



Land Banks

**Citizens Advisory Council
July 21, 2021**



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An Lewis
Tri-COG Land Bank



Andrea Mannino
Housing Alliance of PA

Speakers

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Consultant, Attorney, Nonprofit Leader

Wrote the [Pennsylvania Land Bank Resource Guide](#) (2016)

Branton Strategies LLC – help local governments, non-profit organizations, and communities develop successful strategies for combating blight and returning vacant, abandoned and tax-delinquent properties to productive use

Law Office of Winifred M. Branton - serve as Solicitor to the Delaware County Controller; advise clients regarding the redevelopment of blighted, abandoned and tax delinquent properties

[Pennsylvania Resources Council](#) – serve as President of the Board of Directors of PRC, Pennsylvania's oldest grassroots environmental nonprofit organization



The Problem

- Long term vacant, abandoned, tax delinquent properties
- Stuck in the market due to liens, taxes, tangled titles
- Owners unwilling or unable to comply, deceased, or otherwise not in the picture

A Land Bank is a tool to help return these properties to productive use. Not the only tool. Requires significant human and financial resources.

The Problem



The Need for Land Banks in Pennsylvania

Problem properties represent an enormous economic and community development opportunity for Pennsylvania.

Land banks can help local governments capitalize on this opportunity by creating a modern, transparent, and efficient system for recycling underused properties on a community-wide scale and getting them back onto the market and into productive use.

EXISTING CYCLE



**LAND BANK
CLEARS TITLE
AND
RETURNS LAND TO USE**

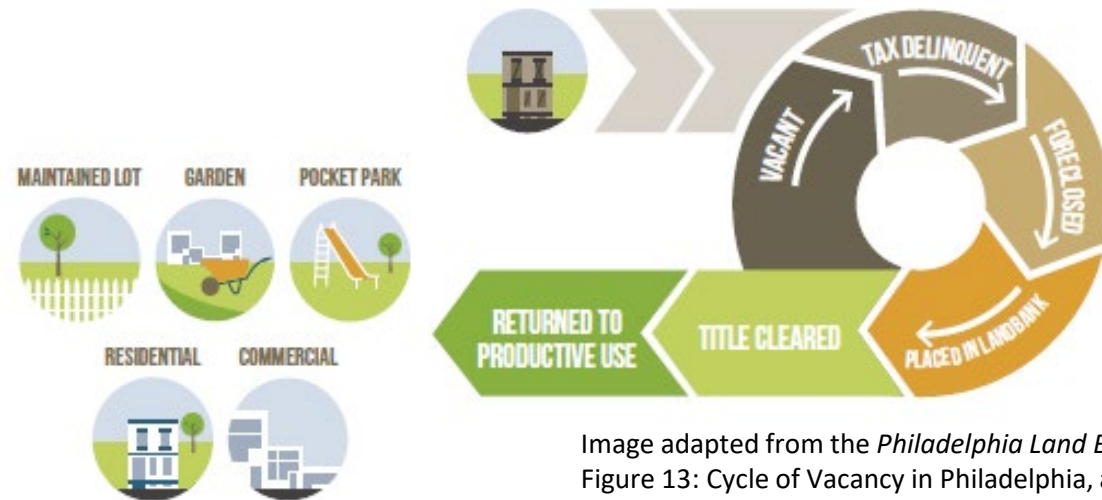


Image adapted from the *Philadelphia Land Bank Strategic Plan*, Figure 13: Cycle of Vacancy in Philadelphia, at 31, <http://www.philadelphialandbank.org/about/strategic-plan/>.



What is a Land Bank?

A governmental entity whose single purpose is to convert vacant, abandoned and tax-delinquent properties to productive use.

Why Land Banks?

- Proven tool for attacking blighted properties
- Remove barriers to getting problem properties back on the tax rolls
- Uniform, predictable and transparent process
- Central hub for blight prevention and remediation efforts



PA Land Bank Law

The PA Land Bank Law authorizes the formation of land banks and prescribes governing and operating requirements.

[68 Pa.C.S. §§ 2101-2120](#)

Land banks can take many forms and touch communities of all kinds.

Options:

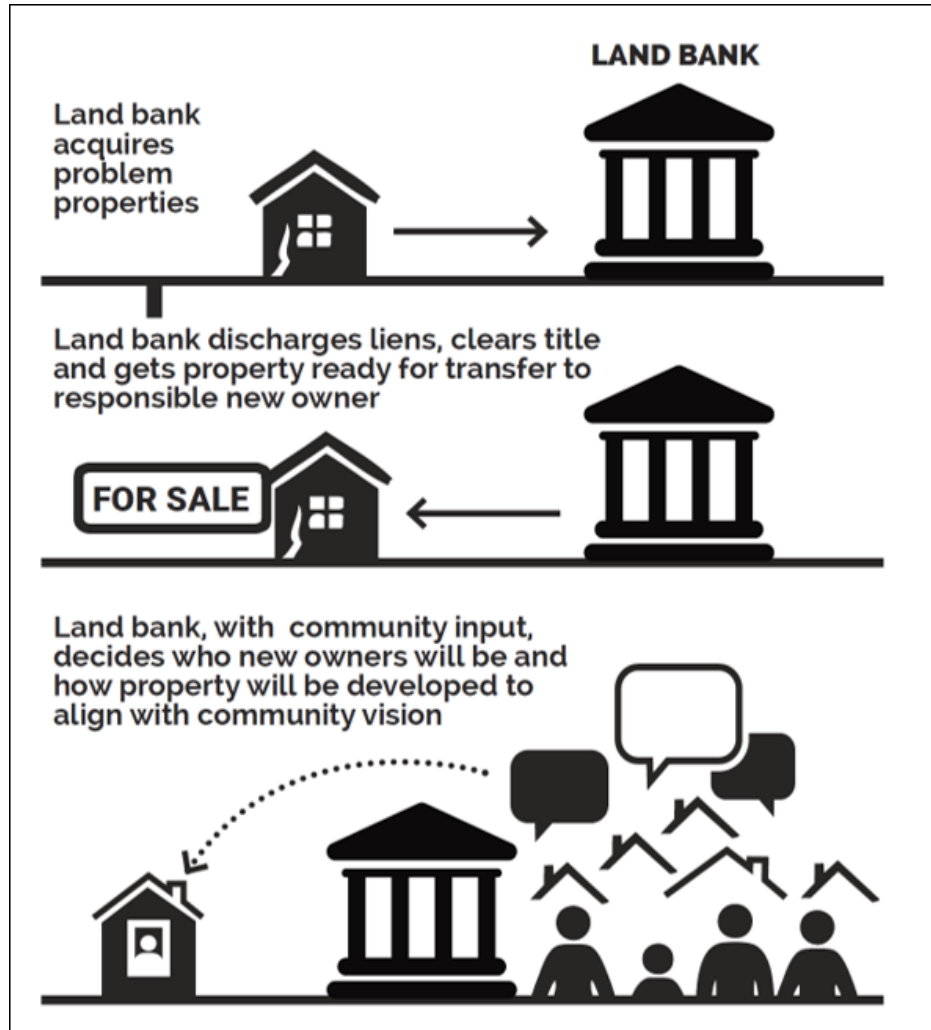
Create a land bank

- Counties
- Municipalities with at least 10,000 residents
- One or more municipalities acting jointly

Designate redevelopment authority to act as land bank

- “land bank jurisdictions” in counties of the second A, third, fourth, fifth, sixth, seventh or eighth class

How Does a Land Bank Work?



- Land banks can efficiently acquire, hold, manage, develop and return blighted, abandoned, and tax foreclosed properties to productive use.
- Locally-driven strategy to address long-term vacant properties that are stuck in the market.

How Does a Land Bank Work?

- Side lot dispositions
- New and rehabbed housing
- Brownfield redevelopment
- Parks and community spaces
- Green infrastructure



Image credit: Philadelphia Land Bank

What are a Land Bank's Key Powers?

- **Acquire** property in various ways
- **Maintain** and hold property in accordance with local standards
- **Dispose** of property in accordance with local plans and priorities
- **Extinguish tax liens** on property it owns
- **Quiet title** to property expeditiously
- Hold property **tax exempt**
- Negotiate sales and **avoid auctions to highest bidder**
- Convey property for **other than monetary consideration**

What Can't a Land Bank Do?



Image credit: Housing Alliance of PA

- Eminent domain
- Make a weak real estate market strong
- Act alone
- Eliminate all blight

How Does a Land Bank Work?

★ Acquisition of Tax Delinquent Properties ★

Land Banks have **special power** to acquire tax delinquent properties at judicial tax sales through a **priority bid**

- Land bank negotiates agreement in advance with the county tax claim bureau
- Exercises priority bid and acquires property at the judicial sale
- Does not have to compete with other bidders at the public auction
- Gives local governments a new tool for protecting against real estate speculators

Accessing Land Bank Properties

Land banks acquire improved and vacant lots, many of which are blighted and in need of significant investment.

Land banks may sell, transfer, lease or mortgage interests in land bank property in the form and by the method determined to be in the land bank's best interest.

Unlike local governments, a land bank is not required to sell its property to the highest bidder through a request-for-proposal process, at a public auction, or by any other means.

Land banks can establish minimum developer requirements and help responsible investors, developers, and contractors gain access to properties they are seeking to develop.

Land banks can work with government departments and agencies to address brownfields and other properties with environmental concerns.

Land Banks and Environmental Stewardship



Source: www.triblive.com

- Makes urban land available and prevents sprawl
- Makes land available for urban agriculture, green infrastructure, community gardens, open space, parks and trails
- Promotes rehab of residential and commercial buildings

How Does a Land Bank Work?

Brownfields Partner for Economic Development

Lace Building Affiliates LLP, a developer converting the historic Scranton Lace Works, a brownfield, into a residential and commercial "village," acquired a burned-out adjacent property for \$10,000 from the Lackawanna County Land Bank.



How Does a Land Bank Work?

Community Gardens

The Philadelphia Land Bank is working with Neighborhood Gardens Trust to preserve community gardens cultivated on publicly and privately owned vacant lots that were neglected, overgrown, trash dumping grounds. Neighborhood residents and community groups have tended these gardens for years, creating spaces for growing healthy and nutritious fruits and vegetables. The Land Bank acquires the properties and transfers them to NGT.



Image source: PHDC

How Does a Land Bank Work?

Affordable Housing Partner



and

Dauphin County Land Bank

- Rehab in Steelton Borough
- Two residential units
- Borough deeded property to Land Bank for \$1
- County gaming grant for materials
- Sweat equity for labor



Environmental Liability

Acquisition of property by land bank at tax sale or otherwise under section 2117 of the Act (Delinquent Property Tax Enforcement) is deemed an *involuntary transfer* under the *Hazardous Sites Cleanup Act*.

(Land Bank Act, § 2117(f))



Former Monsour Hospital, City of Jeannette, Westmoreland County

Environmental Liability

Section 2117(e) of the Land Bank Law was a good first step, but not enough.

Land banks are acquiring properties. As an owner, a land bank may be liable for legacy contamination on the property under state and federal environmental laws.

Providing land banks with environmental liability protection will encourage land banks to pursue the redevelopment of brownfields.

Environmental Liability

HB 610

Pending bill to amend the definition of “Economic Development Agencies” in Act 3 to include land banks.

The Economic Development Agency, Fiduciary and Lender Environmental Liability Protection Act (Act 3 of 1995)

“My legislation would grant the same protections to land banks that are presently given to redevelopment authorities when they are dealing with brownfields. As we all know, there are numerous former industrial or commercial sites such as gas stations, dry cleaners, junkyards and landfills throughout the state where the future use is clouded by environmental concerns. This change in law would allow land banks to own these properties and develop a re-use plan for them without worrying that it would have to take on the liability of enforcement action from the DEP.”


Representative Austin A. Davis (D- 35)
Sponsor of HB 610

Environmental Liability

Current definition in Act 3:

"Economic development agencies." The term includes:

- (1) Any redevelopment authority created under the act of May 24, 1945 (P.L.991, No.385), known as the Urban Redevelopment Law, and any nonprofit corporation created and controlled by a redevelopment authority to carry out its statutory purpose.
- (2) Any industrial development agency as that term is defined in the act of May 17, 1956 (1955 P.L.1609, No.537), known as the Pennsylvania Industrial Development Authority Act.
- (3) Any industrial and commercial development authority created under the act of August 23, 1967 (P.L.251, No.102), known as the Economic Development Financing Law.
- (4) Any area loan organization as that term is defined in the act of July 2, 1984 (P.L.545, No.109), known as the Capital Loan Fund Act.
- (5) Any other Commonwealth or municipal authority which acquires title or an interest in property.
- (6) Municipalities or municipal industrial development or community development departments organized by ordinance under a home rule charter which buy and sell land for community development purposes.
- (7) Tourist promotion agencies or their local community-based nonprofit sponsor which engage in the acquisition of former industrial sites as part of an "Industrial Heritage" or similar program.
- (8) Conservancies engaged in the renewal or reclamation of an industrial site.



Land Bank Participation in the Land Recycling Program

What are Land Banks?

Land Banks are public entities, which local municipalities or public bodies may establish pursuant to the Land Bank Legislation (Land Bank Act), Act 53 of 2012, 68 Pa. C.S. §§ 2101-2120, which promotes the redevelopment of certain vacant, abandoned, and tax-delinquent properties that otherwise pose local health and safety concerns and generate minimal to no tax revenue. The Land Bank Act authorizes a local governing body to establish a Land Bank through ordinance, which may then acquire and direct the redevelopment of local property to the benefit of the local community.

For more information about the Land Bank Act, please visit:
www.legis.state.pa.us/WU014/LUUS/HTML/2012/0/0153_HTM

Can a Land Bank be a "Responsible Person" under the Environmental Acts?

Land Banks may acquire properties that require remediation as part of the redevelopment effort. As a result of its acquisition, a Land Bank becomes an owner of a property and, potentially, a "responsible person" under Section 103 of the Land Recycling and Environmental Remediation Standards Act (Act 2), 35 P.S. § 6026.101, that may be subject to enforcement action by the Pennsylvania Department of Environmental Protection (DEP) under the environmental acts for contamination at a property. A "responsible person" may voluntarily address its liability to DEP through Act 2, which enumerates the administrative and remedial criteria necessary to demonstrate attainment of a remediation standard and obtain a relief of liability for any contamination that the "responsible person" addresses.

For more information on DEP's Land Recycling Program, please visit:
www.dep.pa.gov/Business/Land/LandRecycling/Pages/default.aspx

Can an entity be exempt from liability to DEP?

To incentivize funding property remediation and redevelopment, some entities may be exempt from liability to DEP under the Economic Development Agency, Fiduciary and Lender Environmental Liability Protection Act (Act 3), 35 P.S. §§ 6027.1-6027.14. Provided that the entity does not cause or exacerbate a property's contamination, an entity that qualifies as an "Economic Development Agencies" is not liable to DEP as "responsible person" in an action under the environmental acts. 35 P.S. § 6027.4(b)(1) (relating to scope of liability). In short, Act 3 defines "Economic Development Agencies" to be:

1. Redevelopment authorities;
2. Industrial development agencies;
3. Area loan organizations;
4. Commonwealth or municipal authorities that acquire titles or an interest in property;
5. Municipalities, municipal industrial development, or community development departments organized by ordinance and that buy and sell land for community development purposes;
6. Tourist promotion agencies that acquire sites as part of a heritage program;
7. Conservancies the renew or reclaim industrial sites.

35 P.S. § 6020.3.

For more information about Act 3, please visit:
www.legis.state.pa.us/wfdocs/legis/LU/ucens/Check.cfm?riType=HTML&yr=1995&sessInd=0&smthLwin=0&act=0003

FACT SHEET

Environmental Liability

Federal law

CERCLA § 101(20)(D) provides that “a unit of State or local government which acquired ownership or control through seizure or otherwise in connection with law enforcement activity, or through bankruptcy, tax delinquency, abandonment or other circumstances in which the government acquires title by virtue of its function as sovereign” is exempt from the definition of “owner or operator” if that government entity did not cause or contribute to the release or threatened release.

Land banks are considered “a unit of State or local government” by EPA and within this group of exempted entities.

EPA June 2020 memo/enforcement discretion guidance entitled *Superfund Liability Protections for Local Government Acquisitions after the Brownfields Utilization, Investment, and Local Development Act of 2018*, https://www.epa.gov/sites/production/files/2020-06/documents/local-gov-acquisition-guide-final-2020-esign.pdf?mc_cid=f3b441b84e&mc_eid=e88c764ad7.

Support HB 610

Help Pennsylvania's Land Banks address the vast inventory of vacant, abandoned, and tax delinquent properties by protecting them from environmental liability.

WHY?

Land banks can help communities transform these problem properties into rehabbed and new housing, urban farms and community gardens, expanded businesses, and other community-driven land use priorities.

Contact Information

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Thank You!