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HOUSE BILL NO. 268

Offered January 13, 2016

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A *BILL to amend and reenact § 58.1-3970.2 of the Code of Virginia and to amend the Code of Virginia by adding in Title 15.2 a chapter numbered 75, consisting of sections numbered 15.2-7500 through 15.2-7512, relating to the Land Bank Entities Act.*

Patrons—Marshall, D.W., Carr, McClellan, Price and Ward

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-3970.2 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Title 15.2 a chapter numbered 75, consisting of sections numbered 15.2-7500 through 15.2-7512, as follows:

CHAPTER 75.**LAND BANK ENTITIES ACT.****§ 15.2-7500. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Act" means this chapter, the Land Bank Entities Act (§ 15.2-7500 et seq.).

"Authority" means any political subdivision, a body politic and corporate, created, organized, and operated pursuant to the provisions of the Act.

"Board of directors" or "board" means the board of directors of an authority or a corporation.

"Corporation" means any nonprofit, nonstock corporation created under Chapter 10 (§ 13.1-801 et seq.) of Title 13.1 and operated pursuant to the provisions of the Act.

"Existing nonprofit entity" means any nonprofit organization that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code and eligible to receive donations from a locality pursuant to § 15.2-953.

"Land bank entity" means any authority, corporation, or existing nonprofit entity established or designated by a locality to carry out the purposes of the Act.

"Real property" means lands, structures, and any and all easements and every estate and right therein, legal and equitable, including terms for years and liens by way of judgment, mortgage, or otherwise, and any and all fixtures and improvements located thereon.

§ 15.2-7501. Creation of land bank entities by localities.

A. Subject to a public hearing held pursuant to § 15.2-7502, a locality may by ordinance, or two or more localities may by concurrent ordinances, create a land bank entity as either an authority or a corporation, under an appropriate name and title, for the purpose of assisting the locality to address vacant, abandoned, and tax delinquent properties. Other localities may join the authority or corporation as provided in the ordinance.

An authority created pursuant to the Act shall be created as a public body corporate and as a political subdivision of the Commonwealth. A corporation created pursuant to the Act shall be a nonprofit, nonstock corporation created under Chapter 10 (§ 13.1-801 et seq.) of Title 13.1.

B. Each ordinance shall include the following:

1. The name of the authority or corporation and the address of its principal office;

2. The name of each locality creating the authority or corporation;

3. The purpose for which the authority or corporation is created; and

4. The names, addresses, and terms of office of the initial members of the board of directors of the authority or corporation.

§ 15.2-7502. Public hearing required prior to creation or designation of a land bank entity.

The governing body of a locality shall not adopt an ordinance creating a land bank entity pursuant to § 15.2-7501 or designating an existing nonprofit entity pursuant to § 15.2-7512 until notice of intention to do so has been published once a week for two successive weeks in some newspaper published or having general circulation in the locality. The notice shall specify the time and place of a hearing at which affected or interested persons may appear and present their views, not less than five days nor more than 21 days after the second advertisement appears in such newspaper. After the public hearing has been conducted pursuant to this section, the governing body shall be empowered to create a land bank entity or designate an existing nonprofit entity.

§ 15.2-7503. Board of directors; qualifications; terms; vacancies; compensation and expenses.

A. Each land bank entity created pursuant to the Act shall be governed by a board of not less than

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59 five members appointed by the governing body of the participating locality. When a land bank entity is
60 created by two or more localities, the governing body of each locality shall appoint at least two
61 members, one of whom may be a member of the governing body. After initial staggered terms, the term
62 of all board members shall be four years. When one or more additional localities join an existing land
63 bank entity, each of such participating localities shall be represented by not less than two members on
64 the board. The first members shall be appointed immediately upon the admission of the locality into the
65 land bank entity in the same manner as were the initial members of the land bank entity.

66 B. The board shall elect one of its members to serve as chairman and one of its members to serve as
67 vice-chairman and shall elect a secretary and a treasurer who need not be members of the board. The
68 offices of secretary and treasurer may be combined. A majority of the members of the board shall
69 constitute a quorum, and the vote of a majority of such quorum shall be necessary for any action taken
70 by the land bank entity. No vacancy in the membership of the board shall impair the right of a quorum
71 to exercise all the rights and perform all the duties of the land bank entity.

72 C. The localities that created or thereafter join the land bank entity, by ordinance or concurrent
73 ordinances, may provide for the payment of compensation to the members of the board and for the
74 reimbursement to each member of the land bank entity the amount of his actual expenses necessarily
75 incurred in the performance of that member's duties.

76 **§ 15.2-7504. Executive director; staff.**

77 The board may appoint an executive director, who shall be authorized to employ such staff as
78 necessary to enable the land bank entity to perform its duties as set forth in the Act. The board is
79 authorized to determine the duties of such staff and to fix salaries and compensation from such funds as
80 may be received or appropriated.

81 The land bank entity may enter into contracts and agreements with a locality for staffing services to
82 be provided to the land bank entity.

83 **§ 15.2-7505. Financial interests of board members and employees prohibited.**

84 A. No member of the board or employee of the land bank entity shall acquire any interest, direct or
85 indirect, in real property of the land bank entity, in any real property to be acquired by the land bank
86 entity, or in any real property to be acquired from the land bank entity.

87 B. No member of the board or employee of a land bank entity shall have any interest, direct or
88 indirect, in any contract or proposed contract for materials or services to be furnished to or used by a
89 land bank entity.

90 C. The board may adopt supplemental rules and regulations addressing potential conflicts of interest
91 and ethical guidelines for members of the board and employees of the land bank entity.

92 **§ 15.2-7506. Powers of land bank entity.**

93 A. The land bank entity shall have the power to:

94 1. Adopt, amend, and repeal bylaws for the regulation of its affairs and the conduct of its business;
95 2. Sue and be sued in its own name and plead and be interpleaded in all civil actions, including
96 actions to clear title to property of the land bank entity;

97 3. Adopt a seal and alter the same at its pleasure;

98 4. Borrow money from private lenders, localities, or the state or from federal government funds, as
99 may be necessary, for the operation and work of the land bank entity;

100 5. Procure insurance or guarantees from the Commonwealth or federal government of the payments
101 of any debts or parts thereof incurred by the land bank entity and pay premiums in connection
102 therewith;

103 6. Enter into contracts and other instruments necessary, incidental, or convenient to the performance
104 of its duties and the exercise of its powers;

105 7. Enter into contracts and other instruments necessary, incidental, or convenient to the performance
106 of functions by the land bank entity on behalf of localities or agencies or departments of localities or to
107 the performance by localities or agencies or departments of localities of functions on behalf of the land
108 bank entity;

109 8. Make and execute contracts and other instruments necessary or convenient to the exercise of the
110 powers of the land bank entity;

111 9. Procure insurance against losses in connection with the real property, assets, or activities of the
112 land bank entity;

113 10. Invest funds of the land bank entity, at the discretion of the board, in instruments, obligations,
114 securities, or real property determined proper by the board and name and use depositories for its funds;

115 11. Enter into contracts for the management of, the collection of rent from, or the sale of real
116 property of the land bank entity;

117 12. Design, develop, construct, demolish, reconstruct, rehabilitate, renovate, relocate, and otherwise
118 improve real property or rights or interests in real property;

119 13. Fix, charge, and collect rents, fees, and charges for the use of real property of the land bank
120 entity and for services provided by the land bank entity;

14. Grant or acquire a license, easement, lease, or option with respect to real property of the land bank entity;

15. Enter into partnerships, joint ventures, and other collaborative relationships with municipalities and other public and private entities for the ownership, management, development, and disposition of real property;

16. Accept grants and donations from any source, as may be necessary, for the operations of the land bank entity;

17. Accept real estate from any source, subject to the limitations and restrictions set out in § 15.2-7507;

18. Make loans or provide grants to carry out activities consistent with the purposes of the land bank entity; and

19. Do all other things necessary or convenient to achieve the objectives and purposes of the land bank entity or other laws that relate to the purposes and responsibility of the land bank entity.

B. The land bank entity shall neither possess nor exercise the power of eminent domain.

§ 15.2-7507. Acquisition of property.

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

B. In addition to the powers granted in subsection A, the land bank entity may acquire real property by purchase contracts, lease purchase agreements, installment sales contracts, land contracts, and pursuant to the sale or other conveyance of real property under Article 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1.

C. The land bank entity may accept transfers or conveyances from a locality upon such terms and conditions as agreed to by the land bank entity and the locality. Notwithstanding any other law to the contrary, any locality may transfer or convey to the authority real property and interests in real property of the locality on such terms and conditions and according to such procedures as determined by the locality.

D. The land bank entity shall maintain all of its real property in accordance with the laws and ordinances of the jurisdiction in which the real property is located.

§ 15.2-7508. Disposition of property.

A. The land bank entity shall hold in its own name all real property acquired by the land bank entity regardless of the identity of the transferor of such property.

B. The land bank entity shall maintain and make available for public review and inspection an inventory of all real property held by the land bank entity.

C. The land bank entity shall determine and set forth in policies and procedures of its board the general terms and conditions for consideration to be received by the land bank entity 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 land bank entity to be in the best interest of the land bank entity.

D. The land bank entity may convey, exchange, sell, transfer, lease as lessee, grant, and release any and all interests in, upon, or to real property of the land bank entity.

E. A locality may, in its ordinance creating a land bank entity:

1. Establish a ranking of priorities for the use of real property conveyed by a land bank entity, including (i) use for purely public spaces and places; (ii) use for affordable housing; (iii) use for retail, commercial, or industrial activities; and (iv) such other uses and in such priority as determined by the participating locality; and

2. Require that any particular form of disposition of real property, or any disposition of real property located within specified jurisdictions, be subject to specified voting and approval requirements of the board. Except and unless restricted or constrained in this manner, the board may delegate to officers and employees of the land bank entity the authority to enter into and execute agreements, instruments of conveyance, and all other related documents pertaining to the conveyance of real property by the land bank entity.

§ 15.2-7509. Financing of operations.

A. A land bank entity may receive funding through grants and loans from the locality or localities that created or are currently participating in the land bank entity, the Commonwealth, the federal government, and other public and private sources.

B. A land bank entity may receive and retain payments for (i) services rendered, (ii) rents and lease payments received, (iii) consideration for disposition of real and personal property, (iv) proceeds of insurance coverage for losses incurred, (v) income from investments, and (vi) any other asset and activity lawfully permitted to a land bank entity under the Act.

C. Up to 50 percent of the real property taxes collected on real property conveyed by a land bank entity may be remitted to the land bank entity. Such allocation of property tax revenues shall commence with the first taxable year following the date of conveyance and continue for a period of up to 10 years.

§ 15.2-7510. Exemption from taxes or assessments.

The land bank entity is hereby declared to be performing a public function on behalf of the locality with respect to which the land bank entity is created and to be a public instrumentality of such locality. Accordingly, the land bank entity shall not be required to pay any taxes upon any property acquired or used by the land bank entity under the provisions of the Act.

§ 15.2-7511. Dissolution of land bank entity.

A. A land bank entity may be dissolved 60 calendar days after an affirmative resolution is approved by two-thirds of the membership of the board. Sixty calendar days' advance written notice of consideration of a resolution of dissolution shall be (i) given to all governing bodies that created or are currently participating in the land bank entity, (ii) published in a local newspaper of general circulation, and (iii) sent by certified mail to the trustee of any outstanding bonds of the land bank entity. Upon dissolution of the land bank entity, all real property, personal property, and other assets of the land bank entity shall become the assets of the locality or localities that created the land bank entity. In the event that two or more localities create or are participating in a land bank entity, the withdrawal of one or more participating localities shall not result in the dissolution of the land bank entity unless the intergovernmental agreement so provides and no participating locality desires to continue the existence of the land bank entity.

B. No land bank entity shall be dissolved unless all obligations and debts of such land bank entity have been lawfully satisfied or otherwise provided for.

§ 15.2-7512. Designation of existing nonprofit entities to carry out the functions of a land bank entity.

A. Subject to a public hearing held pursuant to § 15.2-7502, a locality may by ordinance designate an existing nonprofit entity and its governing board to carry out the functions of a land bank entity. The ordinance shall include a finding by the locality that the governance structure, articles of incorporation, charters, bylaws, and other corporate documents are sufficient to authorize the designated existing nonprofit entity to carry out the provisions of the Act.

B. An existing nonprofit entity designated pursuant to this section shall not be required to comply with the provisions of § 15.2-7503.

§ 58.1-3970.2. When delinquent taxes may be deemed paid in full.

A. For purposes of this section, "tax delinquent property" means any real property for which real property taxes are delinquent on December 31 following the second anniversary of the date on which such taxes have become due or, in the case of real property upon which is situated (i) any structure that has been condemned by the local building official pursuant to applicable law or ordinance, (ii) any nuisance as that term is defined in § 15.2-900, (iii) any derelict building as that term is defined in § 15.2-907.1, or (iv) any property that has been declared to be blighted pursuant to § 36-49.1:1, for which real property taxes are delinquent on the first anniversary of the date on which such taxes have become due.

B. Any county, city, or town may deem paid in full all accumulated taxes, penalties, interest, and other costs on any tax delinquent property and notify credit reporting agencies that such amounts are deemed paid in full, in exchange for conveyance of the property by the owner to a land bank entity created pursuant to Chapter 75 (§ 15.2-7500 et seq.) of Title 15.2 or an organization that has been granted tax-exempt status under § 501(c)(3) or 501(c)(4) of the Internal Revenue Code and that builds, renovates, or revitalizes affordable housing for low-income families.