

## Memorandum

To: Commission  
From: Staff  
Date: April 4, 2001  
Re: New Project

Commissioner Peter Buchsbaum has asked staff to review a draft statute entitled "An Act Providing for Receivership of Residential Buildings" (Receivership Act) to enable municipalities to provide a method to take possession and repair dilapidated buildings. Alan Mallach, a housing expert, drafted the Receivership Act, a copy of which is attached.

### The Problem

The State of New Jersey has many abandoned and substandard absentee-owned residential and commercial properties. Many are dilapidated and remain in that condition without any indication that they will be improved. These properties are encumbered by mortgages, judgments and tax liens. Professional investors often purchase tax certificates from municipalities raising revenue. Owners have virtually no incentive to rehabilitate the buildings because of their dire financial condition and professional investors do not want to rehabilitate the real property; rather they await a return on their investment when the building is foreclosed. Consequently, the buildings rot and remain in limbo.

### Existing Law

There are at least six main categories of law in New Jersey that deal with aspects of blighted property: N.J. Const. (1947), art. 8, sec.3, par. 1(private property may be taken for improvement of blighted areas for public use); Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (public entity may develop plan and correct area in need of development); Unfit Building Law, N.J.S.A. 40:48-2.3 et seq. (municipality has power to repair, remove or demolish buildings unfit for human habitation); State Uniform Construction Code Act, N.J.S.A. 52:27D-119 et seq.(uniform building code standards providing for civil penalties and enforcement for non-compliance); Abatement of Public Nuisance, N.J.S.A. 26:3-53 et seq.(local board of health has authority to abate public nuisance and recover costs of abatement); and Tax Sale Law, N.J.S.A. 54:5-1 et seq.(power to enforce tax lien by sale of property). In addition, for tenants there are repair and deduct remedies. Marini v. Ireland, 56 N.J. 1 (1970).

But New Jersey law is not geared to the problem of restoring the condition of individual properties. The foreclosure law actually impedes the process of transferring properties to owners having an interest in the real estate. The foreclosure law requires a protracted legal process and a right of redemption surviving the sale of the property. Meanwhile, the sale of municipal tax certificates attracts interest only from those seeking

to pull money out of the building. New Jersey law is best suited to correct “wholesale” blighted areas or to repair or destroy buildings without economic value. The law lacks a middle ground for poorly maintained buildings that are good candidates for rehabilitation.

### The Proposal

Under the draft statute, any interested party may petition the Superior Court to be appointed receiver of the property. The receiver takes possession and control of the building and has powers to: (1) collect rents, (2) borrow funds, (3) contract for services and (4) apply to the court to sell the property. The obligation of the receiver is to restore the condition of the building and manage it during the period of possession. The court may return the property to the owner if the owner meets the required criteria of the draft statute.