



**Empire State** Development

# **Land Bank Approval**

## **GUIDELINES**

November 2011

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## **I. STATUTORY AUTHORITY**

New York State's Land Bank Program was established with enactment of Article 16 of the New York State Not-for-Profit Corporation Law (the "Act"). Pursuant to the provisions of the Act, governmental entities that possess the power to foreclose on tax liens are permitted to create a not-for-profit corporation whose purpose is to facilitate the return of vacant, abandoned, and tax delinquent properties to productive use. Pursuant to Section 1603 of the Act, the creation of a land bank is conditioned upon approval of the New York State Urban Development Corporation d/b/a Empire State Development ("ESD"). The Act further limits the number of land banks permitted to be created in the state to ten. These guidelines set forth the process and criteria for ESD approval of these land banks.

## **II. BACKGROUND**

### **A. Purpose**

The Legislative intent of the Act found and declared that New York's communities are important to the social and economic vitality of the state and that whether urban, suburban or rural, many communities are struggling to cope with vacant, abandoned and tax delinquent properties.

In order to combat the problem of vacant and abandoned properties, the Act permits local communities to create land banks to 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 and/or abandoned, and to use the tools of the Act to eliminate the harms and liabilities caused by such properties.

### **B. Application Dates**

Pursuant to Section 1603(g) of the Act, the number of land banks permitted to be created within New York State is ten (10). ESD anticipates approving applications to create land banks in several rounds with the first round of approvals occurring in early 2012. The number of land banks approved in the first application round will depend on the number and quality of applications received, but will not exceed five (5). In order to be considered for approval, applications must be submitted to ESD in accordance with these guidelines by **3:00 PM on MARCH 30, 2012**. Deadlines for submitting applications for subsequent rounds will be posted on the ESD website at <http://www.esd.ny.gov/>. Applications not approved by ESD may be submitted in later rounds for consideration.

### **III. APPLICATION PROCESS**

#### **A. Legal Requirements**

In order to be considered for approval as a land bank, the Act requires the following requirements be met:

1. The applicant must be a Foreclosing Government Unit (“FGU”).
2. The applicant must have adopted a local law, ordinance or resolution which specifies the following:
  - i. the name of the land bank;
  - ii. 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 eleven members;
  - iii. the initial individuals to serve as members of the board of directors, and the length of terms for which they are to serve;
  - iv. the articles of incorporation for the land bank, which shall be filed with the secretary of state in accordance with the provisions of the Act.
3. If two or more FGUs and/or municipalities agree to the creation of a single land bank, execution of an intergovernmental cooperation agreement authorized pursuant to a local law, ordinance or resolution of each FGU and which includes provisions for dissolution of the land bank.
4. If a school district participates in a land bank, the execution of an intergovernmental cooperation agreement with the FGU(s) that created the land bank, which provides for 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.
5. The composition and activities of the land bank’s board must comply with Section 1605 of the Act.

#### **B. Application Requirements**

Applicants seeking to create a land bank in accordance with the provisions of the Act must submit the following to the ESD Regional Office prior to the applicable application deadline in order to be considered:

1. A completed application available on the ESD website.
2. A copy of the local law(s), ordinance(s) and/or resolution(s) by the FGUs and/or municipalities setting forth the matters specified in Section 1603(a) of the Act.
3. Copies of any intergovernmental agreements as may be required by Sections 1603(b), (c) and (e) of the Act.
4. A copy of the proposed certificate of incorporation and by-laws of the land bank.
5. A copy of the Non-Discrimination and Affirmative Action policy of the land bank that at a minimum, shall state that the land bank shall not discriminate upon the basis of

race, creed, color, sex or national origin and that any transferee or purchaser of land bank property and every successor in interest in such property shall not discriminate upon the basis of race, creed, color, sex or national origin in the sale, lease or rental, or in the use or occupancy of the property or improvements erected or to be erected thereon or any part thereof.

#### **IV. CRITERIA FOR ASSESSMENT OF APPLICATIONS**

Applications for approval of a land bank will generally be assessed according to the following criteria:

- The nature and extent of intergovernmental cooperation among FGUs, municipalities, and school districts, and the flexibility of the proposed land bank in expanding to include additional local governments in the future.
- The nature and extent of the aggregate inventory of vacant, abandoned, tax-delinquent and tax foreclosed properties within the jurisdiction of the FGU.
- The nature and extent of capacity of the participating FGUs and municipalities to undertake acquisition, management and disposition of land bank real property, whether through existing agencies, departments and authorities, through contracts with public or private third parties, or through employees of the proposed land bank, including preliminary decisions with respect to staff of the land bank as described in Section 1606 of the Act.
- The priorities for use of real property upon disposition by the land bank, as described in Section 1609(e) of the Act.
- The nature and extent of proposed financial resources to be made available to the land bank by the FGU and participating municipalities in accordance with Section 1610(a) of the Act.
- The nature and extent of authorization for sharing of future property tax revenues in accordance with Section 1610(c) of the Act.
- The willingness of a municipality to sell to the land bank some or all of the delinquent tax liens in accordance with Section 1616 of the Act.
- The projected inventory that may be transferred to the land bank in accordance with Section 1616(h) of the Act.
- The projected inventory that may be acquired by the land bank in accordance with Section 1616(i) of the Act.
- A range of diversity in the socio-economic characteristics of the FGUs submitting proposals to the ESD in order that maximum benefit can be achieved across the state from utilization of this new tool.
- A range of diversity in the nature of the inventory that is to be the focus of the work of a land bank.

- A range of diversity in the extent of intergovernmental collaboration and cooperation reflected in the land bank proposals.
- A range of diversity in the stated mission of the proposed land banks (i.e. blight elimination, affordable housing development, market rationalization/stabilization, greening, etc.).
- The extent that the geographic area of a land bank includes or is part of a distressed community.

In addition to the criteria noted above, ESD shall approve land bank applications in a geographic proportional manner across the state and shall have the discretion to consider additional factors in determining the relative merits of any land bank application.

## **V. APPLICATION APPROVAL PROCESS**

### **A. Review and Approval of Land Bank Applications**

Applications submitted by the appropriate deadline will be reviewed by ESD staff to ensure compliance with the provisions of the Act. ESD staff may request additional information and documentation from applicants as needed. In addition, ESD staff may meet with applicants to review the application details as part of the application review process. Upon completion of the application review by ESD staff, recommendations for approval of a land bank will be made to the ESD Board of Directors in accordance with the criteria specified in these guidelines. Land banks may not be created until approval of the ESD Board of Directors.

### **B. Reporting Requirements**

Approved land banks shall report annually to ESD on or before March 15. Reports shall include a copy of the written report required pursuant to Section 1612(c) of the Act and any other documentation reasonably requested by ESD.

### **C. Terms and Conditions**

1. ESD reserves the right to approve applications under different terms and criteria than contained in these guidelines.
2. ESD reserves the right to review and reconsider application approvals in the event of material changes in the application submitted to ESD or in the event that the land bank has not been formed or utilized in a manner consistent with the provisions of the Act.

## VI. DEFINITIONS

**“Act”** shall mean Article 16 of the New York State Not-for-Profit Corporation Law.

**“Applicant”** shall mean a foreclosing government unit as defined in the Act.

**“Board of Directors”** or **“Board”** shall mean the board of directors of a land bank.

**“Land Bank”** shall mean a land bank established as a type C not-for-profit corporation established in accordance with the Act.

**“Foreclosing Governmental Unit”** or **“FGU”** shall mean a “tax district” as defined in subdivision six of section eleven hundred two of the New York State Real Property Tax Law.

**“Municipality”** shall mean a city, village, town or county other than a county located wholly within a city.

**“School District”** shall mean a school district as defined under the New York State Education Law.

**“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.

**“Distressed Communities”** shall mean areas determined by ESD meeting certain criteria indicative of economic distress, including land value, employment rate, rate of employment change, private investment, economic activity, percentages and numbers of low-income persons, per capita income and per capita real property wealth, and such other indicators of distress as ESD shall determine.

**“Region”** shall mean the regions of New York State established pursuant to section 230 of the Economic Development Law.

## **VII. ESD REGIONAL OFFICES and COUNTIES SERVED**

### **Capital Region**

#### **Albany, Columbia, Greene, Rensselaer, Saratoga, Schenectady, Warren and Washington**

Empire State Development  
Hedley Park Place  
433 River Street, Suite 1003  
Troy, NY 12180  
P: 518-270-1130

### **Central New York**

#### **Cayuga, Cortland, Madison, Onondaga and Oswego**

Empire State Development  
620 Erie Boulevard West - Suite 112  
Syracuse, NY 13204  
P: 315-425-9110

### **Finger Lakes**

#### **Genesee, Livingston, Monroe, Ontario, Orleans, Seneca, Wayne, Wyoming and Yates**

Empire State Development  
400 Andrews Street - Suite 100  
Rochester, NY 14604  
P: 585-325-1944

### **Long Island**

#### **Nassau and Suffolk**

Empire State Development  
150 Motor Parkway, Suite 311  
Hauppauge, New York 11788  
P: 631-435-0717

### **Mid-Hudson**

#### **Dutchess, Orange, Putnam, Rockland, Sullivan, Ulster and Westchester**

Empire State Development  
33 Airport Center Drive - Suite 201  
New Windsor, NY 12553  
P: 845-567-4882

**Mohawk Valley**

**Fulton, Herkimer, Montgomery, Oneida, Otsego and Schoharie**

Empire State Development

207 Genesee Street

Utica, NY 13501

P: 315-793-2366

**North Country**

**Clinton, Essex, Franklin, Hamilton, Jefferson, Lewis and St. Lawrence**

Empire State Development

Dulles State Office Building

317 Washington Street, 2<sup>nd</sup> Floor

Watertown, NY 13601

P: 315-785-7931

**New York City**

**Bronx, Brooklyn, Manhattan, Queens and Staten Island**

Empire State Development

633 Third Avenue

New York, NY 10017

P: 212-803-3130

**Southern Tier**

**Broome, Chemung, Chenango, Delaware, Schuyler, Steuben, Tioga and Tompkins**

Empire State Development

Binghamton Office State Office Building

44 Hawley Street, Room 1508

Binghamton, NY 13901

P: 607-721-8605

**Western New York**

**Allegany, Cattaraugus, Chautauqua, Erie and Niagara**

Empire State Development

95 Perry Street, Fifth Floor

Buffalo, NY 14203

P: 716-846-8200