



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 1682

PRINTERS NO. 4185

PRIME SPONSOR: Taylor

COST / (SAVINGS)

FUND	FY 2012/13	FY 2013/14
General Fund	\$0	\$0
Political Subdivision Funds	See Fiscal Impact	See Fiscal Impact

SUMMARY: Amends Title 68 (Real and Personal Property) by adding a subpart to enable land bank jurisdictions to create and operate land banks. This legislation would take effect in 60 days.

ANALYSIS: Enables any county, city or borough with a population of 10,000 or more to establish a land bank and enables any township, borough or town to form a land bank with any land bank jurisdiction through an intergovernmental cooperation agreement. The bill establishes the framework by which a land bank must operate.

A land bank is a governmental or nonprofit entity that acquires, holds, and manages tax foreclosed, abandoned properties whose main purpose is to return vacant, abandoned and tax delinquent properties to productive re-use in accordance with local and regional plans for smart growth and development.

Formation: A land bank jurisdiction may create a land bank by adopting an ordinance. The land bank is subject to approval of the mayor under the provisions of the home rule charter in cities of the first class (Philadelphia) or the county executive in a home rule county.

The governing body must submit a copy of the ordinance to the PA Department of State, which will issue a certificate of incorporation. If a county establishes a land bank, the land bank may acquire property only in those portions of the county located outside of the geographical boundaries of any other land bank.

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 that are subject to approval by the school district.

Land Bank Board: A land bank board must contain an odd number of members of not less than five and not more than 11. An elected official is eligible to serve as a board member, as is a municipal employee. The board must 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.

Board members are not paid, although the board may reimburse a member for expenses incurred in the performance of duties on behalf of the land bank. Action of the board on adoption of bylaws and rules, hiring or firing of employees or contractors, incurring debt, adoption of a budget and the sale or lease of real or personal property valued at more than \$50,000 requires a majority of the entire board membership to approve.

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. It may also enter into a contract with a municipality to provide staffing to the land bank or for the land bank to provide staffing services to the municipality.

The board has the power 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 and to issue negotiable revenue bonds and notes. It also has the power to acquire insurance, obtain bonds and enter into contracts for the management of, the collection of rent from or the sale of real property of the land bank.

The land bank board must keep minutes and a record of its proceedings and is subject to Title 65 Ch. 7 (relating to open meetings), and the Right-to-Know Law (Act 3 of 2008). The acts and decisions of members of a board and of employees of a land bank are subject to the State Adverse Interest Act (Act 451 of 1957). Board members and land bank employees are subject to Title 65 Ch. 11 (relating to ethics standards and financial disclosure).

Powers of Land Bank: A land bank is empowered to design, develop, construct, demolish, reconstruct, rehabilitate, renovate, relocate and otherwise improve real property and 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. It may also grant or acquire licenses, easements, leases or options with respect to real property of the land bank and 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.

A land bank does not possess the power of eminent domain. Acquisition of property is through municipal transfer, by purchase contracts, lease purchase agreements, installment sales contracts and land contracts and it must maintain and make available for public review an inventory of its real property.

The land bank is required to maintain its real property in accordance with the statutes and ordinances of the jurisdiction in which the real property is located. 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 the Real Estate Tax Sale Law (Act 542 of 1947).

Regarding tax delinquent properties, a land bank may accept donations of real property under Section 5.1 of the Municipal Claim and Tax Lien Law (Act 153 of 1923); or Section 303 of the Real Estate Tax Sale Law; and it may extinguish delinquent claims for taxes as to the property. A land bank may extinguish school district tax claims only if the school district has designated the land bank as its agent under Section 5.1(g) of the Municipal Claim and Tax Lien Law or Section 303(b)(6) of the Real Estate Tax Sale Law.

The real property of a land bank and its income and operations are exempt from State and local tax; however, after the fifth consecutive year in which the real property is continuously leased to a private third party, taxes will become due and must be paid.

A land bank may convey, exchange, sell, transfer, lease, grant or mortgage interests in real property to which it holds title. In so doing, 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. Allows a land bank to secure a bond with a mortgage or other security device covering all or part of the project from which the pledged revenues may be derived

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.

A land bank may establish a hierarchical ranking of priorities for the use of real property conveyed by a land bank. The priorities may include use for purely public spaces and places, affordable housing, retail, commercial and industrial activities and conservation areas.

Allocation of property tax revenues, if authorized by the taxing jurisdiction, will begin 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.

Dissolution of Land Bank: Dissolution of a land bank requires:

- 1) 60 calendar days' advance written notice of consideration of a resolution of dissolution, which must be given to the land bank jurisdiction which created the land bank, published in a local newspaper of general circulation and sent by certified mail to the trustees of outstanding bonds of the land bank.
- 2) Approval by the board.

Upon dissolution of the land bank, real property, personal property and other assets of the land bank become the assets of the municipality in which the property is located.

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; however, for tax owed to a school district, the governing body of the school district must approve the discharge. 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 10 days before the conveyance of the property or within 30 days after the discharge.

When 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.

Delinquent Property Tax Sales: This legislation contains extensive provisions for procedures relating to existing delinquent property tax sales laws, including the Real Estate Tax Sale Law, the Municipal Claim and Tax Lien Law and the Second Class City Treasurer's Sale and Collection Act (Act 171 of 1984).

No matter which of the three aforementioned delinquent real property tax sales laws it follows, a municipality:

- 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
- 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.

At upset sales:

- The upset sale price may be set in advance in an amount equal to or greater than the minimum amount described in Section 605 of the Real Estate Tax Sale Law as may be mutually agreed in writing by the municipality and the land bank.
- If there is an agreement on upset sale price, and no one bids a higher price than the specified upset sale price, 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.

All governmental entities in counties of the second class containing a city of the second class (Allegheny County) whose claims comprise an upset sales price to agree before a land bank is allowed to acquire the property for less than the upset sales price, and prohibits a land bank in Allegheny County from altering the form, substance and timing of payment of the sales price when a land bank acquires a property.

A land bank that acquires real property through the lawful delinquent tax sales process is deemed to have acquired the real property as an involuntary transfer within the meaning of Section 701(b)(1)(vi)(B) of the Hazardous Sites Cleanup Act (Act 108 of 1988). These procedures on delinquent tax sales will expire when the General Assembly has enacted comprehensive reform legislation on property-tax foreclosure

Quiet Title Actions: The legislation allows a land bank to file an action to quiet title to real property in which it has an interest. It may join in a single complaint to quiet title to one or more parcels of real property.

Before filing 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 and it must provide service of the complaint to quiet title to interested parties by:

- First Class mail to the identity and address reasonably ascertainable by an inspection of public records. In the case of occupied real property, by First Class mail, addressed to "Occupant";
- by posting a copy of the notice on the real property;
- by publication; and
- as ordered by the court.

As part of the complaint to quiet title, the land bank must file an affidavit identifying the persons discovered under examination of title and the form of service executed. In turn, the court must schedule a hearing on the complaint within 90 days following filing of the complaint and must issue its final judgment within 120 days of the filing of the complaint.

Annual Reports: Annually, within 120 days after the end of the fiscal year, the land bank must submit an audit of income and expenditures, together with a report of its activities for the preceding year, to the Department of Community and Economic Development. It must provide a copy of these audit and report of activities to the governing body or multiple municipalities that created the land bank.

FISCAL IMPACT: This legislation would have no adverse fiscal impact on Commonwealth funds. The legislation presents the opportunity for municipalities to generate increased property tax revenue by moving blighted properties into productive use. It is impossible to predict the number of municipalities that will take advantage of this legislation and to predict the amount of tax revenue generated or expenses incurred.

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House Appropriations Committee (R)

DATE: October 17, 2012

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.