

HOUSE BILL No. 5450

November 1, 2001, Introduced by Reps. Thomas, DeRossett, Jacobs, Kolb, Garza and McConico and referred to the Committee on Land Use and Environment.

A bill to provide for the creation of local land banks to assist municipalities in the assembly and clearance of title to property located in the municipality in a coordinated manner; to facilitate the use and development of certain property; to promote economic growth; to prescribe the powers and duties of a land bank; to provide for the creation and appointment of a board to govern a land bank and to prescribe its powers and duties; to authorize the acquisition, maintenance, and disposal of interests in real and personal property; to authorize the conveyance of certain properties by a municipality or a municipal official to the land bank; to authorize the enforcement of tax liens and the clearing or quieting of title by the land bank; to provide for the distribution and use of revenues collected or received by the land bank; to prescribe powers and duties of certain public entities and state and local officers and agencies; to authorize

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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 from tax; and to extend protections against certain liabilities to the land bank.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "Michigan municipal land bank act".

3 Sec. 2. As used in this act:

4 (a) "Board of directors" means the governing body of a land
5 bank appointed under section 5.

6 (b) "Chief executive officer" means the mayor or city man-
7 ager of a city, the president of a village, or the supervisor of
8 a township.

9 (c) "Governing body" means the legislative body of the
10 municipality.

11 (d) "Land bank" means a municipal land bank created under
12 section 3 or 4.

13 (e) "Municipality" means all of the following:

14 (i) A city.

15 (ii) A village.

16 (iii) A township in those areas of the township that are
17 outside of a village.

18 (iv) A township in those areas of the township that are in a
19 village upon the concurrence by resolution of the village.

20 (f) "Overlapping taxing jurisdiction" means this state or
21 any local unit of government levying general ad valorem taxes or
22 specific taxes upon property located within the municipality.

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

3 (i) The property was conveyed to this state under section
4 67a of the general property tax act, 1893 PA 206, MCL 211.67a,
5 and was subsequently either redeemed by a municipality under sec-
6 tion 74 or 131c of the general property tax act, 1893 PA 206, MCL
7 211.74 and 211.131c, or was transferred to a municipality by this
8 state under section 131 of the general property tax act, 1893 PA
9 206, MCL 211.131, or section 2101 or 2102 of the natural
10 resources and environmental protection act, 1994 PA 451, MCL
11 324.2101 and 324.2102.

12 (ii) The property subject to forfeiture, foreclosure, and
13 sale for the collection of delinquent taxes as provided in sec-
14 tions 78 to 79a of the general property tax act, 1893 PA 206, MCL
15 211.78 to 211.79a.

16 Sec. 3. (1) Except as provided in subsection (2), a munici-
17 pality may establish a land bank under section 4.

18 (2) In each municipality in which there exists, as of the
19 date on which the board of directors is appointed, more than 500
20 parcels of tax reverted property, a land bank may be created for
21 the municipality upon the appointment of a board of directors
22 under section 5(1).

23 (3) A land bank created by a municipality under subsection
24 (1) or (2) is a public body corporate, which may sue and be sued
25 in any court of this state. A land bank may exercise its powers
26 under this act within the jurisdiction of the municipality that
27 created it or for which it was created. A land bank possesses

1 all of the powers necessary to carry out the purpose for which it
2 was created. The enumeration of a power in this act shall not be
3 construed as a limitation upon the general powers of a land
4 bank.

5 Sec. 4. (1) If the governing body of a municipality deter-
6 mines that it is necessary and in the best interests of the
7 municipality to assemble or dispose of tax reverted property in a
8 coordinated manner to foster the development of that property and
9 to promote economic growth, the governing body may, by resolu-
10 tion, declare its intention to create and provide for the opera-
11 tion of a land bank.

12 (2) The resolution of intent under subsection (1) shall set
13 a date for a public hearing on a proposed resolution to create
14 the land bank. Notice of the public hearing shall be published
15 twice in a newspaper of general circulation in the municipality,
16 not less than 20 or more than 40 days before the date of the
17 hearing. The notice shall state the date, time, and place of the
18 hearing. A resident, taxpayer, or property owner of the munici-
19 pality or an official from an overlapping taxing jurisdiction has
20 the right to be heard at the public hearing in regard to the
21 establishment of the land bank.

22 (3) After the public hearing under subsection (2), if the
23 governing body of the municipality intends to establish a land
24 bank, it shall adopt, by majority vote of its members, a resolu-
25 tion establishing the land bank. The resolution is subject to
26 any applicable statutory or charter provisions in respect to the
27 approval or disapproval by the chief executive officer or other

1 officer of the municipality and the adoption of an ordinance over
2 his or her veto. The resolution shall take effect when filed
3 with the secretary of state.

4 (4) This section shall not apply to a land bank authorized
5 to be created under section 3(2).

6 Sec. 5. (1) A land bank shall be under the supervision and
7 control of a board of directors consisting of not less than 3 or
8 more than 9 members, as determined by the governing body of the
9 municipality for a land bank created under section 3(1) and by
10 the chief executive officer of the municipality for a land bank
11 created under section 3(2). Members shall be appointed by the
12 chief executive officer of the municipality. Of the members
13 first appointed, an equal number of the members, as near as is
14 practicable, shall be appointed for 1 year, 2 years, 3 years, and
15 4 years. After the initial appointment, each member shall serve
16 for a term of 4 years. An appointment to fill a vacancy shall be
17 made by the chief executive officer of the municipality for the
18 unexpired term only. A member shall hold office until the
19 member's successor is appointed. Members of the board of direc-
20 tors shall serve without compensation, but shall be reimbursed
21 for actual and necessary expenses. The board of directors shall
22 elect the chairperson of the board of directors. A member of the
23 board of directors may be removed for cause by the chief execu-
24 tive officer as provided in subsection (4).

25 (2) The chief executive officer of the municipality may
26 appoint employees of the municipality as members of the board of
27 directors. Members of the governing body or any other elected

1 official of the municipality shall not be appointed as members of
2 the board of directors. Before assuming the duties of office, a
3 member shall take and subscribe to the constitutional oath of
4 office provided in section 1 of article XI of the state constitu-
5 tion of 1963.

6 (3) The business that the board of directors may perform
7 shall be conducted at a public meeting of the board of directors
8 held in compliance with the open meetings act, 1976 PA 267, MCL
9 15.261 to 15.275. Public notice of the time, date, and place of
10 the meeting shall be given in the manner required by the open
11 meetings act, 1976 PA 267, MCL 15.261 to 15.275. The board of
12 directors shall adopt rules consistent with the open meetings
13 act, 1976 PA 267, MCL 15.261 to 15.275, governing its procedure
14 and the holding of regular meetings. A special meeting may be
15 held if called in the manner provided in the bylaws of the board
16 of directors.

17 (4) After notice and an opportunity to be heard, a member of
18 the board may be removed for cause by the chief executive officer
19 of the municipality. Removal of a member is subject to review by
20 the circuit court of the county in which the municipality that
21 created the land bank is located.

22 (5) A writing prepared, owned, used, in the possession of,
23 or retained by the board of directors in the performance of an
24 official function shall be made available to the public in com-
25 pliance with the freedom of information act, 1976 PA 442, MCL
26 15.231 to 15.246.

1 Sec. 6. (1) The board of directors may employ and fix the
2 compensation of a director and other employees considered
3 necessary by the board of directors. The board of directors
4 shall prescribe the duties of the director and its employees.

5 (2) The director shall serve at the pleasure of the board of
6 directors. A member of the board of directors is not eligible to
7 hold the position of director. Before entering upon the duties
8 of his or her office, the director shall take and subscribe to
9 the constitutional oath of office provided in section 1 of arti-
10 cle XI of the state constitution of 1963 and shall post a bond in
11 an amount determined by the board of directors. The bond shall
12 be payable to the authority for the use and benefit of the land
13 bank, approved by the board, and filed with the clerk of the
14 municipality. The premium on the bond is an operating expense of
15 the land bank, payable from funds available to the land bank for
16 expenses of operation. The director is the chief executive offi-
17 cer of the land bank. Subject to the approval of the board of
18 directors, the director shall supervise, and be responsible for,
19 the performance of the functions of the land bank under this
20 act. The director shall attend the meetings of the board of
21 directors, and shall provide the board of directors and the gov-
22 erning body of the municipality a regular report describing the
23 activities and financial condition of the land bank. If the
24 director is absent or disabled, the board of directors may desig-
25 nate a qualified person as acting director to perform the duties
26 of the office. Before entering upon the duties of his or her
27 office, the acting director shall take and subscribe to the

1 constitutional oath of office provided in section 1 of article XI
2 of the state constitution of 1963, and furnish a bond as provided
3 in this subsection. The director shall furnish the board of
4 directors with information or reports governing the operation of
5 the land bank as the board of directors require.

6 (3) The board of directors may employ and fix the compensa-
7 tion of a treasurer, who shall keep the financial records of the
8 land bank and who, together with the director, shall approve all
9 expenditures of funds of the land bank. The treasurer shall per-
10 form any other duties delegated by the board of directors and
11 shall furnish a bond in an amount prescribed by the board of
12 directors.

13 (4) The board of directors may employ and fix the compensa-
14 tion of a secretary, who shall maintain custody of the official
15 seal of the land bank and of records, books, documents, or other
16 papers not required to be maintained by the treasurer. The sec-
17 retary shall attend meetings of the board of directors and keep a
18 record of its proceedings, and shall perform any other duties
19 delegated by the board of directors.

20 (5) The board of directors may retain legal counsel to
21 advise the board of directors in the performance of its duties
22 and to represent the land bank in actions brought by or against
23 the land bank.

24 (6) The employees of a land bank may be eligible to partici-
25 pate in retirement and insurance programs of the municipality as
26 if they were employees of the municipality on the same basis as
27 employees of the municipality.

1 Sec. 7. (1) A land bank may acquire by gift, devise,
2 transfer, exchange, foreclosure, purchase, or otherwise on terms
3 and conditions and in a manner the land bank considers proper,
4 own, lease as lessor, convey, demolish, relocate, or rehabilitate
5 real or personal property, or rights or interests in real or per-
6 sonal property.

7 (2) Real property acquired by purchase may be by purchase
8 contract, lease purchase agreement, installment sales contract,
9 land contract, or otherwise. The land bank may purchase real
10 property or rights or interests in real property for any purpose
11 the land bank considers necessary to carry out the purposes of
12 its creation, including, but not limited to, 1 or more of the
13 following purposes:

14 (a) The use or development of property the land bank has
15 otherwise acquired.

16 (b) To protect or prevent the extinguishing of any lien,
17 including a tax lien, held by the municipality or imposed upon
18 property by the municipality or by any taxing unit for which the
19 municipality collects taxes.

20 (c) To facilitate the assembly of property for sale or lease
21 to any public or private person.

22 (3) A land bank may also acquire by purchase, on terms and
23 conditions and in a manner the land bank considers proper, prop-
24 erty or rights or interest in property from 1 or more of the fol-
25 lowing sources:

1 (a) The department of natural resources under section 2101
2 of the natural resources and environmental protection act, 1994
3 PA 451, MCL 324.2101.

4 (b) The county treasurer or this state in the exercise of
5 any right of redemption under section 74, 78g, or 131c of the
6 general property tax act, 1893 PA 206, MCL 211.74, 211.78g, and
7 211.131c, or in the exercise of any right of purchase assigned to
8 the land bank under section 8.

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

12 (4) A land bank may hold and own in its name any property
13 acquired by it or conveyed to it by the municipality, a county or
14 county treasurer, this state, or any other public or private
15 person, including property that is tax reverted property or prop-
16 erty without clear title.

17 (5) All deeds, mortgages, contracts, leases, purchases, or
18 other agreements regarding property, including agreements to
19 acquire or dispose of real property, may be approved by and exe-
20 cuted in the name of the land bank.

21 Sec. 8. (1) The chief executive officer of a municipality
22 that has created a land bank under this act may assign to the
23 land bank, and the land bank may exercise, any right to purchase
24 property or an interest in property held by the municipality
25 under the general property tax act, 1893 PA 206, MCL 211.1 to
26 211.157, or any right to redeem any property granted to the
27 municipality with respect to property subject to forfeiture,

1 foreclosure, and sale under the general property tax act, 1893
2 PA 206, MCL 211.1 to 211.157.

3 (2) The chief executive officer may convey to the land bank,
4 on terms, provisions, and conditions the chief executive officer
5 considers necessary or desirable 1 or more of the following:

6 (a) Upon recommendation of the chief executive officer and
7 approval of the governing body of the municipality, any real or
8 personal property or any interest in real or personal property
9 owned or held by the municipality.

10 (b) At the discretion of the chief executive officer, any
11 lien held by the municipality or imposed upon property by the
12 municipality or by any taxing unit for which the municipality
13 collects taxes.

14 (3) Any amount received by the land bank as payment of
15 taxes, penalties, or interest or from the redemption or sale of
16 property subject to a tax lien of any taxing unit for which the
17 municipality collects taxes shall be returned to the municipality
18 for distribution to the appropriate taxing unit.

19 (4) A land bank has all of the rights provided by law or
20 charter to the municipality to enforce and collect amounts
21 secured by a lien conveyed to or acquired by the land bank under
22 this act. A tax lien held by a land bank is a preferred or first
23 claim upon the property in the same manner as if the tax lien
24 were held by the municipality. The conveyance or acquisition of
25 a tax lien under subsection (2) that is imposed upon property by
26 the municipality or by any taxing unit for which the municipality
27 collects taxes shall not suspend or eliminate the accrual or

1 imposition of any interest, fee, or penalties imposed upon the
2 property, which shall continue to accrue as if the tax lien had
3 not been conveyed.

4 Sec. 9. A municipality may transfer private property taken
5 under the uniform condemnation procedures act, 1980 PA 87,
6 MCL 213.51 to 213.75, to the land bank, on terms and conditions
7 the municipality considers appropriate, which the municipality
8 considers necessary to allow for the use or redevelopment of
9 property that the land bank has otherwise acquired under
10 section 7(1). The taking, transfer, and use shall be considered
11 necessary for public purposes and for the benefit of the public.

12 Sec. 10. (1) A land bank may control, hold, manage, main-
13 tain, operate, repair, lease as lessor, secure, prevent the waste
14 or deterioration of, and take all other actions to preserve the
15 value of the property held by the land bank. A land bank may
16 also take or perform any of the following actions with respect to
17 property held or owned by the land bank:

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

21 (b) Fix, charge, and collect rents, fees, and charges for
22 use of property under the land bank's control.

23 (c) Pay any tax or special assessment due on property
24 acquired by the land bank.

25 (d) Take any action, provide any notice, or institute any
26 proceeding required to clear or quiet title to property held by

1 the land bank in order to establish ownership by and vest title
2 to the property in the land bank.

3 (2) In the exercise of its authority under this act and its
4 powers relating to property held by the land bank, the board of
5 directors shall have complete control as fully and completely as
6 if it represented private owners and shall not be subject to
7 restrictions imposed by the charter, ordinances, or resolutions
8 of the municipality. All powers and authority granted by this
9 act to a chief executive officer, governing body, or the board of
10 directors, including the authority to convey, transfer, or dis-
11 pose of property, may be exercised notwithstanding any local
12 charter provision to the contrary.

13 Sec. 11. (1) On terms and conditions and in a manner and
14 for consideration the land bank considers proper or for no mone-
15 tary consideration, the land bank may convey, sell, transfer,
16 exchange, lease as lessor, or otherwise dispose of real or per-
17 sonal property, or rights or interests in real or personal prop-
18 erty, in which the land bank holds a legal interest to any public
19 or private person. The transfer and use of property under this
20 section shall be considered a necessary public purpose and for
21 the benefit of the public.

22 (2) This section shall not authorize the land bank to sell
23 or convey any tax lien held by the land bank.

24 (3) Except as provided by section 8(3) or as otherwise
25 required by the terms of any conveyance to the land bank, any
26 proceeds received by the land bank may be retained by the land

1 bank for the purposes of this act or may be transferred to the
2 municipality.

3 Sec. 12. (1) In addition to the powers granted to a land
4 bank under this act, a land bank may also do 1 or more of the
5 following:

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

8 (b) Accept grants and donations of labor, or other things of
9 value, from a public or private source.

10 (c) Incur costs in connection with the performance of its
11 authorized functions, including, but not limited to, administra-
12 tive costs and architectural, engineering, legal, or accounting
13 fees.

14 (d) Study, develop, and prepare the reports or plans the
15 land bank considers necessary to assist it in the exercise of its
16 powers under this act and to monitor and evaluate the progress
17 under this act.

18 (e) Procure insurance against loss in connection with the
19 land bank's property, assets, or activities.

20 (f) Invest the money of the land bank at the land bank's
21 discretion in obligations determined proper by the land bank, and
22 name and use depositories for its money.

23 (g) Enter into agreements with the municipality or any other
24 local unit of government, this state or any department or agency
25 of this state, or an interlocal entity that the land bank deter-
26 mines to be necessary or convenient to fulfill the purposes of
27 this act.

1 (2) A municipality and any agency or department of a
2 municipality, or any other official public body, may do 1 or more
3 of the following:

4 (a) Anything necessary or convenient to aid the land bank in
5 fulfilling its purposes under this act.

6 (b) Lend, grant, transfer, appropriate, or contribute funds
7 to the land bank in furtherance of its purposes.

8 (c) Lend, grant, transfer, or convey funds to the land bank
9 that are received from the federal government or this state or
10 from any nongovernmental entity in aid of the purposes of this
11 act.

12 Sec. 13. (1) Subject to subsection (2), the land bank may
13 accept from a person with an interest in a parcel of property
14 located within the municipality a deed conveying that person's
15 interest in the property in lieu of foreclosure or sale of the
16 property for delinquent general ad valorem property taxes or
17 delinquent specific taxes levied against the property by the
18 municipality or an overlapping taxing unit.

19 (2) The land bank may not accept a deed in lieu of foreclo-
20 sure or sale of the tax lien attributable to taxes levied by the
21 municipality or an overlapping tax unit unless the municipality
22 or the overlapping taxing unit has adopted a resolution approving
23 the release of their tax lien. Upon approval of the release of a
24 tax lien, all of the unpaid general ad valorem taxes and specific
25 taxes levied on the property by the municipality or the overlap-
26 ping taxing unit, and the liens securing those levies, shall be
27 extinguished, whether or not recorded.

1 (3) Conveyance of a deed in lieu of foreclosure under this
2 section shall not affect or impair any other lien against that
3 property or any existing recorded or unrecorded interest in that
4 property, including future installments of special assessments,
5 liens recorded by this state, or restrictions imposed under the
6 natural resources and environmental protection act, 1994 PA 451,
7 MCL 324.101 to 324.90106, easements or right-of-ways, and private
8 deed restrictions, security interests and mortgages, or tax liens
9 of taxing units that have not approved a release of their tax
10 liens.

11 (4) Approval of the release of a tax lien against any prop-
12 erty held by the land bank may be granted at any time by the gov-
13 erning body of the municipality with respect to the
14 municipality's tax lien, the legislative body of any overlapping
15 taxing jurisdiction other than this state with respect to a tax
16 lien securing the levy imposed by the overlapping taxing juris-
17 diction, or the state treasurer with respect to a tax lien secur-
18 ing the state education tax under the state education tax act,
19 1993 PA 331, MCL 211.901 to 211.906.

20 Sec. 14. All property, income, and operations of a land
21 bank are exempt from taxation by this state or any political sub-
22 division of this state.

23 Sec. 15. For purposes of part 201 of the natural resources
24 and environmental protection act, 1994 PA 451, MCL 324.20101 to
25 324.20142, a land bank shall be considered a local unit of
26 government. The acquisition or control of property through
27 bankruptcy, tax delinquent forfeiture, foreclosure, or sale,

1 abandonment, transfer from a lender, court order, foreclosure,
2 forfeiture, circumstances in which the land bank has involun-
3 tarily acquired title or control by virtue of the performance of
4 any function permitted by the land bank under this act, or by
5 transfer of the property to the land bank by this state, an
6 agency or department of this state, or any political subdivision
7 of this state shall not subject the land bank to liability under
8 the natural resources and environmental protection act, 1994
9 PA 451, MCL 324.101 to 324.90106, unless the land bank is respon-
10 sible for an activity causing a release on the property. This
11 section shall not be considered to restrict or diminish any pro-
12 tection from liability under the natural resources and environ-
13 mental protection act, 1994 PA 451, MCL 324.101 to 324.90106,
14 that is otherwise available under law to the land bank.