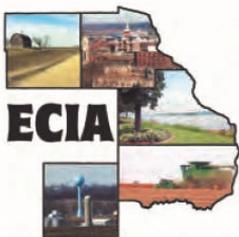




# Selected State Land Bank Statutes

Community Empowerment Law Project



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# **Michigan Land Bank Fast Track Act**

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AN ACT to provide for the creation of land bank fast track authorities to assist governmental entities in the assembly and clearance of title to property in a coordinated manner; to facilitate the use and development of certain property; to promote economic growth; to prescribe the powers and duties of certain authorities; to provide for the creation and appointment of boards to govern land bank fast track authorities and to prescribe their powers and duties; to authorize the acquisition, maintenance, and disposal of interests in real and personal property; to authorize the conveyance of certain properties to a land bank fast track authority; to authorize the enforcement of tax liens and the clearing or quieting of title by a land bank fast track authority; to provide for the distribution and use of revenues collected or received by a land bank fast track authority; to prescribe powers and duties of certain public entities and state and local officers and agencies; to authorize the transfer and acceptance of property in lieu of taxes and the release of tax liens; to exempt property, income, and operations of a land bank fast track authority from tax; to extend protections against certain liabilities to a land bank fast track authority; and to repeal acts and parts of acts.

## **124.751 Short title. Sec. 1.**

This act shall be known and may be cited as the “land bank fast track act”.

## **124.752 Legislative findings. Sec. 2.**

The legislature finds that there exists in this state a continuing need to strengthen and revitalize the economy of this state and local units of government in this state and that it is in the best interests of this state and local units of government in this state to assemble or dispose of public property, including tax reverted property, in a coordinated manner to foster the development of that property and to promote economic growth in this state and local units of government in this state. It is declared to be a valid public purpose for a land bank fast track authority created under this act to acquire, assemble, dispose of, and quiet title to property under this act. It is further declared to be a valid public purpose for a land bank fast track authority created under this act to provide for the financing of the acquisition, assembly, disposition, and quieting of title to property, and for a land bank fast track authority to exercise other powers granted to a land bank fast track authority under this act. The legislature finds that a land bank fast track authority created under this act and powers conferred by this act constitute a necessary program and serve a necessary public purpose.

**124.753 Definitions. Sec. 3.**

As used in this act:

(a) "Authority" means a land bank fast track authority created under section 15, section 23(4), or section 23(5).

(b) "Authority board" means the board of directors of the state authority appointed under section 16.

(c) "Casino" means a casino regulated by this state under the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226, or a casino at which gaming is conducted under the Indian gaming regulatory act, Public Law 100-497, 102 Stat. 2467, and all property associated or affiliated with the operation of the casino, including, but not limited to, a parking lot, hotel, motel, or retail store.

(d) "County authority" means a county land bank fast track authority created by a county foreclosing governmental unit under section 23(4).

(e) "Department" means the department of labor and economic growth, a principal department of state government created by section 225 of the executive organization act of 1965, 1965 PA 380, MCL 16.325, and renamed by Executive Order No. 1996-2, MCL 445.2001, and by Executive Order No. 2003-18.

(f) "Foreclosing governmental unit" means that term as defined in section 78 of the general property tax act, 1893 PA 206, MCL 211.78.

(g) "Fund" means the land bank fast track fund created in section 18.

(h) "Intergovernmental agreement" means a contractual agreement between 1 or more governmental agencies, including, but not limited to, an interlocal agreement to jointly exercise any power, privilege, or authority that the agencies share in common and that each might exercise separately under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

(i) "Local authority" means a local land bank fast track authority created by a qualified city under section 23(5).

(j) "Local unit of government" means a city, village, township, county, or any intergovernmental, metropolitan, or local department, agency, or authority, or other local political subdivision.

(k) "Michigan economic development corporation" means the public body corporate created under section 28 of article VII of the state constitution of 1963 and the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a contractual interlocal agreement effective April 5, 1999, as amended, between local participating

economic development corporations formed under the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636, and the Michigan strategic fund. If the Michigan economic development corporation is unable for any reason to perform its duties under this act, those duties may be exercised by the Michigan strategic fund.

(l) "Michigan state housing development authority" means the authority created under the state housing development authority act of 1966, 1966 PA 346, MCL 125.1401 to 125.1499c.

(m) "Michigan strategic fund" means the Michigan strategic fund as described in the Michigan strategic fund act, 1984 PA 270, MCL 125.2001 to 125.2093.

(n) "Qualified city" means a city that contains a first class school district and includes any department or agency of the city.

(o) "State administrative board" means the board created under 1921 PA 2, MCL 17.1 to 17.3, that exercises general supervisory control over the functions and activities of all administrative departments, boards, commissioners, and officers of the state and of all state institutions.

(p) "State authority" means the land bank fast track authority created under section 15.

(q) "Tax reverted property" means property that meets 1 or more of the following criteria:

(i) The property was conveyed to this state under section 67a of the general property tax act, 1893 PA 206, MCL 211.67a, and subsequently was not sold at a public auction under section 131 of the general property tax act, 1893 PA 206, MCL 211.131, except property described in section 131 of the general property tax act, 1893 PA 206, MCL 211.131, that is withheld from sale by the director of the department of natural resources as authorized in that section.

(ii) The property was conveyed to this state under section 67a of the general property tax act, 1893 PA 206, MCL 211.67a, and subsequently was either redeemed by a local unit of government or transferred to a local unit of government under section 2101 or 2102 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.2101 and 324.2102, or under former section 461 of 1909 PA 223 except property transferred to a local unit of government that is subject to a reverter clause under which the property reverts to this state upon transfer by the local unit of government.

(iii) The property was subject to forfeiture, foreclosure, and sale for the collection of delinquent taxes as provided in sections 78 to 79a of the general property tax act, 1893 PA 206, MCL 211.78 to 211.79a, and both of the following apply:

(A) Title to the property vested in a foreclosing governmental unit under section 78k of the general property tax act, 1893 PA 206, MCL 211.78k.

(B) The property was offered for sale at an auction but not sold under section 78m of the general property tax act, 1893 PA 206, MCL 211.78m.

(iv) The property was obtained by or transferred to a local unit of government under section 78m of the general property tax act, 1893 PA 206, MCL 211.78m.

(v) Pursuant to the requirements of a city charter, the property was deeded to or foreclosed by the city or a department or agency of the city for unpaid delinquent real property taxes.

**124.754 Powers. Sec. 4.**

(1) Except as otherwise provided in this act, an authority may do all things necessary or convenient to implement the purposes, objectives, and provisions of this act, and the purposes, objectives, and powers delegated to the board of directors of an authority by other laws or executive orders, including, but not limited to, all of the following:

(a) Adopt, amend, and repeal bylaws for the regulation of its affairs and the conduct of its business.

(b) Sue and be sued in its own name and plead and be impleaded, including, but not limited to, defending the authority in an action to clear title to property conveyed by the authority.

(c) Borrow money and issue bonds and notes according to the provisions of this act.

(d) Enter into contracts and other instruments necessary, incidental, or convenient to the performance of its duties and the exercise of its powers, including, but not limited to, interlocal agreements under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, for the joint exercise of powers under this act.

(e) Solicit and accept gifts, grants, labor, loans, and other aid from any person, or the federal government, this state, or a political subdivision of this state or any agency of the federal government, this state, a political subdivision of this state, or an intergovernmental entity created under the laws of this state or participate in any other way in a program of the federal government, this state, a political subdivision of this state, or an intergovernmental entity created under the laws of this state.

(f) Procure insurance against loss in connection with the property, assets, or activities of the authority.

(g) Invest money of the authority, at the discretion of the board of directors of the authority, in instruments, obligations, securities, or property determined proper by the board of directors of the authority, and name and use depositories for its money.

(h) Employ legal and technical experts, other officers, agents, or employees, permanent or temporary, paid from the funds of the authority. The authority shall determine the qualifications, duties, and compensation of those it employs. The board of directors of an authority may delegate to 1 or more members, officers, agents, or employees any powers or duties it considers proper. Members of the board of directors of an authority shall serve without compensation but shall be reimbursed for actual and necessary expenses subject to available appropriations.

(i) Contract for goods and services and engage personnel as necessary and engage the services of private consultants, managers, legal counsel, engineers, accountants, and auditors for rendering professional financial assistance and advice payable out of any money of the authority.

(j) Study, develop, and prepare the reports or plans the authority considers necessary to assist it in the exercise of its powers under this act and to monitor and evaluate progress under this act.

(k) Enter into contracts for the management of, the collection of rent from, or the sale of real property held by an authority.

(l) Do all other things necessary or convenient to achieve the objectives and purposes of the authority or other laws that relate to the purposes and responsibility of the authority.

(2) The enumeration of a power in this act shall not be construed as a limitation upon the general powers of an authority. The powers granted under this act are in addition to those powers granted by any other statute or charter.

(3) An authority, in its discretion, may contract with others, public or private, for the provision of all or a portion of the services necessary for the management and operation of the authority.

(4) If an authority holds a tax deed to abandoned property, the authority may quiet title to the property under section 79a of the general property tax act, 1893 PA 206, MCL 211.79a.

(5) The property of an authority and its income and operations are exempt from all taxation by this state or any of its political subdivisions.

(6) An authority shall not assist or expend any funds for, or related to, the development of a casino.

(7) An authority shall not levy any tax or special assessment.

(8) An authority shall not exercise the power of eminent domain or condemn property.

(9) An authority shall adopt a code of ethics for its directors, officers, and employees.

(10) An authority shall establish policies and procedures requiring the disclosure of relationships that may give rise to a conflict of interest. The governing body of an authority shall require that any member of the governing body with a direct or indirect interest in any matter before the authority disclose the member's interest to the governing body before the board takes any action on the matter.

**124.755 Acquisition of property; accepting deed in lieu of foreclosure or sale; release of tax lien. Sec. 5.**

(1) Except as provided in section 4(8), an authority may acquire by gift, devise, transfer, exchange, foreclosure, purchase, or otherwise on terms and conditions and in a manner the authority considers proper, real or personal property, or rights or interests in real or personal property.

(2) Real property acquired by an authority by purchase may be by purchase contract, lease purchase agreement, installment sales contract, land contract, or otherwise, except as provided in section 4(8). The authority may acquire real property or rights or interests in real property for any purpose the authority considers necessary to carry out the purposes of this act, including, but not limited to, 1 or more of the following purposes:

(a) The use or development of property the authority has otherwise acquired.

(b) To facilitate the assembly of property for sale or lease to any other public or private person, including, but not limited to, a nonprofit or for profit corporation.

(c) To protect or prevent the extinguishing of any lien, including a tax lien, held by the authority or imposed upon property held by the authority.

(3) An authority may also acquire by purchase, on terms and conditions and in a manner the authority considers proper, property or rights or interest in property from 1 or more of the following sources:

(a) The department of natural resources under section 2101 or 2102 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.2101 and 324.2102.

(b) A foreclosing governmental unit under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(c) The Michigan state housing development authority under the state housing development authority act of 1966, 1966 PA 346, MCL 125.1401 to 125.1499c.

(4) An authority may hold and own in its name any property acquired by it or conveyed to it by this state, a foreclosing governmental unit, a local unit of government, an intergovernmental entity created under the laws of this state, or any other public or private person, including, but not limited to, tax reverted property and property with or without clear title.

(5) All deeds, mortgages, contracts, leases, purchases, or other agreements regarding property of an authority, including agreements to acquire or dispose of real property, may be approved by and executed in the name of the authority.

(6) A foreclosing governmental unit may not transfer property subject to forfeiture, foreclosure, and sale under sections 78 to 78p of the general property tax act, 1893 PA 206, MCL 211.78 to 211.78p, until after the property has been offered for sale or other transfer under section 78m of the general property tax act, 1893 PA 206, MCL 211.78m, and the foreclosing governmental unit has retained possession of the property under section 78m(7) of the general property tax act, 1893 PA 206, MCL 211.78m.

**124.756 Preservation of property value. Sec. 6.**

(1) An authority may, without the approval of a local unit of government in which property held by the authority is located, control, hold, manage, maintain, operate, repair, lease as lessor, secure, prevent the waste or deterioration of, demolish, and take all other actions necessary to preserve the value of the property it holds or owns. An authority may take or perform the following with respect to property held or owned by the authority:

(a) Grant or acquire a license, easement, or option with respect to property as the authority determines is reasonably necessary to achieve the purposes of this act.

(b) Fix, charge, and collect rents, fees, and charges for use of property under the control of the authority or for services provided by the authority.

(c) Pay any tax or special assessment due on property acquired or owned by the authority.

(d) Take any action, provide any notice, or institute any proceeding required to clear or quiet title to property held by the authority in order to establish ownership by and vest title to property in the authority, including, but not limited to, an expedited quiet title and foreclosure action under section 9.

(e) Remediate environmental contamination on any property held by the authority.

(2) An authority shall be made a party to and shall defend any action or proceeding concerning title claims against property held by the authority.

(3) Subject to subsection (4), an authority may accept from a person with an interest in a parcel of tax delinquent property or tax reverted property a deed conveying that person's interest in the property in lieu of the foreclosure or sale of the property for delinquent taxes, penalties, and interest levied under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, or delinquent specific taxes levied under another law of this state against the property by a local unit of government or other taxing jurisdiction.

(4) An authority may not accept under subsection (3) a deed in lieu of foreclosure or sale of the tax lien attributable to taxes levied by a local unit of government or other taxing jurisdiction without the written approval of all taxing jurisdictions and the foreclosing governmental unit that would be affected. Upon approval of the affected taxing jurisdictions and the foreclosing governmental unit, all of the unpaid general ad valorem taxes and specific taxes levied on the property, whether recorded or not, shall be extinguished. The authority shall record proof of the acceptance by the affected taxing jurisdictions under this subsection and the deed in lieu of foreclosure with the register of deeds for the county in which the property is located.

(5) Except as provided in subsection (4), conveyance of property by deed in lieu of foreclosure under this section shall not affect or impair any other lien against that property or any existing recorded or unrecorded interest in that property, including, but not limited to, future installments of special assessments, liens recorded by this state, or restrictions imposed under the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, easements or rights-of-way, private deed restrictions, security interests and mortgages, or tax liens of other taxing jurisdictions or a foreclosing governmental unit that does not consent to a release of their liens.

(6) A tax lien against property held by or under the control of an authority may be released at any time by 1 or more of the following:

(a) The governing body of a local unit of government with respect to a lien held by the local unit of government.

(b) The governing body of any other taxing jurisdiction other than this state with respect to a lien held by the taxing jurisdiction.

(c) A foreclosing governmental unit with respect to a tax lien or right to collect a tax held by the foreclosing governmental unit.

(d) The state treasurer with respect to a tax lien securing the state education tax under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906.

**124.757 Disposition of property by authority; inventory and classification of property; title status and suitability for use; recording property transfer. Sec. 7.**

(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. If the department of environmental quality determines that conditions on a property transferred to an authority under section 78m(15) of the general property tax act, 1893 PA 206, MCL 211.78m, represent an acute threat to public health, safety, and welfare, or to the environment, the authority shall not convey, sell, transfer, exchange, lease, or otherwise dispose of the property until after a determination by the department of environmental quality that the acute threat has been eliminated and that conveyance, sale, transfer, exchange, lease, or other disposal of the property by the authority will not interfere with any response activities by the department. The transfer and use of property under this section and the exercise by the authority of powers and duties under this act shall be considered a necessary public purpose and for the benefit of the public.

(2) All property held by an authority shall be inventoried and classified by the authority according to title status and suitability for use.

(3) A document, including, but not limited to, a deed, evidencing the transfer under this act of 1 or more parcels of property to an authority by this state or a political subdivision of this state may be recorded with the register of deeds office in the county in which the property is located without the payment of a fee.

**124.758 Receipt of tax, penalty, or interest payments; return to local tax collecting unit; retention of proceeds. Sec. 8.**

(1) Money received by an authority as payment of taxes, penalties, or interest, or from the redemption or sale of property subject to a tax lien of any taxing unit shall be returned to the local tax collecting unit in which the property is located for distribution on a pro rata basis to the appropriate taxing units in an amount equal to delinquent taxes, penalties, and interest owed on the property, if any.

(2) Except as otherwise provided in this act, as required by other law, as required under the provisions of a deed, or as an authority otherwise agrees, any proceeds received by the authority may be retained by the authority for the purposes of this act.

**124.759 Expedited quiet title and foreclosure action; procedure. Sec. 9.**

(1) An authority may initiate an expedited quiet title and foreclosure action under this section to quiet title to real property held by the authority or interests in tax reverted property held by the authority by recording with the register of deeds in the county in which the property subject to expedited quiet title and foreclosure is located a notice of pending expedited quiet title and foreclosure action in a form prescribed by the department of treasury. The notice shall include a legal description of the property, the street address of the property if available, the name, address, and telephone number of the authority, a statement that the property is subject to expedited quiet title proceedings and foreclosure under this act, and a statement that any legal interests in the property may be extinguished by a circuit court order vesting title to the property in the authority. If a notice is recorded in error, the authority may correct the error by recording a certificate of correction with the register of deeds. A notice or certificate under this subsection need not be notarized and may be authenticated by a digital signature or other electronic means. Property is not subject to an expedited quiet title and foreclosure action under this section if the property was forfeited under section 78g of the general property tax act, 1893 PA 206, MCL 211.78g, and remains subject to foreclosure under section 78k of the general property tax act, 1893 PA 206, MCL 211.78k. If an authority has reason to believe that a property subject to an expedited quiet title and foreclosure action under this section may be the site of environmental contamination, the authority shall provide the department of environmental quality with any information in the possession of the authority that suggests the property may be the site of environmental contamination.

(2) After recording the notice under subsection (1), an authority shall initiate a search of records identified in this subsection to identify the owners of a property interest in the property who are entitled to notice of the quiet title and foreclosure hearing under this section. The authority may enter into a contract with or may request from 1 or more authorized representatives a title search or other title product to identify the owners of a property interest in the property as required under this subsection or to perform the other functions set forth in this section required for the quieting of title to property under this act. The owner of a property interest is entitled to notice under this section if that owner's interest was identifiable by reference to any of the following sources before the date that the authority records the notice under subsection (1):

- (a) Land title records in the office of the county register of deeds.
- (b) Tax records in the office of the county treasurer.
- (c) Tax records in the office of the local assessor.
- (d) Tax records in the office of the local treasurer.

(3) An authority may file a single petition with the clerk of the circuit court in which property subject to expedited foreclosure under this section is located listing all property

subject to expedited foreclosure by the authority and for which the authority seeks to quiet title. If available to the authority, the list of properties shall include a legal description of, a tax parcel identification number for, and the street address of each parcel of property. The petition shall seek a judgment in favor of the authority against each property listed and shall include a date, within 90 days, on which the authority requests a hearing on the petition. The petition shall request that a judgment be entered vesting absolute title in the authority, without right of redemption for each parcel of property listed, as provided in this section. Prior to the entry of judgment under this section, the authority may request the court to remove property erroneously included in the petition, or any tax delinquent properties redeemed prior to the hearing.

(4) The clerk of the circuit court in which a petition is filed under subsection (3) shall immediately set the date, time, and place for a hearing on the petition for foreclosure. The date shall be set by the clerk and shall not be more than 10 days after the date requested by the authority in the petition. In no event may the clerk schedule the hearing later than 90 days after the filing of a petition by the authority under subsection (3).

(5) After completing the records search under subsection (2), an authority shall determine the address or addresses reasonably calculated to inform those owners of a property interest in property subject to expedited foreclosure under this section of the pendency of the quiet title and foreclosure hearing under subsection (11). If, after conducting the title search, the authority is unable to determine an address reasonably calculated to inform persons with a property interest in property subject to expedited tax foreclosure, or if the authority discovers a deficiency in notice under subsection (10), the following shall be considered reasonable steps by the authority to ascertain the addresses of persons with a property interest in the property subject to expedited foreclosure or to ascertain an address necessary to correct a deficiency in notice under subsection (10):

(a) For an individual, a search of records of the county probate court for the county in which the property is located.

(b) For an individual, a search of the qualified voter file established under section 509o of the Michigan election law, 1954 PA 116, MCL 168.509o, which is authorized by this subdivision.

(c) For a partnership, a search of partnership records filed with the county clerk.

(d) For a business entity other than a partnership, a search of business entity records filed with the corporation division of the department.

(6) Not less than 30 days before the quiet title and foreclosure hearing under subsection (11), the authority shall send notice by certified mail, return receipt requested, of the hearing to the persons identified under subsection (5) with a property interest in property subject to expedited foreclosure. The authority shall also send a notice via regular mail

addressed to the “Occupant” for each property subject to expedited foreclosure if an address for the property is ascertainable.

(7) Not less than 30 days before the quiet title and foreclosure hearing under subsection (11), the authority or its authorized representative or authorized agent shall visit each parcel of property subject to expedited foreclosure and post conspicuously on the property notice of the hearing. In addition to the requirements of subsection (8), the notice shall also include the following statement: “THIS PROPERTY HAS BEEN TRANSFERRED TO THE \_\_\_\_\_ LAND BANK FAST TRACK AUTHORITY AND IS SUBJECT TO AN EXPEDITED QUIET TITLE AND FORECLOSURE ACTION. PERSONS WITH INFORMATION REGARDING THE PRIOR OWNER OF THE PROPERTY ARE REQUESTED TO CONTACT THE LAND BANK FAST TRACK AUTHORITY AT \_\_\_\_\_.”.

(8) The notice required under subsections (6) and (7) shall include:

(a) The date on which the authority recorded under subsection (1) notice of the pending expedited quiet title and foreclosure action.

(b) A statement that a person with a property interest in the property may lose his or her interest, if any, as a result of the quiet title and foreclosure hearing under subsection (11).

(c) A legal description, parcel number of the property, and the street address of the property, if available.

(d) The person to whom the notice is addressed.

(e) The date and time of the hearing on the petition for foreclosure under subsection (11) and a statement that the judgment of the court may result in title to the property vesting in the authority.

(f) An explanation of any rights of redemption and notice that the judgment of the court may extinguish any ownership interest in or right to redeem the property.

(g) The name, address, and telephone number of the authority.

(h) A statement that persons with information regarding the owner or prior owner of any of the properties are requested to contact the authority.

(9) If the authority is unable to ascertain the address reasonably calculated to inform the owners of a property interest entitled to notice under this section, or is unable to provide notice under subsection (6) or (7), the authority shall provide notice by publication. Prior to the hearing, a notice shall be published for 3 successive weeks, once each week, in a newspaper published and circulated in the county in which the property is located. If no paper is published in that county, publication shall be made in a newspaper published and

circulated in an adjoining county. This publication shall substitute for notice under subsection (6) or (7). The published notice shall include all of the following:

(a) A legal description, parcel number of the property, and the street address of the property, if available.

(b) The name of any person not notified under subsection (6) or (7) that the authority reasonably believes may be entitled to notice under this section of the quiet title and foreclosure hearing under subsection (11).

(c) A statement that a person with a property interest in the property may lose his or her interest, if any, as a result of the foreclosure proceeding under subsection (11).

(d) The date and time of the hearing on the petition for foreclosure under subsection (11).

(e) A statement that the judgment of the court may result in title to the property vesting in the authority.

(f) An explanation of any rights of redemption and notice that judgment of the court may extinguish any ownership interest in or right to redeem the property.

(g) The name, address, and telephone number of the authority.

(h) A statement that persons with information regarding the owner or prior owner of any of the properties are requested to contact the authority.

(10) If prior to the quiet title and foreclosure hearing under subsection (11) the authority discovers any deficiency in the provision of notice under this section, the authority shall take reasonable steps in good faith to correct the deficiency before the hearing. The provisions of this section relating to notice of the quiet title and foreclosure hearing are exclusive and exhaustive. Other requirements relating to notice and proof of service under other law, rule, or other legal requirement are not applicable to notice or proof of service under this section.

(11) If a petition for expedited quiet title and foreclosure is filed under subsection (3), before the hearing, the authority shall file with the clerk of the circuit court proof of notice by certified mail under subsection (6), proof of notice by posting on the property under subsection (7), and proof of notice by publication, if applicable. A person claiming an interest in a parcel of property set forth in the petition for foreclosure who desires to contest that petition shall file written objections with the clerk of the circuit court and serve those objections on the authority before the date of the hearing. The circuit court may appoint and utilize as the court considers necessary a special master for assistance with the resolution of any objections to the foreclosure or questions regarding the title to property subject to foreclosure. If the court withholds property from foreclosure, an authority's ability to include the property in a subsequent petition for expedited quiet title

and foreclosure is not prejudiced. No injunction shall issue to stay an expedited quiet title and foreclosure action under this section. The circuit court shall enter judgment on a petition to quiet title and foreclosure filed under subsection (3) not more than 10 days after the conclusion of the hearing or contested case, and the judgment shall be effective 10 days after the conclusion of the hearing or contested case. The circuit court's judgment shall specify all of the following:

(a) The legal description and, if known, the street address of the property foreclosed.

(b) That fee simple title to property foreclosed by the judgment is vested absolutely in the authority, except as otherwise provided in subdivisions (c) and (e), without any further rights of redemption.

(c) That all liens against the property, including any lien for unpaid taxes or special assessments, except future installments of special assessments and liens recorded by this state or the authority under the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, are extinguished.

(d) That, except as otherwise provided in subdivisions (c) and (e), the authority has good and marketable fee simple title to the property.

(e) That all existing recorded and unrecorded interests in that property are extinguished, except a visible or recorded easement or right-of-way, private deed restrictions, plat restrictions, or restrictions or other governmental interests imposed under the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106.

(f) A finding that all persons entitled to notice and an opportunity to be heard have been provided that notice and opportunity. A person shall be deemed to have been provided notice and an opportunity to be heard if the authority followed the procedures for provision of notice by mail, for visits to property subject to expedited quiet title and foreclosure, and for publication under this section, or if 1 or more of the following apply:

(i) The person had constructive notice of the hearing by acquiring an interest in the property after the date of the recording under subsection (1) of the notice of pending expedited quiet title and foreclosure action.

(ii) The person appeared at the hearing under this subsection or submitted written objections to the clerk of the circuit court under this subsection prior to the hearing.

(iii) Prior to the hearing under this subsection, the person had actual notice of the hearing.

(12) Except as otherwise provided in subsection (11)(c) and (e), fee simple title to property set forth in a petition for foreclosure filed under subsection (3) shall vest

absolutely in the authority upon the effective date of the judgment by the circuit court and the authority shall have absolute title to the property. The authority's title is not subject to any recorded or unrecorded lien, except as provided in subsection (11) and shall not be stayed or held invalid except as provided in subsection (13). A judgment entered under this section is a final order with respect to the property affected by the judgment and shall not be modified, stayed, or held invalid after the effective date of the judgment, except as provided in subsection (14).

(13) An authority or a person claiming to have a property interest under subsection (2) in property foreclosed under this section may within 21 days of the effective date of the judgment under subsection (12) appeal the circuit court's order or the circuit court's judgment foreclosing property to the court of appeals. An appeal under this subsection is limited to the record of the proceedings in the circuit court under this section. The circuit court's judgment foreclosing property shall be stayed until the court of appeals has reversed, modified, or affirmed that judgment. If an appeal under this subsection stays the circuit court's judgment foreclosing property, the circuit court's judgment is stayed only as to the property that is the subject of that appeal and the circuit court's judgment foreclosing other property that is not the subject of that appeal is not stayed. To appeal the circuit court's judgment foreclosing property, a person appealing the judgment shall pay to the authority any taxes, interest, penalties, and fees due on the property and provide notice of the appeal to the authority within 21 days after the circuit court's judgment is effective. If the circuit court's judgment foreclosing the property is affirmed on appeal, the amount determined to be due shall be refunded to the person who appealed the judgment. If the circuit court's judgment foreclosing the property is reversed or modified on appeal, the authority shall refund the amount determined to be due to the person who appealed the judgment, if any, and forward the balance to the appropriate taxing jurisdictions in accordance with the order of the court of appeals.

(14) The authority shall record a notice of judgment for each parcel of foreclosed property in the office of the register of deeds for the county in which the foreclosed property is located in a form prescribed by the department of treasury. If an authority records a notice of judgment in error, the authority may subsequently record a certificate of correction. A notice or certificate under this subsection need not be notarized and may be authenticated by a digital signature or other electronic means. After the entry of a judgment foreclosing the property under this section, if the property has not been transferred by the authority, the authority may cancel the foreclosure by recording with the register of deeds of the county in which the property is located a certificate of error in a form prescribed by the department of treasury, if the authority discovers any of the following:

(a) The description of the property used in the expedited quiet title and foreclosure proceeding was so indefinite or erroneous that the foreclosure of the property was void.

(b) An owner of an interest in the property entitled to notice of the expedited quiet title and proceedings against the property under this section was not provided notice

sufficient to satisfy the minimum due process requirements of the constitution of this state and the constitution of the United States.

(c) A judgment of foreclosure was entered under this section in violation of an order issued by a United States bankruptcy court.

(15) If a judgment of foreclosure is entered under subsection (12), and all existing recorded and unrecorded interests in a parcel of property are extinguished as provided in subsection (12), the owner of any extinguished recorded or unrecorded interest in that property who claims that he or she did not receive notice of the expedited quiet title and foreclosure action shall not bring an action for possession of the property against any subsequent owner, but may only bring an action to recover monetary damages as provided in this subsection. The court of claims has original and exclusive jurisdiction in any action to recover monetary damages under this subsection. An action to recover monetary damages under this subsection shall not be brought more than 2 years after a judgment for foreclosure is entered under subsection (12). Any monetary damages recoverable under this subsection shall be determined as of the date a judgment for foreclosure is entered under subsection (12) and shall not exceed the fair market value of the interest in the property held by the person bringing the action under this section on that date, less any taxes, interest, penalties, and fees owed on the property as of that date. The right to sue for monetary damages under this subsection shall not be transferable except by testate or intestate succession.

(16) The owner of a property interest with notice of the quiet title and foreclosure hearing under subsection (11) may not assert any of the following:

(a) That notice to the owner was insufficient or inadequate in any way because some other owner of a property interest in the property was not notified.

(b) That any right to redeem tax reverted property was extended in any way because some other person was not notified.

(17) A person holding or formerly holding an interest in tax reverted property subject to expedited foreclosure under this section is barred from questioning the validity of the expedited foreclosure under this section if 1 or more of the following apply:

(a) Prior to the transfer of the property to the authority, the property was deeded to this state under section 67a of the general property tax act, 1893 PA 206, MCL 211.67a, and the person or the person's predecessor in title was notified of a hearing regarding the deeding of the property as required by section 131e of the general property tax act, 1893 PA 206, MCL 211.131e.

(b) Prior to the transfer of the property to the authority, title to the property vested in a foreclosing governmental unit following a circuit court hearing under section 78k of the general property tax act, 1893 PA 206, MCL 211.78k, and the person or the person's

predecessor in title was notified of the hearing under section 78i of the general property tax act, 1893 PA 206, MCL 211.78i.

(18) The failure of an authority to comply with any provision of this section shall not invalidate any proceeding under this section if a person with a property interest in property subject to foreclosure was accorded the minimum due process required under the state constitution of 1963 and the constitution of the United States.

(19) It is the intent of the legislature that the provisions of this section relating to the expedited quiet title and foreclosure of property by an authority satisfy the minimum requirements of due process required under the constitution of this state and the constitution of the United States but that the provisions do not create new rights beyond those required under the state constitution of 1963 or the constitution of the United States. The failure of an authority, this state, a political subdivision of this state, or a local unit of government to follow a requirement of this section relating to the expedited quiet title and foreclosure of property held by an authority shall not be construed to create a claim or cause of action against an authority, this state, a political subdivision of this state, or a local unit of government unless the minimum requirements of due process accorded under the state constitution of 1963 or the constitution of the United States are violated.

(20) As used in this section, "authorized representative" includes 1 or more of the following:

- (a) A title insurance company or agent licensed to conduct business in this state.
- (b) An attorney licensed to practice law in this state.
- (c) A person accredited in land title search procedures by a nationally recognized organization in the field of land title searching.
- (d) A person with demonstrated experience in the field of searching land title records, as determined by the authority.

**124.760 Property as site of environmental contamination; information to be provided to department of environmental quality; property subject to certain conditions; liability. Sec. 10.**

(1) If an authority has reason to believe that property held by the authority may be the site of environmental contamination, the authority shall provide the department of environmental quality with any information in the possession of the authority that suggests that the property may be the site of environmental contamination.

(2) If property held by an authority is a facility as defined under section 20101(1)(o) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101, prior to

the sale or transfer of the property under this section, the property is subject to all of the following:

(a) Upon reasonable written notice from the department of environmental quality, the authority shall provide access to the department of environmental quality, its employees, its contractors, and any other person expressly authorized by the department of environmental quality to conduct response activities at the property. Reasonable written notice under this subdivision may include, but is not limited to, notice by electronic mail or facsimile, if the authority consents to notice by electronic mail or facsimile prior to provision of notice by the department of environmental quality.

(b) If requested by the department of environmental quality to protect public health, safety, and welfare or the environment, the authority shall grant an easement for access to conduct response activities on the property as authorized under chapter 7 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20302.

(c) If requested by the department of environmental quality to protect public health, safety, and welfare or the environment, the authority shall place and record deed restrictions on the property as authorized under chapter 7 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20302.

(d) The department of environmental quality may place an environmental lien on the property as authorized under section 20138 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20138.

(3) For purposes of part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142, an authority shall be considered a local unit of government. Except as provided under parts 111, 115, and 315 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11101 to 324.11153, 324.11501 to 324.11550, and 324.31501 to 324.31529, the acquisition or control of property through tax delinquent forfeiture, foreclosure, or sale, abandonment, court order, circumstances in which the authority has acquired title or control of the property under this act, or by a transfer of the property to the authority by this state, an agency or department of this state, or any local unit of government of this state shall not subject the authority to liability under the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, unless the authority is responsible for an activity causing a release on the property or other activity giving rise to liability under the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106. This subsection shall not be considered to restrict or diminish any protection from liability that is otherwise available to the authority under the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106.

**124.761 Waste of or unlawful removal of property; restraining order. Sec. 11.**

(1) An authority may institute a civil action to prevent, restrain, or enjoin the waste of or unlawful removal of any property from tax reverted property or other real property held by the authority.

(2) A circuit court may, on application, order the purchaser of any real property sold by an authority under this act in possession of the property.

**124.762 Authority as party to civil action. Sec. 12.**

An authority shall be made a party to any action or proceeding instituted for the purpose of setting aside title to property held by the authority, the sale of property by the authority, or an expedited foreclosure under section 9. A hearing in any such proceeding shall not be held until the authority is served with process and proper proof of service is filed.

**124.763 Property of authority as public property. Sec. 13.**

Property of an authority is public property devoted to an essential public and governmental function and purpose. Income of the authority is considered to be for a public and governmental purpose. The property of the authority and its income and operation are exempt from all taxes and special assessments of this state or a local unit of government of this state. Bonds or notes issued by the authority, and the interest on and income from those bonds and notes, are exempt from all taxation of this state or a local unit of government.

**124.764 Construction, intent, and scope of act. Sec. 14.**

(1) This act shall be construed liberally to effectuate the legislative intent and the purposes as complete and independent authorization for the performance of each and every act and thing authorized by this act, and all powers granted shall be broadly interpreted to effectuate the intent and purposes and not as a limitation of powers. In the exercise of its powers and duties under this act and its powers relating to property held by the authority, the authority shall have complete control as fully and completely as if it represented a private property owner and shall not be subject to restrictions imposed on the authority by the charter, ordinances, or resolutions of a local unit of government.

(2) Unless permitted by this act or approved by an authority, any restrictions, standards, conditions, or prerequisites of a city, village, township, or county otherwise applicable to an authority and enacted after the effective date of this act shall not apply to an authority. This subsection is intended to prohibit special local legislation or ordinances applicable exclusively or primarily to an authority and not to exempt an authority from laws generally applicable to other persons or entities.

(3) The provisions of this act apply notwithstanding any resolution, ordinance, or charter provision to the contrary. This section is not intended to exempt an authority from local zoning or land use controls, including, but not limited to, those controls authorized under the city and village zoning act, 1921 PA 207, MCL 125.581 to 125.600, the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215, or 1945 PA 344, MCL 125.71 to 125.84.

(4) The transfer to an authority of tax reverted property, the title to which involuntarily vested in this state under section 67a of the general property tax act, 1893 PA 206, MCL 211.67a, in a foreclosing governmental unit under section 78m(7) of the general property tax act, 1893 PA 206, MCL 211.78m, or in a qualified city pursuant to procedures established under the charter or ordinances of the qualified city, shall be construed as an involuntary transfer of property to the authority. After a transfer described in this subsection, the authority shall be deemed to have assumed any governmental immunity or other legal defenses of this state, the foreclosing governmental unit, or the local unit of government related to the property and the manner in which title to the property was held by this state or the local unit of government.

**124.765 Land bank fast track authority; creation; powers and duties; staffing; cooperation with state departments and agencies. Sec. 15.**

(1) The land bank fast track authority is created as a public body corporate and politic within the department.

(2) The state authority shall exercise its powers, duties, functions, and responsibilities independently of the director of the department. The budgeting, procurement, and related administrative or management functions of the state authority shall be performed under the direction and supervision of the director of the department. The state authority may contract with the department for the purpose of maintaining the rights and interests of the state authority.

(3) Subject to available appropriations, if requested by the state authority, the department shall provide staff and other support to the state authority sufficient to carry out its duties, powers, and responsibilities.

(4) All departments and agencies of state government shall provide full cooperation to the state authority in the performance of its duties, powers, and responsibilities.

**124.766 Board of directors; membership; appointment; terms; oath; removal; vacancy; election of chairperson and vice-chairperson; designation of representative; discharge of duties. Sec. 16.**

(1) The purposes, powers, and duties of the state authority are vested in and shall be exercised by a board of directors. The authority board shall consist of 7 members. The governor shall appoint 4 residents of this state as members of the authority board. The

members of the authority board shall serve terms of 4 years. In appointing the initial members of the authority board, the governor shall designate 2 to serve for 4 years, 1 to serve for 3 years, and 1 to serve for 2 years. All of the following shall also serve as members of the authority board:

(a) The director of the department or his or her designee.

(b) The chief executive officer of the Michigan economic development corporation or his or her designee.

(c) The executive director of the Michigan state housing development authority or his or her designee.

(2) Upon appointment to the authority board under subsection (1) and upon the taking and filing of the constitutional oath of office prescribed in section 1 of article XI of the state constitution of 1963, a member of the authority board shall enter the office and exercise the duties of the office. A member of the authority board may be removed by the governor as provided in section 10 of article V of the state constitution of 1963.

(3) Regardless of the cause of a vacancy on the authority board, the governor shall fill a vacancy in the office by appointment in the same manner as an appointment under subsection (1). A vacancy shall be filled for the balance of the unexpired term of the office. A member of the authority board shall hold office until a successor has been appointed and qualified.

(4) The authority board shall elect a chairperson and a vice-chairperson from among its members. Members of the authority board shall serve without compensation, but shall be reimbursed for actual and necessary expenses.

(5) A state officer or director who is a member of the authority board may designate a representative from his or her department or agency as a voting member of the authority board for 1 or more meetings.

(6) A member of the authority board, officer, employee, or agent of the state authority shall discharge the duties of his or her position in a nonpartisan manner, with good faith, and with that degree of diligence, care, and skill that an ordinarily prudent person would exercise under similar circumstances in a like position. In discharging the duties of his or her position, a member of the authority board or an officer, employee, or agent, when acting in good faith, may rely upon the opinion of counsel for the state authority, upon the report of an independent appraiser selected with reasonable care by the board, or upon financial statements of the authority represented to the member of the authority board or officer, employee, or agent of the state authority to be correct by the president or the officer of the state authority having charge of its books or account, or stated in a written report by a certified public accountant or firm of certified public accountants fairly to reflect the financial condition of the state authority.

**124.767 Executive director; appointment; eligibility; oath; duties. Sec. 17.**

The governor shall appoint a person to serve as the executive director of the state authority. A member of the authority board is not eligible to hold the position of executive director. Before entering upon the duties of his or her office, the executive director shall take and file the constitutional oath of office provided in section 1 of article XI of the state constitution of 1963. Subject to the approval of the authority board, the executive director shall supervise, and be responsible for, the performance of the functions of the state authority under this act. The executive director shall attend the meetings of the authority board and shall provide the authority board and the governing body of the state authority a regular report describing the activities and financial condition of the state authority. The executive director shall furnish the authority board with information or reports governing the operation of the state authority as the authority board requires.

**124.768 Land bank fast track fund; creation; receipt of money or other assets; transfer of money in urban land assembly loan fund; loan repayments; money remaining in fund; expenditures; disposition of proceeds. Sec. 18.**

- (1) The land bank fast track fund is created under the jurisdiction and control of the state authority and may be administered to secure any notes and bonds of the state authority.
- (2) The state authority may receive money or other assets from any source for deposit into the fund. The state treasurer shall transfer all money in the urban land assembly loan fund created under former 1981 PA 171 to the fund, and close the urban land assembly loan fund. Any loan repayments that would otherwise be made to the urban land assembly loan fund shall be made to the fund.
- (3) The state authority shall credit to the fund interest and earnings from fund investments.
- (4) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to any other fund.
- (5) The state authority shall expend money from the fund only for 1 or more of the following:
  - (a) Costs to clear or quiet title to property held by the state authority.
  - (b) To repay a loan made to the state authority under section 2f of 1855 PA 105, MCL 21.142f.
  - (c) Any other purposes provided in this act.
- (6) The state authority shall deposit into the fund all money it receives from the sale or transfer of property under this act, subject to section 8. The state authority shall credit to the fund the proceeds of the sale of notes or bonds to the extent provided for in the

authorizing resolution of the state authority, and any other money made available to the state authority for the purposes of the fund.

**124.769 Borrowing money and issuing bonds or notes. Sec. 19.**

(1) The state authority may borrow money and issue bonds or notes for the following purposes:

(a) To provide sufficient funds for achieving the state authority's purposes and objectives or incident to and necessary or convenient to carry out the state authority's purposes and objectives, including necessary administrative costs.

(b) To refund bonds or notes of the state authority issued under this act, by the issuance of new bonds, whether or not the bonds or notes to be refunded have matured or are subject to prior redemption or are to be paid, redeemed, or surrendered at the time of the issuance of the refunding bonds or notes; and to issue bonds or notes partly to refund the bonds or notes and partly for any other purpose provided for by this section.

(c) To pay the costs of issuance of bonds or notes under this act; to pay interest on bonds or notes becoming payable before the receipt of the first revenues available for payment of that interest as determined by the authority board; and to establish, in full or in part, a reserve for the payment of the principal and interest on the bonds or notes in the amount determined by the authority board.

(2) The bonds and notes, including, but not limited to, commercial paper, shall be authorized by resolution adopted by the authority board, shall bear the date or dates, and shall mature at the time or times not exceeding 50 years from the date of issuance, as the resolution may provide. The bonds and notes shall bear interest at the rate or rates as may be set, reset, or calculated from time to time, or may bear no interest, as provided in the resolution. The bonds and notes shall be in the denominations, be in the form, either coupon or registered, carry the registration privileges, be transferable, be executed in the manner, be payable in the medium of payment, at the place or places, and be subject to the terms of prior redemption at the option of the state authority or the holders of the bonds and notes as the resolution or resolutions may provide. The bonds and notes of the state authority may be sold at public or private sale at the price or prices determined by the state authority. Bonds and notes may be sold at a discount.

(3) Bonds or notes may be 1 or more of the following:

(a) Made the subject of a put or agreement to repurchase by the state authority or others.

(b) Secured by a letter of credit or by any other collateral that the resolution may authorize.

(c) Reissued by the state authority once reacquired by the state authority pursuant to any put or repurchase agreement.

(4) The state authority may authorize by resolution any member of the board to do 1 or more of the following:

(a) Sell and deliver, and receive payment for notes or bonds.

(b) Refund notes or bonds by the delivery of new notes or bonds whether or not the notes or bonds to be refunded have matured, are subject to prior redemption, or are to be paid, redeemed, or surrendered at the time of the issuance of refunding bonds or notes.

(c) Deliver notes or bonds, partly to refund notes or bonds and partly for any other authorized purposes.

(d) Buy notes or bonds issued at not more than the face value of the notes or bonds.

(e) Approve interest rates or methods for fixing interest rates, prices, discounts, maturities, principal amounts, denominations, dates of issuance, interest payment dates, redemption rights at the option of the state authority or the holder, the place of delivery and payment, and other matters and procedures necessary to complete the transactions authorized.

(5) Except as may otherwise be expressly provided by the state authority, every issue of its notes or bonds shall be general obligations of the state authority payable out of revenues, properties, or money of the state authority, subject only to agreements with the holders of particular notes or bonds pledging particular receipts, revenues, properties, or money as security for the notes or bonds.

(6) The notes or bonds of the state authority are negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.11102, subject only to the provisions of the notes or bonds for registration.

(7) Bonds or notes issued by the state authority are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The issuance of bonds and notes under this act is subject to the agency financing reporting act, 2002 PA 470, MCL 129.171 to 129.177. The bonds or notes issued by the state authority are not required to be registered. A filing of a bond or note of the state authority is not required under the uniform securities act, 1964 PA 265, MCL 451.501 to 451.818.

(8) A bond or note issued by the state authority shall contain on its face a statement to the effect that the state authority is obligated to pay the principal of and the interest on the bond or note only from revenue or funds of the state authority pledged for the payment of principal and interest and that this state is not obligated to pay that principal and interest

and that neither the faith and credit nor the taxing power of this state is pledged to the payment of the principal of or the interest on the bond or note.

**124.770 Transfer of property from state administrative board. Sec. 20.**

(1) The state administrative board may transfer to the state authority tax reverted property owned or under control of this state, on terms and conditions the state administrative board considers appropriate and consistent with the provisions of this act. A transfer of property by the state administrative board under this section is subject only to the terms and conditions imposed by the state administrative board and is not subject to section 2101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.2101.

(2) The state administrative board shall transfer and convey to the state authority, subject to the conditions and restrictions of this section, the surplus state real property described in this section, including all options, easements, rights-of-way, and all improvements to the property except as noted in this section. All of the following described state surplus real property shall be transferred to the state authority under this section:

(a) Land in the City of Southgate, Wayne County, Michigan, described as: That part of the southwest 1/4 and of the southeast 1/4 of section 35, town 3 south, range 10 east, City of Southgate, County of Wayne, State of Michigan, described as: Beginning at the south 1/4 corner of section 35, town 3 south, range 10 east; thence north 89 degrees 29 minutes 52 seconds west 377.03 feet along the south line of said section 35; thence north 00 degrees 07 minutes 38 seconds east 1950.98 feet to centerline of Frank and Poet Drain; thence south 63 degrees 23 minutes 08 seconds east 15.60 feet along centerline of Frank and Poet Drain; thence south 37 degrees 03 minutes 54 seconds east 61.06 feet along centerline of Frank and Poet Drain; thence south 54 degrees 43 minutes 11 seconds east 78.36 feet along centerline of Frank and Poet Drain; thence south 50 degrees 32 minutes 05 seconds east 47.65 feet along centerline of Frank and Poet Drain; thence south 35 degrees 20 minutes 50 seconds east 67.52 feet along centerline of Frank and Poet Drain; thence south 63 degrees 46 minutes 49 seconds east 32.66 feet along centerline of Frank and Poet Drain; thence south 45 degrees 25 minutes 00 seconds east 71.96 feet along centerline of Frank and Poet Drain; thence south 61 degrees 13 minutes 05 seconds east 61.73 feet along centerline of Frank and Poet Drain; thence south 50 degrees 50 minutes 08 seconds east 41.80 feet along centerline of Frank and Poet Drain; thence south 44 degrees 20 minutes 22 seconds east 33.12 feet along centerline of Frank and Poet Drain; thence south 29 degrees 37 minutes 15 seconds east 34.98 feet along centerline of Frank and Poet Drain; thence south 05 degrees 34 minutes 10 seconds east 49.66 feet along centerline of Frank and Poet Drain; thence south 28 degrees 00 minutes 22 seconds west 36.63 feet along centerline of Frank and Poet Drain; thence south 33 degrees 24 minutes 36 seconds east 119.14 feet along centerline of Frank and Poet Drain; thence north 67 degrees 59 minutes 35 seconds east 50.70 feet along centerline of Frank and Poet Drain; thence

north 88 degrees 16 minutes 46 seconds east 484.63 feet along centerline of Frank and Poet Drain; thence south 80 degrees 13 minutes 42 seconds east 53.20 feet along centerline of Frank and Poet Drain to east line of west 1/2 of west 1/2 of southeast 1/4 of section 35; thence north 00 degrees 07 minutes 12 seconds east 106.82 feet along above noted east line; thence south 57 degrees 15 minutes 29 seconds east 449.51 feet to south 1/16 line of section 35; thence north 89 degrees 37 minutes 15 seconds west 50.00 feet along south 1/16 line of section 35; thence south 00 degrees 04 minutes 09 seconds west 1311.05 feet to south line of section 35; thence north 89 degrees 22 minutes 00 seconds west 989.22 feet along south line of section 35 to point of beginning.

(3) Proceeds from the sale of property transferred to the state authority under this section shall be deposited in the fund and expended for purposes of this act.

(4) The governor may direct a department or agency of this state to prepare or record any documents necessary to evidence the transfer of property to the state authority under this section.

#### **124.771 Dissolution of authority. Sec. 21.**

If the state authority has completed the purposes for which it was organized, the authority board, by vote of at least 5 directors and with the written consent of the governor, may provide for the dissolution of the state authority and may provide for the transfer of any property held by the state authority to another authority or state agency. Upon the dissolution of the state authority, any remaining balance in the fund shall be transferred to the general fund of this state.

#### **124.772 Biennial report. Sec. 22.**

The state authority shall report biennially to the legislature on the activities of the state authority.

#### **124.773 Intergovernmental agreements. Sec. 23.**

(1) An authority may enter into an intergovernmental agreement with the Michigan economic development corporation for the joint exercise of powers and duties under this act, of the powers and duties of the authority and the Michigan economic development corporation, and for the provision of economic development services related to the activities of the authority.

(2) An authority may enter into an intergovernmental agreement with the Michigan state housing development authority for the joint exercise of powers and duties under this act, of the powers and duties of the authority and the Michigan state housing development

authority, and for the provision of redevelopment services related to the activities of the authority.

(3) A county, city, qualified city, township, or village may enter into an intergovernmental agreement with the state authority providing for the transfer to the authority of tax reverted property held by the county, city, township, or village, for title clearance, for the disposition of the proceeds from the sale of the property, and for other activities authorized under this act, including the return or transfer of property under the control of the authority to the county, city, township, or village. An intergovernmental agreement under this subsection may not provide for a separate legal or administrative entity to administer or execute the agreement under section 7 of the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.507.

(4) A county foreclosing governmental unit may, with the approval of the board of commissioners for that county and, if that county has an elected county executive, with the concurrence of the elected county executive, enter into an intergovernmental agreement with the state authority providing for the exercise of the powers, duties, functions, and responsibilities of an authority under this act and for the creation of a county authority to exercise those functions. If a county authority is created under this subsection, the treasurer of the county shall be a member of the authority board.

(5) A qualified city may enter into an intergovernmental agreement with the state authority providing for the exercise of the powers, duties, functions, and responsibilities of an authority under this act and for the creation of a local authority to exercise those functions.

(6) An intergovernmental agreement under subsection (4) or (5) shall provide for all of the following:

(a) The incorporation of a county or local authority as a public body corporate.

(b) The name of the authority.

(c) The size of the initial governing body of the county or local authority, which shall be composed of an odd number of members.

(d) The qualifications, method of selection, and terms of office of the initial board members.

(e) A method for the adoption of articles of incorporation by the governing body of the county or local authority.

(f) A method for the distribution of proceeds from the activities of the county or local authority.

(g) A method for the dissolution of the local or county authority and for the withdrawal from the authority of any governmental agencies involved.

(h) Any other matters considered advisable by the participating governmental agencies, consistent with this act.

(7) If under the charter of a qualified city the qualified city collects delinquent city real property taxes and does not return the delinquent taxes to the treasurer of the county in which the qualified city is located under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, any of the following property held by the qualified city may be transferred to a local authority:

(a) Tax delinquent real property for which a lien has been deemed sold to a city department director under the charter or ordinances of the qualified city, except for property that was deeded to a department director less than 2 years before the proposed transfer to the local authority.

(b) Tax delinquent real property held by the city that has been foreclosed by the qualified city and for which title has vested in the city pursuant to procedures established under the charter or ordinances of the qualified city.

(c) Any tax reverted property owned or under the control of the qualified city.

(8) A qualified city may authorize the transfer with or without consideration of any real property or interest in real property to a local authority including, but not limited to, tax reverted property or interests in tax reverted property held or acquired after the creation of the local authority by the qualified city, with the consent of the local authority.

(9) A qualified city and any agency or department of a qualified city, or any other official public body, may do 1 or more of the following:

(a) Anything necessary or convenient to aid a local authority in fulfilling its purposes under this act.

(b) Lend, grant, transfer, appropriate, or contribute funds to a local authority in furtherance of its purposes.

(c) Lend, grant, transfer, or convey funds to a local authority that are received from the federal government or this state or from any nongovernmental entity in aid of the purposes of this act.

(10) A local authority may reimburse advances made by a qualified city under subsection (9) or by any other person for costs eligible to be incurred by the local authority with any source of revenue available for use of the local authority under this act and enter into agreements related to these reimbursements. A reimbursement agreement under this

subsection is not subject to section 305 of the revised municipal finance act, 2001 PA 34, MCL 141.2305.

(11) A local authority may enter into agreements with the county treasurer of the county in which the qualified city is located for the collection of property taxes or the enforcement and consolidation of tax liens within that qualified city for any property or interest in property transferred to the local authority.

(12) Unless specifically reserved or conditioned upon the approval of the governing body of a qualified city, all powers granted under this act to a local authority may be exercised by the local authority without the approval of the governing body of the qualified city, notwithstanding any charter, ordinance, or resolution to the contrary.

(13) Prior to its effectiveness, an intergovernmental agreement under this section shall be filed with the county clerk of each county where a party to the agreement is located and with the secretary of state.

**124.774 Authority created under MCL 124.773; borrowing money and issuing bonds or notes. Sec. 24.**

(1) By resolution of its board, an authority created under section 23 may borrow money and issue bonds and notes, subject to limitations set forth in this section, for the purpose of achieving the purposes of and objectives incident to and necessary or convenient to carry out the purposes and objectives of the authority, including, but not limited to, necessary administrative and operational costs. The bonds or notes shall mature in not more than 30 years and shall bear interest and be sold and be payable in the manner and upon the terms and conditions determined, or within the parameters specified, by the authority in the resolution authorizing issuance of the bonds or notes. The bonds or notes may include capitalized interest, an amount sufficient to fund costs of the issuance of the bonds or notes, and a sum to provide a reasonable reserve for payment of principal and interest on the bonds or notes. Bonds or notes issued under this section are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The resolution authorizing the obligations shall create a lien on revenues pledged by the resolution that shall be a statutory lien and shall be a first lien subject only to liens previously created. The resolution may provide the terms upon which additional bonds or notes may be issued of equal standing and parity of lien as to revenues pledged under the resolution.

(2) The qualified city or county which authorized the formation of an authority under section 23 may by a majority vote of its governing body make a limited tax pledge to support the authority's bonds or notes, or if authorized by the voters of the qualified city or county, may pledge its unlimited tax full faith and credit for the payment of principal of and interest on the authority's bonds or notes.

(3) The bonds or notes issued under this section shall be secured by 1 or more sources of revenue available to the authority, as provided by resolution of the authority, including revenues available to the authority under the tax reverted property clean title act.

(4) The bonds and notes of the authority may be invested in by the state treasurer and all other public officers, state agencies, and political subdivisions, insurance companies, banks, savings and loan associations, investment companies, and fiduciaries and trustees, and may be deposited with and received by the state treasurer and all other public officers and the agencies and political subdivisions of this state for 1 or more of the purposes for which the deposit of bonds or notes is authorized. The authorization granted by this section is supplemental and in addition to all other authority granted by law.

(5) The net present value of the principal and interest to be paid on an obligation issued by or incurred by the authority to refund an obligation incurred under this section, including the cost of issuance, shall be less than the net present value of the principal and interest to be paid on the obligation being refunded as calculated using a method approved by the department of treasury.

(6) An obligation issued by an authority under this section shall not appreciate in principal amount or be sold at a discount of more than 10% unless the obligation of the authority is issued to this state, an agency of this state, the county, or the qualifying city.

(7) Bonds and notes issued by an authority under this section and the interest on and income from the bonds and notes are exempt from taxation by this state or a political subdivision of this state.

(8) This section does not apply to a loan under section 2f of 1855 PA 105, MCL 21.142f.

# Ohio Community Improvement Corporation Act

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## **1724.01 Definitions; public purpose**

(A) As used in this chapter:

- (1) “Community improvement corporation” means an economic development corporation or a county land reutilization corporation.
- (2) “Economic development corporation” means a corporation organized for the purposes described in division (B)(1) of this section.
- (3) “County land reutilization corporation” means a corporation organized under section 1724.04 of the Revised Code for the purposes described in division (B)(2) of this section.

(B) A corporation not for profit may be organized in the manner provided in section 1702.04 of the Revised Code, and as provided in sections 1724.01 to 1724.09 of the Revised Code, for the purposes 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.

## **1724.02 Powers**

(A) In furtherance of the purposes set forth in section 1724.01 of the Revised Code, a community improvement corporation shall have the following powers:

(1)(a) To borrow money for any of the purposes of the community improvement corporation by means of loans, lines of credit, or any other financial instruments or securities, including the issuance of its bonds, debentures, notes, or other evidences of indebtedness, whether secured or unsecured, and to secure the same by mortgage, pledge, deed of trust, or other lien on its property, franchises, rights, and privileges of every kind and nature or any part thereof or interest therein; and

(b) If the community improvement corporation is a county land reutilization corporation, the corporation may request, by resolution:

(i) That the board of county commissioners of the county served by the corporation pledge a specifically identified source or sources of revenue pursuant to division (C) of section 307.78 of the Revised Code as security for such borrowing by the corporation; and

(ii)(I) If the land subject to reutilization is located within an unincorporated area of the county, that the board of county commissioners issue notes under section 307.082 of the Revised Code for the purpose of constructing public infrastructure improvements and take other actions as the board determines are in the interest of the county and are authorized under sections 5709.78 to 5709.81 of the Revised Code or bonds or notes under section 5709.81 of the Revised Code for the refunding purposes set forth in that section; or

(II) If the land subject to reutilization is located within the corporate boundaries of a municipal corporation, that the municipal corporation issue bonds for the purpose of constructing public infrastructure improvements and take such other actions as the municipal corporation determines are in its interest and are authorized under sections 5709.40 to 5709.43 of the Revised Code.

(2) To make loans to any person, firm, partnership, corporation, joint stock company, association, or trust, and to establish and regulate the terms and conditions with respect to any such loans; provided that an economic development corporation shall not approve any application for a loan unless and until the person applying for said loan shows that the person has applied for the loan through ordinary banking or commercial channels and that the loan has been refused by at least one bank or other financial institution. Nothing in this division shall preclude a county land reutilization corporation from making revolving loans to community development corporations, private entities, or any person for the purposes contained in the corporation's plan under section 1724.10 of the Revised Code.

(3) To purchase, receive, hold, manage, lease, lease-purchase, or otherwise acquire and to sell, convey, transfer, lease, sublease, or otherwise dispose of real and personal property, together with such rights and privileges as may be incidental and appurtenant thereto and the use thereof, including but not restricted to, any real or personal property acquired by the community improvement corporation from time to time in the

satisfaction of debts or enforcement of obligations, and to enter into contracts with third parties, including the federal government, the state, any political subdivision, or any other entity. A county land reutilization corporation shall not acquire an interest in real property if such acquisition causes the number of occupied real properties held by the corporation to exceed the greater of either fifty properties or twenty-five per cent of all real property held by the corporation for reutilization, reclamation, or rehabilitation. For the purposes of this division, "occupied real properties" includes all real properties that are not unoccupied as that term is defined in section 323.65 of the Revised Code.

(4) To acquire the good will, business, rights, real and personal property, and other assets, or any part thereof, or interest therein, of any persons, firms, partnerships, corporations, joint stock companies, associations, or trusts, and to assume, undertake, or pay the obligations, debts, and liabilities of any such person, firm, partnership, corporation, joint stock company, association, or trust; to acquire, reclaim, manage, or contract for the management of improved or unimproved and underutilized real estate for the purpose of constructing industrial plants, other business establishments, or housing thereon, or causing the same to occur, for the purpose of assembling and enhancing utilization of the real estate, or for the purpose of disposing of such real estate to others in whole or in part for the construction of industrial plants, other business establishments, or housing; and to acquire, reclaim, manage, contract for the management of, construct or reconstruct, alter, repair, maintain, operate, sell, convey, transfer, lease, sublease, or otherwise dispose of industrial plants, business establishments, or housing.

(5) To acquire, subscribe for, own, hold, sell, assign, transfer, mortgage, pledge, or otherwise dispose of the stock, shares, bonds, debentures, notes, or other securities and evidences of interest in, or indebtedness of, any person, firm, corporation, joint stock company, association, or trust, and while the owner or holder thereof, to exercise all the rights, powers, and privileges of ownership, including the right to vote therein, provided that no tax revenue, if any, received by a community improvement corporation shall be used for such acquisition or subscription.

(6) To mortgage, pledge, or otherwise encumber any property acquired pursuant to the powers contained in division (A)(3), (4), or (5) of this section.

(7) Nothing in this section shall limit the right of a community improvement corporation to become a member of or a stockholder in a corporation formed under Chapter 1726. of the Revised Code.

(8) To serve as an agent for grant applications and for the administration of grants, or to make applications as principal for grants for county land reutilization corporations.

(9) To exercise the powers enumerated under Chapter 5722. of the Revised Code on behalf of a county that organizes or contracts with a county land reutilization corporation.

(10) To engage in code enforcement and nuisance abatement, including, but not limited to, cutting grass and weeds, boarding up vacant or abandoned structures, and demolishing condemned structures on properties that are subject to a delinquent tax or assessment lien, or property for which a municipal corporation or township has contracted with a county land reutilization corporation to provide code enforcement or nuisance abatement assistance.

(11) To charge fees or exchange in-kind goods or services for services rendered to political subdivisions and other persons or entities for whom services are rendered.

(12) To employ and provide compensation for an executive director who shall manage the operations of a county land reutilization corporation and employ others for the benefit of the corporation as approved and funded by the board of directors. No employee of the corporation is or shall be deemed to be an employee of the political subdivision for whose benefit the corporation is organized solely because the employee is employed by the corporation.

(13) To purchase tax certificates at auction, negotiated sale, or from a third party who purchased and is a holder of one or more tax certificates issued pursuant to sections 5721.30 to 5721.43 of the Revised Code.

(14) To be assigned a mortgage on real property from a mortgagee in lieu of acquiring such real property subject to a mortgage.

(15) To do all acts and things necessary or convenient to carry out the purposes of section 1724.01 of the Revised Code and the powers especially created for a community improvement corporation in Chapter 1724. of the Revised Code, including, but not limited to, contracting with the federal government, the state or any political subdivision, a board of county commissioners pursuant to section 307.07 of the Revised Code, a county auditor pursuant to section 319.10 of the Revised Code, a county treasurer pursuant to section 321.49 of the Revised Code, and any other party, whether nonprofit or for-profit. An employee of a board of county commissioners, county auditor, or county treasurer who, pursuant to a contract entered into in accordance with section 307.07, 319.10, or 321.49 of the Revised Code, provides services to a county land reutilization corporation shall remain an employee of the county during the provision of those services.

(B) The powers enumerated in this chapter shall not be construed to limit the general powers of a community improvement corporation. The powers granted under this chapter are in addition to those powers granted by any other chapter of the Revised Code, but, as to a county land reutilization corporation, shall be used only for the purposes enumerated under division (B)(2) of section 1724.01 of the Revised Code.

(C) Ownership of real property by an economic development corporation does not constitute public ownership unless the economic development corporation has applied for

and been granted a tax exemption for the property under section 5709.08 of the Revised Code.

### **1724.03 County land reutilization corporations; boards of directors**

(A) After the articles of incorporation have been filed, and at the first meeting of the board of directors of a county land reutilization corporation, the board shall adopt regulations for the government of the corporation, the conduct of its affairs, and the management of its property, consistent with law and the articles. The content of the regulations shall be governed by section 1702.11 of the Revised Code to the extent not inconsistent with this chapter.

(B) The board of directors of a county land reutilization corporation shall be composed of five, seven, or nine members, including the county treasurer, at least two of the members of the board of county commissioners, one representative of the largest municipal corporation, based on the population according to the most recent federal decennial census, that is located in the county, one representative of a township with a population of at least ten thousand in the unincorporated area of the township according to the most recent federal decennial census, if at least two such townships exist in the county, and any remaining members selected by the treasurer and the county commissioners who are members of the corporation's board. The township representative shall be chosen by a majority of the boards of township trustees of townships with a population of at least ten thousand in the unincorporated area of the township according to the most recent federal decennial census. At least one board member shall have private sector or nonprofit experience in rehabilitation or real estate acquisitions. A county treasurer and the county commissioners each may appoint a representative, as a director of the corporation, to act for the officer at any of the meetings of the corporation. Except as may otherwise be authorized by the regulations of the corporation, all members of the board of directors shall serve without compensation, but shall be reimbursed for actual and necessary expenses.

### **1724.04 Articles of incorporation**

A county that elects under section 5722.02 of the Revised Code to adopt and implement the procedures set forth in sections 5722.02 to 5722.15 of the Revised Code may organize a county land reutilization corporation under this chapter and Chapter 1702. of the Revised Code for the purpose of exercising the powers granted to a county under Chapter 5722. of the Revised Code. The county treasurer of the county for the benefit of which the corporation is being organized shall be the incorporator of the county land reutilization corporation. The form of the articles of incorporation of the corporation shall be approved by resolution of the board of county commissioners of the county.

When the articles of incorporation of any community improvement corporation, or any amendment, amended articles, merger, or consolidation which provides for the creation of

such a corporation, are deposited for filing and recording in the office of the secretary of state, the secretary of state shall submit them to the attorney general for examination. If such articles, amendment, amended articles, merger, or consolidation, are found by the attorney general to be in accordance with Chapter 1724. of the Revised Code, and not inconsistent with the constitution and laws of the United States and of this state, the attorney general shall endorse thereon the attorney general's approval and deliver them to the secretary of state, who shall file and record them pursuant to section 1702.07 of the Revised Code.

#### **1724.05 Annual financial report**

Each community improvement corporation shall prepare an annual financial report that conforms to rules prescribed by the auditor of state pursuant to section 117.20 of the Revised Code, that is prepared according to generally accepted accounting principles, and that is certified by the board of directors of the corporation or its treasurer or other chief fiscal officer to the best knowledge and belief of those persons certifying the report. The financial report shall be filed with the auditor of state within one hundred twenty days following the last day of the corporation's fiscal year, unless the auditor of state extends that deadline. The auditor of state may establish terms and conditions for granting any extension of that deadline. The financial report shall be published on the corporation's web site, or if the corporation does not have a web site, on the web site of the county in which the corporation is located.

Each community improvement corporation shall submit to audits by the auditor of state, the scope and frequency of which shall be in accordance with section 117.11 of the Revised Code as if the corporation were a public office subject to that section. However, a community improvement corporation may request in accordance with section 115.56 of the Revised Code, as if the corporation were a public office subject to that section, the performance of any of those audits by an independent certified public accountant or firm of certified public accountants.

The auditor of state is authorized to receive and file the annual financial reports required by this section and the reports of all audits performed in accordance with this section. The auditor of state shall analyze those annual financial reports and the reports of those audits to determine whether the activities of a community improvement corporation involved are in accordance with this chapter.

#### **1724.06 Failure to make annual financial report**

If any community improvement corporation fails to prepare an annual financial report as required by section 1724.05 of the Revised Code and to file that report with the auditor of state within ninety days of the time prescribed for that filing by that section, or if the auditor of state determines by applying the standards applicable to a public office under section 117.41 of the Revised Code that any community improvement corporation cannot

be audited and declares it to be unauditible and the corporation fails to then prepare an annual financial report as required by section 1724.05 of the Revised Code and to file that report with the auditor of state within ninety days of the time that the auditor of state declared the corporation to be unauditible, the auditor of state shall certify that fact to the secretary of state. The secretary of state then shall cancel the articles of the community improvement corporation involved by filing and recording the certificate of the auditor of state or a true copy of it. All of the rights, privileges, and franchises conferred upon that community improvement corporation by those articles of incorporation then shall cease. The secretary of state shall immediately notify that community improvement corporation of the action taken. Reinstatement may be accomplished within two years after that cancellation upon proper filing of all delinquent annual financial reports to the satisfaction of the auditor of state and the filing of the auditor of state's certificate reflecting that satisfaction with the secretary of state, who shall be entitled to a fee of ten dollars for recording the certificate in the corporate records. That filing may be made by any officer, member, creditor, receiver, lessee, or sublessee of the community improvement corporation involved, and any such person or agent of any such person shall be granted access to the books and records of the corporation for that purpose. The rights, privileges, and franchises of a community improvement corporation whose articles have been reinstated are subject to section 1702.60 of the Revised Code.

#### **1724.07 Disposition of assets upon dissolution**

In the event of any voluntary or involuntary dissolution, liquidation, or failure to reinstate the articles after cancellation of the community improvement corporation, any remaining assets shall be applied as follows:

(A) In the case of an economic development corporation, to such civic projects or public charitable purposes in the community or area as may be determined by the directors with the approval of the court of common pleas of the county wherein the corporation has its principal place of business;

(B) In the case of a county land reutilization corporation, as determined by the board of county commissioners with the written approval of the county treasurer. Pending the determination, the remaining assets shall be transferred to the general fund of the county to be held and accounted for in a separate account until applied as determined by the board.

#### **1724.08 Applicability of nonprofit corporation laws**

The provisions of Chapter 1702. of the Revised Code are applicable to corporations organized under Chapter 1724. of the Revised Code to the extent they are not inconsistent herewith.

### **1724.09 Saving clause**

Any corporation organized prior to August 17, 1961 and having similar purposes may be brought under Chapter 1724. of the Revised Code by the required vote of its members or shareholders adopting amended articles of incorporation. Said amended articles of incorporation shall provide for a change in the corporate title and powers in conformity with Chapter 1724. of the Revised Code and shall contain a statement that the amended articles supersede the existing articles of incorporation. In the case of any corporation organized with shares of stock, the amended articles of incorporation shall also provide for the cancellation of all outstanding shares and the terms and considerations, if any, for such cancellation.

### **1724.10 Designation as an agent of political subdivision**

(A) A community improvement corporation may be designated:

(1) By a county, one or more townships, one or more municipal corporations, two or more adjoining counties, or any combination of the foregoing as the agency of each such political subdivision for the industrial, commercial, distribution, and research development in such political subdivision when the legislative authority of such political subdivision has determined that the policy of the political subdivision is to promote the health, safety, morals, and general welfare of its inhabitants through the designation of a community improvement corporation as such agency;

(2) Solely by a county as the agency for the reclamation, rehabilitation, and reutilization of vacant, abandoned, tax-foreclosed, or other real property in the county;

(3) By any political subdivision as the agency for the reclamation, rehabilitation, and reutilization of vacant, abandoned, tax-foreclosed, or other real property within the political subdivision if the subdivision enters into an agreement with the community improvement corporation that is the agency of a county, under division (A)(2) of this section, designating the corporation as the agency of the political subdivision.

(B) Designations under this section shall be made by the legislative authority of the political subdivision by resolution or ordinance. Any political subdivision which has designated a community improvement corporation as such agency under this section may enter into an agreement with it to provide any one or more of the following:

(1) That the community improvement corporation shall prepare a plan for the political subdivision of industrial, commercial, distribution, and research development, or of reclamation, rehabilitation, and reutilization of vacant, abandoned, tax-foreclosed, or other real property, and such plan shall provide therein the extent to which the community improvement corporation shall participate as the agency of the political subdivision in carrying out such plan. Such plan shall be confirmed by the legislative authority of the political subdivision. A community improvement corporation may

insure mortgage payments required by a first mortgage on any industrial, economic, commercial, or civic property for which funds have been loaned by any person, corporation, bank, or financial or lending institution upon such terms and conditions as the community improvement corporation may prescribe. A community improvement corporation may incur debt, mortgage its property acquired under this section or otherwise, and issue its obligations, for the purpose of acquiring, constructing, improving, and equipping buildings, structures, and other properties, and acquiring sites therefor, for lease or sale by the community improvement corporation in order to carry out its participation in such plan. Except as provided for in division (C) of section 307.78 of the Revised Code, any such debt shall be solely that of the corporation and shall not be secured by the pledge of any moneys received or to be received from any political subdivision. All revenue bonds issued under sections 1724.02 and 1724.10 of the Revised Code are lawful investments of banks, savings and loan associations, deposit guarantee associations, trust companies, trustees, fiduciaries, trustees or other officers having charge of sinking or bond retirement funds of municipal corporations and other subdivisions of the state, and of domestic insurance companies notwithstanding sections 3907.14 and 3925.08 of the Revised Code. Not less than two-fifths of the governing board of any economic development corporation designated as the agency of one or more political subdivisions shall be composed of mayors, members of municipal legislative authorities, members of boards of township trustees, members of boards of county commissioners, or any other appointed or elected officers of such political subdivisions, provided that at least one officer from each political subdivision shall be a member of the governing board. Membership on the governing board of a community improvement corporation does not constitute the holding of a public office or employment within the meaning of sections 731.02 and 731.12 of the Revised Code or any other section of the Revised Code. The board of directors of a county land reutilization corporation shall be composed of the members set forth in section 1724.03 of the Revised Code. Membership on such governing boards shall not constitute an interest, either direct or indirect, in a contract or expenditure of money by any municipal corporation, township, county, or other political subdivision. No member of such governing boards shall be disqualified from holding any public office or employment, nor shall such member forfeit any such office or employment, by reason of membership on the governing board of a community improvement corporation notwithstanding any law to the contrary.

Actions taken under this section shall be in accordance with any applicable planning or zoning regulations.

Any agreement entered into under this section may be amended or supplemented from time to time by the parties thereto.

An economic development corporation designated as the agency of a political subdivision under this section shall promote and encourage the establishment and growth in such subdivision of industrial, commercial, distribution, and research facilities. A county land reutilization corporation designated as the agency of a political

subdivision in an agreement between a political subdivision and a corporation shall promote the reclamation, rehabilitation, and reutilization of vacant, abandoned, tax-foreclosed, or other real property in the subdivision.

(2) Authorization for the community improvement corporation to sell or to lease any real property or interests in real property owned by the political subdivision determined from time to time by the legislative authority thereof not to be required by such political subdivision for its purposes, for uses determined by the legislative authority as those that will promote the welfare of the people of the political subdivision, stabilize the economy, provide employment, assist in the development of industrial, commercial, distribution, and research activities to the benefit of the people of the political subdivision, will provide additional opportunities for their gainful employment, or will promote the reclamation, rehabilitation, and reutilization of vacant, abandoned, tax-foreclosed, or other real property within the subdivision. The legislative authority shall specify the consideration for such sale or lease and any other terms thereof. Any determinations made by the legislative authority under this division shall be conclusive. The community improvement corporation acting through its officers and on behalf and as agent of the political subdivision shall execute the necessary instruments, including deeds conveying the title of the political subdivision or leases, to accomplish such sale or lease. Such conveyance or lease shall be made without advertising and receipt of bids. A copy of such agreement shall be recorded in the office of the county recorder of any county in which real property or interests in real property to be sold or leased are situated prior to the recording of a deed or lease executed pursuant to such agreement.

(3) That the political subdivision executing the agreement will convey to the community improvement corporation real property and interests in real property owned by the political subdivision and determined by the legislative authority thereof not to be required by the political subdivision for its purposes and that such conveyance of such real property or interests in real property will promote the welfare of the people of the political subdivision, stabilize the economy, provide employment, assist in the development of industrial, commercial, distribution, and research activities to the benefit of the people of the political subdivision, provide additional opportunities for their gainful employment or will promote the reclamation, rehabilitation, and reutilization of vacant, abandoned, tax-foreclosed, or other real property in the subdivision, for the consideration and upon the terms established in the agreement, and further that as the agency for development or land reutilization the community improvement corporation may acquire from others additional real property or interests in real property, and any real property or interests in real property so conveyed by it for uses that will promote the welfare of the people of the political subdivision, stabilize the economy, provide employment, assist in the development of industrial, commercial, distribution, and research activities required for the people of the political subdivision and for their gainful employment or will promote the reclamation, rehabilitation, and reutilization of vacant, abandoned, tax-foreclosed, or other real property in the subdivision. Any conveyance or lease by the political subdivision to the community improvement corporation shall be made without advertising and receipt of bids. If any real property or interests in real property conveyed by a political subdivision under this

division are sold by the community improvement corporation at a price in excess of the consideration received by the political subdivision from the community improvement corporation, such excess shall be paid to such political subdivision after deducting, to the extent and in the manner provided in the agreement, the costs of such acquisition and sale, taxes, assessments, costs of maintenance, costs of improvements to the real property by the community improvement corporation, service fees, and any debt service charges of the corporation attributable to such real property or interests.

**1724.11 Confidentiality of financial and proprietary information; closing of meetings**

(A) When a community improvement corporation is acting as an agent of a political subdivision designated pursuant to section 1724.10 of the Revised Code and at all times as a county land reutilization corporation, both of the following apply:

(1) Any financial and proprietary information, including trade secrets, submitted by or on behalf of an entity to the community improvement corporation in connection with the relocation, location, expansion, improvement, or preservation of the business of that entity, or in the pursuit of any one or more of the purposes under division (B) of section 1724.01 of the Revised Code for which a county land reutilization corporation is organized, held or kept by the community improvement corporation, or by any political subdivision for which the community improvement corporation is acting as agent, is confidential information and is not a public record subject to section 149.43 of the Revised Code.

(2) Any other information submitted by or on behalf of an entity to the community improvement corporation in connection with the relocation, location, expansion, improvement, or preservation of the business of that entity held or kept by the community improvement corporation, or by any political subdivision for which the community improvement corporation is acting as agent, is confidential information and is not a public record subject to section 149.43 of the Revised Code, until the entity commits in writing to proceed with the relocation, location, expansion, improvement, preservation of its business, or other purpose under division (B) of section 1724.01 of the Revised Code.

(B)(1) When the board of directors of a community improvement corporation or any committee or subcommittee of such a board meets to consider information that is not a public record pursuant to division (A) of this section, the board, committee, or subcommittee, by majority vote of all members present, may close the meeting during consideration of the confidential information. The board, committee, or subcommittee shall consider no other information during the closed session.

(2) Any meeting at which a decision or determination of the board is required in connection with the relocation, location, expansion, improvement, or preservation of

the business of the entity or is required in pursuit of any purpose under division (B) of section 1724.01 of the Revised Code for which a county land reutilization corporation is organized shall be open to the public.

### **1724.12 Contributions**

The board of directors of a community improvement corporation in which all or a part of a downtown redevelopment district is located may accept contributions from the municipal corporation that created the district pursuant to division (E)(2) of section 5709.45 of the Revised Code. The board shall use all such contributions to promote the downtown redevelopment district to potential business patrons, to recruit businesses to relocate or expand to the downtown redevelopment district, and to attract and promote events and activities that generate revenue or enhance public welfare within the downtown redevelopment district. The board shall periodically report to the legislative authority of the municipal corporation on the expenditure of the contributions and plans for the utilization of future contributions. If any contributions received by a community improvement corporation under this section remain after the dissolution or expiration of the downtown redevelopment district, the board shall pay the remaining amount to the contributing municipal corporation, which shall credit the money to its general fund.

# New York Land Bank Act

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## **§ 1600. Short title**

This article shall be known and may be cited as the “land bank act”.

## **§ 1601. Legislative intent**

The legislature finds and declares that New York's communities are important to the social and economic vitality of the state. Whether urban, suburban, or rural, many communities are struggling to cope with vacant, abandoned, and tax-delinquent properties.

There exists a crisis in many cities and their metro areas caused by disinvestment in real property and resulting in a significant amount of vacant and abandoned property. For example, Cornell Cooperative Extension Association of Erie county estimates that the city of Buffalo has thirteen thousand vacant parcels, four thousand vacant structures and an estimated twenty-two thousand two hundred ninety vacant residential units. This condition of vacant and abandoned property represents lost revenue to local governments and large costs ranging from demolition, effects of safety hazards and spreading deterioration of neighborhoods including resulting mortgage foreclosures.

The need exists to strengthen and revitalize the economy of the state and its local units of government by solving the problems of vacant and abandoned property in a coordinated manner and to foster the development of such property and promote economic growth. Such problems may include multiple taxing jurisdictions lacking common policies, ineffective property inspection, code enforcement and property rehabilitation support, lengthy and/or inadequate foreclosure proceedings and lack of coordination and resources to support economic revitalization.

There is an overriding public need to confront the problems caused by vacant, abandoned and tax-delinquent properties through the creation of new tools to be available to communities throughout New York enabling them to turn vacant spaces into vibrant places.

Land banks are one of the tools that can be utilized by communities to facilitate the return of vacant, abandoned, and tax-delinquent properties to productive use. The primary focus of land bank operations is the acquisition of real property that is tax delinquent, tax foreclosed, vacant, abandoned, and the use of tools authorized in this article to eliminate the harms and liabilities caused by such properties.

## **§ 1602. Definitions**

The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

- (a) “board of directors” or “board” shall mean the board of directors of a land bank;
- (b) “land bank” shall mean a land bank established as a charitable not-for-profit corporation under this chapter and in accordance with the provisions of this article and pursuant to this article;
- (c) “foreclosing governmental unit” shall mean “tax district” as defined in subdivision six of section eleven hundred two of the real property tax law;
- (d) “municipality” shall mean a city, village, town or county other than a county located wholly within a city;
- (e) “school district” shall mean a school district as defined under the education law; and
- (f) “real property” shall mean lands, lands under water, structures and any and all easements, air rights, franchises and incorporeal hereditaments and every estate and right therein, legal and equitable, including terms for years and liens by way of judgment, mortgage or otherwise, and any and all fixtures and improvements located thereon.

## **§ 1603. Creation and existence**

(a) Any foreclosing governmental unit may create a land bank by the adoption of a local law, ordinance, or resolution as appropriate to such foreclosing governmental unit which action specifies the following:

- (1) the name of the land bank;
- (2) the number of members of the board of directors, which shall consist of an odd number of members, and shall be not less than five members nor more than fifteen members;
- (3) the initial individuals to serve as members of the board of directors, and the length of terms for which they are to serve;
- (4) the qualifications, manner of selection or appointment, and terms of office of members of the board; and
- (5) the articles of incorporation for the land bank, which shall be filed with the secretary of state in accordance with the procedures set forth in this chapter.

(b) Two or more foreclosing governmental units may enter into an intergovernmental cooperation agreement which creates a single land bank to act on behalf of such foreclosing governmental units, which agreement shall be authorized by and be in accordance with the provisions of paragraph (a) of this section. Such intergovernmental agreement shall include provisions for dissolution of such land bank.

(c) Any foreclosing governmental units and any municipality may enter into an intergovernmental cooperation agreement which creates a single land bank to act on behalf of such foreclosing governmental unit or units and municipality, which agreement shall be authorized by and be in accordance with the provisions of paragraph (a) of this section. Such intergovernmental agreement shall include provisions for dissolution of such land bank.

(d) Except when a land bank is created pursuant to paragraph (b) or (c) of this section, in the event a county creates a land bank, such land bank shall have the power to acquire real property only in those portions of such county located outside of the geographical boundaries of any other land bank created by any other foreclosing governmental unit located partially or entirely within such county.

(e) A school district may participate in a land bank pursuant to an intergovernmental cooperation agreement with the foreclosing governmental unit or units that create the land bank, which agreement shall specify the membership, if any, of such school district on the board of directors of the land bank, or the actions of the land bank which are subject to approval by the school district.

(f) Each land bank created pursuant to this act shall be a charitable corporation, and shall have permanent and perpetual duration until terminated and dissolved in accordance with the provisions of section sixteen hundred thirteen of this article.

(g) Nothing in this article shall be construed to authorize the existence of more than twenty-five land banks located in the state at one time, provided further that each foreclosing governmental unit or units proposing to create a land bank shall submit such local law, ordinance or resolution as required by paragraph (a) of this section, to the urban development corporation, for its review and approval. The creation of a land bank shall be conditioned upon approval of the urban development corporation.

(h) The office of the state comptroller shall have the authority to audit any land bank pursuant to this article.

#### **§ 1604. Applicability of New York law**

This article shall apply only to land banks created pursuant to this article.

**§ 1605. Board of directors**

(a)(1) The initial size of the board shall be determined in accordance with section sixteen hundred three of this article. Unless restricted by the actions or agreements specified in section sixteen hundred three of this article, the provisions of this section shall apply.

(2) The size of the board may be adjusted in accordance with by-laws of the land bank.

(b) In the event that a land bank is created pursuant to an intergovernmental agreement in accordance with section sixteen hundred three of this article, such intergovernmental cooperation agreement shall specify matters identified in paragraph (a) of section sixteen hundred three of this article; provided, however, that each foreclosing governmental unit shall have at least one appointment to the board.

(c) Any public officer shall be eligible to serve as a board member and the acceptance of the appointment shall neither terminate nor impair such public office. For purposes of this section, "public officer" shall mean a person who is elected to a municipal office. Any municipal employee or appointed officer shall be eligible to serve as a board member.

(d) The members of the board of directors shall select annually from among themselves a chairman, a vice-chairman, a treasurer, and such other officers as the board may determine, and shall establish their duties as may be regulated by rules adopted by the board.

(e) The board shall establish rules and requirements relative to the attendance and participation of members in its meetings, regular or special. Such rules and regulations may prescribe a procedure whereby, should any member fail to comply with such rules and regulations, such member may be disqualified and removed automatically from office by no less than a majority vote of the remaining members of the board, and that member's position shall be vacant as of the first day of the next calendar month. Any person removed under the provisions of this paragraph shall be ineligible for reappointment to the board, unless such reappointment is confirmed unanimously by the board.

(f) A vacancy on the board shall be filled in the same manner as the original appointment.

(g) Board members shall serve without compensation, shall have the power to organize and reorganize the executive, administrative, clerical, and other departments of the land bank and to fix the duties, powers, and compensation of all employees, agents, and consultants of the land bank. The board may reimburse any member for expenses actually incurred in the performance of duties on behalf of the land bank.

(h) The board shall meet in regular session according to a schedule adopted by the board, and also shall meet in special session as convened by the chairman or upon written notice signed by a majority of the members.

(i) A majority of the members of the board, not including vacancies, shall constitute a quorum for the conduct of business. All actions of the board shall be approved by the affirmative vote of a majority of the members of that board present and voting; provided, however, no action of the board shall be authorized on the following matters unless approved by a majority of the total board membership:

(1) adoption of by-laws and other rules and regulations for conduct of the land bank's business;

(2) hiring or firing of any employee or contractor of the land bank. This function may, by majority vote of the total board membership, be delegated to a specified officer or committee of the land bank, under such terms and conditions, and to the extent, that the board may specify;

(3) the incurring of debt;

(4) adoption or amendment of the annual budget; and

(5) sale, lease, encumbrance, or alienation of real property, improvements, or personal property.

(j) Members of a board shall not be liable personally on the bonds or other obligations of the land bank, and the rights of creditors shall be solely against such land bank.

(k) Vote by proxy shall not be permitted. Any member may request a recorded vote on any resolution or action of the land bank.

(l) Each director, officer and employee shall be a state officer or employee for the purposes of sections seventy-three and seventy-four of the public officers law.

#### **§ 1606. Staff**

A land bank may employ a secretary, an executive director, its own counsel and legal staff, and such technical experts, and such other agents and employees, permanent or temporary, as it may require, and may determine the qualifications and fix the compensation and benefits of such persons. A land bank may also enter into contracts and agreements with municipalities for staffing services to be provided to the land bank by municipalities or agencies or departments thereof, or for a land bank to provide such staffing services to municipalities or agencies or departments thereof.

#### **§ 1607. Powers**

(a) A land bank shall constitute a charitable not-for-profit corporation under New York law, which powers shall include all powers necessary to carry out and effectuate the purposes

and provisions of this article, including the following powers in addition to those herein otherwise granted:

- (1) adopt, amend, and repeal bylaws for the regulation of its affairs and the conduct of its business;
- (2) sue and be sued in its own name and plead and be impleaded in all civil actions, including, but not limited to, actions to clear title to property of the land bank;
- (3) to adopt a seal and to alter the same at pleasure;
- (4) to make contracts, give guarantees and incur liabilities, borrow money at such rates of interest as the land bank may determine;
- (5) to issue negotiable revenue bonds and notes according to the provisions of this article;
- (6) to procure insurance or guarantees from the state of New York or federal government of the payments of any debts or parts thereof incurred by the land bank, and to pay premiums in connection therewith;
- (7) to enter into contracts and other instruments necessary to the performance of its duties and the exercise of its powers, including, but not limited to, intergovernmental agreements under section one hundred nineteen-o of the general municipal law for the joint exercise of powers under this article;
- (8) to enter into contracts and other instruments necessary to the performance of functions by the land bank on behalf of municipalities or agencies or departments of municipalities, or the performance by municipalities or agencies or departments of municipalities of functions on behalf of the land bank;
- (9) to make and execute contracts and other instruments necessary to the exercise of the powers of the land bank; and any contract or instrument when signed by the chairman or vice-chairman of the land bank, or by an authorized use of their facsimile signatures, and by the secretary or assistant secretary, or, treasurer or assistant treasurer of the land bank, or by an authorized use of their facsimile signatures, shall be held to have been properly executed for and on its behalf;
- (10) to procure insurance against losses in connection with the real property, assets, or activities of the land bank;
- (11) to invest money of the land bank, at the discretion of the board of directors, in instruments, obligations, securities, or property determined proper by the board of directors, and name and use depositories for its money;

(12) to enter into contracts for the management of, the collection of rent from, or the sale of real property of the land bank;

(13) to design, develop, construct, demolish, reconstruct, rehabilitate, renovate, relocate, and otherwise improve real property or rights or interests in real property;

(14) to fix, charge, and collect rents, fees and charges for the use of real property of the land bank and for services provided by the land bank;

(15) to grant or acquire a license, easement, lease (as lessor and as lessee), or option with respect to real property of the land bank;

(16) to enter into partnership, joint ventures, and other collaborative relationships with municipalities and other public and private entities for the ownership, management, development, and disposition of real property;

(17) to inventory vacant, abandoned and tax foreclosed properties;

(18) to develop a redevelopment plan to be approved by the foreclosing governmental unit or units;

(19) to be subject to municipal building codes and zoning laws;

(20) to enter in agreements with a foreclosing governmental unit for the distribution of revenues to the foreclosing governmental unit and school district;

(21) to organize a subsidiary for a project or projects which the land bank has the power to pursue under this article when the primary reason for which the subsidiary shall be organized shall be to limit the potential liability impact of the subsidiary's project or projects on the land bank or because state or federal law requires that the purpose of a subsidiary be undertaken through a specific corporate or business structure. All real property of a subsidiary organized under this article shall be maintained on the inventory lists required in this article of the land bank of which it is a subsidiary and the subsidiary shall make all reports and other disclosures as are required of land banks under this article and as local public authorities, unless the subsidiary's operations and finances are consolidated with those of the land bank of which it is a subsidiary. Subsidiaries organized under this article shall be established in the form of a New York charitable not-for-profit corporation or a New York single member limited liability company. Subsidiaries shall not have the authority to issue bonds, notes or other debts, provided, however, that such subsidiaries may issue notes or other debt to the land bank of which it is a subsidiary. The organizational documents filed to create a subsidiary under this article shall state that the land bank is organizing the subsidiary for the purposes set forth in this article and the name of the subsidiary shall be reasonably related to the name of the land bank of which it is a subsidiary. The real property of a subsidiary organized under this article and its income and operations

are exempt from all taxation by the state of New York and by any of its political subdivisions; and

(22) to do all other things necessary to achieve the objectives and purposes of the land bank or other laws that relate to the purposes and responsibility of the land bank.

(b) A land bank shall neither possess nor exercise the power of eminent domain.

### **§ 1608. Acquisition of property**

(a) The real property of a land bank and its income and operations are exempt from all taxation by the state of New York and by any of its political subdivisions. The real property of a land bank shall be exempt from: (i) all special ad valorem levies and special assessments as defined in section one hundred two of the real property tax law; (ii) sewer rent imposed under article fourteen-F of the general municipal law; and (iii) any and all user charges imposed by any municipal corporation, special district or other political subdivisions of the state, provided, however, that real property of a land bank for which such land bank receives rent, fees, or other charges for the use of such real property shall not be exempt from subparagraphs (ii) and (iii) of this paragraph. Notwithstanding any other general, special or local law relating to fees of clerks, no clerk shall charge or collect a fee for filing, recording or indexing any paper, document, map or proceeding filed, recorded or indexed for a land bank, or an officer thereof acting in an official capacity, nor for furnishing a transcript, certification or copy of any paper, document, map or proceeding to be used for land bank purposes.

(b) The land bank may acquire real property or interests in real property by gift, devise, transfer, exchange, foreclosure, purchase, or otherwise on terms and conditions and in a manner the land bank considers proper.

(c) The land bank may acquire real property by purchase contracts, lease purchase agreements, installment sales contracts, land contracts, and may accept transfers from municipalities upon such terms and conditions as agreed to by the land bank and the municipality. Notwithstanding any other law to the contrary, any municipality may transfer to the land bank real property and interests in real property of the municipality on such terms and conditions and according to such procedures as determined by the municipality.

(d) The land bank shall maintain all of its real property in accordance with the laws and ordinances of the jurisdiction in which the real property is located.

(e) The land bank shall not own or hold real property located outside the jurisdictional boundaries of the foreclosing governmental unit or units which created the land bank; provided, however, that a land bank may be granted authority pursuant to an intergovernmental cooperation agreement with another municipality to manage and maintain real property located within the jurisdiction of such other municipality.

(f) Notwithstanding any other provision of law to the contrary, any municipality may convey to a land bank real property and interests in real property on such terms and conditions, form and substance of consideration, and procedures, all as determined by the transferring municipality in its discretion.

(g) The acquisition of real property by a land bank pursuant to the provisions of this article, from entities other than political subdivisions, shall be limited to real property that is tax delinquent, tax foreclosed, vacant or abandoned; provided, however, that a land bank shall have authority to enter into agreements to purchase other real property consistent with an approved redevelopment plan.

(h) The land bank shall maintain and make available for public review and inspection a complete inventory of all property received by the land bank. Such inventory shall include: the location of the parcel; the purchase price, if any, for each parcel 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.

(i) All parcels received by the land bank shall be listed on the received inventory established pursuant to paragraph (h) of this section within one week of acquisition and shall remain in such inventory for one week prior to disposition.

(j) Failure to comply with the requirements in paragraphs (h) and (i) of this section with regard to any particular parcel shall cause such acquisition by the land bank to be null and void.

### **§ 1609. Disposition of property**

(a) The land bank shall hold in its own name, or in the name of a lawfully organized subsidiary, all real property acquired by the land bank irrespective of the identity of the transferor of such property.

(a-1) 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 and, as such, notwithstanding any other general, special or local law to the contrary, section twenty-eight hundred ninety-seven of the public authorities law shall not apply to land banks.

(b) The land bank shall maintain and make available for public review and inspection a complete inventory of all real property dispositions by the land bank. Such inventory shall include a complete copy of the sales contract including all terms and conditions including, but not limited to, any form of compensation received by the land bank or any other party which is not included within the sale price.

(c) The land bank shall determine and set forth in policies and procedures of the board of directors the general terms and conditions for consideration to be received by the land bank for the transfer of real property and interests in real property, which consideration may take the form of monetary payments and secured financial obligations, covenants and conditions related to the present and future use of the property, contractual commitments of the transferee, and such other forms of consideration as are consistent with state and local law.

(d) The land bank may convey, exchange, sell, transfer, lease as lessor, grant, release and demise, pledge any and all interests in, upon or to real property of the land bank.

(e) A foreclosing governmental unit may, in its local law, resolution or ordinance creating a land bank, or, in the case of multiple foreclosing governmental units creating a single land bank in the applicable intergovernmental cooperation agreement, establish a hierarchical ranking of priorities for the use of real property conveyed by a land bank including but not limited to:

(1) use for purely public spaces and places;

(2) use for affordable housing;

(3) use for retail, commercial and industrial activities;

(4) use as wildlife conservation areas; and

(5) such other uses and in such hierarchical order as determined by the foreclosing governmental unit or units.

(f) A foreclosing governmental unit may, in its local law, resolution or ordinance creating a land bank, or, in the case of multiple foreclosing governmental units creating a single land bank in the applicable intergovernmental cooperation agreement, require that any particular form of disposition of real property, or any disposition of real property located within specified jurisdictions, be subject to specified voting and approval requirements of the board of directors. Except and unless restricted or constrained in this manner, the board of directors may delegate to officers and employees the authority to enter into and execute agreements, instruments of conveyance and all other related documents pertaining to the conveyance of real property by the land bank.

(g) All property dispositions shall be listed on the property disposition inventory established pursuant to paragraph (b) of this section within one week of disposition. Such records shall remain available for public inspection in the property disposition inventory indefinitely.

(h) Failure to comply with the requirements in paragraph (g) of this section shall subject the land bank to a civil penalty of one hundred dollars per violation up to a maximum of ten thousand dollars for each parcel, recoverable in an action brought by the attorney general

or district attorney. The attorney general or district attorney may also seek rescission of the real property transaction.

**§ 1610. Financing of land bank operations**

(a) A land bank may receive funding through grants and loans from the foreclosing governmental unit or units which created the land bank, from other municipalities, from the state of New York, from the federal government, and from other public and private sources.

(b) A land bank may receive and retain payments for services rendered, for rents and leasehold payments received, for consideration for disposition of real and personal property, for proceeds of insurance coverage for losses incurred, for income from investments, and for any other asset and activity lawfully permitted to a land bank under this article.

(c) Upon the adoption of a local law, ordinance, or resolution by municipality, school district or any taxing district, fifty percent of the real property taxes collected on any specific parcel of real property identified by such municipality, school district or any taxing jurisdiction may be remitted to the land bank, in accordance with procedures established by regulations promulgated by the department of taxation and finance. Such allocation of real property tax revenues shall commence with the first taxable year following the date of conveyance and shall continue for a period of five years.

**§ 1611. Borrowing and issuance of bonds**

(a) A land bank shall have power to issue bonds for any of its corporate purposes, the principal and interest of which are payable from its revenues generally. Any of such bonds may be secured by a pledge of any revenues, including grants or contributions from the state of New York, the federal government, or any agency, and instrumentality thereof, or by a mortgage of any property of the land bank.

(b) The bonds issued by a land bank are hereby declared to have all the qualities of negotiable instruments under New York state law.

(c) The bonds of a land bank created under the provisions of this article and the income therefrom shall at all times be free from taxation for the state of New York or local purposes under any provision of New York law.

(d) Bonds issued by the land bank shall be authorized by resolution of the board and shall be limited obligations of the land bank; the principal and interest, costs of issuance, and other costs incidental thereto shall be payable solely from the income and revenue derived from the sale, lease, or other disposition of the assets of the land bank. In the discretion of the land bank, the bonds may be additionally secured by mortgage or other security device

covering all or part of the project from which the revenues so pledged may be derived. Any refunding bonds issued shall be payable from any source described above or from the investment of any of the proceeds of the refunding bonds and shall not constitute an indebtedness or pledge of the general credit of any foreclosing governmental unit or municipality within the meaning of any constitutional or statutory limitation of indebtedness and shall contain a recital to that effect. Bonds of the land bank shall be issued in such form, shall be in such denominations, shall bear interest, shall mature in such manner, and be executed by one or more members of the board as provided in the resolution authorizing the issuance thereof. Such bonds may be subject to redemption at the option of and in the manner determined by the board in the resolution authorizing the issuance thereof.

(e) Bonds issued by the land bank shall be issued, sold, and delivered in accordance with the terms and provisions of a resolution adopted by the board. The board may sell such bonds in such manner, either at public or at private sale, and for such price as it may determine to be in the best interests of the land bank. The resolution issuing bonds shall be published in a newspaper of general circulation within the jurisdiction of the land bank and posted prominently and continuously on the homepage of any website maintained by the land bank.

(f) Neither the members of a land bank nor any person executing the bonds shall be liable personally on any such bonds by reason of the issuance thereof. Such bonds or other obligations of a land bank shall not be a debt of any municipality or of the state of New York, and shall so state on their face, nor shall any municipality or the state of New York nor any revenues or any property of any municipality or of the state of New York be liable therefor.

#### **§ 1612. Public records and public meetings**

(a) The board shall cause minutes and a record to be kept of all its proceedings. Except as otherwise provided in this section, the land bank shall be subject to the open meetings law and the freedom of information law.

(b) A land bank shall hold a public hearing prior to financing or issuance of bonds. The land bank shall schedule and hold a public hearing and solicit public comment. After the conclusion of the public hearing and comments, the land bank shall consider the results of the public hearing and comments with respect to the proposed actions. Such consideration by the land bank shall include the accommodation of the public interest with respect to such actions; if such accommodation is deemed in the best interest of the community proposed actions shall include such accommodation.

(c) In addition to any other report required by this chapter, the land bank, through its chairperson, shall annually deliver, in oral and written form, a report to the municipality. Such report shall be presented by March fifteenth of each year to the governing body or

board of the municipality. The report shall describe in detail the projects undertaken by the land bank during the past year, the monies expended by the land bank during the past year, and the administrative activities of the land bank during the past year. At the conclusion of the report, the chairperson of the land bank shall be prepared to answer the questions of the municipality with respect to the projects undertaken by the authority during the past year, the monies expended by the municipality during the past year, and the administrative activities of the municipality during the past year.

### **§ 1613. Dissolution of land bank**

A land bank may be dissolved as a charitable not-for-profit corporation sixty calendar days after an affirmative resolution approved by two-thirds of the membership of the board of directors. Sixty calendar days advance written notice of consideration of a resolution of dissolution shall be given to the foreclosing governmental unit or units that created the land bank, shall be published in a local newspaper of general circulation, and posted prominently and continuously on the homepage of any website maintained by the land bank, and shall be sent certified mail to the trustee of any outstanding bonds of the land bank. Upon dissolution of the land bank all real property, personal property and other assets of the land bank shall become the assets of the foreclosing governmental unit or units that created the land bank. In the event that two or more foreclosing governmental units create a land bank in accordance with section sixteen hundred three of this article, the withdrawal of one or more foreclosing governmental units shall not result in the dissolution of the land bank unless the intergovernmental agreement so provides, and there is no foreclosing governmental unit that desires to continue the existence of the land bank.

### **§ 1614. Conflicts of interest**

No member of the board or employee of a land bank shall acquire any interest, direct or indirect, in real property of the land bank, in any real property to be acquired by the land bank, or in any real property to be acquired from the land bank. No member of the board or employee of a land bank shall have any interest, direct or indirect, in any contract or proposed contract for materials or services to be furnished or used by a land bank. The board may adopt supplemental rules and regulations addressing potential conflicts of interest and ethical guidelines for members of the board and land bank employees.

### **§ 1615. Construction, intent and scope**

The provisions of this article shall be construed liberally to effectuate the legislative intent and the purposes as complete and independent authorization for the performance of each and every act and thing authorized by this article, and all powers granted shall be broadly interpreted to effectuate the intent and purposes and not as a limitation of powers. Except as otherwise expressly set forth in this article, in the exercise of its powers and duties

under this article and its powers relating to property held by the land bank, the land bank shall have complete control as fully and completely as if it represented a private property owner and shall not be subject to restrictions imposed by the charter, ordinances, or resolutions of a local unit of government.

**§ 1616. Delinquent property tax enforcement**

The municipality may enter into a contract to sell some or all of the delinquent tax liens held by it to a land bank, subject to the following conditions:

(a) The consideration to be paid may be more or less than the face amount of the tax liens sold.

(b) Property owners shall be given at least thirty days advance notice of such sale in the same form and manner as is provided by subdivision two of section eleven hundred ninety of the real property tax law. Failure to provide such notice or the failure of the addressee to receive the same shall not in any way affect the validity of any sale of a tax lien or tax liens or the validity of the taxes or interest prescribed by law with respect thereto.

(c) The municipality shall set the terms and conditions of the contract of sale.

(d) The land bank must thirty days prior to the commencement of any foreclosure action provide to the municipality a list of liens to be foreclosed. The municipality may, at its sole option and discretion, repurchase a lien or liens on the foreclosure list from the land bank. The repurchase price shall be the amount of the lien or liens plus any accrued interest and collection fees incurred by the land bank. The land bank shall provide the foreclosure list to the municipality, along with the applicable repurchase price of each lien, by certified mail, and the municipality shall have thirty days from receipt to notify the land bank of its option to purchase one or more of the liens. If the municipality opts to purchase the lien, it shall provide payment within thirty days of receipt of the repurchase price of said lien or liens. If the municipality shall fail to opt to repurchase the lien or liens the land bank shall have the right to commence a foreclosure action immediately.

(e) The sale of a tax lien pursuant to this article shall not operate to shorten the otherwise applicable redemption period or change the otherwise applicable interest rate.

(f) Upon the expiration of the redemption period prescribed by law, the purchaser of a delinquent tax lien, or its successors or assigns, may foreclose the lien as in an action to foreclose a mortgage as provided in section eleven hundred ninety-four of the real property tax law. The procedure in such action shall be the procedure prescribed by article thirteen of the real property actions and proceedings law for the foreclosure of mortgages. At any time following the commencement of an action to foreclose a lien, the

amount required to redeem the lien, or the amount received upon sale of a property, shall include reasonable and necessary collection costs, attorneys' fees, legal costs, allowances, and disbursements.

(g) The provisions of title five of article eleven of the real property tax law shall apply so far as is practicable to a contract for the sale of tax liens pursuant to this article.

(h) If the court orders a public sale pursuant to section eleven hundred thirty-six of the real property tax law, and the purchaser of the property is the land bank, then the form, substance, and timing of the land bank's payment of the sales price may be according to such agreement as is mutually acceptable to the plaintiff and the land bank. The obligation of the land bank to perform in accordance with such agreement shall be deemed to be in full satisfaction of the tax claim which was the basis for the judgment.

(i) Notwithstanding any other provision of law to the contrary, in the event that no municipality elects to tender a bid at a public sale pursuant to the provisions of section eleven hundred sixty-six of the real property tax law or sale pursuant to the provisions of a county charter, city charter, administrative code, or special law when applicable under section eleven hundred four of the real property tax law, the land bank may tender a bid at such sale in an amount equal to the total amount of all municipal claims and liens which were the basis for the judgment. In the event of such tender by the land bank the property shall be deemed sold to the land bank regardless of any bids by any other third parties. The bid of the land bank shall be paid as to its form, substance, and timing according to such agreement as is mutually acceptable to the plaintiff and the land bank. The obligation of the land bank to perform in accordance with such agreement shall be deemed to be in full satisfaction of the municipal claim which was the basis for the judgment. The land bank, as purchaser at such public sale or sale pursuant to the provisions of a county charter, city charter, administrative code, or special law when applicable under section eleven hundred four of the real property tax law, shall take and forever thereafter have, an absolute title to the property sold, free and discharged of all tax and municipal claims, liens, mortgages, charges and estates of whatsoever kind. The deed to the land bank shall be executed, acknowledged and delivered within thirty days of the sale. Alternatively, the land bank can assign all rights resulting from the land bank's successful tender for the property to the foreclosing governmental unit, which would allow the property to be deeded directly to the foreclosing governmental unit. All land bank acquisitions pursuant to this paragraph shall comply with section sixteen hundred eight of this article and all dispositions of property acquired pursuant to this paragraph shall comply with section sixteen hundred nine of this article.

### **§ 1617. Contracts**

(a) The land bank may, in its discretion, assign contracts for supervision and coordination to the successful bidder for any subdivision of work for which the land bank receives bids.

Any construction, demolition, renovation and reconstruction contract awarded by the land bank shall contain such other terms and conditions as the land bank may deem desirable. The land bank shall not award any construction, demolition, renovation and reconstruction contract greater than ten thousand dollars except to the lowest bidder who, in its opinion, is qualified to perform the work required and who is responsible and reliable. The land bank may, however, reject any or all bids or waive any informality in a bid if it believes that the public interest will be promoted thereby. The land bank may reject any bid, if, in its judgment, the business and technical organization, plant, resources, financial standing, or experience of the bidder justifies such rejection in view of the work to be performed.

(b) For the purposes of article fifteen-A of the executive law only, the land bank shall be deemed a state agency as that term is used in such article, and all contracts for procurement, design, construction, services and materials shall be deemed state contracts within the meaning of that term as set forth in such article.

# Georgia Land Bank Act

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## **§ 48-4-100. Short title; does not apply retroactively**

(a) This article shall be known and may be cited as the “Georgia Land Bank Act.”

(b) Any land bank created prior to July 1, 2012, pursuant to Article 4 of this chapter shall not be affected by this article but shall be entitled to continue in existence and exercise all powers granted in such article. The board of any existing land bank may vote, in the manner provided in subsection (j) of Code Section 48-4-104, to continue in existence under the provisions of this article, thus exercising the additional authorities and powers contained herein.

## **§ 48-4-101. Dilapidated, abandoned, and tax delinquent properties**

The General Assembly finds and declares that:

(1) Georgia's communities are important to the social and economic vitality of this state. Whether urban, suburban, or rural, many communities are struggling to cope with dilapidated, abandoned, and tax delinquent properties;

(2) Citizens of Georgia are affected adversely by dilapidated, abandoned, and tax delinquent properties, including properties that have been abandoned due to mortgage foreclosure;

(3) Dilapidated, abandoned, and tax delinquent properties impose significant costs on neighborhoods and communities by lowering property values, increasing fire and police protection costs, decreasing tax revenues, and undermining community cohesion;

(4) There is an overriding public need to confront the problems caused by dilapidated, abandoned, and tax delinquent properties, and to return properties which are in nonrevenue-generating, nontax-producing status to an effective utilization status in order to provide affordable housing, new industry, and jobs for the citizens of this state through the creation of new tools that enable communities to turn abandoned spaces into vibrant places; and

(5) Land banks are one of the tools that can be utilized by communities to facilitate the return of dilapidated, abandoned, and tax delinquent properties to productive use.

## **§ 48-4-102. Definitions**

As used in this article, the term:

- (1) “Board of directors” or “board” means the board of directors of a land bank.
- (2) “Consolidated government” means a unified government created pursuant to Article IX, Section III, Paragraph II of the Constitution of Georgia.
- (3) “Intergovernmental contract” means a contract as authorized pursuant to Article IX, Section III, Paragraph I of the Constitution of Georgia and paragraph (5) of Code Section 36-34-2, and entered into by counties, consolidated governments, and municipal corporations pursuant to this article.
- (4) “Land bank” means a public body corporate and politic established in accordance with the provisions of this article.
- (5) “Land bank member” means the local governments that are parties to the intergovernmental contract or resolution creating a land bank and the local governments that join a land bank subsequent to its creation pursuant to the provisions of this article.
- (6) “Real property” means all lands and the buildings thereon, all things permanently attached to land or to the buildings thereon, and any interest existing in, issuing out of, or dependent upon land or the buildings thereon.
- (7) “School district” means any school district, independent school system, or other local school system in this state.

**§ 48-4-103. Creation of land bank**

(a) Any county, municipal corporation, or consolidated government may elect to create a land bank in accordance with subsection (b) of this Code section by the adoption of a local law, ordinance, or resolution as appropriate to the applicable counties, consolidated governments, or municipal corporations, which action specifies the following:

- (1) The name of the land bank;
- (2) The number of members of the board of directors, which shall consist of an odd number of board members and be not less than five board members or more than 11 board members;
- (3) The initial individuals to serve as board members and the length of terms for which they will serve; and
- (4) The qualifications, manner of selection or appointment, and terms of office of board members.

(b) A land bank may be created pursuant to an intergovernmental contract by any of the following and any combination of the following methods:

(1) A county and one or more municipal corporations located wholly or partially within the county;

(2) Two or more counties and one or more municipal corporations located wholly or partially within the geographical boundaries of each county;

(3) A consolidated government and one or more municipal corporations located wholly or partially within the same county as the consolidated government; or

(4) Any consolidated government without a municipal corporation located wholly or partially within the same county as the consolidated government may create a land bank as follows:

(A) Through ordinance or resolution of the governing authority of the consolidated government;

(B) Through an intergovernmental contract with another consolidated government without a municipal corporation located wholly or partially within the same county as the consolidated government; or

(C) Through an intergovernmental contract with other counties, municipal corporations, or consolidated governments creating land banks pursuant to paragraph (1), (2), or (3) of this subsection.

(c) Any intergovernmental contract creating a land bank shall specify the matters identified in subsection (a) of this Code section.

(d) Subject to the limitations of subsection (b) of this Code section, any county or municipal corporation or consolidated government may elect to join any preexisting land bank by executing the intergovernmental contract or resolution that created the land bank and such other documentation as may be necessary.

(e) A land bank shall have the power to acquire real property only in those portions of the county located outside of the geographical boundaries of a nonparticipating municipal corporation located within the county; provided, however, that a land bank may acquire real property lying within such nonparticipating municipal corporation with the consent of such municipal corporation.

(f) A school district may participate in a land bank pursuant to an intergovernmental contract provided such contract specifies any members of the board of education serving on the board of the land bank and any actions of the land bank which are subject to approval by the board of education.

(g) A land bank shall be a public body corporate and politic and shall have permanent and perpetual duration until terminated and dissolved in accordance with the provisions of subsection (c) of Code Section 48-4-111.

**§ 48-4-104. Size of board; board membership generally**

(a) The initial size of a board shall be determined in accordance with paragraph (2) of subsection (a) of Code Section 48-4-103. Unless restricted by the actions or agreements specified in Code Section 48-4-103, and subject to the limits stated in this Code section, the size of the board may be adjusted in accordance with the bylaws of the land bank.

(b) In the event the board of a land bank created by a county and a municipal corporation or by a consolidated government before July 1, 2012, votes to continue in existence under the provisions of this article, the land bank members shall jointly nominate and approve at least one additional board member so that there is an odd number of board members. In the event the land bank members of such a preexisting land bank are unable to approve such additional board members, such preexisting land bank shall not exist under the provisions of this article unless and until a new intergovernmental contract is approved in accordance with this article.

(c) Notwithstanding any law to the contrary, an elected member of the municipal governing authority shall be eligible to serve as a board member, and the acceptance of the appointment shall neither terminate nor impair that public office. Any municipal employee shall be eligible to serve as a board member. Notwithstanding any law to the contrary, an elected member of the county governing authority shall be eligible to serve as a board member, and the acceptance of the appointment shall neither terminate nor impair that public office. Any county employee shall be eligible to serve as a board member. Notwithstanding any law to the contrary, an elected member of a consolidated government governing authority shall be eligible to serve as a board member, and the acceptance of the appointment shall neither terminate nor impair that public office. Any consolidated government employee shall be eligible to serve as a board member. A tax commissioner or tax collector, or both, may serve ex officio as a member of the land bank board if so authorized by the intergovernmental contract, local law, ordinance, or resolution that creates the land bank or by subsequent intergovernmental contracts with the land bank members.

(d) The members of the board shall select annually from among themselves a chairperson, vice chairperson, secretary, treasurer, and such other officers as the board may determine and shall establish their duties as may be regulated by the intergovernmental contract or by rules adopted by the board. When in actual conflict the intergovernmental contract shall control over the bylaws or rules adopted by the board.

(e)(1) The board shall establish rules and regulations relative to the attendance and participation of board members in its regular and special meetings. The rules and

regulations may prescribe a procedure whereby a board member who fails to comply with the rules and regulations of the board may be removed from office by no less than a majority vote of the remaining members of the board, and that board member's position shall be vacant as of the first day of the next calendar month.

(2) A land bank member may remove any board member appointed by that land bank member.

(3) Any board member removed under the provisions of this subsection shall be ineligible for reappointment to the board, unless the reappointment is confirmed by at least a two-thirds' vote of the governing authority of the appointing land bank member.

(f) A vacancy on the board shall be filled in the same manner as the original appointment.

(g) Board members shall serve without compensation. The board may reimburse a board member for expenses actually incurred in the performance of duties on behalf of the land bank.

(h) The board shall meet in regular session according to a schedule adopted by the board and also shall meet in special session as convened by the chairperson or upon written notice signed by a majority of the board members.

(i) A quorum of board membership shall be a simple majority of the entire board membership, and no action of the board shall be taken in the absence of a quorum. All actions of the board must be approved by the affirmative vote of a majority of the members of the board present and voting; provided, however, that no action of the board shall be authorized on the following matters unless approved by a majority of the entire board membership:

(1) Adoption of bylaws and other rules and regulations for conduct of the land bank's business;

(2) Hiring or firing of any employee or contractor of the land bank. Such function may by majority vote be delegated by the board to a specified officer or committee of the land bank under such terms and conditions and to the extent that the board may specify;

(3) Incurring of debt;

(4) Adoption or amendment of the annual budget; and

(5) Sale, lease, encumbrance, or alienation of real property, improvements, or personal property with a value of more than \$50,000.00.

(j) A land bank created pursuant to Article 4 of this chapter may continue in existence in accordance with provisions of this article upon the unanimous consent of the board

members, and contingent upon the appointment of at least one additional board member pursuant to subsection (b) of this Code section.

(k) A board member shall not be liable personally on obligations of the land bank, and the rights of creditors of a land bank shall be solely against the land bank.

(l) A board member shall be prohibited from voting by proxy. A board member may request a recorded vote on any resolution or action of the land bank.

#### **§ 48-4-105. Employees; compensation**

A land bank may employ an executive director, its own counsel and legal staff, and such technical experts, other agents, and employees, permanent or temporary, as it may require and may determine the qualifications and fix the compensation and benefits of those persons. A land bank may also enter into contracts and agreements with municipal corporations or counties or consolidated governments for staffing services to be provided to the land bank by agencies or departments thereof or for a land bank to provide such staffing services to agencies or departments thereof.

#### **§ 48-4-106. Powers of land bank**

(a) A land bank shall constitute a public body, corporate and politic, and shall have all powers necessary or appropriate to carry out and effectuate the purposes and provisions of this article, including the following powers:

(1) To adopt, amend, and repeal bylaws for the regulation of its affairs and the conduct of its business;

(2) To sue and be sued in its own name and plead and be impleaded in all civil actions, including, but not limited to, actions to clear title to property of the land bank;

(3) To adopt a seal and to alter the same at pleasure;

(4) To acquire by purchase, lease, or otherwise and to hold, lease, and dispose of real or personal property of every kind and character, or any interest therein, in furtherance of the public purposes of the land bank;

(5) To acquire, accept, or retain equitable interests, security interests, or other interests in any real property, personal property, or fixtures by loan agreement, note, mortgage, deed to secure debt, trust deed, security agreement, assignment, pledge, conveyance, contract, lien, loan agreement, or other consensual transfer in order to secure credit extended by the land bank;

(6) To borrow from private lenders, from municipal corporations, counties, or consolidated governments, from the state, or from federal government funds, as may be necessary, for the operation and work of the land bank;

(7) To borrow money to further or carry out its public purpose and to execute notes, other obligations, leases, trust indentures, trust agreements, agreements for the sale of its notes or other obligations, loan agreements, mortgages, deeds to secure debt, trust deeds, security agreements, assignments, and such other agreements or instruments as may be necessary or desirable, in the judgment of the land bank, to evidence and to provide security for such borrowing;

(8) To issue notes or other obligations of the land bank and use the proceeds thereof for the purpose of paying all or any part of the cost of any land bank projects and otherwise to further or carry out the public purpose of the land bank and to pay all costs of the land bank incidental to, or necessary and appropriate to, furthering or carrying out such purpose;

(9) To make application directly or indirectly to any federal, state, county, or municipal government or agency or to any other source, whether public or private, for loans, grants, guarantees, or other financial assistance in furtherance of the land bank's public purpose and to accept and use the same upon such terms and conditions as are prescribed by such federal, state, county, or municipal government or agency or other source;

(10) To enter into agreements with the federal government or any agency thereof to use the facilities or services of the federal government or any agency thereof in order to further or carry out the public purposes of the land bank;

(11) A land bank shall have no authority to lend money to a nongovernmental entity; provided, however, that a land bank may administer funds in the form of a loan to a nongovernmental entity when such funds are received from federal, state, and local government entities for the purpose of making such loans; provided, further, that only such transactions which are fully consistent with the purpose of the land bank shall be permitted. In those transactions, a land bank may extend credit to any person, corporation, partnership, whether limited or general, or other entity for the costs of any land bank projects which credit may be evidenced or secured by loan agreements, notes, mortgages, deeds to secure debt, trust deeds, security agreements, assignments, or such other instruments, or by rentals, revenues, fees, or charges, upon such terms and conditions as the land bank shall determine to be reasonable in connection with such extension of credit, including provision for the establishment and maintenance of reserve funds, and, in the exercise of powers granted by this article in connection with any land bank projects the land bank shall have the right and power to require the inclusion in any such loan agreement, note, mortgage, deed to secure debt, trust deed, security agreement, assignment, or other instrument of such provisions or requirements for guaranty of any obligations, insurance, construction, use, operation,

maintenance, and financing of a project, and such other terms and conditions, as the land bank may deem necessary or desirable;

(12) As security for repayment of any notes or other obligations of the land bank, to pledge, mortgage, convey, assign, hypothecate, or otherwise encumber any property of the land bank, including, but not limited to, real property, fixtures, personal property, and revenues or other funds, and to execute any lease, trust indenture, trust agreement, agreement for the sale of the land bank's notes or other obligations, loan agreement, mortgage, deed to secure debt, trust deed, security agreement, assignment, or other agreement or instrument as may be necessary or desirable, in the judgment of the land bank, to secure any such notes or other obligations, which instruments or agreements may provide for foreclosure or forced sale of any property of the land bank upon default in any obligation of the land bank, either in payment of principal, premium, if any, or interest or in the performance of any term or condition contained in any such agreement or instrument. The state, on behalf of itself and each county, municipal corporation, political subdivision, or taxing district therein, waives any right it or such county, municipal corporation, political subdivision, or taxing district may have to prevent the forced sale or foreclosure of any property of the land bank upon such default and agrees that any agreement or instrument encumbering such property may be foreclosed in accordance with law and the terms thereof;

(13) To receive and administer gifts, grants, and devises of money and property of any kind and to administer trusts;

(14) To use any real property, personal property, or fixtures or any interest therein or to rent or lease such property to or from others or make contracts with respect to the use thereof, or to sell, lease, exchange, transfer, assign, pledge, or otherwise dispose of or grant options for any such property in any manner as it deems to be in the best interests of the land bank and the public purpose thereof;

(15) To procure insurance or guarantees from the General Assembly or federal government of the payments of any debts or parts thereof incurred by the land bank and to pay premiums in connection therewith;

(16) To enter into contracts and other instruments necessary, incidental, or convenient to the performance of its duties and the exercise of its powers, including, but not limited to, intergovernmental contracts for the joint exercise of powers under this article. Intergovernmental contracts with municipal corporations, counties, or consolidated governments may include contracts for the performance of services by municipal corporations, counties, or consolidated governments on behalf of the land bank or by the land bank on behalf of municipal corporations, counties, or consolidated governments, whether or not such counties, consolidated governments, or municipal corporations are located inside or outside the geographical boundaries of the land bank members;

(17) To procure insurance against losses in connection with the real property, assets, or activities of the land bank;

(18) To accept and issue deeds in its name, including without limitation the acceptance of real property in accordance with the provisions of paragraph (2.1) of subsection (u) of Code Section 16-13-49;

(19) To finance by loan, grant, lease, or otherwise, refinance, construct, erect, assemble, purchase, acquire, own, repair, remodel, rehabilitate, modify, maintain, extend, improve, install, sell, equip, expand, add to, operate, or manage real property or rights or interests in property, and to pay the costs of any such project from the proceeds of loans by persons, corporations, partnerships, whether limited or general, or other entities, all of which the land bank is authorized to receive, accept, and use;

(20) To fix, charge, and collect rents, fees, and charges for the use of real property of the land bank and for services provided by the land bank;

(21) To grant or acquire a license, easement, lease, as lessor or lessee, or option with respect to real property of the land bank;

(22) To enter into partnerships, joint ventures, and other collaborative relationships with municipalities and other public and private entities for the ownership, management, development, and disposition of real property;

(23) To hold title to real property for purposes of establishing contracts with nonprofit community land trusts, including, but not limited to, long-term lease contracts;

(24) To organize and reorganize the executive, administrative, clerical, and other departments of the land bank and to fix the duties, powers, and compensation of all employees, agents, and consultants of the land bank; and

(25) To do all other things necessary or convenient to achieve the objectives and purposes of the land bank or other laws that relate to the purposes and responsibilities of the land bank.

(b) The exercise of a specific power by a land bank may be limited or withdrawn by a land bank member when the land bank is acting with respect to real property within the jurisdiction of such member. Procedures for the exercise of such limitation or withdrawal of power shall be provided in the intergovernmental contract.

#### **§ 48-4-107. Lacks power of eminent domain**

A land bank shall neither possess nor exercise the power of eminent domain.

**§ 48-4-108. Real property of a land bank; exemption from taxation**

(a) The real property of a land bank and its income and operations are exempt from all taxation by the state and by any of its political subdivisions, including, but not limited to, real property held by a land bank as lessor pursuant to long-term lease contracts with community land trusts.

(b) A land bank may acquire real property or interests in real property by gift, devise, transfer, exchange, foreclosure, purchase, or otherwise on terms and conditions and in a manner the board considers is in the best interest of the land bank.

(c)(1) A land bank may acquire real property by purchase contracts, lease-purchase agreements, and may accept transfers from municipal corporations, counties, or consolidated governments upon such terms and conditions as agreed to by the land bank and the municipal corporation, county, or consolidated government.

(2) Notwithstanding any other law to the contrary, a municipal corporation, county, or consolidated government may transfer to a land bank real property and interests in real property of the municipal corporation, county, or consolidated government on such terms and conditions and according to such procedures as determined by the municipal corporation, county, or consolidated government, so long as the real property is located within the geographical boundaries of the land bank.

(3) The acquisition of property by the land bank shall not be governed or controlled by any regulations or laws relating to procurement or acquisition of property of the counties, consolidated governments, or municipal corporations that are members of the land bank unless specifically provided in the applicable intergovernmental contract or resolution, and transfers of property by municipal corporations, counties, or consolidated governments to the land bank shall be treated as transfers to a body politic as contemplated by subparagraph (a)(2)(A) of Code Section 36-9-3.

(d) A land bank shall maintain all of its real property in accordance with the laws and ordinances of the jurisdiction in which the real property is located.

(e)(1) Except as otherwise provided in paragraph (2) of this subsection, a land bank shall not own or hold real property located outside the geographical boundaries of the land bank members.

(2) A land bank may be granted pursuant to an intergovernmental contract with a county, consolidated government, or municipal corporation the authority to manage and maintain real property located within the geographical boundaries of such county, consolidated government, or municipal corporation, but outside the geographical boundaries of the land bank members.

**§ 48-4-109. Acquisition of property in own name; transfer of property**

(a) A land bank shall hold in its own name all real property acquired by the land bank without regard to the identity of the transferor of the property.

(b) A land bank shall maintain and make available for public review and inspection an inventory of all real property held by the land bank.

(c) A land bank may convey, exchange, sell, transfer, lease as lessor, grant, and mortgage as mortgagor any and all interests in, upon, or to real property of the land bank in some form and by such method as determined by the board to be in the best interest of the land bank.

(d)(1) A land bank shall determine the terms, conditions, form, and substance of consideration necessary to convey, exchange, sell, transfer, lease as lessor, grant, and mortgage as mortgagor any interests in, upon, or to real property.

(2) Consideration may take the form of monetary payments and secured financial obligations, covenants, and conditions related to the present and future use of the property, contractual commitments of the transferee, and such other forms of consideration as determined by the board to be in the best interest of the land bank.

(e)(1) The board shall determine and state in the land bank policies and procedures the general terms and conditions for consideration to be received by the land bank for the transfer of real property and interests in real property.

(2) The disposition of property by the land bank shall not be governed or controlled by any regulations or laws of the participating land bank members unless specifically provided in the applicable intergovernmental contract.

(f) Land bank members may, in the resolution or intergovernmental contract creating a land bank, establish a hierarchical ranking of priorities for the use of real property conveyed by a land bank, or, if the resolution or intergovernmental contract creating the land bank is silent, the board of directors may establish a hierarchical ranking of priorities for the use of real property conveyed by a land bank, including but not limited to:

(1) Use for purely public spaces and places;

(2) Use for affordable housing;

(3) Use for retail, commercial, and industrial activities;

(4) Use as conservation areas;

(5) Use for land trusts or for other public entities; and

(6) Such other uses and in such hierarchical order as determined by the board of directors of the land bank.

(g)(1) Subject to the requirements of paragraph (5) of subsection (i) of Code Section 48-4-104, a county, municipal corporation, or consolidated government may, in the applicable intergovernmental contract or in the resolution creating a land bank, require that any particular form of disposition of real property, or any disposition of real property located within specified jurisdictions, be subject to specified voting and approval requirements of the board.

(2) Except and unless restricted or constrained as provided in paragraph (1) of this subsection, the board may delegate to officers and employees the authority to enter into and execute agreements, instruments of conveyance, and all other related documents pertaining to the conveyance of real property by the land bank.

**§ 48-4-110. Funding sources; payment retention; tax collection; allocation of sale proceeds**

(a) A land bank may receive funding through grants and loans from the land bank members, from any other municipal corporations, counties, or consolidated governments in the state, from the General Assembly, from the federal government, and from other public and private sources.

(b) A land bank may receive and retain payments for services rendered, for rents and leasehold payments received, for consideration for disposition of real and personal property, for proceeds of insurance coverage for losses incurred, for income from investments, and for any other asset and activity lawfully permitted to a land bank under this article.

(c) Up to 75 percent of the real property taxes collected on real property, exclusive of any state or school district ad valorem tax, conveyed by a land bank pursuant to the laws of this state shall be remitted to the land bank. The specific percentage of such taxes to be remitted, as to each land bank member, shall be set forth in the local law, ordinance, or resolution or in the intergovernmental contract of the land bank. Such allocation of property tax revenues shall commence with the first taxable year following the date of conveyance and shall continue for a period of five years. Such funds shall be remitted to the land bank in accordance with the administrative procedures established by the tax commissioner or tax collector of the county or counties in which the land bank is located. Such allocation of property tax revenues shall not occur if such taxes have been previously allocated to a tax allocation district, or to secure a debt of the municipal corporation or consolidated government, unless the tax allocation district, municipal corporation, county, or consolidated government enters into an agreement with the land bank for the remittance of such funds to the land bank.

(d) At the time that the land bank sells or otherwise disposes of property as part of its land bank program, the proceeds from the sale, if any, shall be allocated as determined by the land bank among the following priorities:

(1) Furtherance of land bank operations;

(2) Recovery of land bank expenses; and

(3) Remitter to the tax commissioner or tax collector for distribution to the appropriate taxing entity in proportion to and to the extent of their respective tax bills and costs.

Any excess proceeds shall be distributed pursuant to any applicable intergovernmental contract or land bank rules, regulations, or bylaws in accordance with the public policy stated in this article.

**§ 48-4-111. Meetings; conflict of interest; dissolution**

(a) All meetings shall be open to the public, except as otherwise provided by Chapter 14 of Title 50, and a written record shall be maintained of all meetings. All records of a land bank shall be subject to Article 4 of Chapter 18 of Title 50, relating to open records.

(b) No board member or employee of a land bank shall acquire any interest, direct or indirect, in real property owned or to be acquired by the land bank, nor shall any board member assist any third party in negotiating against the land bank for property identified by the land bank for acquisition by the land bank. No board member or employee of a land bank shall have any interest, direct or indirect, in any contract or proposed contract for materials or services to be furnished or used by a land bank. The board may adopt supplemental rules and regulations addressing potential conflicts of interest and ethical guidelines for board members and land bank employees.

(c)(1) A land bank may be dissolved as a public body corporate and politic 60 calendar days after an affirmative resolution approved by two-thirds of the membership of the board.

(2) Sixty calendar days' advance written notice of consideration of a resolution of dissolution shall be given to the governing authorities of the land bank members, shall be published in a local newspaper of general circulation.

(3) Upon dissolution of the land bank, all real property, personal property, and other assets of the land bank shall become the assets of the municipal corporation, county, or consolidated government in which the property is located, unless provided otherwise in any applicable intergovernmental contracts.

(4) Land banks created pursuant to paragraphs (2) through (4) of subsection (b) of Code Section 48-4-103 shall not automatically dissolve upon the withdrawal of one or

more land bank members unless the intergovernmental contract so provides, except that no municipal corporation may maintain the existence of a land bank if the county in which the municipal corporation is located withdraws from the land bank, and no county may maintain the existence of a land bank if the single municipal corporation that is both located within that county and is a member of the land bank withdraws from the land bank.

**§ 48-4-112. Discharging and extinguishing liens; conditions**

(a) Whenever any real property is acquired by a land bank and is encumbered by a lien or claim for real property taxes owed to one or more of the land bank members or to municipal corporations, counties, or consolidated governments that have an intergovernmental contract with the land bank, the land bank may, by resolution of the board, discharge and extinguish any and all such liens or claims. The decision by the board to extinguish such liens or claims is subject to the voting requirements contained in subsection (i) of Code Section 48-4-104. Unless provided otherwise in an applicable intergovernmental contract, whenever any real property is acquired by a land bank and is encumbered by a lien or claim for real property taxes owed to a school district, the land bank shall notify the school district of its intent to extinguish all such liens and claims in writing. If the school district fails to object in written form to the proposed extinguishment within 30 days of receipt of such notice to the land bank, the land bank shall have the power, by resolution of the board, to discharge and extinguish any and all such liens or claims. To the extent necessary and appropriate, the land bank shall file in appropriate public records evidence of the extinguishment and dissolution of such liens or claims.

(b) To the extent that a land bank receives payments of any kind attributable to liens or claims for real property taxes owed to a municipal corporation, county, consolidated government, or school district on property acquired by the land bank, the land bank shall remit the full amount of the payments to the tax commissioner or tax collector for distribution to the appropriate taxing entity.

(c)(1) A tax commissioner or tax collector may assign, transfer, or sell to a land bank any ad valorem tax executions issued against a single property or ad valorem tax executions issued against multiple tracts of property in the geographical jurisdiction of the land bank in one or more transactions and upon such terms and conditions as are mutually acceptable to the tax commissioner and the land bank. Notwithstanding the notice requirements in subsection (c) of Code Section 48-3-19, when the land bank is the holder of a tax execution, the land bank shall provide notice of the transfer of the tax execution to the land bank in the following manner:

(A) Immediately upon acquisition of one or more tax executions, the land bank shall send notice of the tax execution transfer by certified mail, return receipt requested, to all interested parties whose identity and address are reasonably ascertainable. Copies of the notice of the tax execution transfer shall also be sent by first class mail

to the property address to the attention of the occupants of the property, if any. In addition, notice shall be posted on the property; and

(B) Within 30 days of the tax execution transfer, the land bank shall cause a notice of the tax execution transfer to be published on two separate dates in the official organ of the county in which the property is located.

(2) The notice contained in subparagraphs (A) and (B) of paragraph (1) of this subsection shall specify:

(A) The name of the land bank and the contact information for the individual responsible for collecting the delinquent taxes;

(B) The property address;

(C) A description of the property;

(D) The tax identification number of the property;

(E) The applicable period of tax delinquency; and

(F) The principal amount of the delinquent taxes together with interest and penalties.

(3) The land bank may submit the execution to the levying officer 12 months after the date of transfer or 24 months after the tax giving rise to the execution was originally due, whichever is earlier.

(d)(1) Notwithstanding any other provision of law, at a nonjudicial tax sale conducted pursuant to Article 1 of this chapter where the tax commissioner or tax collector or the land bank is the holder of the tax execution giving rise to the sale, a land bank may tender a bid in an amount equal to the total amount of all tax liens which were the basis of the execution and any accrued interest, penalties, and costs. In the event of such tender by the land bank, such bid comprises the land bank's commitment to pay not more than all costs of the sale and its assumption of liability for all taxes, accrued interest thereon, and penalties, and, if there is no other bid, the tax commissioner or tax collector shall accept the land bank's bid and make a deed of the property to the land bank.

(2) If there are third parties who bid on a given parcel and the land bank tenders the highest bid on that parcel, the land bank shall pay the tax commissioner or tax collector the full amount of the bid tendered by the land bank in order to obtain the parcel.

(e)(1) A land bank may tender a bid at any sale ordered by the court pursuant to Article 5 of this chapter in an amount equal to the total amount of all tax liens which were the basis of the judgment and any accrued interest, penalties, and costs. In the event of such

tender by the land bank, such bid shall comprise the land bank's commitment to pay not more than all costs of the sale and its assumption of liability for all taxes, accrued interest thereon, and penalties. If there is no other bid and the property is not redeemed by the owner in accordance with subsection (c) of Code Section 48-4-81, the tax commissioner or tax collector shall accept the land bank's bid and make a deed of the property to the land bank.

(2) If there are third parties who bid on a given parcel and the land bank tenders the highest bid on that parcel, the land bank shall pay the tax commissioner or tax collector the full amount of the bid tendered by the land bank in order to obtain the parcel.

(3) Subject to the statutory 60 day redemption period required pursuant to subsection (c) of Code Section 48-4-81, the land bank, as purchaser at such sale, shall take and thereafter have an absolute title to the property sold, free and discharged of all tax and municipal claims, liens, mortgages, charges, and estates of whatsoever kind except for those interests referenced in subsection (b) of Code Section 48-4-79. In the event of purchase by a land bank, the conveying instrument described in subsection (g) of Code Section 48-4-81 shall note the conveyance to the land bank pursuant to this article.

(4) The deed to the land bank shall be executed and delivered to the land bank within 90 days of the sale pursuant to subsection (d) of Code Section 48-4-81.

(5) Notwithstanding any other provision of law, a land bank that is a transferee and holder of tax executions may file petitions of foreclosure pursuant to Article 5 of this chapter on real property located within a jurisdiction that has authorized the ad valorem tax foreclosure process contained in Article 5 of this chapter. In a petition of foreclosure pursuant to Article 5 of this chapter, a land bank is authorized to combine in a single petition multiple tracts of real property, and the court may order in a single final judgment that all or part of the real properties identified in the petition be sold to the land bank free and clear of all liens and encumbrances so long as the petition and accompanying affidavits provide:

(A) Identification of each tract of real property;

(B) The identities of all parties having an interest in each respective tract of property;

(C) The amount of the tax lien due and owing; and

(D) The nature of the notice of the proposed sale provided to such interested parties.

# Tennessee Local Land Bank Program

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## **§ 13-30-101. Short title**

This chapter shall be known and may be cited as the “Tennessee Local Land Bank Program.”

## **§ 13-30-102. Legislative findings**

The legislature finds and declares as follows:

- (1) Tennessee's communities are important to the social and economic vitality of the state. Whether urban, suburban or rural, many communities are struggling to cope with vacant, abandoned and tax-delinquent properties.
- (2) There exists a crisis in many cities and their metro areas caused by disinvestment in real property and resulting in a significant amount of vacant and abandoned property. This condition of vacant and abandoned property represents lost revenue to local governments and large costs associated with demolition, safety hazards and spreading deterioration of neighborhoods including resulting mortgage foreclosures.
- (3) The need exists to strengthen and revitalize the economy of the state and its local units of government by solving the problems of vacant and abandoned property in a coordinated manner and to foster the development of such property and promote economic growth. Such problems may include multiple taxing jurisdictions lacking common policies, ineffective property inspection, code enforcement and property rehabilitation support, lengthy and/or inadequate foreclosure proceedings, and lack of coordination and resources to support economic revitalization.
- (4) There is an overriding public need to confront the problems caused by vacant, abandoned and tax-delinquent properties through the creation of new tools to be available to communities throughout the state enabling them to turn vacant spaces into vibrant places.
- (5) Land banks are one of the tools that can be utilized by communities to facilitate the return of vacant, abandoned and tax-delinquent properties to productive use.
- ~~(6) In the interest of self-governance on the part of Tennessee's cities, this pilot program will be used in specific areas as a testing model of a self-governing, self-sustaining land bank that can revitalize Tennessee cities and counties.~~

### **§ 13-30-103. Definitions**

As used in this chapter, unless the context clearly indicates otherwise:

- (1) “Board of directors” or “board” means the board of directors or other similar governing body of the corporation;
- (2) “Corporation” means a corporation created pursuant to this chapter to operate a land bank;
- (3) “Land bank” means real property, however obtained or acquired and held by a corporation, created pursuant to this chapter, with the intent of acquiring and holding onto the real property so acquired until such a time as the corporation is able to find a willing and able buyer to acquire the real property from the corporation;
- (4) “Local government” means:
  - (A) Any home rule municipality;
  - (B) Any county having a population of not less than one hundred twenty-three thousand one (123,001) nor more than one hundred twenty-three thousand one hundred (123,100), according to the 2010 federal census or any subsequent federal census;
  - (C) Any county having a population of not less than eighty-nine thousand eight hundred (89,800) nor more than eighty-nine thousand nine hundred (89,900), according to the 2010 federal census or any subsequent federal census;
  - (D) Any county having a metropolitan form of government; or
  - (E) Any municipality having a population of not less than forty-eight thousand two hundred (48,200) nor more than forty-eight thousand two hundred nine (48,209), according to the 2010 federal census or any subsequent federal census;
- (5) “Real estate” means an identified parcel or tract of land, including improvements, if any; and
- (6) “Real property” means one (1) or more defined parcels or tracts of land or interests, benefits and rights inherent in the ownership of real estate.

### **§ 13-30-104. Corporation creation**

- (a)(1) Any local government shall have the authority to create a corporation which is authorized to operate a land bank within the jurisdictional boundaries of the local government establishing the corporation.

(2) The corporation is declared to be performing a public function on behalf of the local government with respect to which the corporation is created and organized and to be a public instrumentality of such local government. Accordingly, the corporation and all properties of the corporation, including all properties held in the name of the corporation in the land bank, at any time owned by it, and the income and revenues from the properties, shall be exempt from all taxation in this state.

(b)(1) A corporation shall come into existence under the terms of this chapter when any local government to which subsection (a) applies either on its own initiative or through inter-local agreements entered into by and between one (1) or more creating local governments vote by majority vote of its legislative body to establish the corporation. Evidence of such authorization shall be proclaimed and countersigned by the presiding officer of each participating county or municipality and certified by such officer to the secretary of state.

(2) The governing bodies of the creating local governments shall indicate their willingness to appropriate sufficient funds to provide for the initial administration of the corporation as a part of the authorization process and for such purposes are authorized to provide funding or grants and appropriate money to the corporation in such manner as directed by the legislative bodies.

#### **§ 13-30-105. Corporation board of directors**

(a) The corporation shall have a board of directors in which all powers of the corporation shall be vested. Such board shall consist of any number of directors, no fewer than five (5), all of whom shall be duly qualified electors of and taxpayers in the creating local government or local governments.

(b) The creating local government or local governments, if more than one (1) has jointly created a corporation, shall determine the qualifications, manner of selection or appointment, terms of office of members of the board, the number of directors, whether and to what extent the members of the local legislative bodies shall be appointed or elected to serve on the board of the corporation and the manner of filling vacancies.

(c) The term of each director on the corporation shall be as set by the creating local government or local governments, provided that any director shall continue to serve beyond the end of the director's term until the director's successor has been appointed. At the first organizational meeting of the corporation, the creating local government or local governments shall establish the terms of the initial directors so that the directors serve staggered terms and an approximately equal number of directors have terms that expire in each year.

**§ 13-30-106. Board meetings; quorum; officers; removal**

(a) A majority of the board of the corporation shall constitute a quorum for the transaction of any business. Unless a greater number or percentage is required by state law, the vote of a simple majority of the directors present at any meeting at which a quorum is present shall be the action of the corporation. To the extent permitted by applicable law, the corporation may permit any or all directors to participate in an annual, regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all directors participating may simultaneously hear each other during the meeting. A director participating in a meeting by this means is deemed to be present in person at the meeting.

(b) The members of the board of directors shall select annually from among themselves a chair, a vice chair, a treasurer, and such other officers as the board may determine, and shall establish their duties as may be regulated by rules adopted by the board.

(c) The board shall establish rules and requirements relative to the attendance and participation of members in its meetings, regular or special. Such rules and regulations may prescribe a procedure whereby, should any member fail to comply with such rules and regulations, such member may be disqualified and removed automatically from office by no less than a majority vote of the remaining members of the board, and that member's position shall be vacant as of the first day of the next calendar month. Any person removed under this subsection (c) shall be ineligible for reappointment to the board, unless such reappointment is confirmed unanimously by the board.

(d) Any citizen or group of citizens upon collection of a petition having a clearly worded purpose, of at least twenty (20) verified signatures of qualified voters registered in the jurisdiction in which the board operates may present to the local government legislative body a resolution calling for the removal of any board member. The local government legislative body shall have the power, upon timely and due consideration of the citizen petition and a response from the board, to remove or retain the cited board member by simple majority vote. Removal from the board of directors of any public official shall not, in and of itself, impair the public official or municipal or county employee in that person's other duties.

(e) Board members shall serve without compensation, shall have the power to organize and reorganize the executive, administrative, clerical, and other departments of the corporation and to fix the duties, powers and compensation of all employees, agents and consultants of the corporation. The board may reimburse any member for expenses actually incurred in the performance of duties on behalf of the corporation.

(f) The board shall meet in regular session according to a schedule adopted by the board, and also shall meet in special session as convened by the chair or upon written notice signed by a majority of the members. The presence of a majority of the total membership of the board shall constitute a quorum.

(g) All actions of the board shall be approved by the affirmative vote of a majority of the members of that board present and voting. However, no action of the board shall be authorized on the following matters unless approved by a majority of the total board membership:

(1) Adoption of bylaws and other rules and regulations for conduct of the business of the corporation;

(2) Hiring or firing of any employee or contractor of the corporation. This function may, by majority vote, be delegated by the board to a specified officer or committee of the corporation, under such terms and conditions, and to the extent, that the board may specify;

(3) The incurring of debt;

(4) Adoption or amendment of the annual budget; and

(5) Sale, lease, encumbrance, or alienation of real property, improvements or personal property with a value of more than fifty thousand dollars (\$50,000).

(h) Vote by proxy shall not be permitted. Any member may request a recorded vote on any resolution or action of the board.

**§ 13-30-107. Corporation authority; application of other laws**

(a) The corporation, once created, shall have the authority to create a land bank for real property located within the boundaries of the creating local government or local governments.

(b) No rules or bylaws created by the corporation may contravene state law.

(c) All board members, appointees, employees and/or paid advisors of the corporation created, appointed or employed, with or without pay, pursuant to this chapter are subject to title 8, chapter 17, and may not be exempted on the basis of any corporate board governance rules or bylaws.

(d) All meetings of the board of directors of the corporation and/or its employees are subject to title 8, chapter 44, and may not be exempted on the basis of the corporate board governance rules or bylaws.

(e) All corporate records are subject to §§ 10-7-503 -- 10-7-505, and may not be exempted on the basis of any corporate board governance rules or bylaws.

**§ 13-30-108. Contracts or agreements; staffing**

The corporation may enter into contracts and agreements with the creating local government or local governments for staffing services to be provided to the corporation by such local governments or agencies or departments thereof.

**§ 13-30-109. Corporation powers**

The corporation shall have the power, as limited by the legislative body of the creating local government or local governments, to:

- (1) Adopt, amend and repeal bylaws for the regulation of its affairs and the conduct of its business;
- (2) Sue and be sued in its own name and plead and be impleaded in all civil actions, including, but not limited to, actions to clear title to the real property held in the land bank;
- (3) Adopt a seal and to alter the same at pleasure;
- (4) Borrow funds as may be necessary, for the operation and work of the corporation with the concurrence of the legislative body of the creating local government or local governments;
- (5) Enter into contracts and other instruments necessary, incidental or convenient to the performance of its duties and the exercise of its powers, including, but not limited to, intergovernmental agreements under the existing Tennessee Code for the joint exercise of powers under this chapter;
- (6) Make and execute contracts and other instruments necessary or convenient to the exercise of the powers to acquire, hold and dispose of real property held in the land bank;
- (7) Procure and enter into contracts for any type of insurance or indemnity against loss or damage to property from any cause, including loss of use and occupancy, against death or injury of any person, against employer's liability, against any act of any member, officer or employee of the corporation in the performance of the duties of such person's office or employment or any other insurable risk, as the board of directors, in its discretion, may deem necessary;
- (8) Accept donations, contributions, revenues, capital grants or gifts from any individual, association, public or private corporation, municipality or county of the state of Tennessee, the state of Tennessee or the United States government, or any agency or instrumentality of the state of Tennessee or the United States, for or in aid of any of the

purposes of this chapter and enter into agreements in connection with the donations, contributions, revenues, capital grants or gifts;

(9) Invest money of the corporation in investments that would be eligible investments for a municipality or county in the state and name and use depositories for its money with a bank or trust company which is a member of the Federal Deposit Insurance Corporation;

(10) Deleted by 2014 Pub.Acts, c. 793, § 3, eff. April 25, 2014.

(11) Enter into contracts which do not violate § 29-17-102, for the management of or the sale of real property in the land bank; such power shall include the power to preserve the value or prevent diminution of the value of any such property until disposed of by the corporation, including the following actions:

(A) Design, develop, construct, demolish, reconstruct, rehabilitate, renovate, relocate, and otherwise improve real property or rights or interests in real property;

(B) Fix, charge and collect rents, fees and charges for the use of real property of the land bank and for services provided by the corporation;

(C) Grant or acquire a license, easement, lease, as lessor and as lessee, or option with respect to real property in the land bank; and

(D) Enter into limited partnerships, limited joint ventures and other limited collaborative relationships with local governments and other public and private entities within the designated boundary for the ownership, management, development, and disposition of real property; and

(12) Do all other things necessary or convenient to achieve the objectives and purposes of the corporation related to the real property held in the land bank.

**§ 13-30-110. Real property; acquisition; maintenance; location**

(a) The corporation may acquire real property or interests in real property for the land bank by gift, devise, transfer, exchange, foreclosure, purchase, or otherwise on terms and conditions and in a manner the corporation considers proper.

(b) The corporation may acquire real property by purchase contracts, lease purchase agreements, installment sales contracts or land contracts, and may accept transfers from municipalities or counties upon such terms and conditions as agreed to by the corporation and the local government.

(c) The corporation shall maintain all of its real property and real property held in the land bank in accordance with state law and the laws and ordinances of the jurisdiction in which the real property is located.

(d) The corporation shall not own or hold real property located outside the jurisdictional boundaries of the local governmental entity or entities that created the corporation; provided, however, that the corporation may be granted authority pursuant to an intergovernmental cooperation agreement with another municipality or county to manage and maintain real property located within the jurisdiction of such other municipality or county.

(e) Except as provided in § 13-30-120, notwithstanding any other law to the contrary, any municipality or county may convey to the corporation real property and interests in real property on such terms and conditions, and according to such procedures, as determined by the legislative body of the local government conveying the real property to the corporation.

(f)(1) The corporation may provide written notice to the clerk and master in advance of any delinquent property tax sale auction held pursuant to § 67-5-2005(b) that it wishes to enter the minimum bid for cash for any parcel advertised for sale in such auction, and such minimum bid shall preempt all other bids for said parcel, and the local land bank shall be the prevailing bidder.

(2) If there are no other bidders on a parcel under subdivision (f)(1), such minimum bid shall be accepted for no cash, and the local land bank shall be the prevailing bidder and take title to said parcel in the same manner as a municipality bidding the minimum bid.

(g) Commencing upon the date of transfer of any real property from a land bank to a taxable person or entity, if approved by local government, the land bank shall be entitled to receive payments from the local government equal to fifty percent (50%) of real property taxes collected by the local government for a period of five (5) years.

**§ 13-30-111. Real property; ownership; inventory; conveyance; use**

(a) The corporation shall hold in its own name all real property acquired by the corporation for the land bank irrespective of the identity of the transferor of such property.

(b) The corporation shall maintain and make available for public review and inspection an inventory of all real property held for the land bank. In addition to referrals to public access, routine, printed, real property records or those on municipal and county electronic database files, the corporation is authorized to maintain an independent, publically available, electronic inventory via the creating local government or local government's web site with any combination of pictures, informal descriptions, legal descriptions and addresses as the board may deem appropriate to its purposes related to real property in the land bank. The corporation is obligated to make reasonable efforts to ensure that

information contained in any independent, electronic inventory is practically accurate or to ensure that a prominent disclaimer of accuracy is prominently displayed to any potential viewer.

(c) The corporation shall determine and set forth in policies and procedures of the board of directors, the general terms and conditions for consideration to be received for the transfer of real property and interests in real property, which consideration may take the form of monetary payments and secured financial obligations, covenants and conditions related to the present and future use of the property, contractual commitments of the transferee, and such other forms of consideration as determined by the board of directors to be in the best interest of the corporation related to real property in and for the land bank.

(d) The corporation may convey, exchange, sell, transfer, lease as lessee, grant, release and demise, pledge and hypothecate any and all interests in, upon or to real property of the land bank, to the extent authorized by the legislative body of the creating local government or local governments and in a manner which does not violate § 29-17-102.

(e) The legislative body of the local government or local governments creating the corporation are authorized to establish a hierarchical ranking of priorities for the use of real property conveyed to the corporation for the land bank including, but not limited to:

(1) Use for purely public spaces and places;

(2) Use for affordable housing;

(3) Use for retail, commercial and industrial activities; or

(4) Use as wildlife conservation areas, and such other uses and in such hierarchical order as determined.

(f) The creating local government or local governments are authorized to require that any particular form of disposition of real property, or any disposition of real property located within specified jurisdictions which is held by the corporation in the land bank, be subject to specified voting and approval requirements of the board of directors. Except and unless restricted or constrained in this manner, the board of directors may delegate to officers and employees the authority to enter into and execute agreements, instruments of conveyance and all other related documents pertaining to the conveyance of real property held by the corporation as real property for the land bank.

**§ 13-30-112. Board minutes; open meetings; report; audit**

(a) The board shall cause minutes and a record to be kept of all its proceedings and such records shall be available for timely public inspection. All meetings shall be open to the public with appropriate notice published in accordance with § 13-30-107(d).

(b) The board shall publish a report on an annual basis to its creating local government or local governments. This annual report must contain a detailed financial accounting of the corporation's debt obligations, income (sources and amounts), properties, dispositions, expenditures, acquisitions, contracts (executed and pending within the next ninety (90) days), significant activities and other data as required by organizational bylaws and governance documents. This report shall be maintained on file for audit purposes and immediately available to the department of audit in the office of the comptroller of the treasury upon request. Additionally, all such reports shall be available for public inspection.

(c) The board of directors of the corporation shall cause an annual audit to be made of the books and records of the corporation. With prior approval of the comptroller of the treasury, the audit may be performed by a licensed certified public accountant selected by the corporation. If a licensed certified public accountant is employed, the audit contract between the corporation and the licensed certified public accountant shall be on contract forms prescribed by the comptroller of the treasury. The cost of any audit shall be paid by the corporation. The comptroller of the treasury, through the department of audit, shall be responsible for determining that the audits are prepared in accordance with generally accepted government auditing standards and that the audits meet the minimum standards prescribed by the comptroller of the treasury.

(d) In the event the governing body of the corporation fails or refuses to have the audit prepared, then the comptroller of the treasury may appoint a licensed certified public accountant, or direct the department of audit, to prepare the audit, the cost of the audit to be paid by the corporation.

(e) A copy of the annual audit referenced in subsection (c) shall be filed annually with the creating local government or local governments.

### **§ 13-30-113. Corporation dissolution**

A corporation created pursuant to this chapter may be dissolved in the manner established by the creating local government or local governments or otherwise in accordance with general law for the dissolution of a public corporation.

### **§ 13-30-114. Board member and employees; interest in real property and contracts; rules**

No member of the board or employee of a corporation shall acquire any interest, direct or indirect, in real property acquired or held by the corporation. No member of the board or employee of the corporation shall have any interest, direct or indirect, in any contract or proposed contract for materials or services to be furnished or used by the corporation. The board may adopt supplemental rules and regulations addressing potential conflicts of interest and ethical guidelines for members of the board and employees of the board or corporation.

**§ 13-30-115. Construction of chapter**

This chapter shall be construed liberally to effectuate the legislative intent and the purposes as complete and independent authorization for the performance of each and every act and thing authorized by this chapter, and all powers granted shall be broadly interpreted to effectuate the intent and purposes and not as a limitation of powers. Except as otherwise expressly set forth in this chapter, in the exercise of its powers and duties under this chapter and its powers relating to property held in the land bank, the corporation shall have complete control as fully and completely as if it represented a private property owner and shall not be subject to restrictions imposed by the charter, ordinances or resolutions of a local unit of government.

**§ 13-30-116. Taxes; proceeds from sale of real property**

(a) In accordance with §§ 67-5-2505, 67-5-2507, 67-5-2508, 67-5-2509, and 67-5-2514, the corporation is exempt from any state taxation.

(b) Additionally, the corporation has the power to pay any unpaid taxes due and owing by the owner of record of the real property, or make any government mandated improvements to the property, in exchange for the deed of real property to the corporation.

(c) All proceeds from the sale of real property held in the land bank shall be returned to the corporation.

(d) All corporate revenue shall be held by the board of directors, and proceeds shall only go to furthering the aims of the acquisition and/or resale of real property by the corporation for the land bank.

**§ 13-30-117. Action to quiet title in real property**

(a) A corporation shall be authorized to file an action to quiet title as to any real property in which the corporation has an interest. For purposes of any and all such actions, the corporation shall be deemed to be the holder of sufficient legal and equitable interests, and possessory rights, so as to qualify the corporation as adequate complainant in such action.

(b) Prior to the filing of an action to quiet title, the corporation shall conduct an examination of title to determine the identity of any and all persons and entities possessing a claim or interest in or to the real property. Service of the complaint to quiet title shall be provided to all such interested parties by the following methods:

(1) Registered or certified mail to such identity and address as reasonably ascertainable by an inspection of public records;

(2) In the case of occupied real property by registered or certified mail, addressed to “occupant”;

(3) By posting a copy of the notice on the real property;

(4) By publication in a newspaper of general circulation in the municipality in which the property is located;

(5) By electronically publishing notices with addresses and descriptions via the municipality's web site; and

(6) Such other methods as the court may order.

(c) As part of the complaint to quiet title, the corporation shall file an affidavit identifying all parties potentially having an interest in the real property, and the form of notice provided.

(d) The court shall schedule a hearing on the complaint within ninety (90) days following filing of the complaint, and as to all matters upon which an answer was not filed by an interested party, the court shall issue its final judgment within one hundred twenty (120) days of the filing of the complaint.

(e) A corporation shall be authorized to join in a single complaint to quiet title one (1) or more parcels of real property.

**§ 13-30-118. Appeal procedure; appeals committee**

(a) The creating local government or local governments shall establish an appeal procedure as described in this section for any person aggrieved by the decision of the corporation with respect to real property proposed for acquisition or acquired by, held and disposed of by the corporation for the land bank.

(b) The legislative body of the local government is authorized to create an appeals committee or a joint appeals committee if more than one (1) local government created the corporation. Any person aggrieved by the decision of the corporation concerning any aspect of this chapter may obtain review of the official's decision by requesting an appeal of the decision of the official in written form to the appeals committee within ten (10) days of the date of the official's decision.

(c) The appeals committee shall hear the appeal within thirty (30) days of the written request for appeal.

(d) The appeals committee shall consider the appeal and render a decision on all hearings within thirty (30) days of the hearing date, unless the hearing is continued from time to time by a majority vote of the committee for further information.

(e) The appeals committee shall act as a quasi-judicial body whose purpose is to determine whether the corporation followed proper and authorized procedures related to the acquisition or disposal of real property held in the land bank, its applicability to the appellant, and to rule upon the actions of the official. The appeals committee shall not be bound by formal rules of evidence applicable to the various courts of the state.

(f) Hearings before the appeals committee shall proceed as follows:

(1) The corporate official shall explain the official's decision and the reasons for the official's decision related to the real property at issue;

(2) The appellant shall explain the appellant's reasons for protesting the decision of the official;

(3) The appeals committee may request further information from any corporate official. The appeals committee shall not have the power of subpoena;

(4) The appeals committee shall deliberate and render a decision by a majority vote as to whether the official acted appropriately in making the decision. The decision shall also include a recommendation for appropriate legislative action to be taken by the local government, if any is required or recommended, to remedy the issue in accordance with the decision rendered by the appeals committee;

(5) Decisions will be reduced to writing and copies shall be sent to all parties, including the legislative body of the local government or local governments, as appropriate, and shall become a part of the minutes of the appeals committee and the appropriate legislative body;

(6) Decisions of the appeals committee shall be final.

**§ 13-30-119. Comptroller; duties; report**

(a) The comptroller of the treasury shall monitor the actions of the corporation for a period of three (3) years from the date the corporation is created.

(b) No later than March 1st following the end of the third year of the creation of the corporation, the comptroller shall file a report with the governor and the state and local government committee of the senate and the local government committee of the house of representatives with recommendations concerning whether the pilot project should be continued, expanded or discontinued, together with recommended legislative actions based on such decision.

**§ 13-30-120. Eminent domain**

Notwithstanding any provision of this chapter to the contrary, a corporation created pursuant to the chapter shall not own, hold, maintain, or manage any real property acquired through eminent domain by any county or municipality of this state.

# Missouri Land Bank Agency Act

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## **141.980. Creation of land bank agency--beneficiaries--public body**

1. Any municipality located wholly or partially within a county in which a land trust created under section 141.700 was operating on January 1, 2012, may establish a land bank agency for the management, sale, transfer, and other disposition of interests in real estate owned by such land bank agency. Any such land bank agency created shall be created to foster the public purpose of returning land, including land that is in a nonrevenue-generating, nontax-producing status to use in private ownership. Such land bank agency shall be established by ordinance or resolution as applicable. Such land bank agency shall not own any interest in real estate that is located wholly or partially outside such establishing municipality. Such land bank agency shall not be authorized to sell more than five contiguous parcels to the same entity in the course of a year.

2. The beneficiaries of the land bank agency shall be the taxing authorities that held or owned tax bills against the respective parcels of real estate acquired by such land bank agency pursuant to a deemed sale under subsection 3 of section 141.560, by deed from a land trust under subsection 1 of section 141.984, or pursuant to a sale under subdivision (2) of subsection 2 of section 141.550 included in the judgment of the court, and their respective interests in each parcel of real estate shall be to the extent and in the proportion and according to the priorities determined by the court on the basis that the principal amount of their respective tax bills bore to the total principal amount of all of the tax bills described in the judgment.

3. Each land bank agency created pursuant to this chapter shall be a public body corporate and politic, and shall have permanent and perpetual duration until terminated and dissolved in accordance with the provisions of section 141.1012.

## **141.981. Land bank agency--board members, appointment, terms--powers--board actions--surety bonds**

1. A land bank agency shall be composed of a board of commissioners which shall consist of five members, one of whom shall be appointed by the county, as directed by the county executive, or if the county does not have a county executive, as directed by the county commission of the county, one of whom shall be appointed by the school district that is wholly or partially located within such municipality and county and then has the largest population according to the last preceding federal decennial census, and the remainder shall be appointed by the municipality that established the land bank agency. The term of office of the members shall be for four years each. Members shall serve at the pleasure of the member's appointing authority, may be employees of the appointing authority, and shall serve without compensation. Any vacancy in the office of land bank commissioner

shall be filled by the same appointing authority that made the original appointment. Members of the first board of a land bank agency shall be appointed within sixty days after the effective date of the ordinance or resolution passed establishing such land bank agency. If any appointing authority fails to make any appointment of a land bank commissioner within the time the first appointments are required, or within sixty days after any term expires, then the appointment shall be made by the municipality that established the land bank agency. Except as otherwise provided in subsection 2 of section 141.720, any municipality or school district that is an appointing authority under this section shall not be an appointing authority under section 141.720.

2. Notwithstanding any law to the contrary, any public officer shall be eligible to serve as a board member and the acceptance of the appointment shall neither terminate nor impair such public office. For purposes of this section, "public officer" shall mean a person who is elected to a political subdivision office. Any political subdivision employee shall be eligible to serve as a board member.

3. The members of the board shall select annually from among themselves a chair, a vice chair, a treasurer, and such other officers as the board may determine, and shall establish their duties as may be regulated by rules adopted by the board.

4. The board shall have the power to organize and reorganize the executive, administrative, clerical, and other departments of the land bank agency and to fix the duties, powers, and compensation of all employees, agents, and consultants of the land bank agency. The board may cause the land bank agency to reimburse any member for expenses actually incurred in the performance of duties on behalf of the land bank agency.

5. The board shall meet in regular session according to a schedule adopted by the board, and shall meet in special session as convened by the chairman or upon written notice signed by a majority of the members. The presence of a majority of the board's total membership shall constitute a quorum to conduct business.

6. All actions of the board shall be approved by the affirmative vote of a majority of the members of the board present and voting; provided, however, that no action of the board shall be authorized on the following matters unless approved by a roll call vote of a majority of the entire board membership:

(1) Adoption of bylaws and other rules and regulations for conduct of the land bank agency's business;

(2) Hiring or firing of any employee or contractor of the land bank agency. This function may, by majority vote, be delegated by the board to a specified officer or committee of the land bank agency, under such terms and conditions, and to the extent, that the board may specify;

(3) The incurring of debt, including, without limitation, borrowing of money and the issuance of bonds, notes, or other obligations;

(4) Adoption or amendment of the annual budget;

(5) Sale of real property for a selling price that represents a consideration less than two-thirds of the appraised value of such property; and

(6) Lease, encumbrance, or alienation of real property, improvements, or personal property with a value of more than fifty thousand dollars.

7. The board members shall each furnish a surety bond, if such bond is not already covered by governmental surety bond, in a penal sum not to exceed twenty-five thousand dollars to be approved by the comptroller or director of finance of the municipality that established the land bank agency, issued by a surety company licensed to do business in this state, which bond shall be deposited with the county clerk of such county, and shall guarantee the faithful performance of such member's duties under sections 141.980 to 141.1015, and shall be written to cover all the commissioners.

8. Before entering upon the duties of office, each board member shall take and subscribe to the following oath:

State of Missouri, )

) ss

City of ..... )

I, ..... , do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Missouri; that I will faithfully and impartially discharge my duties as a member of the Land Bank of ... , Missouri; that I will according to my best knowledge and judgment, administer such tax delinquent and other lands held by the land bank according to the laws of the State of Missouri and for the benefit of the public bodies and the tax bill owners which I represent, so help me God.

.....

Subscribed and sworn to this ... day of ... , 20 ..

My appointment expires: .....

.....

Notary Public

9. Members of the board shall not be liable personally on the bonds or other obligations of the land bank agency, and the rights of creditors of the land bank agency shall be solely against the assets of such land bank agency.

10. Vote by proxy shall not be permitted. Any member may request a recorded vote on any resolution or action of the land bank agency.

**141.982. Land bank agency, staff**

A land bank agency may employ a secretary, an executive director, its own counsel and legal staff, and such technical experts, and such other agents and employees, permanent or temporary, as it may require, and may determine the qualifications and fix the compensation and benefits of such persons. A land bank agency may also enter into contracts and agreements with political subdivisions for staffing services to be provided to the land bank agency by political subdivisions or agencies or departments thereof, or for a land bank agency to provide such staffing services to political subdivisions or agencies or departments thereof.

**141.983. Land bank agency, powers--provisions**

Subject to the other provisions of this chapter and all other applicable laws, a land bank agency established under this chapter shall have all powers necessary or appropriate to carry out and effectuate the purposes and provisions of this chapter as they relate to a land bank agency, including the following powers in addition to those herein otherwise granted:

- (1) To adopt, amend, and repeal bylaws for the regulation of its affairs and the conduct of its business;
- (2) To sue and be sued, in its own name, and plead and be impleaded in all civil actions, including, but not limited to, actions to clear title to property of the land bank agency;
- (3) To adopt a seal and to alter the same at pleasure;
- (4) To receive funds as grants from or to borrow from political subdivisions, the state, the federal government, or any other public or private sources;
- (5) To issue notes and other obligations according to the provisions of this chapter;
- (6) To procure insurance or guarantees from political subdivisions, the state, the federal government, or any other public or private sources, of the payment of any bond, note, loan, or other obligation, or portion thereof, incurred by the land bank agency, and to pay any fees or premiums in connection therewith;
- (7) To enter into contracts and other instruments necessary, incidental, or convenient to the performance of its duties and the exercise of its powers, including, but not limited to, agreements with other land bank agencies and with political subdivisions for the joint exercise of powers under this chapter;

(8) To enter into contracts and other instruments necessary, incidental, or convenient to the performance of functions by the land bank agency on behalf of political subdivisions, or agencies or departments of political subdivisions, or the performance by political subdivisions, or agencies or departments of political subdivisions, of functions on behalf of the land bank agency;

(9) To make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the land bank agency; and any contract or instrument when signed by the chair or vice chair of the land bank agency, or by an authorized use of their facsimile signatures, and by the secretary or assistant secretary, or treasurer or assistant treasurer of the land bank agency, or by an authorized use of their facsimile signatures, shall be held to have been properly executed for and on its behalf;

(10) To procure insurance against losses in connection with the property, assets, or activities of the land bank agency;

(11) To invest the money of the land bank agency, including amounts deposited in reserve or sinking funds, at the discretion of the board, in instruments, obligations, securities, or property determined proper by the board, and name and use depositories for its money;

(12) To enter into contracts for the management of, the collection of rent from, or the sale of the property of the land bank agency;

(13) To design, develop, construct, demolish, reconstruct, rehabilitate, renovate, relocate, equip, furnish, and otherwise improve real property or rights or interests in real property held by the land bank agency;

(14) To fix, charge, and collect rents, fees, and charges for the use of the property of the land bank agency and for services provided by the land bank agency;

(15) Subject to the limitation set forth in subsection 1 of section 141.980, to acquire property, whether by purchase, exchange, gift, lease, or otherwise, to grant or acquire licenses and easements, and to sell, lease, grant an option with respect to, or otherwise dispose of, any property of the land bank agency;

(16) Subject to the limitation set forth in subsection 1 of section 141.980, to enter into partnership, joint ventures, and other collaborative relationships with political subdivisions and other public and private entities for the ownership, management, development, and disposition of real property; and

(17) Subject to the other provisions of this chapter and all other applicable laws, to do all other things necessary or convenient to achieve the objectives and purposes of the land bank agency or other laws that relate to the purposes and responsibility of the land bank agency.

**141.984. Transfer of title to real property held by land trust to land bank agency--income--acquisition of real property--contracts--foreclosure sale of property**

1. Within one year of the effective date of the ordinance or resolution passed establishing a land bank agency under this chapter, title to any real property held by a land trust created pursuant to section 141.700 that is located wholly within the municipality that created the land bank agency shall be transferred by deed to such land bank agency.

2. The income of a land bank agency shall be exempt from all taxation by the state and by any of its political subdivisions. Upon acquiring title to any real estate, a land bank agency shall immediately notify the county assessor and the collector of such ownership, and such real estate shall be exempt from all taxation during the land bank agency's ownership thereof, in the same manner and to the same extent as any other publicly owned real estate, and upon the sale or other disposition of any real estate held by it, such land bank agency shall immediately notify the county assessor and the collector of such change of ownership; provided however, that such tax exemption for improved and occupied real property held by such land bank agency as lessor pursuant to a ground lease shall terminate upon the first such occupancy, and such land bank agency shall immediately notify the county assessor and the collector of such occupancy.

3. Subject to the limitation set forth in subsection 1 of section 141.980, a land bank agency may acquire real property or interests in property by gift, devise, transfer, exchange, foreclosure, lease, purchase, or otherwise on terms and conditions and in a manner the land bank agency considers proper.

4. Subject to the limitation set forth in subsection 1 of section 141.980, a land bank agency may acquire property by purchase contracts, lease purchase agreements, installment sales contracts, and land contracts, and may accept transfers from political subdivisions upon such terms and conditions as agreed to by the land bank agency and the political subdivision. Subject to the limitation set forth in subsection 1 of section 141.980, a land bank agency may bid on any parcel of real estate offered for sale at a sheriff's foreclosure sale held in accordance with section 141.550 provided that if the bid is not a deemed bid under subsection 3 of section 141.560, such parcel must be located within a low- to moderate-income area designated as a target area for revitalization by the municipality that created the land bank agency. Notwithstanding any other law to the contrary, but subject to the limitation set forth in subsection 1 of section 141.980, any political subdivision may transfer to the land bank agency real property and interests in real property of the political subdivision on such terms and conditions and according to such procedures as determined by the political subdivision.

5. A land bank agency shall maintain all of its real property in accordance with the laws and ordinances of the jurisdictions in which the real property is located.

6. Upon confirmation under section 141.580 of a sheriff's foreclosure sale of a parcel of real estate to a land bank agency under subdivision (2) of subsection 2 of section 141.550, said land bank agency shall pay the amount of the land bank agency's bid that exceeds the amount of all tax bills included in the judgment, interest, penalties, attorney's fees and costs then due thereon. Such excess shall be applied and distributed in accordance with subsections 3 and 4 of section 141.580, exclusive of subdivision (3) of subsection 3 thereof. Upon such confirmation by the court, the collector shall mark the tax bills included in the judgment as "cancelled by sale to the land bank" and shall take credit for the full amount of such tax bills, including principal amount, interest, penalties, attorney's fees, and costs, on his books and in his statements with any other taxing authorities.

**141.985. Land bank agency, real property in its own name--availability of records--procedures for transfer, conveyance--hierarchy of priorities for real property use--distribution of proceeds--reduction of price, when**

1. A land bank agency shall hold in its own name all real property acquired by such land bank agency irrespective of the identity of the transferor of such property.

2. A land bank agency shall maintain and make available for public review and inspection an inventory of all real property held by the land bank agency. This inventory shall be available on the land bank agency website and include at a minimum whether a parcel is available for sale, the address of the parcel if an address has been assigned, the parcel number, if no address has been assigned, and the year that a parcel entered the land bank agency's inventory.

3. The land bank agency shall determine and set forth in policies and procedures of the board the general terms and conditions for consideration to be received by the land bank agency for the transfer of real property and interests in real property, which consideration may take the form of monetary payments and secured financial obligations, covenants, and conditions related to the present and future use of the property, contractual commitments of the transferee, and such other forms of consideration as determined by the board to be in the best interest of the land bank agency.

4. Subject to the limitation set forth in subsection 1 of section 141.980, a land bank agency may convey, exchange, sell, transfer, lease, grant, release and demise, pledge and hypothecate any and all interests in, upon or to property of the land bank agency.

5. A municipality may, in its resolution or ordinance creating a land bank agency establish a hierarchical ranking of priorities for the use of real property conveyed by such land bank agency, subject to subsection 7 of this section, including but not limited to:

(1) Use for purely public spaces and places;

(2) Use for affordable housing;

- (3) Use for retail, commercial and industrial activities;
- (4) Use as wildlife conservation areas; and
- (5) Such other uses and in such hierarchical order as determined by such municipality.

If a municipality in its resolution or ordinance creating a land bank agency establishes priorities for the use of real property conveyed by the land bank agency, such priorities shall be consistent with and no more restrictive than municipal planning and zoning ordinances.

6. The board may delegate to officers and employees the authority to enter into and execute agreements, instruments of conveyance and all others related documents pertaining to the conveyance of property by the land bank agency.

7. A land bank agency shall accept written offers equal to or greater than fair market value to purchase real property held by the land bank agency. If a land bank agency rejects a written offer equal to or greater than fair market value, or does not respond to a written offer equal to or greater than fair market value within sixty days, the land bank agency's action shall be subject to judicial review under chapter 536 or any other applicable provision of law unless the basis for the land bank agency's rejection is that it has accepted another offer equal to or greater than fair market value for that property. Venue shall be in the circuit court of the county in which the land bank agency is located.

8. When any parcel of real estate acquired by a land bank agency pursuant to a deemed sale under subsection 3 of section 141.560, by deed from a land trust under subsection 1 of section 141.984, or pursuant to a sale under subdivision (2) of subsection 2 of section 141.550 is sold or otherwise disposed of by such land bank agency, the proceeds therefrom shall be applied and distributed in the following order:

- (1) To the payment of the expenses of sale;
- (2) To fulfill the requirements of the resolution, indenture or other financing documents adopted or entered into in connection with bonds, notes or other obligations of the land bank agency, to the extent that such requirements may apply with respect to such parcel of real estate;
- (3) The balance to be retained by the land bank agency to pay the salaries and other expenses of such land bank agency and of its employees as provided for in its annual budget;
- (4) Any funds in excess of those necessary to meet the expenses of the annual budget of the land bank agency in any fiscal year and a reasonable sum to carry over into the next fiscal year to assure that sufficient funds will be available to meet initial expenses for that next fiscal year, exclusive of net profit from the sale of ancillary parcels, shall be paid to the respective taxing authorities that, at the time of the distribution, are taxing

the real property from which the proceeds are being distributed. The distributions shall be in proportion to the amounts of the taxes levied on the properties by the taxing authorities. Distribution shall be made on January first and July first of each year, and at such other times as the board may determine.

9. When any ancillary parcel is sold or otherwise disposed of by such land bank agency, the proceeds therefrom shall be applied and distributed in the following order:

(1) To the payment of all land taxes and related charges then due on such parcel;

(2) To the payment of the expenses of sale;

(3) To fulfill the requirements of the resolution, indenture, or other financing documents adopted or entered into in connection with bonds, notes or other obligations of the land bank agency, to the extent that such requirements may apply with respect to such parcel of real estate;

(4) The balance to be retained by the land bank agency to pay the salaries and other expenses of such land bank agency and of its employees as provided for in its annual budget;

(5) Any funds in excess of those necessary to meet the expenses of the annual budget of the land bank agency in any fiscal year and a reasonable sum to carry over into the next fiscal year to assure that sufficient funds will be available to meet initial expenses for that next fiscal year, may be paid in accordance with subdivision (3) of subsection 8 of this section.

10. If a land bank agency owns more than five parcels of real property in a single city block and no written offer to purchase any of those properties has been submitted to the agency in the past twelve months, the land bank shall reduce its requested price for those properties and advertise the discount publicly.

#### **141.988. Land bank agency, funding, payments--land taxes, distribution**

1. A land bank agency may receive funding through grants and loans from political subdivisions, from the state, from the federal government, and from other public and private sources.

2. Except as otherwise provided in subsections 8 and 9 of section 141.985, a land bank agency may receive and retain payments for services rendered, for rents and leasehold payments received, for consideration for disposition of real and personal property, for proceeds of insurance coverage for losses incurred, for income from investments, and for any other asset and activity lawfully permitted to a land bank agency under this chapter.

3. If a land bank agency sells or otherwise disposes of a parcel of real estate held by it, any land taxes assessed against such parcel for the three tax years following such sale or disposition by such land bank agency that are collected by the collector in a calendar year and not refunded, less the fees provided under section 52.260 and subsection 4 of this section and less the amounts to be deducted under section 137.720, shall be distributed by the collector to such land bank agency no later than March first of the following calendar year; provided that land taxes impounded under section 139.031 or otherwise paid under protest shall not be subject to distribution under this subsection. Any amount required to be distributed to a land bank agency under this subsection shall be subject to offset for amounts previously distributed to such land bank agency that were assessed, collected, or distributed in error.

4. In addition to any other provisions of law related to collection fees, the collector shall collect on behalf of the county a fee of four percent of reserve period taxes collected and such fees collected shall be deposited in the county general fund.

#### **141.991. Land bank agency, audit**

There shall be an annual audit of the affairs, accounts, expenses, and financial transactions of a land bank agency by certified public accountants as of April thirtieth of each year, which accountants shall be employed by the commissioners on or before March first of each year, and certified copies thereof shall be furnished to the appointing authorities described in section 141.981, and shall be available for public inspection at the office of the land bank agency. In addition to the annual audit provided for in this subdivision, the land bank agency may be performance audited at any time by the state auditor or by the auditor of the municipality that established the land bank agency. The cost of such audit shall be paid by the land bank agency and copies shall be made available to the public within thirty days of the completion of the audit.

#### **141.994. Land bank agency, issuance of bonds--not deemed to be indebtedness**

1. A land bank agency shall have power to issue bonds, with approval of the municipality that created the land bank agency, for any of its corporate purposes, which bonds shall be special, limited obligations of the land bank agency, the principal of and interest on which shall be payable solely from the income and revenue derived from the sale, lease, or other disposition of the assets of the land bank agency, or such portion thereof as may be designated in the resolution, indenture, or other financing documents relating to the issuance of the bonds. In the discretion of the land bank agency, any of such bonds may be secured by a pledge of additional revenues, including grants, contributions, or guarantees from the state, the federal government, or any agency or instrumentality thereof, or by a mortgage or other security device covering all or part of the property from which the revenues so pledged may be derived.

2. Bonds issued by a land bank agency shall not be deemed to be an indebtedness within the meaning of any constitutional or statutory limitation upon the incurring of indebtedness. The bonds shall not constitute a debt, liability, or obligation of the state or of any political subdivision thereof, except in accordance with subsection 4 of this section, or a pledge of the full faith and credit or the taxing power of the state or of any such political subdivision, and the bonds shall contain a recital to that effect. Neither the members of the board nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof.

3. Bonds issued by a land bank agency shall be authorized by resolution of the board and shall be issued in such form, shall be in such denominations, shall bear interest at such rate or rates, shall mature on such dates and in such manner, shall be subject to redemption at such times and on such terms, and shall be executed by one or more members of the board, as provided in the resolution authorizing the issuance thereof or as set out in the indenture or other financing document authorized and approved by such resolution. The board may sell such bonds in such manner, either at public or at private sale, and for such price as it may determine to be in the best interests of the land bank agency.

4. Any political subdivision may elect to guarantee, insure, or otherwise become primarily or secondarily obligated with respect to the bonds issued by a land bank agency subject, however, to the provisions of Missouri law applicable to the incurrence of indebtedness by such political subdivision. No political subdivision shall have any such obligation if it does not so elect.

5. A land bank agency may from time to time, as authorized by resolution of the board, issue refunding bonds for the purpose of refunding, extending and unifying all or any part of its valid outstanding bonds. Such refunding bonds may be payable from any of the sources identified in subsections 1 and 4 of this section, and from the investment of any of the proceeds of the refunding bonds.

6. The bonds issued by a land bank agency shall be negotiable instruments pursuant to the provisions of the uniform commercial code of the State of Missouri.

7. Bonds issued pursuant to this section and all income or interest thereon shall be exempt from all state taxes, except estate and transfer taxes.

8. A land bank agency shall have the power to issue temporary notes upon the same terms and subject to all provisions and restrictions applicable to bonds under this section. Such notes issued by a land bank agency may be refunded by notes or bonds authorized under this section.

#### **141.997. Land bank agency, board meetings**

Except as otherwise provided under Missouri law, all board meetings shall be open to the public and the board shall cause minutes and a record to be kept of all its proceedings. The

land bank agency shall be subject to the provisions of chapter 610, chapter 109, and any other applicable provisions of law governing public records and public meetings.

**141.1000. Land bank agency--board members, employees, compensation, conflict of interest--violation, penalty**

Neither the members of the board nor any salaried employee of a land bank agency shall receive any compensation, emolument, or other profit directly or indirectly from the rental, management, acquisition, sale, demolition, repair, rehabilitation, use, operation, ownership, or disposition of any lands held by such land bank agency other than the salaries, expenses, and emoluments provided for in sections 141.980 to 141.1015. Neither the members of the board nor any salaried employee of a land bank agency shall own, directly or indirectly, any legal or equitable interest in or to any lands held by such land bank agency other than the salaries, expenses, and emoluments provided for in sections 141.980 to 141.1015. A violation of this section is a felony. Any person found guilty of violating this section shall be sentenced to a term of imprisonment of not less than two nor more than five years. The board of a land bank agency may adopt supplemental rules and regulations addressing potential conflicts of interest and ethical guidelines for members of the board and land bank agency employees, provided that such rules and regulations are not inconsistent with this chapter or any other applicable law.

**141.1003. Land bank agency, control of property**

Except as otherwise expressly set forth in this chapter, in the exercise of its powers and duties under this chapter and its powers relating to property held by the land bank agency, the land bank agency shall have complete control of such property as fully and completely as if it were a private property owner.

**141.1006. Land bank agency--liens for real property taxes, remittance of taxes**

1. Whenever any ancillary parcel is acquired by a land bank agency and is encumbered by a lien or claim for real property taxes owed to a taxing authority, such taxing authority may elect to contribute to the land bank agency all or any portion of such taxes that are distributed to and received by such taxing authority.

2. To the extent that a land bank agency receives payments or credits of any kind attributable to liens or claims for real property taxes owed to a taxing authority, the land bank agency shall remit the full amount of the payments to the collector for distribution to the appropriate taxing authority.

**141.1009. Land bank agency, action to quiet title, examination of title, service of petition**

1. A land bank agency shall be authorized to file an action to quiet title pursuant to section 527.150 as to any real property in which the land bank agency has an interest. For purposes of any and all such actions the land bank agency shall be deemed to be the holder of sufficient legal and equitable interests, and possessory rights, so as to qualify the land bank agency as adequate petitioner in such action.

2. Prior to the filing of an action to quiet title the land bank agency shall conduct an examination of title to determine the identity of any and all persons and entities possessing a claim or interest in or to the real property. Service of the petition to quiet title shall be provided to all such interested parties by the following methods:

(1) Registered or certified mail to such identity and address as reasonably ascertainable by an inspection of public records;

(2) In the case of occupied real property by first class mail, addressed to "Occupant";

(3) By posting a copy of the notice on the real property;

(4) By publication in a newspaper of general circulation in the municipality in which the property is located; and

(5) Such other methods as the court may order.

3. As part of the petition to quiet title the land bank agency shall file an affidavit identifying all parties potentially having an interest in the real property, and the form of notice provided.

4. The court shall schedule a hearing on the petition within ninety days following filing of the petition, and as to all matters upon which an answer was not filed by an interested party the court shall issue its final judgment within one hundred twenty days of the filing of the petition.

5. A land bank agency shall be authorized to join in a single petition to quiet title one or more parcels of real property.

**141.1012. Land bank agency--dissolution, when--sale of property, proceeds from sale**

A land bank agency may be dissolved as a public body corporate and politic not less than sixty calendar days' after an ordinance or resolution for such dissolution is passed by the municipality that established the land bank agency. Not less than sixty calendar days' advance written notice of consideration of such an ordinance or resolution of dissolution

shall be given to the members of the board of the land bank agency, shall be published in a local newspaper of general circulation within such municipality, and shall be sent certified mail to each trustee of any outstanding bonds of the land bank agency. No land bank agency shall be dissolved while there remains outstanding any bonds, notes, or other obligations of the land bank agency unless such bonds, notes, or other obligations are paid or defeased pursuant to the resolution, indenture or other financing document under which such bonds, notes, or other obligations were issued prior to or simultaneously with such dissolution. Upon dissolution of a land bank agency pursuant to this section, all real property, personal property, and other assets of the land bank agency shall be transferred by appropriate written instrument to and shall become the assets of the municipality that established the land bank agency. Such municipality shall act expeditiously to return such real property to the tax rolls and shall market and sell such real property using an open, public method that ensures the best possible prices are realized while ensuring such real property is returned to a suitable, productive use for the betterment of the neighborhoods in which such real property is located. Any such real property that was acquired by the dissolved land bank agency pursuant to a deemed sale under subsection 3 of section 141.560, by deed from a land trust under subsection 1 of section 141.984, or pursuant to a sale under subdivision (2) of subsection 2 of section 141.550 shall be held by such municipality in trust for the tax bill owners and taxing authorities having an interest in any tax liens which were foreclosed, as their interests may appear in the judgment of foreclosure, and upon the sale or other disposition of any such property by such municipality, the proceeds therefrom shall be applied and distributed in the following order:

- (1) To the payment of the expenses of sale;
- (2) To the reasonable costs incurred by such municipality in maintaining and marketing such property; and
- (3) The balance shall be paid to the respective taxing authorities that, at the time of the distribution, are taxing the real property from which the proceeds are being distributed.

**141.1015. Land bank agency--no power of eminent domain, no power to tax**

A land bank agency shall neither possess nor exercise the power of eminent domain. A land bank agency shall not have the power to tax.

# Pennsylvania Land Bank Act

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## **§ 2101. Scope of chapter**

This chapter relates to land banks.

## **§ 2102. Legislative findings and purpose**

The General Assembly finds and declares that:

- (1) Strong communities are important to the social and economic vitality of this Commonwealth. Whether urban, suburban or rural, many communities are struggling to cope with vacant, abandoned and tax-delinquent properties.
- (2) Citizens of this Commonwealth are affected adversely by vacant, abandoned and tax-delinquent properties, including properties which have been vacated or abandoned due to mortgage foreclosure.
- (3) Vacant, abandoned and tax-delinquent properties impose significant costs on neighborhoods, communities and municipalities by lowering property values, increasing fire and police protection costs, decreasing tax revenues and undermining community cohesion.
- (4) There is an overriding public need to confront the problems caused by vacant, abandoned and tax-delinquent properties through the creation of new tools to enable municipalities to turn vacant, abandoned and tax-delinquent spaces into vibrant places.
- (5) Land banks are one of the tools that municipalities may use to facilitate the return of vacant, abandoned and tax-delinquent properties to productive use.

## **§ 2103. Definitions**

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

**“Board.”** The board of directors of a land bank.

**“Department.”** The Department of Community and Economic Development of the Commonwealth.

**“Financial institution.”** A bank, savings association, operating subsidiary of a bank or savings association, credit union, association licensed to originate mortgage loans or an assignee of a mortgage or note originated by such an institution.

**“Land bank.”** A public body and a body corporate and politic established under this chapter.

**“Land bank jurisdiction.”**

(1) a county, a city, a borough, a township and an incorporated town with a population of more than 10,000; or

(2) two or more municipalities with populations less than 10,000 that enter into an intergovernmental cooperation agreement to establish and maintain a land bank.

**“Low income.”** A household with total income at or below 80% of the area median income, adjusted for household size, as defined annually by the United States Department of Housing and Urban Development.

**“Municipality.”** A county, city, borough, incorporated town, township or home rule municipality.

**“Owner-occupant.”** A natural person with a legal or equitable ownership interest in property which was the primary residence of the person for at least three consecutive months at any point in the year preceding the date of initial delinquency.

**“Real property.”** Land and all structures and fixtures thereon and all estates and interests in land, including easements, covenants and leaseholders.

**“School district.”** Any of the classifications of school districts specified in section 202 of the act of March 10, 1949 (P.L. 30, No. 14), known as the Public School Code of 1949. The term includes, as to any real property acquired, owned or conveyed by a land bank, the school district within whose geographical jurisdiction the real property is located.

#### **§ 2104. Creation and existence**

**(a) Authority.--**Subject, in a city of the first class, to the home rule charter, a land bank jurisdiction may elect to create a land bank by the adoption of an ordinance to create a binding legal obligation. The ordinance must specify the following:

(1) The name of the land bank.

(2) The number of members of the board.

(3) The names of individuals to serve as initial members of the board and the length of terms which they will serve.

(4) The qualifications, manner of selection or appointment and terms of office of members of the board.

(5) The manner by which residents will be provided an opportunity to have input into the land bank decision-making process.

(6) Policies regarding former owner-occupants who are occupying homes acquired by the land bank. These policies shall show a preference for keeping the former owner-occupants in their homes, whenever feasible.

(7) Additional terms and conditions the land bank jurisdiction deems reasonable and necessary for operation of the land bank.

**(b) Filing.--**The governing body of the land bank jurisdiction which creates a land bank shall file a copy of the ordinance with the department and with the Department of State. After receipt of the ordinance, the Secretary of the Commonwealth shall issue a certificate of incorporation.

**(c) Combinations.--**

(1) The authority under subsection (a) may be exercised in combination pursuant to an intergovernmental cooperation agreement by:

(i) more than one land bank jurisdiction; or

(ii) a land bank jurisdiction and one or more municipalities.

(2) If a land bank is established under paragraph (1), the intergovernmental cooperation agreement must specify matters identified in subsection (a).

**(d) Limitation.--**Except as set forth in subsection (c), if a county establishes a land bank, the land bank shall have the power to acquire real property only in those portions of the county located outside of the geographical boundaries of any other land bank established by another land bank jurisdiction located partially or entirely within the county.

**(e) Participation by school district.--**A school district may participate in a land bank pursuant to an intergovernmental cooperation agreement. The agreement must specify the membership, if any, of the school district on the board of the land bank and the actions of the land bank which are subject to approval by the school district.

**(f) Legal status of land bank.--**A land bank shall:

(1) be a public body corporate and politic; and

(2) have duration until terminated and dissolved under section 2114 (relating to dissolution of land bank).

**(g) Collaboration.--**A land bank, a political subdivision and another municipal entity may enter into an intergovernmental cooperation agreement relative to the operations of a land bank.

### **§ 2105. Board**

**(a) Membership.--**A board shall consist of an odd number of members and be not less than five members nor more than 11 members. Unless restricted by the actions or agreements specified in section 2104 (relating to creation and existence) and subject to the limits stated in this section, the size of the board may be adjusted in accordance with bylaws of the land bank.

#### **(b) Eligibility to serve on board.--**

(1) Notwithstanding any law to the contrary, a public officer shall be eligible to serve as a board member, and the acceptance of the appointment shall neither terminate nor impair that public office.

(2) A municipal employee shall be eligible to serve as a board member.

(3) An established land bank board shall include at least one voting member who:

(i) is a resident of the land bank jurisdiction;

(ii) is not a public official or municipal employee; and

(iii) maintains membership with a recognized civic organization within the land bank jurisdiction.

(4) A member removed under subsection (d)(3) shall be ineligible for reappointment to the board unless the reappointment is confirmed unanimously by the board.

(5) As used in this subsection, the term “public officer” means an individual who is elected to a municipal office.

**(c) Officers.--**The members of the board shall select annually from among their members a chair, vice chair, secretary, treasurer and other officers as the board determines.

#### **(d) Rules.--**The board shall establish rules on all of the following:

(1) Duties of officers under subsection (c).

(2) Attendance and participation of members in its regular and special meetings.

(3) A procedure to remove a member by a majority vote of the other members for failure to comply with a rule.

(4) Other matters necessary to govern the conduct of a land bank.

**(e) Vacancies.--**A vacancy on the board shall be filled in the same manner as the original appointment. Upon removal under subsection (d)(3), the position shall become vacant.

**(f) Compensation.--**Board members shall serve without compensation. The board may reimburse a member for expenses actually incurred in the performance of duties on behalf of the land bank.

**(g) Meetings.--**

(1) The board shall meet as follows:

(i) In regular session according to a schedule adopted by the board.

(ii) In special session:

(A) as convened by the chair; or

(B) upon written notice signed by a majority of the members.

(2) A majority of the board, excluding vacancies, constitutes a quorum. Physical presence is required under this paragraph.

**(h) Voting.--**

(1) Except as set forth in paragraph (2) or (3), action of the board must be approved by the affirmative vote of a majority of the board present and voting.

(2) Action of the board on the following matters must be approved by a majority of the entire board membership:

(i) Adoption of bylaws.

(ii) Adoption of rules under subsection (d).

(iii) Hiring or firing of an employee or contractor of the land bank. This function may, by majority vote of the entire board membership, be delegated by the board to a specified officer or committee of the land bank.

(iv) Incurring of debt.

(v) Adoption or amendment of the annual budget.

(vi) Sale, lease, encumbrance or alienation of real property or personal property with a value of more than \$50,000.

(3) A resolution under section 2114 (relating to dissolution of land bank) must be approved by two-thirds of the entire board membership.

(4) A member of the board may not vote by proxy.

(5) A member may request a recorded vote on any resolution or action of the land bank.

**(i) Immunity.--**A land bank jurisdiction which establishes a land bank and a municipality and a school district which are parties to an intergovernmental cooperation agreement establishing a land bank shall not be liable personally on the bonds or other obligations of the land bank. Rights of creditors of a land bank shall be solely against the land bank.

### **§ 2106. Staff**

**(a) Employees.--**A land bank may employ or enter into a contract for an executive director, counsel and legal staff, technical experts and other individuals and may determine the qualifications and fix the compensation and benefits of those employees.

**(b) Contracts.--**A land bank may enter into a contract with a municipality for:

(1) the municipality to provide staffing services to the land bank; or

(2) the land bank to provide staffing services to the municipality.

### **§ 2107. Powers**

A land bank constitutes a public body, corporate and politic, exercising public powers of the Commonwealth necessary or appropriate to carry out this chapter, including the following powers:

(1) To adopt, amend and repeal bylaws for the regulation of its affairs and the conduct of its business.

(2) To sue and be sued in its own name and be a party in a civil action. This paragraph includes an action to clear title to property of the land bank.

(3) To adopt a seal and to alter the same at pleasure.

(4) To borrow from Federal Government funds, from the Commonwealth, from private lenders or from municipalities, as necessary, for the operation and work of the land bank.

(5) To issue negotiable revenue bonds and notes according to the provisions of this chapter.

(6) To procure insurance or guarantees from the Federal Government or the Commonwealth of the payment of debt incurred by the land bank and to pay premiums in connection with the insurance or guarantee.

(7) To enter into contracts and other instruments necessary, incidental or convenient to the performance of its duties and the exercise of its powers. This paragraph includes intergovernmental cooperation agreements under 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation) for the joint exercise of powers under this chapter.

(8) To enter into contracts and intergovernmental cooperation agreements with municipalities for the performance of functions by municipalities on behalf of the land bank or by the land bank on behalf of municipalities.

(9) To make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the land bank. Any contract or instrument signed shall be executed by and for the land bank if the contract or instrument is signed, including an authorized facsimile signature, by:

(i) the chair or vice chair of the land bank; and

(ii) either:

(A) the secretary or assistant secretary of the land bank; or

(B) the treasurer or assistant treasurer of the land bank.

(10) To procure insurance against losses in connection with the real property, assets or activities of the land bank.

(11) To invest money of the land bank at the discretion of the board in instruments, obligations, securities or property determined proper by the board and to name and use depositories for its money.

(12) To enter into contracts for the management of, the collection of rent from or the sale of real property of the land bank.

(13) To design, develop, construct, demolish, reconstruct, rehabilitate, renovate, relocate and otherwise improve real property or rights or interests in real property.

(14) To fix, charge and collect rents, fees and charges for the use of real property of the land bank and for services provided by the land bank.

(15) To grant or acquire licenses, easements, leases or options with respect to real property of the land bank.

(16) To enter into partnerships, joint ventures and other collaborative relationships with municipalities and other public and private entities for the ownership, management, development and disposition of real property.

(17) To organize and reorganize the executive, administrative, clerical and other departments of the land bank and to fix the duties, powers and compensation of employees, agents and consultants of the land bank.

(18) To do all other things necessary or convenient to achieve the objectives and purposes of the land bank or other law related to the purposes and responsibility of the land bank.

### **§ 2108. Eminent domain**

A land bank does not possess the power of eminent domain.

### **§ 2109. Acquisition of property**

**(a) Title to be held in its name.--**A land bank shall hold in its own name all real property it acquires.

**(b) Tax exemption.--**

(1) Except as set forth in paragraph (2), the real property of a land bank and its income and operations are exempt from State and local tax.

(2) Paragraph (1) does not apply to real property of a land bank after the fifth consecutive year in which the real property is continuously leased to a private third party. However, real property shall continue to be exempt from State and local taxes if it is leased to a nonprofit or governmental agency at substantially less than fair market value.

**(c) Methods of acquisition.--**A land bank may acquire real property or interests in real property by any means on terms and conditions and in a manner the land bank considers proper.

**(d) Acquisitions from municipalities.--**

(1) A land bank may acquire real property by purchase contracts, lease purchase agreements, installment sales contracts and land contracts and may accept transfers from municipalities upon terms and conditions as agreed to by the land bank and the municipality.

(2) A municipality may transfer to a land bank real property and interests in real property of the municipality on terms and conditions and according to procedures

determined by the municipality as long as the real property is located within the jurisdiction of the land bank.

(3) A redevelopment authority located within a land bank jurisdiction established under this chapter may, with the consent of the local governing body and without a redevelopment contract, convey property which it acquired before the effective date of this paragraph to the land bank. A conveyance under this paragraph shall be with fee simple title, free of all liens and encumbrances.

**(e) Maintenance.--**A land bank shall maintain all of its real property in accordance with the statutes and ordinances of the jurisdiction in which the real property is located.

**(f) Prohibition.--**

(1) Subject to the provisions of paragraph (2), a land bank may not own or hold real property located outside the jurisdictional boundaries of the entities which created the land bank under section 2104(c)(relating to creation and existence).

(2) A land bank may be granted authority pursuant to an intergovernmental cooperation agreement with a municipality to manage and maintain real property located within the jurisdiction of the municipality.

**(g) Tax claim bureaus.--**A tax claim bureau may transfer to a land bank real property of the county held by the tax claim bureau, as trustee for the county, in a repository for unsold property under section 626 of the act of July 7, 1947 (P.L. 1368, No. 542),<sup>1</sup> known as the Real Estate Tax Sale Law.

**(h) Acquisition of tax delinquent properties.--**If authorized by the land bank jurisdiction which created a land bank or otherwise by intergovernmental cooperation agreement, a land bank may accept donations of real property and extinguish delinquent claims for taxes as to the property under section 5.1 of the act of May 16, 1923 (P.L. 207, No. 153),<sup>2</sup> referred to as the Municipal Claim and Tax Lien Law, or section 303 of the Real Estate Tax Sale Law.<sup>3</sup> For the purposes of this subsection, the land bank shall have all rights and obligations of the municipality provided for in section 5.1 of the Municipal Claim and Tax Lien Law and of a local taxing authority provided for in section 303 of the Real Estate Tax Sale Law.

### **§ 2110. Disposition of property**

**(a) Public access to inventory.--**A land bank shall maintain and make available for public review and inspection an inventory of real property held by the land bank.

**(b) Power.--**A land bank may convey, exchange, sell, transfer, lease, grant or mortgage interests in real property of the land bank in the form and by the method determined to be in the best interests of the land bank.

**(c) Consideration.--**

(1) A land bank shall determine the amount and form of consideration necessary to convey, exchange, sell, transfer, lease as lessor, grant or mortgage interests in real property.

(2) Consideration may take the form of monetary payments and secured financial obligations, covenants and conditions related to the present and future use of the property, contractual commitments of the transferee and other forms of consideration as determined by the board to be in the best interest of the land bank.

**(d) Policies and procedures.--**

(1) A board shall determine and state in the land bank policies and procedures the general terms and conditions for consideration to be received by the land bank for the transfer of real property and interests in real property.

(2) Requirements which may be applicable to the disposition of real property and interests in real property by municipalities shall not be applicable to the disposition of real property and interests in real property by a land bank.

**(e) Ranking of priorities.--**

(1) A land bank jurisdiction may establish a hierarchical ranking of priorities for the use of real property conveyed by a land bank, including use for:

(i) Purely public spaces and places.

(ii) Affordable housing.

(iii) Retail, commercial and industrial activities.

(iv) Conservation areas.

(2) The priorities established may be for the entire land bank jurisdiction or may be set according to the needs of different neighborhoods, municipalities or other locations within the land bank jurisdiction, or according to the nature of the real property.

**(f) Land use plans.--**A land bank shall consider all duly adopted land use plans and make reasonable efforts to coordinate the disposition of land bank real property with such land use plans.

**(g) Specific voting and approval requirements.--**

(1) A land bank jurisdiction may, in its ordinance creating a land bank or, in the case of multiple land bank jurisdictions and municipalities creating a single land bank in the applicable intergovernmental cooperation agreement, require that a particular form of

disposition of real property or a disposition of real property located within specified jurisdictions be subject to specified voting and approval requirements of the board.

(2) Except as restricted or constrained under paragraph (1), the board may delegate to officers and employees the authority to enter into and execute agreements, instruments of conveyance and other related documents pertaining to the conveyance of real property by the land bank.

### **§ 2111. Financing of land bank operations**

**(a) General rule.--**A land bank may receive funding through grants and loans from:

- (1) the Federal Government;
- (2) the Commonwealth;
- (3) a municipality;
- (4) the land bank jurisdiction which created the land bank; and
- (5) private sources.

**(b) Funding.--**A land bank may receive and retain payments for services rendered, for rents and leasehold payments received, for consideration for disposition of real and personal property, for proceeds of insurance coverage for losses incurred, for income from investments and for an asset and activity lawfully permitted to a land bank under this chapter.

**(c) Allocated real property taxes.--**

- (1) A taxing jurisdiction may authorize the remittance or dedication of a portion of real property taxes collected pursuant to the laws of this Commonwealth to a land bank on real property conveyed by a land bank.
- (2) Allocation of property tax revenues in accordance with this subsection, if authorized by the taxing jurisdiction, shall commence with the first taxable year following the date of conveyance and continue for a period of up to five years and may not exceed a maximum of 50% of the aggregate property tax revenues generated by the property.
- (3) Remittance or dedication of real property taxes shall include the real property taxes of a school district only if the school district enters into an agreement with the land bank for the remittance or dedication.

## **§ 2112. Borrowing and issuance of bonds**

### **(a) Authority.--**

- (1) A land bank may issue a bond for any of its corporate purposes.
- (2) The principal and interest of a bond shall be payable from the land bank's general revenue.
- (3) The bond may be secured by any of the following:
  - (i) A pledge of revenue. This subparagraph includes a grant or contribution from:
    - (A) The Federal Government or a Federal agency or instrumentality.
    - (B) The Commonwealth, a Commonwealth agency or an instrumentality of the Commonwealth.
  - (ii) A mortgage of property of the land bank.

**(b) Nature.--**The bond must meet the requirements of 13 Pa.C.S. § 3104 (relating to negotiable instrument).

**(c) Tax exempt.--**A bond and the income from the bond is exempt from taxation by:

- (1) the Commonwealth; or
- (2) a political subdivision.

### **(d) Procedure.--**

- (1) A bond must be authorized by resolution of the board and shall be a limited obligation of the land bank.
- (2) The principal and interest, costs of issuance and other costs incidental to the bond shall be payable solely from the income and revenue derived from the sale, lease or other disposition of the assets of the land bank. The land bank may secure the bond by a mortgage or other security device covering all or part of the project from which the pledged revenues may be derived.
- (3) A refunding bond issued under this section:
  - (i) shall be payable from:
    - (A) a source described in this chapter; or
    - (B) the investment of the proceeds of the refunding bonds; and

(ii) shall not constitute an indebtedness or pledge of the general credit of a political subdivision within the meaning of a constitutional or statutory limitation of indebtedness and shall contain a recital to that effect.

(4) A bond must comply with the authorizing resolution as to:

- (i) form;
- (ii) denomination;
- (iii) interest rate;
- (iv) maturity; and
- (v) execution.

(5) A bond may be subject to redemption at the option of and in the manner determined by the board in the authorizing resolution.

**(e) Powers of municipalities.--**A municipality may elect to guarantee, insure or otherwise become primarily or secondarily obligated on the indebtedness of a land bank, subject, however, to all other provisions of law of this Commonwealth applicable to municipal indebtedness.

**(f) Sale.--**

(1) A bond shall be issued, sold and delivered in accordance with the terms and provisions of the authorizing resolution. The board, to effectuate its best interest, may determine the manner of sale, public or private, and the price of the bond.

(2) The resolution issuing a bond must be published in a newspaper of general circulation within the jurisdiction in which the land bank is located.

**(g) Liability.--**

(1) Neither the members of a land bank nor a person executing the bond shall be liable personally on the bonds by reason of the issuance of the bond.

(2) The bond or other obligation of a land bank related to a bond shall not be a debt of a municipality or of the Commonwealth. A statement to this effect shall appear on the face of the bond or obligation.

(3) On the bond or other obligation of a land bank related to a bond, all of the following apply:

- (i) The Commonwealth has no liability. This subparagraph applies to the revenue and property of the Commonwealth.

(ii) A municipality has no liability. This subparagraph applies to the revenue and property of a municipality.

**§ 2113. Public records and public access**

**(a) Public records.**--A board shall keep minutes and a record of its proceedings.

**(b) Public access.**--A land bank is subject to:

- (1) 65 Pa.C.S. Ch. 7 (relating to open meetings); and
- (2) the act of February 14, 2008 (P.L. 6, No. 3),<sup>1</sup> known as the Right-to-Know Law.

**§ 2114. Dissolution of land bank**

**(a) General rule.**--A land bank may be dissolved as a public body corporate and politic upon compliance with all of the following:

- (1) Sixty calendar days' advance written notice of consideration of a resolution to request dissolution must:
  - (i) be given to the land bank jurisdiction which created the land bank;
  - (ii) be published in a local newspaper of general circulation; and
  - (iii) be sent by certified mail to the trustees of outstanding bonds of the land bank.
- (2) A resolution requesting dissolution must be approved under section 2105(h)(3) (relating to board).

**(b) Authority.**--Upon receipt of a proper resolution described in subsection (a)(1), the land bank jurisdiction which created the land bank may dissolve the land bank by adoption of an ordinance subject to the approval of the mayor in a city or the county executive in a home rule county. If approved, the governing body of the land bank jurisdiction which created the land bank shall file a certified copy of the ordinance with the Department of State, and the Secretary of the Commonwealth shall cause the termination of the existence of the land bank to be noted on the record of incorporation. Upon such filing, the land bank shall cease to function. The Secretary of the Commonwealth shall also notify the department of the dissolution of the land bank.

**(c) Transfer of assets.**--Upon dissolution of the land bank, real property, personal property and other assets of the land bank shall become the assets of the municipality in which the property is located. The following shall apply:

(1) Personal property, including financial assets, of the land bank shall be divided among participating land bank jurisdictions in proportion to the population of each jurisdiction.

(2) The municipality in which real property is located shall approve the transfer of title to the municipality.

**(d) Multiple jurisdictions.--**If multiple land bank jurisdictions create a land bank under section 2104(c) (relating to creation and existence), the withdrawal of one or more land bank jurisdictions shall not require dissolution of the land bank unless:

(1) the intergovernmental cooperation agreement provides for dissolution in this event; and

(2) there is no land bank jurisdiction which desires to continue the existence of the land bank.

#### **§ 2115. Conflicts of interest**

**(a) State Adverse Interest Act.--**The acts and decisions of members of a board and of employees of a land bank shall be subject to the act of July 19, 1957 (P.L. 1017, No. 451), known as the State Adverse Interest Act.

**(b) Ethical standards.--**Board members and land bank employees are subject to 65 Pa.C.S. Ch. 11 (relating to ethics standards and financial disclosure).

**(c) Supplemental rules and guidelines.--**The board may adopt:

(1) supplemental rules addressing potential conflicts of interest; and

(2) ethical guidelines for members of the board and land bank employees.

#### **§ 2116. Construction, intent and scope**

This chapter shall be construed liberally to effectuate the legislative intent and the purposes as complete and independent authorization for the implementation of this chapter, and all powers granted shall be broadly interpreted to effectuate the intent and purposes and not as a limitation of powers.

#### **§ 2117. Delinquent property tax enforcement**

**(a) Power to discharge liens and claims.--**

(1) Except as set forth in paragraph (2), a land bank may, by resolution of the board, discharge a lien or claim to its real property for tax owed to the members of the land bank.

(2) For a land bank to discharge a lien or claim to its real property under paragraph (1) for tax owed to a school district, the governing body of the school district must approve the discharge.

(3) The land bank must file evidence of the extinguishment and dissolution of liens or claims with the county tax claim bureau, including copies of the resolution by the board, the intergovernmental agreement, receipt of payment and other necessary and appropriate documentation. This requirement must be satisfied no later than the earlier of:

(i) ten days prior to the conveyance of the property; or

(ii) within 30 days after the discharge.

**(b) Remittance of payments.**--To the extent that a land bank receives payments attributable to a lien or claim for real property taxes owed to a municipality or school district on property acquired by the land bank, the land bank shall remit the full amount of the payments to the municipality or school district.

**(c) Procedure relating to Real Estate Tax Sale Law.**--For a land bank located in a municipality which follows the act of July 7, 1947 (P.L. 1368, No. 542), known as the Real Estate Tax Sale Law, all of the following apply:

(1) Depending upon the time of filing, the following apply:

(i) For a tax claim filed under the Real Estate Tax Sale Law, the municipality:

(A) may direct the county tax claim bureau to assign the claim or lien to the land bank under terms mutually acceptable to the municipality and land bank; and

(B) shall otherwise confer upon the land bank the rights, privileges and remedies of an assignee under section 316 of the Real Estate Tax Sale Law.

(ii) For a tax claim to be filed under the Real Estate Tax Sale Law, a municipality which has complied with section 26 of the act of May 25, 1945 (P.L. 1050, No. 394), known as the Local Tax Collection Law, and section 306 of the Real Estate Tax Sale Law:

(A) may assign and transfer the claim to the land bank upon terms and conditions mutually acceptable to the municipality and the land bank; and

(B) shall otherwise confer upon the land bank the rights, privileges and remedies of an assignee under section 316 of the Real Estate Tax Sale Law.

(iii) For tax liens assigned to the land bank under subparagraph (i) or (ii), the land bank shall adopt policies providing for plans and agreements by which low-income, owner-occupant households may pay their delinquent taxes. Such plans and agreements shall take into account the household's ability to pay and shall be designed to promote the continued occupancy by that household whenever feasible.

(2) All of the following apply to upset sales:

(i) The land bank and the plaintiff in the claim may enter into an agreement for the land bank to purchase the property at the minimum amount described in section 605 of the Real Estate Tax Sale Law in the event there is no bid tendered for a higher amount than the minimum amount.

(ii) If there is an agreement under subparagraph (i) and no one bids a higher price than the minimum amount described in section 605 of the Real Estate Tax Sale Law, the property shall be sold to the land bank upon payment by the land bank for the upset sale costs and all liens, claims and subordinate encumbrances shall be discharged by the sale.

(3) All of the following apply to judicial sales:

(i) Notwithstanding section 612 of the Real Estate Tax Sale Law, the form, substance and timing of the land bank's payment of the sales price may be according to the agreement as is mutually acceptable to the plaintiff and the land bank if all of the following apply:

(A) A judicial sale is ordered pursuant to a judgment on a tax claim.

(B) The purchaser of the property is the land bank.

(C) The sales price is an amount agreed to by the land bank and the plaintiff in the claim.

(ii) The obligation of the land bank to perform in accordance with the agreement under subparagraph (i) shall be deemed to be in full satisfaction of the tax claim which was the basis for the judgment.

(iii) The land bank, as purchaser at the sale, shall have an absolute title to the property sold, free and discharged of tax and municipal claims, liens, mortgages, ground rents, charges and estates.

(4) The notice and return under sections 602 and 607(a) of the Real Estate Tax Sale Law must contain reference to a potential bid by the land bank.

(5) The deed to the land bank under sections 608 and 615 of the Real Estate Tax Sale Law shall be delivered and acknowledged and recorded within 30 days of the date of confirmation.

(6) All of the following apply to judicial sales for multiple tracts:

(i) In a petition for a judicial sale, the municipality or the land bank, if it is the holder of municipal tax liens, may combine in a single petition multiple tracts of real property if the petition and accompanying affidavits provide all of the following:

(A) Identification of each tract of real property.

(B) The identities of each party having an interest in a tract of real property.

(C) The amount of the tax liens then due and owing, together with associated interest, costs and fees.

(D) The nature of the notice of the proposed sale provided to the interested parties.

(ii) The court may authorize in a single final judgment that all or part of the real properties identified in the petition be sold free and clear of tax and municipal claims, mortgages, liens, charges and estates and ground rents.

**(d) Procedure relating to Municipal Claim and Tax Lien Law.--**For a land bank located in a municipality which follows the act of May 16, 1923 (P.L. 207, No. 153), referred to as the Municipal Claim and Tax Lien Law, all of the following apply:

(1) Regardless of the time of filing, the municipality:

(i) may assign and transfer a tax or municipal claim to the land bank upon terms and conditions mutually acceptable to the municipality and land bank;

(ii) shall otherwise confer upon the land bank the rights, privileges and remedies of an assignee as stated in section 33 of the Municipal Claim and Tax Lien Law; and

(iii) for tax liens assigned to the land bank under this section, the land bank shall adopt policies providing for plans and agreements by which low-income, owner-occupant households may pay their delinquent taxes. Such plans and agreements shall take into account the household's ability to pay and shall be designed to promote the continued occupancy by that household whenever feasible.

(2) All of the following apply to upset sales:

(i) The land bank and the plaintiff in the claim may enter into an agreement for the land bank to purchase the property at the minimum amount described in section 29

of the Municipal Claim and Tax Lien Law in the event there is no bid tendered for a higher amount than the minimum amount.

(ii) If there is an agreement under subparagraph (i) and no one bids a higher price than the minimum amount described in section 29 of the Municipal Claim and Tax Lien Law, the property shall be sold to the land bank upon payment by the land bank for the upset sale costs and liens, and claims and subordinate encumbrances shall be discharged by the sale.

(3) All of the following apply to judicial sales:

(i) Notwithstanding section 31 of the Municipal Claim and Tax Lien Law, the form, substance and timing of the land bank's payment of the sales price may be according to the agreement mutually acceptable to the plaintiff and the land bank if all of the following apply:

(A) A judicial sale is ordered pursuant to a judgment on a tax or municipal claim.

(B) The purchaser of the property is the land bank.

(C) The sales price is an amount agreed to by the land bank and the plaintiff.

(ii) The obligation of the land bank to perform in accordance with the agreement under subparagraph (i) shall be deemed to be in full satisfaction of the municipal claim which was the basis for the judgment.

(iii) The land bank, as purchaser at the sale, shall have an absolute title to the property sold, free and discharged of tax and municipal claims, liens, mortgages, ground rents, charges and estates.

(4) Notwithstanding sections 31.1 and 31.2 of the Municipal Claim and Tax Lien Law and sections 4 and 6 of the act of March 1, 1956 (1955 P.L. 1196, No. 372), entitled "An act authorizing the sale of vacant land located in areas certified as conservation areas in counties of the first class, under a judgment obtained on a tax claim, by the sheriff of the county; providing for the discharge of all liens, mortgages, ground rents, estates and claims against the property by sale; and limiting the right of redemption," all of the following apply:

(i) The land bank may tender a bid at the sale in an amount equal to the total amount of all municipal claims and liens which were the basis for the judgment. Upon tender under this subparagraph, the property shall be deemed sold to the land bank regardless of bids by other parties.

(ii) The bid of the land bank shall be paid as to its form, substance and timing according to an agreement that is mutually acceptable to the plaintiff and the land bank. The obligation of the land bank to perform in accordance with the agreement

shall be deemed to be in full satisfaction of the tax or municipal claim which was the basis for the judgment.

(iii) The land bank, as purchaser at the sale, shall have an absolute title to the property sold, free and discharged of tax and municipal claims, liens, mortgages, ground rents, charges and estates.

(iv) The deed to the land bank shall be executed, acknowledged and delivered within 30 days of the sale.

(5) All of the following apply to judicial sales for multiple tracts:

(i) In a petition for a judicial sale, a municipality or a land bank, if it is the holder of municipal tax liens, may combine in a petition multiple tracts of real property if the petition and accompanying affidavits provide all of the following:

(A) Identification of each tract of real property.

(B) The identities of each party having an interest in a tract of real property.

(C) The amount of the taxes then due and owing.

(D) The nature of the notice of the proposed sale provided to the interested parties.

(ii) The court may authorize in a single final judgment that all or part of the real properties identified in the petition be sold free and clear of tax and municipal claims, mortgages, liens, ground rents, charges and estates.

**(e) Procedure relating to Second Class City Treasurer's Sale and Collection Act.**-- For a land bank located in a municipality which follows the act of October 11, 1984 (P.L. 876, No. 171), known as the Second Class City Treasurer's Sale and Collection Act, all of the following apply:

(1) Regardless of the time of filing, a municipality:

(i) may assign and transfer a tax or municipal claim to the land bank under the Second Class City Treasurer's Sale and Collection Act upon terms and conditions mutually acceptable to the municipality and the land bank; and

(ii) shall otherwise confer upon the land bank the rights, privileges and remedies of the municipality under the Second Class City Treasurer's Sale and Collection Act.

(iii) For tax liens assigned to the land bank under this section, the land bank shall adopt policies providing for plans and agreements by which low-income, owner-occupant households may pay their delinquent taxes. Such plans and agreements

shall take into account the household's ability to pay and shall be designed to promote the continued occupancy by that household whenever feasible.

(2) All of the following apply to upset sales:

(i) The land bank and the plaintiff in the claim may enter into an agreement for the land bank to purchase the property for the minimum amount of the upset sale price described in section 301 of the Second Class City Treasurer's Sale and Collection Act in the event there is no bid tendered for a higher amount than the minimum amount.

(ii) The land bank may tender a bid for the mutually agreed upset sale price.

(iii) Notwithstanding section 301 of the Second Class City Treasurer's Sale and Collection Act, the bid of the land bank shall be paid as to its form, substance and timing according to an agreement between the municipality and land bank. The obligation of the land bank to perform in accordance with the agreement shall be deemed to be in full satisfaction of the tax or claim which was the basis for the sale.

(3) The notice and advertisement under sections 203 and 204 of the Second Class City Treasurer's Sale and Collection Act must contain reference to a potential bid by the land bank.

(4) Subject to redemption under section 304 of the Second Class City Treasurer's Sale and Collection Act and confirmation under section 305 of the Second Class City Treasurer's Sale and Collection Act, the land bank, as purchaser at the sale, shall have an absolute title to the property sold, free and discharged of tax and municipal claims, liens, mortgages, ground rents, charges and estates.

(5) The deed to the land bank under section 307 of the Second Class City Treasurer's Sale and Collection Act shall be delivered, acknowledged and recorded within 30 days of the date of confirmation.

**(e.1) Land bank.**--Notwithstanding subsections (d) and (e), in counties of the second class containing a city of the second class, a land bank may not engage in any of the following absent an agreement with a county, city, borough, incorporated town, township, school district or body politic and corporate created as a municipal authority pursuant to law whose claims comprise the upset sales price:

(1) Purchase property for less than the upset sales price described in section 29 of the Municipal Claim and Tax Lien Law or section 301 of the Second Class City Treasurer's Sale and Collection Act.

(2) Alter the form, substance or timing of the payment of the sales price by the land bank.

**(f) Involuntary transfers.--**A land bank which acquires real property under this section shall be deemed to have acquired the real property as an involuntary transfer within the meaning of section 701(b)(1)(vi)(B) of the act of October 18, 1988 (P.L. 756, No. 108), known as the Hazardous Sites Cleanup Act.

**(g) Expiration.--**This section shall expire upon publication of the notice under section 2120 (relating to determination on procedural revision).

### **§ 2118. Expedited quiet title proceedings**

#### **(a) Authorization.--**

(1) A land bank may file an action to quiet title to real property in which the land bank has an interest.

(2) A land bank may join in a single complaint to quiet title to one or more parcels of real property.

(3) For purposes of an action under this section, the land bank shall be deemed to be the holder of sufficient legal and equitable interests and possessory rights so as to qualify the land bank as an adequate complainant in the action.

#### **(b) Procedural requirements.--**

(1) Prior to the filing of an action to quiet title, the land bank must conduct an examination of title to determine the identity of any person possessing a claim or interest in or to the real property.

(2) Service of the complaint to quiet title shall be provided to interested parties as follows:

(i) By first class mail to the identity and address reasonably ascertainable by an inspection of public records.

(ii) In the case of occupied real property, by first class mail, addressed to "Occupant."

(iii) By posting a copy of the notice on the real property.

(iv) By publication.

(v) As ordered by the court.

(3) As part of the complaint to quiet title, the land bank must file an affidavit identifying:

- (i) persons discovered under paragraph (1); and
- (ii) the form of service under paragraph (2).

**(c) Hearing.--**

- (1) The court shall schedule a hearing on the complaint within 90 days following filing of the complaint and as to all matters upon which an answer was not filed by an interested party.
- (2) The court shall issue its final judgment within 120 days of the filing of the complaint.

**§ 2119. Annual audit and report**

The following shall apply:

- (1) The land bank shall annually, within 120 days after the end of the fiscal year, submit an audit of income and expenditures, together with a report of its activities for the preceding year, to the department.
- (2) A duplicate of the audit and the report shall be filed with the governing body of:
  - (i) the land bank jurisdiction which created the land bank; and
  - (ii) each political subdivision which opted to participate in the land bank pursuant to an intergovernmental agreement.

**§ 2120. Determination on procedural revision**

If the department determines that comprehensive reform legislation on property-tax foreclosure has been enacted revising procedure under the statutory provisions referred to in section 2117 (relating to delinquent property tax enforcement), the department shall transmit notice of the determination to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin.

# Nebraska Municipal Land Bank Act

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## **19-5201. Act, how cited**

Sections 19-5201 to 19-5218 shall be known and may be cited as the Nebraska Municipal Land Bank Act.

## **19-5202. Legislative findings and declarations**

The Legislature finds and declares as follows:

- (1) Nebraska's municipalities are important to the social and economic vitality of the state, and many municipalities are struggling to cope with vacant, abandoned, and tax-delinquent properties;
- (2) Vacant, abandoned, and tax-delinquent properties represent lost revenue to municipalities and large costs associated with demolition, safety hazards, and the deterioration of neighborhoods;
- (3) There is an overriding public need to confront the problems caused by vacant, abandoned, and tax-delinquent properties through the creation of new tools for municipalities to use to turn vacant spaces into vibrant places; and
- (4) Land banks are one of the tools that can be utilized by municipalities to facilitate the return of vacant, abandoned, and tax-delinquent properties to productive use.

## **19-5203. Terms, defined**

For purposes of the Nebraska Municipal Land Bank Act:

- (1) Board means the board of directors of a land bank;
- (2) Land bank means a land bank established in accordance with the act;
- (3) Municipality means any city or village of this state that is located (a) within a county in which a city of the metropolitan class is located or (b) within a county in which at least three cities of the first class are located; and
- (4) Real property means lands, lands under water, structures, and any and all easements, air rights, franchises, and incorporeal hereditaments and every estate and right therein, legal and equitable, including terms for years and liens by way of judgment, mortgage, or otherwise, and any and all fixtures and improvements located thereon.

**19-5204. Creation of land bank; procedure; use of Interlocal Cooperation Act; goal of land bank**

(1) A municipality may elect to create a land bank by the adoption of an ordinance which specifies the following:

(a) The name of the land bank;

(b) The initial individuals to serve as members of the board and the length of terms for which they are to serve; and

(c) The qualifications and terms of office of members of the board.

(2) Two or more municipalities may elect to enter into an agreement pursuant to the Interlocal Cooperation Act to create a single land bank to act on behalf of such municipalities, which agreement shall contain the information required by subsection (1) of this section.

(3) Each land bank created pursuant to the Nebraska Municipal Land Bank Act shall be deemed to be a public corporation acting in a governmental capacity and a political subdivision of the state and shall have permanent and perpetual duration until terminated and dissolved in accordance with section 19-5214.

(4) The primary goal of any land bank shall be to facilitate the return of vacant, abandoned, and tax-delinquent properties to productive use.

**19-5205. Board; requirements; members; qualifications; vacancy; compensation; meetings; actions of board; liability; automatically accepted bid procedure; reasons**

(1) If a land bank is created by a single municipality, the board of such land bank shall meet the following requirements:

(a) The board shall consist of:

(i) Seven voting members appointed by the mayor of the municipality that created the land bank and confirmed by a two-thirds vote of the governing body of such municipality;

(ii) The planning director of the municipality that created the land bank or his or her designee, as a nonvoting, ex officio member;

(iii) One member of the governing body of the municipality that created the land bank, appointed by such governing body, as a nonvoting, ex officio member; and

(iv) Such other nonvoting members as are appointed by the mayor of the municipality that created the land bank;

(b) The seven voting members of the board shall be residents of the municipality that created the land bank;

(c) If the governing body of the municipality creating the land bank has any of its members elected by district or ward, then at least one voting member of the board shall be appointed from each such district or ward. Such voting members shall represent, to the greatest extent possible, the racial and ethnic diversity of the municipality creating the land bank;

(d) The seven voting members of the board shall have, collectively, verifiable skills, expertise, and knowledge in market-rate and affordable residential, commercial, industrial, and mixed-use real estate development, financing, law, purchasing and sales, asset management, economic and community development, and the acquisition of tax sale certificates;

(e) The seven voting members of the board shall include:

(i) At least one member representing a chamber of commerce;

(ii) At least one member with experience in banking;

(iii) At least one member with experience in real estate development;

(iv) At least one member with experience as a realtor;

(v) At least one member with experience in nonprofit or affordable housing; and

(vi) At least one member with experience in large-scale residential or commercial property rental; and

(f) A single voting member may satisfy more than one of the requirements provided in subdivision (1)(e) of this section if he or she has the required qualifications. It is not necessary that there be a different member to fulfill each such requirement.

(2) If a land bank is created by more than one municipality pursuant to an agreement under the Interlocal Cooperation Act, the board of such land bank shall meet the following requirements:

(a) The board shall consist of:

(i) An odd number of voting members, totaling at least seven, appointed by the mayors of the municipalities that created the land bank, as mutually agreed to by

such mayors, and confirmed by a two-thirds vote of the governing body of each municipality that created the land bank;

(ii) The planning director of each municipality that created the land bank or his or her designee, as nonvoting, ex officio members;

(iii) One member of the governing body of each municipality that created the land bank, appointed by the governing body on which such member serves, as nonvoting, ex officio members; and

(iv) Such other nonvoting members as are appointed by the mayors of the municipalities that created the land bank, as mutually agreed to by such mayors;

(b) Each voting member of the board shall be a resident of one of the municipalities that created the land bank, with at least one voting member appointed from each such municipality;

(c) If the governing body of the largest municipality creating the land bank has any of its members elected by district or ward, then at least one voting member of the board shall be appointed from each such district or ward. Such voting members shall represent, to the greatest extent possible, the racial and ethnic diversity of the largest municipality creating the land bank;

(d) The voting members of the board shall have, collectively, verifiable skills, expertise, and knowledge in market-rate and affordable residential, commercial, industrial, and mixed-use real estate development, financing, law, purchasing and sales, asset management, economic and community development, and the acquisition of tax sale certificates;

(e) The voting members of the board shall include:

(i) At least one member representing a chamber of commerce;

(ii) At least one member with experience in banking;

(iii) At least one member with experience in real estate development;

(iv) At least one member with experience as a realtor;

(v) At least one member with experience in nonprofit or affordable housing; and

(vi) At least one member with experience in large-scale residential or commercial property rental; and

(f) A single voting member may satisfy more than one of the requirements provided in subdivision (2)(e) of this section if he or she has the required qualifications. It is not necessary that there be a different member to fulfill each such requirement.

(3) The members of the board shall select annually from among themselves a chairperson, a vice-chairperson, a treasurer, and such other officers as the board may determine.

(4) A public official or public employee shall be eligible to be a member of the board.

(5) A vacancy on the board among the appointed board members shall be filled in the same manner as the original appointment.

(6) Board members shall serve without compensation.

(7) The board shall meet in regular session according to a schedule adopted by the board and shall also meet in special session as convened by the chairperson or upon written notice signed by a majority of the voting members. The presence of a majority of the voting members of the board shall constitute a quorum.

(8) Except as otherwise provided in subsections (9) and (11) of this section and in sections 19-5210 and 19-5214, all actions of the board shall be approved by the affirmative vote of a majority of the voting members present and voting.

(9) Any action of the board on the following matters shall be approved by a majority of the voting members:

(a) Adoption of bylaws and other rules and regulations for conduct of the land bank's business;

(b) Hiring or firing of any employee or contractor of the land bank. This function may, by majority vote of the voting members, be delegated by the board to a specified officer or committee of the land bank, under such terms and conditions, and to the extent, that the board may specify;

(c) The incurring of debt;

(d) Adoption or amendment of the annual budget; and

(e) Sale, lease, encumbrance, or alienation of real property, improvements, or personal property with a value of more than fifty thousand dollars.

(10) Members of a board shall not be liable personally on the bonds or other obligations of the land bank, and the rights of creditors shall be solely against such land bank.

(11) The board shall adopt policies and procedures to specify the conditions that must be met in order for the land bank to give an automatically accepted bid as authorized in

sections 19-5217 and 19-5218. The adoption of such policies and procedures shall require the approval of two-thirds of the voting members of the board. At a minimum, such policies and procedures shall ensure that the automatically accepted bid shall only be given for one of the following reasons:

(a) The real property substantially meets more than one of the following criteria as determined by two-thirds of the voting members of the board:

(i) The property is not occupied by the owner or any lessee or licensee of the owner;

(ii) There are no utilities currently being provided to the property;

(iii) Any buildings on the property have been deemed unfit for human habitation, occupancy, or use by local housing officials;

(iv) Any buildings on the property are exposed to the elements such that deterioration of the building is occurring;

(v) Any buildings on the property are boarded up;

(vi) There have been previous efforts to rehabilitate any buildings on the property;

(vii) There is a presence of vermin, uncut vegetation, or debris accumulation on the property;

(viii) There have been past actions by the municipality to maintain the grounds or any building on the property; or

(ix) The property has been out of compliance with orders of local housing officials;

(b) The real property is contiguous to a parcel that meets more than one of the criteria in subdivision (11)(a) of this section or that is already owned by the land bank; or

(c) Acquisition of the real property by the land bank would serve the best interests of the community as determined by two-thirds of the voting members of the board. In determining whether the acquisition would serve the best interests of the community, the board shall take into consideration the hierarchical ranking of priorities for the use of real property conveyed by a land bank established pursuant to subsection (5) of section 19-5210, if any such hierarchical ranking is established.

### **19-5206. Agents and employees**

A land bank may employ such agents and employees, permanent or temporary, as it may require, and may determine the qualifications and fix the compensation and benefits of such persons.

**19-5207. Land bank; powers; no power of eminent domain**

(1) A land bank shall have the following powers:

(a) To adopt, amend, and repeal bylaws for the regulation of its affairs and the conduct of its business;

(b) To sue and be sued in its own name and plead and be impleaded in all civil actions;

(c) To borrow money from private lenders, from municipalities, from the state, or from federal government funds as may be necessary for the operation and work of the land bank;

(d) To issue negotiable revenue bonds and notes according to the provisions of the Nebraska Municipal Land Bank Act;

(e) To procure insurance or guarantees from the state or federal government of the payments of any debts or parts thereof incurred by the land bank and to pay premiums in connection therewith;

(f) To enter into contracts and other instruments necessary, incidental, or convenient to the performance of its duties and the exercise of its powers, including, but not limited to, agreements under the Interlocal Cooperation Act for the joint exercise of powers under the Nebraska Municipal Land Bank Act;

(g) To enter into contracts and other instruments necessary, incidental, or convenient to the performance of functions by the land bank on behalf of municipalities or agencies or departments of municipalities, or the performance by municipalities or agencies or departments of municipalities of functions on behalf of the land bank;

(h) To make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the land bank;

(i) To provide foreclosure prevention counseling and re-housing assistance;

(j) To procure insurance against losses in connection with the real property, assets, or activities of the land bank;

(k) To invest money of the land bank, at the discretion of the board, in instruments, obligations, securities, or property determined proper by the board and name and use depositories for its money;

(l) To enter into contracts for the management of, the collection of rent from, or the sale of real property of the land bank;

(m) To design, develop, construct, demolish, reconstruct, rehabilitate, renovate, relocate, and otherwise improve real property or rights or interests in real property of the land bank;

(n) To fix, charge, and collect fees and charges for services provided by the land bank;

(o) To fix, charge, and collect rents and leasehold payments for the use of real property of the land bank for a period not to exceed twelve months, except that such twelve-month limitation shall not apply if the real property of the land bank is subject to a lease with a remaining term of more than twelve months at the time such real property is acquired by the land bank;

(p) To grant or acquire a license, easement, lease, as lessor and as lessee, or option with respect to real property of the land bank;

(q) To enter into partnerships, joint ventures, and other collaborative relationships with municipalities and other public and private entities for the ownership, management, development, and disposition of real property; and

(r) To do all other things necessary or convenient to achieve the objectives and purposes of the land bank or other laws that relate to the purposes and responsibilities of the land bank.

(2) A land bank shall neither possess nor exercise the power of eminent domain.

**19-5208. Land bank; acquire property; limits; maintenance; accept transfer from land reutilization authority**

(1) A land bank may acquire real property or interests in real property by gift, devise, transfer, exchange, foreclosure, purchase, or otherwise on terms and conditions and in a manner the land bank considers proper.

(2) A land bank may acquire real property or interests in real property by purchase contracts, lease-purchase agreements, installment sales contracts, or land contracts and may accept transfers from political subdivisions upon such terms and conditions as agreed to by the land bank and the political subdivision. Notwithstanding any other law to the contrary, any political subdivision may transfer to the land bank real property and interests in real property of the political subdivision on such terms and conditions and according to such procedures as determined by the political subdivision.

(3) A land bank shall maintain all of its real property in accordance with the laws and ordinances of the jurisdiction in which the real property is located.

(4) A land bank shall not own or hold real property located outside the jurisdictional boundaries of the municipality or municipalities that created the land bank. For purposes

of this subsection, jurisdictional boundaries of a municipality does not include the extraterritorial zoning jurisdiction of such municipality.

(5) A land bank may accept transfers of real property and interests in real property from a land reutilization authority on such terms and conditions, and according to such procedures, as mutually determined by the transferring land reutilization authority and the land bank.

(6) A land bank shall not hold legal title at any one time to more than seven percent of the total number of parcels of real property located in the municipality or municipalities that created the land bank.

### **19-5209. Exemption from taxation**

The real property of a land bank and the land bank's income and operations are exempt from all taxation by the state or any political subdivision thereof.

### **19-5210. Land bank; hold property in own name; inventory; consideration for transfer of property; form; powers; priorities for use; limits on certain dispositions**

(1) A land bank shall hold in its own name all real property acquired by the land bank irrespective of the identity of the transferor of such property.

(2) A land bank shall maintain and make available for public review and inspection an inventory of all real property held by the land bank.

(3) A land bank shall determine and set forth in policies and procedures of the board the general terms and conditions for consideration to be received by the land bank for the transfer of real property and interests in real property, which consideration may take the form of monetary payments and secured financial obligations, covenants and conditions related to the present and future use of the property, contractual commitments of the transferee, and such other forms of consideration as determined by the board to be in the best interest of the land bank.

(4) A land bank may convey, exchange, sell, transfer, grant, release and demise, pledge, and hypothecate any and all interests in, upon, or to real property of the land bank. A land bank may lease as lessor real property of the land bank for a period not to exceed twelve months, except that such twelve-month limitation shall not apply if the real property of the land bank is subject to a lease with a remaining term of more than twelve months at the time such real property is acquired by the land bank.

(5) The municipality or municipalities that created the land bank may establish by resolution or ordinance a hierarchical ranking of priorities for the use of real property

conveyed by a land bank. Such ranking shall take into consideration the highest and best use that, when possible, will bring the greatest benefit to the community. The priorities may include, but are not limited to, (a) use for purely public spaces and places, (b) use for affordable housing, (c) use for retail, commercial, and industrial activities, (d) use for urban agricultural activities including the establishment of community gardens as defined in section 2-303, and (e) such other uses and in such hierarchical order as determined by the municipality or municipalities.

(6) The municipality or municipalities that created the land bank may require by resolution or ordinance that any particular form of disposition of real property, or any disposition of real property located within specified jurisdictions, be subject to specified voting and approval requirements of the board. Except and unless restricted or constrained in this manner, the board may delegate to officers and employees the authority to enter into and execute agreements, instruments of conveyance, and all other related documents pertaining to the conveyance of real property by the land bank.

**19-5211. Land bank; funding; real property taxes collected on conveyed property; allocation; notice to county treasurer; when required**

(1) A land bank may receive funding through grants and loans from the municipality or municipalities that created the land bank, from other municipalities, from the state, from the federal government, and from other public and private sources.

(2) A land bank may receive and retain payments for services rendered, for rents and leasehold payments received, for consideration for disposition of real and personal property, for proceeds of insurance coverage for losses incurred, for income from investments, and for any other asset and activity lawfully permitted to a land bank under the Nebraska Municipal Land Bank Act.

(3)(a) Except as otherwise provided in subdivision (b) of this subsection, fifty percent of the real property taxes collected on real property conveyed by a land bank pursuant to the laws of this state shall be remitted to the land bank. Such allocation of property tax revenue shall commence with the first taxable year following the date of conveyance and shall continue for a period of five years. Such allocation of property tax revenue shall not occur if such taxes have been divided under section 18-2147 as part of a redevelopment project under the Community Development Law, unless the authority, as defined in section 18-2103, enters into an agreement with the land bank for the remittance of such funds to the land bank.

(b) A land bank may, by resolution of the board, elect not to receive the real property taxes described in subdivision (a) of this subsection for any real property conveyed by the land bank. If such an election is made, the land bank shall notify the county treasurer of the county in which the real property is located by filing a copy of the

resolution with the county treasurer, and thereafter the county treasurer shall remit such real property taxes to the appropriate taxing entities.

**19-5212. Land bank; bonds; issuance; procedure; negotiable instruments; tax exempt; liability**

(1) A land bank shall have the power to issue bonds for any of its corporate purposes, the principal and interest of which are payable from its revenue generally. Any of such bonds shall be secured by a pledge of any revenue of the land bank or by a mortgage of any property of the land bank.

(2) The bonds issued by a land bank are hereby declared to have all the qualities of negotiable instruments under the Uniform Commercial Code.

(3) The bonds of a land bank and the income therefrom shall at all times be exempt from all taxes imposed by the state or any political subdivision thereof.

(4) Bonds issued by the land bank shall be authorized by resolution of the board and shall be limited obligations of the land bank. The principal and interest, costs of issuance, and other costs incidental thereto shall be payable solely from the income and revenue derived from the sale, lease, or other disposition of the assets of the land bank. Any refunding bonds issued shall be payable from any source described above or from the investment of any of the proceeds of the refunding bonds, and shall not constitute an indebtedness or pledge of the general credit of any municipality within the meaning of any constitutional or statutory limitation of indebtedness and shall contain a recital to that effect. Bonds of the land bank shall be issued in such form, shall be in such denominations, shall bear interest, shall mature in such manner, and shall be executed by one or more members of the board as provided in the resolution authorizing the issuance thereof. Such bonds may be subject to redemption at the option of and in the manner determined by the board in the resolution authorizing the issuance thereof.

(5) Bonds issued by the land bank shall be issued, sold, and delivered in accordance with the terms and provisions of a resolution adopted by the board. The board may sell such bonds in such manner, either at public or private sale, and for such price as it may determine to be in the best interests of the land bank. The resolution issuing bonds shall be published in a newspaper of general circulation within the municipality or municipalities that created the land bank.

(6) Neither the members of the board nor any person executing the bonds shall be liable personally on any such bonds by reason of the issuance thereof. Such bonds or other obligations of a land bank shall not be a debt of any municipality and shall so state on their face, nor shall any municipality nor any revenue or any property of any municipality be liable therefor.

**19-5213. Board; minutes; record; meetings; public records; reports**

(1) The board shall cause minutes and a record to be kept of all its proceedings. Meetings of the board shall be subject to the Open Meetings Act.

(2) All of a land bank's records and documents shall be considered public records for purposes of sections 84-712 to 84-712.09.

(3) The board shall provide monthly reports to the municipality or municipalities that created the land bank on the board's activities pursuant to the Nebraska Municipal Land Bank Act. The board shall also provide an annual report to the municipality or municipalities that created the land bank, the Revenue Committee of the Legislature, and the Urban Affairs Committee of the Legislature by March 1 of each year summarizing the board's activities for the prior calendar year. The reports submitted to the legislative committees shall be submitted electronically.

**19-5214. Land bank; dissolution; procedure; notice; assets**

A land bank may be dissolved sixty calendar days after a resolution of dissolution is approved by two-thirds of the voting members of the board and by two-thirds of the membership of the governing body of the municipality or municipalities that created the land bank. The board shall give sixty calendar days' advance written notice of its consideration of a resolution of dissolution by publishing such notice in a newspaper of general circulation within the municipality or municipalities that created the land bank and shall send such notice by certified mail to the trustee of any outstanding bonds of the land bank. Upon dissolution of the land bank, all real property, personal property, and other assets of the land bank shall become the assets of the municipality or municipalities that created the land bank.

**19-5215. Conflicts of interest; board; duties**

(1) No member of the board or employee of a land bank shall acquire any interest, direct or indirect, in real property of the land bank, in any real property to be acquired by the land bank, or in any real property to be acquired from the land bank. No member of the board or employee of a land bank shall have any interest, direct or indirect, in any contract or proposed contract for materials or services to be furnished or used by a land bank.

(2) The board shall adopt:

(a) Rules addressing potential conflicts of interest; and

(b) Ethical guidelines for members of the board and employees of the land bank.

**19-5216. Tax lien or claim; discharge and extinguishment; procedure; remit payments to county treasurer**

(1) Whenever any real property is acquired by a land bank and is encumbered by a lien or claim for real property taxes owed to one or more political subdivisions of the state, the land bank may, by resolution of the board, discharge and extinguish any and all such liens or claims, except that no lien or claim represented by a tax sale certificate held by a private third party shall be discharged or extinguished pursuant to this section. To the extent necessary and appropriate, the land bank shall file in appropriate public records evidence of the extinguishment and dissolution of such liens or claims.

(2) To the extent that a land bank receives payments of any kind attributable to liens or claims for real property taxes owed to a political subdivision on property acquired by the land bank, the land bank shall remit the full amount of the payments to the county treasurer of the county that levied such taxes for distribution to the appropriate taxing entity.

**19-5217. Sale of property for nonpayment of taxes; land bank; power to bid; purchase of tax sale certificate; apply for tax deed or foreclose lien**

(1)(a) At any sale of real property for the nonpayment of taxes conducted pursuant to sections 77-1801 to 77-1863, a land bank may:

(i) Bid on such real property in an amount equal to the total amount of taxes, interest, and costs due on the real property. If a bid is given pursuant to this subdivision, the bid shall not receive any special treatment by the county treasurer and shall be accepted or rejected in the same manner as any other bid on such real property; or

(ii) 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. If an automatically accepted bid is given, it shall be accepted by the county treasurer regardless of any other bids on such real property. An automatically accepted bid may be given only if the conditions for making such a bid prescribed by the board pursuant to subsection (11) of section 19-5205 have been met.

(b) If a land bank's bid pursuant to subdivision (1)(a) of this section is accepted by the county treasurer, the land bank shall pay the county treasurer and shall be entitled to a tax sale certificate for such real property.

(2) If a county holds a tax sale certificate pursuant to section 77-1809, a land bank may purchase such tax sale certificate from the county by paying the county treasurer the amount expressed on the face of the certificate and interest thereon at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, from

the date the tax sale certificate was first issued to the county to the date such certificate was purchased by the land bank.

(3)(a) Subdivision (b) of this subsection applies until January 1, 2015. Subdivision (c) of this subsection applies beginning January 1, 2015.

(b) Within six months after the expiration of three years from the date of sale of real property for the nonpayment of taxes pursuant to sections 77-1801 to 77-1863, a land bank that has acquired a tax sale certificate for such real property under this section may:

(i) Apply to the county treasurer for a tax deed for the real property described in the tax sale certificate. A land bank applying for a tax deed shall comply with all the requirements of sections 77-1801 to 77-1863 relating to such tax deed; or

(ii) Foreclose the lien represented by the tax sale certificate as authorized in section 77-1902.

(c) Within nine months after the expiration of three years from the date of sale of real property for the nonpayment of taxes pursuant to sections 77-1801 to 77-1863, a land bank that has acquired a tax sale certificate for such real property under this section may:

(i) Apply to the county treasurer for a tax deed for the real property described in the tax sale certificate. A land bank applying for a tax deed shall comply with all the requirements of sections 77-1801 to 77-1863 relating to such tax deed; or

(ii) Foreclose the lien represented by the tax sale certificate as authorized in section 77-1902.

### **19-5218. Sale of property as part of foreclosure proceedings; land bank; powers**

(1)(a) At any sale of real property conducted as part of foreclosure proceedings under sections 77-1901 to 77-1941, a land bank may:

(i) Bid on such real property in an amount that the land bank would be willing to pay for such real property. If a bid is given pursuant to this subdivision, the bid shall not receive any special treatment by the sheriff conducting the sale and shall be accepted or rejected in the same manner as any other bid on such real property; or

(ii) 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. If an automatically accepted bid is given, it shall be accepted by the sheriff regardless of any other bids on such real property. An automatically accepted bid may be given only if the conditions for making such a bid prescribed by the board pursuant to

subsection (11) of section 19-5205 have been met and only if the land bank has obtained written consent to the tender of an automatically accepted bid from the holder of a mortgage or the beneficiary or trustee under a trust deed giving rise to a lien against such real property. To obtain such written consent, the land bank shall send, by certified mail, a notice of its intent to make an automatically accepted bid to any such holder of a mortgage or beneficiary or trustee under a trust deed and shall request that written consent be given within thirty days. If no response is given within such thirty-day time period, such holder of a mortgage or beneficiary or trustee under a trust deed shall be deemed to have given written consent.

(b) If a land bank's bid pursuant to subdivision (1)(a) of this section is accepted by the sheriff, the land bank shall pay the sheriff and shall be entitled to a deed to the real property in accordance with sections 77-1901 to 77-1941.

(2) If a sheriff attempts to sell real property as part of foreclosure proceedings under sections 77-1901 to 77-1941, there is no bid given at such sale equal to the total amount of taxes, interest, and costs due thereon, and the real property being sold lies within a municipality that has created a land bank, then such land bank shall be deemed to have bid the total amount of taxes, interest, and costs due thereon and such bid shall be accepted by the sheriff. The land bank may then discharge and extinguish the liens for delinquent taxes included in the foreclosure proceedings pursuant to section 19-5216. The land bank shall then be entitled to a deed to the real property in accordance with sections 77-1901 to 77-1941.

# **Alabama Land Bank Authority Act**

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## **§ 24-9-1. Short title.**

This chapter shall be known and may be cited as the Alabama Land Bank Authority Act.

## **§ 24-9-2. Purpose.**

The Alabama Land Bank Authority is hereby created for the purpose of acquiring tax delinquent properties in order to foster the public purpose of rehabilitating land which is in a nonrevenue-generating, nontax-producing status to an effective utilization status in order to provide housing, new industry, new commercial and economic development, other productive uses, jobs for the citizens, assemble parcels of real property for redevelopment, stabilize property values, and remove blight.

## **§ 24-9-3. Eminent domain.**

The authority does not have the power of eminent domain.

## **§ 24-9-4. Definitions.**

When used in the chapter, the following words shall have the following meanings:

- (1) AGREEMENT. The intergovernmental cooperation agreement entered into between an authority and a local authority by the parties pursuant to this chapter.
- (2) AUTHORITY. The Alabama Land Bank Authority.
- (3) BOARD. The Alabama Land Bank Authority Board.
- (4) LOCAL AUTHORITY. A local land bank authority created by a county or municipality as provided in Section 24-9-10.
- (5) PROPERTY. Real property, including any improvements thereon.
- (6) TAX-DELINQUENT PROPERTY. Any property on which the taxes levied and assessed by any party remain in whole or in part unpaid on the date due and payable.

**§ 24-9-5. Alabama Land Bank Authority Board.**

(a) There is created the Alabama Land Bank Authority Board which shall govern the authority to administer and enforce this chapter.

(b) The board shall consist of the following members:

(1) Four residents of the state appointed by the Governor.

(2) Two representatives from nonprofit organizations engaged in low-income housing appointed by the Governor.

(3) The Presiding Officer of the Senate or his or her designee.

(4) The Speaker of the House of Representatives or his or her designee.

(5) The Chair of the Senate Finance and Taxation, General Fund Committee or his or her designee.

(6) The Chair of the House Government Appropriations Committee or his or her designee.

(7) The State Revenue Commissioner or his or her designee.

(8) The Superintendent of the State Banking Department or his or her designee.

(9) The Director of the Alabama Department of Economic and Community Affairs or his or her designee.

(10) The Secretary of the Alabama Department of Commerce or his or her designee.

(11) The State Finance Director or his or her designee.

(12) The Chair of the Alabama Housing Finance Authority or his or her designee.

(13) The Administrator of the Alabama Credit Union Administration.

(c) The members of the board shall serve four year terms. In appointing the initial members of the board under subdivision (1) of subsection (b), the Governor shall designate two to serve four years, one to serve three years, and one to serve two years.

(d) Members of the board shall receive reimbursement for expenses incurred in the performance of their duties but no other compensation.

(e) The board may employ the necessary personnel for the performance of its functions and fix their compensation.

(f) The board shall elect from its membership a chair, vice chair, and secretary-treasurer. The board shall adopt rules to govern its proceedings. A majority of the membership of the board shall constitute a quorum for all meetings. Approval by a majority of the membership shall be necessary for any action to be taken by the authority. All meetings shall be open to the public, except as otherwise permitted by the Alabama Open Meetings Act, and a written record shall be maintained of all meetings.

(g) The membership of the board shall be inclusive and reflect the racial, gender, geographic, urban/rural, and economic diversity of the state.

(h) The board, when acting in its official capacity, its members, and the authority shall be immune from civil liability against the claims of any individual or other entity of any nature whatsoever arising out of its ownership or administration of properties or related to its decisions or actions, which decisions or actions were made in good faith, without malice, and predicated upon information which was then available to the board.

(i) The authority shall be a public body corporate and politic with the power to accept and issue deeds in its name, including, without limitation, the acceptance of real property in accordance with this chapter, and to institute quiet title actions as provided in Section 24-9-8, and shall have any other powers necessary and incidental to carry out the powers and the purpose granted by this chapter.

(j) In addition to the tax-delinquent property acquired by the authority as provided herein, the authority may acquire, by purchase, donation, exchange, other publicly owned property from local governments, including that which was acquired years earlier as a result of foreclosure proceedings of that property, or property that has become surplus. The authority may also acquire property through voluntary donations and transfers from private owners and may acquire by purchase or lease on the open market property from a private owner to complete an assemblage of property for redevelopment.

(k) No later than October 1, 2018, the State Revenue Commissioner or his or her designee shall convene the first meeting of the authority.

**§ 24-9-6. Acquisition of tax delinquent properties.**

(a) The authority may, as such times as it deems to be appropriate, submit a written request to the Land Commissioner of the Alabama Department of Revenue for the transfer of the state's interest in certain properties to the authority. Upon receipt of such request, the Land Commissioner shall issue a tax deed conveying the state's interest in the property to the authority. The authority shall not be required to pay the amount deemed to have been bid to cover delinquent taxes or any other amount in order to obtain the tax deed.

(b)(1) Delinquent property which may be transferred by the Land Commissioner to the authority shall be limited to parcels which have been bid in for the state pursuant to Chapter 10 of Title 40 for at least five years and the state's interest in real property

acquired pursuant to Chapter 29 of Title 40 for delinquent taxes administered by the state and held for at least five years.

(2) The Land Commissioner or his or her agents or assistants may adopt rules necessary to transfer such properties to the Land Bank Authority.

(c) The authority shall administer properties acquired by it as follows:

(1) All property acquired by the authority shall be inventoried and the inventory shall be maintained as a public record.

(2) The authority shall have the power to manage, maintain, protect, rent, lease, repair, insure, alter, sell, trade, exchange, or otherwise dispose of any property acquired pursuant to subsection (b)(1), on terms and conditions determined in the sole discretion of the authority.

(d) Nothing contained in Act 2013-249 shall be construed to grant any power of eminent domain to the authority or any local authority.

**§ 24-9-7. Disposition of tax delinquent properties.**

(a) The authority shall adopt rules and regulations for the disposition of property in which the authority holds a legal interest, which rules and regulations shall address the conditions set forth in this section.

(b) The authority may manage, maintain, protect, rent, repair, insure, alter, 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 on terms and conditions, and in a manner and for an amount of consideration the authority considers proper, fair, and valuable, including for no monetary consideration. The transfer and use of property under this section and the exercise by the authority of powers and duties under Act 2013-249 shall be considered a necessary public purpose and for the benefit of the public.

(c) Before the authority may sell, lease, exchange, trade, or otherwise dispose of any property, it shall either:

(1) Establish a purchase price and conditions for sale purposes.

(2) Establish a price and conditions for rent or lease purposes.

(3) Establish the conditions for trade, exchange, or other disposal of the property.

The conditions made pursuant to this subsection may include a requirement that the transferee must provide a development plan or execute a development agreement with

the authority specifying the transferee's commitments regarding the development of the property and the time frame within which the development must occur, the range of permitted uses for the property, and any restrictions on its subsequent resale or transfer.

(d) The disposition of property by the authority shall not be governed by any laws or regulations otherwise applicable to the disposition of property by a state or local agency. Provided however that, prior to the disposition of property, the authority shall give notice of its intent to dispose of any property for which notice was not previously advertised by the Commissioner of Revenue or his or her designee, or a local official in a manner as prescribed by the authority and shall include in such notice the date, time, and place at which persons objecting to the intended action must appear. If no objection is made within 30 days from the date of the notice, the authority may proceed with the disposition of the property as noticed without a public auction.

(e) No property shall be sold, traded, exchanged, or otherwise disposed by the authority to any entity for investment purposes only and with no intent to use the property other than to transfer the property at a future date for monetary gain.

(f) The authority shall not sell, trade, exchange, or otherwise dispose of any property held by the authority to any party who had an interest in the property at the time it was tax delinquent or to any party who transferred the party's interest in the property to the authority by sale, trade, exchange, or otherwise, unless the person pays all the taxes, interest, municipal liens, penalties, fees, and any other charges due and owing under Chapter 10 and Chapter 29 of Title 40, including the amount to the Land Commissioner had the property not been transferred to the authority.

(g) At the time that the authority sells or otherwise disposes of property as part of its land bank program, the proceeds of the sale shall be distributed equally as follows:

(1) One third to the operations of the authority.

(2) One third to the recovery of authority expenses.

(3) If the property was initially bid in for the state for delinquent ad valorem taxes, one third to the recipients of ad valorem taxes within the jurisdiction of the tax delinquent property, including the appropriate school districts, in proportion to and to the extent of their respective tax bills and costs. Otherwise, the remaining one third of the proceeds shall be remitted to the State Comptroller to be distributed to the statutorily designated recipient or recipients of the delinquent tax for which the property was seized.

(h) Except as otherwise provided herein, the authority shall have full discretion in determining the sale price of the property. No purchaser from the authority shall be responsible for the proper disposition of the proceeds paid to the authority for the purchase of property.

**§ 24-9-8. Quiet title and foreclosure action.**

(a) The authority may initiate a quiet title action under this section to quiet title to real property held by the authority or interests in tax delinquent property held by the authority by recording with the office of the judge of probate in the county in which the property subject to quiet title action is located a notice of pending quiet title action. The notice shall include the name of the taxpayer whose interest was affected by the tax sale, the name of any other party as revealed by a search and examination of the title to the property who may claim an interest in the property, a legal description of the property, the street address of the property if available, the name, address, and telephone number of the authority, a statement that the property is subject to the quiet title proceedings under Act 2013-249, and a statement that any legal interests in the property may be extinguished by a circuit court order vesting title to the property in the authority. Notwithstanding anything in this chapter to the contrary, no quiet title action and nothing in this chapter shall affect any right, title, or interest, whether recorded or unrecorded, in the subject property which was held at the time of the tax sale by any person or entity engaged in the generation, transmission, or distribution of electric power, natural gas, or telecommunications.

(b) After the notice required under subsection (a) has been recorded, the record title to the property shall be examined and an opinion of title rendered by an attorney at law, who is licensed to practice law in this state, or a certificate of title shall be prepared by a Title Agent or Title Insurer duly licensed under the Alabama Title Act as set out in Section 27-25-1, et seq., for the benefit of the authority in order to identify all owners of an interest in the property.

(c) Once the authority has identified the owners of interest in the property, the authority shall file a single petition with the clerk of the circuit court for the judicial district in which the property subject to foreclosure under this section is located listing all property subject to foreclosure by the authority and for which the authority seeks to quiet title. No such action shall be subject to the payment of filing fees. The list of properties shall include a legal description of, a tax parcel identification number for, and the street address of each parcel or property. The petition shall seek a judgment in favor of the authority against each property listed and shall include a date, within 90 days, on which the authority requests a hearing on the petition. The petition shall request that a judgment be entered vesting absolute title in the authority, without right of redemption for each parcel of property listed, as provided in this section. At any time during the pendency of this action, the authority may file a motion to release or dismiss a certain parcel or parcels of land from the petition, which release will not affect the remaining parcels of land subject to the petition.

(d) The case shall be docketed in the circuit court by the clerk, and shall be a preferred case therein. The circuit court in which a petition is filed under subsection (c) shall immediately set the date, time, and place for a hearing on the petition for quiet title. In no event may the clerk schedule the hearing later than 90 days after the filing of a petition by the authority under subsection (c). The court, on the request of a party or as needed to allow completion of service of process on all interested persons, and to allow those persons 30 days after

service of process to file an answer or other responsive pleadings to the petition, may extend the 90-day period for good cause shown.

(e) The authority shall serve all persons having record title or interest in or lien upon the property with a notice of the hearing on the petition to quiet title. Such service shall be attempted by personal service and by certified mail; provided if service is perfected by either method, the service will be sufficient to provide service of process upon all persons having record title or interest in or lien upon the property. If the persons entitled to service are located outside the county, they may be served by certified mail.

(f) The notice required under subsection (e) shall include:

(1) The date on which the authority recorded, under subsection (a), the notice of the pending quiet title and foreclosure action.

(2) A statement that a person with a property interest in the property may lose such interest, if any, as a result of the quiet title and foreclosure hearing.

(3) A legal description, tax parcel identification number of the property, and the street address of the property.

(4) The date and time of the hearing on the petition for quiet title and a statement that the judgment of the court may result in title to the property vesting in the authority.

(5) An explanation of any rights of redemption and notice that the judgment of the court may extinguish any ownership interest in or right to redeem the property.

(6) The name, address, and telephone number of the authority.

(g) In the event the sheriff is unable to perfect service or certified mail attempts are returned unclaimed, the authority shall conduct a search for the person with an interest in the property conveyed to the authority.

(1) The search, at a minimum, shall include the following:

a. An examination of the addresses given on the face of the instrument vesting interest or the addresses given to the clerk of the probate court by the transfer declaration form.

b. A search of the current telephone directory for the municipality and the county in which the property is located.

c. A letter of inquiry to the person who sold the property to the owner whose interest was sold in the tax sale at the address shown in the transfer tax declaration or in the telephone directory.

d. A letter of inquiry to the attorney handling the closing prior to the tax sale if such information is provided on the deed forms.

(2) A sign being no less than four feet by four feet shall be erected on the property and maintained by the authority for a minimum of 30 days reading as follows:

“THIS PROPERTY HAS BEEN CONVEYED TO THE \_\_\_\_\_ LAND BANK AUTHORITY AND IS SUBJECT TO A QUIET TITLE ACTION. PERSONS WITH INFORMATION REGARDING THE PRIOR OWNERSHIP OF OR INTEREST IN THE PROPERTY ARE REQUESTED TO CONTACT THE LAND BANK AUTHORITY AT \_\_\_\_\_.”

(3) Any additional parties who are identified as having an interest in the property shall be provided notice in accordance with this section.

(h) If the interested party is an individual, the authority shall examine voter registration lists, available municipal archives for records of deaths, and the probate court records of estates opened in the county in which the property is located.

(i) If the interested party is a business entity, the authority shall search the records of the Secretary of State for the name and address of a registered agent.

(j) If an interested party appears at the hearing and asserts a right to redeem the property, that party may redeem in accordance with Chapter 10 and Chapter 29 of Title 40.

(k)(1) If the authority has made the search as required by this section and been unable to locate those persons required to be served under subsection (e), having located additional addresses of those persons through such search, attempted without success to serve those persons in either manner provided by subsection (e), the authority shall provide notice by publication. Prior to the hearing, a notice shall be published once each week for 3 successive weeks in a newspaper of general circulation in the county in which the property is located. If no paper is published in that county, publication shall be made in a newspaper of general circulation in an adjoining county. This publication shall substitute for notice under this subsection or subsection (g). The published notice shall include the information required in subsection (f). Should the identity of some or all of the persons who may have an interest in the property be unknown, or should such persons be infants or persons of unsound mind, the court shall appoint a guardian ad litem to represent and defend the interests of such unknown, infant, or incompetent parties in the action.

(2) A person claiming an interest in a parcel of property set forth in the quiet title action who desires to contest that petition shall file an answer containing written objections with the clerk of the circuit court and serve those objections on the authority before the date of the hearing. The circuit court may appoint and utilize as the court considers necessary a special master for assistance with the resolution of any objections to the quiet title action or questions regarding the title to property subject thereto. Within 30

days following the hearing, the circuit court shall enter judgment on a petition to quiet title. The circuit court's judgment shall specify all of the following:

- a. The legal description, tax parcel identification number, and, if known, the street address of the subject property.
- b. That fee simple title to the property by the judgment is vested absolutely in the authority, except as otherwise provided in paragraph e., without any further rights of redemption.
- c. That all liens against the property, including any lien for unpaid taxes or special assessments, are extinguished.
- d. That, except as otherwise provided in paragraph e., the authority has good and marketable fee simple title to the property.
- e. That all existing recorded and unrecorded interests in the property are extinguished, except a recorded easement or right-of-way, restrictive covenant, prior reservation or severance of all mineral, mining, oil and gas rights within and underlying the property, such state of facts as shown on recorded plats, or restrictions or covenants imposed under the Alabama Land Recycling and Economic Development Act or any other environmental law in effect in the state, severed oil, gas, and mineral rights and mineral leases and agreements are excepted from Act 2013-249 and any quiet title action authorized herein.
- f. A finding that all persons entitled to notice and an opportunity to be heard have been provided that notice and opportunity and that the authority provided notice to all interested parties or that the authority complied with the notice procedures in subdivision (1), which compliance shall create a rebuttable presumption that all interested parties received notice and an opportunity to be heard.

(l) Except as otherwise provided in paragraph e. of subsection (k), fee simple title to property set forth in a petition for quiet title filed under subsection (c) shall vest absolutely in the authority upon the effective date of the judgment by the circuit court and the authority shall have absolute title to the property. The authority's title is not subject to any recorded or unrecorded lien, except as provided in paragraph e. of subdivision (2) of subsection (k) and shall not be stayed except as provided in subsection (m). A judgment entered under this section is a final order with respect to the property affected by the judgment.

(m) The authority or a person claiming to have an interest in property under this section may within 42 days following the effective date of the judgment under subsection (k) appeal the circuit court's judgment quieting title to the property to the Court of Appeals. An appeal under this subsection is limited to the record of the proceedings in the circuit court under this section. In the event of a timely appeal, the circuit court's judgment quieting title to the property shall be stayed until the Court of Appeals has reversed, modified, or

affirmed that judgment. If an appeal under this subsection stays the circuit court's judgment, the circuit court's judgment is stayed only as to the property that is the subject of that appeal and the circuit court's judgment quieting title to other property that is not the subject of that appeal is not stayed.

(n) The authority shall record an order of judgment for each parcel of property in the office of the judge of probate for the county in which the subject property is located.

(o) Notwithstanding the requirements for adverse possession under Section 40-10-82, or any other law, the authority may initiate a quiet title action under this section at any time after acquiring an interest in the property which is subject to the action. A final decree of an action properly filed in compliance with this section shall extinguish all outstanding rights of redemption.

#### **§ 24-9-9. Applicability of chapter.**

This chapter shall not apply to property owned, operated, or used by utilities engaged in the generation, transmission, or distribution of electricity.

#### **§ 24-9-10. Incorporation of local authority.**

(a) If the number of tax delinquent properties in a municipality exceeds 1,000, then the governing body of a municipality may adopt a resolution declaring that it is wise, expedient, and necessary that a local authority be formed by the municipality by the filing for record of a certificate of incorporation in accordance with the provisions of subsection (c).

(b) If the number of tax delinquent properties in a municipality exceeds 1,000, then the governing body of a county may adopt a resolution declaring that it is wise, expedient, and necessary that a local authority be formed by the county by the filing for record of a certificate of incorporation in accordance with the provisions of subsection (c).

(c) Upon the adoption of the authorizing resolution, the municipality or county, as the case may be, shall proceed to incorporate the local authority by filing for record in the office of the judge of probate of the county a certificate of incorporation which shall comply in form and substance with the requirements of this section and which shall be in the form and executed in the manner herein provided. The certificate of incorporation of the local authority shall state all of the following:

(1) The name of the local unit of government forming the local authority.

(2) The name of the local authority.

(3) The size of the initial governing body of the local authority, which shall be composed of an odd number of members, but not less than five.

(4) The qualifications, method of selection, and terms of office of the initial board members.

(5) A method for the adoption of bylaws by the governing body of the local authority.

(6) A method for the distribution of proceeds from the activities of the local authority.

(7) A method for the dissolution of the local authority.

(8) Any other matters considered advisable by the local unit of government, consistent with Act 2013-249.

(d) Following incorporation, a local authority may enter into an intergovernmental agreement with the authority providing for the transfer to the local authority of any property held by the authority which is located within the corporate limits of the municipality or the boundary of the county which created the land bank.

(e) A local authority shall have all of the powers of the authority as set forth in this chapter.

(f) A local unit of government and any agency or department of such local unit of government may do one or more of the following:

(1) Anything necessary or convenient to aid a local authority in fulfilling its purposes under Act 2013-249.

(2) Lend, grant, transfer, appropriate, or contribute funds to a local authority in furtherance of its purposes.

(3) Lend, grant, transfer, or convey funds to a local authority that are received from the federal government or this state or from any nongovernmental entity in aid of the purposes of Act 2013-249.

# West Virginia Land Reuse Agency Authorization Act

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## **§ 31-18E-1. Short title**

This article may be known and cited as the West Virginia Land Reuse Agency Authorization Act.

## **§ 31-18E-2. Legislative findings**

The Legislature finds and declares that:

- (1) Strong communities are important to the social and economic vitality of this state. Whether urban, suburban or rural, many communities are struggling to cope with vacant, abandoned and tax-delinquent properties.
- (2) Citizens of this state are affected adversely by vacant, abandoned and tax-delinquent properties, including properties which have been vacated or abandoned due to mortgage foreclosure.
- (3) Vacant, abandoned and tax-delinquent properties impose significant costs on neighborhoods, communities, municipalities and counties by lowering property values, increasing fire and police protection costs, decreasing tax revenues and undermining community cohesion.
- (4) Vacant, abandoned and tax-delinquent properties contribute to blight, invite crime and pests and provide unsafe play spaces.
- (5) There is an overriding public need to confront the problems caused by vacant, abandoned and tax-delinquent properties through the creation of new tools to enable municipalities and counties to turn vacant, abandoned and tax-delinquent spaces into vibrant places.
- (6) Land reuse agencies, often called land banks in other jurisdictions, are one of the tools that municipalities and counties may use to facilitate the return of vacant, abandoned and tax-delinquent properties to productive use.

## **§ 31-18E-3. Definitions**

As used in this article:

- (1) "Board" means the board of directors of a land reuse agency;
- (2) "Deconstruct" means to attempt to remove salvageable pieces of a housing unit prior to or as part of demolition or renovation;
- (3) "Financial institution" means a bank, savings association, operating subsidiary of a bank or savings association, credit union, association licensed to originate mortgage loans or an assignee of a mortgage or note originated by such an institution;
- (4) "Land reuse agency" means a public body established under this article;
- (5) "Land reuse jurisdiction" means: (A) A county or municipality in this state; or (B) two or more municipalities or counties that enter into an intergovernmental cooperation agreement to establish and maintain a land reuse agency;
- (6) "Municipal land bank" means a department or agency of a municipality, or an entity lawfully created by a municipality, engaged in activities designed to address issues related to vacant, abandoned and tax-delinquent real property, including but not limited to, the purchase, rehabilitation, improvement or sale of such properties for the purpose of eliminating blight and returning those properties to productive use.
- (7) "Municipality" means a municipality as defined in section two, article one, chapter eight of this code; and
- (8) "Real property" means all lands, including improvements and fixtures on them and property of any nature appurtenant to them or used in connection with them and every estate, interest and right, legal or equitable, in them, including terms of years and liens by way of judgment, mortgage or otherwise, and indebtedness secured by the liens.

#### **§ 31-18E-4. Creation and existence**

(a) *Authority.* -- A land reuse jurisdiction may elect to create a land reuse agency by the adoption of an ordinance to create a binding legal obligation. The ordinance must specify the type of entity created and the following:

- (1) The name of the land reuse agency;
- (2) The number of members of the board;
- (3) The names of individuals to serve as initial members of the board;
- (4) The qualifications, manner of selection or appointment and terms of office of members of the board;
- (5) The manner by which residents will be provided an opportunity to have input into the land reuse agency decision-making process; and

(6) Additional terms and conditions the land reuse jurisdiction deems reasonable and necessary for operation of the land reuse agency that are not inconsistent with this article.

(b) *Filing.* -- The governing body of the land reuse jurisdiction which creates a land reuse agency shall file a copy of the ordinance with the West Virginia Housing Development Fund and with the Secretary of State. After receipt of the ordinance, the Secretary of State shall issue the appropriate documentation indicating the formation of the entity.

(c) *Combinations.* -- (1) The authority under subsection (a) of this section may be exercised in combination pursuant to an intergovernmental cooperation agreement by:

(A) More than one land reuse jurisdiction; or

(B) A land reuse jurisdiction and one or more municipalities or counties.

(2) If a land reuse agency is established under subdivision (1) of this subsection, the intergovernmental cooperation agreement must specify matters identified in subsection (a) of this section.

(d) *Limitation.* -- Except as set forth in subsection (c) of this section, if a county establishes a land reuse agency, the land reuse agency may acquire real property only in those portions of the county located outside of the geographical boundaries of any other land reuse agency established by another land reuse jurisdiction located partially or entirely within the county.

(e) *Legal status of land reuse agency.* -- A land reuse agency:

(1) Is a public body corporate and politic, exercising public and essential governmental functions, and having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this article; and

(2) Exists until terminated and dissolved under section fourteen of this article.

(f) *Collaboration.* -- A land reuse agency, a political subdivision and another municipal entity may enter into an intergovernmental cooperation agreement relative to the operations of a land reuse agency.

#### **§ 31-18E-5. Board of directors of a land reuse agency**

(a) *Membership.* -- A board shall consist of an odd number of members and be not less than five members nor more than eleven members. Unless restricted by the actions or agreements specified in section four of this article and subject to the limits stated in this section, the size of the board may be adjusted in accordance with bylaws of the land reuse agency.

(b) *Eligibility to serve on board.* --

(1) Notwithstanding any law to the contrary, a public officer is eligible to serve as a board member, and the acceptance of the appointment neither terminates nor impairs that public office;

(2) A municipal employee is eligible to serve as a board member;

(3) An established land reuse agency board shall include at least one voting member who:

(A) Is a resident of the land reuse jurisdiction;

(B) Is not a public official or municipal employee; and

(C) Maintains membership with a recognized civic organization within the land reuse jurisdiction;

(4) A member removed under subdivision (3), subsection (d) of this section is ineligible for reappointment to the board unless the reappointment is confirmed unanimously by the board;

(5) As used in this subsection, the term "public officer" means an individual who is elected to office.

(c) *Officers.* -- The members of the board shall select annually from among their members a chair, vice chair, secretary, treasurer and other officers as the board determines.

(d) *Rules.* -- The board shall establish rules on all of the following:

(1) Duties of officers;

(2) Attendance and participation of members in its regular and special meetings;

(3) A procedure to remove a member by a majority vote of the other members for failure to comply with a rule; and

(4) Other matters necessary to govern the conduct of a land reuse agency.

(e) *Vacancies.* -- A vacancy on the board shall be filled in the same manner as the original appointment. Upon removal under subdivision (3), subsection (d) of this section, the position becomes vacant.

(f) *Compensation.* -- Board members serve without compensation. The board may reimburse a member for expenses actually incurred in the performance of duties on behalf of the land reuse agency.

(g) *Meetings.* -- (1) The board shall meet as follows:

(A) In regular session according to a schedule adopted by the board;

(B) In special session:

(i) As convened by the chair; or

(ii) Upon written notice signed by a majority of the members;

(2) A majority of the board, excluding vacancies, is a quorum. Physical presence is required under this paragraph.

(h) *Voting.* -- (1) Except as set forth in subdivision (2) or (3) of this subsection or elsewhere in this article, action of the board must be approved by the affirmative vote of a majority of the board present and voting.

(2) Action of the board on the following matters must be approved by a majority of the entire board membership:

(A) Adoption of bylaws;

(B) Adoption of rules under subsection (d) of this section;

(C) Hiring or firing of an employee or contractor of the land reuse agency. This function may, by majority vote of the entire board membership, be delegated by the board to a specified officer or committee of the land reuse agency;

(D) Incurring of debt;

(E) Adoption or amendment of the annual budget; or

(F) Sale, lease, encumbrance or alienation of real property or personal property with a value of more than \$50,000.

(3) A resolution under section fourteen of this article, relating to dissolution of a land reuse agency, must be approved by two thirds of the entire board membership.

(4) A member of the board may not vote by proxy.

(5) A member may request a recorded vote on any resolution or action of the land reuse agency.

(i) *Immunity.* -- A land reuse jurisdiction which establishes a land reuse agency and a municipality or county which are parties to an intergovernmental cooperation agreement establishing a land reuse agency shall not be liable personally on the bonds or other

obligations of the land reuse agency. Rights of creditors of a land reuse agency are solely against the land reuse agency.

**§ 31-18E-6. Staff of the land reuse agency**

(a) Employees. -- A land reuse agency may employ or enter into a contract for an executive director, counsel and legal staff, technical experts and other individuals and may determine the qualifications and fix the compensation and benefits of those employees.

(b) Contracts. -- A land reuse agency may enter into a contract with a municipality or county for:

- (1) The municipality or county to provide staffing services to the land reuse agency; or
- (2) The land reuse agency to provide staffing services to the municipality or county.

**§ 31-18E-7. Powers of the land reuse agency**

A land reuse agency is a public body, corporate and politic, exercising public and essential governmental functions, and having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this article, including but not limited to the following:

- (1) To adopt, amend and repeal bylaws for the regulation of its affairs and the conduct of its business;
- (2) To sue and be sued in its own name and be a party in a civil action. This paragraph includes an action to clear title to property of the land reuse agency;
- (3) To adopt a seal and to alter the same at pleasure;
- (4) To borrow from federal government funds, from the state, from private lenders or from municipalities or counties, as necessary, for the operation and work of the land reuse agency;
- (5) To issue negotiable revenue bonds and notes according to the provisions of this article;
- (6) To procure insurance or guarantees from the federal government or the state of the payment of debt incurred by the land reuse agency and to pay premiums in connection with the insurance or guarantee;
- (7) To enter into contracts and other instruments necessary, incidental or convenient to the performance of its duties and the exercise of its powers. This paragraph includes

intergovernmental cooperation agreements for the joint exercise of powers under this article;

(8) To enter into contracts and intergovernmental cooperation agreements with municipalities or counties for the performance of functions by municipalities or counties on behalf of the land reuse agency or by the land reuse agency on behalf of municipalities or counties;

(9) To make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the land reuse agency. Any contract or instrument signed shall be executed by and for the land reuse agency if the contract or instrument is signed, including an authorized facsimile signature, by:

(A) The chair or vice chair of the land reuse agency; and

(B) Either:

(i) The secretary or assistant secretary of the land reuse agency; or

(ii) The treasurer or assistant treasurer of the land reuse agency;

(10) To procure insurance against losses in connection with the real property, assets or activities of the land reuse agency;

(11) To invest money of the land reuse agency at the discretion of the board in instruments, obligations, securities or property determined proper by the board and to name and use depositories for its money;

(12) To enter into contracts for the management of, the collection of rent from or the sale of real property of the land reuse agency;

(13) To design, develop, construct, demolish, reconstruct, deconstruct, rehabilitate, renovate, relocate and otherwise improve real property or rights or interests in real property;

(14) To fix, charge and collect rents, fees and charges for the use of real property of the land reuse agency and for services provided by the land reuse agency;

(15) To grant or acquire licenses, easements, leases or options with respect to real property of the land reuse agency;

(16) To enter into partnerships, joint ventures and other collaborative relationships with municipalities, counties and other public and private entities for the ownership, management, development and disposition of real property;

(17) To organize and reorganize the executive, administrative, clerical and other departments of the land reuse agency and to fix the duties, powers and compensation of employees, agents and consultants of the land reuse agency; and

(18) To do all other things necessary or convenient to achieve the objectives and purposes of the land reuse agency or other law related to the purposes and responsibility of the land reuse agency.

### **§ 31-18E-8. Eminent domain**

A land reuse agency does not possess the power of eminent domain. Any property obtained by the power of eminent domain after the effective date of this article may not be acquired by a land reuse agency by any means.

### **§ 31-18E-9. Acquisition of property**

(a) *Title to be held in its name.* -- A land reuse agency or municipal land bank shall hold in its own name all real property it acquires.

(b) *Tax exemption.* -- (1) Except as set forth in subdivision (2) of this subsection, the real property of a land reuse agency or municipal land bank and its income and operations are exempt from property tax.

(2) Subdivision (1) of this subsection does not apply to real property of a land reuse agency or municipal land bank after the fifth consecutive year in which the real property is continuously leased to a private third party. However, real property continues to be exempt from property taxes if it is leased to a nonprofit or governmental agency at substantially less than fair market value.

(c) *Methods of acquisition.* -- A land reuse agency or municipal land bank may acquire real property or interests in real property by any means on terms and conditions and in a manner the land reuse agency considers proper: *Provided*, That a land reuse agency or municipal land bank may not acquire any interest in oil, gas or minerals which have been severed from the realty.

(d) *Acquisitions from municipalities or counties.* -- (1) A land reuse agency or municipal land bank may acquire real property by purchase contracts, lease purchase agreements, installment sales contracts and land contracts and may accept transfers from municipalities or counties upon terms and conditions as agreed to by the land reuse agency or municipal land bank and the municipality or county.

(2) A municipality or county may transfer to a land reuse agency or municipal land bank real property and interests in real property of the municipality or county on terms and conditions and according to procedures determined by the municipality or county

as long as the real property is located within the jurisdiction of the land reuse agency or municipal land bank.

(3) An urban renewal authority, as defined in section four, article eighteen, chapter sixteen of this code, located within a land reuse jurisdiction established under this article may, with the consent of the local governing body and without a redevelopment contract, convey property to the land reuse agency. A conveyance under this subdivision shall be with fee simple title, free of all liens and encumbrances.

(e) *Maintenance.* -- A land reuse agency or municipal land bank shall maintain all of its real property in accordance with the statutes and ordinances of the jurisdiction in which the real property is located.

(f) *Prohibition.* -- (1) Subject to the provisions of subdivision (2) of this subsection, a land reuse agency or municipal land bank may not own or hold real property located outside the jurisdictional boundaries of the entities which created the land reuse agency under subsection (c), section four of this article.

(2) A land reuse agency or municipal land bank may be granted authority pursuant to an intergovernmental cooperation agreement with a municipality or county to manage and maintain real property located within the jurisdiction of the municipality or county.

(g) *Acquisition of tax delinquent properties.* -- (1) Notwithstanding any other provision of this code to the contrary, if authorized by the land reuse jurisdiction which created a land reuse agency or municipal land bank or otherwise by intergovernmental cooperation agreement, a land reuse agency or municipal land bank may acquire an interest in tax delinquent property through the provisions of chapter eleven-a of this code. Notwithstanding the provisions of section eight, article three, chapter eleven-a of this code, if no person present at the tax sale bids the amount of the taxes, interest and charges due on any unredeemed tract or lot or undivided interest in real estate offered for sale, the sheriff shall, prior to certifying the real estate to the Auditor for disposition pursuant to section forty-four, article three, chapter eleven-a of this code, provide a list of all of said real estate within a land reuse or municipal land bank jurisdiction to the land reuse agency or municipal land bank and the land reuse agency or municipal land bank shall be given an opportunity to purchase the tax lien and pay the taxes, interest and charges due for any unredeemed tract or lot or undivided interest therein as if the land reuse agency or municipal land bank were an individual who purchased the tax lien at the tax sale.

(2) Notwithstanding any other provision of this code to the contrary, if authorized by the land reuse jurisdiction which created a land reuse agency or municipal land bank or otherwise by intergovernmental cooperation agreement, the land reuse agency or municipal land bank shall have the right of first refusal to purchase any tax-delinquent property which is within municipal limits, and has an assessed value of \$25,000 or less or has been condemned: *Provided*, That the land reuse agency or municipal land bank

satisfies the requirements of subdivision (3) of this subsection. A list of properties which meet the criteria of this subdivision shall regularly be compiled by the sheriff of the county, and a land reuse agency or municipal land bank may purchase any qualifying tax-delinquent property for an amount equal to the taxes owed and any related fees before such property is placed for public auction.

(3) When a land reuse agency or municipal land bank exercises a right of first refusal in accordance with subdivision (2) of this section, the land reuse agency or municipal land bank shall, within fifteen days, provide written notice to all owners of real property that is adjacent to the tax-delinquent property. Any such property owner shall have a period of 120 days from the receipt of notice, actual or constructive, to exercise a right to purchase the tax-delinquent property from the land reuse agency or municipal land bank for an amount equal to the amount paid for the property by the land reuse agency or municipal land bank: *Provided*, That in the event more than one adjacent land owner desires to purchase the tax-delinquent property, it shall be sold to the adjacent property owner offering the highest bid. It is the duty of the adjacent property owner to establish that he or she is the actual owner of property that is adjacent to the tax-delinquent property and all state and local taxes and all fees on his or her adjacent property are current and non-delinquent.

(4) Effective July 1, 2020, the provisions of subdivisions (2) and (3) of this subsection shall sunset and have no further force and effect.

(5) Prior to January 1, 2020, any land reuse agency or municipal land bank which exercises the authority granted by this subsection may submit to the Joint Committee on Government and Finance a report on the entity's activities related to the purchase of tax-delinquent properties and any benefits realized from the authority granted by this subsection.

### **§ 31-18E-10. Disposition of property**

(a) *Public access to inventory.* -- A land reuse agency shall maintain and make available for public review and inspection an inventory of real property held by the land reuse agency.

(b) *Power.* -- A land reuse agency may convey, exchange, sell, transfer, lease, grant or mortgage interests in real property of the land reuse agency in the form and by the method determined to be in the best interests of the land reuse agency.

(c) *Consideration.* -- (1) A land reuse agency shall determine the amount and form of consideration necessary to convey, exchange, sell, transfer, lease as lessor, grant or mortgage interests in real property.

(2) Consideration may take the form of monetary payments and secured financial obligations, covenants and conditions related to the present and future use of the

property, contractual commitments of the transferee and other forms of consideration as determined by the board to be in the best interest of the land reuse agency.

(d) *Policies and procedures.* -- (1) A board shall determine and state in the land reuse agency policies and procedures the general terms and conditions for consideration to be received by the land reuse agency for the transfer of real property and interests in real property, including but not limited to, a process for distribution of any proceeds to any claimants, taxing entities and the land reuse agency.

(2) Requirements which may be applicable to the disposition of real property and interests in real property by municipalities or counties shall not be applicable to the disposition of real property and interests in real property by a land reuse agency.

(e) *Ranking of priorities.* -- (1) A land reuse jurisdiction may establish a hierarchical ranking of priorities for the use of real property conveyed by a land reuse agency, including use for:

(A) Purely public spaces and places;

(B) Affordable housing;

(C) Conservation areas; and

(D) Retail, commercial and industrial activities.

(2) The priorities established may be for the entire land reuse jurisdiction or may be set according to the needs of different neighborhoods, municipalities or other locations within the land reuse jurisdiction, or according to the nature of the real property.

(f) *Land use plans.* -- A land reuse agency shall consider all duly adopted land use plans and make reasonable efforts to coordinate the disposition of land reuse agency real property with the land use plans.

(g) *Specific voting and approval requirements.* -- (1) A land reuse jurisdiction may, in its ordinance creating a land reuse agency or in the case of multiple land reuse jurisdictions and municipalities or counties creating a single land reuse agency in the applicable intergovernmental cooperation agreement, require that a particular form of disposition of real property or a disposition of real property located within specified jurisdictions be subject to specified voting and approval requirements of the board.

(2) Except as restricted or constrained under paragraph (1) of this subsection, the board may delegate to officers and employees the authority to enter into and execute agreements, instruments of conveyance and other related documents pertaining to the conveyance of real property by the land reuse agency.

**§ 31-18E-11. Financing of land reuse agency operations**

(a) *General rule.* -- A land reuse agency may receive funding through grants and loans from:

- (1) The federal government;
- (2) The state;
- (3) A municipality or county;
- (4) The land reuse jurisdiction which created the land reuse agency; and
- (5) Private or other public sources.

(b) *Funding.* -- A land reuse agency may receive and retain payments for services rendered, for rents and leasehold payments received, for consideration for disposition of real and personal property, for proceeds of insurance coverage for losses incurred, for income from investments and for an asset and activity lawfully permitted to a land reuse agency under this article.

(c) *Allocated real property taxes.* -- (1) A taxing jurisdiction may authorize the remittance or dedication of a portion of real property taxes collected pursuant to the laws of this state to a land reuse agency on real property conveyed by a land reuse agency.

(2) Allocation of property tax revenues in accordance with this subsection, if authorized by the taxing jurisdiction, begins with the first taxable year following the date of conveyance and continues for a period of up to five years and may not exceed a maximum of fifty percent of the aggregate property tax revenues generated by the property.

(3) Remittance or dedication of real property taxes include the real property taxes of a county board of education only if the county board of education enters into an agreement with the land reuse agency for the remittance or dedication.

**§ 31-18E-12. Borrowing and issuance of bonds**

(a) *Authority.* -- (1) A land reuse agency may issue a bond for any of its corporate purposes.

(2) The principal and interest of a bond is payable from the land reuse agency's general revenue.

(3) The bond may be secured by any of the following:

(A) A pledge of revenue. This paragraph includes a grant or contribution from: (i) The federal government or a federal agency or instrumentality; or (ii) the state, a state agency or an instrumentality of the state; or

(B) A mortgage of property of the land reuse agency.

(b) *Nature.* -- The bond is a negotiable instrument under the provisions of article eight, chapter forty-six of this code.

(c) *Tax exempt.* -- A bond and the income from the bond is exempt from taxation by: (1) The state; and (2) a political subdivision.

(d) *Procedure.* -- (1) A bond must be authorized by resolution of the board and shall be a limited obligation of the land reuse agency.

(2) The principal and interest, costs of issuance and other costs incidental to the bond are payable solely from the income and revenue derived from the sale, lease or other disposition of the assets of the land reuse agency. The land reuse agency may secure the bond by a mortgage or other security device covering all or part of the project from which the pledged revenues may be derived.

(3) A refunding bond issued under this section:

(A) Is payable from: (i) A source described in this article; or (ii) the investment of the proceeds of the refunding bonds; and

(B) Is not an indebtedness or pledge of the general credit of a political subdivision within the meaning of a constitutional or statutory limitation of indebtedness and shall contain a recital to that effect.

(4) A bond must comply with the authorizing resolution as to:

(A) Form;

(B) Denomination;

(C) Interest rate;

(D) Maturity; and

(E) Execution.

(5) A bond may be subject to redemption at the option of and in the manner determined by the board in the authorizing resolution.

(e) *Powers of municipalities or counties.* -- A municipality or county may elect to guarantee, insure or otherwise become primarily or secondarily obligated on the indebtedness of a land reuse agency, subject, however, to all other provisions of law of this state applicable to municipal or county indebtedness.

(f) *Sale.* -- (1) A bond shall be issued, sold and delivered in accordance with the terms and provisions of the authorizing resolution. The board, to effectuate its best interest, may determine the manner of sale, public or private, and the price of the bond.

(2) The resolution issuing a bond must be published in a newspaper of general circulation within the jurisdiction in which the land reuse agency is located.

(g) *Liability.* -- (1) Neither the members of a land reuse agency nor a person executing the bond shall be liable personally on the bonds by reason of the issuance of the bond.

(2) The bond or other obligation of a land reuse agency related to a bond shall not be a debt of a municipality, county or of the state. A statement to this effect shall appear on the face of the bond or obligation.

(3) On the bond or other obligation of a land reuse agency related to a bond, all of the following apply:

(A) The state has no liability. This paragraph applies to the revenue and property of the state; and

(B) A municipality or county has no liability. This paragraph applies to the revenue and property of a municipality or county.

### **§ 31-18E-13. Public records and public access**

(a) *Public records.* -- A board shall keep minutes and a record of its proceedings.

(b) *Public access.* -- A land reuse agency is subject to article nine-a, chapter six of this code, relating to open meetings, and chapter twenty-nine-b of this code, relating to public records.

### **§ 31-18E-14. Dissolution of land reuse agency**

(a) *General rule.* -- A land reuse agency may be dissolved as a public body corporate and politic upon compliance with all of the following:

(1) Sixty calendar days advance written notice of consideration of a resolution to request dissolution must be:

(A) Given to the land reuse jurisdiction which created the land reuse agency;

(B) Published in a local newspaper of general circulation; and

(C) Sent by certified mail to the trustees of outstanding bonds of the land reuse agency;

(2) Satisfaction of all outstanding liabilities; and

(3) Approval of a resolution requesting dissolution, pursuant to subdivision (3), subsection (h), section five of this article.

(b) *Authority.* -- Upon receipt of a proper resolution described in subsection (a) of this section, the land reuse jurisdiction which created the land reuse agency may dissolve the land reuse agency by adoption of an ordinance or order. If approved, the governing body of the land reuse jurisdiction which created the land reuse agency shall file a certified copy of the ordinance or order with the Secretary of State and notify the West Virginia Housing Development Fund of the dissolution of the land reuse agency. The Secretary of State shall cause the termination of the existence of the land reuse agency to be noted on the record of incorporation. Upon the filing, the land reuse agency shall cease to function.

(c) *Transfer of assets.* -- Upon dissolution of the land reuse agency, real property, personal property and other assets of the land reuse agency become the assets of the municipality in which the property is located or the county in which the property is located, if it is not within a municipality. The following apply:

(1) Personal property, including financial assets, of the land reuse agency shall be divided among participating land reuse jurisdictions in proportion to the population of each jurisdiction.

(2) The municipality in which real property is located or the county in which the property is located, if it is not within a municipality, shall approve the transfer of title to the municipality or county.

(d) *Multiple jurisdictions.* -- If multiple land reuse jurisdictions create a land reuse agency under section four of this article, the withdrawal of one or more land reuse jurisdictions does not require dissolution of the land reuse agency unless:

(1) The intergovernmental cooperation agreement provides for dissolution in this event; and

(2) There is no land reuse jurisdiction which desires to continue the existence of the land reuse agency.

### **§ 31-18E-15. Conflicts of interest**

(a) *Ethics Act.* -- The acts and decisions of members of a board and of employees of a land reuse agency are subject to chapter six-b of this code.

(b) *Supplemental rules and guidelines.* -- The board may adopt:

(1) Supplemental rules addressing potential conflicts of interest; and

(2) Ethical guidelines for members of the board and land reuse agency employees.

**§ 31-18E-16. Expedited quiet title proceedings**

(a) *Authorization.* -- (1) A land reuse agency may file an action in circuit court to quiet title to real property in which the land reuse agency has an interest.

(2) A land reuse agency may join in a single complaint to quiet title to one or more parcels of real property.

(3) For purposes of an action under this section, the land reuse agency shall be deemed to be the holder of sufficient legal and equitable interests and possessory rights so as to qualify the land reuse agency as an adequate complainant in the action.

(b) *Procedural requirements.* -- (1) Prior to the filing of an action to quiet title, the land reuse agency must conduct an examination of title to determine the identity of any person possessing a claim or interest in or to the real property.

(2) Service of the complaint to quiet title shall be provided in accordance with the requirements to serve a civil complaint generally, including that service to interested parties be made as follows:

(A) By first class mail to the identity and address reasonably ascertainable by an inspection of public records;

(B) In the case of occupied real property, by first class mail, addressed to "occupant";

(C) By posting a copy of the notice on the real property.

(D) By publication; and

(E) As ordered by the court.

(3) As part of the complaint to quiet title, the land reuse agency must file an affidavit identifying:

(A) Persons discovered under subdivision (1) of this subsection; and

(B) The form of service under subdivision (2) of this subsection.

(c) *Hearing.* -- (1) The court shall schedule a hearing on the complaint within ninety days following filing of the complaint and as to all matters upon which an answer was not filed by an interested party.

(2) The court shall issue its final judgment within one hundred twenty days of the filing of the complaint.

**§ 31-18E-17. Construction, intent and scope**

This article shall be construed liberally to effectuate the legislative intent and the purposes as complete and independent authorization for the implementation of this article, and all powers granted shall be broadly interpreted to effectuate the intent and purposes and not as a limitation of powers.

**§ 31-18E-18. Annual audit and report**

(a) The land reuse agency shall annually, within one hundred twenty days after the end of the fiscal year, submit an audit of income and expenditures, together with a report of its activities for the preceding year, to the West Virginia Housing Development Fund.

(b) A duplicate of the audit and the report shall be filed with the governing body of:

(1) The land reuse jurisdiction which created the land reuse agency; and

(2) Each political subdivision which opted to participate in the land reuse agency pursuant to an intergovernmental agreement.