

**ONE HUNDRED SECOND LEGISLATURE - SECOND SESSION - 2012**  
**COMMITTEE STATEMENT**  
**LB1137**

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**Hearing Date:** Tuesday February 07, 2012  
**Committee On:** Urban Affairs  
**Introducer:** Mello  
**One Liner:** Adopt the Nebraska Municipal Land Bank Act

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**Roll Call Vote - Final Committee Action:**  
Advanced to General File with amendment(s)

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**Vote Results:**  
**Aye:** 6 Senators Ashford, Cook, Krist, Lambert, McGill, Smith  
**Nay:** 1 Senator Coash  
**Absent:**  
**Present Not Voting:**

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<b>Proponents:</b> Senator Mello Frank S. Alexander Spencer K. Danner Jr. Dan Brewer R.E. Cunningham Gary Krumland Joe Kohout	<b>Representing:</b> Self Self Mutual of Omaha Bank Habitat for Humanity of Omaha City of Omaha League of Nebraska Municipalities United Cities of Sarpy County
<b>Opponents:</b> Gary Fryor	<b>Representing:</b> Lincoln Independent Business Assn. (LIBA)
<b>Neutral:</b>	<b>Representing:</b>

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**Summary of purpose and/or changes:**

LB 1137 adopts the Municipal Land Band Act, which allows for the creation of a land bank by a municipality or group of municipalities through an interlocal agreement. Land banks are public authorities designed to acquire, hold, manage, and develop vacant, abandoned, and tax-delinquent properties in an efficient manner, and to return them to positive revenue status.

**Comments/Analysis:**

Section 1 of the bill creates the Nebraska Municipal Land Bank Act.

Section 2 of the bill contains the definitions section for the Land Bank Act.

Section 3 of the bill grants permission for municipalities to create a land bank through ordinance adoption, with specific requirements for the creation of the land bank, including the name of the land bank, the number of members on the board, the terms of office of board members and their qualifications. Subsection (2) allows for creation of a land bank by two or more municipalities through use of an interlocal agreement. Subsection (3) deems each land bank created as a public corporation acting in a governmental capacity and a political subdivision of the state with permanent and

perpetual duration until terminated in accordance with section 13 of the act.

Section 4 specifies the board shall select annually from themselves a chairperson, vice-chair person, treasurer and other officers as necessary, and that they shall not receive compensation. It also lays out the specifications for when the board meets, and states that members of the board are not personally liable for the bonds or other obligations of the land bank.

Section 5 grants the land bank to hire employees, permanent or temporary, as is necessary, and allows the land bank to fix compensation and benefits of such persons.

Section 6 lists the powers of the land bank.

Section 7 enables the land bank to acquire real property or interests in real property by gift, devise, transfer, exchange, foreclosure, purchase, or otherwise on terms and conditions and in a manner considered proper by the land bank. It also authorizes the land bank to acquire real property through purchase contracts, lease purchase agreements, installment sales contracts, or land contracts, and also grants the land bank to accept transfers from municipalities upon agreed to terms and conditions. This section requires the land bank to maintain all of its real property in accordance with the laws and ordinances of the jurisdiction within which the property is located, and does not permit the land bank to own or hold real property outside of the jurisdictional boundaries of the municipality or municipalities that created it.

Section 8 exempts the real property of the land bank and the land bank's income from all taxation by the state or any political subdivision.

Section 9 authorizes the land bank to carry out all of its respective powers and duties, with the power to hold all real property in its own name, irrespective of the identity of the transferor of the property. It requires the land bank to maintain and make available for public review and inspection an inventory of all real property held by the land bank, and gives the land bank the power to determine and set forth in policies and procedures the general terms and conditions for consideration to be received by the land bank for the transfer of real property and interests in real property. That consideration can take the form of monetary payments, secured financial obligations, covenants and conditions related to the present and future use of the property, contractual commitments of the transferee, and other forms of consideration as determined by the board.

The land bank also has the power to transfer their interests in the land held by the land bank through many different legal means of property transfer.

This section also permits a municipality creating the land bank to establish a hierarchical ranking of priorities for the use of the real property conveyed by the land bank. It also permits a municipality to require that any particular form of disposition of real property by the land bank be subject to a specified vote and approval process.

Section 10 of the bill allows the land bank to receive funding from many different sources, including grants and loans from the municipality that created the land bank, from other municipalities, from the state, the federal government, and other public and private sources. They also may receive payments for services rendered, rents and leasehold payments, consideration for disposition of real and personal property, investment income and others.

Section 11 of the bill gives the land bank the power to issue bonds for any of its corporate purposes, with the principal and interest payable from the land bank's revenue. The bonds are tax exempt, and are limited obligations of the land bank, and are payable solely from the income and revenue of the land bank. They are not the responsibility of the municipality.

Section 12 of the bill requires the board to take minutes and keep records of all their proceedings, and that the meetings are subject to the open meetings act.

Section 13 specifies the conditions under which a land bank can be dissolved.

Section 14 of the bill prohibits any member of the board of the land bank from acquiring any interest in real property of the land bank, and prohibits them from having any interest in any contract or proposed contract for materials or services to be furnished or used by a land bank.

Section 15 of the bill requires the Revisor of Statutes to assign sections 1 through 14 of the bill to Chapter 18 of the Nebraska Revised Statutes.

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**Explanation of amendments:**

AM 1750 to LB 1137 would replace the bill. There are several significant changes in the amendment.

**Comments/Analysis:**

Section 2 of the amendment is new language that was not included in the original bill. This section contains Legislative findings regarding vacant, abandoned and tax-delinquent properties and the need for municipalities to have the tools required to properly deal with and rehabilitate those properties.

Section 7, subsection (5) is removed from the bill by the amendment.

A new subsection (5) is added to section 8 of the bill, allowing the land bank to accept transfers of real property and interests in real property from a land reutilization authority on terms and conditions mutually determined by the land bank and the reutilization authority.

Section 11, subsection (3) is also new in AM 1750. This section allows for fifty (50) percent of real property taxes collected on property conveyed by a land bank to be remitted to the land bank, commencing with the first taxable year following the date of conveyance and shall continue for five years.

Section 16 of the amendment is also new language to the bill. This section provides additional powers and funding mechanisms for the land bank, including discharging and extinguishing any liens on property transferred to the land bank, participating in both judicial and non-judicial tax foreclosure sales and gives the land bank's bid at a tax foreclosure sale priority over all other bids.

Sections 17 through 22 of the amendment harmonize the above provisions with the existing tax foreclosure statutes.

Section 23 adds the new language in section 24 of the amendment to the Land Reutilization Act.

Section 24 is new language to Neb.Rev.Stat. to allow a land reutilization authority to transfer property held by the authority to the land bank created under the Land Bank Act upon agreed to terms and conditions between the land bank and the land reutilization authority.

The Amendment [1750] to the Amendment [2205]:

To summarize the amendment to Senator Mello's Land Banking bill, LB 1137, a section by section summary is below.

Section 1 and section 2 there are no changes.

Section 3, subsection (3) changes the definition of municipality so as to limit the authority to form a land bank only to a city or village that is located either (a) within a county in which a city of the metropolitan class is located, or (b) within a county in which at least three cities of the first class are located. This limits this bill to ONLY Douglas and Sarpy counties.

Section 4 has a new subsection (4) added to it, which states the primary goal of any land bank shall be to facilitate the

RETURN of vacant, abandoned, and tax-delinquent properties to productive use. This was added to address to further stress that the land bank is not in the business of creating a city run real estate business, but its purpose is to return properties to positive tax status.

Section 5 has the details of whom will make up the board of the land bank. It includes one member representing realtors, one member representing the banking industry, one representing real estate developers, one representing a chamber of commerce, and one member representing a nonprofit involved in affordable housing.

Currently, the amendment provides that the board may consist of at least 7, but up to 11 members. Senator Mello's office is working on a small amendment that would limit the board to only 7 members to address a concern of the Omaha Chamber of Commerce.

Section 6 has no changes.

Section 7 has a small change in it regarding the land bank's power to collect rent. In other states where a land bank has been created, some have run into a situation where the land bank acquires a property where there is an existing tenant who is paying rent. This section of the bill, in subsection (n) and (o), limits the time that a land bank can collect rent for up to 12 months, so they have adequate time to give notice to terminate any lease agreement with the existing tenant, should they ever run into this situation.

Sections 8 and 9 have no changes.

Section 10, subsection (5) contains language changes regarding the hierarchical ranking of priorities that cities can create for the use of the real property conveyed by the land bank, stating that any ranking should take into consideration the highest and best use that will bring the greatest benefit to the community.

Section 11 contains no changes.

Section 12 (1) and (4) are dealing with the power of the land bank to issue bonds. Through the drafting process, Trevor discovered 2 mistakes in the language in these sections. In subsection (1) of the older draft of the amendment, am 2188, line 13 and 14, the words "and may be additionally" are stricken, and the word "or" is inserted in place of the stricken language.

In subsection (4), beginning on line 27 on page 9 of the older draft of the amendment, AM2188, starting with the words "In the discretion of the land bank... and carrying over to page 10, lines 1 through 3 where it ends "so pledged may be derived" are all also stricken. This language is not included in AM2205.

In section 13, subsection (2), the land bank board is now required to provide monthly reports rather than quarterly reports. This will provide more accountability to the city.

Sections 14 and 15 do not contain any changes.

Section 16 contains changes to the "trump bid" powers granted to the land bank in a tax sale proceeding. It has been strictly limited to being able to ONLY issue a trump bid in 2 situations. The first situation is if the property they are trying to acquire has been identified by the board or by the municipality as necessary for a specifically identified public purpose, and the second situation arises when there is a concern that other bidders on the property would not act to put the property into compliance with any applicable housing or building codes, or otherwise return the property to productive use (positive tax role status).

This language is applied in subsection (3) regarding nonjudicial tax sale and also in subsection (4) for court ordered tax sales as well.

Section 17 is a new section, it sets the termination of the Nebraska Land Bank act for December 31, 2032, or 20 years from now.

Sections 18 through 25 do not contain any changes.

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Amanda McGill, Chairperson