



Community Blight to Community Benefit: Revitalizing Eastern Iowa through a Land Bank

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About the Authors

Evan McCarthy, Brandon Pezley, and Adam Ripp completed this report for East Central Intergovernmental Alliance (“ECIA”) and Eastern Iowa Regional Housing Authority (“EIRHA”) as a part of the Community Empowerment Law Project (“CELP”) under the supervision of Professor Daria Fisher Page. CELP is a part of the University of Iowa College of Law’s clinical law program.

CELP partnered with the University of Iowa’s Iowa Initiative for Sustainable Communities (“IISC”) for this project. We thank IISC and its Assistant Director, Travis Kraus, for their logistical and technical support throughout the course of this project.

Executive Summary

IISC and ECIA have worked together before on projects related to the well-being and development of the ECIA region. In 2017, ECIA/EIRHA reached out to both the IISC and CELP to partner on researching the feasibility of a land bank for east central Iowa. Several of ECIA's member governments have increasingly had to deal with blighted and abandoned properties that have not been producing tax revenue for those localities. Additionally, the ECIA area faces a shortage of affordable housing, including housing for younger people who might otherwise stay in the region, as well as housing for older Iowans who can no longer afford their current living situation. These two factors—blighted or abandoned properties and the shortage of affordable housing—combine to create a perception of community decline, which further discourages people from seeking to live and work in the region. ECIA believes that a land bank could help alleviate all of those issues at relatively little cost to the community and could help start a process of broader regional revitalization.

A land bank is a legal entity that can purchase, manage, and hold properties for redevelopment, while being able to attach special conditions to that redevelopment and more easily clear potential encumbrances. A land bank is not required to pay tax on properties that are currently unproductive and has more authority than similar legal entities to direct and impose requirements on redevelopment that does occur. Because a land bank does not have to pay property tax on property that is currently not in use, the costs of clearing and rehabilitating a potentially blighted or unsafe property are lower than for a private entity holding and clearing the same property. The special conditions a land bank can impose on redevelopment allow for more incentives for affordable housing,

which can be tied to a county or local median or any other metric the land bank wishes to use, as well as for other community-centered purposes that the land bank's managers decide to prioritize. This flexibility makes a land bank a useful tool for community revitalization, a benefit that has been borne out in many communities across the U.S.

CELP researched the steps that would need to be taken to set up a land bank in Iowa. We assessed the current state of Iowa property and tax law, looked at comparable legislation and land bank initiatives across the country, and researched the current state of blighted and abandoned properties in the ECIA region. For a land bank to be established in Iowa, enabling legislation will need to be drafted and passed by the legislature, as has been the case in other states. While we have not proposed draft language for that sort of legislative change, we have looked at the enabling legislation in other states with land banks as potential models for a proposed legislation. We have also looked at any powers that ECIA or other entities might currently have to achieve some of the purposes of a land bank until enabling legislation is passed. Some of those powers include the power of municipalities and government bodies to convey and hold property, as well as the powers of local governments to attach conditions to development.

Finally, we have also generated recommendations for broader community buy-in, as well as legislative advocacy for a future land bank proposal. The experience of other land banks tells us that community and developer buy-in is critical to their success. We have several recommendations as to what ECIA or other entities could be doing now to lay the groundwork for broad support for a land bank in the future. We have also begun the process of legislative advocacy and education on what a land bank is and the good it could do for Iowa, again to lay the groundwork for future enabling legislation.

The Problem

After talking with Carl Reimer and Michelle Schnier about the ECIA/EIRHA region, ECIA/EIRHA reported that blighted and abandoned properties are the main problem properties in the region and that issues with tax delinquent properties are not widespread in the region.¹ cursory research from city clerks in the region also indicates that blighted and abandoned properties are the most prevalent housing issue in the ECIA/EIRHA region.² Finding affordable housing is also a common issue in the region. Thus, the goal of this project is to build a strategy to decrease the number of blighted and abandoned properties in the ECIA/EIRHA region and to increase access to affordable housing in the area.

Problems arising from blighted and abandoned properties can be tied back to the general decline of rural communities in Iowa. Blighted and abandoned properties are a result of a lack of economic and developer interest in investing in rural communities. The shortage of affordable housing is also due to economic forces. There is small housing market that creates a limited supply of housing, caused prices to rise.

A lack of affordable housing affects a wide variety of people. Millennials and young professionals who are looking into buying their first homes are discovering that home ownership is too expensive. They continue to rent, putting more pressure on the rental

¹ Interview with Carl Reimer, Homeownership/Housing Development Specialist, and Michelle Schnier, Director of Housing & Support Services, Dubuque, IA, February 15, 2018.

² Lowden has five derelict properties, two of which are unoccupied, and one tax sale property. Goose Lake has two privately owned blighted properties. Email from Sarah Carlson, Clerk for City of Lowden, March 5, 2018. Email from Teresa Lindstrom, Clerk for City of Goose Lake, March 2, 2018. Low Moor has one property with a small tax lien for utilities. Email from Joyce Lanning, Clerk for City of Low Moor, March 3, 2018.

market. Another affected segment of the population is elderly people looking to downsize. Newly unaffordable homes are too expensive for the downsize to make financial sense. Finally, working and middle class people are cut out of the housing market entirely. Additionally, the increased pressure on the rental market has increased the price of rent, putting more pressure on individuals and families living paycheck to paycheck.

These issues also negatively impact communities in the region in a broader sense. The increasing number of blighted and abandoned properties contribute to the perception of decay and a lack of vitality in the community, especially in rural communities. Abandoned property correlates with increased crime rates. County and municipal income is lowered because these properties are underutilized and may not be in tax-producing status. Additionally, these properties make it more difficult to retain current residents and attract new residents, creating a cycle of rural population decline. Despite the best efforts of state and local policymakers, these problems have proven stubborn and persistent.

Key Takeaways

- The main problem properties in the ECIA/EIRHA region are blighted and abandoned properties.
- Lack of access to affordable housing is prevalent in the region and is an issue that affects a wide variety of people—from millennials trying to buy their first homes to elderly people looking to downsize.
- These housing issues contribute to the perception of decay and lack of vitality in the community, especially rural communities.

What is a Land Bank?

A growing number of jurisdictions have turned to land banks as a possible solution to the prevalence of blighted or abandoned properties and the shortage of affordable housing.³ Several different definitions of land banks exist. The U.S. Department of Housing and urban Development (HUD) defines land banks as “governmental or nonprofit entities that acquire, hold, and manage foreclosed properties.”⁴ Similarly, *The Encyclopedia of Housing* defines a land bank as “a special-purpose governmental entity that focuses on the acquisition and management of vacant, abandoned, and foreclosed properties and the return of such properties to productive use.”⁵ The encyclopedia also goes on to define the term “land banking” as “the process or policy by which local government acquire surplus properties and convert them to productive use or hold them for long-term strategic public purposes.”⁶ These entities generally need enabling legislation to exist and operate effectively.⁷ The internal structure of land banks can vary, but typically consists of a board of directors to govern the land bank based on bylaws and articles of incorporation that are constructed to meet the unique needs of each community.⁸

³ Center for Community Progress, *Land Banks and Land Banking*, at 10–11 (2nd ed. 2015).

⁴ U.S. Dep’t of Hous. & Urban Dev., *Revitalizing Foreclosed Properties with Land Banks 1* (2009) [hereinafter HUD Report].

⁵ FRANK S. ALEXANDER, *THE ENCYCLOPEDIA OF HOUSING* 413 (Andrew T. Carswell ed., 2012) [hereinafter *Encyclopedia*].

⁶ *Id.*

⁷ HUD Report, *supra* note 2.

⁸ *Id.* at 1–2.

Land banks play an important role in the communities they serve by directly addressing the harmful consequences that vacant, abandoned, and foreclosed properties impose. These properties can subject communities and surrounding neighborhoods to significant costs, including a decrease in property tax revenue, a loss of value in adjoining properties, increased police and fire protection costs, and a destabilization within neighborhood communities.⁹ Land banks ultimately aim to turn total liabilities into community assets.¹⁰ This means properties will return to tax producing status, stabilization of adjoining property values, less safety hazard costs, and stabilization of the overall community.

As mentioned above, for land banks to accomplish all of these things, they require enabling legislation.¹¹ Although enabling legislation varies by jurisdiction and the governing state law, enabling legislation tends to grant a similar, general list of powers.¹² First, land banks can acquire property at minimal cost through tax foreclosure.¹³ Second, land banks can hold property on a tax-free basis while they go through the conversion process.¹⁴ Third, land banks can clear titles and eliminate back taxes on acquired properties.¹⁵ Fourth, land banks can lease properties for temporary use.¹⁶ Finally, land banks have flexibility

⁹ Encyclopedia, *supra* note 3.

¹⁰ *Id.*

¹¹ *See id.*

¹² *See* Stuart Pratt, *A Proposal for Land Bank Legislation in North Carolina*, 89 N.C.L. Rev. 568, 574 (2011).

¹³ FRANK S. ALEXANDER, *LAND BANKS AND LAND BANKING* 28 (2d ed. 2015).

¹⁴ HUD Report, *supra* note 2, at 17.

¹⁵ Emily Thaden, Kim Graziani, & Annie Stup, *Land Banks & Community Land Trusts: Not Synonyms or Antonyms. Complements*, SHELTERFORCE (Nov. 9, 2016), <https://shelterforce.org/2016/11/09/land-banks-community-land-trusts-not-synonyms-or-antonyms-complements/>.

¹⁶ *See* Land Banks and Land Banking, *supra* note 12.

when it comes to sales negotiations, which can include not only highest bid, but also outcomes that align with community needs at the time.¹⁷ This could include selling property to open a grocery store, creating community gardens, providing workforce housing, and many other possible community needs. Therefore, the creation and functioning of a land bank, summarized in **Figure 1** of this section, starts with the creation of enabling legislation.

Next, local governments adopt an ordinance which creates a land bank authority.¹⁸ Following creation, the land bank acquires property in different ways including through nonprofit and intergovernmental transfers, market transfers, and tax foreclosures.¹⁹ The land bank then can clear the titles, eliminate the back taxes, and can make improvements on the property if they desire.²⁰ This can lead to development of new units, rehabilitation of the existing development, or maintenance for future use.²¹ Finally, the functioning of the land bank culminates in the disposition of the property.²²

At first glance, a land bank may seem similar to a number of other entities so it is important to discuss what a land bank is not. Despite the similar name and purpose, land banks and community land trusts (“CLTs”) actually have different purposes and powers and act more like complements to each other.²³ Typically, a CLT is “a private, nonprofit corporation that acquires land parcels in a targeted geographic area with the intention of

¹⁷ See generally *id.*

¹⁸ HUD Report, *supra* note 2.

¹⁹ *Id.*

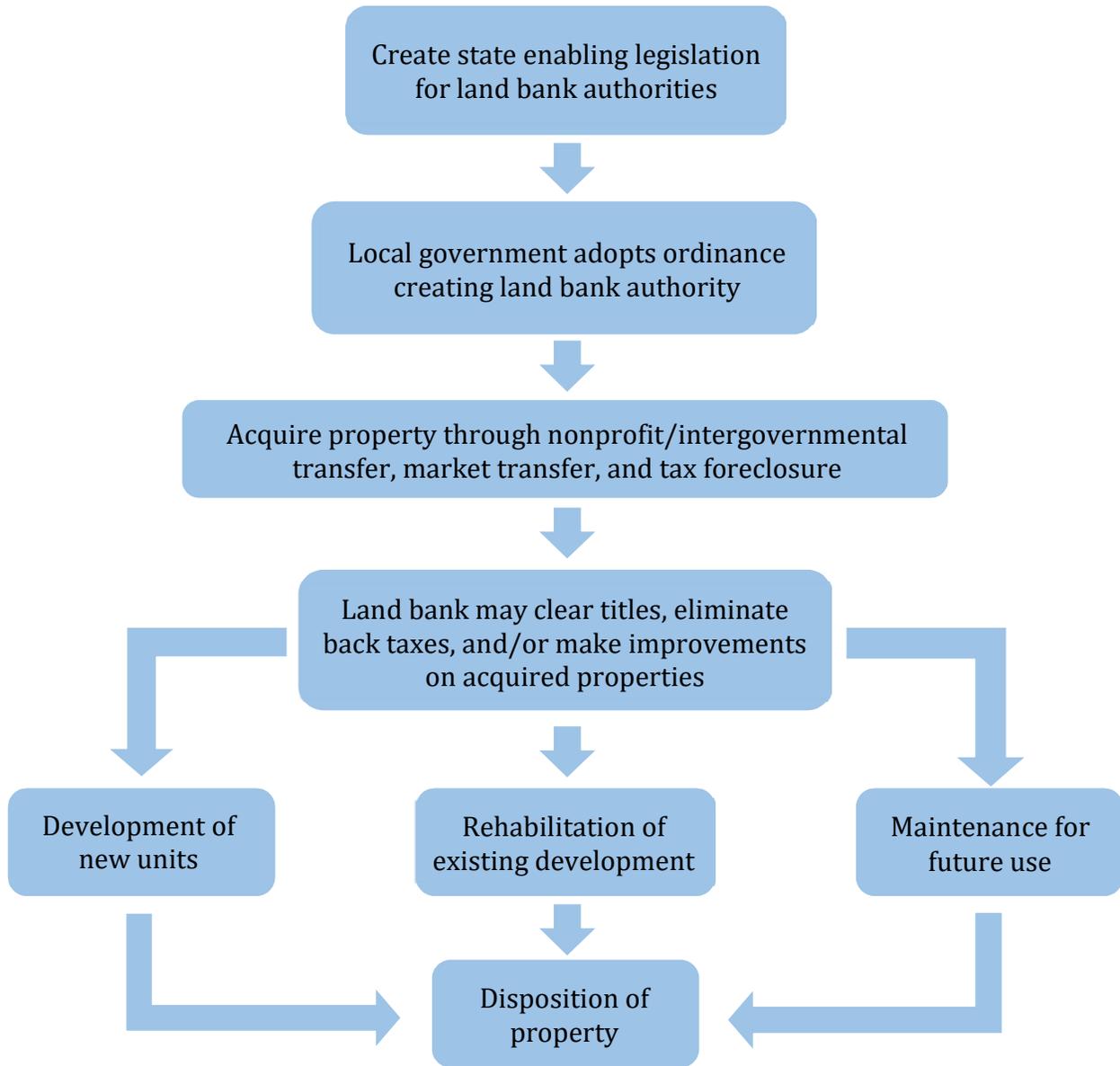
²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ Thaden et al., *supra* note 14.

Figure 1: Flow of Land Bank Creation and Functions



retaining ownership of the land for the long term.”²⁴ The CLT then leases the land for private use under a long-term agreement.²⁵ Land banks typically intervene early in the process to acquire “problem properties” and resolve their tax and title issues.²⁶ Land banks

²⁴ Rosalind Greenstein & Yesim Sungu-Eryilmaz, *Community Land Trusts: A Solution for Permanently Affordable Housing*, LAND LINES, Jan. 2007, at 9.

²⁵ *Id.*

²⁶ Thaden et al., *supra* note 14.

use their special powers to efficiently navigate the road to marketability for their acquired properties. The result is a more predictable outcome that is consistent with community goals. On the other hand, CLTs come in later in the process aiming to become the permanent, responsible owner that land banks look for.²⁷ CLTs do not look to actively manage blighted properties or clear titles if they can help it.²⁸ Thus, CLTs typically come in when the property is marketable and insurable.²⁹ Finally, CLTs often take land donated by local governments, which decreases cost for creating community assets.³⁰ CLTs may be a partial to the problems faced by the ECIA/EIRHA region; however, CLTs cannot provide the comprehensive action that a land bank can.

Another entity that is similar to a land bank is known as a redevelopment authority. A few states have passed legislation that grants redevelopment authorities many of the same powers as land banks. For the purposes of ease of comparison, we will discuss and compare what a redevelopment authority is in one state. A redevelopment authority has “broad powers to plan and implement activities needed to redevelop underutilized, deteriorated or blighted open areas, to encourage new development and to promote sound growth.”³¹ Although some states allow redevelopment authorities to also function as a land bank, most states differentiate the two in both their legal powers and mission.³² A

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *How to Establish a Redevelopment Authority*, DHCD 4 (July 2016), <https://www.mass.gov/files/documents/2016/07/pf/howtoestablisharedevelopemntauthority.pdf> [hereinafter *Redevelopment Authority*].

³² *See id.*

redevelopment authority typically has the power of eminent domain³³ and even to tax, both of which a land bank cannot do. Besides differences in legal powers, their missions are also quite different. Land banks generally focus on acquiring blighted properties and bringing them back to productive use. These blighted properties may not be an immediate redevelopment opportunity but destabilize neighborhoods and create a poor quality of life.³⁴ Land banks are community-focused entities and aim to address specific community needs in their regions. Redevelopment authorities generally focus on shorter-term redevelopment and large-scale projects with the goal of sweeping economic development.³⁵ Since focusing on specific community needs is important in the ECIA/EIRHA region, a land bank offers flexibility of disposition of property and a community-focused mission.

Key Takeaways

- **Land Bank:** A special-purpose governmental entity that focuses on the acquisition and management of vacant, abandoned, and foreclosed properties and the return of such properties to productive use.
- **Problems Land Banks Fix:** (1) lower property tax revenue; (2) decreased property values; (3) increased safety costs; and (4) destabilization of communities.
- Land banks typically need enabling legislation to grant them special powers so they can operate effectively and fulfill their purpose.
- **Typical Land Bank Special Powers:** (1) acquire property through tax foreclosure; (2) hold property tax-free; (3) can clear titles and eliminate back taxes on acquired properties; (4) lease properties for temporary use; and (5) more flexible with sales negotiations.
- **Flow of Land Bank Creation and Functions (Figure 1):** Create state enabling legislation → local government adopts ordinance creating land bank → acquire property → can clear title, eliminate back taxes, and/or make improvements → development of new units OR rehabilitation of existing development OR maintenance for future use → disposition of property.

³³ *Id.*

³⁴ See Encyclopedia, *supra* note 3.

³⁵ See generally Redevelopment Authority, *supra* note 30.

- **Community Land Trust:** Nonprofit, community-based organization that works to provide perpetually affordable home ownership opportunities. Acquires land and removes it from the speculative, for-profit, real estate market. CLT's hold the land they own "in trust" forever for the benefit of the community by ensuring that it will always remain affordable for homebuyers. Different from a land bank.
- **Redevelopment Authority:** Have broad powers to plan and implement activities needed to redevelop underutilized, deteriorated or blighted open areas, to encourage new development and to promote sound growth. Generally focus on shorter-term redevelopment and large-scale projects. Focuses more on broader long-term economic development goal. Different from a land bank.

The Process

A. Iowa Law

Passing land bank legislation requires an understanding of the relevant legal framework in the state, so we researched the status of Iowa law on (1) county and city government power; (2) taxation of property; and (3) tax sales.

1. County & City Government Power

Generally, county and city governments have broad governmental power. In what is known as “home rule” power, both types of governments are granted any power not inconsistent with Iowa state law.³⁶ In other words, county and city governments do not need express authorization or consent from state officials or the state legislature to govern local affairs.

Iowa state statutes do, however, set out limits on county and city government power. As a general rule a county or city may “exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges, and property of the [county/city] or of its residents, and to preserve and improve the peace, safety, health, welfare, comfort, and convenience of its residents,” as long as the action is not inconsistent with state law.³⁷ Addressing affordable housing issues fits well within this broad framework.

Counties and cities can sell, lease, and gift real property, but their conveyancing power is subject to some restrictions. In order to sell, lease for a term of more than three

³⁶ Iowa Constitution §§ 38A, 39A.

³⁷ Iowa Code §§ 331.301(1), 364.1.

years, or gift real property, counties and cities must (1) set forth the proposal in a resolution; (2) publish notice of and hold a public hearing on the issue; and (3) after the public hearing, approve or deny the proposal.³⁸ For gifts, the state additionally requires the gift be “for a public purpose.”³⁹ Cities can only gift real property to a “governmental body,” while counties have no likewise restriction.⁴⁰ We believe ECIA/EIRHA, as an intergovernmental organization of county and city governments, fits within the statute’s broad definition of “governmental body.”⁴¹ This gives ECIA/EIRHA some flexibility in any future actions it wishes to take, which are discussed below.

Notably, port authorities in Iowa have the same statutory “home rule” powers as municipalities and cities, including broad powers to hold and convey real property.⁴² Additionally, property owned by port authorities are exempt from taxation.⁴³ The Southeast Iowa Regional Economic and Port Authority (“SIREPA”) is looking into using its port authority powers to establish a land bank.⁴⁴

³⁸ Iowa Code §§ 331.361(2), 364.7.

³⁹ Iowa Code §§ 331.361(4), 364.7(3).

⁴⁰ Iowa Code § 364.7(3); *see* Iowa Code 331.361.

⁴¹ Iowa Code § 362.2(11) (“Governmental body’ means the United States of America or an agency thereof, a state, a political subdivision of a state, a school corporation, a public authority, a public district, or any other public body.”).

⁴² Iowa Code § 28J.9(10).

⁴³ Iowa Code § 28J.19.

⁴⁴ Email from Travis Krause, IISC Assistant Director, forwarding email from Mike Norris, Executive Director of Southeast Iowa Regional Planning Commission, April 12, 2018.

2. Taxation of Property

One concern for land banks is the cost of holding and maintaining property. For this reason, taxes on real property and real property transactions have the potential to be a burden on land banks and deteriorate their effectiveness.

As state law stands now, land bank property would likely be subject to the state property tax. All property in the state is taxed unless the property meets an exception, and property owned by a land bank or similar organization do not appear to meet any of the exceptions.⁴⁵ Of note, an exception exists for property of a county or city, so long as that property is “devoted to public use and not held for pecuniary profit.”⁴⁶ Therefore, county and city property held as affordable housing or for rehabilitation for eventual affordable housing would not be subject to the state property tax.

Real estate transfers between a land bank organization and a county or city would not be subject to the real estate transfer tax. Generally, the real estate transfer tax places additional costs on all transfers of real property in the state.⁴⁷ However, an exception to this tax exists if a “governmental or political subdivision” of the state of Iowa (i.e., a county or city) is on either side of the transaction.⁴⁸ Therefore, a land bank organization could freely transfer property with counties and cities without being subject to the real estate transfer tax.

⁴⁵ Iowa Code § 427.1.

⁴⁶ Iowa Code § 427.1.

⁴⁷ Iowa Code § 428A.1.

⁴⁸ Iowa Code § 428A.2(6).

3. Tax Sales

We also performed cursory research on tax sale law in Iowa. Although tax delinquent properties do not appear to be a major issue in the ECIA/EIRHA regions, tax delinquency is an issue frequently addressed in statewide land bank legislation.

Iowa operates under a tax lien certificate system.⁴⁹ This means that if property owners do not pay their taxes, the county does not auction off their property outright at the tax sale. Instead, the county auctions off a certificate to partial ownership in the property if the certificate is not redeemed by the owner by paying the back taxes within a certain timeframe. This redemption period is usually one year and nine months in Iowa.⁵⁰ This period is important to land banks because it signifies how quickly a tax delinquent property can be transferred to a land bank for rehabilitation back into tax-producing status.

Counties and cities can purchase properties in tax sales in limited situations. Counties and cities can bid on properties, but they must bid against the general public in doing so; there is currently no option for counties or cities for a right of first refusal on tax sale property.⁵¹ Additionally, counties must bid for the sum of the amount of taxes due if there are no bidders or if the lowest bid is lower than the amount of taxes due.⁵²

There are special provisions to speed up the tax sale process if the property is abandoned or deemed a public nuisance. In these cases, the redemption period is

⁴⁹ See Iowa Code ch. 445.

⁵⁰ Iowa Code § 447.9.

⁵¹ Iowa Code § 446.19.

⁵² Iowa Code § 446.19.

shortened to three months.⁵³ In an abandoned property tax sale, the county or city acquires a certificate for abandoned property or a vacant lot for the purpose of turning that unused property into residential housing.⁵⁴ The county or city can then assign the certificate to a private party, as long as the private party agrees to use the property for housing. Public nuisance tax sales relate to abandoned property that is or is going to become a public nuisance.⁵⁵ Purchasers at public nuisance tax sales must enter into an agreement with the county or city that they will rehabilitate the property for use as housing. For both abandoned property and public nuisance tax sales, the county or city must pass an ordinance allowing these types of expedite tax sales before using these provisions.⁵⁶

Key Takeaways

- Iowa counties and cities have broad “home rule” power.
- Counties and cities have broad powers to convey real property, but procedural hurdles exist if they will to sell, lease for a term of more than three years, or gift property.
- Land bank property would likely be subject to the state property tax, but property owned by counties and cities is exempt from the property tax.
- Tax sales in Iowa are characterized by long periods of redemption, although certain types of tax sales relating to abandoned property and public nuisances can reduce the redemption period dramatically.

⁵³ Iowa Code § 447.9.

⁵⁴ Iowa Code § 446.19A.

⁵⁵ Iowa Code § 446.19B.

⁵⁶ Iowa Code §§ 446.19A(1), 446.19B(1).

B. Legislation from Other Jurisdictions

The Center for Community Progress (“CPC”) analyzed land bank statutes in ten states⁵⁷ along the following categories: (1) whether the state passed enabling legislation; (2) intent, property, and focus of land bank operations; (3) how the entity is created; (4) board of directors; (5) staffing; (6) powers of land banks; (7) financing of land banks; (8) real property acquisition and inventory; (9) disposition of real property; (10) correlation to tax foreclosure process; and (11) dissolution of land banks.⁵⁸

1. State Land Bank Legislation

In all ten states examined, the state legislature passed land bank legislation that governed how land banks are created and what powers they have.⁵⁹ Notably, half of the states put some restrictions on which regions can form a land bank. These vary from Ohio’s requirement that the land bank be formed only in counties with populations greater than 60,000 to Nebraska’s limitation to the state’s largest city, Omaha.⁶⁰

2. Intent, Property, and Focus of Land Bank Operations

Tackling the issue of tax delinquent properties was a focus of legislation in all of the states surveyed, which is consistent with the boom of land banks in the last decade as a means to counteract the 2008 housing market collapse.⁶¹ Most of the jurisdictions also

⁵⁷ The ten states are Michigan, Ohio, New York, Georgia, Tennessee, Missouri, Pennsylvania, Nebraska, Alabama, and West Virginia.

⁵⁸ Center for Community Progress, *Land Banks and Land Banking*, Appendix C (2nd ed. 2015).

⁵⁹ Center for Community Progress, *Land Banks and Land Banking*, at 129.

⁶⁰ Ohio Rev. Code Ann. § 1724.04; Neb. Rev. Stat. §§ 19-5203 to -5204.

⁶¹ Center for Community Progress, *Land Banks and Land Banking*, at 8, 129.

addressed vacant and abandoned property,⁶² while three states contemplated land bank's role in facilitating property redevelopment.⁶³

All of the states surveyed empower land banks to deal with certain types of properties in the first substantive section of the statute, commonly referred to as the "purpose" or "legislative findings" section.⁶⁴ As an example, the Ohio land bank statute allows land banks to be formed for the purpose of:

- (1) Advancing, encouraging, and promoting the industrial, economic, commercial, and civic development of a community or area; or
- (2)
 - (a) Facilitating the reclamation, rehabilitation, and reutilization of vacant, abandoned, tax-foreclosed, or other real property within the county for whose benefit the corporation is being organized, but not limited to the purposes described in division (B)(2) of this section;
 - (b) Efficiently holding and managing vacant, abandoned, or tax-foreclosed real property pending its reclamation, rehabilitation, and reutilization;
 - (c) Assisting governmental entities and other nonprofit or for-profit persons to assemble, clear, and clear the title of property described in this division in a coordinated manner; or
 - (d) Promoting economic and housing development in the county or region.⁶⁵

A broad authorization such as this one allows land banks throughout the state to be flexible in how they approach and address housing issues in their communities.

3. How the Entity is Created

After land bank legislation is passed, all states surveyed but two do not require state approval to form a local land bank entity.⁶⁶ Those states that do require state approval,

⁶² Center for Community Progress, *Land Banks and Land Banking*, at 129.

⁶³ Center for Community Progress, *Land Banks and Land Banking*, at 129; see Ohio Rev. Code Ann. § 1724.01(B)(2), (D); Ala. Code § 24-9-2; W. Va. Code § 31-18E-2(6).

⁶⁴ See, e.g., Ohio Rev. Code Ann. § 1724.01(B)(2), (D); Ala. Code § 24-9-2; W. Va. Code § 31-18E-2(6).

⁶⁵ Ohio Rev. Code Ann. § 1724.01(B).

⁶⁶ See, e.g., Ohio Rev. Code Ann. § 1724.04; Tenn. Code Ann. § 13-30-104(b); Mo. Rev. Stat. § 141.980.1.

Michigan and New York, do so for different reasons. Michigan requires state approval only if counties or cities wish to jointly exercise land-bank powers with the state economic development corporation of housing development authority.⁶⁷ New York requires the state urban development corporation to approve land bank proposals in order to enforce its cap (25) on the number of land banks in the state.⁶⁸ Not requiring state approval allows counties and cities to form land banks of their own accords, under the formation procedures set out in the state statute.

About half of the statutes surveyed allow a county alone, a city alone, or a county and one or more cities to be the creating entity for a land bank.⁶⁹ The specific method of creation in most cases is by local ordinance, although a majority statutes do allow for intergovernmental agreements to form land banks as well.⁷⁰ No statute surveyed appears to contemplate whether an association of county and local governments, such as ECIA, could form a land bank directly.

Pennsylvania's land bank statute lays out its rules on who can create a land bank particularly well. The statute clearly sets out which local entities can pass an ordinance to create and land bank and then sets out rules for how those entities can enter into intergovernmental agreements to jointly establish a land bank.⁷¹ The Pennsylvania statute

⁶⁷ Mich. Comp. Laws § 124.773.

⁶⁸ N.Y. Not-for-Profit Corp. § 1603(g). New York is the only state in the states surveyed that enforces a limit on the number of land banks in the state. Center for Community Progress, *Land Banks and Land Banking*, at 130.

⁶⁹ N.Y. Not-for-Profit Corp. § 1603; Tenn. Code Ann. § 13-30-104; 68 Pa. Cons. Stat. § 2104; W. Va. Code §§ 31-18E-3 to -4; *see also* Center for Community Progress, *Land Banks and Land Banking*, at 129.

⁷⁰ Center for Community Progress, *Land Banks and Land Banking*, at 129.

⁷¹ 68 Pa. Cons. Stat. § 2104(a), (c).

also lays out specific requirements for what information must be in such an ordinance or intergovernmental agreement, such as the name of the land bank, who is on the board of directors, and any additional restrictions the creating entity wants to place on the land bank.⁷²

4. Board of Directors

In all ten jurisdictions, land banks are led by a board of directors.⁷³ On average, boards of directors for land banks have five to eleven members.⁷⁴ The states surveyed vary greatly in terms of how they address land bank governance, but almost all contemplate the following four areas: (1) who can serve on the board of directors; (2) voting procedures for disposition of land bank property; (3) conflicts of interest and ethics policies; and (4) whether the meeting are subject to open meetings and records laws.⁷⁵

Some states set strict limits on who can serve on the board of directors, but others are silent on the issue. Almost all states surveyed allow public officers and employees to serve as board members.⁷⁶ In Tennessee and Nebraska, board members are required to be residents of the jurisdiction.⁷⁷ Missouri requires school district representation.⁷⁸ Pennsylvania, Nebraska, and West Virginia require at least one board member who is either a resident, not a public official or employee, and a member of a civic organization.⁷⁹

⁷² 68 Pa. Cons. Stat. § 2104(a).

⁷³ Center for Community Progress, *Land Banks and Land Banking*, at 130.

⁷⁴ Center for Community Progress, *Land Banks and Land Banking*, at 130.

⁷⁵ Center for Community Progress, *Land Banks and Land Banking*, at 130.

⁷⁶ Center for Community Progress, *Land Banks and Land Banking*, at 130.

⁷⁷ Tenn. Code Ann. § 13-30-105(a); Neb. Rev. Stat. § 19-5205(1)(b).

⁷⁸ Mo. Rev. Stat. § 141.981(1).

⁷⁹ 68 Pa. Cons. Stat. § 2105(b)(3); Neb. Rev. Stat. § 19-5205; W. Va. Code § 31-18E-5(b)(3).

Ohio and Nebraska require representation from private-sector land developers.⁸⁰ Michigan, New York, Georgia, and Alabama take a more relaxed approach and allow the creating body of each land bank to decide the qualifications of board members instead of proscribing uniform rules through statute.⁸¹

Generally, actions taken and decisions made by a land bank must be approved by a majority of presenting voting members.⁸² However, most statutes have nearly identical language that provides for certain important actions must be approved by a majority of the entire board (whether present or not). These actions that require additional voting requirements are the adoption of bylaws, “hiring or firing of an employee or contractor,” incurring debt, adoption of the annual budget, and “sale, lease, encumbrance or alienation of real property or personal property with a value of more than \$50,000.”⁸³

Almost all land bank statutes have express provisions covering conflicts of interest.⁸⁴ These sections prevent land bank directors or employees from having any interest in owned or disposed of by the land bank. Most statutes also allow the board of directors to implement stricter ethics standards than the minimums set by law.⁸⁵ Statutes

⁸⁰ Ohio Rev. Code Ann. § 1724.03(B) (requiring at least one board member to have “experience in rehabilitation or real estate acquisition”); Neb. Rev. Stat. § 19-5205(1)(e), (f) (requiring representation from the chamber of commerce, banking, real estate development, realtors, affordable housing professionals, and large-scale property renters).

⁸¹ Mich. Comp. Laws. § 124.773(6)(d); N.Y. Not-for-Profit Corp. § 1603(a)(4); Ga. Code Ann. § 48-4-103(a)(4); Ala. Code § 24-9-10(c)(4).

⁸² See, e.g., Ga. Code Ann. § 48-4-104(i); Tenn. Code Ann. § 13-30-106(g); Neb. Rev. Stat. § 19-5205(8).

⁸³ See, e.g., Ga. Code Ann. § 48-4-104(i); Tenn. Code Ann. § 13-30-106(g); Neb. Rev. Stat. § 19-5205(9).

⁸⁴ Center for Community Progress, *Land Banks and Land Banking*, at 130.

⁸⁵ Center for Community Progress, *Land Banks and Land Banking*, at 130.

either provide independent language on conflicts of interest for land banks or incorporate ethics provisions that already exist in another section of the state's laws.⁸⁶

Legislation in almost all states surveyed required that land bank board of directors be subject to open meetings and records laws.⁸⁷

5. Staffing

Staffing of land banks is flexible, with all states allowing for permanent or temporary land bank staff and almost all allowing for land banks to contract with cities to fill staffing needs.⁸⁸ These various options for staffing are another strength of a land banks and emphasize their flexibility in operation.

6. Powers of Land Banks

The powers that legislation grants land banks is one of the major reasons legislation is required for a large-scale, flexible land bank operation. All states surveyed endow land banks with the broad authorization to use "all powers necessary" to carry out their purpose.⁸⁹ Land bank statutes start with this broad authorization, but they explicitly list various powers as well. All or nearly all of the states surveyed empower land banks to adopt bylaws, sue and be sued, enter into intergovernmental agreements, collaborate regionally, procure insurance, contract with third parties, develop a redevelopment plan, develop and demolish real property, lease real property, charge fees for services, and hold

⁸⁶ Compare N.Y. Not-for-Profit Corp. § 1614 (providing independent standards) with 68 Pa. Cons. Stat. § 2115(b) (incorporating standards from another section of the state's laws).

⁸⁷ Center for Community Progress, *Land Banks and Land Banking*, at 130.

⁸⁸ Center for Community Progress, *Land Banks and Land Banking*, at 130.

⁸⁹ Center for Community Progress, *Land Banks and Land Banking*, at 131.

real property tax free.⁹⁰ Land banks do not have to sell property to the highest bidder; instead, they can use other goals, such as increasing affordable housing, to decide who to sell to. Many statutes surveyed have nearly identical language that allows the creating entity to set the priorities for property disposition.⁹¹ The four priorities usually listed are using the land for public spaces, affordable housing, conservation, and “retail, commercial and industrial activities.”⁹²

Land banks generally do *not* have the power to enforce building codes or the power of eminent domain, and a land bank that seeks those powers would need to have specific language in the enabling legislation to that effect.⁹³

7. Financing of Land Banks

Land bank legislation gives great flexibility to how land banks may be financed. All of the states surveyed allow land banks to receive grants, gifts, rental payments, payments for services, and payments from property sales.⁹⁴ Almost all states allow land banks to borrow money, invest money, and procure insurance for payment of debt.⁹⁵ Most even give land banks the power to issue revenue bonds.⁹⁶

⁹⁰ Center for Community Progress, *Land Banks and Land Banking*, at 131.

⁹¹ *See, e.g.*, N.Y. Not-for-Profit Corp. § 1609(e); Ga. Code Ann. § 48-4-109(f); Tenn. Code Ann. § 13-30-111(e); Mo. Rev. Stat. § 141.985(5).

⁹² *See, e.g.*, N.Y. Not-for-Profit Corp. § 1609(e); Ga. Code Ann. § 48-4-109(f); Tenn. Code Ann. § 13-30-111(e); Mo. Rev. Stat. § 141.985(5).

⁹³ Center for Community Progress, *Land Banks and Land Banking*, at 131.

⁹⁴ Center for Community Progress, *Land Banks and Land Banking*, at 132.

⁹⁵ Center for Community Progress, *Land Banks and Land Banking*, at 132.

⁹⁶ Center for Community Progress, *Land Banks and Land Banking*, at 132; *see, e.g.*, Ohio Rev. Code Ann. § 1724.02(A)(1)(a), (b); Mo. Rev. Stat. § 141.994.1; Neb. Rev. Stat. §§ 19-5207(d), 5212.

One creative form of financing built into many statutes is giving land banks a substantial percentage of the taxes from property disposed of by the land bank for three to five years. For example, Pennsylvania gives its taxing authorities discretion to give land banks a portion of the property taxes collected from property conveyed by the land bank, with a ceiling of a period of five years and 50% of the total property tax revenue generated by the property.⁹⁷ Georgia follows a similar approach, except that its ceiling is 75% of the total property tax revenue and it allows the specific percentage to be set by the creating entity (i.e., by local ordinance or resolution or by intergovernmental agreement).⁹⁸

8. Real Property Acquisition and Inventory

Land banks can acquire real property from a variety of means, including transfers from property owned by the city, gift, devise, transfer, exchange, or purchase.⁹⁹ In all states surveyed, the legislation allows for property transfers from municipalities.¹⁰⁰ Legislation generally prohibits land banks from owning property outside of their geographic regions.¹⁰¹

Land bank property is generally still subject to building codes and zoning laws, and almost all land banks are required to maintain a public inventory of all property held by the land bank.¹⁰² New York, for example, requires its land bank inventories to include the following information: “the location of the parcel; the purchase price, if any, for each parcel

⁹⁷ 68 Pa. Cons. Stat. § 2111(c).

⁹⁸ Ga. Code Ann. § 48-4-110(c).

⁹⁹ Center for Community Progress, *Land Banks and Land Banking*, at 132.

¹⁰⁰ Center for Community Progress, *Land Banks and Land Banking*, at 132; *see, e.g.*, 68 Pa. Cons. Stat. § 2109(d).

¹⁰¹ Center for Community Progress, *Land Banks and Land Banking*, at 132.

¹⁰² Center for Community Progress, *Land Banks and Land Banking*, at 132.

received; the current value assigned to the property for purposes of real property taxation; the amount, if any, owed to the locality for real property taxation; the identity of the transferor; and any conditions or restrictions applicable to the property.”¹⁰³

9. *Disposition of Real Property*

All states surveyed grant land banks broad conveyancing powers. This includes the power to contract with third parties.¹⁰⁴ Land banks are free from the usual bidding restrictions placed on public entities; they generally do have to accept offers over the fair market value and can sell property for less than fair market value.¹⁰⁵ Legislation on this point either provides its own language providing for broad conveyancing power or specifically exempts land banks from state public authority property disposition laws.¹⁰⁶

Additionally, most land banks have the option of accepting non-monetary consideration when conveying property.¹⁰⁷ This allows land banks to be creative in what they accept in exchange for conveying its properties, such as requiring the purchaser to renovate or conserve the property as consideration for the deal.¹⁰⁸

¹⁰³ N.Y. Not-for-Profit Corp. § 1608(h).

¹⁰⁴ Center for Community Progress, *Land Banks and Land Banking*, at 133.

¹⁰⁵ Center for Community Progress, *Land Banks and Land Banking*, at 133.

¹⁰⁶ Compare Mich. Comp. Laws § 124.757(1) (“Except as an authority otherwise agrees by intergovernmental agreement or otherwise, on terms and conditions, and in a manner and for an amount of consideration an authority considers proper, fair, and valuable, including for no monetary consideration, the authority may convey, sell, transfer, exchange, lease as lessor, or otherwise dispose of property or rights or interests in property in which the authority holds a legal interest to any public or private person for value determined by the authority.”) with N.Y. Not-for-Profit Corp. § 1609 (“This section governing the disposition of property by land banks shall supersede section twenty-eight hundred ninety-seven of the public authorities law in the governance of property dispositions by land banks . . .”).

¹⁰⁷ Center for Community Progress, *Land Banks and Land Banking*, at 133.

¹⁰⁸ See, e.g., N.Y. Not-for-Profit Corp. § 1609(c) (allowing consideration to take the form of “covenants and conditions related to the present and future use of the property [or] contractual commitments of the transferee”).

10. Correlation to Tax Foreclosure Process

Almost all legislation in the states surveyed allow land banks to bid at tax sales, but legislation varies greatly on land bank's role in tax foreclosures after that.¹⁰⁹ Legislation in some states grant land banks special powers during tax sales, such as the ability to issue credit bids,¹¹⁰ issue trump bids,¹¹¹ and purchase tax liens from the city.¹¹² The different approaches to land banks and the tax foreclosure process represent the struggle between protecting individual property rights and empowering land banks to control tax delinquent property and turn it back into tax-producing status for the public good.

11. Dissolution of Land Banks

All of the states surveyed contemplated dissolution of land banks in their legislation.¹¹³ For all states, land banks are permanent until dissolved.¹¹⁴ States are split in what kind of vote is required by the board of directors and whether passing an ordinance is required to dissolve a land bank, but many require a two-thirds vote of the board of directors.¹¹⁵ Generally, all assets of a dissolved land bank with go back to the entities that created the land bank (i.e, counties and cities).¹¹⁶

¹⁰⁹ See Center for Community Progress, *Land Banks and Land Banking*, at 133.

¹¹⁰ N.Y. Not-for-Profit Corp. § 1616(h), (i); Mo. Rev. Stat. § 141.560.3.

¹¹¹ N.Y. Not-for-Profit Corp. § 1616(i); Neb. Rev. Stat. § 19-5217(1)(a)(ii) (empowering land banks to “give an automatically accepted bid on such real property in an amount equal to the total amount of taxes, interest, and costs due on the real property” at tax sales).

¹¹² See, e.g., Ohio Rev. Code Ann. § 1724.02(M); Ga. Code Ann. § 48-4-112(c), (d), (e).

¹¹³ Center for Community Progress, *Land Banks and Land Banking*, at 134.

¹¹⁴ Center for Community Progress, *Land Banks and Land Banking*, at 134.

¹¹⁵ See, e.g., Ga. Code Ann. § 48-4-111(c)(1); W. Va. Code § 31-18E-5(h)(3).

¹¹⁶ Center for Community Progress, *Land Banks and Land Banking*, at 134.

Key Takeaways

- Most land bank statutes are substantially similar, but they differ based on unique problems faced by the state and how they fit into the broad scheme of their state's law.
- Land bank legislation should include the following sections: purpose, definitions, creation of land banks, board of directors, conflicts of interest, powers, financing, acquisition of property, disposition of property, tax sale procedures, and dissolution of land banks.
- Creation of a land bank by a county or a city, or a combination of two or more counties or cities through an intergovernmental agreement allows statewide flexibility in who can create a land bank.
- Land bank legislation grants land banks "all powers necessary" to carry out their purpose, plus lists enumerated powers.
- Land bank financing is flexible and can come from a variety of means—from state and federal grants to loans. Granting land banks remunerated property tax on property they convey is a creative way to build funding into the legislation.
- Acquisition and disposition of land bank property is free from much of the usual red tape concerning public entity transactions under enabling legislation.

C. Land Banks from Other Jurisdictions

Our assessment of other land banks was informed by a variety of factors. We wanted to find land banks that operated in environments similar to that in Eastern Iowa, but also wanted to look at successful land banks across the country, regardless of their demographic situation. To gauge success, we looked at the number of properties that land banks owned or had redeveloped, as well as the amount and sources of their funding. We identified several land banks that we believe illustrate the potential that a successful land bank can unlock, which are listed in the appendices and ancillary materials to this report, but we have singled out two in particular—the Marquette County Land Bank Authority, in Michigan, and the Albany County Land Bank Corporation, in New York—as exemplars of what a land bank could be.

1. Capital Crossroads (Des Moines, Iowa)

Before getting to the successful land banks, we want to start by flagging an example of an apparently unsuccessful land bank initiative from Iowa. Capital Crossroads in Des Moines has been working on a land bank project for several months. However, it seems to be on the backburner and instead may be incorporated into a broader neighborhood revitalization plan. Realistically, if ECIA/EIRHA were to pursue a land bank, you would need to pave the way due to the minimal amount of work that has been completed on this subject by other organizations in Iowa. Thus, it will be important to see how other specific jurisdictions are handling the process of physically organizing land banks, then look more generally at how states are structuring them under the law.

2. Marquette County Land Bank Authority (Michigan)

The first land bank to look at is the Marquette County Land Bank Authority (“MCLBA”) in Michigan. We chose this land bank due to the similar layout of towns in the area along with the available inventory. This land bank also shows how a smaller land bank can still run successfully and benefit the communities under its jurisdiction in a number of important ways. Marquette County consists of mainly rural towns with generally smaller inventories of blighted properties with Ishpeming City having a higher concentration of blight.¹¹⁷ This would be similar to the Eastern Iowa region consisting of small rural towns with generally low inventories, while larger inventories will be found closer to the few bigger cities within the region. MCLBA has acquired 142 properties since 2009, returning all but 55 to tax producing status.¹¹⁸ Funding for MCLBA has increased significantly in the past 2 years due to Ishpeming City receiving \$250,000 through a Hardest Hit Fund in August 2016 for blight elimination.¹¹⁹ Then in 2017, MCLBA received \$137,525 in state blight funding for blight elimination in Negaunee City and Ishpeming City.¹²⁰

The mission of MCLBA is to work collaboratively with local governmental units and community organizations, in determining the best way to return tax-foreclosed properties to the tax roll, while eliminating blight, providing affordable housing and economic development opportunities and revitalizing communities.¹²¹ To fulfill this mission, MCLBA

¹¹⁷ *2017 Annual Report*, MCLBA, http://www.co.marquette.mi.us/departments/county_treasurer/docs/2017%20LBA%20annl%20rpt.pdf (last visited Apr. 17, 2018).

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *Id.*

maintains strong community partnerships to actively involve the communities in the revitalization efforts. One particularly innovative and effective partnership started in 2015 with Ishpeming High School.¹²² The concept involved eliminating blight in the area surrounding the Ishpeming High School campus and incorporate student work in doing so.¹²³ From this concept, Hermatites Building Better Neighborhoods was born signing a two-year contract with the land bank.¹²⁴ The Construction Trades class is given a house by the MCLBA and renovate the property themselves as they participate in every aspect of the building process. The MCLBA then use the proceeds from the sale of the completed renovation projects to continue the program.¹²⁵

The MCLBA also formed a coalition with Community Action Alger Marquette and Marquette County Habitat for Humanity to create the Habitat Homeowner Repair program.¹²⁶ This program assists local low-income families with repairs that need to be made with their homes.¹²⁷ The funding for this program comes in part from the land bank, the Community Foundation of Marquette County, and TruNorth Credit Union.¹²⁸ Additionally, Habitat for Humanity is renovating a property in Ishpeming owned by the land bank. The proceeds from the eventual sale will help benefit the repair program.¹²⁹ It is very evident from this land bank that community buy-in is a crucial factor in continued

¹²² 2015 Annual Report, MCLBA, http://www.co.marquette.mi.us/departments/county_treasurer/docs/2015%20LBA%20annl%20rpt.pdf (last visited Apr. 17, 2018).

¹²³ Id.

¹²⁴ Id.

¹²⁵ Id.

¹²⁶ 2017 Annual Report, *supra* note 40.

¹²⁷ Id.

¹²⁸ Id.

¹²⁹ Id.

success of the land bank. Another jurisdiction that supports this point is located in Albany County, New York.

3. Albany County Land Bank Corporation (New York)

The Albany County Land Bank Corporation (ACLBC) is a perfect example of a prospering land bank. Established in 2014, the ACLBC consists mainly of urban property. In that short period, they have acquired over 600 properties including a mix of buildings and vacant lots.¹³⁰ Between 2016–2017, the ACLBC acquired 470, of which 267 were in focus neighborhoods.¹³¹ Since establishment, the ACLBC has incentivized \$7.7 million in private investment, sold 96 formerly vacant properties, enable \$5.3 million in assessed value to return, invested \$2.4 million in property improvements, and have engaged hundreds of partners and residents.¹³² These staggering numbers are the result of several factors employed by the land bank in order to achieve their mission of improving neighborhoods and strengthening communities throughout Albany County.

The ACLBC has been generously supported through grants made by the New York State Attorney General’s Office.¹³³ With these funds they have invested heavily in the communities and make community outreach and engagement a staple in their business model. The land bank implemented a “Spend a Little, Get a LOT!” program that allows local residents to purchase small lots on the same block for just \$100.¹³⁴ These vacant lots have

¹³⁰ *2016/2017 Annual Report*, ACLBC (Sept. 2017), http://albanycountylandbank.org/dev/wp-content/uploads/2017/10/ACLB-2016_2017-Annual-Report-10-11-17-FINAL.pdf.

¹³¹ *Id.*

¹³² *Id.*

¹³³ *Id.*

¹³⁴ *Id.*

previously garnered little to no interest since acquired by the land bank. The ACLBC also used these lots to further the interests of the community by selling series of contiguous lots to a local nonprofit to create a Community Food System, which includes a large community garden to increase access to healthy foods for the local residents.¹³⁵ This food system will also create volunteer and vocational training opportunities for the residents to provide a number of benefits for the community members, as well as the local economy.¹³⁶ Perhaps one of the more well-known projects in the ACLBC is the use of art to bring attention to blight. Known as Breathing Lights, multiple cities joined in by lighting vacant houses with pulsing lights each night. Breathing Lights won the first-ever Bloomberg Philanthropies Public Art Challenge and was rewarded with a grant.¹³⁷ The ACLBC permitted 30 buildings to be used for this purpose and used the opportunity to co-host building reclamation workshops. The ACLBC hosted 25 open houses, workshops, and events as well as offered 75 one-on-one assistance sessions.¹³⁸ All of these aspects of the ACLBC allowed them to be 1 of 3 total recipients of a scholarship from Community Progress' National Technical Assistance Scholarship Program, which provides technical assistance from a team of community development experts to help develop innovative and meaningful approaches to reclaiming vacant property.¹³⁹

The ACLBC places a heavy emphasis on community buy-in and continuously tries to find new and innovative ways to acquire and sell property.¹⁴⁰ In the past two examples,

¹³⁵ 2016/2017 Annual Report, *supra* note 53.

¹³⁶ *Id.*

¹³⁷ *Id.*

¹³⁸ *Id.*

¹³⁹ *Id.*

¹⁴⁰ *See generally* 2016/2017 Annual Report, *supra* note 53.

there are some commonalities that are noticeable and seem to promote successful operation of a land bank and allow the land bank to better help the community. First, community buy-in is key. Both of these land banks have made it a point to embrace their community members and actively engage them in the process of acquiring, maintaining, and selling properties. The greater the community buy-in, the more community members will enjoy the benefits and the more the state legislators will support the program. Second, the land banks operate with the communities within its jurisdiction in mind. They identify and address community-specific issues and thus facilitate private investment, which results in value returned to the community and to the tax rolls. Finally, both of these land banks make partnerships to innovate the process of acquiring, maintaining, and selling. From Marquette County's high school vocational training program used to rehabilitate acquired properties to Albany finding ways to generate interest and sell numerous small vacant lots to community member, innovation is key to growing and maintaining a land bank.

Key Takeaways

- **Capital Crossroads** in Des Moines, Iowa, began looking into land banks; however, the project has stalled and has made little progress.
- **Marquette County Land Bank Authority** (Michigan)
 - Similar landscape of Eastern Iowa; mix of rural with a few urban areas.
 - Has run successfully since 2009, due in large part to heavy community buy-in.
 - Community partnerships with local high school construction program, Habitat for Humanity, and Community Action Alger Marquette.
- **Albany County Land Bank Corporation** (New York)
 - Established in 2014, yet is astonishingly successful and operates as an innovative land bank.
 - Success attributable to heavy community buy-in and innovative operations.
 - Numerous community partnerships.

- Sold land to be used as a community garden, started program to sell lots, with previously no prospective buyers, to local residents for \$100, and have open houses and workshops for the local residents.
 - Started conversation on blighted properties through art display called Breathing Lights, which transformed into a community wide art display.
 - Received TASP grant to further improve technical assistance and progress.
 - Prime example of what happens when a land bank is successfully and effectively implemented.
- **Key Factors for Success:** (1) community buy-in; (2) community-centered vision; (3) continuous, active involvement; and (4) innovative thinking to push community needs forward and to maintain successful operation.

The Recommendation

A. What ECIA/EIRHA Can Do Now

Although passing land bank legislation in Iowa is the best way to create a flexible and effective land bank, that is a long-term goal. There are some steps that ECIA/EIRHA can take in the short term to start addressing some of the affordable housing issues in the region. Generally, acting without legislation requires ECIA/EIRHA to make use of county and city “home rule” power. Using a transaction-by-transaction approach, ECIA/EIRHA can begin to acquire properties and get them back to use for the public good in two ways: (1) leasing problem properties from counties and cities; and (2) acquiring property from counties and cities as gifts.

1. Lease Problem Properties from Counties and Cities

Leasing problem properties from counties and cities is a way for ECIA/EIRHA to have some control over the property while keeping the county or city as the owner, keeping the property tax exempt. If the leases are for a term of less than three years, ECIA/EIRHA and the county or city do not have to go through the procedural requirements set by state law. For this reason, we recommend entering into renewable two-year leases to eliminate some of the red tape surrounding the transaction. The lease agreements could give ECIA/EIRHA broad control over the property to renovate it or otherwise make it marketable, but the county or city owning the property would have to take on the task of providing for permanent disposition of the property, such as selling the property to a private developer or to ECIA/EIRHA to be used as one of its rental properties.

2. Acquire Property from Counties and Cities as Gifts

Acquiring properties from counties and cities as gifts is another option that can be taken separately or concurrently with the leasing option. Counties and cities may be eager to unload some abandoned or blighted properties onto ECIA/EIRHA. ECIA/EIRHA can then use its existing programs or contract with a private developer to improve the property or find a buyer who promises to renovate the property or turn it into affordable housing. Although counties and cities can gift property to private organizations and individuals, they must do so “for a public purpose,” according to state law. Therefore, ECIA/EIRHA should make sure counties and cities gifting property make sure to document that the gift is for a public purpose (i.e., increasing access to affordable housing).

* * *

As a corollary to these strategies ECIA/EIRHA, can encourage counties and cities to use the abandoned property tax sale and public nuisance tax sale provisions to gain control of problem properties in their communities.

These strategies have their own limitations and are not intended to replace the need for legislation. There are many issues that could be contemplated by legislation that these strategies do not address. For example, a land bank statute could increase access to various forms of financing, grant power to dispose of property according to public purpose instead of the highest bidder, and increase ECIA/EIRHA’s ability to acquire a greater number of problem properties. These non-legislative strategies also restrict ECIA/EIRHA’s available courses of action, while legislation empowers land banks with flexibility to tackle this issue in creative ways.

Key Takeaways

- While pursuing land bank legislation, ECIA/EIRHA can work with counties and cities to use their “home rule” power to start addressing affordable housing issues.
- ECIA/EIRHA can lease property from counties and cities to assist them in improving problem properties they own so they can convert them into productive status.
- ECIA/EIRHA can solicit gifts of problem properties from counties and cities who may be eager to unload the property.
- Increased use of abandoned property and public nuisance tax sales can help counties and cities gain control of qualifying problem properties.

B. Legislation

Other land banks have required enabling legislation to provide statutory license for their special powers. While it is too late in the current legislative session to propose any changes that would constitute enabling legislation, we have identified several aspects of Iowa law that would be affected by such enabling legislation if ECIA/EIRHA decides to begin lobbying for it. Aside from the basic enabling legislation that would allow for the creation of a corporate land bank entity, which would require standard provisions for governance, auditing, accountability, and so forth, any enabling legislation would have to address other issues of Iowa law, primarily dealing with property and taxation. Based on the legislation in other jurisdictions that have land banks, we have identified the following categories of law that would need to be examined to accommodate a land bank. These categories are non-exhaustive, and refer to areas of law that would require substantive change, rather than entirely new additions. Areas that would require entirely new additions would be those related to the structure, governance, and oversight of a land bank entity, and all of those can be tailored broadly enough to allow ECIA/EIRHA and other organizations room to experiment and determine which approaches are best for them. These choices can be informed by the experiences of other land banks, as well as whatever input member communities give as to the local need and preference.

1. Taxation

Land bank legislation would require changes to the existing tax code, in order to provide that a land bank corporation would be able to hold its properties without having to pay property tax or other attendant property fees while a property is being brought back to tax-producing status. This provision is comparable to present Iowa law, which allows some

governments and other bodies to hold property without paying property tax, and would be a relatively simple change. Another change in taxation policy would be allowing the sale or conveyance of property to a land bank without subjecting that property to any transactional tax, which would further the goal of allowing the land bank to acquire property at relatively little additional cost.

2. Funding

Most land banks across the country have not been funded at the state level, which will be an important selling point when making a legislative proposal. While it would be useful to have a source of state funding, and that option should certainly not be discouraged if legislators are on board with the idea, the main sources of land bank funding nationally are preexisting state or federal grants, buy-in from community groups that pool resources to fund the land bank, and local taxation dedicated for the land bank. Iowa law currently allows a land bank to pursue the first two funding sources through the normal mechanisms, aided by the flexibility that local governments have when it comes to managing their money. Local taxation specifically for a land bank may require specific provisions in Iowa law allowing a local sales or other tax to go toward a land bank corporation. Local sales taxes would likely have to be voted on and approved by each of ECIA's member counties if that option is pursued, and as such would include a substantial educational and lobbying effort to ensure the success of those ballot measures in each member county. Similarly, tax incremented financing (TIF) could theoretically be used to fund a land bank, but this would also require local votes in order to approve the levying of a new tax specially for those purposes. Iowa's law governing TIF may require some tweaks to make sure that TIF can be used for a land bank, should ECIA pursue that funding source.

3. Acquisition of Property

Enabling legislation could provide that a land bank be the preferred recipient of certain tax-delinquent or otherwise problematic properties. This would allow the land bank to acquire problem property that has either sat abandoned for years, or problem property whose owners has defaulted or disappeared, without necessarily requiring a formal private conveyance or an in-depth title search. This sort of automatic conveyance would represent a major overhaul of current Iowa law, and would require serious technical work in order to comply with existing state regulations and policies, as well as general principles of property law and municipal power. Other conveyancing options could include providing that a land bank be able to receive gifts of property in ways analogous to current Iowa law allowing municipalities to receive gifts for public purposes, which would allow cooperative property owners to transfer their problem properties to a land bank with relative ease or nominal consideration. Land banks could also be given priority status in public auction of defaulted or abandoned property, which could facilitate the acquisition of problem properties at relatively low cost through existing mechanisms provided by Iowa law. Any of these options, or a combination of them, would help funnel problem properties toward the land bank, which would in turn free up time and energy that would otherwise be spent seeking out problem property and making affirmative bids for those properties with each individual owner of the parcels the land bank is attempting to purchase and redevelop.

4. Local Zoning Law

Depending on how a land bank is ultimately defined in Iowa law, property held by a land bank may require special zoning rules to allow for effective redevelopment. Much of

the zoning issues will be able to be resolved at the local level—altering the zoning of an abandoned schoolhouse, for example, to residential zoning—but some state changes may be necessary to ensure that a land bank can hold a variety of lots zoned in different ways across different counties, and avoid hindrance when it comes to rezoning and working with developers to redevelop. These requirements would closely track with any alterations to Iowa's laws governing property holding and conveyance, and would likely be minor. A possible solution would be to have any property a land bank holds be zoned for governmental or other public purpose until a plot has a specific redevelopment plan in place, at which time it would have to be rezoned to whatever new purpose it will serve for the community.

Key Takeaways

- Changes to the Iowa tax code will be necessary to allow a land bank to hold and acquire/sell property without being taxed.
- Land banks often do not require state funding, and are funded either through preexisting state or federal grants, or through local options for taxation.
- Any enabling legislation could specify that properties that fall into certain tax-delinquent or otherwise negative statuses are automatically conveyed to a land bank, as well as providing that land banks be given first crack at public auctions, or any other conventional way to acquire target properties.
- Land banks may need to work around or change local zoning requirements as well. This is made easier by public awareness and support, and should typically not pose a major issue.

C. Land Bank Organization Tips

A persistent theme throughout the jurisdictions we examined was the importance of community engagement, as well as community education on what exactly a land bank is. Whether the issue comes up at the state level, when the conversation will be dominated by the terms and powers that would be created by the state enabling legislation, or whether it comes up at the local level, when there might be a specific TIF request or other ballot issue for the voters to decide, eastern Iowans and their representatives will need to understand land banks and the potential good they can do. Our descriptions of the powers and opportunities of a land bank could be a good place to start, but educational outreach should also include talking to state and local elected officials about their thoughts about a land bank project, partnerships with local governments to get community feedback and perspectives on what properties need the most attention, and work with landowners themselves to find out exactly what the obstacles in the path of return to tax-producing status are for their blighted or abandoned properties.

The educational component will be most important when it comes to communicating what exactly to expect from a land bank, and the nature and amount of support that they will require. Special emphasis can be put on the fact that a land bank need not require state funding—surely attractive to the state representatives—and on the fact that a land bank’s powers can be tinkered with to suit specific local needs—surely attractive to local governments who may be responsible for funding a land bank. Community education is also a key way to achieve community buy-in, the importance of which cannot be overstated. With sufficient credibility among ECIA/EIRHA’s member

communities, the successes and community engagement of the Albany and Marquette County land banks could be replicated in Eastern Iowa.

Similarly, something else that ECIA/EIRHA could do now or soon would be to begin reaching out to local developers to gauge interest in the land bank or a similar project. Unless ECIA/EIRHA is willing and able to develop property itself, developer cooperation will be necessary for a land bank to survive once it is established. Getting an early sense of what Iowa developers are willing to consider will help manage expectations for the land bank, and will inform what steps ECIA/EIRHA and the others participating in the land bank project should take next. If local developers are leery about an affordable housing requirement imposed by the land bank, for example, that could be an opportunity to extract concessions in other areas they would otherwise not budge on, should there be such a back-and-forth. Community education will help with this process, too, since community pressure and the desire to increase the profile and prestige of a developer can be powerful incentives for someone who is on the fence about a specific land bank proposal.

Finally, while the information that we have gathered is a good survey of how successful land banks have operated across the United States, something else to keep in mind is that many of these land banks could be valuable partners for an ECIA/EIRHA land bank. We have included the contact information of several of the larger and more similarly situated land banks in an appendix to this report, with the hope that they would be able to provide more nuts-and-bolts-level information and advice to the planners of an Eastern Iowa land bank in the future. ECIA may be blazing its own trail in the state of Iowa, but it can benefit greatly from drawing on the pool of knowledge accumulated by those who have successfully brought their land bank plans to fruition elsewhere.

Key Takeaways

- Education is key: the beneficiary community has to know what a land bank is, and what it isn't, before they vote on anything.
- A land bank will struggle to survive without enough developer buy-in.
- ECIA/EIRHA can draw on a wealth of experience and other knowledge bases to help make the best possible land bank.