

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1137

Introduced by Mello, 5; McGill, 26; Nordquist, 7.

Read first time January 19, 2012

Committee: Urban Affairs

A BILL

- 1 FOR AN ACT relating to land banks; to adopt the Nebraska Municipal
- 2 Land Bank Act; and to provide a duty for the Revisor of
- 3 Statutes.
- 4 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 14 of this act shall be known
2 and may be cited as the Nebraska Municipal Land Bank Act.

3 Sec. 2. For purposes of the Nebraska Municipal Land Bank
4 Act:

5 (1) Board means the board of directors of a land bank;

6 (2) Land bank means a land bank established in accordance
7 with the Nebraska Municipal Land Bank Act; and

8 (3) Municipality means any city or village in Nebraska.

9 Sec. 3. (1) A municipality may elect to create a land
10 bank by the adoption of an ordinance which specifies the following:

11 (a) The name of the land bank;

12 (b) The number of members of the board, which shall
13 consist of an odd number of members and shall be not less than five
14 members nor more than eleven members;

15 (c) The initial individuals to serve as members of the
16 board and the length of terms for which they are to serve; and

17 (d) The qualifications, manner of selection or
18 appointment, and terms of office of members of the board.

19 (2) Two or more municipalities may elect to enter into an
20 agreement pursuant to the Interlocal Cooperation Act to create a
21 single land bank to act on behalf of such municipalities, which
22 agreement shall contain the information required by subsection (1) of
23 this section.

24 (3) Each land bank created pursuant to the Nebraska
25 Municipal Land Bank Act shall be deemed to be a public corporation

1 acting in a governmental capacity and a political subdivision of the
2 state and shall have permanent and perpetual duration until
3 terminated and dissolved in accordance with section 13 of this act.

4 Sec. 4. (1) The members of the board shall select
5 annually from among themselves a chairperson, a vice-chairperson, a
6 treasurer, and such other officers as the board may determine.

7 (2) A vacancy on the board shall be filled in the same
8 manner as the original appointment.

9 (3) Board members shall serve without compensation.

10 (4) The board shall meet in regular session according to
11 a schedule adopted by the board, and also shall meet in special
12 session as convened by the chairperson or upon written notice signed
13 by a majority of the members. The presence of a majority of the
14 members of the board shall constitute a quorum.

15 (5) Members of a board shall not be liable personally on
16 the bonds or other obligations of the land bank, and the rights of
17 creditors shall be solely against such land bank.

18 Sec. 5. A land bank may employ such agents and employees,
19 permanent or temporary, as it may require, and may determine the
20 qualifications and fix the compensation and benefits of such persons.

21 Sec. 6. (1) A land bank shall have the following powers:

22 (a) To adopt, amend, and repeal bylaws for the regulation
23 of its affairs and the conduct of its business;

24 (b) To sue and be sued in its own name and plead and be
25 impleaded in all civil actions;

1 (c) To borrow money from private lenders, from
2 municipalities, from the state, or from federal government funds as
3 may be necessary for the operation and work of the land bank;

4 (d) To issue negotiable revenue bonds and notes according
5 to the provisions of the Nebraska Municipal Land Bank Act;

6 (e) To procure insurance or guarantees from the state or
7 federal government of the payments of any debts or parts thereof
8 incurred by the land bank and to pay premiums in connection
9 therewith;

10 (f) To enter into contracts and other instruments
11 necessary, incidental, or convenient to the performance of its duties
12 and the exercise of its powers, including, but not limited to,
13 agreements under the Interlocal Cooperation Act for the joint
14 exercise of powers under the Nebraska Municipal Land Bank Act;

15 (g) To enter into contracts and other instruments
16 necessary, incidental, or convenient to the performance of functions
17 by the land bank on behalf of municipalities or agencies or
18 departments of municipalities, or the performance by municipalities
19 or agencies or departments of municipalities of functions on behalf
20 of the land bank;

21 (h) To make and execute contracts and other instruments
22 necessary or convenient to the exercise of the powers of the land
23 bank;

24 (i) To provide foreclosure prevention counseling and re-
25 housing assistance;

1 (j) To procure insurance against losses in connection
2 with the real property, assets, or activities of the land bank;

3 (k) To invest money of the land bank, at the discretion
4 of the board, in instruments, obligations, securities, or property
5 determined proper by the board and name and use depositories for its
6 money;

7 (l) To enter into contracts for the management of, the
8 collection of rent from, or the sale of real property of the land
9 bank;

10 (m) To design, develop, construct, demolish, reconstruct,
11 rehabilitate, renovate, relocate, and otherwise improve real property
12 or rights or interests in real property of the land bank;

13 (n) To fix, charge, and collect rents, fees, and charges
14 for the use of real property of the land bank and for services
15 provided by the land bank;

16 (o) To grant or acquire a license, easement, lease, as
17 lessor and as lessee, or option with respect to real property of the
18 land bank;

19 (p) To enter into partnership, joint ventures, and other
20 collaborative relationships with municipalities and other public and
21 private entities for the ownership, management, development, and
22 disposition of real property; and

23 (q) To do all other things necessary or convenient to
24 achieve the objectives and purposes of the Nebraska Municipal Land
25 Bank Act.

1 (2) A land bank shall neither possess nor exercise the
2 power of eminent domain.

3 Sec. 7. (1) The land bank may acquire real property or
4 interests in real property by gift, devise, transfer, exchange,
5 foreclosure, purchase, or otherwise on terms and conditions and in a
6 manner the land bank considers proper.

7 (2) The land bank may acquire real property by purchase
8 contracts, lease purchase agreements, installment sales contracts, or
9 land contracts and may accept transfers from municipalities upon such
10 terms and conditions as agreed to by the land bank and the
11 municipality. Notwithstanding any other law to the contrary, any
12 municipality may transfer to the land bank real property and
13 interests in real property of the municipality on such terms and
14 conditions and according to such procedures as determined by the
15 municipality.

16 (3) The land bank shall maintain all of its real property
17 in accordance with the laws and ordinances of the jurisdiction in
18 which the real property is located.

19 (4) The land bank shall not own or hold real property
20 located outside the jurisdictional boundaries of the municipality or
21 municipalities that created the land bank.

22 (5) Notwithstanding any other provision of law to the
23 contrary, any municipality may convey to a land bank real property
24 and interests in real property on such terms and conditions, and
25 according to such procedures, as determined by the transferring

1 municipality.

2 Sec. 8. The real property of a land bank and the land
3 bank's income and operations are exempt from all taxation by the
4 state or any political subdivision thereof.

5 Sec. 9. (1) The land bank shall hold in its own name all
6 real property acquired by the land bank irrespective of the identity
7 of the transferor of such property.

8 (2) The land bank shall maintain and make available for
9 public review and inspection an inventory of all real property held
10 by the land bank.

11 (3) The land bank shall determine and set forth in
12 policies and procedures of the board the general terms and conditions
13 for consideration to be received by the land bank for the transfer of
14 real property and interests in real property, which consideration may
15 take the form of monetary payments and secured financial obligations,
16 covenants and conditions related to the present and future use of the
17 property, contractual commitments of the transferee, and such other
18 forms of consideration as determined by the board to be in the best
19 interest of the land bank.

20 (4) The land bank may convey, exchange, sell, transfer,
21 lease as lessee, grant, release and demise, pledge, and hypothecate
22 any and all interests in, upon, or to real property of the land bank.

23 (5) A municipality may, in its resolution or ordinance
24 creating a land bank, or, in the case of multiple municipalities
25 creating a single land bank in the applicable agreement under the

1 Interlocal Cooperation Act, establish a hierarchical ranking of
2 priorities for the use of real property conveyed by a land bank,
3 including, but not limited to, (a) use for purely public spaces and
4 places, (b) use for affordable housing, (c) use for retail,
5 commercial, and industrial activities, (d) use as wildlife
6 conservation areas, and (e) such other uses and in such hierarchical
7 order as determined by the municipality or municipalities.

8 (6) A municipality may, in its resolution or ordinance
9 creating a land bank, or, in the case of multiple municipalities
10 creating a single land bank in the applicable agreement under the
11 Interlocal Cooperation Act, require that any particular form of
12 disposition of real property, or any disposition of real property
13 located within specified jurisdictions, be subject to specified
14 voting and approval requirements of the board. Except and unless
15 restricted or constrained in this manner, the board may delegate to
16 officers and employees the authority to enter into and execute
17 agreements, instruments of conveyance, and all other related
18 documents pertaining to the conveyance of real property by the land
19 bank.

20 Sec. 10. (1) A land bank may receive funding through
21 grants and loans from the municipality or municipalities that created
22 the land bank, from other municipalities, from the state, from the
23 federal government, and from other public and private sources.

24 (2) A land bank may receive and retain payments for
25 services rendered, for rents and leasehold payments received, for

1 consideration for disposition of real and personal property, for
2 proceeds of insurance coverage for losses incurred, for income from
3 investments, and for any other asset and activity lawfully permitted
4 to a land bank under the Nebraska Municipal Land Bank Act.

5 Sec. 11. (1) A land bank shall have the power to issue
6 bonds for any of its corporate purposes, the principal and interest
7 of which are payable from its revenue generally. Any of such bonds
8 may be secured by a pledge of any revenue of the land bank or by a
9 mortgage of any property of the land bank.

10 (2) The bonds issued by a land bank are hereby declared
11 to have all the qualities of negotiable instruments under the Uniform
12 Commercial Code.

13 (3) The bonds of a land bank and the income therefrom
14 shall at all times be exempt from all taxes imposed by the state or
15 any political subdivision thereof.

16 (4) Bonds issued by the land bank shall be authorized by
17 resolution of the board and shall be limited obligations of the land
18 bank. The principal and interest, costs of issuance, and other costs
19 incidental thereto shall be payable solely from the income and
20 revenue derived from the sale, lease, or other disposition of the
21 assets of the land bank. In the discretion of the land bank, the
22 bonds may be additionally secured by mortgage or other security
23 device covering all or part of the project from which the revenue so
24 pledged may be derived. Any refunding bonds issued shall be payable
25 from any source described above or from the investment of any of the

1 proceeds of the refunding bonds, and shall not constitute an
2 indebtedness or pledge of the general credit of any municipality
3 within the meaning of any constitutional or statutory limitation of
4 indebtedness and shall contain a recital to that effect. Bonds of the
5 land bank shall be issued in such form, shall be in such
6 denominations, shall bear interest, shall mature in such manner, and
7 shall be executed by one or more members of the board as provided in
8 the resolution authorizing the issuance thereof. Such bonds may be
9 subject to redemption at the option of and in the manner determined
10 by the board in the resolution authorizing the issuance thereof.

11 (5) Bonds issued by the land bank shall be issued, sold,
12 and delivered in accordance with the terms and provisions of a
13 resolution adopted by the board. The board may sell such bonds in
14 such manner, either at public or private sale, and for such price as
15 it may determine to be in the best interests of the land bank. The
16 resolution issuing bonds shall be published in a newspaper of general
17 circulation within the municipality or municipalities that created
18 the land bank.

19 (6) Neither the members of the board nor any person
20 executing the bonds shall be liable personally on any such bonds by
21 reason of the issuance thereof. Such bonds or other obligations of a
22 land bank shall not be a debt of any municipality and shall so state
23 on their face, nor shall any municipality nor any revenue or any
24 property of any municipality be liable therefor.

25 Sec. 12. (1) The board shall cause minutes and a record

1 to be kept of all its proceedings. Meetings of the land bank shall be
2 subject to the Open Meetings Act.

3 (2) The board shall provide quarterly reports to the
4 municipality or municipalities that created the land bank on the
5 board's activities pursuant to the Nebraska Municipal Land Bank Act.

6 Sec. 13. A land bank may be dissolved sixty calendar days
7 after a resolution of dissolution is approved by two-thirds of the
8 membership of the board and by two-thirds of the membership of the
9 governing body of the municipality or municipalities that created the
10 land bank. The board shall give sixty calendar days advance written
11 notice of its consideration of a resolution of dissolution by
12 publishing such notice in a newspaper of general circulation within
13 the municipality or municipalities that created the land bank and
14 shall send such notice by certified mail to the trustee of any
15 outstanding bonds of the land bank. Upon dissolution of the land
16 bank, all real property, personal property, and other assets of the
17 land bank shall become the assets of the municipality or
18 municipalities that created the land bank.

19 Sec. 14. No member of the board or employee of a land
20 bank shall acquire any interest, direct or indirect, in real property
21 of the land bank, in any real property to be acquired by the land
22 bank, or in any real property to be acquired from the land bank. No
23 member of the board or employee of a land bank shall have any
24 interest, direct or indirect, in any contract or proposed contract
25 for materials or services to be furnished or used by a land bank.

1 Sec. 15. The Revisor of Statutes shall assign sections 1
2 to 14 of this act to Chapter 18.