
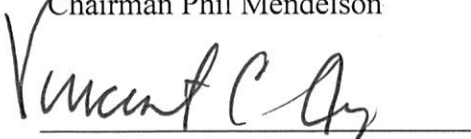


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Councilmember Anita Bonds

  
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Chairman Phil Mendelson

  
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Councilmember Brandon Todd

  
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Councilmember Vincent Gray

A BILL

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA  
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To amend An Act To establish a code of law for the District of Columbia to allow a lender to bring a summary action to foreclosure mortgages on vacant and abandoned residential property, to establish what constitutes vacant and abandoned property, to require a lender to prove to the court by clear and convincing evidence that the property is vacant and abandoned, to establish additional service and notice requirements to a mortgagor or occupant at the property, and to allow for the sale of a property 60 days after a foreclosure judgment and a determination that the property is vacant and abandoned.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Vacant and Abandoned Residential Property Foreclosure Amendment Act of 2017”.

Sec. 2. An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1271; D.C. Official Code § 42-801 *et seq.*) is amended by adding a new section 539e to read as follows:

“Sec. 539e. Mortgage foreclosure of vacant and abandoned residential property.

“(a) Definitions.

40                   “(1) “Court” means the Superior Court of the District of Columbia.

41                   “(2) “Residential mortgage” shall have the same meaning as in section 539a(a).

42                   “(3)(A) “Vacant and abandoned property” means a property that with a residential

43 mortgage that is not occupied by a mortgagor or tenant as evidenced by a lease agreement

44 entered into prior to the service of a notice of intention to commence foreclosure and if at least 2

45 of the following conditions exist:

46                               “(i) Overgrown or neglected vegetation;

47                               “(ii) The accumulation of newspapers, circulars, flyers, or mail on

48 the property;

49                               “(iii) Disconnected gas, electric, or water utility services to the

50 property;

51                               “(iv) The accumulation of hazardous, noxious, or unhealthy

52 substances or materials on the property;

53                               “(v) The accumulation of junk, litter, trash, or debris on the

54 property;

55                               “(vi) The absence of window treatments such as blinds, curtains, or

56 shutters;

57                               “(vii) The absence of furnishings and personal items;

58                               “(viii) Statements of neighbors, delivery persons, or District

59 government employees indicating that the residence is vacant and abandoned;

60                               “(ix) Windows or entrances to the property that are boarded up or

61 closed off or multiple window panes are damaged, broken, and unrepaired;

62                               “(x) Doors to the property that are smashed through, broken off,

63 unhinged, or continuously locked;

64                   “(xi) A risk to the health, safety, or welfare of the public, or any  
65 adjoining or adjacent property owners, exists due to an act of vandalism, loitering, criminal  
66 conduct, or the physical destruction or deterioration of the property;

67                   “(xii) An uncorrected violation of a building or housing code  
68 during the preceding year, or an order by the Department of Consumer and Regulatory Affairs  
69 declaring the property to be unfit for occupancy and to remain vacant and unoccupied;

70                   “(xiii) The mortgagee or other authorized party has secured or  
71 winterized the property due to the property being deemed vacant and unprotected or in danger of  
72 freezing;

73                   “(xiv) A written statement issued by any mortgagor expressing the  
74 clear intent of all mortgagors to abandon the property; or

75                   “(xv) Any other reasonable indicia of abandonment.

76                   “(B) “Vacant and abandoned” shall not include:

77                   “(i) An unoccupied property which is undergoing construction,  
78 renovation, or rehabilitation that is proceeding diligently to completion, and the building is in  
79 compliance with all applicable ordinances, codes, regulations, and statutes;

80                   “(ii) A property that is occupied on a seasonal basis, but otherwise  
81 secured; or

82                   “(iii) A property that is secure, but is the subject of a probate  
83 action, action to quiet title, or other ownership dispute.

84                   “(b) Remedy available to lender seeking foreclosure.

85                   “A summary action to foreclose a residential mortgage that is vacant and abandoned may  
86 be brought by a lender in court. In addition, a lender may, at any time after filing a foreclosure  
87 action, file with the court an application to proceed in a summary manner because the residential

88 mortgage that is the subject of the foreclosure action is a vacant and abandoned property;  
89 provided, that this section shall not apply to a foreclosure of a timeshare interest secured by a  
90 mortgage.

91 “(c) Notice requirements.

92 “(1) In addition to the service of process required by court rules governing  
93 service, a lender shall establish, for the foreclosure of a residential mortgage under this section,  
94 that a process server made two unsuccessful attempts to serve the mortgagor or occupant at the  
95 property, which attempts must be at least 72 hours apart, and during different times of the day,  
96 either before noon, between noon and 6 P.M., or between 6 P.M. and 10 P.M.

97 “(2) In addition to any notices required to be served by law or the court rules  
98 governing service, a lender shall, with any order to show cause served as original service of  
99 process or a motion to proceed summarily, serve a notice that the lender is seeking, on the return  
100 date of the order to show cause, or on the date fixed by the court, to proceed summarily for entry  
101 of a foreclosure of the residential mortgage because the property is vacant and abandoned.

102 “(d) Judgment for final mortgage foreclosure.

103 “(1) The court may enter a final residential mortgage foreclosure judgment under  
104 this section upon finding:

105 “(A) By clear and convincing evidence, that the property is vacant and  
106 abandoned as defined under subsection (a) of this section; and

107 “(B) That a review of the pleadings and documents filed with the court, as  
108 required by the court rules, supports the entry of a final residential mortgage foreclosure  
109 judgment.

110 “(2) A final residential mortgage foreclosure judgment under this section shall not  
111 be entered if the court finds that:

112                   “(A) The property is not vacant or abandoned; or  
113                   “(B) The mortgagor or any other defendant has filed an answer,  
114 appearance, or other written objection that is not withdrawn and the defenses or objection  
115 asserted provide cause to preclude the entry of a final residential mortgage foreclosure judgment.

116           “(e) Effect of non-action.

117           “If a final residential mortgage foreclosure judgment under this section is not entered on  
118 the original or adjourned return date of an order to show cause or the date fixed by the court to  
119 proceed summarily, the court may direct that the foreclosure action continue on the normal track  
120 for residential mortgage actions for properties that are not vacant or abandoned.

121           “(f) Rules governing foreclosure actions under this act.

122           “All actions brought to foreclosure on a residential mortgage pursuant to this section shall  
123 proceed in accordance with the court rules.

124           “(g) Effect on previously enacted laws.

125           “Nothing in this section is intended to supersede or limit other procedures to resolve  
126 residential mortgage foreclosure actions, including, but not limited to, foreclosure mediation.

127           “(h) Persons not affected by this section.

128           “Nothing in this section shall be construed to affect the rights of a tenant to possession of  
129 a leasehold interest under any applicable law.

130           “(i) Disposal of property following determination that property is vacant and abandoned.

131           “If the court makes a finding in the foreclosure judgment that the property is vacant and  
132 abandoned, the property shall be sold within 60 days of the court’s filing.”.

133           Sec. 3. Fiscal impact statement.

134           The Council adopts the fiscal impact statement in the committee report as the fiscal  
135 impact statement required by section 4a of the General Legislative Procedures Act of 1975,  
136 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

137           Sec. 4. Effective date.

138           This act shall take effect following approval by the Mayor (or in the event of veto by the  
139 Mayor, action by the Council to override the veto), a 30-day period of Congressional review as  
140 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December  
141 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of  
142 Columbia Register.