

Amendment No. 1 to HB3400

Ramsey
Signature of Sponsor

AMEND Senate Bill No. 3223

House Bill No. 3400*

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 13, is amended by adding the following language as a new chapter 30:

13-30-101. This act shall be known and may be cited as the "Tennessee Local Land Bank Pilot Program".

13-30-102. The legislature finds and declares as follows:

(1) Tennessee's communities are important to the social and economic vitality of the state. Whether urban, suburban or rural, many communities are struggling to cope with vacant, abandoned and tax-delinquent properties.

(2) There exists a crisis in many cities and their metro areas caused by disinvestment in real property and resulting in a significant amount of vacant and abandoned property. This condition of vacant and abandoned property represents lost revenue to local governments and large costs associated with demolition, safety hazards and spreading deterioration of neighborhoods including resulting mortgage foreclosures.

(3) The need exists to strengthen and revitalize the economy of the state and its local units of government by solving the problems of vacant and abandoned property in a coordinated manner and to foster the development of such property and promote economic growth. Such problems may include multiple taxing jurisdictions lacking common policies, ineffective property inspection, code enforcement and property rehabilitation support, lengthy and/or inadequate foreclosure proceedings, and lack of coordination and resources to support economic revitalization.

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(4) There is an overriding public need to confront the problems caused by vacant, abandoned and tax-delinquent properties through the creation of new tools to be available to communities throughout state enabling them to turn vacant spaces into vibrant places.

(5) Land banks are one of the tools that can be utilized by communities to facilitate the return of vacant, abandoned and tax-delinquent properties to productive use.

(6) In the interest of self-governance on the part of Tennessee's cities, this pilot program will be used in specific areas as a testing model of a self-governing, self-sustaining land bank that can revitalize Tennessee cities and counties.

13-30-103. As used in this act, unless the context clearly indicates otherwise:

(1) "Board of directors" or "board" means the board of directors or other similar governing body of the corporation;

(2) "Corporation" means a corporation created pursuant to this chapter to operate a land bank;

(3) "Land bank" means real property, however obtained or acquired and held by a corporation, created pursuant to this chapter, with the intent of acquiring and holding on to the real property so acquired until such a time as the corporation is able to find a willing and able buyer to acquire the real property from the corporation;

(4) "Local government" means any municipality or county incorporated or existing under the laws of Tennessee, or any combination of any municipality or

county incorporated or existing under the laws of Tennessee meeting the requirements of § 13-30-104;

(5) "Pilot program" means the Tennessee Local Land Bank Pilot Program meeting the requirements of § 13-30-104;

(6) "Real estate" means an identified parcel or tract of land, including improvements, if any; and

(7) "Real property" means one (1) or more defined parcels or tracts of land or interests, benefits and rights inherent in the ownership of real estate. 13-30-104.

(1) Any municipality or county incorporated or existing under the laws of Tennessee, or any combination of any municipality or county incorporated or existing under the laws of Tennessee, to which all of the following elements applies, has the authority to establish a pilot program by creating a corporation which is authorized to operate a land bank for the creating local government or local governments, hereafter referred to as "corporation", within the jurisdictional boundaries of the local government or local governments establishing the corporation:

(A) The local government was chosen as a site for a nuclear research facility for the U. S. Government during the World War II era;

(B) Prefabricated modular homes, apartments and dormitories, many made from cemesto panels, were quickly erected for those employed at the nuclear research facility; and

(C) Many units of such housing, while intended to be only temporary structures, are in extremely deteriorated conditions and still serve as residential homes for municipal residents seventy (70) years after originally constructed.

(2) The corporation is hereby declared to be performing a public function in behalf of the local government with respect to which the corporation is created

and organized and to be a public instrumentality of such local government. Accordingly, the corporation and all properties of the corporation, including all properties held in the name of the corporation in the land bank, at any time owned by it, and the income and revenues from the properties shall be exempt from all taxation in the state of Tennessee.

(b)

(1) A corporation shall come into existence under the terms of this chapter when any local government to which subsection (a) applies either on its own initiative or through inter-local agreements entered into by and between one (1) or more creating local governments vote by majority vote of its legislative body to establish the corporation. Evidence of such authorization shall be proclaimed and countersigned by the presiding officer of each participating county or municipality and certified by such officer to the secretary of state.

(2) The governing bodies of the creating local governments shall indicate their willingness to appropriate sufficient funds to provide for the initial administration of the corporation as a part of the authorization process and for such purposes are authorized to provide funding or grants and appropriate money to the corporation in such manner as directed by the legislative bodies.

13-30-105

(a) The corporation shall have a board of directors in which all powers of the corporation shall be vested. Such board shall consist of any number of directors, no fewer than five (5), all of whom shall be duly qualified electors of and taxpayers in the creating local government or local governments.

(b) The creating local government or local governments, if more than one (1) has jointly created a corporation, shall determine the qualifications, manner of selection or appointment, terms of office of members of the board, the number of directors, whether and to what extent the members of the local legislative bodies

shall be appointed or elected to serve on the board of the corporation and the manner of filling vacancies.

(c) The term of each director on the corporation shall be as set by the creating local government or local governments, provided that any director shall continue to serve beyond the end of the director's term until the director's successor has been appointed. At the first organizational meeting of the corporation, the creating local government or local governments shall establish the terms of the initial directors so that the directors serve staggered terms and an approximately equal number of directors have terms that expire in each year. 13-30-106.

(a) A majority of the board of the corporation shall constitute a quorum for the transaction of any business. Unless a greater number or percentage is required by state law, the vote of a simple majority of the directors present at any meeting at which a quorum is present shall be the action of the corporation. To the extent permitted by applicable law, the corporation may permit any or all directors to participate in an annual, regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all directors participating may simultaneously hear each other during the meeting. A director participating in a meeting by this means is deemed to be present in person at the meeting.

(b) The members of the board of directors shall select annually from among themselves a chairman, a vice chairman, a treasurer, and such other officers as the board may determine, and shall establish their duties as may be regulated by rules adopted by the board.

(c) The board shall establish rules and requirements relative to the attendance and participation of members in its meetings, regular or special. Such rules and regulations may prescribe a procedure whereby, should any member fail to comply with such rules and regulations, such member may be

disqualified and removed automatically from office by no less than a majority vote of the remaining members of the board, and that member's position shall be vacant as of the first day of the next calendar month. Any person removed under the provisions of this subsection shall be ineligible for reappointment to the board, unless such reappointment is confirmed unanimously by the board.

(d) Any citizen or group of citizens upon collection of a petition having a clearly worded purpose, of at least twenty (20) verified signatures of qualified voters registered in the jurisdiction in which the board operates may present to the local government legislative body a resolution calling for the removal of any board member. The local government legislative body shall have the power, upon timely and due consideration of the citizen petition and a response from the board, to remove or retain the cited board member by simple majority vote. Removal from the board of directors of any public official shall not, in, and of itself, impair the public official or municipal or county employee in his or her other duties.

(e) Board members shall serve without compensation, shall have the power to organize and reorganize the executive, administrative, clerical, and other departments of the corporation and to fix the duties, powers and compensation of all employees, agents and consultants of the corporation. The board may reimburse any member for expenses actually incurred in the performance of duties on behalf of the corporation.

(f) The board shall meet in regular session according to a schedule adopted by the board, and also shall meet in special session as convened by the chairman or upon written notice signed by a majority of the members. The presence of a majority of the total membership of the board shall constitute a quorum.

(g) All actions of the board shall be approved by the affirmative vote of a majority of the members of that board present and voting. However, no action of

the board shall be authorized on the following matters unless approved by a majority of the total board membership:

(1) Adoption of bylaws and other rules and regulations for conduct of the business of the corporation;

(2) Hiring or firing of any employee or contractor of the corporation. This function may, by majority vote, be delegated by the board to a specified officer or committee of the corporation, under such terms and conditions, and to the extent, that the board may specify;

(3) The incurring of debt;

(4) Adoption or amendment of the annual budget; and

(5) Sale, lease, encumbrance, or alienation of real property, improvements or personal property with a value of more than fifty thousand dollars (\$50,000).

(h) Vote by proxy shall not be permitted. Any member may request a recorded vote on any resolution or action of the board.

13-30-107.

(a) The corporation, once created, shall have the authority to create a land bank for real property located within the boundaries of the creating local government or local governments.

(b) No rules or bylaws created by the corporation, may contravene state law.

(c) All board members, appointees, employees and/or paid advisors of the corporation created, appointed or employed, with or without pay, pursuant to this act are subject to the provisions of Tennessee Code Annotated, title 8, chapter 17, and may not be exempted on the basis of any corporate board governance rules or bylaws.

(d) All meetings of the board of directors of the corporation and/or its employees are subject to Tennessee Code Annotated, title 8, chapter 44, and

may not be exempted on the basis of the corporate board governance rules or bylaws.

(e) All corporate records are subject to the provisions of Tennessee Code Annotated § 10-7- 503 through 10-7-505, and may not be exempted on the basis of any corporate board governance rules or bylaws.

13-30-108. The corporation may enter into contracts and agreements with the creating local government or local governments for staffing services to be provided to the corporation by such local governments or agencies or departments thereof.

13-30-109. The corporation shall have the power, as limited by the legislative body of the creating local government or local governments, to:

(1) Adopt, amend and repeal bylaws for the regulation of its affairs and the conduct of its business;

(2) Sue and be sued in its own name and plead and be impleaded in all civil actions, including, but not limited to, actions to clear title to the real property held in the land bank;

(3) Adopt a seal and to alter the same at pleasure;

(4) Borrow funds as may be necessary, for the operation and work of the corporation with the concurrence of the legislative body of the creating local government or local governments;

(5) Enter into contracts and other instruments necessary, incidental or convenient to the performance of its duties and the exercise of its powers, including, but not limited to, intergovernmental agreements under the existing Tennessee Code for the joint exercise of powers under this act;

(6) Make and execute contracts and other instruments necessary or convenient to the exercise of the powers to acquire, hold and dispose of real property held in the land bank;

(7) Procure and enter into contracts for any type of insurance or indemnity against loss or damage to property from any cause, including loss of use and

occupancy, against death or injury of any person, against employer's liability, against any act of any member, officer or employee of the corporation in the performance of the duties of such person's office or employment or any other insurable risk, as the board of directors, in its discretion, may deem necessary;

(8) Accept donations, contributions, revenues, capital grants or gifts from any individual, association, public or private corporation, municipality or county of the State of Tennessee, the State of Tennessee or the United States government, or any agency or instrumentality of the State of Tennessee or the United States, for or in aid of any of the purposes of this act and enter into agreements in connection with the donations, contributions, revenues, capital grants or gifts;

(9) Invest money of the corporation in investments that would be eligible investments for a municipality or county in the state and name and use depositories for its money with a bank or trust company which is a member of the Federal Deposit Insurance Corporation;

(10) Identify, investigate, document and nominate properties meeting established criteria to the creating local government or local governments for initiation and exercise of eminent domain procedures in accordance with state law; provided that any real property taken by eminent domain, if transferred to or acquired by the corporation shall only be disposed of by the corporation in a manner which does not violate § 29-17-102;

(11) Enter into contracts which do not violate § 29-17-102, for the management of or the sale of real property in the land bank; such power shall included the power to preserve the value or prevent diminution of the value of any such property until disposed of by the corporation, including the following actions;

(A) Design, develop, construct, demolish, reconstruct, rehabilitate, renovate, relocate, and otherwise improve real property or rights or interests in real property ;

(B) Fix, charge and collect rents, fees and charges for the use of real property of the land bank and for services provided by the corporation;

(C) Grant or acquire a license, easement, lease, as lessor and as lessee, or option with respect to real property in the land bank; and

(D) Enter into limited partnerships, limited joint ventures and other limited collaborative relationships with local governments and other public and private entities within the designated boundary for the ownership, management, development, and disposition of real property; and

(12) Do all other things necessary or convenient to achieve the objectives and purposes of the corporation related to the real property held in the land bank.

13-30-110.

(a) The corporation may acquire real property or interests in real property for the land bank by gift, devise, transfer, exchange, foreclosure, purchase, or otherwise on terms and conditions and in a manner the corporation considers proper.

(b) The corporation may acquire real property by purchase contracts, lease purchase agreements, installment sales contracts or land contracts, and may accept transfers from municipalities or counties upon such terms and conditions as agreed to by the corporation and the local government.

(c) The corporation shall maintain all of its real property and real property held in the land bank in accordance with state law and the laws and ordinances of the jurisdiction in which the real property is located.

(d) The corporation shall not own or hold real property located outside the jurisdictional boundaries of the local governmental entity or entities that created the corporation; provided, however, that the corporation may be granted authority pursuant to an intergovernmental cooperation agreement with another municipality or county to manage and maintain real property located within the jurisdiction of such other municipality or county.

(e) Notwithstanding any other provision of law to the contrary, any municipality or county may convey to the corporation real property and interests in real property on such terms and conditions, and according to such procedures, as determined by the legislative body of the local government conveying the real property to the corporation.

13-30-111.

(a) The corporation shall hold in its own name all real property acquired by the corporation for the land bank irrespective of the identity of the transferor of such property.

(b) The corporation shall maintain and make available for public review and inspection an inventory of all real property held for the land bank. In addition to referrals to public access, routine, printed, real property records or those on municipal and county electronic database files, the corporation is authorized to maintain an independent, publically available, electronic inventory via the creating local government or local government's website with any combination of pictures, informal descriptions, legal descriptions and addresses as the board may deem appropriate to its purposes related to real property in the land bank. The corporation is obligated to make reasonable efforts to ensure that information contained in any independent, electronic inventory is practically accurate or to ensure that a prominent disclaimer of accuracy is prominently displayed to any potential viewer.

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

(d) The corporation may convey, exchange, sell, transfer, lease as lessee, grant, release and demise, pledge and hypothecate any and all interests in, upon or to real property of the land bank, to the extent authorized by the legislative body of the creating local government or local governments and in a manner which does not violate § 29-17-102.

(e) The legislative body of the local government or local governments creating the corporation, are authorized to establish a hierarchical ranking of priorities for the use of real property conveyed to the corporation for the land bank including but not limited to:

- (1) Use for purely public spaces and places;
 - (2) Use for affordable housing;
 - (3) Use for retail, commercial and industrial activities; or
 - (4) Use as wildlife conservation areas, and such other uses and
- in such hierarchical order as determined.

(f) The creating local government or local governments are authorized to require that any particular form of disposition of real property, or any disposition of real property located within specified jurisdictions which is held by the corporation in the land bank, be subject to specified voting and approval requirements of the board of directors. Except and unless restricted or

constrained in this manner, the board of directors may delegate to officers and employees the authority to enter into and execute agreements, instruments of conveyance and all other related documents pertaining to the conveyance of real property held by the corporation as real property for the land bank.

13-30-112.

(a) The board shall cause minutes and a record to be kept of all its proceedings and such records shall be available for timely public inspection. All meetings shall be open to the public with appropriate notice published in accordance with Section 13-30-107(d).

(b) The board shall publish a report on an annual basis to its creating local government or local governments. This annual report must contain a detailed financial accounting of the corporation's debt obligations, income (sources and amounts), properties, dispositions, expenditures, acquisitions, contracts (executed and pending within the next ninety (90) days), significant activities and other data as required by organizational bylaws and governance documents. This report shall be maintained on file for audit purposes and immediately available to the department of audit in the office of the comptroller of the treasury upon request. Additionally, all such reports shall be available for public inspection.

13-30-113. A corporation created pursuant to this chapter may be dissolved in the manner established by the creating local government or local governments or otherwise in accordance with general law for the dissolution of a public corporation.

13-30-114. No member of the board or employee of a corporation shall acquire any interest, direct or indirect, in real property acquired or held by the corporation. No member of the board or employee of the corporation shall have any interest, direct or indirect, in any contract or proposed contract for materials or services to be furnished or used by the corporation. The board may adopt supplemental rules and regulations

addressing potential conflicts of interest and ethical guidelines for members of the board and employees of the board or corporation.

13-30-115. This act shall be construed liberally to effectuate the legislative intent and the purposes as complete and independent authorization for the performance of each and every act and thing authorized by this act, and all powers granted shall be broadly interpreted to effectuate the intent and purposes and not as a limitation of powers. Except as otherwise expressly set forth in this act, in the exercise of its powers and duties under this act and its powers relating to property held in the land bank, the corporation shall have complete control as fully and completely as if it represented a private property owner and shall not be subject to restrictions imposed by the charter, ordinances or resolutions of a local unit of government.

13-30-116.

(a) In accordance with existing provisions of Tennessee Code 67-5-2505, 67-5-2507, 67-5-2508, 67-5-2509, and 67-5-2514, the corporation is exempt from any state taxation.

(b) Additionally, the corporation has the power to pay any unpaid taxes due and owing by the owner of record of the real property, or make any government mandated improvements to the property, in exchange for the deed of real property to the corporation.

(c) All proceeds from the sale of real property held in the land bank shall be returned to the corporation.

(d) All corporate revenue shall be held by the board of directors, and proceeds shall only go to furthering the aims of the acquisition and/or resale of real property by the corporation for the land bank.

13-30-117.

(a) A corporation shall be authorized to file an action to quiet title as to any real property in which the corporation has an interest. For purposes of any and all such actions, the corporation shall be deemed to be the holder of

sufficient legal and equitable interests, and possessory rights, so as to qualify the corporation as adequate complainant in such action.

(b) Prior to the filing of an action to quiet title, the corporation shall conduct an examination of title to determine the identity of any and all persons and entities possessing a claim or interest in or to the real property. Service of the complaint to quiet title shall be provided to all such interested parties by the following methods:

(1) Registered or certified mail to such identity and address as reasonably ascertainable by an inspection of public records;

(2) In the case of occupied real property by registered or certified mail, addressed to "occupant";

(3) By posting a copy of the notice on the real property;

(4) By publication in a newspaper of general circulation in the municipality in which the property is located

(5) By electronically publishing notices with addresses and descriptions via the municipality's website; and

(6) Such other methods as the court may order.

(c) As part of the complaint to quiet title, the corporation shall file an affidavit identifying all parties potentially having an interest in the real property, and the form of notice provided.

(d) The court shall schedule a hearing on the complaint within ninety (90) days following filing of the complaint, and as to all matters upon which an answer was not filed by an interested party, the court shall issue its final judgment within one hundred twenty (120) days of the filing of the complaint.

(e) A corporation shall be authorized to join in a single complaint to quiet title one (1) or more parcels of real property.

13-30-118.

(a) The creating local government or local governments shall establish an appeal procedure as described in this section for any person aggrieved by the decision of the corporation with respect to real property proposed for acquisition or acquired by, held and disposed of by the corporation for the land bank.

(b) The legislative body of the local government is authorized to create an appeals committee or a joint appeals committee if more than one (1) local government created the corporation. Any person aggrieved by the decision of the corporation concerning any aspect of this act may obtain review of the official's decision by requesting an appeal of the decision of the official in written form to the appeals committee within ten (10) days of the date of the official's decision.

(c) The appeals committee shall hear the appeal within thirty (30) days of the written request for appeal.

(d) The appeals committee shall consider the appeal and render a decision on all hearings within thirty (30) days of the hearing date, unless the hearing is continued from time to time by a majority vote of the committee for further information.

(e) The appeals committee shall act as a quasi-judicial body whose purpose is to determine whether the corporation followed proper and authorized procedures related to the acquisition or disposal of real property held in the land bank, its applicability to the appellant, and to rule upon the actions of the official. The appeals committee shall not be bound by formal rules of evidence applicable to the various courts of the state.

(e) Hearings before the appeals committee shall proceed as follows:

(1) The corporate official shall explain his decision and the reasons for his decision related to the real property at issue;

(2) The appellant shall explain his reasons for protesting the decision of the official;

(3) The appeals committee may request further information from any corporate official. The appeals committee shall not have the power of subpoena;

(4) The appeals committee shall deliberate and render a decision by a majority vote as to whether the official acted appropriately in making the decision. The decision shall also include a recommendation for appropriate legislative body of the local government, if any is required or recommended, to remedy the issue in accordance with the decision rendered by the appeals committee.

(5) Decisions will be reduced to writing and copies shall be sent to all parties, including the legislative body of the local government or local governments, as appropriate, and shall become a part of the minutes of the appeals committee and the appropriate legislative body.

(6) Decisions of the appeals committee shall be final.

13-30-119.

(a) The comptroller shall monitor the actions of the corporation for a period of three (3) years from the date the corporation is created

(b) No later than March 1st following the end of the third year of the creation of the corporation, the comptroller shall file a report with the governor and the state and local government committees of each house with recommendations concerning whether the pilot project should be continued, expanded or discontinued, together with recommended legislative actions based on such decision.

SECTION 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 3. This act shall take effect July 1, 2012, the public welfare requiring it.