3 e. Borrow money and incur debt in accordance with the provisions  
4 of section 14 of P.L. , c. (C. ) (pending before the Legislature  
5 as this bill);
- 6 f. Contract and pay for maintenance services and the provision of  
7 utilities to the building;
- 8 g. Purchase materials, goods and supplies to operate, maintain,  
9 repair and improve the building;
- 10 h. Renew existing rental contracts and leases for periods not to  
11 exceed one year;
- 12 i. Enter into new rental contracts and leases for vacant units for  
13 periods not to exceed one year;
- 14 j. Affirm, renew or enter into contracts for insurance coverage on  
15 the building;
- 16 k. Engage and, subject to court approval, pay legal, accounting,  
17 appraisal and other professionals to aid in carrying out the purposes of  
18 the receivership;
- 19 l. Evict or commence eviction proceedings against tenants for  
20 cause when necessary and prudent, notwithstanding the condition of  
21 the building; and
- 22 m. Sell the building in accordance with the provisions of P.L. ,  
23 c. (C. ) (pending before the Legislature as this bill).
- 24
- 25 13. (New section) While in possession of the building, the receiver  
26 shall:
- 27 a. Maintain, safeguard, and insure the building;
- 28 b. Apply all revenue generated from the building consistent with  
29 the purposes of P.L. , c. (C. ) (pending before the Legislature  
30 as this bill) and the provisions of the plan submitted to and approved  
31 by the court. In the case of a municipal officer acting as a receiver  
32 pursuant to section 16 of P.L. , c. (C. ) (pending before the  
33 Legislature as this bill), no revenue shall be applied to any arrears in  
34 property taxes or other municipal liens until or unless the municipal  
35 officer certifies to the court that any conditions set forth in section 4  
36 of P.L. , c. (C. ) (pending before the Legislature as this bill)  
37 have been abated, and that the building has remained free of any such  
38 conditions for a period of no less than six months of that certification;
- 39 c. Implement the plan approved by the court pursuant to section 9  
40 of P.L. , c. (C. ) (pending before the Legislature as this bill)  
41 and, to the extent the receiver determines that any provision of the  
42 plan cannot be implemented, submit amendments to the plan to the  
43 court, with notice to the parties in interest;
- 44 d. Submit a status report to the court and parties in interest that  
45 are parties to the proceeding every six months, which report shall  
46 include:

- 1 (1) a copy of any contract entered into by the receiver regarding
- 2 repair or improvement of the building;
- 3 (2) a report of the lease and occupancy status of each unit in the
- 4 building, and any actions taken with respect to any tenant or lease;
- 5 (3) an account of the disposition of all revenues received from the
- 6 building;
- 7 (4) an account of all expenses and improvements;
- 8 (5) the status of the plan and any amendments thereto; and
- 9 (6) a description of actions proposed to be taken during the next
- 10 six months with respect to the building.

11

12 14. (New section) a. The receiver may borrow money and incur

13 indebtedness in order to preserve, insure, manage, operate, repair,

14 improve or otherwise carry out its responsibilities under the terms of

15 the receivership.

16 b. With the approval of the court, after notice to parties in interest,

17 the receiver may secure the payment of any borrowing or indebtedness

18 under subsection a. of this section by a lien or security interest in the

19 building or other assets subject to the receivership. The court may

20 authorize the receiver to grant a lien or security interest with priority

21 over all other liens or mortgages, including, if approved by a

22 resolution of the governing body of the municipality, any municipal

23 liens and claims. No lien authorized by the court shall take effect

24 unless recorded in the office of the clerk of the county in which the

25 building is located.

26 c. Nothing in this section shall be deemed to relieve the owner of

27 the building of any obligation the owner or any other person may have

28 for the payment of taxes or other municipal liens or mortgages or liens

29 to any party.

30

31 15. (New section) Upon request by the receiver, any municipality

32 may forgive, by resolution of the governing body, any outstanding

33 taxes or liens on any property subject to a receivership order under

34 P.L. , c. (C. ) (pending before the Legislature as this bill).

35 If the municipality denies such a request, the receiver may petition the

36 court which, after notice and hearing, may order such taxes and liens

37 forgiven to the extent it determines it to be necessary in order to carry

38 out the plan submitted by the receiver and protect the interests of the

39 tenants, the neighborhood in which the building is located or both.

40

41 16. (New section) a. The municipal officer may bring a petition for

42 receivership with respect to any building on which the municipality

43 holds a tax sale certificate on the building.

44 b. Notwithstanding any provision of the "tax sale law," R.S.54:5-

45 19 et seq., and notwithstanding the extent or duration of municipal tax

46 or other arrears, the municipality shall not be obligated to offer any

1 building subject to a receivership order for tax sale. If the receiver  
2 requests that a building be withheld from tax sale, and the municipality  
3 denies such a request, the receiver may petition the court which, after  
4 notice and hearing, may order such building withheld from tax sale if  
5 it determines it to be necessary or desirable in order to carry out the  
6 plan submitted by the receiver and protect the interests of the tenants,  
7 the neighborhood in which the building is located or both.

8 c. Notwithstanding any other provision of law, the operation and  
9 improvement of buildings through receivership is hereby deemed to be  
10 a public purpose for which municipalities may make public funds  
11 available in the form of grants or loans to receivers appointed by the  
12 court.

13 d. In the case of petitions brought by the municipal officer in  
14 connection with a property upon which the municipality holds a tax  
15 sale certificate and where the municipal officer provides  
16 documentation that none of the conditions set forth in section 4 of  
17 P.L. , c. (C. ) (pending before the Legislature as this bill)  
18 apply to the building, the receiver shall not be required to submit a  
19 plan as a condition of receivership.

20

21 17. (New section) Upon application of the receiver, the court may  
22 order the sale of the building if it finds that:

23 a. Notice was given to each record owner of the building and each  
24 mortgage or lienholder of record;

25 b. The receiver has been in control of the building for more than  
26 one year at the time of application and the owner has not successfully  
27 petitioned for reinstatement under section 21 of P.L. , c. (C. )  
28 (pending before the Legislature as this bill); and

29 c. The sale would be in the best interests of the parties.

30

31 18. (New section) In its petition to the court, the receiver shall  
32 specify the manner in which it proposes the building to be sold, which  
33 alternatives shall include, but shall not be limited to the following:

34 a. Sale on the open market for full market value to an entity  
35 qualified to own and operate multifamily rental property;

36 b. Sale at a negotiated price to a not for profit entity qualified to  
37 own and operate multifamily rental property;

38 c. Conversion of the property to condominium or cooperative  
39 ownership, provided that such option shall not be approved except  
40 with the approval in writing of a majority of the tenants of the  
41 building; or

42 d. In the case of a one to four family building, sale to an owner  
43 occupant, which may be a sitting tenant.

44 If the price proposed by the receiver is less than full market value,  
45 the receiver shall provide the court with documentation that the lower  
46 price will materially enhance the ability of the building to remain



1 economically viable, and to be operated in the future at a level of  
2 maintenance capable of ensuring full compliance with all applicable  
3 codes and requirements.

4  
5 19. (New section) a. The court shall hold a hearing on the  
6 receiver's petition to sell the property. The owner shall be given an  
7 opportunity to show cause why the sale shall not be permitted and the  
8 property owner's rights reinstated. No petition for reinstatement of  
9 the owner's rights shall be granted unless the owner meets all of the  
10 conditions set forth in subsection c. of section 22 of P.L. , c.

11 (C. ) (pending before the Legislature as this bill) and such other  
12 conditions that the court may establish. In setting the conditions for  
13 reinstatement, the court shall invite recommendations from the  
14 receiver.

15 b. In connection with the sale, the court may authorize the receiver  
16 to sell the building free and clear of liens, claims and encumbrances in  
17 which event, all such liens, claims and encumbrances, including tax and  
18 other municipal liens, shall be transferred to the proceeds of sale with  
19 the same priority as existed prior to resale in accordance with section  
20 20 of P.L. , c. (C. ) (pending before the Legislature as this bill).

21  
22 20. (New section) Upon approval by the court, the receiver shall  
23 sell the property on such terms and at such price as the court shall  
24 approve, and shall place the proceeds of sale in escrow with the court.  
25 The court shall order a distribution of the proceeds of sale after paying  
26 court costs in the following order of priority:

27 a. The costs and expenses of sale;

28 b. Repayment of principal and interest on any borrowing or  
29 indebtedness incurred by the receiver and granted priority lien status  
30 pursuant to subsection b. of section 14 of P.L. , c. (C. )  
31 (pending before the Legislature as this bill);

32 c. Any fees and expenses of the receiver not otherwise reimbursed  
33 during the pendency of the receivership in connection with the sale or  
34 the operation, maintenance and improvement of the building;

35 d. Governmental liens in accordance with their priority;

36 e. Costs incurred by the municipality in connection with bringing  
37 the receivership action;

38 f. Other valid liens and security interests in accordance with their  
39 priority;

40 g. Any costs and expenses of the receiver not covered above;

41 h. Any costs and expenses incurred by parties in interest in  
42 petitioning the court for receivership, including but not limited to  
43 attorney fees, expert witness fees, inspection fees and lost wages or  
44 other expenses to tenants, affected property owners or nonprofit  
45 entities;

46 i. Any costs and expenses incurred by the municipality for code  
47 enforcement and public safety during the 12 month period preceding

1 the order of receivership;

2 j. Any accounts payable or other unpaid obligations to third parties  
3 from the receivership; and

4 k. The owner.

5

6 21. (New section) The owner may petition for termination of the  
7 receivership and reinstatement of the owner's rights at any time by  
8 providing notice to all parties in interest, unless the court shall  
9 establish a minimum duration for the receivership in the order  
10 appointing the receiver, which minimum duration shall not exceed one  
11 year. The court shall schedule a hearing on any such petition in timely  
12 fashion.

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

16

17 22. (New section) After reviewing the receiver's recommendations  
18 and holding a hearing, the court may grant the owner's petition if it  
19 finds that:

20 a. The purposes of the receivership have been achieved or that the  
21 owner's petition offers credible assurances that they will be achieved  
22 within the time frame consistent with the plan submitted by the  
23 receiver and approved by the court;

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

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

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

34 e. The owner posts a bond in an amount determined to be  
35 reasonable by the court in consultation with the receiver and the  
36 municipal officer, which shall be forfeit in the event of any future code  
37 violation arising from the property. Forfeiture shall be in the form of  
38 a summary proceeding initiated by the municipal officer, who shall  
39 provide evidence that a code violation has occurred and has not been  
40 abated within 48 hours of notice, and shall be in the amount of 200  
41 percent of the cost of abating the violation;

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

46 The court may establish additional requirements as conditions of  
47 reinstatement of the owner's rights as it determines reasonable and

1 necessary to protect the interest of the tenants and the residents of the  
2 neighborhood.

3

4 23. (New section) a. The court may require as a condition of  
5 reinstatement of the owner's rights that the receiver or other qualified  
6 entity remain in place as a monitor of the condition and management  
7 of the property for such period as the court may determine, and may  
8 require such reports at such intervals as it deems necessary and  
9 appropriate from the monitor. The court may require the owner to pay  
10 a fee to the monitor in such amount as the court may determine.

11 b. In the event of the owner's failure to comply with the conditions  
12 established for reinstatement of its rights, or evidence of recurrence of  
13 any of the conditions for receivership set forth in section 4 of  
14 P.L. , c. (C. ) (pending before the Legislature as this bill), the  
15 receiver, monitor or any party in interest may petition the court for  
16 reinstatement of the receivership at any time, which may be granted by  
17 the court after notice to the parties and a hearing, if requested, by any  
18 of the parties. If the court reinstates the receivership, the entire bond  
19 shall be forfeit and shall be provided to the receiver for the operation  
20 and improvement of the property.

21

22 24. (New section) Upon request of a party in interest or the  
23 receiver, the court may order the termination of the receivership if it  
24 determines:

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

30 b. The mortgagee or lienholder has requested the receivership be  
31 terminated and has provided adequate assurances to the court that any  
32 remaining conditions that constituted grounds for the petition will be  
33 promptly abated, the obligations, expenses and improvements of the  
34 receivership, including all fees and expenses of the receiver, have been  
35 fully paid or provided for and the purposes of the receivership have  
36 been or will promptly be fulfilled;

37 c. The building has been sold and the proceeds distributed in  
38 accordance with section 20 of P.L. , c. (C. ) (pending  
39 before the Legislature as this bill); or

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

44 In all cases under this section, the court may impose such  
45 conditions on the owner or other entity taking control of the building  
46 upon the termination of receivership that it deems necessary and  
47 desirable in the interest of the tenants and the neighborhood in which

1 the building is located, including but not limited to those that may be  
2 imposed on the owner under section 22 of P.L. , c. (C. )  
3 (pending before the Legislature as this bill).

4  
5 25. (New section) Nothing in P.L. , c. (C. ) (pending  
6 before the Legislature as this bill) shall be deemed to relieve the owner  
7 of the building of any civil or criminal liability or any duty imposed by  
8 reason of acts or omissions of the owner nor shall the appointment of  
9 a receiver suspend any obligation the owner or any other person may  
10 have for payment of taxes, mortgages or liens, or any other operating  
11 or maintenance expense associated with the building, which obligation  
12 was incurred prior to the appointment of the receiver or the receiver's  
13 taking control of the building, whichever is later.

14  
15 26. (New section) a. The agency shall set aside from  
16 administrative funds available to it the sum of \$16 million to establish  
17 a Receivership Loan Revolving Fund for the purpose of making loans  
18 to receivers of multifamily rental property under P.L. , c.  
19 (C. ) (pending before the Legislature as this bill). Of the  
20 \$15 million, \$5 million shall be set aside for grants and loans to  
21 receivers of multifamily rental property.

22 b. The agency shall establish terms for providing loans from this  
23 fund, including below market interest rates, deferred payment  
24 schedules, and other provisions that will enable these funds to be used  
25 effectively for any of the purposes of receivership in situations where  
26 a receiver cannot borrow funds on conventional terms without  
27 imposing hardship on the tenants or potentially impairing the purposes  
28 of the receivership.

29 c. The agency may make loans from this fund in connection with  
30 any property that is under receivership pursuant to the "Multifamily  
31 Housing Preservation and Receivership Act," P.L. , c. (C. )  
32 (pending before the Legislature as this bill) in order to further the  
33 purposes of this act.

34  
35 27. N.J.S.2B:12-20 is amended to read as follows:

36 2B:12-20. Municipal housing court; jurisdiction. A municipality  
37 in a county of the first class may establish, as a part of its municipal  
38 court, a full-time municipal housing court. Municipal housing courts  
39 shall have jurisdiction over actions for eviction involving property in  
40 the municipality which are transferred to the municipal housing court  
41 by the Special Civil Part of the Superior Court, and shall have  
42 concurrent jurisdiction to appoint receivers pursuant to [section 6 of  
43 P.L.1966, c.168 (C.2A:42-79)] P.L. , c. (C. ) (pending  
44 before the Legislature as this bill) and to enforce the provisions of  
45 P.L.1971, c.224 (C.2A:42-85 et seq.).  
46 (cf: N.J.S.2B:12-20)

1       28. Section 6 of P.L.1991, c.441 (C.40A:21-6) is amended to read  
2 as follows:

3       6. a. If the ordinance adopted pursuant to [this act] P.L.1991,  
4 c.441 shall provide for the exemption from taxation of improvements  
5 to multiple dwellings, or of conversions of other buildings and  
6 structures, including unutilized public buildings, to multiple dwelling  
7 use, or both, it shall require that, in determining the value of real  
8 property, the municipality shall regard up to the assessor's full and true  
9 value of the improvements or conversion alterations as not increasing  
10 the value of the property for a period of five years, notwithstanding  
11 that the value of the property to which the improvements or  
12 conversion alterations are made is increased thereby. During the  
13 exemption period, the assessment on the property shall not be less than  
14 the assessment thereon existing immediately prior to the improvements  
15 or conversion alterations, unless an abatement is granted pursuant to  
16 subsection b. of this section, or there is damage to the multiple  
17 dwelling through action of the elements sufficient to warrant a  
18 reduction.

19       b. An ordinance providing for exemption may also provide for the  
20 abatement of some portion of the assessed value of property receiving  
21 the exemption as it existed immediately prior to the improvement or  
22 conversion alteration. An abatement for a multiple dwelling may be  
23 granted with respect to that property for a total of up to five years, but  
24 the annual amount of the abatement shall not exceed 30% of the total  
25 cost of the improvement or conversion alteration, and the total amount  
26 of abatements granted to any single property shall not exceed the total  
27 cost of the improvement or conversion alteration. The abatement  
28 period and the annual percentage of the abatement to be granted shall  
29 be set forth in the ordinance, which may include a schedule providing  
30 for a different percentage of abatement, up to 30%, for each year of  
31 the abatement period.

32       c. An ordinance providing for exemption may further provide that  
33 when an owner of a multiple dwelling invests \$5,000 per unit or more  
34 in the rehabilitation of said property for improvements that rehabilitate  
35 the units in order to abate or correct all outstanding code violations on  
36 the property, that property shall be exempt from any increase in  
37 property taxes attributable to the improvements, whether through  
38 changes in assessment or tax rate, for five years. The ordinance may  
39 further provide that the property taxes on the property may be reduced  
40 over the five-year period following completion of the improvements  
41 in five equal installments by a total amount equal to up to 50 percent  
42 of the amount invested in capital improvements by the owner, but in  
43 no event more than 50 percent of the taxes due during the five-year  
44 period.

45 (cf: P.L.1991, c.441, s.6)

1       29. (New section) Notwithstanding the provisions of any other  
2 law, rule or regulation to the contrary, the Department of Community  
3 Affairs shall not require income certification of tenants or deed  
4 restrictions regarding low and moderate income occupancy as a  
5 condition of providing housing assistance from any program  
6 administered by the department, when that assistance is provided for  
7 a project of moderate rehabilitation of multifamily rental housing, if  
8 the project (1) contains 30 or fewer units and (2) is located in a census  
9 tract in which the median household income is 50 percent or less of the  
10 area median income.

11

12       30. (New section) The New Jersey Department of Community  
13 Affairs shall, within six months of the effective date of P.L.     , c.  
14 (C.     ) (pending before the Legislature as this bill), designate one  
15 or more existing programs provided by qualified educational or  
16 training entities, including but not limited to the Institute for Real  
17 Estate Management, as programs for the certification of nonprofit  
18 housing managers. A certified nonprofit housing manager shall have  
19 full legal authority to carry out all activities necessary and desirable for  
20 the effective management of residential rental property, including  
21 collection of rents, execution of leases on behalf of owners, and  
22 eviction of tenants on behalf of owners. Certified nonprofit housing  
23 managers shall be presumptively considered qualified to act as  
24 receivers under the provisions of P.L.     , c. (C.     ) (pending  
25 before the Legislature as this bill).

26

27       31. The following statutes are hereby repealed:

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

29       Sections 8 through 12 of P.L.1962, c.66 (C.40:48-2.12h through  
30 2.12l); and

31       Section 1 of P.L.1942, c.54 (C.54:5-53.1).

32

33       32. This act shall take effect 180 days next following enactment.

34

35

36

#### STATEMENT

37

38       This bill would revise the receivership statutes in order to make  
39 receivership a more workable tool for the improvement and  
40 preservation of affordable housing and the elimination of  
41 neighborhood blight. Receivership refers to the intervention of third  
42 parties to maintain and improve properties when the owner of record  
43 fails to do so.

44       Current law addresses receivership under three separate statutes.  
45 N.J.S.A.2A:42-79 and N.J.S.A.40:48-2.12h were enacted in the 1960's  
46 to empower municipal officials to address specific critical violations of

1 housing codes when the owner has failed to do so, by allowing rental  
2 income to be applied in order to remedy the violations. Underlying  
3 these laws was the assumption that the remediation of specific  
4 previously identified code violations is adequate to restore a building  
5 to sound and habitable status. These laws also reflected the  
6 assumption that by redirecting the rent roll for a short period in order  
7 to pay for repairs, the receiver would gain an adequate source of cash  
8 to cover the needed work.

9 The third existing receivership statute, N.J.S.A.54:5-53.1 applies  
10 only to properties upon which the municipality holds a tax sale  
11 certificate. While the intent of the statute is to enable the municipality  
12 to collect the taxes owed by the landlord and to apply rents collected  
13 against back taxes, the statute also provides that rents collected which  
14 are not necessary for operating and maintenance may be used to  
15 remove or remedy any violations of the standards of fitness for human  
16 habitation as set forth in State or local housing or health codes.

17 The existing statutes also assume that once the code violation is  
18 remediated or back taxes paid, the property will revert to the owner.  
19 Under the current legislative scheme, the underlying financial and  
20 physical circumstances of the property as well as those of the landlord  
21 are not materially changed and the outcome is at best a short-term  
22 solution to a longer term problem. The receiver can, under current  
23 law, petition the courts to permit some course of action, but the  
24 statute provides no direction either to the receiver or to the courts.

25 This bill changes the current situation through a series of measures  
26 which include:

- 27 C increasing the parties who can bring a receivership action to include  
28 tenants, lien holders and neighborhood-based organizations;
- 29 C giving the court broad discretion to appoint the most appropriate  
30 entity to act as receiver in light of the circumstances resulting in the  
31 receivership action;
- 32 C broadening the grounds for receivership to include 'pattern and  
33 practice' violation histories as well as repeated criminal and drug-  
34 related activities associated with a property rather than limiting the  
35 grounds to specific immediate violations;
- 36 C requiring the receiver to provide the court with a plan for  
37 remediating the problems associated with the property and regular  
38 progress reports;
- 39 C clearly defining the powers and duties of the receiver;
- 40 C granting the receiver the power to borrow funds and place liens on  
41 the property;
- 42 C clearly establishing the priority status of the liens placed by the  
43 receiver on the property;
- 44 C clearly establishing the priority use of rents and income for the  
45 actions set forth in the receiver's plan of action;

- 1 C clearly setting forth a procedure which a landlord must follow in
  - 2 order to regain control of the property, including clear standards
  - 3 and guidelines which balance the landlord's interests and those of
  - 4 tenants and neighbors;
  - 5 C clearly establishing a procedure under which a receiver may sell a
  - 6 property with court approval if the landlord fails to act to regain
  - 7 control of the property; and
  - 8 C granting the court broad discretion to act to further the purposes of
  - 9 the statute, where necessary.
- 10 The bill also repeals the current receivership statutes which would
- 11 be rendered obsolete by the new procedures.



ASSEMBLY HOUSING AND LOCAL GOVERNMENT  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 2539**

with committee amendments

**STATE OF NEW JERSEY**

DATED: OCTOBER 21, 2002

The Assembly Housing and Local Government Committee reports favorably and with committee amendments Assembly Bill No. 2539.

This bill, as amended by the committee, would revise the receivership statutes in order to make receivership a more workable tool for the improvement and preservation of affordable housing and the elimination of neighborhood blight. Receivership refers to the intervention of third parties to maintain and improve properties when the owner of record fails to do so.

Current law addresses receivership under three separate statutes. Section 6 of P.L.1966, c.168 (C.2A:42-79) and section 8 of P.L.1962, c.66 (C.40:48-2.12h) were enacted in the 1960's to empower municipal officials to address specific critical violations of housing codes when the owner has failed to do so, by allowing rental receipts to be first applied to the cost of remedying the violations. Underlying these laws was the assumption that the remediation of specific, previously identified code violations would be adequate to restore a building to sound and habitable status. These laws also reflected the assumption that by redirecting the rent roll for a short period in order to pay for repairs, the receiver would gain an adequate source of cash to cover the needed work.

The third existing receivership statute, section 1 of P.L.1942, c.54 (C.54:5-53.1) applies only when a municipality holds a tax sale certificate against the property. While the intent of that statute is to enable the municipality to collect the taxes owed by the landlord and to apply rents collected against back taxes, the statute also provides that rents collected which are not necessary for operating and maintenance may be used to remove or remedy any violations of the standards of fitness for human habitation as set forth in State or local housing and health codes.

The existing statutes also assume that once the code violation is remediated or back taxes paid, the right to collect rents on a property reverts to the owner. Since the underlying financial and physical circumstances of the property, as well as those of the landlord, are not

materially changed, the outcome is at best a short-term solution to a longer term problem. The receiver can, under current law, petition the courts to permit some course of action, but the statute provides no direction either to the receiver or to the courts.

This bill proposes changes to the current situation through a series of measures which include:

- C increasing the number of parties who can bring a receivership action to include tenants, lien holders and neighborhood-based organizations;
- C giving the court broad discretion to appoint the most appropriate entity to act as receiver in light of the circumstances resulting in the receivership action;
- C broadening the grounds for receivership to include 'pattern and practice' violation histories as well as repeated criminal and drug-related activities associated with a property rather than limiting the grounds to specific immediate violations;
- C requiring the receiver to provide the court with a plan for remediating the problems associated with the property and regular progress reports;
- C clearly defining the powers and duties of the receiver;
- C granting the receiver the power to borrow funds and place liens on the property;
- C clearly establishing the priority status of the liens placed by the receiver on the property;
- C clearly establishing the priority use of rents and income for the actions set forth in the receiver's plan of action; clearly setting forth a procedure which a landlord must follow in order to regain control of the property, including clear standards and guidelines which balance the landlord's interests and those of tenants and neighbors;
- C clearly establishing a procedure under which a receiver may sell a property with court approval if the landlord fails to act to regain control of the property; and
- C granting the court broad discretion to act to further the purposes of the statute, when necessary.

The bill also repeals the current receivership statutes which would be rendered obsolete by the new procedures.

#### Committee Amendments

The committee amendments would clarify that a receivership petition may be brought by a party in interest if the building is in violation of *any* code requirement affecting the health and safety of the tenants. As introduced, the bill limited this provision to the violation of a *housing* code requirement, even though the bill defines "code" broadly to include any housing, property maintenance, fire or other public safety code applicable to a residential building.

The amendments establish a procedure wherein a lienholder may petition the court to be designated as a receiver. Essentially, the

lienholder would be required to present a plan in writing to the court demonstrating that the conditions leading to the petition will be abated within a reasonable period and demonstrate that it or its agents are competent entities, as defined in the bill. The court is granted the discretion to make the determination as to whether or not the lienholder or its agent is qualified to act as receiver.

The amendments would authorize the court to waive or adjust the requirement that the receiver furnish the court with a bond or other such surety, so long as that entity can demonstrate a sufficient level of financial responsibility.

The amendments clarify that 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 under the bill shall be met by the rents collected by the receiver or any other moneys made available for those purposes. The amendments provide that the receiver shall be liable for injuries to persons and property by reason of the condition of the property in a case where an owner would have been liable, but only to the extent that the receiver is insured against that liability. The amendments provide that if the party in interest bringing a receivership action is a municipal officer, then the municipality shall be entitled to its filing costs and its reasonable attorney fees, to be determined by the court.

The amendments provide that if a property subject to receivership is to be converted to condominium or cooperative ownership, no tenant in residence prior to the date that the plan of conversion is approved by the court shall be subject to eviction by reason of that conversion.

The amendments change the distribution of the \$16 million from the Receivership Loan Revolving Fund so that \$15 million would be set aside for grants and loans to receivers of multifamily rental property and \$1 million would be used for the purpose of providing operating grants to nonprofit entities that will further housing preservation through such activities as the acquisition of rental property, management of rental property, provision of technical assistance and training to property owners, and any other activities which further the goal of building capacity among nonprofit entities to serve as receivers.

Finally, the amendments clarify the circumstances under which the Department of Community Affairs shall waive the requirement of income certification of tenants or deed restrictions as a condition of providing housing assistance under any program administered by the department when that assistance is provided for a project of moderate rehabilitation of multifamily rental housing. As introduced, the bill would have waived this requirement if the project is located in a census tract in which the median household income is 50 percent or less of the area median income. These amendments increase this percentage from 50 to 60 percent, specify for the current period that this information shall be based on data reported in the 2000 census

(collected in 1999), and clarify that the 60 percent figure relates to the median income for the housing region in which the census tract is located, as determined for a three person household by the Council on Affordable Housing. The three person household most closely approximates the median household size in the State. The bill requires the department to maintain a list of eligible census tracts based on this section which shall be updated as successive federal decennial censuses are released.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 2539

# STATE OF NEW JERSEY

DATED: MARCH 10, 2003

The Assembly Appropriations Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 2539

This Assembly Committee Substitute for Assembly Bill No. 2539 revises the receivership statutes to make receivership a more workable tool for the improvement and preservation of affordable housing and the elimination of neighborhood blight. "Receivership" refers to the intervention of third parties to maintain and improve properties when the owner of record fails to do so.

Current law addresses receivership under three separate statutes. Section 6 of P.L.1966, c.168 (C.2A:42-79) and section 8 of P.L.1962, c.66 (C.40:48-2.12h) were enacted in the 1960's to empower municipal officials to address specific critical violations of housing codes when the owner has failed to do so, by allowing rental receipts to be first applied to the cost of remedying the violations. Underlying these laws was the assumption that the remediation of specific, previously identified code violations would be adequate to restore a building to sound and habitable status. These laws also reflected the assumption that by redirecting the rent roll for a short period to pay for repairs, the receiver would gain an adequate source of cash to cover the needed work.

The third existing receivership statute, section 1 of P.L.1942, c.54 (C.54:5-53.1) applies only when a municipality holds a tax sale certificate against the property. While the purpose of that statute is to enable the municipality to collect the taxes owed by the landlord and to apply rents collected against back taxes, the statute also provides that rents collected which are not necessary for operating and maintenance may be used to remove or remedy any violations of the standards of fitness for human habitation as set forth in State or local housing and health codes.

The existing statutes also operate under a presumption that once the code violation is remediated or back taxes paid, the right to collect rents on a property reverts to the owner. As the underlying financial and physical circumstances of the property, as well as those of the landlord, are not materially changed, the outcome is at best a short-term solution to a longer term problem. The receiver can, under

current law, petition the courts to permit some course of action, but the statutes provide no direction either to the receiver or to the courts.

This substitute changes the current situation through a series of measures which include:

- C increasing the number of parties who can bring a receivership action to include tenants, lien holders and neighborhood-based organizations;
- C giving the court broad discretion to appoint the most appropriate entity to act as receiver in light of the circumstances resulting in the receivership action;
- C broadening the grounds for receivership to include "pattern and practice" violation histories rather than limiting the grounds to specific immediate violations;
- C requiring the receiver to provide the court with a plan for remediating the problems associated with the property and regular progress reports, as required by the court;
- C granting the Department of Community Affairs (DCA) commissioner the power to adopt regulations setting forth plan requirements, tie funding of receivership plans to the consistency of those plans with DCA regulations, and make recommendations to the court regarding the acceptance or rejection of those plans;
- C clearly defining the powers and duties of the receiver;
- C granting the receiver the power to borrow funds and place liens on the property;
- C clearly establishing the priority status of the liens placed by the receiver on the property;
- C clearly establishing the priority use of rents and income for the actions set forth in the receiver's plan of action;
- C clearly setting forth a procedure which a landlord must follow in order to regain control of the property, including clear standards and guidelines which balance the landlord's interests and those of tenants and neighbors;
- C clearly establishing a procedure under which a receiver may sell a property with court approval if the landlord fails to act to regain control of the property;
- C granting the court broad discretion to act to further the purposes of the statute, when necessary;
- C clarifying the circumstances under which the DCA shall waive the requirement of income certification of tenants or deed restrictions as a condition of providing housing assistance under any program administered by the department when that assistance is provided for a project of moderate rehabilitation of certain multifamily rental housing projects; and
- C removing the concurrent jurisdiction which currently prevails over receivership actions between the Superior Court and housing courts by eliminating the role of the housing courts in this regard.

The bill also repeals the current receivership statutes which would be rendered obsolete by the new procedures.

FISCAL IMPACT:

The substitute makes available from the Neighborhood Preservation Nonlapsing Revolving Fund established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320) the sum of up to \$4 million per year to establish a Preservation Loan Revolving Fund for the purpose of making loans to receivers to implement plans which are consistent with rules and regulations adopted by the commissioner under the substitute. The substitute sets aside up to three million dollars in the first year and up to four million dollars in each year thereafter for grants and loans to receivers.

In the first year the substitute allocates one million dollars for operating grants to nonprofit entities that will further housing preservation through such activities as the acquisition of rental property, management of rental property, provision of technical assistance and training to property owners, and any other activities which further the goal of building capacity among nonprofit entities to serve as receivers.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

### ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 2539

# STATE OF NEW JERSEY

DATED: DECEMBER 4, 2003

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 2539 ACS (1R).

This bill revises the receivership statutes to make receivership a more workable tool for the improvement and preservation of affordable housing and the elimination of neighborhood blight. "Receivership" refers to the intervention of third parties to maintain and improve properties when the owner of record fails to do so.

Current law addresses receivership under three separate statutes. Section 6 of P.L.1966, c.168 (C.2A:42-79) and section 8 of P.L.1962, c.66 (C.40:48-2.12h) were enacted in the 1960's to empower municipal officials to address specific critical violations of housing codes when the owner has failed to do so, by allowing rental receipts to be first applied to the cost of remedying the violations. Underlying these laws was the assumption that the remediation of specific, previously identified code violations would be adequate to restore a building to sound and habitable status. These laws also reflected the assumption that by redirecting the rent roll for a short period to pay for repairs, the receiver would gain an adequate source of cash to cover the needed work.

The third existing receivership statute, section 1 of P.L.1942, c.54 (C.54:5-53.1) applies only when a municipality holds a tax sale certificate against the property. While the purpose of that statute is to enable the municipality to collect the taxes owed by the landlord and to apply rents collected against back taxes, the statute also provides that rents collected which are not necessary for operating and maintenance may be used to remove or remedy any violations of the standards of fitness for human habitation as set forth in State or local housing and health codes.

The existing statutes also operate under a presumption that once the code violation is remediated or back taxes paid, the right to collect rents on a property reverts to the owner. As the underlying financial and physical circumstances of the property, as well as those of the



landlord, are not materially changed, the outcome is at best a short-term solution to a longer term problem. The receiver can, under current law, petition the courts to permit some course of action, but the statutes provide no direction either to the receiver or to the courts.

This substitute changes the current situation through a series of measures which include:

- \* increasing the number of parties who can bring a receivership action to include tenants, lien holders and neighborhood-based organizations;
- \* giving the court broad discretion to appoint the most appropriate entity to act as receiver in light of the circumstances resulting in the receivership action;
- \* broadening the grounds for receivership to include "pattern and practice" violation histories rather than limiting the grounds to specific immediate violations;
- \* requiring the receiver to provide the court with a plan for remediating the problems associated with the property and regular progress reports, as required by the court;
- \* granting the Department of Community Affairs (DCA) commissioner the power to adopt regulations setting forth plan requirements, tie funding of receivership plans to the consistency of those plans with DCA regulations, and make recommendations to the court regarding the acceptance or rejection of those plans;
- \* clearly defining the powers and duties of the receiver;
- \* granting the receiver the power to borrow funds and place liens on the property;
- \* clearly establishing the priority status of the liens placed by the receiver on the property;
- \* clearly establishing the priority use of rents and income for the actions set forth in the receiver's plan of action;
- \* clearly setting forth a procedure which a landlord must follow in order to regain control of the property, including clear standards and guidelines which balance the landlord's interests and those of tenants and neighbors;
- \* clearly establishing a procedure under which a receiver may sell a property with court approval if the landlord fails to act to regain control of the property;
- \* granting the court broad discretion to act to further the purposes of the statute, when necessary;
- \* clarifying the circumstances under which the DCA shall waive the requirement of income certification of tenants or deed restrictions as a condition of providing housing assistance under any program administered by the department when that assistance is provided for a project of moderate rehabilitation of certain multifamily rental housing projects; and
- \* removing the concurrent jurisdiction which currently prevails over receivership actions between the Superior Court and housing courts by eliminating the role of the housing courts in this regard.

The bill also repeals the current receivership statutes which would be rendered obsolete by the new procedures.

**FISCAL IMPACT:**

The substitute makes available from the Neighborhood Preservation Nonlapsing Revolving Fund established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320) the sum of up to \$4 million per year to establish a Preservation Loan Revolving Fund for the purpose of making loans to receivers to implement plans which are consistent with rules and regulations adopted by the commissioner under the substitute. The substitute sets aside up to three million dollars in the first year and up to four million dollars in each year thereafter for grants and loans to receivers.

In the first year the substitute allocates one million dollars for operating grants to nonprofit entities that will further housing preservation through such activities as the acquisition of rental property, management of rental property, provision of technical assistance and training to property owners, and any other activities which further the goal of building capacity among nonprofit entities to serve as receivers.

STATEMENT TO  
ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 2539**

with Assembly Floor Amendments  
(Proposed By Assemblywoman WATSON COLEMAN)

ADOPTED: JUNE 12, 2003

These floor amendments make a number of minor changes to the committee substitute. First, these amendments change one of the criteria which governs a determination that a building is eligible for receivership. Specifically, as referred to the floor, the relevant language establishes that a building would have to be the site of a pattern of recurrent code violations, whether or not corrected, in order to be considered eligible for receivership. This floor amendment would provide that the building would have to be the site of a *clear and convincing* pattern of recurrent code violations, omitting the language as to whether or not these violations have been corrected.

As referred to the floor, this committee substitute would have required that the plan which a receiver is required to prepare for the operation and improvement of the building would be prepared in accordance with regulations adopted by the Department of Community Affairs and subject to departmental approval. These floor amendments delete all references to the department in this regard and instead have the receiver accountable directly to the court with respect to the plan.

These floor amendments clarify that where a receiver is authorized by the court to grant a lien or security interest on a property for the purpose of making improvements to the building, this lien shall not have priority over municipal liens. The amendments correct a technical reference to the recording office of the county, reflecting the fact that in some counties the official recording officer is the register of deeds and mortgages.

The amendments clarify that nonprofit housing managers certified by the commissioner under the bill shall have full legal authority to carry out all activities necessary and desirable for the effective management of residential real property, including collection of rents, execution of leases, and eviction of tenants.

Finally, the amendments correct typographical errors in section 30 and make various corrections to internal section references which were inadvertently overlooked in previous reviews.

With these proposed floor amendments, A2539 ACS is identical to Senate Committee Substitute for Senate Bill 1676.

STATEMENT TO

[Second Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 2539**

with Senate Floor Amendments  
(Proposed By Senator CODEY)

ADOPTED: DECEMBER 11, 2003

These Senate amendments would remove the requirement that the Commissioner of Community Affairs adopt rules and regulations to certify nonprofit housing managers and delete pertinent statutes describing what that certification would have involved.

As amended, the committee substitute would still require that the Commissioner of Community Affairs register any qualified entity who, by definition, is any person who has demonstrated knowledge and substantial experience in the operation, maintenance and improvement of residential buildings. Under section 10 of the committee substitute, the court is authorized to appoint a qualified entity as a receiver.

**LEGISLATIVE FISCAL ESTIMATE**  
 [First Reprint]  
 ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 2539**  
**STATE OF NEW JERSEY**  
**210th LEGISLATURE**

DATED: SEPTEMBER 29, 2003

**SUMMARY**

**Synopsis:** Revises receivership statutes.

**Type of Impact:** Reallocation (set-aside) of proceeds in Neighborhood Preservation Nonlapsing Revolving Fund.

**Agencies Affected:** The Department of Community Affairs.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Cost</b>	Up to \$4 million reallocation of existing funds.	Up to \$4 million reallocation of existing funds.	Up to \$4 million reallocation of existing funds.

- ! Assembly Bill No. 2539 (ACS) (1R) of 2002 would make available from the Neighborhood Preservation Nonlapsing Revolving Fund established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320) the sum of up to \$4 million per year to establish a Preservation Loan Revolving Fund for the purpose of making loans to receivers to implement plans which are consistent with rules and regulations adopted by the commissioner under the substitute. The substitute would set aside up to \$3 million in the first year and up to \$4 million in each year thereafter for grants and loans to receivers. To the extent that the funds set aside annually will be used for purposes not currently funded from the Neighborhood Preservation Nonlapsing Revolving Fund, other Fund supported programs may not receive such funding or may require continuing funding from other sources.
  
- ! In the first year, Assembly Bill No. 2539 (ACS) (1R) would allocate \$1 million for operating grants to nonprofit entities that will further housing preservation through such activities as the acquisition of rental property, management of rental property, provision of technical assistance and training to property owners, and any other activities which further the goal of building capacity among nonprofit entities to serve as receivers.
  
- ! With respect to the Judiciary, the Administrative Office of the Courts has advised the Office



of Legislative Services (OLS) that the provisions of Assembly Bill No. 2539 (ACS) (1R) will likely involve procedural changes to existing court procedures, but these procedural changes will likely have no fiscal impact.

## **BILL DESCRIPTION**

Assembly Bill No. 2539 (ACS) (1R) would revise the receivership statutes to make receivership a more workable tool for the improvement and preservation of affordable housing and the elimination of neighborhood blight. "Receivership" refers to the intervention of third parties to maintain and improve properties when the owner of record fails to do so.

The bill also would make available from the Neighborhood Preservation Nonlapsing Revolving Fund the sum of up to \$4 million per year to establish a Preservation Loan Revolving Fund to make loans to receivers to implement remediation plans consistent with rules and regulations adopted by the commissioner under the substitute. It would also set aside up to \$3 million in the first year and up to \$4 million in each year thereafter for grants and loans to receivers.

In the first year, the bill would also allocate \$1 million for operating grants to nonprofit entities that will further housing preservation through such activities as the acquisition of rental property, management of rental property, provision of technical assistance and training to property owners, and any other activities which further the goal of building capacity among nonprofit entities to serve as receivers.

## **ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The Office of Legislative Services (OLS) anticipates, based on the language contained therein, that the provisions of Assembly Bill No. 2539 (ACS) (1R) will result in a set aside of \$4 million annually from the Neighborhood Preservation Nonlapsing Revolving Fund for the stated purposes of providing a stable source of funding for the remediation of properties in receivership. While this reallocation has the potential of reducing the availability of these funds for other programs currently supported from that fund, loan terms, and conditions as shall be established by the Commissioner of Community Affairs, may result in the fund recouping some amount of the set aside funds from the payment of interest on the loans.\

While the provisions of the bill would likely involve procedural changes to existing court procedures, those changes would likely have no fiscal impact on the Administrative Office of the Courts.

Section: *Local Government*

Analyst: *Cindy Lombardi Hesper*  
*Lead Research Analyst*

Approved: *Alan R. Kooney*  
*Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

**SENATE, No. 1676**

**STATE OF NEW JERSEY**  
**210th LEGISLATURE**

INTRODUCED JUNE 20, 2002

**Sponsored by:**

**Senator RICHARD J. CODEY**

**District 27 (Essex)**

**Senator ROBERT W. SINGER**

**District 30 (Burlington, Mercer, Monmouth and Ocean)**

**Co-Sponsored by:**

**Senators Rice, James, Turner and B.Smith**

**SYNOPSIS**

Revises receivership statutes.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 1/15/2003)**



1 AN ACT encouraging the preservation of multifamily housing,  
2 amending N.J.S.2B:12-20 and P.L.1991, c.441, supplementing Title  
3 2A of the New Jersey Statutes, and repealing various sections of  
4 statutory law.

5  
6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:

8  
9 1. (New section) This act shall be known and may be cited as the  
10 "Multifamily Housing Preservation and Receivership Act."

11  
12 2. (New section) The Legislature finds and declares that:

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

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

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

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

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

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

40  
41 3. (New section) As used in this act:

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

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 "Building" means any building or structure and the land appurtenant  
2 thereto containing one or more dwelling units;

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

6 "Competent entity" means any person or entity with experience in  
7 the operation, maintenance and improvement of residential buildings.  
8 A certified nonprofit housing manager designated pursuant to section  
9 30 of P.L. , c. (C. ) (pending before the Legislature as this  
10 bill) shall be considered a competent entity.

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

13 "Party in interest" means: (1) an owner; (2) any lien holder or  
14 secured creditor of the owner; (3) any tenant living in the building; (4)  
15 any entity designated by more than 50 percent of the tenants living in  
16 the building as their representative; (5) any nonprofit corporation  
17 carrying out community development activities within the municipality  
18 in which the building is located; (6) an officer appropriately designated  
19 by resolution of the governing body of the municipality in which the  
20 building is located, except that in municipalities organized under  
21 P.L.1950, c.210 (C.40:69A-1 et seq.), this officer shall be designated  
22 by the mayor;

23 "Tenant" means a household that legally occupies a dwelling unit in  
24 a residential building, whether or not subject to a lease.

25

26 4. (New section) A receivership petition may be brought by a  
27 party in interest and appropriate relief may be granted by the court if:

28 a. The building is in violation of any housing code requirement  
29 affecting the health and safety of the tenants as of the date of the filing  
30 of the petition with the court, and the violation or violations have  
31 persisted, unabated, for at least 90 days preceding the date of the filing  
32 of the petition with the court; or

33 b. The building has demonstrated a pattern of recurrent code  
34 violations, whether or not corrected, and has been cited for such  
35 violations at least four times within 12 months preceding the date of  
36 the filing of the petition with the court, or six times in the two years  
37 prior to the date of the filing of the petition with the court; or

38 c. The building has been the site of repeated criminal or drug-  
39 related activities which have resulted in at least four incidents on  
40 record with the municipal police department within 12 months prior to  
41 the date of filing of the petition with the court or six incidents during  
42 the two year period prior to the date of the filing of the petition.

43

44 5. (New section) A petition submitted to the court shall include a  
45 statement of the grounds for relief and to the extent available to the  
46 petitioner:

1 a. Documentation of the basis upon which the petition is being  
2 brought;

3 b. A recommendation of the receiver to be appointed;

4 c. The proposed receiver's preliminary plan for operation and  
5 improvement of the building, including preliminary cost estimates and  
6 sources of funds.

7

8 6. (New section) a. The petitioner shall notify the current owner  
9 of the property by registered or certified mail to the last known  
10 address of the owner immediately upon filing the petition with the  
11 court. Unless tenants have been provided with written notice to the  
12 contrary or the petitioner has knowledge to the contrary, the most  
13 recent address to which tenants are directed to send or deliver rent  
14 shall constitute adequate address for this notice. If the address of the  
15 owner in the municipal tax records is different from the address to  
16 which tenants are directed to send or deliver rent, the petitioner shall  
17 send notice to both addresses.

18 b. The petitioner shall notify all mortgageholders and lienholders  
19 of record by registered or certified mail no later than ten days prior to  
20 any hearing on the petition with a copy of the petition and notice of  
21 the hearing. The petitioner shall provide the court with evidence of  
22 service on mortgageholders and lienholders at the time of the hearing.

23 The petitioner shall notify the municipal officer by registered or  
24 certified mail no later than ten days prior to any hearing on the  
25 petition, with a copy of the petition and notice of the hearing. If no  
26 municipal officer has been designated by the municipality for the  
27 purposes of P.L. , c. (C. ) (pending before the Legislature  
28 as this bill), the petitioner shall provide notice to the municipal clerk.

29

30 7. (New section) a. The court shall act upon any petition  
31 submitted by holding a hearing within 30 days of receiving the petition  
32 and shall render a decision no later than 30 days after completion of  
33 the hearing.

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

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

40

41 8. (New section) a. If the court determines after hearing that the  
42 grounds for relief set forth in section 5 of P.L. , c. (C. )  
43 (pending before the Legislature as this bill) have been established, the  
44 court may appoint a receiver and grant such other relief as may be  
45 determined to be appropriate. In appointing a receiver, the court shall  
46 consider any recommendations contained in the petition or otherwise

1 presented by a party in interest at or subsequent to the hearing on the  
2 petition. The court shall ensure that the receiver, which may be a  
3 nonprofit or other entity, or an individual, is a competent entity with  
4 knowledge and experience in the operation and improvement of  
5 residential buildings.

6 b. If the court determines after hearing that the grounds for relief  
7 set forth in section 5 of P.L. , c. (C. ) (pending before the  
8 Legislature as this bill) have been established but the owner presents  
9 a plan in writing to the court demonstrating that the conditions leading  
10 to the petition will be abated within a reasonable period, which plan is  
11 found by the court to be reasonable, the court may enter an order  
12 providing that in the event the conditions are not abated by a specific  
13 date, including the completion of specific remedial activities by  
14 specific dates, or if the conditions recur within a specific period  
15 established by the court, then an order granting the relief as requested  
16 in the petition shall be granted.

17 In the case of petitions brought under subsections a. or b. of section  
18 4 of P.L. , c. (C. ) (pending before the Legislature as this  
19 bill), the court shall require the owner to post a bond in such amount  
20 that the court, in consultation with the party bringing the petition and  
21 the municipal officer, determines to be reasonable, which shall be  
22 forfeit if the owner fails to meet the conditions of the order.

23

24 9. (New section) a. Within 60 days following the order appointing  
25 a receiver pursuant to subsection a. of section 8 of P.L. , c. (C. )  
26 (pending before the Legislature as this bill), the receiver shall submit  
27 a plan for the operation and improvement of the building to the court  
28 and provide a copy of the plan to all parties in interest which  
29 participated in the hearing. If the receiver's plan was submitted at the  
30 time of the hearing, the receiver may amend the plan subsequent to the  
31 hearing, and submit a revised plan to the court pursuant to this section.

32 b. Upon the request of any party in interest, the court shall  
33 schedule a hearing on the receiver's plan for operation and  
34 improvement of the building.

35 c. The court shall approve the plan submitted by the receiver with  
36 such amendments as the court may deem to be necessary and  
37 appropriate.

38

39 10. (New section) Upon appointment, the receiver shall furnish the  
40 court with a bond or other such surety or insurance that the court may  
41 determine to be appropriate in the circumstances of the matter.

42 The receiver shall take possession of the residential building and  
43 any other property subject to the receivership order immediately after  
44 posting the required bond, surety or insurance and shall immediately  
45 be authorized to exercise all powers delegated by P.L. , c. (C. )  
46 (pending before the Legislature as this bill).

1 Any receiver may be removed by the court at any time upon  
2 the request of the receiver or upon a showing by a party in interest  
3 that the receiver is not carrying out its responsibilities under P.L. ,  
4 c. (C. ) (pending before the Legislature as this bill). The court  
5 may hold a hearing prior to removal of a receiver under this section.  
6

7 11. (New section) a. Neither the filing of a petition under section  
8 4 of P.L. , c. (C. ) (pending before the Legislature as this  
9 bill) nor the appointment of a receiver under subsection a. of section  
10 8 of P.L. , c. (C. ) (pending before the Legislature as this  
11 bill) shall stay the filing or continuation of any action to foreclose a  
12 mortgage or lien on the building or to sell the property for delinquent  
13 taxes or unpaid municipal liens, provided that nothing shall prevent the  
14 court in which the petition is filed, after notice and hearing, from  
15 enjoining any such action if it determines: (i) that the interest of the  
16 mortgagee or lienholder in the building is adequately protected during  
17 the period that the injunction is in effect; and (ii) that the injunction is  
18 necessary in order to protect the interests of the tenants or the  
19 neighborhood in which the building is located, or both, as the case may  
20 be.

21 b. In the event that ownership of the building changes as a result  
22 of foreclosure while a receiver is in possession, including possession  
23 by the municipality pursuant to a tax foreclosure action, the property  
24 shall remain subject to the receivership and the receiver shall remain  
25 in possession and shall retain all powers delegated under this action  
26 unless and until the receivership is terminated under the provisions of  
27 P.L. , c. (C. ) (pending before the Legislature as this bill).  
28

29 12. (New section) The receiver shall have all powers and duties  
30 necessary or desirable for the efficient operation, management and  
31 improvement of the building in order to remedy all conditions  
32 constituting grounds for receivership under P.L. , c. (C. )  
33 (pending before the Legislature as this bill). Such powers and duties  
34 shall include the power to:

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

39 b. Collect rents and all outstanding accounts receivable;

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

42 d. Contract for the repair and maintenance of the building, which  
43 contracts shall not be subject to any legal advertising or bidding  
44 requirements and which may include contracts or agreements with  
45 tenants or members of the receiver organization, as the case may be,  
46 provided that all such contracts or agreements shall be appropriately

- 1 documented and included in the receiver's expenses under P.L. ,
- 2 c. (C. ) (pending before the Legislature as this bill);
- 3 e. Borrow money and incur debt in accordance with the provisions
- 4 of section 14 of P.L. , c. (C. ) (pending before the Legislature
- 5 as this bill);
- 6 f. Contract and pay for maintenance services and the provision of
- 7 utilities to the building;
- 8 g. Purchase materials, goods and supplies to operate, maintain,
- 9 repair and improve the building;
- 10 h. Renew existing rental contracts and leases for periods not to
- 11 exceed one year;
- 12 i. Enter into new rental contracts and leases for vacant units for
- 13 periods not to exceed one year;
- 14 j. Affirm, renew or enter into contracts for insurance coverage on
- 15 the building;
- 16 k. Engage and, subject to court approval, pay legal, accounting,
- 17 appraisal and other professionals to aid in carrying out the purposes of
- 18 the receivership;
- 19 l. Evict or commence eviction proceedings against tenants for
- 20 cause when necessary and prudent, notwithstanding the condition of
- 21 the building; and
- 22 m. Sell the building in accordance with the provisions of P.L. ,
- 23 c. (C. ) (pending before the Legislature as this bill).
- 24
- 25 13. (New section) While in possession of the building, the receiver
- 26 shall:
- 27 a. Maintain, safeguard, and insure the building;
- 28 b. Apply all revenue generated from the building consistent with
- 29 the purposes of P.L. , c. (C. ) (pending before the Legislature
- 30 as this bill) and the provisions of the plan submitted to and approved
- 31 by the court. In the case of a municipal officer acting as a receiver
- 32 pursuant to section 16 of P.L. , c. (C. ) (pending before the
- 33 Legislature as this bill), no revenue shall be applied to any arrears in
- 34 property taxes or other municipal liens until or unless the municipal
- 35 officer certifies to the court that any conditions set forth in section 4
- 36 of P.L. , c. (C. ) (pending before the Legislature as this bill)
- 37 have been abated, and that the building has remained free of any such
- 38 conditions for a period of no less than six months of that certification;
- 39 c. Implement the plan approved by the court pursuant to section 9
- 40 of P.L. , c. (C. ) (pending before the Legislature as this bill)
- 41 and, to the extent the receiver determines that any provision of the
- 42 plan cannot be implemented, submit amendments to the plan to the
- 43 court, with notice to the parties in interest;
- 44 d. Submit a status report to the court and parties in interest that
- 45 are parties to the proceeding every six months, which report shall
- 46 include:

- 1 (1) a copy of any contract entered into by the receiver regarding
- 2 repair or improvement of the building;
- 3 (2) a report of the lease and occupancy status of each unit in the
- 4 building, and any actions taken with respect to any tenant or lease;
- 5 (3) an account of the disposition of all revenues received from the
- 6 building;
- 7 (4) an account of all expenses and improvements;
- 8 (5) the status of the plan and any amendments thereto; and
- 9 (6) a description of actions proposed to be taken during the next
- 10 six months with respect to the building.

11

12 14. (New section) a. The receiver may borrow money and incur

13 indebtedness in order to preserve, insure, manage, operate, repair,

14 improve or otherwise carry out its responsibilities under the terms of

15 the receivership.

16 b. With the approval of the court, after notice to parties in interest,

17 the receiver may secure the payment of any borrowing or indebtedness

18 under subsection a. of this section by a lien or security interest in the

19 building or other assets subject to the receivership. The court may

20 authorize the receiver to grant a lien or security interest with priority

21 over all other liens or mortgages, including, if approved by a

22 resolution of the governing body of the municipality, any municipal

23 liens and claims. No lien authorized by the court shall take effect

24 unless recorded in the office of the clerk of the county in which the

25 building is located.

26 c. Nothing in this section shall be deemed to relieve the owner of

27 the building of any obligation the owner or any other person may have

28 for the payment of taxes or other municipal liens or mortgages or liens

29 to any party.

30

31 15. (New section) Upon request by the receiver, any municipality

32 may forgive, by resolution of the governing body, any outstanding

33 taxes or liens on any property subject to a receivership order under

34 P.L. , c. (C. ) (pending before the Legislature as this bill). If

35 the municipality denies such a request, the receiver may petition the

36 court which, after notice and hearing, may order such taxes and liens

37 forgiven to the extent it determines it to be necessary in order to carry

38 out the plan submitted by the receiver and protect the interests of the

39 tenants, the neighborhood in which the building is located or both.

40

41 16. (New section) a. The municipal officer may bring a petition

42 for receivership with respect to any building on which the municipality

43 holds a tax sale certificate on the building.

44 b. Notwithstanding any provision of the "tax sale law," R.S.54:5-

45 19 et seq., and notwithstanding the extent or duration of municipal tax

46 or other arrears, the municipality shall not be obligated to offer any

1 building subject to a receivership order for tax sale. If the receiver  
2 requests that a building be withheld from tax sale, and the municipality  
3 denies such a request, the receiver may petition the court which, after  
4 notice and hearing, may order such building withheld from tax sale if  
5 it determines it to be necessary or desirable in order to carry out the  
6 plan submitted by the receiver and protect the interests of the tenants,  
7 the neighborhood in which the building is located or both.

8 c. Notwithstanding any other provision of law, the operation and  
9 improvement of buildings through receivership is hereby deemed to be  
10 a public purpose for which municipalities may make public funds  
11 available in the form of grants or loans to receivers appointed by the  
12 court.

13 d. In the case of petitions brought by the municipal officer in  
14 connection with a property upon which the municipality holds a tax  
15 sale certificate and where the municipal officer provides  
16 documentation that none of the conditions set forth in section 4 of  
17 P.L. , c. (C. ) (pending before the Legislature as this bill) apply  
18 to the building, the receiver shall not be required to submit a plan as  
19 a condition of receivership.

20  
21 17. (New section) Upon application of the receiver, the court may  
22 order the sale of the building if it finds that:

23 a. Notice was given to each record owner of the building and each  
24 mortgage or lienholder of record;

25 b. The receiver has been in control of the building for more than  
26 one year at the time of application and the owner has not successfully  
27 petitioned for reinstatement under section 21 of P.L. , c. (C. )  
28 (pending before the Legislature as this bill); and

29 c. The sale would be in the best interests of the parties.

30  
31 18. (New section) In its petition to the court, the receiver shall  
32 specify the manner in which it proposes the building to be sold, which  
33 alternatives shall include, but shall not be limited to the following:

34 a. Sale on the open market for full market value to an entity  
35 qualified to own and operate multifamily rental property;

36 b. Sale at a negotiated price to a not for profit entity qualified to  
37 own and operate multifamily rental property;

38 c. Conversion of the property to condominium or cooperative  
39 ownership, provided that such option shall not be approved except  
40 with the approval in writing of a majority of the tenants of the  
41 building; or

42 d. In the case of a one to four family building, sale to an owner  
43 occupant, which may be a sitting tenant.

44 If the price proposed by the receiver is less than full market value,  
45 the receiver shall provide the court with documentation that the lower  
46 price will materially enhance the ability of the building to remain



1 economically viable, and to be operated in the future at a level of  
2 maintenance capable of ensuring full compliance with all applicable  
3 codes and requirements.

4  
5 19. (New section) a. The court shall hold a hearing on the  
6 receiver's petition to sell the property. The owner shall be given an  
7 opportunity to show cause why the sale shall not be permitted and  
8 the property owner's rights reinstated. No petition for reinstatement  
9 of the owner's rights shall be granted unless the owner meets all of  
10 the conditions set forth in subsection c. of section 22 of P.L. ,  
11 c. (C. ) (pending before the Legislature as this bill) and such  
12 other conditions that the court may establish. In setting the conditions  
13 for reinstatement, the court shall invite recommendations from the  
14 receiver.

15 b. In connection with the sale, the court may authorize the receiver  
16 to sell the building free and clear of liens, claims and encumbrances in  
17 which event, all such liens, claims and encumbrances, including tax and  
18 other municipal liens, shall be transferred to the proceeds of sale with  
19 the same priority as existed prior to resale in accordance with section  
20 20 of P.L. , c. (C. ) (pending before the Legislature as this bill).

21  
22 20. (New section) Upon approval by the court, the receiver shall  
23 sell the property on such terms and at such price as the court shall  
24 approve, and shall place the proceeds of sale in escrow with the court.  
25 The court shall order a distribution of the proceeds of sale after paying  
26 court costs in the following order of priority:

- 27 a. The costs and expenses of sale;
- 28 b. Repayment of principal and interest on any borrowing or  
29 indebtedness incurred by the receiver and granted priority lien status  
30 pursuant to subsection b. of section 14 of P.L. , c. (C. )  
31 (pending before the Legislature as this bill);
- 32 c. Any fees and expenses of the receiver not otherwise reimbursed  
33 during the pendency of the receivership in connection with the sale or  
34 the operation, maintenance and improvement of the building;
- 35 d. Governmental liens in accordance with their priority;
- 36 e. Costs incurred by the municipality in connection with bringing  
37 the receivership action;
- 38 f. Other valid liens and security interests in accordance with their  
39 priority;
- 40 g. Any costs and expenses of the receiver not covered above;
- 41 h. Any costs and expenses incurred by parties in interest in  
42 petitioning the court for receivership, including but not limited to  
43 attorney fees, expert witness fees, inspection fees and lost wages or  
44 other expenses to tenants, affected property owners or nonprofit  
45 entities;
- 46 i. Any costs and expenses incurred by the municipality for code

1 enforcement and public safety during the 12 month period preceding  
2 the order of receivership;

3 j. Any accounts payable or other unpaid obligations to third parties  
4 from the receivership; and

5 k. The owner.

6

7 21. (New section) The owner may petition for termination of the  
8 receivership and reinstatement of the owner's rights at any time by  
9 providing notice to all parties in interest, unless the court shall  
10 establish a minimum duration for the receivership in the order  
11 appointing the receiver, which minimum duration shall not exceed one  
12 year. The court shall schedule a hearing on any such petition in timely  
13 fashion.

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

17

18 22. (New section) After reviewing the receiver's recommendations  
19 and holding a hearing, the court may grant the owner's petition if it  
20 finds that:

21 a. The purposes of the receivership have been achieved or that the  
22 owner's petition offers credible assurances that they will be achieved  
23 within the time frame consistent with the plan submitted by the  
24 receiver and approved by the court;

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

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

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

35 e. The owner posts a bond in an amount determined to be  
36 reasonable by the court in consultation with the receiver and the  
37 municipal officer, which shall be forfeit in the event of any future code  
38 violation arising from the property. Forfeiture shall be in the form of  
39 a summary proceeding initiated by the municipal officer, who shall  
40 provide evidence that a code violation has occurred and has not been  
41 abated within 48 hours of notice, and shall be in the amount of 200  
42 percent of the cost of abating the violation;

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

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

5  
6 23. (New section) a. The court may require as a condition of  
7 reinstatement of the owner's rights that the receiver or other qualified  
8 entity remain in place as a monitor of the condition and management  
9 of the property for such period as the court may determine, and may  
10 require such reports at such intervals as it deems necessary and  
11 appropriate from the monitor. The court may require the owner to pay  
12 a fee to the monitor in such amount as the court may determine.

13 b. In the event of the owner's failure to comply with the conditions  
14 established for reinstatement of its rights, or evidence of recurrence  
15 of any of the conditions for receivership set forth in section 4 of  
16 P.L. , c. (C. ) (pending before the Legislature as this bill), the  
17 receiver, monitor or any party in interest may petition the court for  
18 reinstatement of the receivership at any time, which may be granted by  
19 the court after notice to the parties and a hearing, if requested, by any  
20 of the parties. If the court reinstates the receivership, the entire bond  
21 shall be forfeit and shall be provided to the receiver for the operation  
22 and improvement of the property.

23  
24 24. (New section) Upon request of a party in interest or the  
25 receiver, the court may order the termination of the receivership if it  
26 determines:

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

32 b. The mortgagee or lienholder has requested the receivership be  
33 terminated and has provided adequate assurances to the court that any  
34 remaining conditions that constituted grounds for the petition will be  
35 promptly abated, the obligations, expenses and improvements of the  
36 receivership, including all fees and expenses of the receiver, have been  
37 fully paid or provided for and the purposes of the receivership have  
38 been or will promptly be fulfilled;

39 c. The building has been sold and the proceeds distributed in  
40 accordance with section 20 of P.L. , c. (C. ) (pending before  
41 the Legislature as this bill); or

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

46 In all cases under this section, the court may impose such

1 conditions on the owner or other entity taking control of the building  
2 upon the termination of receivership that it deems necessary and  
3 desirable in the interest of the tenants and the neighborhood in which  
4 the building is located, including but not limited to those that may be  
5 imposed on the owner under section 22 of P.L. , c. (C. )  
6 (pending before the Legislature as this bill).

7  
8 25. (New section) Nothing in P.L. , c. (C. ) (pending  
9 before the Legislature as this bill) shall be deemed to relieve the owner  
10 of the building of any civil or criminal liability or any duty imposed by  
11 reason of acts or omissions of the owner nor shall the appointment of  
12 a receiver suspend any obligation the owner or any other person may  
13 have for payment of taxes, mortgages or liens, or any other operating  
14 or maintenance expense associated with the building, which obligation  
15 was incurred prior to the appointment of the receiver or the receiver's  
16 taking control of the building, whichever is later.

17  
18 26. (New section) a. The agency shall set aside from  
19 administrative funds available to it the sum of \$16 million to establish  
20 a Receivership Loan Revolving Fund for the purpose of making loans  
21 to receivers of multifamily rental property under P.L. , c. (C. )  
22 (pending before the Legislature as this bill). Of the \$15 million, \$5  
23 million shall be set aside for grants and loans to receivers of  
24 multifamily rental property.

25 b. The agency shall establish terms for providing loans from this  
26 fund, including below market interest rates, deferred payment  
27 schedules, and other provisions that will enable these funds to be used  
28 effectively for any of the purposes of receivership in situations where  
29 a receiver cannot borrow funds on conventional terms without  
30 imposing hardship on the tenants or potentially impairing the purposes  
31 of the receivership.

32 c. The agency may make loans from this fund in connection with  
33 any property that is under receivership pursuant to the "Multifamily  
34 Housing Preservation and Receivership Act," P.L. , c. (C. )  
35 (pending before the Legislature as this bill) in order to further the  
36 purposes of this act.

37  
38 27. N.J.S.2B:12-20 is amended to read as follows:

39 2B:12-20. Municipal housing court; jurisdiction. A municipality  
40 in a county of the first class may establish, as a part of its municipal  
41 court, a full-time municipal housing court. Municipal housing courts  
42 shall have jurisdiction over actions for eviction involving property in  
43 the municipality which are transferred to the municipal housing court  
44 by the Special Civil Part of the Superior Court, and shall have  
45 concurrent jurisdiction to appoint receivers pursuant to [section 6 of  
46 P.L.1966, c.168 (C.2A:42-79)] P.L. , c. (C. ) (pending before

1 the Legislature as this bill) and to enforce the provisions of P.L.1971,  
2 c.224 (C.2A:42-85 et seq.).  
3 (cf: N.J.S.2B:12-20)

4  
5 28. Section 6 of P.L.1991, c.441 (C.40A:21-6) is amended to read  
6 as follows:

7 6. a. If the ordinance adopted pursuant to [this act] P.L.1991,  
8 c.441 shall provide for the exemption from taxation of improvements  
9 to multiple dwellings, or of conversions of other buildings and  
10 structures, including unutilized public buildings, to multiple dwelling  
11 use, or both, it shall require that, in determining the value of real  
12 property, the municipality shall regard up to the assessor's full and true  
13 value of the improvements or conversion alterations as not increasing  
14 the value of the property for a period of five years, notwithstanding  
15 that the value of the property to which the improvements or  
16 conversion alterations are made is increased thereby. During the  
17 exemption period, the assessment on the property shall not be less than  
18 the assessment thereon existing immediately prior to the improvements  
19 or conversion alterations, unless an abatement is granted pursuant to  
20 subsection b. of this section, or there is damage to the multiple  
21 dwelling through action of the elements sufficient to warrant a  
22 reduction.

23 b. An ordinance providing for exemption may also provide for the  
24 abatement of some portion of the assessed value of property receiving  
25 the exemption as it existed immediately prior to the improvement or  
26 conversion alteration. An abatement for a multiple dwelling may be  
27 granted with respect to that property for a total of up to five years, but  
28 the annual amount of the abatement shall not exceed 30% of the total  
29 cost of the improvement or conversion alteration, and the total amount  
30 of abatements granted to any single property shall not exceed the total  
31 cost of the improvement or conversion alteration. The abatement  
32 period and the annual percentage of the abatement to be granted shall  
33 be set forth in the ordinance, which may include a schedule providing  
34 for a different percentage of abatement, up to 30%, for each year of  
35 the abatement period.

36 c. An ordinance providing for exemption may further provide that  
37 when an owner of a multiple dwelling invests \$5,000 per unit or more  
38 in the rehabilitation of said property for improvements that rehabilitate  
39 the units in order to abate or correct all outstanding code violations on  
40 the property, that property shall be exempt from any increase in  
41 property taxes attributable to the improvements, whether through  
42 changes in assessment or tax rate, for five years. The ordinance may  
43 further provide that the property taxes on the property may be reduced  
44 over the five-year period following completion of the improvements  
45 in five equal installments by a total amount equal to up to 50 percent  
46 of the amount invested in capital improvements by the owner, but in

1 no event more than 50 percent of the taxes due during the five-year  
2 period.

3 (cf: P.L.1991, c.441, s.6)

4

5 29. (New section) Notwithstanding the provisions of any other  
6 law, rule or regulation to the contrary, the Department of Community  
7 Affairs shall not require income certification of tenants or deed  
8 restrictions regarding low and moderate income occupancy as a  
9 condition of providing housing assistance from any program  
10 administered by the department, when that assistance is provided for  
11 a project of moderate rehabilitation of multifamily rental housing, if  
12 the project (1) contains 30 or fewer units and (2) is located in a census  
13 tract in which the median household income is 50 percent or less of the  
14 area median income.

15

16 30. (New section) The New Jersey Department of Community  
17 Affairs shall, within six months of the effective date of P.L. , c. (C.)  
18 (pending before the Legislature as this bill), designate one or more  
19 existing programs provided by qualified educational or training  
20 entities, including but not limited to the Institute for Real Estate  
21 Management, as programs for the certification of nonprofit housing  
22 managers. A certified nonprofit housing manager shall have full legal  
23 authority to carry out all activities necessary and desirable for the  
24 effective management of residential rental property, including  
25 collection of rents, execution of leases on behalf of owners, and  
26 eviction of tenants on behalf of owners. Certified nonprofit housing  
27 managers shall be presumptively considered qualified to act as  
28 receivers under the provisions of P.L. , c. (C. ) (pending  
29 before the Legislature as this bill).

30

31 31. The following statutes are hereby repealed:

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

33 Sections 8 through 12 of P.L.1962, c.66 (C.40:48-2.12h through  
34 2.12l); and

35 Section 1 of P.L.1942, c.54 (C.54:5-53.1).

36

37 32. This act shall take effect 180 days next following enactment.

38

39

40

#### STATEMENT

41

42 This bill would revise the receivership statutes in order to make  
43 receivership a more workable tool for the improvement and  
44 preservation of affordable housing and the elimination of  
45 neighborhood blight. Receivership refers to the intervention of third  
46 parties to maintain and improve properties when the owner of record

1 fails to do so.

2 Current law addresses receivership under three separate statutes.  
3 N.J.S.A.2A:42-79 and N.J.S.A.40:48-2.12h were enacted in the 1960's  
4 to empower municipal officials to address specific critical violations of  
5 housing codes when the owner has failed to do so, by allowing rental  
6 income to be applied in order to remedy the violations. Underlying  
7 these laws was the assumption that the remediation of specific  
8 previously identified code violations is adequate to restore a building  
9 to sound and habitable status. These laws also reflected the  
10 assumption that by redirecting the rent roll for a short period in order  
11 to pay for repairs, the receiver would gain an adequate source of cash  
12 to cover the needed work.

13 The third existing receivership statute, N.J.S.A.54:5-53.1 applies  
14 only to properties upon which the municipality holds a tax sale  
15 certificate. While the intent of the statute is to enable the municipality  
16 to collect the taxes owed by the landlord and to apply rents collected  
17 against back taxes, the statute also provides that rents collected which  
18 are not necessary for operating and maintenance may be used to  
19 remove or remedy any violations of the standards of fitness for human  
20 habitation as set forth in State or local housing or health codes.

21 The existing statutes also assume that once the code violation is  
22 remediated or back taxes paid, the property will revert to the owner.  
23 Under the current legislative scheme, the underlying financial and  
24 physical circumstances of the property as well as those of the landlord  
25 are not materially changed and the outcome is at best a short-term  
26 solution to a longer term problem. The receiver can, under current  
27 law, petition the courts to permit some course of action, but the  
28 statute provides no direction either to the receiver or to the courts.

29 This bill changes the current situation through a series of measures  
30 which include:

- 31 C increasing the parties who can bring a receivership action to include  
32 tenants, lien holders and neighborhood-based organizations;
- 33 C giving the court broad discretion to appoint the most appropriate  
34 entity to act as receiver in light of the circumstances resulting in the  
35 receivership action;
- 36 C broadening the grounds for receivership to include 'pattern and  
37 practice' violation histories as well as repeated criminal and drug-  
38 related activities associated with a property rather than limiting the  
39 grounds to specific immediate violations;
- 40 C requiring the receiver to provide the court with a plan for  
41 remediating the problems associated with the property and regular  
42 progress reports;
- 43 C clearly defining the powers and duties of the receiver;
- 44 C granting the receiver the power to borrow funds and place liens on  
45 the property;
- 46 C clearly establishing the priority status of the liens placed by the

- 1 receiver on the property;
- 2 C clearly establishing the priority use of rents and income for the
- 3 actions set forth in the receiver's plan of action;
- 4 C clearly setting forth a procedure which a landlord must follow in
- 5 order to regain control of the property, including clear standards
- 6 and guidelines which balance the landlord's interests and those of
- 7 tenants and neighbors;
- 8 C clearly establishing a procedure under which a receiver may sell a
- 9 property with court approval if the landlord fails to act to regain
- 10 control of the property; and
- 11 C granting the court broad discretion to act to further the purposes of
- 12 the statute, where necessary.
- 13 The bill also repeals the current receivership statutes which would
- 14 be rendered obsolete by the new procedures.



# SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

## STATEMENT TO

### SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 1676**

# **STATE OF NEW JERSEY**

DATED: JUNE 9, 2003

The Senate Community and Urban Affairs Committee reports favorably a Senate Committee Substitute for Senate Bill No. 1676.

This Senate Committee Substitute would revise the receivership statutes to make receivership a more workable tool for the improvement and preservation of affordable housing and the elimination of neighborhood blight. "Receivership" refers to the intervention of third parties to maintain and improve properties when the owner of record fails to do so.

Current law addresses receivership under three separate statutes. Section 6 of P.L.1966, c.168 (C.2A:42-79) and section 8 of P.L.1962, c.66 (C.40:48-2.12h) were enacted in the 1960's to empower municipal officials to address specific critical violations of housing codes when the owner has failed to do so, by allowing rental receipts to be first applied to the cost of remedying the violations. Underlying these laws was the assumption that the remediation of specific, previously identified code violations would be adequate to restore a building to sound and habitable status. These laws also reflected the assumption that by redirecting the rent roll for a short period to pay for repairs, the receiver would gain an adequate source of cash to cover the needed work.

The third existing receivership statute, section 1 of P.L.1942, c.54 (C.54:5-53.1) applies only when a municipality holds a tax sale certificate against the property. While the purpose of that statute is to enable the municipality to collect the taxes owed by the landlord and to apply rents collected against back taxes, the statute also provides that rents collected which are not necessary for operating and maintenance may be used to remove or remedy any violations of the standards of fitness for human habitation as set forth in State or local housing and health codes.

The existing statutes also operate under a presumption that once the code violation is remediated or back taxes paid, the right to collect rents on a property reverts to the owner. As the underlying financial and physical circumstances of the property, as well as those of the landlord, are not materially changed, the outcome is at best a short-term solution to a longer term problem. The receiver can, under

current law, petition the courts to permit some course of action, but the statutes provide no direction either to the receiver or to the courts.

This substitute would change the current situation through a series of measures which include:

- C increasing the number of parties who can bring a receivership action to include tenants, lien holders and neighborhood-based organizations;
- C giving the court broad discretion to appoint the most appropriate entity to act as receiver in light of the circumstances resulting in the receivership action;
- C broadening the grounds for receivership to include "pattern and practice" violation histories rather than limiting the grounds to specific immediate violations;
- C requiring the receiver to provide the court with a plan for remediating the problems associated with the property and regular progress reports, as required by the court;
- C clearly defining the powers and duties of the receiver;
- C granting the receiver the power to borrow funds and place liens on the property;
- C clearly establishing the priority status of the liens placed by the receiver on the property;
- C clearly establishing the priority use of rents and income for the actions set forth in the receiver's plan of action;
- C clearly setting forth a procedure which a landlord must follow in order to regain control of the property, including clear standards and guidelines which balance the landlord's interests and those of tenants and neighbors;
- C clearly establishing a procedure under which a receiver may sell a property with court approval if the landlord fails to act to regain control of the property;
- C granting the court broad discretion to act to further the purposes of the statute, when necessary;
- C clarifying the circumstances under which the DCA shall waive the requirement of income certification of tenants or deed restrictions as a condition of providing housing assistance under any program administered by the department when that assistance is provided for a project of moderate rehabilitation of certain multifamily rental housing projects; and
- C removing the concurrent jurisdiction which currently prevails over receivership actions between the Superior Court and housing courts by eliminating the role of the housing courts in this regard.

The substitute would make available from the Neighborhood Preservation Nonlapsing Revolving Fund established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320) the sum of up to \$4 million per year to establish a Preservation Loan Revolving Fund for the purpose of making loans to receivers to implement plans which are consistent with rules and regulations adopted by the commissioner under the substitute. The substitute would set aside up to three

million dollars in the first year and up to four million dollars in each year thereafter for grants and loans to receivers.

In the first year the substitute would allocate one million dollars for operating grants to nonprofit entities that will further housing preservation through such activities as the acquisition of rental property, management of rental property, provision of technical assistance and training to property owners, and any other activities which further the goal of building capacity among nonprofit entities to serve as receivers.

Finally, the substitute would repeal the current receivership statutes which would be rendered obsolete by the new procedures.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 1676**

with committee amendments

# STATE OF NEW JERSEY

DATED: DECEMBER 4, 2003

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 1676 SCS.

This bill would revise the receivership laws to make receivership a more workable tool for the improvement and preservation of affordable housing and the elimination of neighborhood blight. "Receivership" refers to the intervention of third parties to maintain and improve properties when the owner of record fails to do so.

*Current law.* Current law addresses receivership under three separate statutes. Section 6 of P.L.1966, c.168 (C.2A:42-79) and section 8 of P.L.1962, c.66 (C.40:48-2.12h) were enacted in the 1960's to empower municipal officials to address specific critical violations of housing codes when the owner has failed to do so, by allowing rental receipts to be first applied to the cost of remedying the violations. Underlying these laws was the assumption that the remediation of specific, previously identified code violations would be adequate to restore a building to sound and habitable status. These laws also reflected the assumption that by redirecting the rent roll for a short period to pay for repairs, the receiver would gain an adequate source of cash to cover the needed work.

The third existing receivership statute, section 1 of P.L.1942, c.54 (C.54:5-53.1) applies only when a municipality holds a tax sale certificate against the property. While the purpose of that statute is to enable the municipality to collect the taxes owed by the landlord and to apply rents collected against back taxes, the statute also provides that rents collected which are not necessary for operating and maintenance may be used to remove or remedy any violations of the standards of fitness for human habitation as set forth in State or local housing and health codes.

The existing statutes also operate under a presumption that once the code violation is remediated or back taxes paid, the right to collect rents on a property reverts to the owner. As the underlying financial and physical circumstances of the property, as well as those of the landlord, are not materially changed, the outcome is at best a short-

term solution to a longer term problem. The receiver can, under current law, petition the courts to permit some course of action, but the statutes provide no direction either to the receiver or to the courts.

*Bill provisions.* The bill, as amended, would change the current situation through a series of measures which include:

- \* increasing the number of parties who can bring a receivership action to include tenants, lien holders and neighborhood-based organizations;
- \* giving the court broad discretion to appoint the most appropriate entity to act as receiver in light of the circumstances resulting in the receivership action;
- \* broadening the grounds for receivership to include "pattern and practice" violation histories rather than limiting the grounds to specific immediate violations;
- \* requiring the receiver to provide the court with a plan for remediating the problems associated with the property and regular progress reports, as required by the court;
- \* clearly defining the powers and duties of the receiver;
- \* granting the receiver the power to borrow funds and place liens on the property;
- \* clearly establishing the priority status of the liens placed by the receiver on the property;
- \* clearly establishing the priority use of rents and income for the actions set forth in the receiver's plan of action;
- \* clearly setting forth a procedure which a landlord must follow in order to regain control of the property, including clear standards and guidelines which balance the landlord's interests and those of tenants and neighbors;
- \* clearly establishing a procedure under which a receiver may sell a property with court approval if the landlord fails to act to regain control of the property;
- \* granting the court broad discretion to act to further the purposes of the statute, when necessary;
- \* clarifying the circumstances under which the DCA shall waive the requirement of income certification of tenants or deed restrictions as a condition of providing housing assistance under any program administered by the department when that assistance is provided for a project of moderate rehabilitation of certain multifamily rental housing projects; and
- \* removing the concurrent jurisdiction which currently prevails over receivership actions between the Superior Court and housing courts by eliminating the role of the housing courts in this regard.

The bill would make available from the Neighborhood Preservation Nonlapsing Revolving Fund established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320) the 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 under the bill. The bill would set aside up to three million dollars in the first year and up to four million dollars in each year thereafter for grants and loans to receivers.

In the first year, the bill would allocate one million dollars for operating grants to nonprofit entities that will further housing preservation through such activities as the acquisition of rental property, management of rental property, provision of technical assistance and training to property owners, and any other activities which further the goal of building capacity among nonprofit entities to serve as receivers.

Finally, the bill would repeal the current receivership statutes which would be rendered obsolete by the new procedures.

The provisions of this bill, as amended, are identical to those of Assembly Bill No. 2539 ACS (1R) Sca, which the committee also reports this day.

#### COMMITTEE AMENDMENTS

Committee amendments add legislative findings to declare that the number of distressed multifamily buildings in the State could be diminished if more public resources were available to help remediate negative conditions in the State's rental housing stock. If receivership becomes necessary, however, receivership activities and the implementation of receivership plans shall be supported by grants and loans to be made available out of the Preservation Loan Revolving Fund being created by the bill.

The amendments clarify the language pertaining to one of the criteria which establishes when a building shall become eligible for receivership. The language states that a building eligible for receivership as the site of a clear and convincing pattern of recurrent code violations must have been cited for a specified number of violations over a given period of time. The amendments clarify that the citations must have been made at separate times. The amendments further provide that the court's determination that conditions exist supporting appointment of a receiver shall be based upon evidence provided by the plaintiff.

The amendments revise a provision requiring the owner to be notified of a complaint at the most recent address to which tenants send or deliver rent, directing instead that the owner be notified at the address under which the owner registered the property under the "Hotel and Multiple Dwelling Law."

The amendments extend the obligation of the New Jersey Housing and Mortgage Finance Agency, when it receives a plaintiff's notice of the filing of a complaint in a receivership proceeding, to ascertain whether the building is owned by an HMFA-related entity to include *any* project over which the agency has regulatory control, and not just a partnership formed through allocation of low income housing tax credits.

The amendments accord the courts authority to dismiss a complaint

if the preponderance of the violations that are the basis of the complaint are either of a minor nature or do not impair the health, safety or general welfare of the tenants or neighbors.

The amendments provide that in the event that the receiver contracts for any service with an entity with which the receiver has an identity of interest relationship, the receiver shall disclose that relationship to the court, the owner and the parties in interest. This amendment is intended to avoid any potential conflicts of interest on the part of the receiver in carrying out his or her receivership responsibilities.

The amendments provide that the department shall have the authority to make grants, and not only loans, out of the Preservation Loan Revolving Fund.

The amendments provide that the Commissioner of Community Affairs, in promulgating regulations concerning the registration of qualified entities and certification of nonprofit housing managers, shall first consult with the Commissioner of Banking and Insurance. This amendment recognizes that the New Jersey Real Estate Commission is a division of the Department of Banking and Insurance, and that it is important for the Commissioner of Banking and Insurance to be involved in the preparation of these rules and regulations.

Finally, the amendments make discretionary the set aside of funds by the Department of Community Affairs out of the Neighborhood Preservation Nonlapsing Revolving Fund.

#### FISCAL IMPACT

The bill makes available from the Neighborhood Preservation Nonlapsing Revolving Fund established under N.J.S.A.52:27D-320 the sum of up to \$4 million per year to establish a Preservation Loan Revolving Fund for the purpose of making grants or loans to receivers to implement plans that are consistent with rules and regulations adopted under the legislation. The bill sets aside up to \$3 million in the first year and up to \$4 million in each year thereafter for grants and loans to receivers.

In the first year the bill allocates \$1 million for operating grants to nonprofit entities that will further housing preservation through such activities as the acquisition of rental property, management of rental property, provision of technical assistance and training to property owners, and any other activities that further the goal of building capacity among nonprofit entities to serve as receivers.

# STATEMENT TO

[First Reprint]

## SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 1676**

with Senate Floor Amendments  
(Proposed By Senator CODEY)

ADOPTED: DECEMBER 11, 2003

These Senate amendments would remove the requirement that the Commissioner of Community Affairs adopt rules and regulations to certify nonprofit housing managers and delete pertinent statutes describing what that certification would have involved.

As amended, the committee substitute would still require that the Commissioner of Community Affairs register any qualified entity who, by definition, is any person who has demonstrated knowledge and substantial experience in the operation, maintenance and improvement of residential buildings. Under section 10 of the committee substitute, the court is authorized to appoint a qualified entity as a receiver.



**LEGISLATIVE FISCAL ESTIMATE**  
**SENATE COMMITTEE SUBSTITUTE FOR**  
**SENATE, No. 1676**  
**STATE OF NEW JERSEY**  
**210th LEGISLATURE**

DATED: DECEMBER 18, 2003

**SUMMARY**

**Synopsis:** Revises receivership statutes.

**Type of Impact:** Reallocates funding from the Neighborhood Preservation Nonlapsing Revolving Fund to the Preservation Loan Fund.

**Agencies Affected:** The Department of Community Affairs.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<u><b>Year 1</b></u>	<u><b>Year 2</b></u>	<u><b>Year 3</b></u>
<b>State Cost</b>	Up to \$3.0 million reallocation of existing funds.	Up to \$4.0 million reallocation of existing funds.	Up to \$4.0 million reallocation of existing funds.
<b>State Revenue</b>	Interest payments received from outstanding loans		
<b>Local Revenue</b>	Revenue received from municipal liens and delinquent tax payments		

- \* Senate Committee Substitute for Senate Bill No. 1676 of 2002 revises the receivership statutes to make receivership a more workable tool for the improvement and preservation of affordable housing. To this end the Department of Community Affairs is authorized to reallocate up to \$4.0 million dollars in a given fiscal year from the Neighborhood Preservation Nonlapsing Revolving Fund to the Preservation Loan Revolving Fund established under this bill. The bill would set aside up to three million dollars in the first year and up to four million dollars in each year thereafter for grants and loans to receivers.
- \* The money deposited into the Preservation Loan Revolving Fund will be used to finance loans and grants made to qualified receivers 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. "Receivership" refers to the intervention of third parties to maintain and improve properties when the owner of record fails to do so.
- \* The bill would allocate \$1 million from the first \$4 million deposited into the fund for operating grants to nonprofit entities that will further housing preservation through such activities as the acquisition of rental property, management of rental property, provision of

technical assistance and training to property owners, and any other activities which further the goal of building capacity among nonprofit entities to serve as receivers.

## **BILL DESCRIPTION**

Senate Committee Substitute for Senate Bill No. 1676 of 2002 would revise the receivership statutes to make receivership a more workable tool for the improvement and preservation of affordable housing and the elimination of neighborhood blight. "Receivership" refers to the intervention of third parties to maintain and improve properties when the owner of record fails to do so.

The bill would make available from the Neighborhood Preservation Nonlapsing Revolving Fund established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320) the sum of up to \$4 million per year to establish a Preservation Loan Revolving Fund for the purpose of making loans to receivers to implement plans which are consistent with rules and regulations adopted by the commissioner of the Department of Community Affairs as required by the bill. The bill sets aside up to three million dollars in the first year and up to four million dollars in each year thereafter for grants and loans to receivers.

The bill allocates one million dollars from the four million dollars deposited into the fund for operating grants to nonprofit entities that will further housing preservation through such activities as the acquisition of rental property, management of rental property, provision of technical assistance and training to property owners, and any other activities which further the goal of building capacity among nonprofit entities to serve as receivers.

Finally, the bill repeals the current receivership statutes which would be rendered obsolete by the new procedures.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None provided.

### ***OFFICE OF LEGISLATIVE SERVICES***

The Office of Legislative Services (OLS) recognizes that Senate Bill No.1676 authorizes the reallocation of up to \$4.0 million dollars annually from the Neighborhood Preservation Nonlapsing Revolving Fund to the Preservation Loan Fund established in the bill. The reallocation of funding is subject to the availability of funds in the Neighborhood Preservation Nonlapsing Revolving Fund, which had collected \$52,235,000 in revenue in 2002 and \$43,215,000 in revenue in 2001. OLS notes that although the this bill creates more expenditures to be funded out of the Neighborhood Preservation Nonlapsing Revolving Fund it should be recognized that many of these payments will be used to finance loans that will pay interest to the State, although the interest charge will be below the market rate. The accruing interest payments will help to maintain the Preservation Loan Fund and to ensure an adequate source of cash flow for future loans to be paid out of the Preservation Loan Fund.

While the provisions of the bill would likely involve procedural changes to the existing court procedures, those changes would likely have no fiscal impact pm the Administrative Office of the Courts.

SCS for S1676

3

Section: *Local Government*

Analyst: *Pedro Carrasquillo*  
*Assistant Fiscal Analyst*

Approved: *Frank W. Haines III*  
*Assistant Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.