

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 1214

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 20, 2019

The Assembly Appropriations Committee reports favorably Senate Bill No. 1214, with committee amendments.

As amended by the committee, this bill would allow a municipality to enter into a land banking agreement with a non-profit or a redevelopment entity, which would serve as the municipality's land banking entity. A land banking agreement would authorize a land bank entity to hold property in trust on behalf of the municipality, so long as the property is not already being used for any public purpose. The land banking agreement may authorize the land bank entity to maintain, rehabilitate, lease, or convey that municipal property. The bill would empower a land bank entity to lease or convey land bank property without having to comply with the provisions of the "Local Lands and Buildings Law," N.J.S.A.40A:12-1 et seq.

Under the bill, a municipality may convey municipally-owned property and assign municipally-owned liens to the land bank entity. The bill also authorizes a land bank entity to acquire property for the land bank through gift or purchase, and to serve as the municipality's agent for the purposes of purchasing tax liens, foreclosing on liens, and foreclosing on abandoned property.

A municipality would adopt a land banking agreement by ordinance. A land banking agreement would establish the responsibilities of the land bank entity and specify the terms and conditions by which the land bank entity may:

- acquire property on behalf of the municipality,
- demolish and otherwise clear buildings and conduct other site improvements,
- maintain and secure property, and
- lease or convey property.

A land banking agreement would address the municipality's oversight of the land bank entity. The agreement would set forth the manner of distributing costs and revenues related to land bank property between the municipality and the land bank entity. The bill permits a land banking agreement to provide that, with regard to parcels of property for which no property taxes have been paid for at least two

years before becoming land bank property, a limited series of ongoing annual payments may be made from the municipality to the land bank entity following a conveyance from the land bank entity to a third party. However, the bill prohibits this annual payment from exceeding 50 percent of property taxes or payments in lieu of taxes paid in the fiscal year for all properties that had been land bank properties within the 10 prior fiscal years.

In instances when a land bank entity is a redevelopment entity with the power to borrow funds and incur debt, the land banking agreement may permit the land bank entity to exercise those powers in furtherance of its land banking obligations. When a redevelopment entity is acting as a land bank entity, it would not be subject to a specific provision of law, N.J.S.A.40A:12A-9, that imposes limitations on a redevelopment entity, unless those limitations are set forth in the land banking agreement, or the particular property is part of an area in need of redevelopment.

The bill allows a municipality to exempt property held by a non-profit land bank entity from property taxation until or unless the property is sold and no longer used for a public purpose. The bill identifies land banking, and associated land banking activities, including those involving site improvements and the preparation of property for productive reuse, as a public purpose, and permits a municipality to provide tax-exempt status to properties for so long as they are held as land bank properties.

The bill would require a land bank entity to develop and maintain an online, publicly accessible database of current and former land bank properties. The database would contain information about the ownership and sales price of each property.

The bill requires each land bank entity to establish a community advisory board and to provide the advisory board access to certain information and an opportunity to comment on the land bank entity's decisions. The community advisory board would be required to report on the accuracy, integrity, accessibility, and comprehensiveness of the land bank entity's online database at least annually. The bill requires a community advisory board to note in the annual report if the land bank entity has not complied with the requirement to develop and maintain an online database. The bill also subjects each land bank entity to an annual reporting requirement.

The bill allows a municipality to terminate a land banking agreement by providing the land bank entity with one year's notice of termination. Termination of a land banking agreement would not affect the status of a transaction properly entered into prior to termination. The bill provides that within 90 days of the termination date, the land bank entity must return control of all land bank property to the municipality without consideration; provided, however, that the municipality and the entity may agree to allow the entity to retain control of any properties that are the subject of a pending transaction

by the entity until completion of the transaction, and until the end of any lease. The bill permits a municipality to terminate the land banking agreement without one-year's notice following a determination by the county prosecutor or municipal counsel that the land bank entity has breached an essential duty of the agreement.

The bill allows a land bank entity to serve more than one municipality, subject to a shared services agreement between the municipalities.

COMMITTEE AMENDMENTS

The committee amendments to this bill make the following changes:

- Specify that a municipality, through a land banking agreement, may allow a land bank entity to hold certain municipally-owned properties in trust on behalf of the municipality, but would not transfer title of municipally-owned properties to the land bank entity.
- Specify that, depending on the terms of a land banking agreement, a trust agreement between a municipality and a land bank entity may provide the land bank entity with all the powers of property ownership, subject to the potential for the municipality, by ordinance, to terminate the agreement and regain control.
- Clarify the public purpose of land banking activities, and direct a municipality entering a land banking agreement to further specify the public purpose of their particular land banking agreement.
- Differentiate non-profit land bank entities from redevelopment entities serving as public land bank entities.
- Adjust the maximum term of a lease agreement that may be permitted by a land banking agreement from 10 years to 99 years.
- Specify that land bank property sold or leased on behalf of the municipality would be subject to the requirements of any applicable redevelopment plan.
- Clarify that a redevelopment entity serving as a land bank entity would only be subject to the requirements of a redevelopment plan regarding land bank property that is also within an area in need of redevelopment.
- Authorize the municipality, without the one-year notice ordinarily required for land banking agreement termination, to end a land banking agreement by ordinance upon notification of a determination from the county prosecutor, or the municipal counsel, that the land bank entity has breached an essential duty of the agreement.

- Clarify that a land banking agreement shall not remove the municipality's authority to terminate a land banking agreement, by ordinance, so long as one year's notice is provided.
- Clarify that a land bank entity is not subject to the requirements of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.).
- Notwithstanding the terms of a land banking agreement, reserve with the municipality the authority to restrict the amount of funding related to tax sale and tax foreclosure that a land bank entity may retain, as long as the terms of a tax lien assignment to the land bank entity remain intact for at least one year.
- Permit a land bank entity to modify its governing documents to address actions taken on land bank property, without publication of the changes on its Internet website, as long as the modifications are consistent with the terms of the land banking agreement.
- Clarify the land bank entity's online reporting requirements.
- Specify that, if a land banking agreement permits a municipality to make a limited series of ongoing payments to a land bank entity following property conveyance, the payment amount shall not exceed 50 percent of property taxes or payments in lieu of taxes paid in the fiscal year for all properties that had been land bank properties within the 10 prior fiscal years.
- Clarify that any limited series of ongoing payments to a land bank entity following a property conveyance may be made in addition to any distribution of revenue made to the land bank entity in association with a property sale itself.
- Because a sale is a form of conveyance, remove a redundant authorization for a land bank entity to sell a property from provisions that also authorize the municipality to convey the property.
- Make technical edits in various sections of the bill.

FISCAL IMPACT:

This bill is not certified as requiring a fiscal note.