

New York's Land Bank Act



New York State Association
of Counties

November 2011



Mary Pat Hancock

President

Stephen J. Acquario

Executive Director



NEW YORK'S LAND BANK ACT

Vacant, abandoned, and tax-delinquent properties can scar a community. It can turn away new businesses or homeowners who may otherwise invest in your community.

With no authority to take control and redevelop these properties, local governments suffer loss of revenue, image problems and the cost of potential public health and safety mitigation.

To address this situation, Chapter 257 of the Laws of 2011 adds a new article 16 to the not-for-profit corporation law. This article allows municipalities to establish land banks for the purpose of acquiring real property that is tax delinquent, tax foreclosed, vacant, or abandoned. Once they establish a land bank, municipalities can then design, develop, construct, demolish, reconstruct, rehabilitate, renovate, relocate, and otherwise improve upon banked real property.

ESTABLISHING A LAND BANK

A land bank is established as a type C not-for-profit corporation pursuant to the not-for-profit corporation law. Any foreclosing governmental unit (FGU) may establish a land bank. An FGU is defined as any “tax district” as defined by the New York Real Property Tax Law. Two or more FGUs may enter into an agreement to create a single land bank. Additionally, one or more FGUs may enter into an agreement to create a single land bank with a municipality.

In order to create a land bank, an FGU must first adopt a local law, ordinance, or resolution establishing a land bank. This local law, ordinance, or resolution must state:

- ◆ the name of the land bank
- ◆ the number of members on the Board of Directors
- ◆ the names of the initial individuals to serve as members of the Board of Directors
- ◆ the term length of these initial board members
- ◆ the qualifications, manner of selection or appointment, and terms of office of members of the board
- ◆ the articles of incorporation for the land bank

The creation of a land bank is conditioned upon approval by the Urban Development Corporation. Once a county adopts a local law, ordinance or resolution establishing a land bank, it must be submitted to the Urban Development Corporation for review and approval. The new State Law permits only ten (10) land banks to be located in the state at any one time.

ACQUISITION OF PROPERTY BY A LAND BANK

A land bank may acquire property in a number of ways. It can be acquired through gift, devise, transfer, exchange, foreclosure, or purchase. Purchase contracts, lease purchase agreements, installment sales contracts, and land contracts are also permissible. Generally, a land bank may only acquire real property that is tax delinquent, tax foreclosed, vacant, or abandoned. However, the law provides for two exceptions to this rule. First, a land bank has the authority to acquire other types of real property from political subdivisions. Second, a land bank has the authority to enter into an agreement to purchase other real property consistent with an approved redevelopment plan.

A land bank is not permitted to own property outside of its jurisdictional boundaries. Where a county creates a land bank, it may only acquire real property located in those portions of such county located outside of the geographical boundaries of any other land bank created by any other FGU located partially or entirely within such county. However, pursuant to an

Powers Granted to a Land Bank

The powers granted to a land bank are quite broad. They include, but are not limited to:

- ♦ adopting, amend, and repeal its bylaws
- ♦ suing and be sued in its own name in all civil actions
- ♦ making contracts, give guarantees, and incur liabilities
- ♦ borrowing money at such rates of interest as the land bank may determine
- ♦ procuring insurance or guarantees from the State or Federal Government
- ♦ procuring insurance against losses
- ♦ entering into contracts and other instruments necessary to exercise the powers of the land bank
- ♦ investing the money of the land bank
- ♦ creating a redevelopment plan

intergovernmental agreement, a land bank may be granted the authority to manage and maintain real property located within the jurisdiction of another locality.

The New York State Land Bank Act does not permit a land bank to exercise eminent domain. Eminent domain is defined as the inherent power of a governmental entity to take privately owned property, especially land, and convert it to public use, subject to reasonable compensation for taking. This means that even if a local government possesses the power to lawfully acquire property by eminent domain, a land bank does not have the same power to do so. Instead, a local government would have to acquire such property first, and then convey it to a land bank. This may inhibit a land bank's ability to acquire certain property essential to the success of a redevelopment plan.

DELINQUENT PROPERTY TAX ENFORCEMENT

A municipality may enter into a contract to sell delinquent tax liens to a land bank. To do this, property owners must be given at least thirty days notice of such sale. A tax lien may be sold for more or less than its face value.

DISPOSITION OF PROPERTY BY A LAND BANK

A land bank may convey, exchange, sell, transfer, lease as lessor, grant, release and demise, pledge any and all interest in, upon or to real property of the land bank. FGUs may establish a hierarchical ranking of priorities for the use of real property conveyed by a land bank. Any property disposed of by a land bank may be used for a variety of purposes such as purely public places and spaces, affordable housing, retail, commercial, and industrial activities, or wildlife conservation areas.

PUBLIC DISCLOSURE

A land bank must provide a complete inventory of all property in its possession. The inventory must include the location of each parcel, the purchase price (if any), the current value assigned to the property for purposes of real property taxation, any amounts owed to the locality for real property taxation, the identity of the transferor, and any conditions or restrictions applicable to the property. When a new property is received, the inventory must be updated within a week of acquisition. Failure to comply with this requirement will render such acquisition null and void.

Additionally, a land bank must maintain a complete inventory of all real property dispositions. This inventory must contain 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.

FINANCING OF LAND BANK OPERATIONS

A land bank may receive funding through grants and loans from the FGU or FGU's which created the land bank. Funding may also be received from other municipalities, the State of New York, the Federal Government, and other public and private sources.

Additionally, a land bank may finance its activities through payments for services rendered, rents and leasehold payments received, consideration for disposition of real property, proceeds of insurance coverage for losses incurred, income from investments, and any other asset and activity lawfully permitted to a land bank under this article.

CONCLUSION

Vacant, abandoned, and tax-delinquent properties blight many communities throughout New York State. The presence and appearance of these properties discourages individuals and businesses from investing in a community. Additionally, many of these properties pose an imminent danger to health and safety. These conditions result in large costs and loss of revenue to local governments.

Through the creation of land banks, counties have the authority to acquire blighted properties and convert them into productive use. By converting these properties, communities and neighborhoods can be revitalized. These revitalized areas will be attractive to businesses and individuals seeking to invest. Properties that once resulted in large costs to a community will become generators of revenue. All counties faced with vacant, abandoned, and tax-delinquent properties within their borders should consider establishing a land bank.



The New York State Association of Counties is a bipartisan municipal association serving the counties of New York State including the City of New York. Organized in 1925, NYSAC mission is to represent, educate and advocate for member counties and the thousands of elected and appointed county officials who serve the public.

November 2011

© 2011 New York State Association of Counties