

## SECTION 121 VACANT BUILDING RECEIVER

**121.1 Scope.** Section 121 of this Code applies to a vacant building, as defined by Section 115.4 of this Code, and subject to an outstanding notice and order to rehabilitate or raze said vacant building.

**121.2 In general.** The Building Official may petition the court for appointment of a receiver to raze a vacant building, rehabilitate a vacant building, or to sell a vacant building to a qualified buyer.

**121.3 Contents of petition.** The petition for appointment of receiver must include:

- a. a copy of the original violation notice and order to rehabilitate,
- b. affirmation by affidavit that:
  1. the required rehabilitation has not been completed, and
  2. the identity and qualifications of the proposed receiver, if other than the Building Official.

**121.4 Named respondents.** The petition for appointment of receiver must name as respondents:

- a. the owner of the property,
- b. any mortgagee, as defined by Section 202.2.22 of this Code, and
- c. the plaintiff in any proceeding that was timely filed under State Tax-Property Article ' 14-833 {Complaints to foreclose right of redemption} and for which the time for securing a decree of foreclosure has not yet expired.

**121.4.1 Effect of failure to name plaintiff in foreclosure.** Failure to name a person described in ' 121.4(c ) of this Code does not prevent the action from going forward, but does prevent the receiver's lien for expenses incurred for razing, rehabilitating, or conveying the vacant building from having priority over that person's lien interest

### 121.5 Notice.

**121.5.1 Filing with Bureau of Liens.** The violation notice or order and the notice of the proceeding must also be filed with the Bureau of Liens. A record of these must be included in subsequent lien reports issued by the Bureau, and the Property cannot be transferred without prior approval of DHCD.

**121.5.2 Notice to judgment creditors and lien holders.** Within 10 days after filing the petition, the Building Official or Building Official's agent must give notice of the pendency and nature of the proceedings by regular and certified mail to the last known address of all judgment creditors and lien holders with a recorded interest in the property. An affidavit listing who was notified and how they were notified must be filed with the court prior to the sale .

**121.5.3 Intervention.** Within 30 days of the date on which the notice was mailed, a judgment creditor or lien holder may apply to intervene in the proceeding and to be appointed under § 121.7.

**121.5.4 Effect of failure to give notice.** Failure to give any required notice to any interested person under this Section 121 of this Code does not prevent the action from going forward, but does prevent the receiver's lien from having priority over that person's lien interest.

**121.7 Appointment of owner, etc., instead of receiver.** Instead of appointing a receiver to rehabilitate or sell a vacant building, the court may permit an owner, mortgagee, or other person with an interest in the property to raze or rehabilitate it, if that person:

- b. demonstrates ability to complete the razing or rehabilitation within a reasonable time,
- b. agrees to comply with a specified schedule for razing or rehabilitation, and
- c. posts bond, in an amount determined by the Court, as security for performance of the required work in compliance with the specified schedule.

**121.7.1 Application to dismiss owner.** If it appears to the petitioner that the person appointed is not proceeding with due diligence or in compliance with the court-ordered schedule, the petitioner may apply to the court for immediate revocation of that person's permission and appointment of a receiver. The bond posted under this section must be applied to the subsequently appointed receiver's expenses to raze, rehabilitate, or sell the vacant building.

**121.8 Appointment of receiver.** If no qualified person with an ownership interest requests an appointment to raze or rehabilitate the property, and the court determines that the petition complies with Section 121.3, then the court shall appoint a receiver for the purpose of razing the property, rehabilitating and managing the property, or selling it to a qualified buyer. Upon the appointment of a receiver, to raze, rehabilitate, or sell the property, the court shall issue an Order vesting sole authority in the receiver to assign, convey, grant, sell or otherwise transfer title to, or encumber, the property.

**121.9 Powers of receiver appointed to raze or rehabilitate.**

1. A receiver appointed to raze or rehabilitate a vacant building, in addition to all necessary and customary powers, has the right of possession with authority to:
  - a. contract for necessary labor and supplies for rehabilitation,
  - b. borrow money for rehabilitation from an approved lending institution or through a government agency or program, using the receiver's lien against the property as security,

- c. manage the property after rehabilitation, with all the powers of a landlord, for a period of up to 2 years and apply the rent received to current operating expenses and to repayment of outstanding rehabilitation expenses, and
  - d. foreclose on the receiver's lien or accept a deed in lieu of foreclosure.
2. Such costs as incurred under Section 121.9 of this Code are to be included in the receiver's lien, and have priority over all other liens save for such taxes and other governmental liens as remain unpaid.

**121.10 Powers of receiver appointed to sell.** A receiver appointed to sell a vacant building, in addition to all necessary and customary powers, has authority to:

- a. sell the property to the high bidder at public auction, following the same presale notice provisions that apply to a foreclosure, or
- b. sell the property privately for fair market value if the owner and anyone with a secured interest in the property agree to the amount and procedure.

**121.10.1 Notice of auction.** In the notice of public auction, it is sufficient to describe the property by a street address and by reference to the liber and folio number of the title deed recorded in the land records of Baltimore City.

**121.10.2 Buyer qualifications.** Before any sale, applicants to bid in a public sale or the proposed buyer in a private sale must demonstrate the ability and experience needed to rehabilitate the property within a reasonable time. Applicants to bid and the proposed buyer at a private sale must also have no ownership interest in property located within Baltimore City that is subject to a vacant building notice for which a valid Construction and Building permit has not been granted to ameliorate such vacant building notice.

**121.10.3 Application of sale proceeds.** After deducting for the amount of outstanding municipal liens and the receiver's lien, the receiver must apply the proceeds of the sale, if any, to the liens against the property, in order of priority.

**121.11 Tenure and termination of a receiver appointed to rehabilitate .** The tenure of a receiver may extend no longer than 2 years after rehabilitation of the vacant structure. Anytime after rehabilitation, any named party or respondent may file a motion to dismiss the receiver on payment of the receiver's outstanding costs, fees, and expenses.

**121.12 Final accounting.** At the end of his or her tenure, the receiver must file a final accounting with the court. .

**121.13 Receiver's lien for costs, etc.** Any cost or fees incurred by the receiver-are a lien against the property in accordance with  $\pm$  Section 117 of this Code, and subject in priority only to such unpaid taxes or other government assessments. The receiver may allow the petitioner's costs and expenses, including reasonable attorney's fees, to be paid providing the proceeds of the sale permit such payment.

**121.13.1 Foreclosure of lien.** A receiver may foreclose on the lien by a sale of the property at public auction, following 1 public notice and notice to interested parties in the manner of a mortgage foreclosure. After deducting the expenses of the sale, the receiver must apply the proceeds of the sale to the liens against the property, in order of priority. In lieu of foreclosure and pursuant only in a situation where the receiver has rehabilitated the property, an owner may pay the receiver's costs, fees, including attorney's fees, and expenses or may transfer all ownership in the property to either the receiver or an agreed-on third party for an amount agreed by all parties involved to be fair market value.

**121.14 Dismissal.** Upon sale of property either public or private, concurrent with filing of the final accounting, receiver shall file for dismissal of action and submit order for dismissal.

**121.15** Following court ratification of sale, the receiver shall sign a deed conveying title, free and clear, to the new owner.