



A SUMMARY OF HOUSE BILL 5450 AS INTRODUCED 11-1-01

The bill would create the Michigan Municipal Land Bank Act, under which a city, village, or township could establish a land bank with the power to acquire, hold, and dispose of real and personal property and interests in real and personal property. A municipality could create a land bank upon a determination that it was necessary and in its best interests to assemble or dispose of tax reverted property in a coordinated manner to foster the development of that property and to promote economic growth. In a municipality with more than 500 parcels of tax reverted property, a land bank would be created when the chief executive officer (e.g., the mayor) appointed a board of directors for the land bank. In other municipalities, a land bank would have to be created by resolution of the governing board of the municipality, following a public hearing for which notice had been provided twice at least 20 days and no more than 40 days prior to the hearing in a newspaper of general circulation. The resolution would take effect when filed with the secretary of state.

The bill would specify that in exercising its authority and its powers relating to property it held, the board of directors of a land bank would have complete control as fully and completely as if it represented private owners and would not be subject to restrictions imposed by the charter, ordinances, and resolutions of the municipality. All powers granted to a chief executive officer and governing body of a local unit, or to the board of directors of the land bank, including the authority to convey, transfer, or dispose of property, could be exercised notwithstanding any local charter provision to the contrary. All property, income, and operations of a land bank would be exempt from taxation by the state or any political subdivision of the state.

Board of Directors and Employees. A land bank would have a board of directors consisting of from three to nine members, as determined by the municipality's governing board or, in the case of the municipality with more than 500 tax reverted parcels, the chief executive officer of the municipality. Board members would be appointed by the chief executive officer of the municipality (a mayor of a city or city manager, a village president, or a township supervisor) and would serve four-year terms, although the initial terms would be staggered. A municipal employee could serve on the board but not an elected official of the municipality. The board would be subject to the Open Meetings Act and the Freedom of Information Act. The board of directors could employ and fix the compensation of a director and other employees; could employ and fix the compensation of a treasurer and secretary; and could retain legal counsel. The employees of a land bank could be made eligible for participation in municipal retirement and insurance programs as if they were municipal employees.

Acquisition of Property. A land bank could acquire real or personal property or rights or interests in real or personal property by gift, devise, transfer, exchange, foreclosure, purchase, or

otherwise and could own, lease as a lessor, convey, demolish, relocate, or rehabilitate real or personal property. Real property acquired by purchase could be purchased by contract, lease purchase agreement, installment sales contract, land contract, or otherwise. The land bank could purchase property for any purpose considered necessary to carry out the purposes of its creation, including 1) the use or development of property the land bank had otherwise acquired; 2) to protect or prevent the extinguishing of any lien, including a tax lien, held by a municipality or imposed on property by the municipality or any taxing unit for which the municipality collects taxes; and 3) to facilitate the assembly of property for sale or lease to any public or private person. The land bank could also purchase property or rights and interest in property from the Department of Natural Resources; the county treasurer or the state in the exercise of any right of redemption under the General Property Tax Act; or the Michigan State Housing Development Authority. A land bank could hold and own in its name any property acquired by it or conveyed to it by the municipality, a county, or a county treasurer, the state, or any other public or private person, including property that is tax reverted property or property without clear title. All deeds, mortgages, contracts, leases, purchases, or other agreements regarding property could be approved by and executed in the name of the land bank.

Assignments and Conveyance of Property by Municipality. The chief executive officer of a municipality could assign to a land bank any right to purchase property or interest in property held by the municipality under the General Property Tax Act, or any right to redeem any property granted to the municipality with respect to property subject to forfeiture, foreclosure, and sale under that act. Further, the chief executive officer could convey to the land bank, with the approval of the local governing body, any real or personal property or any interest in real or personal property owned or held by the municipality. At his or her own discretion, the chief executive officer could convey any lien held by the municipality or imposed on property by the municipality or by any taxing unit for which the municipality collects taxes. Any amount received by the land bank as payment of taxes, penalties, or interest from the redemption or sale of property subject to a tax lien would have to be returned to the appropriate taxing unit. A land bank would have all of the rights provided by law or charter to the municipality to enforce or collect amounts secured by a lien, and a lien would be a preferred or first claim on property in the same manner as if held by the municipality. The conveyance of a tax lien would not suspend or eliminate the accrual or imposition of any interest, fee, or penalties imposed on the property, which would continue to accrue as if the tax lien had not been conveyed.

Condemnation. A municipality could transfer private property taken under the Uniform Condemnation Procedures Act to the land bank when considered necessary to allow for the use or redevelopment of property that the land bank had otherwise acquired. The taking, transfer, or use would be considered necessary for public purposes and for the benefit of the public.

Preservation of Property Value. A land bank could control, hold, manage, maintain, operate, repair, lease as lessor, secure, prevent the waste or deterioration of, and take all other actions to preserve the value of the property it held. With respect to property it held or owned, a land bank could also grant or acquire a license, easement, or option as the board of directors considered necessary; fix, charge, and collect rents, fees, and charges; take any action, provide any notice, or institute any proceedings required to clear or quiet title to property in order to establish ownership and vest title to the property in the land bank.

Conveyance of Property by Land Bank. A land bank could convey, sell, transfer, exchange, lease as a lessor, or otherwise dispose of real or personal property, or rights or interest in real or personal property, in which it held a legal interest to any public or private person. (This would include transfers for no monetary consideration.) The transfer and use of property would be considered a necessary public purpose and for the benefit of the public. The land bank, however, would not be authorized to sell or convey any tax lien it held. Proceeds received from transfers could be retained by the land bank or transferred to the municipality.

Acceptance of Property In Lieu of Foreclosure. The land bank could accept a deed conveying a person's interest in property in lieu of foreclosure or sale of the property for delinquent specific taxes levied against the property by the municipality or an overlapping taxing unit. However, the acceptance of the deed would require a resolution by the municipality or overlapping taxing unit approving the release of its tax lien. Upon approval of the release of a tax lien, all of the unpaid general ad valorem taxes and specific taxes levied on the property, and the liens securing those taxes, would be extinguished. Other liens would not be affected or impaired, including future installments of special assessments, liens recorded by the state, restrictions imposed under the Natural Resources and Environmental Protection Act, easements, rights of way, private deed restrictions, security interests and mortgages, or tax liens of taxing units that had not approved a release.

Other powers. In addition to other powers, a land bank could adopt and revise bylaws; accept grants, donations of labor, and other things of value from public and private sources; incur costs, including administrative costs, and architectural, engineering, legal, and accounting fees; study, develop, and prepare reports or plans; procure insurance; invest its money; enter into agreements with any local unit of government, the state, or departments and agencies of the state, or with an interlocal entity. A municipality or any other official public body would be authorized to do anything necessary or convenient to aid the land bank in fulfilling its purposes; lend, grant, transfer, appropriate, or contribute money to the land bank; or pass on federal funds, state funds, or funds from a nongovernmental agency to the land bank.

Liability under NREPA. The land bank would be considered a local unit of government for the purposes of Part 201 of the Natural Resources and Environmental Protection Act (dealing with environmental remediation) and the acquisition or control of property would not subject the land bank to liability under NREPA unless it was responsible for an activity causing a release of hazardous substances on the property. The bill would specify that this provision would not be considered to restrict or diminish any protection from liability under NREPA that was otherwise available to the land bank.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.