

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

House Bill 1464

(Delegate Myers, *et al.*)

Environmental Matters

Education, Health, and Environmental Affairs

Land Bank Authorities - Establishment by Municipal Corporations

This bill authorizes the governing body of each municipal corporation to create a land bank authority. A land bank authority may acquire, rehabilitate, own, and sell or transfer properties. A land bank authority may establish a land acquisition fund and issue bonds for the purchase and rehabilitation of properties. A land bank authority does not have power of eminent domain and may not levy any tax or special assessment.

Fiscal Summary

State Effect: Special fund revenues may increase by a minimal amount from payment of State property taxes. Expenditures are not affected.

Local Effect: Municipal expenditures for land bank authorities would be funded by revenues generated from the authority; however, start-up costs would likely be covered by the local government establishing the authority. The impact on revenues cannot be reasonably ascertained at this time.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

Creation of a Land Bank Authority

The bill authorizes the legislative body of a municipal corporation, by ordinance, to create a land bank authority. A land bank authority is a body politic and corporate

instrumentality of the incorporating municipality. An ordinance creating a land bank authority must establish a board of directors and establish powers of the board as well as procedures for the appointment and removal of board members. An authority is required to comply with the State Open Meetings Act and must annually report its activities to the municipal corporation in which the authority is located.

General Authority of a Land Bank Authority

The land bank authority must be a nonprofit or quasi-governmental entity and may acquire land or an interest in land, structures, equipment, and furnishings located on a property and may contract for any services necessary for the rehabilitation of a property. The land bank authority may take all actions necessary to preserve the value of the property it holds or owns. The land bank authority may create, own, control, or be a member of a corporation, limited liability company, partnership, or other person, whether operated for profit or not for profit, for the purposes of developing property in order to maximize marketability.

Real property or an interest in real property may be acquired by gift, transfer, exchange, foreclosure, or purchase. The land bank authority may also own property acquired by or conveyed to the authority by the State, a local government, an intergovernmental agency, or any other public or private person, including tax foreclosed property and property without clear title. The authority is authorized to sell, lease, transfer, and dispose of the authority's property or interest in a property. The authority may also pay taxes or special assessments due and may take action to clear or quiet title in order to establish ownership and may abate violations of local and State building, fire, health, and related codes. Property acquired, owned, or sold by the authority may not be located outside of the municipality in which the authority is located.

Following an unsuccessful attempt on the part of the municipal corporation to collect outstanding liens at tax sale and subject to the approval of the local tax collecting unit, the owner of a parcel of tax delinquent property or tax sale property may convey a deed or assignment of that person's interest in the land to a land bank authority. The bill specifies that a transfer of a person's interest does not affect or impair liens recorded by the State, easements or rights of way, security interests and mortgages, or tax liens of other taxing jurisdictions or a foreclosing governmental unit that does not consent to a release of their liens.

Bond Authorization of a Land Bank Authority

A land bank authority is authorized to issue bonds to pay the cost of acquiring or improving property. An authority is also authorized to fund or refund those bonds;

purchase bonds with available funds; and hold, pledge, or cancel bonds. An authority is authorized to issue bond anticipation notes in the same manner as bonds.

For each issuance of bonds, an authority must pass a resolution that specifies and describes the project for which the proceeds will be used; describes the public purpose and the financing transaction to be accomplished; specifies the maximum principal amount of the bonds; and, any other terms or conditions on the issuance the authority considers appropriate. Any bonds issued may not exceed a term to maturity of 50 years.

The bill specifies that bonds are securities and not to be considered a debt or liability of the State or a political subdivision of the State. A land bank authority may pledge its full faith and credit in connection for the issuance of a bond and may establish a trust agreement with bondholders containing provisions pledging methods of securing payment.

Current Law: Chapter 468 of 2008 authorized Baltimore City to create a land bank authority with powers similar to those specified in the bill. Baltimore City has not yet exercised this authority.

Tax sales of real property are a common method used by local governments to collect delinquent property taxes. When a property is purchased at tax sale, the purchaser must pay to the tax collector any delinquent taxes, penalties, sale expenses, and, under certain conditions, a high bid premium. The remainder of the purchase price is not paid to the collector until the purchaser forecloses the property. The delinquent property owner has the right to redeem the property within six months from the date of tax sale by paying the delinquent taxes, penalties, interest, and certain expenses of the purchaser.

If a property is offered for tax sale and there is no private purchaser, each county or other taxing agency must buy and hold the property. The governing body of a county or other taxing agency has the same rights and remedies with regard to other purchasers, including the right to foreclose.

Each county has a local tax collector which is considered the local tax collecting unit for State and county property taxes in that county. A municipal corporation or a special taxing district may request the county tax collector to collect municipal property taxes on its behalf.

Background: Land bank authorities operate in several states and cities; the first land bank was created in 1971 in St. Louis, Missouri. This was followed by Cleveland, Ohio in 1976; Louisville, Kentucky in 1989; Atlanta, Georgia in 1991; and most recently Genesee County, Michigan in 2002. The impetus for the creation of land bank authorities lies with the timely process involved with acquiring property through tax sale and the

fractured form in which some governments acquire property for the purpose of redevelopment.

State Fiscal Effect: Special fund revenues could increase by a minimal amount from payment of State property and transfer taxes. The amount of any increased tax revenues would depend on the number of land bank authorities created and the number of properties that are acquired and developed by these authorities. Properties sold or leased by an authority to private entities are subject to State and local property taxes from the time of sale or lease.

Local Revenues: The impact on county and municipal tax revenues within a jurisdiction that creates a land bank authority cannot be reliably estimated at this time. Assuming that the majority of property taxes owed on properties acquired by an authority are uncollectible, the revenue impact would not be significant. To the extent that a land bank authority is able to redevelop land into taxable properties, local property tax revenues may increase. The ability of a land bank authority to redevelop land would be dependent on obtaining funding through bond issuance or partnership with nongovernmental entities.

Presumably, properties with municipal property taxes in arrears will also have delinquent county property taxes as well. For most municipalities in the State the county is the local tax collecting unit, so county approval would be required to transfer a property to a land bank authority. According to the most recently available estimate (February 2004), 34 municipalities are the local tax collecting unit for municipal taxes. For these municipalities it is assumed that a county government would be required to release its lien on a property before transferring it to a land bank authority.

Local Expenditures: A municipal corporation that creates a land bank authority would need to provide start-up funding for the creation of an authority. The expenses involved would vary by jurisdiction depending on the amount of municipal personnel who would become employees of a newly created authority, the number of additional staff required, and if additional office space or equipment were required. It is assumed that the ongoing operating expenditures of a land bank authority would be self-funded by the activities of the authority.

A municipal corporation that creates a land bank authority could realize an operational benefit due to the ability of an authority to acquire property in lieu of delinquent taxes owed to a county, municipal corporation, or other taxing jurisdiction. Allowing an authority to acquire property through conveyance instead of foreclosure would expedite the process in which properties could be acquired and redeveloped.

Small Business Effect: To the extent that a land bank authority increases the amount of redevelopment in an area, small businesses located in that area or that later locate within a redeveloped area would benefit.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Charles, Frederick, Montgomery, and Somerset counties; Baltimore City; City of Bowie; State Department of Assessments and Taxation; Maryland Municipal League; Judiciary (Administrative Office of the Courts); Department of Legislative Services.

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Analysis by: Erik P. Timme

Direct Inquiries to:
(410) 946-5510
(301) 970-5510