

# Georgia Land Bank

## Resource Manual

JUNE 2013

Frank S. Alexander & Sara J. Toering

Center for Community Progress

Valdosta-Lowndes County Habitat for Humanity, Inc.

Enterprise Community Partners, Inc.

Georgia Association of Land Bank Authorities, Inc.

Georgia Municipal Association

Association County Commissioners of Georgia

# Georgia Land Bank

## Resource Manual

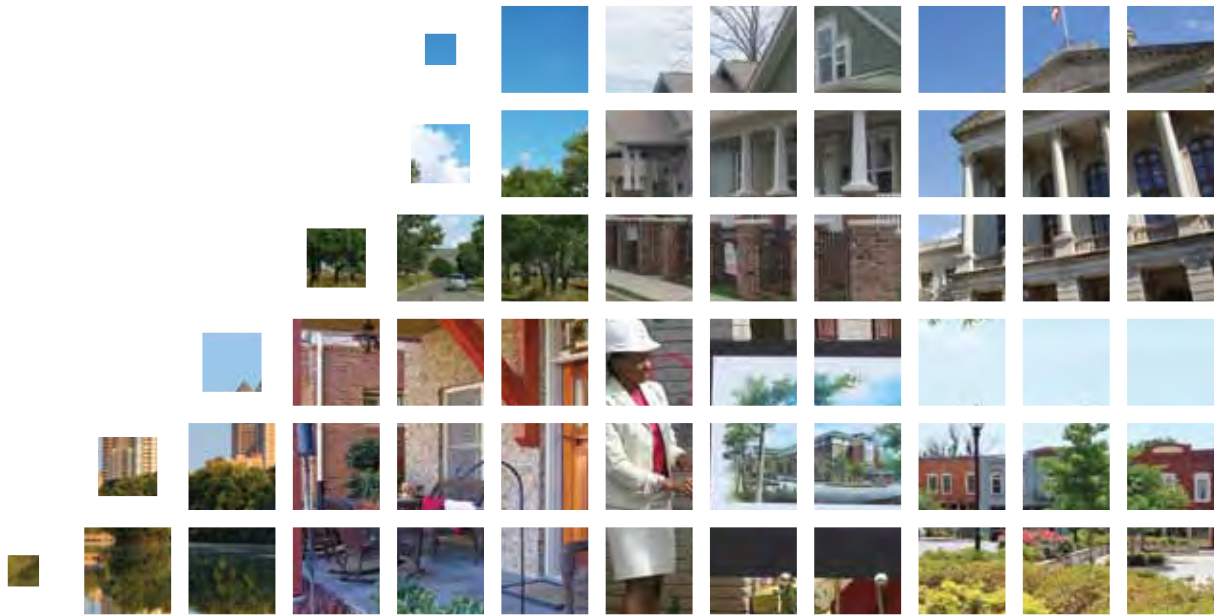
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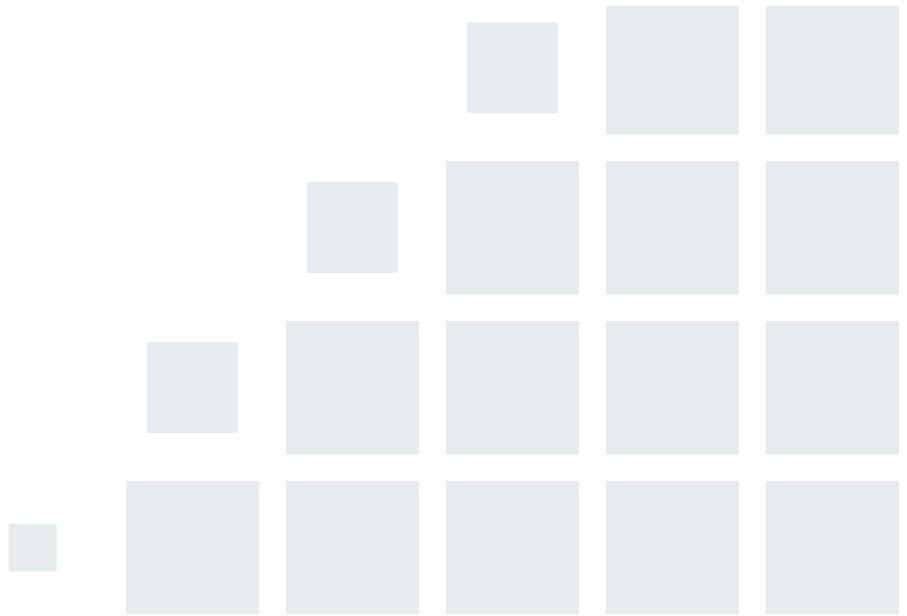
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The work that provided the basis for this publication was supported by funding under an award with the U.S. Department of Housing and Urban Development. The substance and findings of the work are dedicated to the public. The authors are solely responsible for the accuracy of the statements and interpretations contained in this publication. Such interpretations do not necessarily reflect the views of HUD.



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## Center for Community Progress

The mission of Community Progress is to create vibrant communities primarily through the reuse of vacant, abandoned, and problem properties in America's cities and towns. We accomplish this mission in the following ways:

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- Community Progress collaborates with experts on relevant research needed to contribute to the growing body of appropriate public policy regarding the successful reuse of vacant, abandoned and problem properties.
- Community Progress is the national advocacy organization regarding the successful reuse of vacant, abandoned and problem properties.
- Community Progress uses its expertise to improve the overall economic and social well being of cities and towns in America impacted by large numbers of vacant, abandoned and problem properties.

This volume is published and distributed by the Center for Community Progress with offices in Flint, MI, Washington, DC and New Orleans, LA. Copies of this publication are available in electronic format at [www.communityprogress.net](http://www.communityprogress.net).

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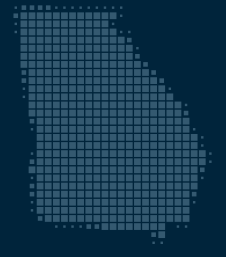
# Preface

It is with great pleasure and honor that I have the opportunity to provide this Preface for this first edition of the GEORGIA LAND BANK RESOURCE MANUAL. This publication represents an extremely important milestone in the collective efforts of the Georgia Association of Land Bank Authorities, Inc. (GALBA) and many other stakeholders to advance the works and benefits of land banks and land banking in the State of Georgia. Even though land banks have existed in Georgia since 1991, historically there has been limited coordinated sharing of information and technical assistance. In 2010, an initiative was undertaken to bring together the existing land banks and key stakeholders throughout the state to advance a new land banking law to provide for improved operational, financial and programmatic outcomes. The initiative was successful and the new Georgia Land Bank Act was passed and became law in July 2012.

As the group went about its work to promote the passage of the 2012 Georgia Land Bank Act, it became apparent that the loose confederation of land banks throughout Georgia needed a more formal means of working together to share information, best practices and technical assistance. This resulted in the formation of the Georgia Association of Land Bank Authorities, Inc. (GALBA) in August 2011. The work of GALBA, the *Center for Community Progress* and other stakeholders, coupled with the increased interest in forming new land banks and improving existing ones, made it further evident that some type of written resource was needed. The result of this need is this first edition of the GEORGIA LAND BANK RESOURCE MANUAL.

I would like to take the opportunity to express sincere gratitude to Frank S. Alexander, Sara J. Toering and other members of the team from the *Center for Community Progress* for their invaluable guidance, contributions, knowledge, and support for the creation of this document and continuing to advance the work of land banks throughout the State and nation. I would also like to acknowledge the support of Enterprise Community Partners for providing financial assistance to produce this MANUAL. Last, but not least, I would also like to acknowledge the support of Valdosta-Lowndes County Habitat for Humanity, Georgia Municipal Association and Association County Commissioners of Georgia in assisting in the production of this document. We hope that land bank practitioners, government officials, community development corporations, and all other interested parties will find this MANUAL beneficial in their work and an invaluable resource as the benefits and features of the 2012 Georgia Land Bank Act are realized. The next phase of land banking in Georgia is undoubtedly under way.

**Christopher Norman**  
**President**  
**Georgia Association of Land Bank Authorities, Inc.**



# Introduction

This GEORGIA LAND BANK RESOURCE MANUAL has been prepared with one simple goal in mind – to provide assistance to counties and municipalities in Georgia struggling to deal with growing inventories of tax delinquent, substandard, deteriorating and foreclosed properties. A land bank will not solve all issues of a declining economy. A land bank is not a substitute for efficient and effective property tax enforcement; nor is a land bank a substitute for clear and creative land-use planning. It is, however, a tool that can make a difference when the focus is predominantly on those properties that have largely been abandoned by the market-place, or are otherwise inaccessible to the market-place.

Land banking in Georgia has a history of almost thirty years, yet in many ways is still in its infancy. The enactment of the new Georgia Land Bank Act in 2012 opened the door to a new era of regional collaboration, focused initiatives on particular problem properties, and the conversion of vacant spaces into vibrant places.

This MANUAL is designed to serve two distinct functions. One function is to provide basic education about land banks and land banking in Georgia. Chapter 1 presents the history of Georgia land banking, its evolution over the course of its first two decades, and the growth of land banks throughout the State. Chapter 2 presents the context of the 2012 Georgia Land Bank Act. Chapter 3 provides detailed descriptive information on the multiple avenues for creation of a new land bank and the core characteristics of land banks as public entities. Chapter 4 is an overview of the core policies and functions of land banking.

The second function of this MANUAL is to provide sample legal documents, in template form, for use by public leaders and the city and county attorneys who serve them. Appendix I contains the applicable Georgia land bank legislation. Appendix II contains template legal documents relative to the creation of a land bank, and Appendix III contains sample template policies and procedures. It is vital that these documents be understood only as samples and templates, and that every local government seek the advice and counsel of

## INTRODUCTION



Photo Courtesy of Fulton County/City of Atlanta Land Bank Authority

the city or county attorney in crafting the documents and policies as appropriate for the local government. Finally, Appendix IV contains a directory of Land Banks and Habitat for Humanity affiliates in Georgia.

The **GEORGIA LAND BANK RESOURCE MANUAL** is the direct result of collaboration between local, state and national partners. The driving force behind the concept of this **MANUAL** has been the Georgia Association of Land Bank Authorities, Inc. Funding for this **MANUAL** was made possible by the United States Department of Housing & Urban Development in conjunction with Enterprise Community Partners. Valdosta-Lowndes County Habitat for Humanity served as the linchpin in facilitating the creation of this **MANUAL** and – most significantly – demonstrating the vital capacity for implementation of the land banking functions in the redevelopment of neighborhoods. The *Center for Community Progress*, as the premier not-for-profit organization in the country focusing on the conversion of vacant, abandoned and tax delinquent lands into productive use, made possible the publication of this **MANUAL**. The Georgia Municipal Association and Association County Commissioners of Georgia were key partners in the formation of drafts of the 2012 Georgia Land Bank Act and served as lead educators in explaining the significance of this legislation to the Georgia General Assembly.

We have been privileged to work in the field of land banks and land banking over the course of the past thirty years and are honored to serve as the “scribes” in making this information, and this new tool, accessible to local governments throughout the State of Georgia. The success of land banks in Georgia is due entirely to the vision, commitment, and leadership of numerous dedicated public servants in our communities. If there are errors in this **MANUAL** (and we hope that they are few in number), they are solely the errors of the authors.

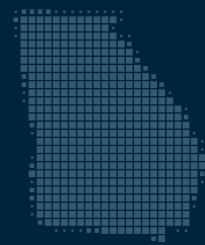
**Frank S. Alexander**

**Sara J. Toering**

**June 2013**

# Land Banks and Land Banking in Georgia 1990-2011

## Georgia Land Bank Resource Manual



# Chapter 1

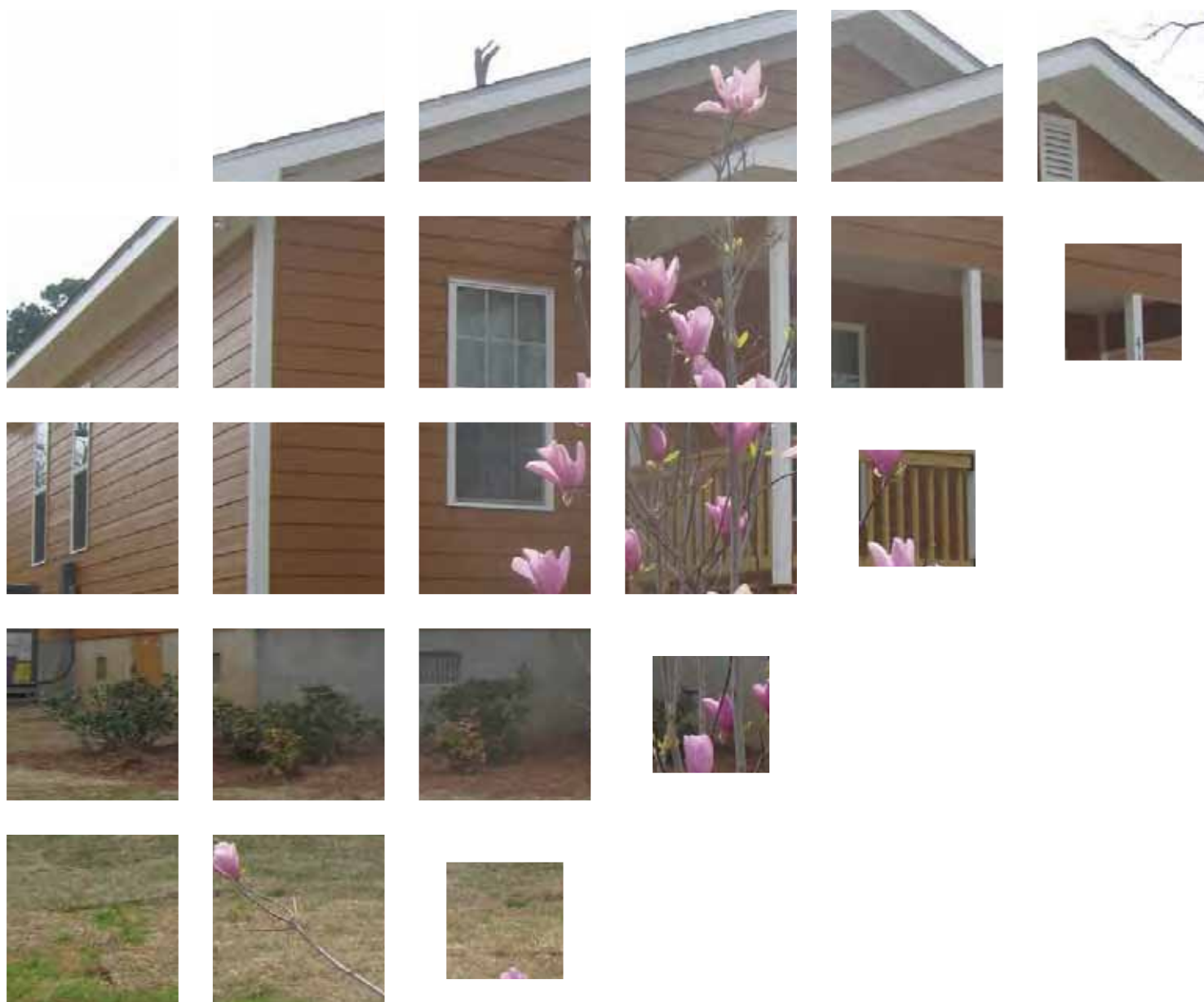


Photo Courtesy of Macon Area Habitat for Humanity

## CHAPTER 1

# Land Banks and Land Banking in Georgia 1990-2011

Every program or initiative that combines cultural transformation and governmental initiatives is a story with many actors, stages, plots and twists. The drama of land banks and land banking in Georgia is a play that is still being written, with origins tracing back a mere twenty-five years. From the creation of the first land bank by Fulton County and the City of Atlanta in 1991 through the enactment of the revised and comprehensive Georgia Land Bank Act in 2012, land banking in Georgia is a story of trial and error, of education and experimentation, of strategic successes and systemic reforms. Each successive land bank in Georgia learned from and built upon the work of sister land banks. Each neighborhood confronted its own challenges of vacancy and abandonment informed by the work of other communities. Each city and county utilized the tool of land banking with greater creativity and success by statutory amendments and intergovernmental collaboration.

### A. Land Banking Triggers

The impetus for the creation of land banks, both in Georgia and throughout the United States, is relatively simple and straightforward—parcels of property lie dying in a state of vacancy, abandonment and deterioration. In an otherwise stable or vibrant economy, these parcels become inaccessible to open market purchases because of systemic legal barriers. In a weak or declining economy there is simply insufficient demand or value to justify resolution of those barriers. The owners of these properties have made a strategic financial decision to abandon them or the ownership has become so highly fractured among diverse entities that no one entity has sufficient interest to force a new use, or a transfer to a new owner.

By the late 1980s inner-city residential neighborhoods in the City of Atlanta began to emerge from two decades of relative economic stagnation. Neighborhoods substantially rehabilitated residential structures, resulting in their conversion from subdivided rental stock back to single-family owner occupancy. New construction of single-family and multifamily residences reemerged alongside the nascent conversion of commercial and industrial spaces into residential lofts. By 1992, Atlanta's impossible dream of becoming an international Olympic city had become a firm reality.

In the midst of this reemergence, however, one could drive down residential streets less than one mile from the heart of downtown Atlanta and encounter abandoned residences that were heavily deteriorated - windows broken out, doors long gone, roofs partially collapsed - all largely hidden by a covering of kudzu. Potential private developers as well as nonprofit



developers such as Habitat for Humanity found acquisition of the property to be impossible. Atlanta had a growing inventory of “dead” property even in the face of rising economic investments and pressures for gentrification.

This inventory of vacant, abandoned, and substandard property had one common characteristic—a single proposition of law which erected an impenetrable barrier to marketability. Property taxes on these properties had become delinquent not just for one year, but for five years or ten years or more. For each year of delinquency the taxes compounded at 18%. At the same time appraised values (for property tax purposes) remained artificially high when the market value declined because owners who abandoned the property also abandoned all desire to contest appraised values. Property tax enforcement laws, with clear origins from a century earlier, lost all effectiveness in forcing a tax sale because the law stipulated a minimum bid of all delinquent taxes, penalties and interest. As a result of years of delinquency, the minimum bid far exceeded fair market value and the disparity only grew greater with each passing year.

## B. The 1990 Georgia Land Bank Statute

In late 1989 and early 1990 an informal coalition of affordable housing advocates and key elected leadership in the City of Atlanta and Fulton County began looking for creative solutions to this challenge of problem properties that were inaccessible to the market. They found a potential solution in Louisville, Kentucky and Cleveland, Ohio. Building upon concepts embraced by the first local government land bank in the country in St. Louis in 1973, state legislation in Ohio authorized the creation of the Cleveland Land Bank in 1976 and in Louisville in 1989.

Based principally upon the Louisville, Kentucky statutory framework, the original land bank legislation in Georgia was passed by the General Assembly in 1990.<sup>1</sup> This initial legislation had two dominant characteristics, one dealing with creation and governance, and the second with the core power of addressing delinquent property taxes.

The 1990 Georgia land bank statute permitted the creation of a land bank only by agreement between a municipality and the county in which it was located. Neither a municipality acting alone, nor a county acting alone, could create a land bank. Perhaps as a reflection of the reluctant dance in the sharing of powers by the City of Atlanta and Fulton County, the legislation mandated a board of directors of just four individuals, two appointed by the City and two by the County. It further specified that no property located within the City could be transferred by the land bank without approval by the City’s board appointees, and no property located in the County outside of the city limits could be transferred without the approval of the County’s board appointees.

The core power for lands banks authorized in the 1990 legislation was the power to extinguish liens for delinquent property taxes on any property owned by a land bank.<sup>2</sup> This power was aimed clearly and directly at the growing inventory of “dead” properties where the delinquent taxes exceeded fair market value and property tax foreclosure sales were never completed. The General Assembly authorized the creation of a land bank

“to acquire... tax delinquent .... properties in order to foster the public purpose of returning land which is in a non-revenue-generating, non-tax-producing status to an effective utilization status in order to provide housing, new industry, and jobs for the citizens of the county.”<sup>3</sup>

## C. Creation of the Fulton County/ City of Atlanta Land Bank

The Fulton County/City of Atlanta Land Bank Authority formally came into existence in 1991 following the approval of an intergovernmental contract by the City and the County, the filing of articles of incorporation and the appointment of its first board members. Once again suggestive of the hesitancy to venture far into intergovernmental collaboration, for the first three years of its existence the Atlanta Land Bank had no staff of its own and no budget, with its operational functions alternating each year between the land use and planning

1 Ga. Laws 1990, p. 1875; O.C.G.A. § 48-4-60 *et seq.*

2 O.C.G.A. § 48-4-64(c).

3 O.C.G.A. § 48-4-61(c).



departments of the two distinct governments in tandem with annually alternating board chairmanship. It was not until Fiscal Year 1995 that the Atlanta Land Bank received its first direct budget appropriations from the two local governments, and hired its first full time executive director in May, 1994.

For the next fifteen years of its existence the Atlanta Land Bank was remarkably consistent and single-minded in its operational focus, with virtually no change in the board composition or staff leadership. The board made an affirmative decision that the Land Bank would not retain ownership of property for any length of time and would instead focus instead only on the exercise of its power to extinguish delinquent property taxes. Functionally, this resulted in a primary focus on a “conduit” transfer program in which a nonprofit affordable housing entity would identify and acquire a parcel of property heavily burdened with delinquent taxes by paying a nominal amount to the owner and taking the property subject to the outstanding tax liens. The entity would then convey the property to the land bank, which would extinguish the delinquent taxes and immediately reconvey the property to the entity with restrictions and requirements that the property be redeveloped for affordable housing.

## D. Amendments to the 1990 Georgia Land Bank Statute

Between its original enactment in 1990 and the passage of the comprehensive new Georgia Land Bank Act in 2012, the original land bank legislation was amended in key aspects on three occasions. The first amendment occurred in 1992 and directly addressed the application of the power of tax extinguishment to public school property taxes.<sup>4</sup> Because school taxes comprised well over 50 percent of annual property taxes in the City of Atlanta and Fulton County, the effectiveness of the power to extinguish taxes was limited if it did not apply to the school board’s portion of such taxes. The legislative amendment in 1992 made clear that such school taxes could be extinguished, but only with the consent of the board of education. As an operational matter, the Atlanta Land Bank initially sought such consent on each separate property. Upon becoming convinced that delinquent taxes – at

least as to the target property of the land bank – yielded no revenue to the school district and that transfers from the land bank to a new owner would yield new tax revenues, the school district created a “default” position that the land bank could extinguish all delinquent property taxes unless the school district objected.

The second major amendment to the original land bank statute occurred in 1995 and addressed the connections between land bank inventory acquisition and the tax foreclosure process.<sup>5</sup> This amendment created express authority for the land bank to tender a bid at a property tax foreclosure sale in an amount equal to the minimum bid, which could be a “credit” bid consisting of the assumption of responsibility for the property tax lien. When coupled with the separate power of a land bank to extinguish property tax liens on property it owns, the effect of this amendment was to place land banks in a position to change the character of any and all property that had become dead to the market because taxes exceeded value and tax sales were not occurring. The timing of this amendment coincided with the enactment by the Georgia General Assembly of an entirely new system of property tax foreclosure (at local option), a judicial *in rem* foreclosure proceeding,<sup>6</sup> and authorized a land bank to tender credit bids at both nonjudicial and judicial foreclosure proceedings.

Perhaps because the interests of the City of Atlanta and Fulton County drove the original land bank legislation, it was not until 1997 that the statute was further amended to address procedures for the creation of a land bank by consolidated local governments in Georgia.<sup>7</sup>

4 Ga. Laws 1992, p. 1355, amending O.C.G.A. § 48-4-64(c).

5 Ga. Laws 1995, p. 282, amending O.C.G.A. § 48-4-64(a).

6 Ga. Laws 1995, p. 272, enacting O.C.G.A. § 48-4-75 *et seq.*

7 Ga. Laws 1997, p. 882, amending multiple sections of O.C.G.A. §48-4-60 *et seq.*



## E. Proliferation of Successful Georgia Land Banks

Demonstrating its effectiveness in the conversion of abandoned and heavily tax delinquent properties into new, productive uses over the course of its first five years of work, the Atlanta Land Bank became a model for other local governments in Georgia. The Columbus-Muscogee County Land Bank (1992), the Macon-Bibb County Land Bank Authority (1996), the Savannah-Chatham County Land Bank Authority (1997) and the Valdosta-Lowndes County Land Bank (1999) followed suit, and the Augusta-Richmond County Land Bank (1998), and the Athens-Clarke County Land Bank (2009) were created once the legislation had been amended to allow for consolidated governments. Five other communities in Georgia created land banks prior to the 2012 Georgia Land Bank Act, including most recently the DeKalb Regional Land Bank (2012).

### Georgia Land Banks (as of March 2013)

Fulton County/City of Atlanta Land Bank Authority  
Savannah/Chatham County Land Bank Authority  
Macon/Bibb County Land Bank Authority  
Valdosta/Lowndes County Land Bank Authority  
Augusta/Richmond County Land Bank Authority  
Columbus/Muscogee County Land Bank Authority  
Statesboro/Bullock County Land Bank Authority  
Athens/Clarke County Land Bank Authority  
Roe/Floyd County Land Bank Authority  
LaGrange/Troup County Land Bank Authority  
Thomasville/Thomas County Land Bank Authority  
DeKalb Regional Land Bank Authority

During the twenty years between 1990 and 2010, land banking in Georgia continued to evolve as local land banks adopted and adapted programs, policies and priorities designed to address the most pressing local needs. In early 2008, the Atlanta Land Bank created the first Land Bank Depository Agreement Program in the entire country, an initiative directly designed to deal with growing inventories of properties for which there was simply no market demand. With the federal recognition of land banking for the very first time in the Housing and Economic Recovery Act of 2008, the Atlanta Land Bank played a key role in the utilization of Neighborhood Stabilization Program (NSP) funding to acquire and manage inventories of foreclosed properties.

The creation of and experience with the five to ten active land banks in Georgia during the first decade of this century demonstrated the value of a flexible yet highly focused tool for local governments to address the broad range of problems caused by properties that lay dead to the market. In addition, the first active land banks in Georgia set a standard for excellence that is well-respected throughout the State. For example, the Valdosta-Lowndes County Land Bank and the Macon-Bibb Land Bank have each received Magnolia Awards from the Georgia Department of Community Affairs for their outstanding work and leadership. Each of the Georgia land banks emphasized a slightly different approach, using different levels of staffing and budgets, and collaborating with different sets of local partners. What these Georgia land banks also realized, however, were the limitations in existing Georgia law on their ability to effectively address their statutory mission and local priorities.

Between 1999 and 2008, a new generation of land banks and land banking programs emerged, first in Michigan and then in Ohio. This second generation of programs built upon the experiences of the first generation (St. Louis, Cleveland, Louisville, and Atlanta), addressed their deficiencies, and expanded on their successes. In both Michigan and Ohio, new statutes were passed which created far more direct and efficient ties between land banking and property tax enforcement systems. The new statutes expressly acknowledged and facilitated more expansive options for regional and intergovernmental collaboration, allowing single land banks to be formed by multiple local governments or multiple local land banks to collaborate in achieving economies of scale in

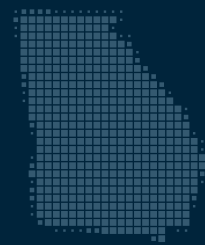


operations through intergovernmental agreements. This second generation of land banking also included a far broader range of internal financing mechanisms such as a limited property tax recapture on properties conveyed from the land bank to a new private owner and placed back on the tax rolls.

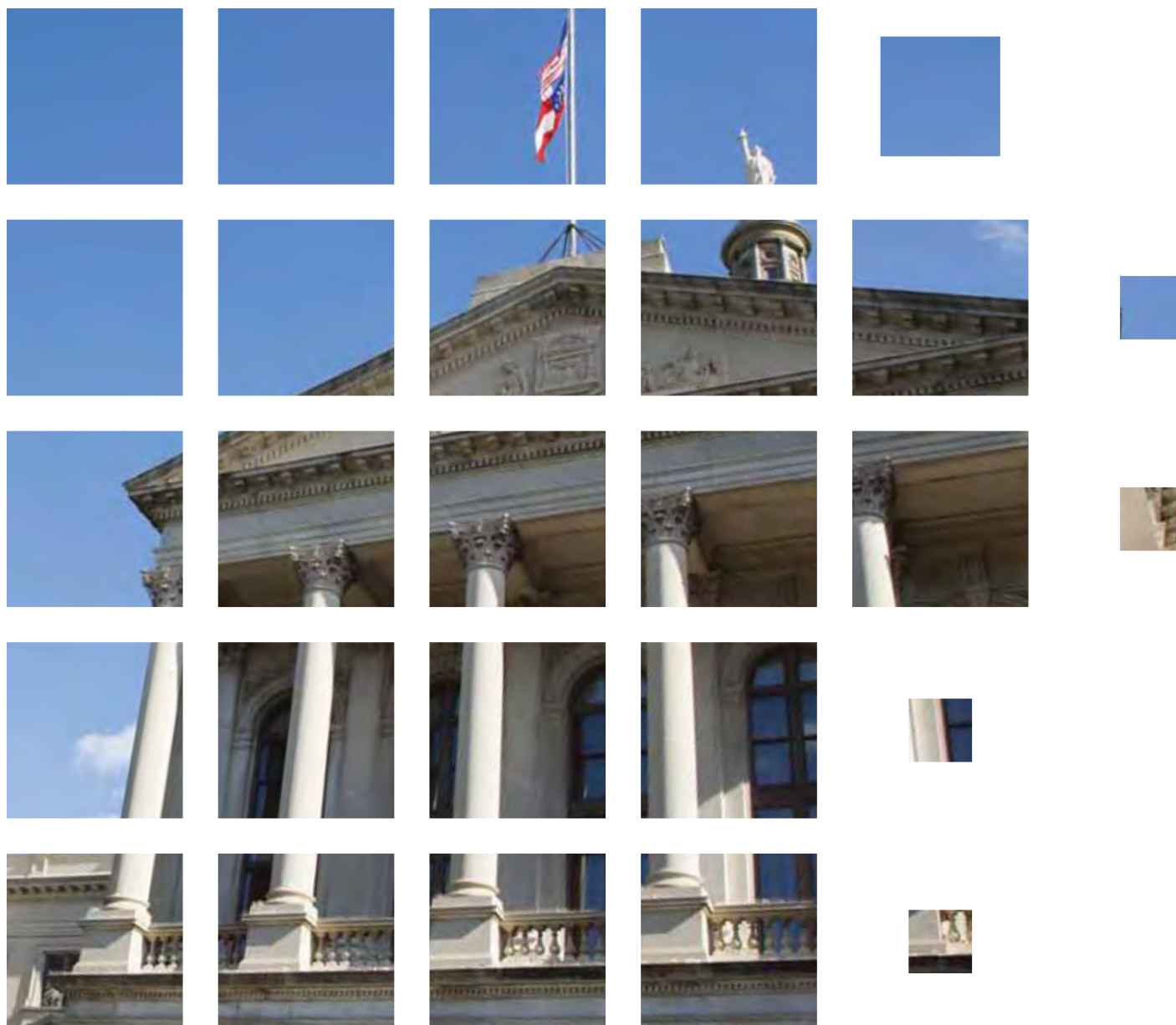
Under the strong leadership of the Atlanta, Macon, Augusta, and Valdosta-Lowndes County land banks, a statewide association—the Georgia Association of Land Bank Authorities, Inc. (“GALBA”)—was formed in 2011. Its mission is to facilitate education, collaboration, and cross-training among existing land banks in Georgia, and to provide assistance to other local governments in Georgia that are exploring the possibility of creating land banks. Most significantly, GALBA began to press the question of whether the existing Georgia land bank statute could be amended or replaced in a manner that incorporated the best thinking and best experiences drawn from land banks throughout the United States. Between 2011 and 2012, GALBA took the lead in the preparation of new, comprehensive legislation for the State of Georgia, enacted in 2012 as the Georgia Land Bank Act.

# The 2012 Georgia Land Bank Act

## Georgia Land Bank Resource Manual



## Chapter 2



## CHAPTER 2

# The 2012 Georgia Land Bank Act



In late 2010, two decades after the passage of the first Georgia land bank statute and in the wake of a foreclosure crisis that ripped through neighborhoods across the country, land bank directors from nearly all of the Georgia land banks joined community development, non-profit housing advocates and local government officials from all over the state for a gathering in Atlanta at Emory University. The purpose of this meeting, the first of its kind in Georgia, was to begin building and connecting a state-wide network of land bank leaders to share resources and best practices, and to brainstorm and develop the key ingredients of a legislative agenda for Georgia land banks moving forward.

In that early meeting, three key themes emerged: Land bank leaders agreed that Georgia land banks could increase their efficacy and impact with new legislation that (a) authorized and encouraged regional collaboration in land banking; (b) provided land banks with self-financing mechanisms and increased access to funding sources; and (c) authorized and encouraged land banking responsive to locally determined priorities. Over the next eighteen months, building upon the network and collaboration formed at the initial meeting in 2010, this community of local government leaders, land banking professionals and neighborhood stabilization and housing advocates drafted and refined Senate Bill 284 which became the 2012 Georgia Land Bank Act.

### A. Passage of the 2012 Georgia Land Bank Act

Senate Bill 284 (“SB 284”) reflected each of the three essential statutory updates identified by Georgia land bank leaders including regional collaboration, increased financing mechanisms and increased flexibility to address local community priorities. State Senator Tim Golden of Valdosta introduced SB 284 on the last day of the 2011 legislative session. Over the summer and fall of 2011, the newly formed Georgia Association of Land Bank Authorities, Inc. (“GALBA”) embarked on an education and advocacy campaign for this updated Georgia land bank legislation and was eager to consult with all stakeholders throughout the state on SB 284 in advance of the 2012 legislative session. Georgia land bank leaders refined SB 284 with the support and assistance of the Georgia Municipal Association, the



Association of County Commissioners of Georgia, the Georgia Association of Tax Officials, the Georgia Association of Realtors and the Georgia Bankers Association, among many others. SB 284 was reintroduced at the onset of the 2012 legislative session and passed both the Georgia Senate and House chambers with nearly unanimous support. Governor Nathan Deal signed SB 284 into law in May 2012 and the 2012 Georgia Land Bank Act took effect.

## B. Regional Collaboration

The 1990 Georgia land bank statute provided for the creation of land banks by a single consolidated government, or by a single Georgia county and one or more cities located within that county. All of the Georgia land bank authorities created prior to 2012, including, for example, the Fulton County/City of Atlanta Land Bank, the Valdosta-Lowndes County Land Bank and the Augusta/Richmond Land Bank, reflected this legal structure. In response to the desire for increased regional collaboration expressed by Georgia land bank leaders, the 2012 Georgia Land Bank Act authorizes multiple counties and cities or consolidated governments to come together and form a single land bank. This regional option may provide a helpful tool for rural counties, cities and local governments to collaborate in addressing the challenges of vacant, dilapidated and tax delinquent properties across their region. Similarly, the regional option could provide increased access for land banks to address problem parcels in cities that lie in multiple counties, such as that portion of Atlanta that lies in DeKalb County. Indeed, the DeKalb Regional Land Bank, created in early 2012, specifically anticipated in its creating documents the regional possibilities promised by what was at that time SB 284.

The 2012 Georgia Land Bank Act also expressly permits land banks to contract with one another for services across jurisdictional boundaries. This key power may encourage regional collaboration in impacting neighborhoods that span multiple jurisdictions. In addition, multi-jurisdictional contracts for services could encourage the development of economies of scale or specific expertise in one land bank that may be offered and utilized by other land banks as a more efficient and effective alternative to developing similar economies of scale or expertise in every land bank in Georgia.

## C. Financing Mechanisms

With the exception of providing that proceeds from the sale of land bank property could be used for land bank operations, the 1990 Georgia land bank statute offered relatively little guidance on funding resources available to Georgia land banks. Because land banks primarily acquire properties that are heavily tax delinquent and dilapidated, and because early land bank operations in Georgia emphasized disposition of property through donation or transfer for public and not-for-profit use, proceeds from the sale of land bank property provided little revenue for land bank operations. As a practical matter, most Georgia land banks have historically derived their funding from line items in local government annual budgets, from local and state grant funds including Community Development Block Grants, and, in recent years, from federal grants including the Neighborhood Stabilization Program. Even as the need for funds to impact vacant, abandoned and dilapidated parcels increases exponentially, federal, state and local grant programs are being diminished and extinguished in the aftermath of the Great Recession, and local government budgets throughout Georgia are experiencing drastic cuts. Georgia land bank leaders anticipated this economic shift in their early meetings in 2010 and structured the 2012 Georgia Land Bank Act to include increased funding options for Georgia land banks.

The 2012 Georgia Land Bank Act provides that land banks may receive funding from local, state and federal government budgets and programs, and from any other public or private sources. In addition, the 2012 Act expressly provides that Georgia land banks may utilize revenue obtained through the sale or lease of land bank property, and through contracts for the provision of services to local governments, other land banks and other public and private entities.

Perhaps the most distinctive feature of the 2012 Georgia Land Bank Act is the authorization of a self-financing mechanism for Georgia land banks - the optional 5 year/75 percent tax recapture program. Pursuant to the 2012 Act, local governments that create a land bank may authorize up to 75 percent of the newly-generated tax revenue (excluding school district taxes) on properties disposed of by the land bank to be returned to the land bank for a period of five years. This is a key feature of recent land bank statutes including those in



Michigan, Ohio, Missouri, New York, and Pennsylvania and provides a much-needed funding resource to land banks at minimal cost to local governments.

Georgia land banks focus on the acquisition of tax delinquent and dilapidated properties that currently generate no tax revenue for the local government and indeed impose significant public liabilities in the form of increased police and fire costs. The success of Georgia land banks in acquiring, cleaning and responsibly conveying such properties to new owners directly benefits local governments and communities and results in newly generated tax revenues. Authorizing a land bank to recapture 75 percent of such new tax revenue for a limited period of five years, and to utilize that revenue to acquire and return additional properties to a productive tax-generating status, allows a land bank to self-finance at no cost to local government budgets. In addition, during the five years of the tax recapture program, the local government receives 25 percent or more of newly generated ad valorem taxes on parcels that previously provided no revenue - 25 percent of something is preferable to 100 percent of nothing.

## D. Locally Determined Priorities

In keeping with the focus on affordable housing in the 1990 Georgia land bank statute, and also in response to the economic realities of the 1990s and early part of the twenty-first century, Georgia land banks historically limited their mission to the creation of affordable housing. While the support and creation of affordable housing programs remains an essential policy in many communities, land bank leaders recognized many different pressing needs for real property in local communities throughout Georgia from the outset of the 2011-2012 legislative effort.

Some Georgia communities have an abundance of affordable housing but a dire need for green space, affordable commercial or industrial spaces for local small businesses, or space available for public use. Other communities experienced significant population loss or rapid changes in industry over the last two decades and must prioritize demolition over preservation of vacant and abandoned parcels. In light of this diversity of priorities for problem parcels in communities throughout Georgia, and in recognition of the fact that local communities

are in the best position to define and direct those local priorities, the 2012 Georgia Land Bank Act expressly provides that local land banks or their creating local governments may establish the priorities for the use of property conveyed by the land bank.

## E. Georgia Land Bank Statutes: Appendix I

The 2012 Georgia Land Bank Act and the original 1990 Georgia land bank statute are each included for reference in this manual as Appendix I-1 and I-2, respectively. The 1990 Georgia land bank statute continues to be the applicable controlling statute for all land banks created prior to 2012 unless and until such land banks elect to convert to operation under the 2012 Georgia Land Bank Act. No new land bank may be created under the 1990 Georgia land bank statute.

## F. Section-by-Section Summary of the 2012 Georgia Land Bank Act

Key legislative priorities including regionalism, self-financing and local control, in addition to significantly increased clarity and flexibility regarding the board structure and legal powers available to Georgia land banks, are expressly reflected in the 2012 Georgia Land Bank Act. Each portion of the 2012 statute is described in the section-by-section summary below.

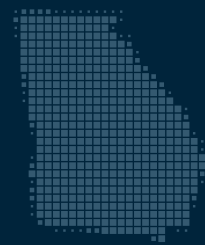


## 2012 Georgia Land Bank Act: Section-by-Section Summary

|                   |  |
|-------------------|--|
| <b>§ 48-4-100</b> | This section provides that the short title of the law is the “Georgia Land Bank Act.”  |
| <b>§ 48-4-101</b> | This section provides legislative purpose and intent language. Dilapidated, abandoned and tax delinquent properties impose significant costs on Georgia’s communities by lowering property values, increasing fire and police protection costs, decreasing tax revenues, and undermining community cohesion. Land banks are one of the tools communities can use to return these properties to productive use.   |
| <b>§ 48-4-102</b> | This section contains various definitions of terms used throughout the Georgia Land Bank Act. For example, “intergovernmental contract” refers to the agreements between local governments that create land banks. “Land bank member” refers to the local governments ( <i>e.g.</i> , county, city or consolidated government) that join a land bank.  |
| <b>§ 48-4-103</b> | This section governs which local governments are allowed to create a land bank, including any group of local governments or a single, consolidated government. Counties may not create a land bank without at least one participating city within the geographical boundaries of the county, and cities may not create a land bank without the participation of the county in which the city is located. Additional local governments may join an existing land bank. The local law, ordinance or resolution that creates a land bank must specify various items including the initial land bank board members. Land banks may not own property inside cities within the land bank’s geographical boundaries that are not land bank members unless such city consents. |
| <b>§ 48-4-104</b> | This section outlines the appointment of the land bank’s board of directors, their qualifications and their duties. The initial board size must be an odd number between five and eleven. Board members may not receive compensation for their board service. A majority of the board must be present at a meeting for the board to take action, and then a majority of those present and voting is required for approval of board action. Super-majority approval is required for certain board action such as the adoption of bylaws, the incurring of debt and the disposition of property with a value of more than \$50,000.  |
| <b>§ 48-4-105</b> | This section provides that a land bank may employ its own staff and determine the qualifications and fix the compensation of those persons. A land bank may contract with local governments for staffing services.   |
| <b>§ 48-4-106</b> | This section enumerates land bank powers including, for example, the power to sue and be sued, contract, borrow money for the work of the land bank, and also to acquire, develop, demolish, rehabilitate, lease, sell or otherwise dispose of real property.  |
| <b>§ 48-4-107</b> | This section expressly provides that land banks do not have the power of eminent domain.   |
| <b>§ 48-4-108</b> | This section details the ability of a land bank to acquire property and provides that land bank income and property is tax exempt. Land banks may acquire property by gift, devise, transfer, foreclosure, or purchase from private parties, nonprofit entities or local governments, as long as the property is in the geographical boundaries of the land bank. Land banks must maintain all land bank property in accordance with the laws of the jurisdiction where the property is located, including all housing and building codes.   |
| <b>§ 48-4-109</b> | This section details the ability of a land bank to dispose of property. Land banks must maintain a public inventory of all real property held by the land bank. Land banks may determine the consideration required for conveyance of land bank property, including non-monetary consideration such as a promise to use property for a certain public purpose. Land banks may establish hierarchical rankings for the disposition of land bank property for uses such as public space, affordable housing, retail or commercial activities, conservation areas or land trusts.   |
| <b>§ 48-4-110</b> | This section covers the financing mechanisms for land bank operations. Land banks may be funded through grants or loans from governments or private sources, and from rent, sale or insurance coverage of land bank property. Subsection (c) provides that, at local option, up to 75 percent of the taxes collected on property conveyed out of the land bank shall be remitted to the land bank to fund operations for five years after conveyance. Proceeds of the sale of land bank property go to fund land bank operations and recover land bank expenses, and may also be remitted to the tax commissioner.   |
| <b>§ 48-4-111</b> | This section provides that land banks are governed by Georgia open meetings and open records laws. Land bank board members and employees may not have any interests in land bank property or in contracts for materials or services provided or used by the land bank. Land banks may be dissolved by resolution approved by 2/3 of the board members upon 60-day notice to the governing authorities of the land bank members.  |
| <b>§ 48-4-112</b> | This section details the ties between land banks and the tax foreclosure system. Land banks may extinguish tax liens and claims on property that is encumbered by such liens when the land bank acquires the property. School taxes may be waived if the land bank notifies the school district of its intent to extinguish and the school district fails to object to the extinguishment in writing. Land banks may acquire tax executions from the tax commissioner for any consideration agreed to by the land bank and the tax commissioner. Land banks may acquire property at both non-judicial and judicial tax sales.  |

CHAPTER 2  
The 2012 Georgia  
Land Bank Act





## Chapter 3

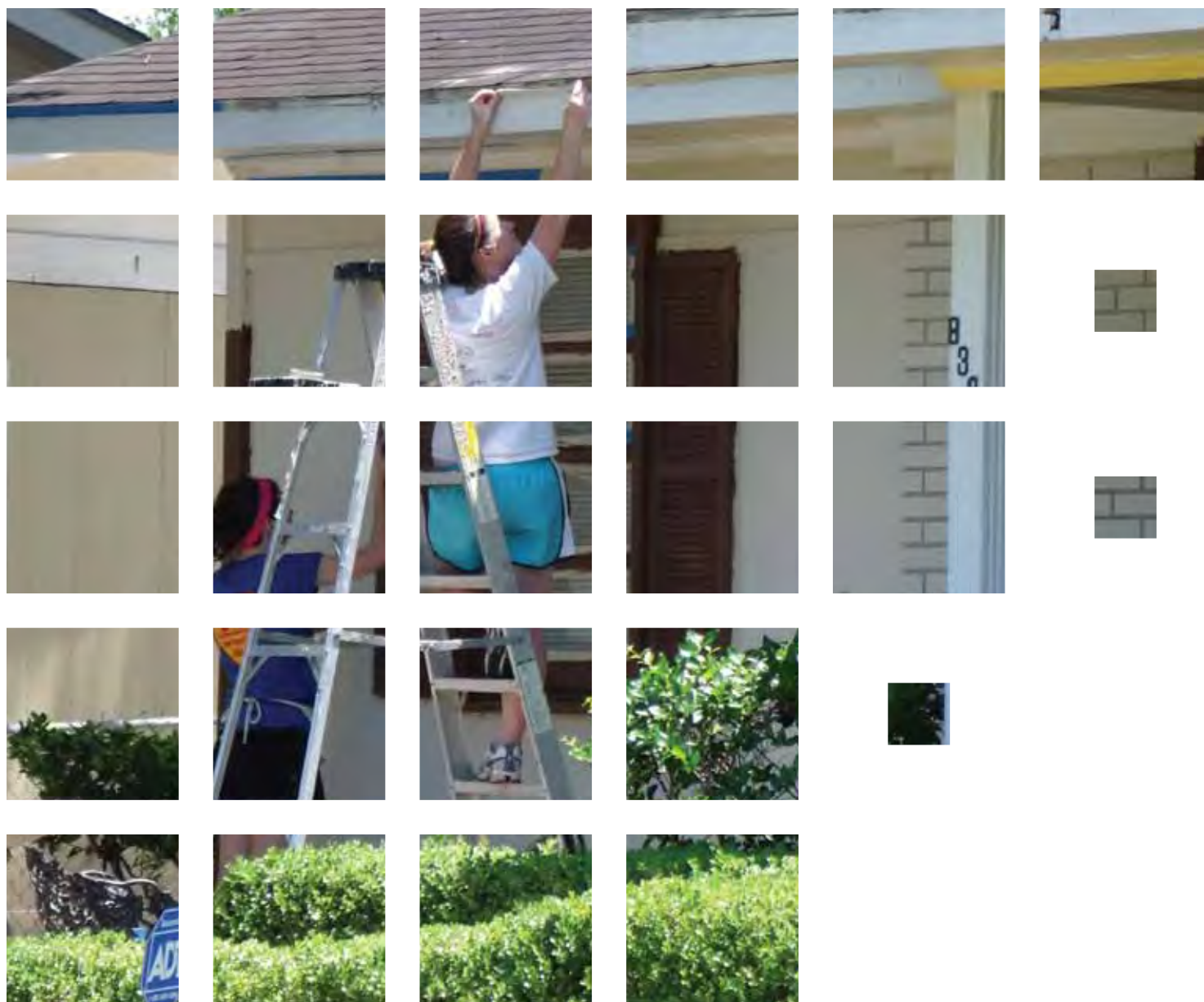


Photo Courtesy of Valdosta-Lowndes County Habitat for Humanity, Inc.

## CHAPTER 3

# Georgia Land Bank Creation



Photo Courtesy of Augusta, Georgia Land Bank Authority

Pursuant to the 2012 Georgia Land Bank Act, local governments operating in various combinations are authorized to create land banks upon passage of a local law, ordinance or resolution as applicable. First, any county and one or more cities located in that county may join together to create a land bank. Second, multiple counties and one or more cities in each participating county may join together to create a land bank. Third, any consolidated government may create a land bank. Fourth, any consolidated government may join with one or more counties and one or more cities located in each participating county to create a land bank. Fifth and finally, the local governments participating in any land bank created under the 1990 Georgia land bank statute may vote to convert that existing land bank into operations under the 2012 Georgia Land Bank Act and authorize additional local governments to join the pre-existing land bank. Upon adoption by participating local governments of documents creating the land bank, the land bank board must adopt by-laws and policies governing the operations of the land bank. Neither a county, acting alone, nor a city, acting alone, has the power to create a land bank.

### Georgia land banks may be created by:

- A county & one or more cities located in that county;
- Multiple counties & one or more cities located in each participating county;
- A consolidated government;
- A consolidated government and other counties and cities; or
- Conversion of 1990 land bank status to 2012 land bank status.

## A. Creation Documents

Any local government in Georgia that chooses to establish a land bank must adopt a local law establishing the land bank and specifying the structure and powers of the land bank. Where one or more counties and cities come together to create a land bank, then the legal structure and powers of the land bank must be specified in an intergovernmental contract approved and adopted by each participating local government. Where a consolidated government acts alone, that consolidated government must pass a local law, resolution or ordinance specifying these matters.

## B. Land Bank Board Structure and Identity

The intergovernmental contract or resolution creating a land bank must clarify the structure and identity of the members of the board of directors that governs the land bank. Specifically,



the creating documents must include (1) the name of the land bank, (2) the number of land bank board members, which must be an odd number between five and eleven, (3) the names of the initial board members and the length of their terms, and (4) the manner of selection or appointment of the board members. Land bank board members may be elected officials, municipal or school district employees, representatives of the non-profit or business community, or any other individuals deemed appropriate by the participating local governments, and they are not compensated for land bank board service. Although not required by statute, school districts may appoint non-voting advisors to the land bank board. Such school district advisory members help to increase communication between the land bank and the school district and can aid in the efficient extinguishment of delinquent school district taxes on land bank property.

The 2012 Georgia Land Bank Act intentionally vests authority for the structure and manner of appointment of land bank board members in the creating local governments. Various board structures and appointment methods may make good sense in one community and little sense in another. For example, if a county and multiple cities in that county join to create a land bank, and the large majority of problem parcels are located in only one of the participating cities, increased representation on the land bank board by the key affected city may be prudent. Alternatively, if a county and one or more cities join together to create a land bank and the majority of problem parcels are located in unincorporated rural portions of the county, then the participating local governments may choose to increase the county's representation on the land bank board.

In some communities it may be customary or required pursuant to local law for the Mayor, City Manager or County Executive to make board appointments, and, in other communities, authority for appointments may rest with the City Councils, County Commissions, School Districts or some combination thereof. Because local governments are in the best position to determine appropriate board structures and appointment methods, the requirements of the Georgia Land Bank Act regarding board composition are limited and maximum flexibility and control lies with the creating local governments.

## C. Land Bank Board Responsibilities

The intergovernmental contract or resolution creating the land bank should specify any board voting requirements and the various responsibilities of the land bank board. Pursuant to the Georgia Land Bank Act, the land bank board may approve actions by a majority vote of those present at a board meeting. Certain board actions, however, require the affirmative vote of the entire board membership. Those actions include the adoption of bylaws, policies and procedures for the land bank, the incurring of debt, adoption of the annual budget, the sale or lease of real property for more than \$50,000 and the extinguishment of delinquent tax liens on real property owned by the land bank.

## D. Transparency and Accountability

Georgia land banks are public entities and are accountable to the local elected governments that create them as well as to the communities in which they operate. As such, land banks are subject to Georgia's Open Records and Meetings laws including O.C.G.A. §§ 50-14-1 *et seq.* and 50-18-70 *et seq.*

Land bank board members have a fiduciary duty to conduct the activities of the land bank in the best interests of the land bank. Moreover, land bank boards are governed by Georgia conflicts of interest law and must adopt ethics policies governing the conduct of board members and all land bank employees and independent contractors. Such policies must be no less stringent than those provided for public officers and employees under O.C.G.A. § 45-10-1 *et seq.*

## E. Adoption of Tax Recapture Program

Participating local governments should specify funding sources in the intergovernmental contract or resolution creating the land bank. In particular, the five-year and up to 75 percent tax recapture program authorized by the Georgia Land Bank Act should be set forth by the local governments in the land bank creation documents.



## F. Sample Creation Documents: Appendix II

Appendices II-1, II-2, and II-3 contain sample intergovernmental contracts and resolutions for local governments seeking to create a land bank under the 2012 Georgia Land Bank Act. Appendix II-4 provides documentation for local governments seeking to convert an existing land bank to operations under the 2012 Georgia Land Bank Act. These sample land documents may serve as a

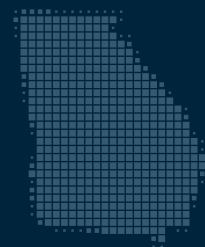
guide in the land bank creation process for local governments throughout Georgia as they determine the identity, structure and responsibilities of their land bank board, and as they make key decisions regarding land bank financing in a manner respecting the transparency and accountability demanded of Georgia land banks pursuant to Georgia law.

### Valdosta-Lowndes County Land Bank Authority: Fellowship Place Development

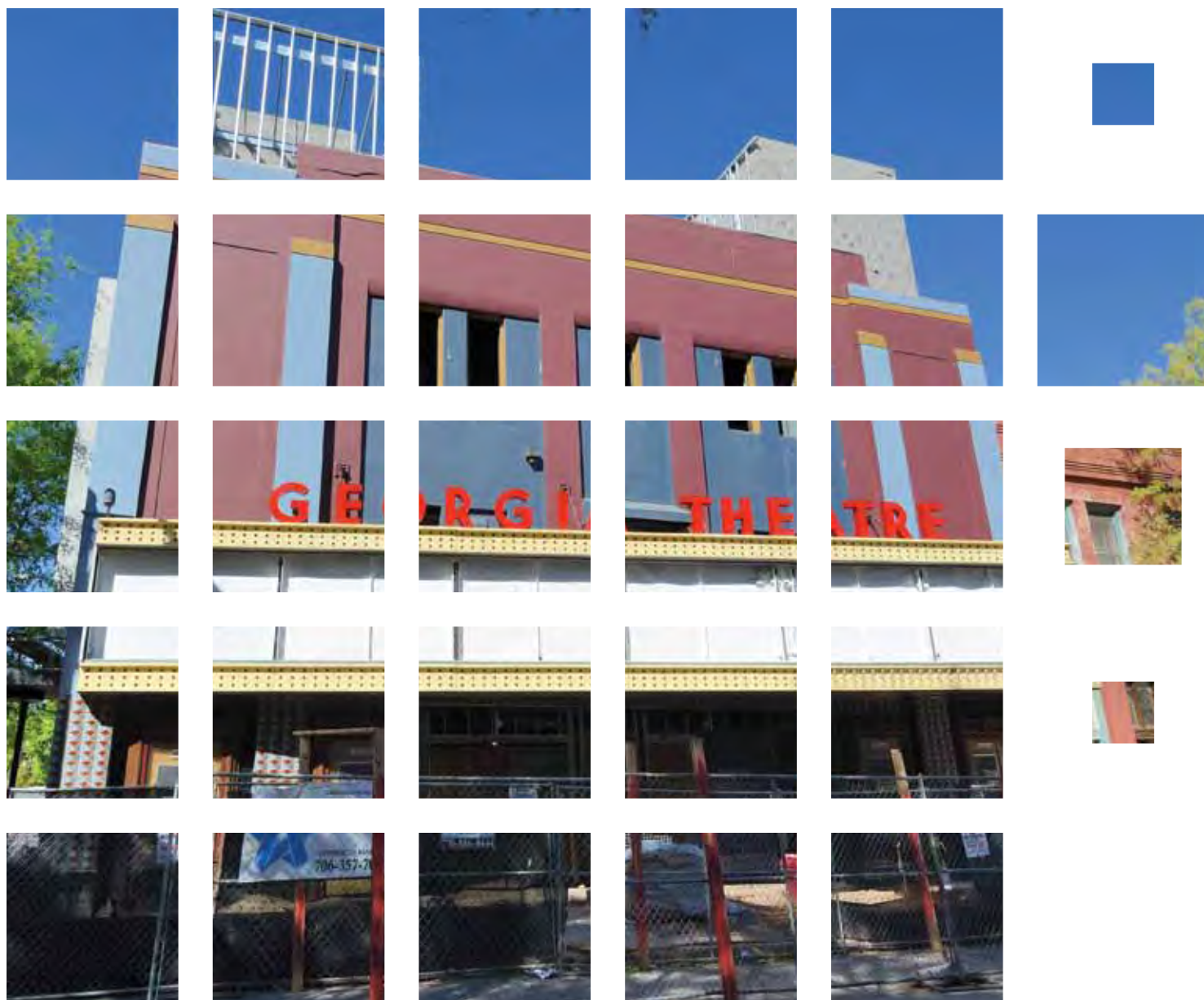
The development of the Fellowship Place neighborhood in Valdosta, Georgia was the impetus for the creation of the Valdosta-Lowndes County Land Bank Authority and the first project completed pursuant to a partnership with the Valdosta-Lowndes Habitat for Humanity (“Habitat”) that now spans more than a decade. In 1999, Habitat approached the City of Valdosta to discuss the development of affordable housing on a full city block in the struggling and blighted Fellowship Place neighborhood. The City agreed to purchase the city block and demolish the solitary vacant and dilapidated structure on that block for \$30,000, but Georgia law requiring public auctions and the receipt of fair market value for City-owned property prohibited the City from donating the block directly to Habitat. In the face of this legal barrier, the Valdosta-Lowndes County Land Bank Authority was born.

Georgia land banks are authorized to acquire property directly from cities, counties and consolidated governments by a simple transfer, and are also authorized to transfer property to non-profit developers as long as that disposal satisfies the policies and priorities of the land bank and serves the public good. The Valdosta-Lowndes County Land Bank Authority was created to exercise this authority in service of the Fellowship Place project and, accordingly, the land bank policies and priorities have been centered on the creation and protection of affordable housing from the outset.

Immediately following the creation of the Valdosta-Lowndes County Land Bank Authority in 1999, the City of Valdosta conveyed the Fellowship Place property to the land bank. The land bank then divided the city block into twelve separate parcels and began transferring two to three parcels at a time to Habitat for development of affordable housing. The City’s initial \$30,000 investment, combined with the land bank’s efficient acquisition and disposition authority and Habitat’s thousands of volunteer labor hours, provided leverage for a down payment assistance grant from Georgia’s Community Home Investment Program (“CHIP”). Habitat located twelve first-time home buyers, each of whom donated at least 300 sweat equity hours to building one of the new homes in the Fellowship Place neighborhood. By 2002 – in less than three years – a formerly blighted city block in Fellowship Place boasted twelve beautiful, new, affordable homes, each purchased by a first-time home buyer. More than a decade later, the Fellowship Place subdivision is flourishing. What was once a vacant, dilapidated and non-revenue generating parcel is now a thriving community that provides tax revenue to the City, County and School District and safe homes for Valdosta families. The partnership between the Valdosta-Lowndes County Land Bank Authority and Habitat was the linchpin that ensured the success of the entire Fellowship Place endeavor.



## Chapter 4



## CHAPTER 4

# Georgia Land Bank Powers and Operations



Photo Courtesy of Fulton County/City of Atlanta Land Bank Authority

Upon creation by participating local governments, the land bank board is authorized to hire an executive director and to delegate the management of land bank daily operations to the executive director. Executive directors and other land bank staff may be retained through independent contractor agreements, or existing municipal staff may be utilized to staff the land bank pursuant to intergovernmental contracts between the local government and the land bank. Georgia land banks are then authorized to engage in a range of activities in the effort to address vacant, dilapidated and tax delinquent real property including the acquisition, maintenance and disposition of such property.

## A. Property Acquisition

Georgia land banks may acquire real property through a variety of methods including donation, direct market purchase and lease-purchase. Land banks may also obtain parcels through direct municipal transfer as long as the property is located in the geographical boundaries of the land bank. Land banks may manage properties outside the geographical boundaries of the land bank pursuant to an intergovernmental contract, but may not hold title to such properties.

Land banks are authorized to obtain interests in real property through the Georgia delinquent-tax enforcement system in several different ways. First, any Georgia tax commissioner or tax collector may assign, transfer or sell to a land bank delinquent tax liens on properties located within the geographical boundaries of the land bank. The land bank may then proceed to enforce those liens, through actions such as the collection of any associated penalties and interest. If such delinquent liens are not satisfied within 12 months after transfer to the land bank or 24 months after the initial date of delinquency (whichever is earlier), the land bank may turn the lien over to the sheriff for a non-judicial tax sale. Alternatively, the land bank is authorized to foreclose on such liens utilizing the judicial *in rem* foreclosure procedure contained in O.C.G.A. § 48-4-75 *et seq.*

Land banks are authorized to purchase tax delinquent parcels at non-judicial and judicial *in rem* tax sales. In the absence of third-party bidders, land banks may tender a bid on a parcel at such a sale for the minimum bid, and the tax commissioner or tax collector must convey the parcel to the land bank. The land bank's bid in this context is a "credit bid" and is satisfied



not by cash payment but by the assumption of liability for the tax delinquency. If, however, there are third parties who bid on a given parcel, the land bank may bid competitively for such parcel if acquisition of the parcel is within the policies and priorities of the land bank. Where a land bank obtains a parcel through a competitive bidding process at a non-judicial or judicial *in rem* tax sale, the land bank must pay the tax commissioner or tax collector the full cash amount of the land bank's bid in order to obtain the property.

## B. Property Maintenance and Delinquent Tax Extinguishment

Upon acquisition, Georgia land banks hold title to real property in the name of the land bank, and must maintain a public inventory of all real property. Land bank property and any income derived from the property is tax exempt, and all land bank property must be maintained pursuant to local housing and building codes. The land bank's ability to hold and manage real property in a tax exempt status and to take advantage of economies of scale resulted in the creation

### Macon-Bibb Land Bank: Lynmore Estates Development

The longstanding partnership between the Macon Area Habitat for Humanity ("Habitat") and the Macon-Bibb Land Bank Authority ("Macon Land Bank") may be best exemplified by the remarkable work undertaken in the blighted Lynmore Estates neighborhood in the City of Macon. When Habitat committed to working in Lynmore Estates in 2005, they discovered a host of complicated legal issues that attached to almost every dilapidated parcel. Many of the Lynmore Estates properties had been passed down over generations to ever-expanding families and then to absentee owners resulting in highly fractured title. Other abandoned Lynmore Estates properties were trapped in the legal limbo of the tax foreclosure process, burdened by years of delinquent ad valorem tax liens and little or no market value to generate bids at tax foreclosure sales. Habitat had neither the expertise nor the legal authority to acquire or clear title to such properties—Habitat turned to the Macon Land Bank for help.

In conjunction with the City of Macon, Habitat and the Macon Land Bank developed an effective system for acquiring ownership of problem parcels in Lynmore Estates. Habitat locates parcels that are appropriate for development, and then the Macon Land Bank acquires and clears title to those parcels. Some acquisitions are accomplished utilizing HOME, NSP or other grant funds from the City of Macon. Others are accomplished through the private donation of tax delinquent or other properties to the Macon Land Bank. Still others are accomplished through the *in rem* tax foreclosure process where the City of Macon forecloses on a tax delinquent parcel, and then the Macon Land Bank bids on and obtains that property for only the cost of foreclosure. Upon acquisition and clearing of title, the Macon Land Bank then transfers the parcels to Habitat, and Habitat begins to clean and develop the parcel into affordable housing.

Since 2005, Habitat has successfully acquired and developed affordable housing on 33 lots in Lynmore Estates, and the Macon Land Bank facilitated the acquisition of 30 of those parcels. Inspired by the ongoing efforts of Habitat and the Macon Land Bank, community groups and religious organizations are now active partners in the path to stabilize and revitalize Lynmore Estates, and playgrounds, community centers and community gardens are in various stages of completion.

The Macon Land Bank's legal authority to obtain tax delinquent parcels, extinguish delinquent taxes and transfer title to non-profit developers, coupled with its expertise in various aspects of federal and state grant management and the clearing of fractured and tax delinquent title, has been an essential component of the success of the Lynmore Estates neighborhood stabilization plan. By working in partnership with the Macon Land Bank and taking advantage of its legal authority, institutional knowledge and expertise, Habitat has acquired many tax delinquent, absentee-owned and heir properties that would have been very difficult to acquire otherwise, and has made a significant positive impact in the Lynmore Estates community.



of a depository agreement program instituted by the Fulton County/City of Atlanta Land Bank. Pursuant to this program, the Fulton County/City of Atlanta Land Bank takes title to property from local non-profit community development corporations and from the City of Atlanta, and holds and preserves that property for future use.

In addition to holding, maintaining and managing real property, Georgia land banks are authorized to exercise a key power in the effort to return problem properties to productive use - delinquent tax extinguishment. Georgia is unfortunately home to increasing inventories of real property that bear delinquent tax liens in an amount higher than the fair market

value of such property. Such properties are trapped in a legal and economic limbo because the existence of such delinquent tax liens renders the properties inaccessible to any rational economic market. Georgia land banks may accept donations of tax delinquent properties and then, by resolution of the land bank board, extinguish those delinquent taxes, clear title to the parcel and return it to productive use. Pursuant to the 2012 Georgia Land Bank Act and the prior 1990 statute, school district consent is required for the extinguishment of delinquent school district tax liens. Such consent may be obtained pursuant to an intergovernmental contract between the school district and the land bank.

### **Fulton County/City of Atlanta Land Bank: Depository Agreement Program**

In the fall of 2007, many of Atlanta's Community Development Corporations ("CDCs") were struggling to launch redevelopment projects in the face of a collapsing real estate market. Purchasers were increasingly scarce, development capital was dwindling and long-term property holding costs, including taxes and maintenance, were negatively affecting the organizations' ability to acquire property and develop housing. In an attempt to address the changing circumstances and to alleviate some of this cost burden, the Fulton County/City of Atlanta Land Bank developed a land banking depository agreement program in 2007. This program allows local CDCs, non-profits and governmental entities to transfer properties from their inventories to the Atlanta Land Bank where they are held tax-free, and where maintenance costs are less expensive in light of the Atlanta Land Bank's use of economies of scale.

The first organization to utilize the Atlanta Land Bank depository program was Sustainable Neighborhood Development Strategies, Inc. (SNDSI). The Pittsburgh neighborhood was hard-hit by the economic collapse—nearly half of its 1,152 properties were victims of foreclosure actions and nearly half of the neighborhood structures became vacant. SNDSI was supported by the Annie E. Casey Foundation in its efforts to bring stability back to the community with the initial goal of purchasing and rehabilitating several hundred properties. In partnership with the Pittsburgh Community Improvement Association (PCIA), SNDSI created the Partnership for the Preservation of Pittsburgh (PPOP), which was able to utilize Neighborhood Stabilization Program (NSP) funds to purchase REO and other properties and "bank" them with the Atlanta Land Bank in order to preserve such property for future use to the benefit of the Pittsburgh community.

Although initially conceived in order to reduce holding costs for CDCs, the Atlanta Land Bank's depository program proved to be a perfect vehicle to assist local government and other non-profits as they worked to acquire and maintain the glut of foreclosed and other REO properties that flooded the market in the wake of the economic collapse of 2008. The program also allowed non-profit entities to utilize federal Neighborhood Stabilization Program funds to acquire properties well-suited to future redevelopment and neighborhood stabilization. By January of 2013, less than four years from the program's inception, approximately 190 properties had been placed in the Atlanta Land Bank's depository agreement program.



## C. Property Disposition

Georgia land banks are authorized to dispose of land bank property and interests in land bank property according to locally determined priorities. If the local governments that create the land bank do not identify such priorities in the documents creating the land bank, then the land bank board may establish a hierarchical ranking of priorities for the disposition of land bank property. Such priorities may include, for example, use for public spaces, use for affordable housing, use for commercial activities, use for green space and conservation areas or use for land trusts.

Georgia land banks may dispose of real property and interests in real property by various methods including, but not limited to, sale, lease, mortgage, grant or long-term ground lease pursuant to agreements with community land trusts. Land banks may transfer real property for various forms of consideration including cash, secured financial obligations, contractual commitments related to the future use of the property, and any other form of consideration determined by the board to be in the best interest of the land bank. Unlike most local governments in Georgia, land banks are not required to offer land bank property at public auction nor are they required to transfer land bank property to a high bidder or for fair market value. Flexibility in the disposition process allows land banks to more efficiently and nimbly dispose of properties that impose significant liabilities on local governments, and allows land banks to prioritize local, responsible transferees over out-of-state speculators.

## D. Sample Operating Documents: Appendix III

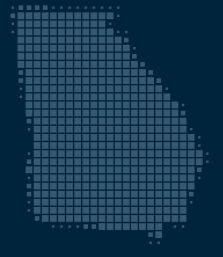
Appendix III-1 contains sample administrative policies governing the acquisition, maintenance and disposition of land bank real property. Appendix III-2 contains a sample depository agreement for consideration and use by Georgia land banks that choose to explore such a program for the benefit of their local communities. Appendix III-3 contains a sample land bank board resolution to extinguish delinquent ad valorem taxes that reflects school district consent to extinguishment, and also a sample cover letter transmitting the record of such extinguishment to the county tax commissioner.

CHAPTER 4

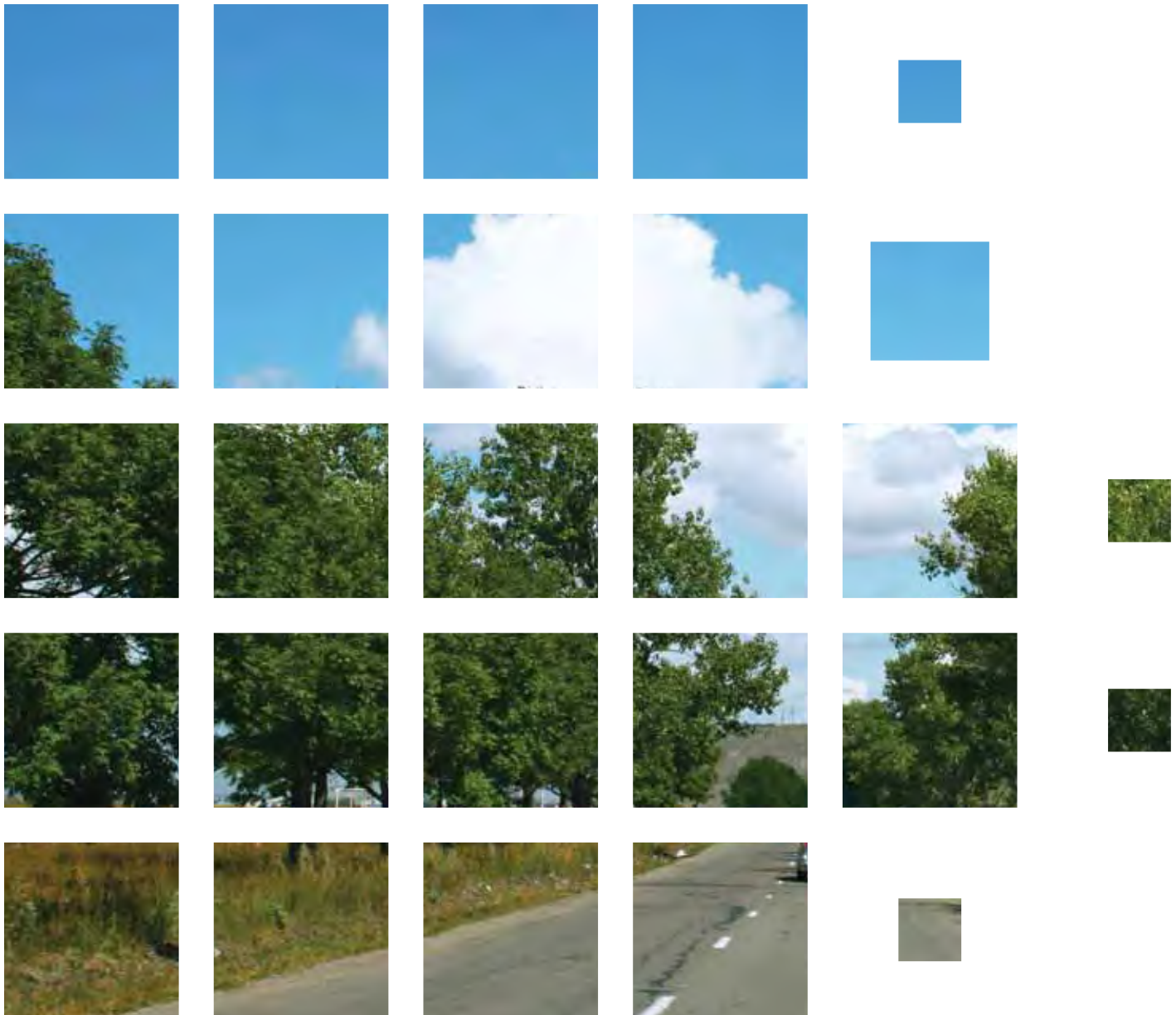
Georgia Land Bank  
Powers and Operations

Georgia  
Land Bank  
Resource  
Manual





# Conclusion



## CONCLUSION

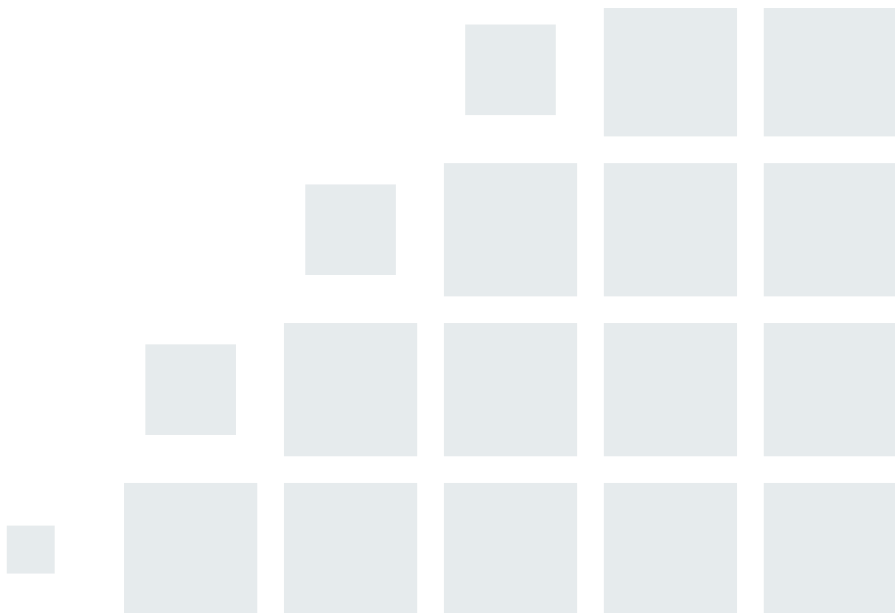


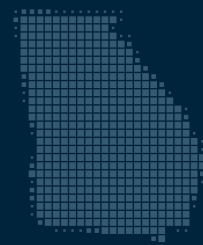
Land banking in Georgia has a twenty year history. It started with small, tentative steps in the City of Atlanta and Fulton County, cautiously focusing narrowly and solely on abandoned properties where delinquent taxes exceeded fair market value. Working primarily with local community development corporations and Habitat for Humanity Atlanta, the Fulton County/City of Atlanta Land Bank found a way to break through the legal and policy barriers that left certain properties dead to the market. These properties were returned to productive use as affordable homes for new owners, placed back on the tax rolls, and became stabilizing – rather than debilitating – neighborhood influences.

Over the past two decades, land banking in Georgia has moved forward with the creation of over a dozen new land banks in other Georgia communities, some in metropolitan areas and others in smaller communities. In each instance the work of the land bank was designed to meet the challenges of the specific problematic abandoned property in that community, and the land was returned to productive use in accordance with local priorities.

The enactment of the 2012 Georgia Land Bank Act moves Georgia to the forefront of the “third generation” of land banking statutes in the country. It dramatically improves the capacity of local land banks to address the complex maze of legal and policy barriers that lead to vacant, abandoned and foreclosed properties. It draws upon the possibility of multijurisdictional collaboration in addressing common challenges with efficiency and economies of scale. It is yet another vital step forward in stabilizing Georgia neighborhoods and building Georgia communities.

This MANUAL has been prepared to provide both a context and a road map for the increasing specialization and productivity of land banks and land banking in Georgia. Land banking is clearly a work in progress, but it is also one that is clearly on a path to success.





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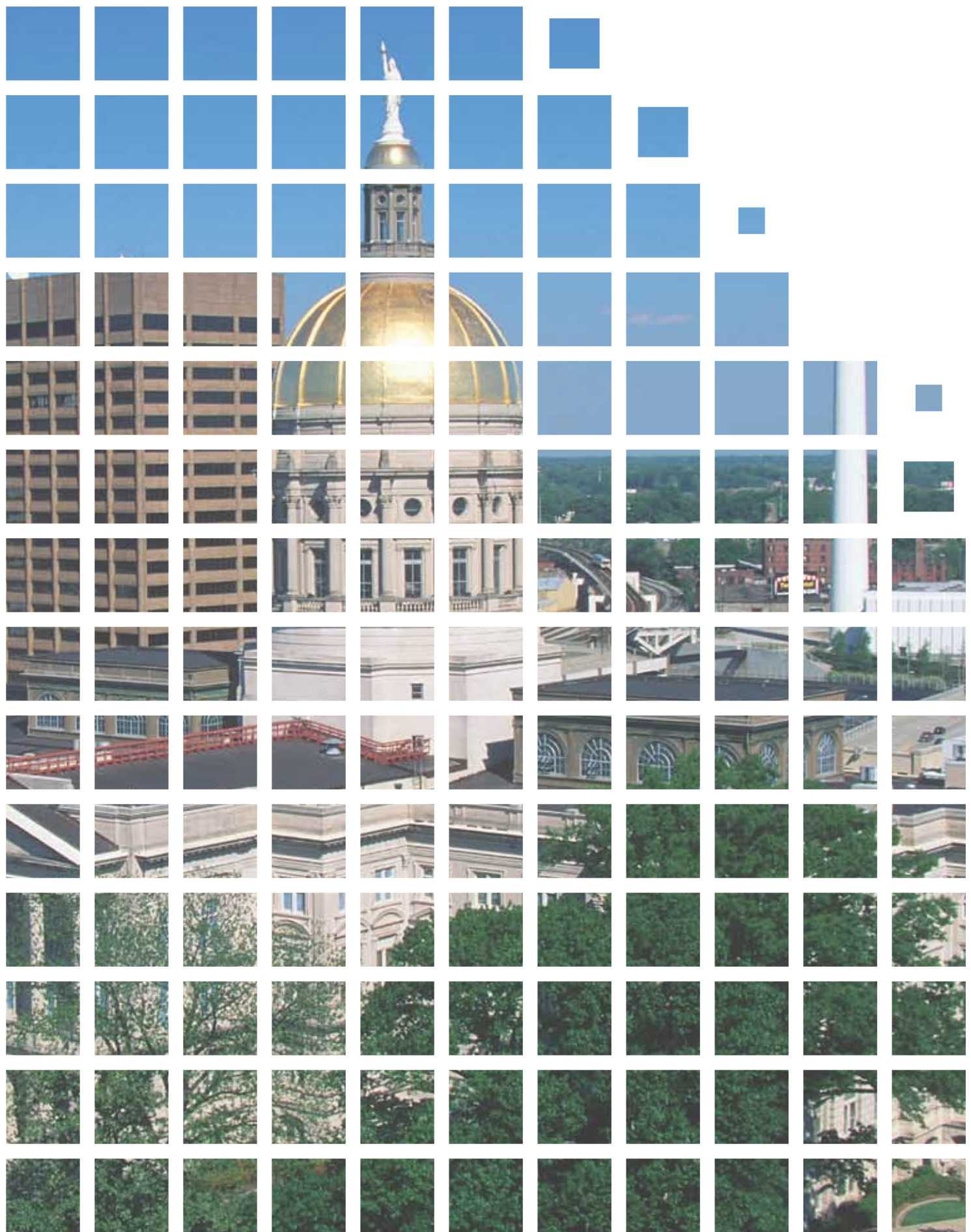
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# Appendix I

## Georgia Land Bank Statutes

### Appendix I-1

#### 2012 Georgia Land Bank Act

#### O.C.G.A. § 48-4-100 *et seq.*

##### § 48-4-100. Short title; does not apply retroactively

- (a) This article shall be known and may be cited as the “Georgia Land Bank Act.”
- (b) Any land bank created prior to July 1, 2012, pursuant to Article 4 of this chapter shall not be affected by this article but shall be entitled to continue in existence and exercise all powers granted in such article. The board of any existing land bank may vote, in the manner provided in subsection (j) of Code Section 48-4-104, to continue in existence under the provisions of this article, thus exercising the additional authorities and powers contained herein.

##### § 48-4-101. Dilapidated, abandoned, and tax delinquent properties

The General Assembly finds and declares that:

- (1) Georgia’s communities are important to the social and economic vitality of this state. Whether urban, suburban, or rural, many communities are struggling to cope with dilapidated, abandoned, and tax delinquent properties;
- (2) Citizens of Georgia are affected adversely by dilapidated, abandoned, and tax delinquent properties, including properties that have been abandoned due to mortgage foreclosure;
- (3) Dilapidated, abandoned, and tax delinquent properties impose significant costs on neighborhoods and communities by lowering property values, increasing fire and police protection costs, decreasing tax revenues, and undermining community cohesion;
- (4) There is an overriding public need to confront the problems caused by dilapidated, abandoned, and tax delinquent properties, and to return properties which are in nonrevenue-generating, nontax-producing status to an effective utilization status in order to provide affordable housing, new industry, and jobs for the citizens of this state through the creation of new tools that enable communities to turn abandoned spaces into vibrant places; and
- (5) Land banks are one of the tools that can be utilized by communities to facilitate the return of dilapidated, abandoned, and tax delinquent properties to productive use.

##### § 48-4-102. Definitions

As used in this article, the term:

- (1) “Board of directors” or “board” means the board of directors of a land bank.
- (2) “Consolidated government” means a unified government created pursuant to Article IX, Section III, Paragraph II of the Constitution of Georgia.
- (3) “Intergovernmental contract” means a contract as authorized pursuant to Article IX, Section III, Paragraph I of the Constitution of Georgia and paragraph (5) of Code Section 36-34-2, and entered into by counties, consolidated governments, and municipal corporations pursuant to this article.
- (4) “Land bank” means a public body corporate and politic established in accordance with the provisions of this article.
- (5) “Land bank member” means the local governments that are parties to the intergovernmental contract or resolution creating a land bank and the local governments that join a land bank subsequent to its creation pursuant to the provisions of this article.



- (6) “Real property” means all lands and the buildings thereon, all things permanently attached to land or to the buildings thereon, and any interest existing in, issuing out of, or dependent upon land or the buildings thereon.
- (7) “School district” means any school district, independent school system, or other local school system in this state.

### **§ 48-4-103. Creation of land bank**

- (a) Any county, municipal corporation, or consolidated government may elect to create a land bank in accordance with subsection (b) of this Code section by the adoption of a local law, ordinance, or resolution as appropriate to the applicable counties, consolidated governments, or municipal corporations, which action specifies the following:
  - (1) The name of the land bank;
  - (2) The number of members of the board of directors, which shall consist of an odd number of board members and be not less than five board members or more than 11 board members;
  - (3) The initial individuals to serve as board members and the length of terms for which they will serve; and
  - (4) The qualifications, manner of selection or appointment, and terms of office of board members.
- (b) A land bank may be created pursuant to an intergovernmental contract by any of the following and any combination of the following methods:
  - (1) A county and one or more municipal corporations located wholly or partially within the county;
  - (2) Two or more counties and one or more municipal corporations located wholly or partially within the geographical boundaries of each county;
  - (3) A consolidated government and one or more municipal corporations located wholly or partially within the same county as the consolidated government; or
  - (4) Any consolidated government without a municipal corporation located wholly or partially within the same county as the consolidated government may create a land bank as follows:
    - (A) Through ordinance or resolution of the governing authority of the consolidated government;
    - (B) Through an intergovernmental contract with another consolidated government without a municipal corporation located wholly or partially within the same county as the consolidated government; or
    - (C) Through an intergovernmental contract with other counties, municipal corporations, or consolidated governments creating land banks pursuant to paragraph (1), (2), or (3) of this subsection.
- (c) Any intergovernmental contract creating a land bank shall specify the matters identified in subsection (a) of this Code section.
- (d) Subject to the limitations of subsection (b) of this Code section, any county or municipal corporation or consolidated government may elect to join any preexisting land bank by executing the intergovernmental contract or resolution that created the land bank and such other documentation as may be necessary.
- (e) A land bank shall have the power to acquire real property only in those portions of the county located outside of the geographical boundaries of a nonparticipating municipal corporation located within the county; provided, however, that a land bank may acquire real property lying within such nonparticipating municipal corporation with the consent of such municipal corporation.
- (f) A school district may participate in a land bank pursuant to an intergovernmental contract provided such contract specifies any members of the board of education serving on the board of the land bank and any actions of the land bank which are subject to approval by the board of education.
- (g) A land bank shall be a public body corporate and politic and shall have permanent and perpetual duration until terminated and dissolved in accordance with the provisions of subsection (c) of Code Section 48-4-111.

### **§ 48-4-104. Size of board; board membership generally**

- (a) The initial size of a board shall be determined in accordance with paragraph (2) of subsection (a) of Code Section 48-4-103. Unless restricted by the actions or agreements specified in Code Section 48-4-103, and subject to the limits stated in this Code section, the size of the board may be adjusted in accordance with the bylaws of the land bank.



- (b) In the event the board of a land bank created by a county and a municipal corporation or by a consolidated government before July 1, 2012, votes to continue in existence under the provisions of this article, the land bank members shall jointly nominate and approve at least one additional board member so that there is an odd number of board members. In the event the land bank members of such a preexisting land bank are unable to approve such additional board members, such preexisting land bank shall not exist under the provisions of this article unless and until a new intergovernmental contract is approved in accordance with this article.
- (c) Notwithstanding any law to the contrary, an elected member of the municipal governing authority shall be eligible to serve as a board member, and the acceptance of the appointment shall neither terminate nor impair that public office. Any municipal employee shall be eligible to serve as a board member. Notwithstanding any law to the contrary, an elected member of the county governing authority shall be eligible to serve as a board member, and the acceptance of the appointment shall neither terminate nor impair that public office. Any county employee shall be eligible to serve as a board member. Notwithstanding any law to the contrary, an elected member of a consolidated government governing authority shall be eligible to serve as a board member, and the acceptance of the appointment shall neither terminate nor impair that public office. Any consolidated government employee shall be eligible to serve as a board member. A tax commissioner or tax collector, or both, may serve ex officio as a member of the land bank board if so authorized by the intergovernmental contract, local law, ordinance, or resolution that creates the land bank or by subsequent intergovernmental contracts with the land bank members.
- (d) The members of the board shall select annually from among themselves a chairperson, vice chairperson, secretary, treasurer, and such other officers as the board may determine and shall establish their duties as may be regulated by the intergovernmental contract or by rules adopted by the board. When in actual conflict the intergovernmental contract shall control over the bylaws or rules adopted by the board.
- (e)
  - (1) The board shall establish rules and regulations relative to the attendance and participation of board members in its regular and special meetings. The rules and regulations may prescribe a procedure whereby a board member who fails to comply with the rules and regulations of the board may be removed from office by no less than a majority vote of the remaining members of the board, and that board member's position shall be vacant as of the first day of the next calendar month.
  - (2) A land bank member may remove any board member appointed by that land bank member.
  - (3) Any board member removed under the provisions of this subsection shall be ineligible for reappointment to the board, unless the reappointment is confirmed by at least a two-thirds' vote of the governing authority of the appointing land bank member.
- (f) A vacancy on the board shall be filled in the same manner as the original appointment.
- (g) Board members shall serve without compensation. The board may reimburse a board member for expenses actually incurred in the performance of duties on behalf of the land bank.
- (h) 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 chairperson or upon written notice signed by a majority of the board members.
- (i) A quorum of board membership shall be a simple majority of the entire board membership, and no action of the board shall be taken in the absence of a quorum. All actions of the board must be approved by the affirmative vote of a majority of the members of the board present and voting; provided, however, that no action of the board shall be authorized on the following matters unless approved by a majority of the entire board membership:
  - (1) Adoption of bylaws and other rules and regulations for conduct of the land bank's business;
  - (2) Hiring or firing of any employee or contractor of the land bank. Such function may by majority vote be delegated by the board to a specified officer or committee of the land bank under such terms and conditions and to the extent that the board may specify;
  - (3) 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 \$50,000.



- (j) A land bank created pursuant to Article 4 of this chapter may continue in existence in accordance with provisions of this article upon the unanimous consent of the board members, and contingent upon the appointment of at least one additional board member pursuant to subsection (b) of this Code section.
- (k) A board member shall not be liable personally on obligations of the land bank, and the rights of creditors of a land bank shall be solely against the land bank.
- (l) A board member shall be prohibited from voting by proxy. A board member may request a recorded vote on any resolution or action of the land bank.

#### **§ 48-4-105. Employees; compensation**

A land bank may employ an executive director, its own counsel and legal staff, and such technical experts, other agents, and employees, permanent or temporary, as it may require and may determine the qualifications and fix the compensation and benefits of those persons. A land bank may also enter into contracts and agreements with municipal corporations or counties or consolidated governments for staffing services to be provided to the land bank by agencies or departments thereof or for a land bank to provide such staffing services to agencies or departments thereof.

#### **§ 48-4-106. Powers of land bank**

- (a) A land bank shall constitute a public body, corporate and politic, and shall have all powers necessary or appropriate to carry out and effectuate the purposes and provisions of this article, including the following powers:
  - (1) To adopt, amend, and repeal bylaws for the regulation of its affairs and the conduct of its business;
  - (2) To 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 property of the land bank;
  - (3) To adopt a seal and to alter the same at pleasure;
  - (4) To acquire by purchase, lease, or otherwise and to hold, lease, and dispose of real or personal property of every kind and character, or any interest therein, in furtherance of the public purposes of the land bank;
  - (5) To acquire, accept, or retain equitable interests, security interests, or other interests in any real property, personal property, or fixtures by loan agreement, note, mortgage, deed to secure debt, trust deed, security agreement, assignment, pledge, conveyance, contract, lien, loan agreement, or other consensual transfer in order to secure credit extended by the land bank;
  - (6) To borrow from private lenders, from municipal corporations, counties, or consolidated governments, from the state, or from federal government funds, as may be necessary, for the operation and work of the land bank;
  - (7) To borrow money to further or carry out its public purpose and to execute notes, other obligations, leases, trust indentures, trust agreements, agreements for the sale of its notes or other obligations, loan agreements, mortgages, deeds to secure debt, trust deeds, security agreements, assignments, and such other agreements or instruments as may be necessary or desirable, in the judgment of the land bank, to evidence and to provide security for such borrowing;
  - (8) To issue notes or other obligations of the land bank and use the proceeds thereof for the purpose of paying all or any part of the cost of any land bank projects and otherwise to further or carry out the public purpose of the land bank and to pay all costs of the land bank incidental to, or necessary and appropriate to, furthering or carrying out such purpose;
  - (9) To make application directly or indirectly to any federal, state, county, or municipal government or agency or to any other source, whether public or private, for loans, grants, guarantees, or other financial assistance in furtherance of the land bank's public purpose and to accept and use the same upon such terms and conditions as are prescribed by such federal, state, county, or municipal government or agency or other source;
  - (10) To enter into agreements with the federal government or any agency thereof to use the facilities or services of the federal government or any agency thereof in order to further or carry out the public purposes of the land bank;



- (11) A land bank shall have no authority to lend money to a nongovernmental entity; provided, however, that a land bank may administer funds in the form of a loan to a nongovernmental entity when such funds are received from federal, state, and local government entities for the purpose of making such loans; provided, further, that only such transactions which are fully consistent with the purpose of the land bank shall be permitted. In those transactions, a land bank may extend credit to any person, corporation, partnership, whether limited or general, or other entity for the costs of any land bank projects which credit may be evidenced or secured by loan agreements, notes, mortgages, deeds to secure debt, trust deeds, security agreements, assignments, or such other instruments, or by rentals, revenues, fees, or charges, upon such terms and conditions as the land bank shall determine to be reasonable in connection with such extension of credit, including provision for the establishment and maintenance of reserve funds, and, in the exercise of powers granted by this article in connection with any land bank projects the land bank shall have the right and power to require the inclusion in any such loan agreement, note, mortgage, deed to secure debt, trust deed, security agreement, assignment, or other instrument of such provisions or requirements for guaranty of any obligations, insurance, construction, use, operation, maintenance, and financing of a project, and such other terms and conditions, as the land bank may deem necessary or desirable;
- (12) As security for repayment of any notes or other obligations of the land bank, to pledge, mortgage, convey, assign, hypothecate, or otherwise encumber any property of the land bank, including, but not limited to, real property, fixtures, personal property, and revenues or other funds, and to execute any lease, trust indenture, trust agreement, agreement for the sale of the land bank's notes or other obligations, loan agreement, mortgage, deed to secure debt, trust deed, security agreement, assignment, or other agreement or instrument as may be necessary or desirable, in the judgment of the land bank, to secure any such notes or other obligations, which instruments or agreements may provide for foreclosure or forced sale of any property of the land bank upon default in any obligation of the land bank, either in payment of principal, premium, if any, or interest or in the performance of any term or condition contained in any such agreement or instrument. The state, on behalf of itself and each county, municipal corporation, political subdivision, or taxing district therein, waives any right it or such county, municipal corporation, political subdivision, or taxing district may have to prevent the forced sale or foreclosure of any property of the land bank upon such default and agrees that any agreement or instrument encumbering such property may be foreclosed in accordance with law and the terms thereof;
- (13) To receive and administer gifts, grants, and devises of money and property of any kind and to administer trusts;
- (14) To use any real property, personal property, or fixtures or any interest therein or to rent or lease such property to or from others or make contracts with respect to the use thereof, or to sell, lease, exchange, transfer, assign, pledge, or otherwise dispose of or grant options for any such property in any manner as it deems to be in the best interests of the land bank and the public purpose thereof;
- (15) To procure insurance or guarantees from the General Assembly or federal government of the payments of any debts or parts thereof incurred by the land bank and to pay premiums in connection therewith;
- (16) To 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 contracts for the joint exercise of powers under this article. Intergovernmental contracts with municipal corporations, counties, or consolidated governments may include contracts for the performance of services by municipal corporations, counties, or consolidated governments on behalf of the land bank or by the land bank on behalf of municipal corporations, counties, or consolidated governments, whether or not such counties, consolidated governments, or municipal corporations are located inside or outside the geographical boundaries of the land bank members;
- (17) To procure insurance against losses in connection with the real property, assets, or activities of the land bank;
- (18) To accept and issue deeds in its name, including without limitation the acceptance of real property in accordance with the provisions of paragraph (2.1) of subsection (u) of Code Section 16-13-49;
- (19) To finance by loan, grant, lease, or otherwise, refinance, construct, erect, assemble, purchase, acquire, own, repair, remodel, rehabilitate, modify, maintain, extend, improve, install, sell, equip, expand, add to, operate, or manage real property or rights or interests in property, and to pay the costs of any such project from the proceeds of loans by persons, corporations, partnerships, whether limited or general, or other entities, all of which the land bank is authorized to receive, accept, and use;



- (20) To fix, charge, and collect rents, fees, and charges for the use of real property of the land bank and for services provided by the land bank;
  - (21) To grant or acquire a license, easement, lease, as lessor or lessee, or option with respect to real property of the land bank;
  - (22) To 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;
  - (23) To hold title to real property for purposes of establishing contracts with nonprofit community land trusts, including, but not limited to, long-term lease contracts;
  - (24) To organize and reorganize the executive, administrative, clerical, and other departments of the land bank and to fix the duties, powers, and compensation of all employees, agents, and consultants of the land bank; and
  - (25) To do all other things necessary or convenient to achieve the objectives and purposes of the land bank or other laws that relate to the purposes and responsibilities of the land bank.
- (b) The exercise of a specific power by a land bank may be limited or withdrawn by a land bank member when the land bank is acting with respect to real property within the jurisdiction of such member. Procedures for the exercise of such limitation or withdrawal of power shall be provided in the intergovernmental contract.

#### **§ 48-4-107. Lacks power of eminent domain**

A land bank shall neither possess nor exercise the power of eminent domain.

#### **§ 48-4-108. Real property of a land bank; exemption from taxation**

- (a) The real property of a land bank and its income and operations are exempt from all taxation by the state and by any of its political subdivisions, including, but not limited to, real property held by a land bank as lessor pursuant to long-term lease contracts with community land trusts.
- (b) A land bank may 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 the board considers is in the best interest of the land bank.
- (c)
  - (1) A land bank may acquire real property by purchase contracts, lease-purchase agreements, and may accept transfers from municipal corporations, counties, or consolidated governments upon such terms and conditions as agreed to by the land bank and the municipal corporation, county, or consolidated government.
  - (2) Notwithstanding any other law to the contrary, a municipal corporation, county, or consolidated government may transfer to a land bank real property and interests in real property of the municipal corporation, county, or consolidated government on such terms and conditions and according to such procedures as determined by the municipal corporation, county, or consolidated government, so long as the real property is located within the geographical boundaries of the land bank.
  - (3) The acquisition of property by the land bank shall not be governed or controlled by any regulations or laws relating to procurement or acquisition of property of the counties, consolidated governments, or municipal corporations that are members of the land bank unless specifically provided in the applicable intergovernmental contract or resolution, and transfers of property by municipal corporations, counties, or consolidated governments to the land bank shall be treated as transfers to a body politic as contemplated by subparagraph (a)(2)(A) of Code Section 36-9-3.
- (d) A land bank shall maintain all of its real property in accordance with the laws and ordinances of the jurisdiction in which the real property is located.
- (e)
  - (1) Except as otherwise provided in paragraph (2) of this subsection, a land bank shall not own or hold real property located outside the geographical boundaries of the land bank members.



- (2) A land bank may be granted pursuant to an intergovernmental contract with a county, consolidated government, or municipal corporation the authority to manage and maintain real property located within the geographical boundaries of such county, consolidated government, or municipal corporation, but outside the geographical boundaries of the land bank members.

### **§ 48-4-109. Acquisition of property in own name; transfer of property**

- (a) A land bank shall hold in its own name all real property acquired by the land bank without regard to the identity of the transferor of the property.
- (b) A land bank shall maintain and make available for public review and inspection an inventory of all real property held by the land bank.
- (c) A land bank may convey, exchange, sell, transfer, lease as lessor, grant, and mortgage as mortgagor any and all interests in, upon, or to real property of the land bank in some form and by such method as determined by the board to be in the best interest of the land bank.
- (d)
  - (1) A land bank shall determine the terms, conditions, form, and substance of consideration necessary to convey, exchange, sell, transfer, lease as lessor, grant, and mortgage as mortgagor any interests in, upon, or to real property.
  - (2) 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 to be in the best interest of the land bank.
- (e)
  - (1) The board shall determine and state in the land bank 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.
  - (2) The disposition of property by the land bank shall not be governed or controlled by any regulations or laws of the participating land bank members unless specifically provided in the applicable intergovernmental contract.
- (f) Land bank members may, in the resolution or intergovernmental contract creating a land bank, establish a hierarchical ranking of priorities for the use of real property conveyed by a land bank, or, if the resolution or intergovernmental contract creating the land bank is silent, the board of directors may establish a hierarchical ranking of priorities for the use of real property conveyed by a 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;
  - (4) Use as conservation areas;
  - (5) Use for land trusts or for other public entities; and
  - (6) Such other uses and in such hierarchical order as determined by the board of directors of the land bank.
- (g)
  - (1) Subject to the requirements of paragraph (5) of subsection (i) of Code Section 48-4-104, a county, municipal corporation, or consolidated government may, in the applicable intergovernmental contract or in the resolution creating a land bank, 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.
  - (2) Except and unless restricted or constrained as provided in paragraph (1) of this subsection, the board 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 by the land bank.



### **§ 48-4-110. Funding sources; payment retention; tax collection; allocation of sale proceeds**

- (a) A land bank may receive funding through grants and loans from the land bank members, from any other municipal corporations, counties, or consolidated governments in the state, from the General Assembly, from the federal government, and from other public and private sources.
- (b) A land bank may receive and retain payments for services rendered, for rents and leasehold payments received, for consideration for disposition of real and personal property, for proceeds of insurance coverage for losses incurred, for income from investments, and for any other asset and activity lawfully permitted to a land bank under this article.
- (c) Up to 75 percent of the real property taxes collected on real property, exclusive of any state or school district ad valorem tax, conveyed by a land bank pursuant to the laws of this state shall be remitted to the land bank. The specific percentage of such taxes to be remitted, as to each land bank member, shall be set forth in the local law, ordinance, or resolution or in the intergovernmental contract of the land bank. Such allocation of property tax revenues shall commence with the first taxable year following the date of conveyance and shall continue for a period of five years. Such funds shall be remitted to the land bank in accordance with the administrative procedures established by the tax commissioner or tax collector of the county or counties in which the land bank is located. Such allocation of property tax revenues shall not occur if such taxes have been previously allocated to a tax allocation district, or to secure a debt of the municipal corporation or consolidated government, unless the tax allocation district, municipal corporation, county, or consolidated government enters into an agreement with the land bank for the remittance of such funds to the land bank.
- (d) At the time that the land bank sells or otherwise disposes of property as part of its land bank program, the proceeds from the sale, if any, shall be allocated as determined by the land bank among the following priorities:
  - (1) Furtherance of land bank operations;
  - (2) Recovery of land bank expenses; and
  - (3) Remitter to the tax commissioner or tax collector for distribution to the appropriate taxing entity in proportion to and to the extent of their respective tax bills and costs.

Any excess proceeds shall be distributed pursuant to any applicable intergovernmental contract or land bank rules, regulations, or bylaws in accordance with the public policy stated in this article.

### **§ 48-4-111. Meetings; conflict of interest; dissolution**

- (a) All meetings shall be open to the public, except as otherwise provided by Chapter 14 of Title 50, and a written record shall be maintained of all meetings. All records of a land bank shall be subject to Article 4 of Chapter 18 of Title 50, relating to open records.
- (b) No board member or employee of a land bank shall acquire any interest, direct or indirect, in real property owned or to be acquired by the land bank, nor shall any board member assist any third party in negotiating against the land bank for property identified by the land bank for acquisition by the land bank. No board member or employee of a land bank shall have any interest, direct or indirect, in any contract or proposed contract for materials or services to be furnished or used by a land bank. The board may adopt supplemental rules and regulations addressing potential conflicts of interest and ethical guidelines for board members and land bank employees.
- (c)
  - (1) A land bank may be dissolved as a public body corporate and politic 60 calendar days after an affirmative resolution approved by two-thirds of the membership of the board.
  - (2) Sixty calendar days' advance written notice of consideration of a resolution of dissolution shall be given to the governing authorities of the land bank members, shall be published in a local newspaper of general circulation.
  - (3) Upon dissolution of the land bank, all real property, personal property, and other assets of the land bank shall become the assets of the municipal corporation, county, or consolidated government in which the property is located, unless provided otherwise in any applicable intergovernmental contracts.
  - (4) Land banks created pursuant to paragraphs (2) through (4) of subsection (b) of Code Section 48-4-103



shall not automatically dissolve upon the withdrawal of one or more land bank members unless the intergovernmental contract so provides, except that no municipal corporation may maintain the existence of a land bank if the county in which the municipal corporation is located withdraws from the land bank, and no county may maintain the existence of a land bank if the single municipal corporation that is both located within that county and is a member of the land bank withdraws from the land bank.

### **§ 48-4-112. Discharging and extinguishing liens; conditions**

- (a) Whenever any real property is acquired by a land bank and is encumbered by a lien or claim for real property taxes owed to one or more of the land bank members or to municipal corporations, counties, or consolidated governments that have an intergovernmental contract with the land bank, the land bank may, by resolution of the board, discharge and extinguish any and all such liens or claims. The decision by the board to extinguish such liens or claims is subject to the voting requirements contained in subsection (i) of Code Section 48-4-104. Unless provided otherwise in an applicable intergovernmental contract, whenever any real property is acquired by a land bank and is encumbered by a lien or claim for real property taxes owed to a school district, the land bank shall notify the school district of its intent to extinguish all such liens and claims in writing. If the school district fails to object in written form to the proposed extinguishment within 30 days of receipt of such notice to the land bank, the land bank shall have the power, by resolution of the board, to discharge and extinguish any and all such liens or claims. To the extent necessary and appropriate, the land bank shall file in appropriate public records evidence of the extinguishment and dissolution of such liens or claims.
- (b) To the extent that a land bank receives payments of any kind attributable to liens or claims for real property taxes owed to a municipal corporation, county, consolidated government, or school district on property acquired by the land bank, the land bank shall remit the full amount of the payments to the tax commissioner or tax collector for distribution to the appropriate taxing entity.
- (c)
  - (1) A tax commissioner or tax collector may assign, transfer, or sell to a land bank any ad valorem tax executions issued against a single property or ad valorem tax executions issued against multiple tracts of property in the geographical jurisdiction of the land bank in one or more transactions and upon such terms and conditions as are mutually acceptable to the tax commissioner and the land bank. Notwithstanding the notice requirements in subsection (c) of Code Section 48-3-19, when the land bank is the holder of a tax execution, the land bank shall provide notice of the transfer of the tax execution to the land bank in the following manner:
    - (A) Immediately upon acquisition of one or more tax executions, the land bank shall send notice of the tax execution transfer by certified mail, return receipt requested, to all interested parties whose identity and address are reasonably ascertainable. Copies of the notice of the tax execution transfer shall also be sent by first class mail to the property address to the attention of the occupants of the property, if any. In addition, notice shall be posted on the property; and
    - (B) Within 30 days of the tax execution transfer, the land bank shall cause a notice of the tax execution transfer to be published on two separate dates in the official organ of the county in which the property is located.
  - (2) The notice contained in subparagraphs (A) and (B) of paragraph (1) of this subsection shall specify:
    - (A) The name of the land bank and the contact information for the individual responsible for collecting the delinquent taxes;
    - (B) The property address;
    - (C) A description of the property;
    - (D) The tax identification number of the property;
    - (E) The applicable period of tax delinquency; and
    - (F) The principal amount of the delinquent taxes together with interest and penalties.
  - (3) The land bank may submit the execution to the levying officer 12 months after the date of transfer or 24 months after the tax giving rise to the execution was originally due, whichever is earlier.



- (d)
  - (1) Notwithstanding any other provision of law, at a nonjudicial tax sale conducted pursuant to Article 1 of this chapter where the tax commissioner or tax collector or the land bank is the holder of the tax execution giving rise to the sale, a land bank may tender a bid in an amount equal to the total amount of all tax liens which were the basis of the execution and any accrued interest, penalties, and costs. In the event of such tender by the land bank, such bid comprises the land bank's commitment to pay not more than all costs of the sale and its assumption of liability for all taxes, accrued interest thereon, and penalties, and, if there is no other bid, the tax commissioner or tax collector shall accept the land bank's bid and make a deed of the property to the land bank.
  - (2) If there are third parties who bid on a given parcel and the land bank tenders the highest bid on that parcel, the land bank shall pay the tax commissioner or tax collector the full amount of the bid tendered by the land bank in order to obtain the parcel.
- (e)
  - (1) A land bank may tender a bid at any sale ordered by the court pursuant to Article 5 of this chapter in an amount equal to the total amount of all tax liens which were the basis of the judgment and any accrued interest, penalties, and costs. In the event of such tender by the land bank, such bid shall comprise the land bank's commitment to pay not more than all costs of the sale and its assumption of liability for all taxes, accrued interest thereon, and penalties. If there is no other bid and the property is not redeemed by the owner in accordance with subsection (c) of Code Section 48-4-81, the tax commissioner or tax collector shall accept the land bank's bid and make a deed of the property to the land bank.
  - (2) If there are third parties who bid on a given parcel and the land bank tenders the highest bid on that parcel, the land bank shall pay the tax commissioner or tax collector the full amount of the bid tendered by the land bank in order to obtain the parcel.
  - (3) Subject to the statutory 60 day redemption period required pursuant to subsection (c) of Code Section 48-4-81, the land bank, as purchaser at such sale, shall take and thereafter have an absolute title to the property sold, free and discharged of all tax and municipal claims, liens, mortgages, charges, and estates of whatsoever kind except for those interests referenced in subsection (b) of Code Section 48-4-79. In the event of purchase by a land bank, the conveying instrument described in subsection (g) of Code Section 48-4-81 shall note the conveyance to the land bank pursuant to this article.
  - (4) The deed to the land bank shall be executed and delivered to the land bank within 90 days of the sale pursuant to subsection (d) of Code Section 48-4-81.
  - (5) Notwithstanding any other provision of law, a land bank that is a transferee and holder of tax executions may file petitions of foreclosure pursuant to Article 5 of this chapter on real property located within a jurisdiction that has authorized the ad valorem tax foreclosure process contained in Article 5 of this chapter. In a petition of foreclosure pursuant to Article 5 of this chapter, a land bank is authorized to combine in a single petition multiple tracts of real property, and the court may order in a single final judgment that all or part of the real properties identified in the petition be sold to the land bank free and clear of all liens and encumbrances so long as the petition and accompanying affidavits provide:
    - (A) Identification of each tract of real property;
    - (B) The identities of all parties having an interest in each respective tract of property;
    - (C) The amount of the tax lien due and owing; and
    - (D) The nature of the notice of the proposed sale provided to such interested parties.



## Appendix I-2

### 1990 Georgia Land Bank Statute

#### O.C.G.A. § 48-4-60 *et seq.*

#### § 48-4-60. Definitions

As used in this article, the term:

- (1) "Agreement" means:
  - (A) An interlocal cooperation agreement entered into by the parties pursuant to this article; or
  - (B) A resolution of a consolidated government establishing an authority pursuant to this article.
- (2) "Authority" means the land bank authority established pursuant to this article.
- (3) "Parties" means the parties to the agreement, which shall include one or more cities and the county containing such cities, or a consolidated government which has adopted a resolution establishing an authority.
- (4) "Property" means real property, including any improvements thereon.
- (5) "Tax delinquent property" means any property on which the taxes levied and assessed by any party remain in whole or in part unpaid on the date due and payable.

#### § 48-4-61. Establishment; purpose; dissolution

- (a) One or more cities and the county containing such cities may enter into an interlocal cooperation agreement, or a consolidated government may adopt a resolution, for the purpose of establishing a land bank authority pursuant to this article.
- (b) The authority shall be a public body corporate and politic with the power to sue and be sued, to accept and issue deeds in its name, including without limitation the acceptance of real property in accordance with the provisions of paragraph (2.1) of subsection (u) of Code Section 16-13-49, and to institute quia timet actions and shall have any other powers necessary and incidental to carry out the powers granted by this article.
- (c) The authority shall be established to acquire the tax delinquent properties of the parties and any property deeded to it pursuant to paragraph (2.1) of subsection (u) of Code Section 16-13-49 in order to foster the public purpose of returning land which is in a nonrevenue-generating, nontax-producing status to an effective utilization status or of returning real property forfeited pursuant to Code Section 16-13-49 to such status in order to provide housing, new industry, and jobs for the citizens of the county. The authority shall have the powers provided in this article and those necessary and incidental to the exercise of such powers.
- (d) Any authority established pursuant to this article may be dissolved by any party to the agreement or by resolution of a consolidated government or, where multiple cities are involved, any city may withdraw from the agreement which established the authority, or such authority may be dissolved by local Act of the General Assembly.
- (e) An authority whose parties form a consolidated government after entering into an interlocal cooperation agreement shall thereafter operate under and be governed by the provisions of this article applicable to authorities of consolidated governments as if created by resolution of a consolidated government. The board governing such an authority shall be reconstituted by resolution of the consolidated governments in conformity with the provisions of subsection (a) of Code Section 48-4-62 prior to the first meeting of such board subsequent to the effective date of consolidation of the party governments.
- (f) No land bank authority shall be created pursuant to this article on or after July 1, 2012. Except as otherwise provided in subsection (j) of Code Section 48-4-104, any land bank created pursuant to this article prior to July 1, 2012, shall continue to be governed by this article.

**§ 48-4-62. Membership; vacancies; meetings; quorum; chairman; staff**

- (a) The authority shall be governed by a board composed in such a manner as to provide two members to represent each party: two appointed by the mayor of each party city and two appointed by the county commission of the party county. An authority established by resolution of a consolidated government shall be governed by a board composed of four members to be appointed by the governing authority of the consolidated government. Each member shall serve at the pleasure of the respective appointing authority for a term of four years and shall serve without compensation. The members shall be residents of the county and may be employees of the parties. Any vacancy shall be filled for the remainder of the unexpired term in the same manner as the original appointment.
- (b) The board of the authority shall meet from time to time as required, and the presence of either (1) three members, if there are only two parties to the agreement or if the authority was created by a consolidated government or (2) 50 percent of the members then in office, if there are more than two parties to the agreement, shall constitute a quorum. Approval by a majority of the membership then in office shall be necessary for any action to be taken by the authority. All meetings shall be open to the public, except as otherwise provided by Chapter 14 of Title 50, and a written record shall be maintained of all meetings. A chairperson shall be elected from among the members, and he or she shall execute all deeds, leases, and contracts of the authority when authorized by the board.
- (c) The authority may employ its own staff or may utilize employees of the parties, as determined by the agreement.

**§ 48-4-63. Acquisition and disposal of property by authority**

- (a) The authority shall hold in its own name, for the benefit of the parties, all properties conveyed to it by the parties, all tax delinquent properties acquired by it pursuant to this article, and all properties otherwise acquired.
- (b) It shall be the duty of the authority to administer the properties acquired by it as follows:
  - (1) All property acquired by the authority shall be inventoried and appraised, and the inventory shall be maintained as a public record;
  - (2) The authority shall organize and classify the property on the basis of suitability for use;
  - (3) The authority shall maintain all property held by it in accordance with applicable laws and codes; and
  - (4) The authority shall have the power to manage, maintain, protect, rent, lease, repair, insure, alter, sell, trade, exchange, or otherwise dispose of any property on terms and conditions determined in the sole discretion of the authority. The authority may assemble tracts or parcels of property for public parks or other public purposes and to that end may exchange parcels and otherwise effectuate the purposes determined by agreement with any party.
- (c) The acquisition and disposal of property by the authority shall not be governed or controlled by any regulations or laws of the parties unless specifically provided in the agreement, and transfers of property by parties to the authority shall be treated as transfers to a body politic as contemplated by subparagraph (a)(2)(A) of Code Section 36-9-3.
- (d) Property held by the authority may be sold, traded, exchanged, or otherwise disposed of by the authority so long as the disposition is approved by a majority of the membership, as required in subsection (b) of Code Section 48-4-62 for any action by the authority, and approved as follows:
  - (1) If the property is located within a party city and the party county, approved by both authority members appointed by the mayor of such city and one of the authority members appointed by the county commission;
  - (2) If the property is located within the county party but outside all the party cities, approved by both authority members appointed by the county commission;
  - (3) If the property is located within a party city but outside the party county, approved by both authority members of such city; or
  - (4) If the property is located within the boundaries of a consolidated government, approved by a majority of the authority members.



### **§ 48-4-64. Powers of authority with regard to its property**

- (a) If any party obtains a judgment for taxes against a tax delinquent property within the party county, any of the party cities, or the boundaries of the consolidated government and the property is ordered sold at a tax sale to satisfy the judgment, the authority may tender one bid at such sale, and such bid shall comprise the authority's commitment to pay not more than all costs of the sale and its assumption of liability for all taxes, accrued interest thereon, and penalties, and, if there is no other bid, the tax commissioner shall accept the authority's bid and make a deed of the property to the authority.
- (b) In accordance with the provisions of Code Section 48-4-45, the authority shall have the right to foreclose the right to redeem property at any time after the 12 month redemption period has expired pursuant to Code Section 48-4-65. Notwithstanding the foregoing provisions of this subsection, the right of redemption shall automatically terminate and expire upon failure to redeem in accordance with Code Section 48-4-81 where the tax sale was conducted pursuant to Article 5 of this chapter.
- (c) When a property is acquired by the authority, the authority shall have the power to extinguish all county and city or consolidated government taxes, including school district taxes, at the time it sells or otherwise disposes of property; provided, however, that, with respect to school district taxes, the authority shall first obtain the consent of the board of education governing the school district in which the property is located. In determining whether or not to extinguish taxes, the authority shall consider the public benefit to be gained by tax forgiveness with primary consideration given to purchasers who intend to build or rehabilitate low-income housing. The decision by the authority to extinguish taxes is subject to the vote requirements for dispositions of property under subsection (d) of Code Section 48-4-63.
- (d) At the time that the authority sells or otherwise disposes of property as part of its land bank program, the proceeds from the sale, if any, shall be allocated as determined by the authority among the following priorities: (1) furtherance of authority operations; (2) recovery of authority expenses; and (3) distribution to the parties and the appropriate school district in proportion to and to the extent of their respective tax bills and costs. Any excess proceeds shall be distributed pursuant to the agreement of the parties or by resolution of the consolidated government in accordance with the public policy stated in this article.
- (e) The authority shall have full discretion in determining the sale price of the property. The agreement of the parties shall provide for a distribution of property that favors neighborhood nonprofit entities obtaining the land for low-income housing and, secondarily, other entities intending to produce low-income or moderate-income housing.

### **§ 48-4-65. Procedure to foreclose right of redemption**

The authority may foreclose the right of redemption to the property conveyed to the authority pursuant to a tax sale conducted in accordance with Article 1 of this chapter in the following manner:

- (1) The record title to the property shall be examined and a certificate of title shall be prepared for the benefit of the authority;
- (2) The authority shall serve the prior owner whose interest was foreclosed upon and all persons having record title or interest in or lien upon the property with a notice of foreclosure of this right to redeem in conformance with Code Section 48-4-46;
- (3) In the event persons entitled to service are located outside the county, they may be served by certified mail or statutory overnight delivery; or
- (4) In the event the sheriff is unable to perfect service or certified mail or statutory overnight delivery attempts are returned unclaimed, the authority shall conduct a search for the person with an interest in the property conveyed to the authority, which search must, at a minimum, have included the following:
  - (A) An examination of the addresses given on the face of the instrument vesting interest or the addresses given to the clerk of the superior court by the transfer tax declaration form. The clerk of the superior court and the tax assessor of the county are required to share information contained in the transfer tax declaration form with one another in a timely manner;
  - (B) A search of the current telephone directory for the county in which the property is located;



- (C) A letter of inquiry to the person who sold the property to the defendant in the tax sale at the address shown in the transfer tax declaration form or in the telephone directory;
- (D) A letter of inquiry to the attorney handling the closing prior to the tax sale if provided on the deed forms;
- (E) A sign being no less than four feet by six feet shall be erected on the property and maintained by the authority for a minimum of 30 days reading as follows:  
“THIS PROPERTY HAS BEEN CONVEYED TO THE \_\_\_\_\_ LAND BANK  
AUTHORITY BY VIRTUE OF A SALE FOR UNPAID TAXES. PERSONS WITH  
INFORMATION REGARDING THE PRIOR OWNER OF THE PROPERTY ARE  
REQUESTED TO CALL \_\_\_\_\_.”; and
- (F) If the authority has made the search as required by this paragraph and been unable to locate those persons required to be served under paragraph (2) of this Code section or, having located additional addresses of those persons through such search, attempted without success to serve those persons in either manner provided by paragraph (2) or (3) of this Code section, the authority shall make a written summary of the attempts made to serve the notice, in recordable form, and may authorize the foreclosure of the redemption rights of record.

# Appendix II

## Land Bank Creation Template Documents

### Appendix II-1

### Intergovernmental Contract for Land Bank Creation by One County and One or More Cities in that County

#### INTERGOVERNMENTAL CONTRACT

BETWEEN

\_\_\_\_\_ COUNTY

AND

CITY \_\_\_\_\_

CREATING THE

\_\_\_\_\_ LAND BANK

(a Georgia public body corporate and politic)

#### **PREAMBLE**

This intergovernmental contract is made and entered into this \_\_\_\_ day of \_\_\_\_, 20\_\_\_\_ (“Contract”) under Article 9 Section 3 of the Georgia Constitution, and sections 36-34-2(5) and 48-4-100 through 48-4-112 of the Official Code of Georgia Annotated, between \_\_\_\_\_ COUNTY and the CITY/CITIES OF \_\_\_\_\_ and \_\_\_\_\_ (hereinafter the “Parties”) for the purpose of establishing and creating the \_\_\_\_\_ LAND BANK, a separate legal entity and public body corporate to administer and implement the purposes and objectives of this Contract.

#### **RECITALS**

WHEREAS, in enacting Section 48-4-100 *et seq.* of the Official Code of Georgia Annotated (hereinafter the “Land Bank Act”), the Georgia General Assembly found that there exists in the State of Georgia a continuing need to strengthen and revitalize the economy of the State of Georgia and local units of government in this state and that it is in the best interests of the State of Georgia and local units of government in this State to assemble or dispose of public property, including dilapidated, abandoned and tax delinquent property, in a coordinated manner to foster the development of that property and to promote economic growth in the State of Georgia;

WHEREAS, the Land Bank Act permits any county or counties and at least one city located in each participating county to enter into an intergovernmental contract establishing a land bank, the purpose of which would be to acquire tax delinquent and other properties in order to foster the public purpose of returning property which is nonrevenue generating and nontax producing to an effective utilization status in order to provide housing, new industry and jobs for the citizens of the State of Georgia;

WHEREAS, the Parties herein agree that the establishment of a land bank would be beneficial to the citizens and governments of and located within \_\_\_\_\_ County;

WHEREAS, the authority for the Parties to enter into this Contract is Article IX, Section III, Paragraph I of the Constitution of the State of Georgia, which authorizes intergovernmental contracts for up to fifty (50) years for the provision of services or uses of property not otherwise prohibited by law, and the provisions of the Land Bank Act; and

WHEREAS, the Parties want to create the \_\_\_\_\_ Land Bank as a public body corporate and politic within the State of Georgia to exercise the powers, duties, functions, and responsibilities of a land bank under the Land Bank Act.

**Land Bank Creation Template Documents**

Appendix II-1 Intergovernmental Contract for Land Bank Creation  
by One County and One or More Cities in that County



Accordingly, the Parties agree to the following:

## **ARTICLE I**

### **DEFINITIONS**

As used in this Contract the following terms shall have the meanings provided in this Article.

**Section 1.01. “Board of Directors” or “Board”** means the Board of Directors of the Land Bank.

**Section 1.02. “Contract”** means this intergovernmental contract between the Parties.

**Section 1.03. “Effective Date”** means the date upon which all of the following are satisfied:

- (a) the Contract is approved by ordinance of the Governing Authority of \_\_\_\_\_ County; and
- (b) the Contract is approved by ordinance of the Governing Authority of the City/Cities of \_\_\_\_\_.

*[If multiple cities are participating, add additional subsections in definition of Effective Date requiring approval of governing authorities of each additional participating city.]*

**Section 1.04. “Fiscal Year”** means the fiscal year of the Land Bank, which shall begin on January 1st of each year and end on the following December 31st.

**Section 1.05. “Land Bank Act”** means Section 48-4-100 *et seq.* of the Official Code of Georgia Annotated as it exists on the Effective Date, and as it may be hereafter amended or replaced, subject to the provisions of Section 10.11 of this Contract.

**Section 1.06. “Land Bank”** means the public body corporate and politic established pursuant to and in accordance with the provisions of this Contract and known as the \_\_\_\_\_ Land Bank.

**Section 1.07. “Party” or “Parties”** means either individually or collectively, as applicable, \_\_\_\_\_ County or City/Cities of \_\_\_\_\_ and \_\_\_\_\_ as each is a signatory to this Contract, and any other city, county or consolidated government that becomes a Party to this Contract after the Effective Date.

**Section 1.08. “Person”** means an individual, authority, limited liability company, partnership, firm, corporation, organization, association, joint venture, trust, governmental entity or other legal entity.

**Section 1.09. “Quorum”** means a simple majority of the Board members then in office.

**Section 1.10. “Real Property”** means all lands and the buildings thereon, all things permanently attached to land or to the buildings thereon, and any interest existing in, issuing out of, or dependent upon land or the buildings thereon.

**Section 1.11. “School District Advisor”** means any non-voting representative to the Board appointed by the Board of Education of a school district for purposes of deliberation and providing or declining the required school district consent for the extinguishment of school district taxes on Real Property of the Land Bank in accordance with Section 6.02 of this Contract and the Land Bank Act.

**Section 1.12. “State”** means the State of Georgia.

## **ARTICLE II**

### **PURPOSE**

**Section 2.01. Purpose.** The purpose of this Contract is to create and empower the Land Bank to exercise the powers, duties, functions and responsibilities of a land bank under the Land Bank Act.

**Section 2.02. Programs and Functions.** The Land Bank shall endeavor to carry out the powers, duties, functions and responsibilities of a land bank under the Land Bank Act consistent with this Contract, including, but not limited to, the power, privilege and authority to acquire, manage and dispose of interests in Real Property, and to do all other things necessary or convenient to implement the purposes, objectives and provisions of the Land Bank Act and the purposes, objectives and powers delegated to a land bank under other laws or executive orders.

**Land Bank Creation Template Documents**

Appendix II-1 Intergovernmental Contract for Land Bank Creation  
by One County and One or More Cities in that County

**ARTICLE III****CREATION OF LAND BANK**

**Section 3.01. Creation and Legal Status of Land Bank.** The Land Bank is established as a separate legal entity and public body corporate, to be known as the “\_\_\_\_\_ Land Bank,” for the purposes of acting as a land bank under the Land Bank Act and implementing and administering this Contract.

**Section 3.02. By-Laws, and Policies and Procedures.** The Board shall adopt by-laws consistent with the provisions of this Contract and the Land Bank Act within thirty (30) days after the Board is appointed. The Board shall adopt policies and procedures consistent with the provisions of this Contract and the Land Bank Act within ninety (90) days after the Board is appointed.

**Section 3.03. Principal Office.** The principal office of the Land Bank shall be at a location within the geographical boundaries of \_\_\_\_\_ County, as determined by the Board.

**Section 3.04. Title to Land Bank Assets.** Except as otherwise provided in this Contract, the Land Bank shall have title to all of its Real Property and no Party shall have an ownership interest in Real Property owned by the Land Bank.

**Section 3.05. Tax-Exempt Status.** The Parties intend the activities of the Land Bank to be governmental functions carried out by an instrumentality or political subdivision of the State as described in Section 115 of Title 26 of the United States Internal Revenue Code, or any corresponding provisions of any future tax code. The Parties also intend the activities of the Land Bank to be governmental functions carried out by a political subdivision of this State, exempt to the extent provided under Georgia law from taxation by this State, including, but not limited to, ad valorem property tax exemption pursuant to Section 48-5-41 of the Official Code of Georgia Annotated or corresponding provisions of future State tax laws.

**Section 3.06. Waiver of Special Assessments.** Upon the request of the Land Bank and for the purposes of fostering the goals and objectives of the Land Bank, any Party, at its option and in its discretion, may extinguish special assessments levied by the Party prior to the date of acquisition by the Land Bank against Real Property owned by the Land Bank, or may exempt Real Property owned by the Land Bank from the imposition of special assessments.

**Section 3.07. Compliance with Law.** The Land Bank shall comply with all federal and state laws, rules, regulations and orders applicable to this Contract.

**Section 3.08. Relationship of Parties.** The Parties agree that no Party shall be responsible, in whole or in part, for the acts of the employees, agents, and servants of any other Party, whether acting separately or in conjunction with the implementation of this Contract. The Parties shall only be bound and obligated under this Contract as expressly agreed to by each Party. The Land Bank shall not obligate any Party nor shall any obligation of the Land Bank constitute an obligation of any Party.

**Section 3.09. No Third-Party Beneficiaries.** Except as otherwise specifically provided, this Contract does not create in any Person, other than a Party, and is not intended to create by implication or otherwise, any direct or indirect benefit, obligation, duty, promise, right to be indemnified (such as contractually, legally, equitably or by implication), right to be subrogated to any Party’s rights under this Contract, or any other right or benefit.

**Section 3.10. Additional Parties to Contract.** At any time subsequent to the Effective Date, in accordance with the Land Bank Act, an additional city located in whole or in part within \_\_\_\_\_ County, or a consolidated government, or an additional county and at least one city located in that additional county may become a Party to this Contract by completing the following requirements:

- (a) unanimous approval of the Board as it exists before the addition of the applicable city, county or consolidated government, and execution by the Board chairperson of the signature page attached hereto as Appendix I;
- (b) adoption of a local law, ordinance or resolution as appropriate to the applicable city, county or consolidated government; and
- (c) execution by an authorized representative of the applicable city, county or consolidated government of the signature page attached hereto as Appendix I.

## Land Bank Creation Template Documents

Appendix II-1 Intergovernmental Contract for Land Bank Creation  
by One County and One or More Cities in that County



### ARTICLE IV

#### **BOARD, EXECUTIVE DIRECTOR AND STAFF**

**Section 4.01. Board Composition.** The Land Bank shall be governed by a Board of Directors that shall be appointed within ninety (90) calendar days of the Effective Date. Each member shall serve at the pleasure of the appointing Party and shall serve without compensation. The members shall be residents of their respective appointing Parties and may be employees of the Parties. The Board shall consist of the following members:

*[Pursuant to the Land Bank Act, the Board must be comprised of an odd number of members between 5 and 11. The source of appointments is in the discretion of the Parties. Typical appointing parties include 1) county commissions, 2) county executives, 3) city mayors or city managers, 4) city councils, and 5) school districts. The initial board appointments should provide for staggered terms.]*

- (a) \_\_\_\_ ( ) member(s) appointed by \_\_\_\_ for an initial term of \_\_\_\_ years;
- (b) \_\_\_\_ ( ) member(s) appointed by \_\_\_\_ for an initial term of \_\_\_\_ years;
- (c) \_\_\_\_ ( ) member(s) appointed by \_\_\_\_ of any city, county or consolidated government that becomes a Party to this Contract after the Effective Date according to the provisions of Section 3.10 for an initial term of \_\_\_\_ years.

**Section 4.02. Term of Office.** Except as otherwise provided in this section, the members of the Board appointed under Section 4.01 shall be appointed for staggered terms. All subsequent board appointments and re-appointments shall be for terms of \_\_\_\_ years. The first term of the initial Board members shall commence on the date of the first Board meeting. Each Board member at the election of his or her appointing Party may serve an unlimited number of terms. In the event State law is amended to provide for different terms or composition of the Board, then the Board as it exists at the time of such amendment shall be authorized to take any action required such that the Board complies with any requirements of State law.

**Section 4.03. Removal.** Board members serve at the pleasure of their appointing Party and may be removed by the appointing Party at any time with or without cause, or may be removed pursuant to any other provision of Georgia law.

**Section 4.04. Vacancies.** A vacancy among the members of the Board appointed under Section 4.01, whether caused by the death, resignation, or removal of a Board member, shall be filled in the same manner as the original appointment for the balance of the unexpired term. Such vacancy shall be filled as soon as practicable.

**Section 4.05. Participation by School Districts.** Each school district containing within its geographical boundaries Real Property owned by the Land Bank shall be given advance notice of each Board meeting and may designate a School District Advisor to the Board.

**Section 4.06. Meetings.** The Board shall conduct its first meeting no later than thirty (30) calendar days after the Board is appointed. The Board shall meet at least annually and hold such other meetings at the place, date and time as the Board shall determine. All meetings of the Board shall comply with the provisions of Sections 50-14-1 *et seq.* of the Official Code of Georgia Annotated, including, but not limited to, the provisions requiring public notice of the time, place and date of the meetings.

**Section 4.07. Records of Meetings.** The Board shall maintain a written record of each meeting. Meeting summaries and minutes shall be kept in accordance with Sections 50-14-1 *et seq.* and 50-18-70 *et seq.* of the Official Code of Georgia Annotated.

**Section 4.08. Quorum and Voting.** Presence for both quorum and voting at a Board meeting may include electronic communication by which such member of the Board is both seen and heard by the members of the Board and any members of the public at the meeting. All actions of the Board shall be approved by the affirmative vote of a majority of the members of the Board present and voting; provided, however, that no action of the Board shall be authorized on the following matters unless approved by a majority of the entire Board membership:

- (a) Adoption of by-laws and other rules and regulations for conduct of the Land Bank's business;
- (b) Hiring or firing of any employee or contractor of the Land Bank. This function may, by a majority vote of the total Board membership, be delegated to a specific officer or committee of the Land Bank, under such terms and conditions and to the extent that the Board may specify;
- (c) The incurring of debt;
- (d) Adoption or amendment of the annual budget;

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- (e) Sale, lease, encumbrance, or alienation of real property, improvements or personal property with a value of more than \$50,000; and
- (f) Discharge and extinguishment of liens or claims for real property taxes owed to one or more of the Parties on Real Property acquired by the Land Bank.

**Section 4.09. Board Responsibilities.** The Board shall have all powers necessary to carry out and effectuate the purposes and provisions of this Contract and the Land Bank Act, including, but not limited to, the powers set forth in Sections 48-4-106 and 48-4-112 of the Land Bank Act.

**Section 4.10. Fiduciary Duty.** The members of the Board are under a fiduciary duty to conduct the activities and affairs of the Land Bank in the best interests of the Land Bank, including the safekeeping and use of all Land Bank monies and assets. The members of the Board shall discharge their duties in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances.

**Section 4.11. Compensation.** The members of the Board shall receive no compensation for the performance of their duties. A Board member may engage in private or public employment, or in a profession or business, except to the extent prohibited by Georgia law. The Land Bank may reimburse members of the Board for actual and necessary expenses incurred in the discharge of their official duties on behalf of the Land Bank.

**Section 4.12. Executive Director.** The Board may select and retain an executive director. An executive director selected and retained by the Board shall administer the Land Bank in accordance with the operating budget adopted by the Board, general policy guidelines established by the Board, other applicable governmental procedures and policies and this Contract. The executive director shall be responsible for the day-to-day operations of the Land Bank, the control, management, and oversight of the Land Bank's functions, and supervision of all Land Bank employees. All terms and conditions of the executive director's length of service shall be specified in a written contract between the executive director and the Board, provided that the executive director shall serve at the pleasure of the Board. The Board may delegate to the executive director any powers or duties it considers proper, under such terms, conditions and to the extent that the Board may specify.

**Section 4.13. Employees.** The Land Bank may employ or otherwise contract for the services of any staff deemed necessary to carry out the duties and responsibilities of the Land Bank. Such staff may be employed as employees of the Land Bank, or the services of such staff may be retained pursuant to contracts with any Party or other public or private entities.

**Section. 4.14. Expertise of Land Bank Staff.** The staff of the Land Bank shall be persons who have demonstrated special interest, experience or education in urban planning, community development, real estate, law, finance or related areas.

**Section 4.15. Ethics.** The Board shall adopt ethics policies governing the conduct of Board members, officers, appointees, employees and independent contractors. The policies shall be no less stringent than those provided for public officers and employees under Section 45-10-1 *et seq.* of the Official Code of Georgia Annotated, or corresponding provisions of future State code of ethics.

**Section 4.16. Conflicts of Interest.** Members of the Board and officers, appointees, employees and independent contractors of the Land Bank shall be deemed to be public officials for the purposes of Section 45-10-20 *et seq.* of the Official Code of Georgia Annotated, or corresponding provisions of future State conflicts of interest law, and are subject to any other applicable law with respect to conflicts of interest. The Land Bank shall establish policies and procedures requiring the disclosure of relationships that may give rise to a conflict of interest. The Board shall require that any member of the Board with a direct or indirect interest in any matter before the Board disclose the member's interest to the Board before the Board takes any action on the matter.

## ARTICLE V

### GENERAL POWERS OF LAND BANK

**Section 5.01. General Powers Under Land Bank Act.** The Land Bank may exercise all of the powers, duties, functions and responsibilities of a land bank under the Land Bank Act to the extent authorized by the Land Bank Act and any other Georgia law.

**Section 5.02. Tax Limitation.** The Land Bank shall not levy any type of tax or special assessment.

**Section 5.03. Eminent Domain Prohibited.** The Land Bank shall neither possess nor exercise the power of eminent domain.

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**Section 5.04. Limitation on Political Activities.** The Land Bank shall not spend any public funds on political activities. Subject to the foregoing, this section is not intended to prohibit the Land Bank from engaging in activities authorized by applicable law.

**Section 5.05. No Waiver of Governmental Immunity.** The Parties agree that no provision of the Contract is intended, nor shall it be construed, as a waiver by any Party of any governmental immunity provided under any applicable law.

**Section 5.06. Non-Discrimination.** The Land Bank shall comply with all applicable law prohibiting discrimination.

- (a) The Land Bank shall not provide services in a manner that discriminates against an individual because of religion, race, color, national origin, age, sex, sexual orientation, height, weight, marital status, partisan considerations, disability or genetic information.
- (b) The Land Bank shall not fail or refuse to hire, recruit, promote, demote, discharge or otherwise discriminate against an individual with respect to employment, compensation, or a term, condition or privilege of employment because of religion, race, color, national origin, age, sex, sexual orientation, height, weight, marital status, partisan considerations, disability or genetic information.

**ARTICLE VI****SPECIFIC POWERS OF THE LAND BANK**

**Section 6.01. Acquisition of Real Property.** Except as otherwise provided in this Contract or under the Land Bank Act, the Land Bank may acquire, by gift, devise, transfer, exchange, foreclosure, purchase or otherwise, Real Property or personal property, or rights or interests in Real Property or personal property, on terms and conditions and in a manner the Board considers is in the best interest of the Land Bank. The Land Bank may purchase Real Property by purchase contract, lease purchase contract or otherwise. The Land Bank may acquire Real Property or rights or interests in Real Property for any purpose the Land Bank considers necessary to carry out the purposes of the Land Bank Act.

**Section 6.02. Tax Delinquent Real Property.** Subject to the notice provided to school districts pursuant to Section 48-4-112(a) of the Land Bank Act, and by resolution of the Board subject to the requirements of Section 4.08 of this Contract, the Land Bank may discharge and extinguish Real Property tax liens and claims owed to one or more of the Parties that encumber Real Property owned by the Land Bank. The Land Bank may bid on and acquire title to Real Property in judicial and non-judicial tax enforcement proceedings in accordance with Section 48-4-112 of the Land Bank Act or such other general, special or local laws as may be applicable to the property tax enforcement procedures of the Parties. The Land Bank may negotiate the acquisition of tax executions in accordance with Section 48-4-112 of the Land Bank Act or such other general, special or local laws as may be applicable to the property tax enforcement procedures of the Parties.

**Section 6.03. Quiet Title Actions.** The Land Bank may initiate a quiet title action to quiet title to interests in Land Bank Real Property.

**Section 6.04. Execution of Legal Documents Relating to Real Property.** All deeds, mortgages, contracts, leases, purchases or other contracts regarding Real Property of the Land Bank, including contracts to acquire or dispose of Real Property, shall be approved by the Board or by a Land Bank staff member designated by the Board, and executed in the name of the Land Bank.

**Section 6.05. Holding and Managing Real Property.** The Land Bank may hold and own in its name any Real Property acquired by the Land Bank or conveyed to the Land Bank by the State, a Party to this Contract, a local unit of government, an intergovernmental entity created under the laws of the State, or any other public or private Person, including, but not limited to, Real Property with or without clear title. The Land Bank may, without the approval of a local unit of government in which Real Property held by the Land Bank is located, control, hold, manage, maintain, operate, repair, lease as lessor, secure, prevent the waste or deterioration of, demolish, and take all other actions necessary to preserve the value of the Real Property it holds or owns. The Land Bank shall maintain all Real Property held by the Land Bank in accordance with applicable laws and codes. Real Property held by the Land Bank shall be inventoried and appraised and classified by the Land Bank according to the title status of the Real Property and suitability for use. The inventory shall be maintained as a public record and shall be filed in the principal office of the Land Bank. The Land Bank may take or perform actions with respect to Real Property held or owned by the Land Bank, including, but not limited to, the following:

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- (a) grant or acquire a license, easement, or option with respect to Real Property as the Land Bank determines is reasonably necessary to achieve the purposes of this Contract and the Land Bank Act;
- (b) fix, charge, and collect rents, fees, and charges for use of Land Bank Real Property or for services provided by the Land Bank;
- (c) pay any tax or special assessment due on Real Property acquired or owned by the Land Bank;
- (d) take any action, provide any notice, or institute any proceeding required to clear or quiet title to Real Property held by the Land Bank in order to establish ownership by and vest title to Real Property in the Land Bank; and
- (e) remediate environmental contamination on any Real Property held by the Land Bank.

**Section 6.06. Civil Action to Protect Land Bank Real Property.** The Land Bank may institute a civil action to prevent, restrain or enjoin the waste of or unlawful removal of any Real Property held by the Land Bank.

**Section 6.07. Environmental Contamination.** If the Land Bank has reason to believe that Real Property held by the Land Bank may be the site of environmental contamination, the Land Bank shall provide the Environmental Protection Division of the Georgia Department of Natural Resources with any information in the possession of the Land Bank that suggests that the Real Property may be the site of environmental contamination. The Land Bank shall cooperate with the Georgia Department of Natural Resources with regard to any request made or action taken by the Department of Natural Resources.

**Section 6.08. Transfer of Interests in Real Property by Land Bank.** On terms and conditions, in a manner, and for an amount of consideration the Land Bank considers proper, fair and reasonable, including for no monetary consideration, the Land Bank may convey, sell, transfer, exchange, lease as lessor, mortgage as mortgagor or otherwise dispose of Real Property or rights or interests in Real Property in which the Land Bank holds a legal interest to any public or private Person.

**Section 6.09. Criteria for Conveyance.** Land Bank Real Property shall be conveyed in accordance with the Land Bank Act and according to criteria determined in the discretion of the Board and contained in the policies and procedures adopted by the Board. The Board may adopt policies and procedures that set forth priorities for a transferee's use of Real Property conveyed by the Land Bank, including, but not limited to, affordable housing.

*[Section 48–4–109(f) of the Land Bank Act provides that the Parties may establish a hierarchical ranking of priorities for the use of Real Property conveyed by the Land Bank. Such priorities may be inserted here. The Parties may also leave the ranking of priorities in the discretion of the Land Bank Board.]*

**Section 6.10. Structure of Conveyances.** Transactions shall be structured in a manner that permits the Land Bank to enforce contractual agreements, real covenants and the provisions of any subordinate financing held by the Land Bank pertaining to development and use of the Real Property.

**Section 6.11. Disposition of Proceeds.** Any proceeds from the sale or transfer of Real Property by the Land Bank shall be retained, expended, or transferred by the Land Bank as determined by the Board in the best interests of the Land Bank and in accordance with the Land Bank Act.

## ARTICLE VII

### BOOKS, RECORDS, AND FINANCES

**Section 7.01. Land Bank Records.** The Land Bank shall keep and maintain at the principal office of the Land Bank all documents and records of the Land Bank. The records of the Land Bank, which shall be available to the Parties, shall include, but not be limited to, a copy of this Contract along with any amendments to the Contract. The records and documents shall be maintained until the termination of this Contract and shall be delivered to any successor entity.

**Section 7.02. Financial Statements and Reports.** The Land Bank shall cause to be prepared, at the Land Bank's expense, audited financial statements (balance sheet, statement of revenue and expense, statement of cash flows and changes in fund balance) on an annual basis. Such financial statements shall be prepared in accordance with generally accepted accounting principles and accompanied by a written opinion of an independent certified public accounting firm.

**Section 7.03. Annual Budget.** The executive director, or other individual designated by the Board, shall prepare annually a budget for the Land Bank. The Board shall review and approve a budget for the Land Bank immediately preceding each Fiscal Year.

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**Section 7.04. Deposits and Investments.** The Land Bank shall deposit and invest funds of the Land Bank, not otherwise employed in carrying out the purposes of the Land Bank, in accordance with an investment policy established by the Board consistent with laws and regulations regarding investment of public funds.

**Section 7.05. Disbursements.** Disbursements of funds shall be in accordance with guidelines established by the Board.

**Section 7.06. Performance Objectives.** Each Fiscal Year, the executive director, or other individual designated by the Board, shall prepare, for review and approval by the Board, objectives for the Land Bank's performance.

**ARTICLE VIII****FUNDING AND EXPENDITURES**

**Section 8.01. Budget Contributions.** While under no obligation, the Parties may contribute to the annual Land Bank budget in such manner as approved by the Party or Parties.

**Section 8.02. Tax Allocation.** The Parties agree that in accordance with Section 48-4-110(c) of the Land Bank Act, \_\_\_\_% [Allocation up to 75% permitted] of the Real Property taxes collected on Real Property, exclusive of any state or school district ad valorem tax, conveyed by the Land Bank after the Effective Date shall be remitted to the Land Bank commencing with the first taxable year following the date of conveyance and shall continue for a period of five years.

**Section 8.03. Management of Funds.** The Land Bank executive director, or other individual designated by the Board, shall be designated the fiscal agent of the Land Bank's account established for the management of sales proceeds, monetary contributions made by the Parties, and other Land Bank funds. Standard accounting procedures shall be used in the management of the accounts.

**Section 8.04. Authorized Expenditures.** The Land Bank shall in its sole discretion and within its budget expend such funds as necessary to carry out the powers, duties, functions and responsibilities of a land bank under the Land Bank Act consistent with this Contract.

**ARTICLE IX****DURATION OF CONTRACT**

**Section 9.01. Duration.** This Contract shall commence on the Effective Date and shall remain in full force and effect until such time as it has been terminated by the Parties.

**Section 9.02. Withdrawal by Party.** Any Party may withdraw from this Contract upon six (6) months prior notice in writing to the Land Bank and all Parties as provided under Section 10.01. Upon the effective withdrawal of any Party to this Contract, the Party so withdrawing will no longer have any rights to funds or other assets of the Land Bank. The Land Bank shall not automatically dissolve upon the withdrawal of one or more Parties except that no City may maintain the existence of a land bank if the County in which the City is located withdraws from the Land Bank, and no County may maintain the existence of a Land Bank if the single City that is both located within that county and a Party withdraws from the Land Bank.

**Section 9.03. Termination.** The Land Bank shall be terminated by (i) agreement by all Parties to this Contract, (ii) by affirmative resolution approved by two-thirds of the membership of the Board and in accordance with Section 48-4-111 of the Land Bank Act, or (iii) by withdrawal of one or more Parties such that only one Party to this Contract remains and such remaining Party is not a consolidated government.

**Section 9.04. Disposition upon Termination.** As soon as possible after termination, the Land Bank shall finish its affairs as follows:

- (a) all of the Land Bank's debts, liabilities, and obligations to its creditors and all expenses incurred in connection with the termination of the Land Bank and distribution of its assets shall be paid first;
- (b) the remaining Real Property and personal property owned by the Land Bank, if any, shall be distributed to any successor entity, subject to approval by the Parties. In the event that no successor entity exists, the remaining Real Property and personal property, and other assets of the Land Bank, shall become assets of the city, county or consolidated government in which the Real Property is located, unless provided otherwise in any applicable intergovernmental contracts; and

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- (c) liability shall be absorbed upon termination as agreed upon by the Board of the Land Bank. In the absence of agreement by the Board, liability associated with each property shall be with the Party in which the property is located.

**ARTICLE X****MISCELLANEOUS**

**Section 10.01. Notices.** Any and all correspondence or notices required, permitted or provided for under this Contract to be delivered to any Party shall be sent to that Party by first-class mail. All such written notices, including any notice of withdrawal under Article IX, shall be sent to each other Party's signatory to this Contract, or that signatory's successor. All correspondence shall be considered delivered to a Party as of the date that such notice is deposited with sufficient postage with the United States Postal Service. Any notice of withdrawal shall be sent via certified mail, return receipt requested. Notices to \_\_\_\_ County shall be sent to: \_\_\_\_\_. Notices to the City of \_\_\_\_\_ shall be sent to \_\_\_\_\_. Notices to the Land Bank shall be sent to the Land Bank Principal Office. All notices sent to the addresses listed above shall be binding unless said address is changed in writing.

**Section 10.02. Entire Agreement.** This Contract sets forth the entire agreement between the Parties and supersedes any and all prior contracts or understandings between them in any way related to the subject matter of this Contract. It is further understood and agreed that the terms and conditions of this Contract are not a mere recital and that there are no other contracts, understandings or representations between the Parties in any way related to the subject matter of this Contract, except as expressly stated in this Contract.

**Section 10.03. Interpretation of Contract.** The Parties intend that this Contract shall be construed liberally to effectuate the intent and purposes of this Contract and the legislative intent and purposes of the Land Bank Act as complete and independent authorization for the performance of each and every act and thing authorized by this Contract and the Land Bank Act. All powers granted to the Land Bank under this Contract and the Land Bank Act shall be broadly interpreted to effectuate the intent and purposes and not as a limitation of powers.

**Section 10.04. Severability of Provisions.** If any provision of this Contract, or its application to any Person, Party or circumstance, is invalid or unenforceable, the remainder of this Contract and the application of that provision to other Persons, Parties or circumstances is not affected but will be enforced to the extent permitted by law.

**Section 10.05. Governing Law.** This Contract is made and entered into in the State of Georgia and shall in all respects be interpreted, enforced and governed under the laws of the State of Georgia without regard to the doctrines of conflict of laws. The language of all parts of this Contract shall in all cases be construed as a whole according to its plain and fair meaning, and not construed strictly for or against any Party.

**Section 10.06. Captions and Headings.** The captions, headings, and titles in this Contract are intended for the convenience of the reader and are not intended to have any substantive meaning or to be interpreted as part of this Contract.

**Section 10.07. Terminology.** All terms and words used in this Contract, regardless of the number or gender in which they are used, are deemed to include any other number and any other gender as the context may require.

**Section 10.08. Cross-References.** References in this Contract to any article include all sections, subsections, and paragraphs in the article, unless specifically noted otherwise. References in this Contract to any section include all subsections and paragraphs in the section.

**Section 10.09. Jurisdiction and Venue.** In the event of any disputes between the Parties over the meaning, interpretation or implementation of the terms, covenants or conditions of this Contract, the matter under dispute, unless resolved between the Parties, shall be submitted to the Superior Courts of \_\_\_\_ County.

**Section 10.10. Amendments to Contract.** With the exception of the addition of a new Party pursuant to the provisions of Section 3.10 of this Contract, this Contract may be amended or an alternative form of this Contract adopted only upon written amendment approved by all Parties.

**Section 10.11. Amendments to Land Bank Act.** The Land Bank and Board shall have any powers authorized pursuant to any amendments, replacements or substitutions to the Land Bank Act, unless the Contract is amended by the Parties to provide otherwise.

**Section 10.12. Effective Date.** This Contract shall become effective as of the Effective Date.

This Contract is executed by the authorized representatives of the Parties on the date(s) indicated below:

## APPENDIX II

### Land Bank Creation Template Documents

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\_\_\_\_\_ COUNTY

a Georgia public body corporate

By: \_\_\_\_\_

Name:

Title:

Date:

**City of** \_\_\_\_\_

a Georgia public body corporate

By: \_\_\_\_\_

Name:

Title:

Date:

**City of** \_\_\_\_\_

a Georgia public body corporate

By: \_\_\_\_\_

Name:

Title:

Date:

## APPENDIX I

The undersigned has become a Party to this Intergovernmental Contract by virtue of appropriate authorizing action taken by the Governing Authority of \_\_\_\_\_ on [DATE], and the unanimous approval of the Land Bank Board on [DATE].

**Governing Authority of** \_\_\_\_\_

a Georgia public body corporate

By: \_\_\_\_\_

Name:

Title:

Date:

**Land Bank Board**

By: \_\_\_\_\_

Name:

Title: Chair of the Board

Date:

**Land Bank Creation Template Documents**Appendix II-2 Intergovernmental Contract for Land Bank Creation  
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## Appendix II-2

### Intergovernmental Contract for Land Bank Creation by Multiple Counties and Multiple Cities

**INTERGOVERNMENTAL CONTRACT**

BETWEEN

\_\_\_\_\_ COUNTY

AND

\_\_\_\_\_ COUNTY

AND the

**CITY of** \_\_\_\_\_

AND the

**CITY of** \_\_\_\_\_

CREATING THE

\_\_\_\_\_ LAND BANK

(a Georgia public body corporate and politic)

**PREAMBLE**

This intergovernmental contract is made and entered into this \_\_\_\_ day of \_\_\_\_, 20\_\_\_\_ (“Contract”) under Article 9 Section 3 of the Georgia Constitution, and sections 36-34-2(5) and 48-4-100 through 48-4-112 of the Official Code of Georgia Annotated, between \_\_\_\_\_ COUNTY and the **CITY OF** \_\_\_\_\_ and \_\_\_\_\_ COUNTY and the **CITY OF** \_\_\_\_\_ (hereinafter the “Parties”) for the purpose of establishing and creating the \_\_\_\_\_ **LAND BANK**, a separate legal entity and public body corporate to administer and implement the purposes and objectives of this Contract.

**RECITALS**

WHEREAS, in enacting Section 48-4-100 *et seq.* of the Official Code of Georgia Annotated (hereinafter the “Land Bank Act”), the Georgia General Assembly found that there exists in the State of Georgia a continuing need to strengthen and revitalize the economy of the State of Georgia and local units of government in this State and that it is in the best interests of the State of Georgia and local units of government in this state to assemble or dispose of public property, including dilapidated, abandoned and tax delinquent property, in a coordinated manner to foster the development of that property and to promote economic growth in the State of Georgia;

WHEREAS, the Land Bank Act permits any county or counties and at least one city located in each participating county to enter into an intergovernmental contract establishing a land bank, the purpose of which would be to acquire tax delinquent and other properties in order to foster the public purpose of returning property which is nonrevenue generating and nontax producing to an effective utilization status in order to provide housing, new industry and jobs for the citizens of the State of Georgia;

WHEREAS, the Parties herein agree that the establishment of a land bank would be beneficial to the citizens and governments of and located within \_\_\_\_\_ County and \_\_\_\_\_ County;

WHEREAS, the authority for the Parties to enter into this Contract is Article IX, Section III, Paragraph I of the Constitution of the State of Georgia, which authorizes intergovernmental contracts for up to fifty (50) years for the provision of services or uses of property not otherwise prohibited by law, and the Land Bank Act; and

WHEREAS, the Parties want to create the \_\_\_\_\_ Land Bank as a public body corporate and politic within the State of Georgia to exercise the powers, duties, functions, and responsibilities of a land bank under the Land Bank Act.

**Land Bank Creation Template Documents**

Appendix II-2 Intergovernmental Contract for Land Bank Creation  
by Multiple Counties and Multiple Cities



Accordingly, the Parties agree to the following:

## **ARTICLE I**

### **DEFINITIONS**

As used in this Contract the following terms shall have the meanings provided in this Article.

**Section 1.01. “Board of Directors” or “Board”** means the Board of Directors of the Land Bank.

**Section 1.02. “Contract”** means this intergovernmental contract between the Parties.

**Section 1.03. “Effective Date”** means the date upon which all of the following are satisfied:

- (a) the Contract is approved by ordinance of the Governing Authority of \_\_\_\_\_ County; and
- (b) the Contract is approved by ordinance of the Governing Authority of the City of \_\_\_\_\_.
- (c) the Contract is approved by ordinance of the Governing Authority of \_\_\_\_\_ County; and
- (d) the Contract is approved by ordinance of the Governing Authority of the City of \_\_\_\_\_.

*[If multiple cities in a county are participating, add additional subsections in definition of Effective Date requiring approval of governing authorities of each additional participating city.]*

**Section 1.04. “Fiscal Year”** means the fiscal year of the Land Bank, which shall begin on January 1st of each year and end on the following December 31st.

**Section 1.05. “Land Bank Act”** means Section 48-4-100 *et seq.* of the Official Code of Georgia Annotated as it exists on the Effective Date, and as it may be hereafter amended or replaced, subject to the provisions of Section 10.11 of this Contract.

**Section 1.06. “Land Bank”** means the public body corporate and politic established pursuant to and in accordance with the provisions of this Contract and known as the \_\_\_\_\_ Land Bank.

**Section 1.07. “Party” or “Parties”** means either individually or collectively, as applicable, Counties of \_\_\_\_\_ and \_\_\_\_\_ or Cities of \_\_\_\_\_ and \_\_\_\_\_ as each is a signatory to this Contract, and any other city, county or consolidated government that becomes a Party to this Contract after the Effective Date.

**Section 1.08. “Person”** means an individual, authority, limited liability company, partnership, firm, corporation, organization, association, joint venture, trust, governmental entity or other legal entity.

**Section 1.09. “Quorum”** means a simple majority of the Board members then in office.

**Section 1.10. “Real Property”** means all lands and the buildings thereon, all things permanently attached to land or to the buildings thereon, and any interest existing in, issuing out of, or dependent upon land or the buildings thereon.

**Section 1.11. “School District Advisor”** means any non-voting representative to the Board appointed by the Board of Education of a school district for purposes of deliberation and providing or declining the required school district consent for the extinguishment of school district taxes on Real Property of the Land Bank in accordance with Section 6.02 of this Contract and the Land Bank Act.

**Section 1.12. “State”** means the State of Georgia.

## **ARTICLE II**

### **PURPOSE**

**Section 2.01. Purpose.** The purpose of this Contract is to create and empower the Land Bank to exercise the powers, duties, functions and responsibilities of a land bank under the Land Bank Act.

**Section 2.02. Programs and Functions.** The Land Bank shall endeavor to carry out the powers, duties, functions and responsibilities of a land bank under the Land Bank Act consistent with this Contract, including, but not limited to, the power, privilege and authority to acquire, manage and dispose of interests in Real Property, and to do all other things necessary or convenient to implement the purposes, objectives and provisions of the Land Bank Act and the purposes, objectives and powers delegated to a land bank under other laws or executive orders.

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by Multiple Counties and Multiple Cities



## **ARTICLE III**

### **CREATION OF LAND BANK**

**Section 3.01. Creation and Legal Status of Land Bank.** The Land Bank is established as a separate legal entity and public body corporate, to be known as the “\_\_\_\_\_ Land Bank,” for the purposes of acting as a land bank under the Land Bank Act and implementing and administering this Contract.

**Section 3.02. By-Laws, and Policies and Procedures.** The Board shall adopt by-laws consistent with the provisions of this Contract and the Land Bank Act within thirty (30) days after the Board is appointed. The Board shall adopt policies and procedures consistent with the provisions of this Contract and the Land Bank Act within ninety (90) days after the Board is appointed.

**Section 3.03. Principal Office.** The principal office of the Land Bank shall be at a location within the geographical boundaries of one of the Parties as determined by the Board.

**Section 3.04. Title to Land Bank Assets.** Except as otherwise provided in this Contract, the Land Bank shall have title to all of its Real Property and no Party shall have an ownership interest in Real Property owned by the Land Bank.

**Section 3.05. Tax-Exempt Status.** The Parties intend the activities of the Land Bank to be governmental functions carried out by an instrumentality or political subdivision of the State as described in Section 115 of Title 26 of the United States Internal Revenue Code, or any corresponding provisions of any future tax code. The Parties also intend the activities of the Land Bank to be governmental functions carried out by a political subdivision of this State, exempt to the extent provided under Georgia law from taxation by this State, including, but not limited to, ad valorem property tax exemption pursuant to Section 48-5-41 of the Official Code of Georgia Annotated or corresponding provisions of future State tax laws.

**Section 3.06. Waiver of Special Assessments.** Upon the request of the Land Bank and for the purposes of fostering the goals and objectives of the Land Bank, any Party, at its option and in its discretion, may extinguish special assessments levied by the Party prior to the date of acquisition by the Land Bank against Real Property owned by the Land Bank, or may exempt Real Property owned by the Land Bank from the imposition of special assessments.

**Section 3.07. Compliance with Law.** The Land Bank shall comply with all federal and state laws, rules, regulations and orders applicable to this Contract.

**Section 3.08. Relationship of Parties.** The Parties agree that no Party shall be responsible, in whole or in part, for the acts of the employees, agents, and servants of any other Party, whether acting separately or in conjunction with the implementation of this Contract. The Parties shall only be bound and obligated under this Contract as expressly agreed to by each Party. The Land Bank shall not obligate any Party nor shall any obligation of the Land Bank constitute an obligation of any Party.

**Section 3.09. No Third-Party Beneficiaries.** Except as otherwise specifically provided, this Contract does not create in any Person, other than a Party, and is not intended to create by implication or otherwise, any direct or indirect benefit, obligation, duty, promise, right to be indemnified (such as contractually, legally, equitably or by implication), right to be subrogated to any Party’s rights under this Contract, or any other right or benefit.

**Section 3.10. Additional Parties to Contract.** At any time subsequent to the Effective Date, in accordance with the Land Bank Act, an additional city located in whole or in part within \_\_\_\_\_ County or \_\_\_\_\_ County, or a consolidated government, or an additional county and at least one city located in that additional county may become a Party to this Contract by completing the following requirements:

- (a) unanimous approval of the Board as it exists before the addition of the applicable city, county or consolidated government, and execution by the Board chairperson of the signature page attached hereto as Appendix I;
- (b) adoption of a local law, ordinance or resolution as appropriate to the applicable city, county or consolidated government; and
- (c) execution by an authorized representative of the applicable city, county or consolidated government of the signature page attached hereto as Appendix I.

**Land Bank Creation Template Documents**

Appendix II-2 Intergovernmental Contract for Land Bank Creation  
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**ARTICLE IV****BOARD, EXECUTIVE DIRECTOR AND STAFF**

**Section 4.01. Board Composition.** The Land Bank shall be governed by a Board of Directors that shall be appointed within ninety (90) calendar days of the Effective Date. Each member shall serve at the pleasure of the appointing Party and shall serve without compensation. The members shall be residents of their respective appointing Parties and may be employees of the Parties. The Board shall consist of the following members:

*[Pursuant to the Land Bank Act, the Board must be comprised of an odd number of members between 5 and 11. The source of appointments is in the discretion of the Parties. Typical appointing parties include 1) county commissions, 2) county executives, 3) city mayors or city managers, 4) city councils, and 5) school districts. The initial board appointments should provide for staggered terms.]*

- (a) \_\_\_\_ ( ) member(s) appointed by \_\_\_\_ for an initial term of \_\_\_\_ years;
- (b) \_\_\_\_ ( ) member(s) appointed by \_\_\_\_ for an initial term of \_\_\_\_ years;
- (c) \_\_\_\_ ( ) member(s) appointed by \_\_\_\_ for an initial term of \_\_\_\_ years;
- (d) \_\_\_\_ ( ) member(s) appointed by \_\_\_\_ for an initial term of \_\_\_\_ years;
- (e) \_\_\_\_ ( ) member(s) appointed by \_\_\_\_ of any city, county or consolidated government that becomes a Party to this Contract after the Effective Date according to the provisions of Section 3.10 for an initial term of \_\_\_\_ years.

**Section 4.02. Term of Office.** Except as otherwise provided in this section, the members of the Board appointed under Section 4.01 shall be appointed for staggered terms. All subsequent board appointments and re-appointments shall be for terms of \_\_\_\_ years. The first term of the initial Board members shall commence on the date of the first Board meeting. Each Board member at the election of his or her appointing Party may serve an unlimited number of terms. In the event State law is amended to provide for different terms or composition of the Board, then the Board as it exists at the time of such amendment shall be authorized to take any action required such that the Board complies with any requirements of State law.

**Section 4.03. Removal.** Board members serve at the pleasure of their appointing Party and may be removed by the appointing Party at any time with or without cause, or may be removed pursuant to any other provision of Georgia law.

**Section 4.04. Vacancies.** A vacancy among the members of the Board appointed under Section 4.01, whether caused by the death, resignation, or removal of a Board member, shall be filled in the same manner as the original appointment for the balance of the unexpired term. Such vacancy shall be filled as soon as practicable.

**Section 4.05. Participation by School Districts.** Each school district containing within its geographical boundaries Real Property owned by the Land Bank shall be given advance notice of each Board meeting and may designate a School District Advisor to the Board.

**Section 4.06. Meetings.** The Board shall conduct its first meeting no later than thirty (30) calendar days after the Board is appointed. The Board shall meet at least annually and hold such other meetings at the place, date and time as the Board shall determine. All meetings of the Board shall comply with the provisions of Sections 50-14-1 *et seq.* of the Official Code of Georgia Annotated, including, but not limited to, the provisions requiring public notice of the time, place and date of the meetings.

**Section 4.07. Records of Meetings.** The Board shall maintain a written record of each meeting. Meeting summaries and minutes shall be kept in accordance with Sections 50-14-1 *et seq.* and 50-18-70 *et seq.* of the Official Code of Georgia Annotated.

**Section 4.08. Quorum and Voting.** Presence for both quorum and voting at a Board meeting may include electronic communication by which such member of the Board is both seen and heard by the members of the Board and any members of the public at the meeting. All actions of the Board shall be approved by the affirmative vote of a majority of the members of the Board present and voting; provided, however, that no action of the Board shall be authorized on the following matters unless approved by a majority of the entire Board membership:

- (a) Adoption of by-laws and other rules and regulations for conduct of the Land Bank's business;
- (b) Hiring or firing of any employee or contractor of the Land Bank. This function may, by a majority vote of the total Board membership, be delegated to a specific officer or committee of the Land Bank, under such terms and conditions and to the extent that the Board may specify;

## Land Bank Creation Template Documents

### Appendix II-2 Intergovernmental Contract for Land Bank Creation by Multiple Counties and Multiple Cities



- (c) The incurring of debt;
- (d) Adoption or amendment of the annual budget;
- (e) Sale, lease, encumbrance, or alienation of real property, improvements or personal property with a value of more than \$50,000; and
- (f) Discharge and extinguishment of liens or claims for real property taxes owed to one or more of the Parties on real property acquired by the Land Bank.

**Section 4.09. Board Responsibilities.** The Board shall have all powers necessary to carry out and effectuate the purposes and provisions of this Contract and the Land Bank Act, including, but not limited to, the powers set forth in Sections 48-4-106 and 48-4-112 of the Land Bank Act.

**Section 4.10. Fiduciary Duty.** The members of the Board are under a fiduciary duty to conduct the activities and affairs of the Land Bank in the best interests of the Land Bank, including the safekeeping and use of all Land Bank monies and assets. The members of the Board shall discharge their duties in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances.

**Section 4.11. Compensation.** The members of the Board shall receive no compensation for the performance of their duties. A Board member may engage in private or public employment, or in a profession or business, except to the extent prohibited by Georgia law. The Land Bank may reimburse members of the Board for actual and necessary expenses incurred in the discharge of their official duties on behalf of the Land Bank.

**Section 4.12. Executive Director.** The Board may select and retain an executive director. An executive director selected and retained by the Board shall administer the Land Bank in accordance with the operating budget adopted by the Board, general policy guidelines established by the Board, other applicable governmental procedures and policies and this Contract. The executive director shall be responsible for the day-to-day operations of the Land Bank, the control, management, and oversight of the Land Bank's functions, and supervision of all Land Bank employees. All terms and conditions of the executive director's length of service shall be specified in a written contract between the executive director and the Board, provided that the executive director shall serve at the pleasure of the Board. The Board may delegate to the executive director any powers or duties it considers proper, under such terms, conditions and to the extent that the Board may specify.

**Section 4.13. Employees.** The Land Bank may employ or otherwise contract for the services of any staff deemed necessary to carry out the duties and responsibilities of the Land Bank. Such staff may be employed as employees of the Land Bank, or the services of such staff may be retained pursuant to contracts with any Party or other public or private entities.

**Section. 4.14. Expertise of Land Bank Staff.** The staff of the Land Bank shall be persons who have demonstrated special interest, experience or education in urban planning, community development, real estate, law, finance or related areas.

**Section 4.15. Ethics.** The Board shall adopt ethics policies governing the conduct of Board members, officers, appointees, employees and independent contractors. The policies shall be no less stringent than those provided for public officers and employees under Section 45-10-1 *et seq.* of the Official Code of Georgia Annotated, or corresponding provisions of future State code of ethics.

**Section 4.16. Conflicts of Interest.** Members of the Board and officers, appointees, employees and independent contractors of the Land Bank shall be deemed to be public officials for the purposes of Section 45-10-20 *et seq.* of the Official Code of Georgia Annotated, or corresponding provisions of future State conflicts of interest law, and are subject to any other applicable law with respect to conflicts of interest. The Land Bank shall establish policies and procedures requiring the disclosure of relationships that may give rise to a conflict of interest. The Board shall require that any member of the Board with a direct or indirect interest in any matter before the Board disclose the member's interest to the Board before the Board takes any action on the matter.

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**ARTICLE V****GENERAL POWERS OF LAND BANK**

**Section 5.01. General Powers Under Land Bank Act.** The Land Bank may exercise all of the powers, duties, functions and responsibilities of a land bank under the Land Bank Act to the extent authorized by the Land Bank Act and any other Georgia law.

**Section 5.02. Tax Limitation.** The Land Bank shall not levy any type of tax or special assessment.

**Section 5.03. Eminent Domain Prohibited.** The Land Bank shall neither possess nor exercise the power of eminent domain.

**Section 5.04. Limitation on Political Activities.** The Land Bank shall not spend any public funds on political activities. Subject to the foregoing, this section is not intended to prohibit the Land Bank from engaging in activities authorized by applicable law.

**Section 5.05. No Waiver of Governmental Immunity.** The Parties agree that no provision of the Contract is intended, nor shall it be construed, as a waiver by any Party of any governmental immunity provided under any applicable law.

**Section 5.06. Non-Discrimination.** The Land Bank shall comply with all applicable law prohibiting discrimination.

- (a) The Land Bank shall not provide services in a manner that discriminates against an individual because of religion, race, color, national origin, age, sex, sexual orientation, height, weight, marital status, partisan considerations, disability or genetic information.
- (b) The Land Bank shall not fail or refuse to hire, recruit, promote, demote, discharge or otherwise discriminate against an individual with respect to employment, compensation, or a term, condition or privilege of employment because of religion, race, color, national origin, age, sex, sexual orientation, height, weight, marital status, partisan considerations, disability or genetic information.

**ARTICLE VI****SPECIFIC POWERS OF THE LAND BANK**

**Section 6.01. Acquisition of Real Property.** Except as otherwise provided in this Contract or under the Land Bank Act, the Land Bank may acquire, by gift, devise, transfer, exchange, foreclosure, purchase or otherwise, Real Property or personal property, or rights or interests in Real Property or personal property, on terms and conditions and in a manner the Board considers is in the best interest of the Land Bank. The Land Bank may purchase Real Property by purchase contract, lease purchase contract or otherwise. The Land Bank may acquire Real Property or rights or interests in Real Property for any purpose the Land Bank considers necessary to carry out the purposes of the Land Bank Act.

**Section 6.02. Tax Delinquent Real Property.** Subject to the notice provided to school districts pursuant to Section 48-4-112(a) of the Land Bank Act, and by resolution of the Board subject to the requirements of Section 4.08 of this Contract, the Land Bank may discharge and extinguish Real Property tax liens and claims owed to one or more of the Parties that encumber Real Property owned by the Land Bank. The Land Bank may bid on and acquire title to Real Property in judicial and non-judicial tax enforcement proceedings in accordance with Section 48-4-112 of the Land Bank Act or such other general, special or local laws as may be applicable to the property tax enforcement procedures of the Parties. The Land Bank may negotiate the acquisition of tax executions in accordance with Section 48-4-112 of the Land Bank Act or such other general, special or local laws as may be applicable to the property tax enforcement procedures of the Parties.

**Section 6.03. Quiet Title Actions.** The Land Bank may initiate a quiet title action to quiet title to interests in Land Bank Real Property.

**Section 6.04. Execution of Legal Documents Relating to Real Property.** All deeds, mortgages, contracts, leases, purchases or other contracts regarding Real Property of the Land Bank, including contracts to acquire or dispose of Real Property, shall be approved by the Board or by a Land Bank staff member designated by the Board, and executed in the name of the Land Bank.

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**Section 6.05. Holding and Managing Real Property.** The Land Bank may hold and own in its name any Real Property acquired by the Land Bank or conveyed to the Land Bank by the State, a Party to this Contract, a local unit of government, an intergovernmental entity created under the laws of the State, or any other public or private Person, including, but not limited to, Real Property with or without clear title. The Land Bank may, without the approval of a local unit of government in which Real Property held by the Land Bank is located, control, hold, manage, maintain, operate, repair, lease as lessor, secure, prevent the waste or deterioration of, demolish, and take all other actions necessary to preserve the value of the Real Property it holds or owns. The Land Bank shall maintain all Real Property held by the Land Bank in accordance with applicable laws and codes. Real Property held by the Land Bank shall be inventoried and appraised and classified by the Land Bank according to the title status of the Real Property and suitability for use. The inventory shall be maintained as a public record and shall be filed in the principal office of the Land Bank. The Land Bank may take or perform actions with respect to Real Property held or owned by the Land Bank, including, but not limited to, the following:

- (a) grant or acquire a license, easement, or option with respect to Real Property as the Land Bank determines is reasonably necessary to achieve the purposes of this Contract and the Land Bank Act;
- (b) fix, charge, and collect rents, fees, and charges for use of Land Bank Real Property or for services provided by the Land Bank;
- (c) pay any tax or special assessment due on Real Property acquired or owned by the Land Bank;
- (d) take any action, provide any notice, or institute any proceeding required to clear or quiet title to Real Property held by the Land Bank in order to establish ownership by and vest title to Real Property in the Land Bank; and
- (e) remediate environmental contamination on any Real Property held by the Land Bank.

**Section 6.06. Civil Action to Protect Land Bank Real Property.** The Land Bank may institute a civil action to prevent, restrain or enjoin the waste of or unlawful removal of any Real Property held by the Land Bank.

**Section 6.07. Environmental Contamination.** If the Land Bank has reason to believe that Real Property held by the Land Bank may be the site of environmental contamination, the Land Bank shall provide the Environmental Protection Division of the Georgia Department of Natural Resources with any information in the possession of the Land Bank that suggests that the Real Property may be the site of environmental contamination. The Land Bank shall cooperate with the Georgia Department of Natural Resources with regard to any request made or action taken by the Department of Natural Resources.

**Section 6.08. Transfer of Interests in Real Property by Land Bank.** On terms and conditions, in a manner, and for an amount of consideration the Land Bank considers proper, fair and reasonable, including for no monetary consideration, the Land Bank may convey, sell, transfer, exchange, lease as lessor, mortgage as mortgagor or otherwise dispose of Real Property or rights or interests in Real Property in which the Land Bank holds a legal interest to any public or private Person.

**Section 6.09. Criteria for Conveyance.** Land Bank Real Property shall be conveyed in accordance with the Land Bank Act and according to criteria determined in the discretion of the Board and contained in the policies and procedures adopted by the Board. The Board may adopt policies and procedures that set forth priorities for a transferee's use of Real Property conveyed by the Land Bank, including, but not limited to, affordable housing.

*[Section 48-4-109(f) of the Land Bank Act provides that the Parties may establish a hierarchical ranking of priorities for the use of Real Property conveyed by the Land Bank. Such priorities may be inserted here. The Parties may also leave the ranking of priorities in the discretion of the Land Bank Board.]*

**Section 6.10. Structure of Conveyances.** Transactions shall be structured in a manner that permits the Land Bank to enforce contractual agreements, real covenants and the provisions of any subordinate financing held by the Land Bank pertaining to development and use of the Real Property.

**Section 6.11. Disposition of Proceeds.** Any proceeds from the sale or transfer of Real Property by the Land Bank shall be retained, expended, or transferred by the Land Bank as determined by the Board in the best interests of the Land Bank and in accordance with the Land Bank Act.

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**ARTICLE VII****BOOKS, RECORDS, AND FINANCES**

**Section 7.01. Land Bank Records.** The Land Bank shall keep and maintain at the principal office of the Land Bank all documents and records of the Land Bank. The records of the Land Bank, which shall be available to the Parties, shall include, but not be limited to, a copy of this Contract along with any amendments to the Contract. The records and documents shall be maintained until the termination of this Contract and shall be delivered to any successor entity.

**Section 7.02. Financial Statements and Reports.** The Land Bank shall cause to be prepared, at the Land Bank's expense, audited financial statements (balance sheet, statement of revenue and expense, statement of cash flows and changes in fund balance) on an annual basis. Such financial statements shall be prepared in accordance with generally accepted accounting principles and accompanied by a written opinion of an independent certified public accounting firm.

**Section 7.03. Annual Budget.** The executive director, or other individual designated by the Board, shall prepare annually a budget for the Land Bank. The Board shall review and approve a budget for the Land Bank immediately preceding each Fiscal Year.

**Section 7.04. Deposits and Investments.** The Land Bank shall deposit and invest funds of the Land Bank, not otherwise employed in carrying out the purposes of the Land Bank, in accordance with an investment policy established by the Board consistent with laws and regulations regarding investment of public funds.

**Section 7.05. Disbursements.** Disbursements of funds shall be in accordance with guidelines established by the Board.

**Section 7.06. Performance Objectives.** Each Fiscal Year, the executive director, or other individual designated by the Board, shall prepare, for review and approval by the Board, objectives for the Land Bank's performance.

**ARTICLE VIII****FUNDING AND EXPENDITURES**

**Section 8.01. Budget Contributions.** While under no obligation, the Parties may contribute to the annual Land Bank budget in such manner as approved by the Party or Parties.

**Section 8.02. Tax Allocation.** The Parties agree that in accordance with Section 48-4-110(c) of the Land Bank Act, \_\_\_\_% [*Allocation up to 75% permitted*] of the Real Property taxes collected on Real Property, exclusive of any state or school district ad valorem tax, conveyed by the Land Bank after the Effective Date shall be remitted to the Land Bank commencing with the first taxable year following the date of conveyance and shall continue for a period of five years.

**Section 8.03. Management of Funds.** The Land Bank executive director, or other individual designated by the Board, shall be designated the fiscal agent of the Land Bank's account established for the management of sales proceeds, monetary contributions made by the Parties, and other Land Bank funds. Standard accounting procedures shall be used in the management of the accounts.

**Section 8.04. Authorized Expenditures.** The Land Bank shall in its sole discretion and within its budget expend such funds as necessary to carry out the powers, duties, functions and responsibilities of a land bank under the Land Bank Act consistent with this Contract.

**ARTICLE IX****DURATION OF CONTRACT**

**Section 9.01. Duration.** This Contract shall commence on the Effective Date and shall remain in full force and effect until such time as it has been terminated by the Parties.

**Section 9.02. Withdrawal by Party.** Any Party may withdraw from this Contract upon six (6) months prior notice in writing to the Land Bank and all Parties as provided under Section 10.01. Upon the effective withdrawal of any Party to this Contract, the Party so withdrawing will no longer have any rights to funds or other assets of the Land Bank. The Land Bank shall not automatically dissolve upon the withdrawal of one or more Parties except that no City may maintain the existence of a land bank if the County in the City is located withdraws from the Land Bank,

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and no County may maintain the existence of a Land Bank if the single City that is both located within that County and a Party withdraws from the Land Bank.

**Section 9.03. Termination.** The Land Bank shall be terminated by (i) agreement by all Parties to this Contract, (ii) by affirmative resolution approved by two-thirds of the membership of the Board and in accordance with Section 48-4-111 of the Land Bank Act, or (iii) by withdrawal of Parties such that only one Party to this Contract remains and such remaining Party is not a consolidated government.

**Section 9.04. Disposition upon Termination.** As soon as possible after termination, the Land Bank shall finish its affairs as follows:

- (a) all of the Land Bank's debts, liabilities, and obligations to its creditors and all expenses incurred in connection with the termination of the Land Bank and distribution of its assets shall be paid first;
- (b) the remaining Real Property and personal property owned by the Land Bank, if any, shall be distributed to any successor entity, subject to approval by the Parties. In the event that no successor entity exists, the remaining Real Property and personal property, and other assets of the Land Bank, shall become assets of the city, county or consolidated government in which the Real Property is located, unless provided otherwise in any applicable intergovernmental contracts; and
- (c) liability shall be absorbed upon termination as agreed upon by the Board of the Land Bank. In the absence of agreement by the Board, liability associated with each property shall be with the Party in which the property is located.

## ARTICLE X

### MISCELLANEOUS

**Section 10.01. Notices.** Any and all correspondence or notices required, permitted or provided for under this Contract to be delivered to any Party shall be sent to that Party by first-class mail. All such written notices, including any notice of withdrawal under Article IX, shall be sent to each other Party's signatory to this Contract, or that signatory's successor. All correspondence shall be considered delivered to a Party as of the date that such notice is deposited with sufficient postage with the United States Postal Service. Any notice of withdrawal shall be sent via certified mail, return receipt requested. Notices to \_\_\_\_\_ County shall be sent to: \_\_\_\_\_. Notices to \_\_\_\_\_ County shall be sent to: \_\_\_\_\_. Notices to the City of \_\_\_\_\_ shall be sent to \_\_\_\_\_. Notices to the City of \_\_\_\_\_ shall be sent to \_\_\_\_\_. Notices to the Land Bank shall be sent to the Land Bank Principal Office. All notices sent to the addresses listed above shall be binding unless said address is changed in writing.

**Section 10.02. Entire Agreement.** This Contract sets forth the entire agreement between the Parties and supersedes any and all prior contracts or understandings between them in any way related to the subject matter of this Contract. It is further understood and agreed that the terms and conditions of this Contract are not a mere recital and that there are no other contracts, understandings or representations between the Parties in any way related to the subject matter of this Contract, except as expressly stated in this Contract.

**Section 10.03. Interpretation of Contract.** The Parties intend that this Contract shall be construed liberally to effectuate the intent and purposes of this Contract and the legislative intent and purposes of the Land Bank Act as complete and independent authorization for the performance of each and every act and thing authorized by this Contract and the Land Bank Act. All powers granted to the Land Bank under this Contract and the Land Bank Act shall be broadly interpreted to effectuate the intent and purposes and not as a limitation of powers.

**Section 10.04. Severability of Provisions.** If any provision of this Contract, or its application to any Person, Party or circumstance, is invalid or unenforceable, the remainder of this Contract and the application of that provision to other Persons, Parties or circumstances is not affected but will be enforced to the extent permitted by law.

**Section 10.05. Governing Law.** This Contract is made and entered into in the State of Georgia and shall in all respects be interpreted, enforced and governed under the laws of the State of Georgia without regard to the doctrines of conflict of laws. The language of all parts of this Contract shall in all cases be construed as a whole according to its plain and fair meaning, and not construed strictly for or against any Party.

**Section 10.06. Captions and Headings.** The captions, headings, and titles in this Contract are intended for the convenience of the reader and are not intended to have any substantive meaning or to be interpreted as part of this Contract.

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**Section 10.07. Terminology.** All terms and words used in this Contract, regardless of the number or gender in which they are used, are deemed to include any other number and any other gender as the context may require.

**Section 10.08. Cross-References.** References in this Contract to any article include all sections, subsections, and paragraphs in the article, unless specifically noted otherwise. References in this Contract to any section include all subsections and paragraphs in the section.

**Section 10.09. Jurisdiction and Venue.** In the event of any disputes between the Parties over the meaning, interpretation, or implementation of the terms, covenants, or conditions of this Contract, the matter under dispute, unless resolved between the Parties, shall be submitted to the Superior Courts of \_\_\_\_ County.

**Section 10.10. Amendments to Contract.** With the exception of the addition of a new Party pursuant to the provisions of Section 3.10 of this Contract, this Contract may be amended or an alternative form of this Contract adopted only upon written amendment approved by all Parties.

**Section 10.11. Amendments to Land Bank Act.** The Land Bank and Board shall have any powers authorized pursuant to any amendments, replacements or substitutions to the Land Bank Act, unless the Contract is amended by the Parties to provide otherwise.

**Section 10.12. Effective Date.** This Contract shall become effective as of the Effective Date.

*[This page is intentionally left blank, with the signature pages immediately following on the next page.]*

*[Insert appropriate signature pages for the County and each City.]*

## APPENDIX II

### Land Bank Creation Template Documents

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This Contract is executed by the authorized representatives of the Parties on the date(s) indicated below:

\_\_\_\_\_ COUNTY

a Georgia public body corporate

By: \_\_\_\_\_

Name:

Title:

Date:

\_\_\_\_\_ COUNTY

a Georgia public body corporate

By: \_\_\_\_\_

Name:

Title:

Date:

**City of** \_\_\_\_\_

a Georgia public body corporate

By: \_\_\_\_\_

Name:

Title:

Date:

**City of** \_\_\_\_\_

a Georgia public body corporate

By: \_\_\_\_\_

Name:

Title:

Date:

## APPENDIX I

The undersigned has become a Party to this Intergovernmental Contract by virtue of appropriate authorizing action taken by the Governing Authority of \_\_\_\_\_ on [DATE], and the unanimous approval of the Land Bank Board on [DATE].

**Governing Authority of** \_\_\_\_\_

a Georgia public body corporate

By: \_\_\_\_\_

Name:

Title:

Date:

**Land Bank Board**

By: \_\_\_\_\_

Name:

Title: Chair of the Board

Date:



## Appendix II-3 Resolution for Land Bank Creation by Consolidated Government

### RESOLUTION

of the

\_\_\_\_\_ **CONSOLIDATED GOVERNMENT**

CREATING THE

\_\_\_\_\_ **LAND BANK**

(a Georgia public body corporate and politic)

### **PREAMBLE**

This resolution made and entered into this \_\_\_\_ day of \_\_\_\_, 20\_\_\_\_ (“Resolution”) by the \_\_\_\_\_ **CONSOLIDATED GOVERNMENT** for the purpose of establishing and creating the \_\_\_\_\_ **LAND BANK**, a separate legal entity and public body corporate to administer and implement the purposes and objectives of this Resolution.

### **RECITALS**

WHEREAS, in enacting Section 48-4-100 *et seq.* of the Official Code of Georgia Annotated (hereinafter the “Land Bank Act”), the Georgia General Assembly found that there exists in the State of Georgia a continuing need to strengthen and revitalize the economy of the State of Georgia and local units of government in this State and that it is in the best interests of the State of Georgia and local units of government in this state to assemble or dispose of public property, including dilapidated, abandoned and tax delinquent property, in a coordinated manner to foster the development of that property and to promote economic growth in the State of Georgia;

WHEREAS, the Land Bank Act permits any consolidated government to establish a land bank, the purpose of which would be to acquire tax delinquent and other properties in order to foster the public purpose of returning property which is nonrevenue generating and nontax producing to an effective utilization status in order to provide housing, new industry and jobs for the citizens of the State of Georgia;

WHEREAS, the establishment of a land bank would be beneficial to the citizens and governments of and located within \_\_\_\_ Consolidated Government; and

WHEREAS, the Parties want to create the \_\_\_\_\_ Land Bank as a public body corporate and politic within the State of Georgia to exercise the powers, duties, functions, and responsibilities of a land bank under the Land Bank Act.

Accordingly, \_\_\_\_\_ Consolidated Government resolves the following:

### **ARTICLE I** **DEFINITIONS**

As used in this Resolution the following terms shall have the meanings provided in this Article.

**Section 1.01. “Board of Directors” or “Board”** means the Board of Directors of the Land Bank.

**Section 1.02. “Effective Date”** means the date upon which the Resolution is approved by the Governing Authority of \_\_\_\_\_ Consolidated Government.

**Section 1.03. “Fiscal Year”** means the fiscal year of the Land Bank, which shall begin on January 1st of each year and end on the following December 31st.

**Section 1.04. “Land Bank Act”** means Section 48-4-100 *et seq.* of the Official Code of Georgia Annotated as it exists on the Effective Date, and as it may be hereafter amended or replaced, subject to the provisions of Section 10.11 of this Resolution.

**Land Bank Creation Template Documents**

## Appendix II-3 Resolution for Land Bank Creation by Consolidated Government



**Section 1.05. “Land Bank”** means the public body corporate and politic established pursuant to and in accordance with the provisions of this Resolution and known as the \_\_\_\_\_ Land Bank.

**Section 1.06. “Person”** means an individual, authority, limited liability company, partnership, firm, corporation, organization, association, joint venture, trust, governmental entity or other legal entity.

**Section 1.07. “Quorum”** means a simple majority of the Board members then in office.

**Section 1.08. “Real Property”** means all lands and the buildings thereon, all things permanently attached to land or to the buildings thereon, and any interest existing in, issuing out of, or dependent upon land or the buildings thereon.

**Section 1.09. “Resolution”** means this Resolution creating the \_\_\_\_\_ Land Bank.

**Section 1.10. “School District Advisor”** means any non-voting representative to the Board appointed by the Board of Education of a school district for purposes of deliberation and providing or declining the required school district consent for the extinguishment of school district taxes on Real Property of the Land Bank in accordance with Section 6.02 of this Resolution and the Land Bank Act.

**Section 1.11. “State”** means the State of Georgia.

**ARTICLE II****PURPOSE**

**Section 2.01. Purpose.** The purpose of this Resolution is to create and empower the Land Bank to exercise the powers, duties, functions and responsibilities of a land bank under the Land Bank Act.

**Section 2.02. Programs and Functions.** The Land Bank shall endeavor to carry out the powers, duties, functions and responsibilities of a land bank under the Land Bank Act consistent with this Resolution, including, but not limited to, the power, privilege and authority to acquire, manage and dispose of interests in Real Property, and to do all other things necessary or convenient to implement the purposes, objectives and provisions of the Land Bank Act and the purposes, objectives and powers delegated to a land bank under other laws or executive orders.

**ARTICLE III****CREATION OF LAND BANK**

**Section 3.01. Creation and Legal Status of Land Bank.** The Land Bank is established as a separate legal entity and public body corporate, to be known as the “\_\_\_\_\_ Land Bank,” for the purposes of acting as a land bank under the Land Bank Act and implementing and administering this Resolution.

**Section 3.02. By-Laws, and Policies and Procedures.** The Board shall adopt by-laws consistent with the provisions of this Resolution and the Land Bank Act within thirty (30) days after the Board is appointed. The Board shall adopt policies and procedures consistent with the provisions of this Resolution and the Land Bank Act within ninety (90) days after the Board is appointed.

**Section 3.03. Principal Office.** The principal office of the Land Bank shall be at a location within the geographical boundaries of \_\_\_\_\_ Consolidated Government as determined by the Board.

**Section 3.04. Title to Land Bank Assets.** Except as otherwise provided in this Resolution, the Land Bank shall have title to all of its Real Property and \_\_\_\_\_ Consolidated Government shall not have an ownership interest in Real Property owned by the Land Bank.

**Section 3.05. Tax-Exempt Status.** \_\_\_\_\_ Consolidated Government intends the activities of the Land Bank to be governmental functions carried out by an instrumentality or political subdivision of the State as described in Section 115 of Title 26 of the United States Internal Revenue Code, or any corresponding provisions of any future tax code. \_\_\_\_\_ Consolidated Government also intends the activities of the Land Bank to be governmental functions carried out by a political subdivision of this State, exempt to the extent provided under Georgia law from taxation by this State, including, but not limited to, ad valorem property tax exemption pursuant to Section 48-5-41 of the Official Code of Georgia Annotated or corresponding provisions of future State tax laws.

**Section 3.06. Waiver of Special Assessments.** Upon the request of the Land Bank and for the purposes of fostering the goals and objectives of the Land Bank, \_\_\_\_\_ Consolidated Government, at its option and in its discretion, may extinguish special assessments levied by \_\_\_\_\_ Consolidated Government prior to the date of acquisition by the Land Bank against Real Property owned by the Land Bank, or may exempt Real Property owned by the Land Bank from the imposition of special assessments.

**Land Bank Creation Template Documents**

## Appendix II-3 Resolution for Land Bank Creation by Consolidated Government



**Section 3.07. Compliance with Law.** The Land Bank shall comply with all federal and state laws, rules, regulations and orders applicable to this Resolution.

**Section 3.08. Obligations of the Land Bank.** The Land Bank shall not obligate \_\_\_\_\_ Consolidated Government nor shall any obligation of the Land Bank constitute an obligation of \_\_\_\_\_ Consolidated Government.

**Section 3.09. No Third-Party Beneficiaries.** Except as otherwise specifically provided, this Resolution does not create in any Person, other than \_\_\_\_\_ Consolidated Government, and is not intended to create by implication or otherwise, any direct or indirect benefit, obligation, duty, promise, right to be indemnified (such as contractually, legally, equitably or by implication), right to be subrogated to \_\_\_\_\_ Consolidated Government's rights under this Resolution, or any other right or benefit.

**Section 3.10. Additional Parties.** At any time subsequent to the Effective Date, in accordance with the Land Bank Act, a consolidated government, or a county and at least one city located in that county may join the Land Bank created by this Resolution upon completion of the following requirements:

- (a) unanimous approval of the Board as it exists before the addition of the applicable consolidated government, county, or city; and
- (b) conversion of this Resolution into an intergovernmental contract between \_\_\_\_\_ Consolidated Government and the applicable consolidated government, county, or city and execution of the intergovernmental contract by \_\_\_\_\_ Consolidated Government and the applicable consolidated government, county, or city.

**ARTICLE IV****BOARD, EXECUTIVE DIRECTOR AND STAFF**

**Section 4.01. Board Composition.** The Land Bank shall be governed by a Board of Directors that shall be appointed within ninety (90) calendar days of the Effective Date. Each member shall serve at the pleasure of his/her appointing entity and shall serve without compensation. The members shall be residents of \_\_\_\_\_ Consolidated Government and may be employees of \_\_\_\_\_ Consolidated Government. The Board shall consist of the following members:

*[Pursuant to the Land Bank Act, the Board must be comprised of an odd number of members between 5 and 11. The source of appointments is in the discretion of the Parties. Typical appointing parties include local government commissions/councils and school districts. The initial board appointments should provide for staggered terms.]*

- (a) \_\_\_\_ ( ) member(s) appointed by \_\_\_\_ for an initial term of \_\_\_\_ years;
- (b) \_\_\_\_ ( ) member(s) appointed by \_\_\_\_ for an initial term of \_\_\_\_ years;
- (c) \_\_\_\_ ( ) member(s) appointed by \_\_\_\_ of any consolidated government, county, or city that joins the Land Bank created by this Resolution after the Effective Date according to the provisions of Section 3.10 for an initial term of \_\_\_\_ years.

**Section 4.02. Term of Office.** Except as otherwise provided in this section, the members of the Board appointed under Sections 4.01 shall be appointed for staggered terms. All subsequent Board appointments and re-appointments shall be for terms of \_\_\_\_ years. The first term of the initial Board members shall commence on the date of the first Board meeting. Each Board member at the election of his or her appointing entity may serve an unlimited number of terms. In the event State law is amended to provide for different terms or composition of the Board, then the Board as it exists at the time of such amendment shall be authorized to take any action required such that the Board complies with any requirements of State law.

**Section 4.03. Removal.** Board members serve at the pleasure of their appointing entity and may be removed by the appointing Party at any time with or without cause, or may be removed pursuant to any other provision of Georgia law.

**Section 4.04. Vacancies.** A vacancy among the members of the Board appointed under Section 4.01, whether caused by the death, resignation or removal of a Board member, shall be filled in the same manner as the original appointment for the balance of the unexpired term. Such vacancy shall be filled as soon as practicable.

**Section 4.05. Participation by School Districts.** Each school district containing within its geographical boundaries Real Property owned by the Land Bank shall be given advance notice of each Board meeting and may designate a School District Advisor to the Board.

**Land Bank Creation Template Documents**

## Appendix II-3 Resolution for Land Bank Creation by Consolidated Government



**Section 4.06. Meetings.** The Board shall conduct its first meeting no later than thirty (30) calendar days after the Board is appointed. The Board shall meet at least annually and hold such other meetings at the place, date and time as the Board shall determine. All meetings of the Board shall comply with the provisions of Sections 50-14-1 *et seq.* of the Official Code of Georgia Annotated, including, but not limited to, the provisions requiring public notice of the time, place and date of the meetings.

**Section 4.07. Records of Meetings.** The Board shall maintain a written record of each meeting. Meeting summaries and minutes shall be kept in accordance with Sections 50-14-1 *et seq.* and 50-18-70 *et seq.* of the Official Code of Georgia Annotated.

**Section 4.08. Quorum and Voting.** Presence for both quorum and voting at a Board meeting may include electronic communication by which such member of the Board is both seen and heard by the members of the Board and any members of the public at the meeting. All actions of the Board shall be approved by the affirmative vote of a majority of the members of the Board present and voting; provided, however, that no action of the Board shall be authorized on the following matters unless approved by a majority of the entire Board membership:

- (a) Adoption of by-laws and other rules and regulations for conduct of the Land Bank's business;
- (b) Hiring or firing of any employee or contractor of the Land Bank. This function may, by a majority vote of the total Board membership, be delegated to a specific officer or committee of the Land Bank, under such terms and conditions and to the extent that the Board may specify;
- (c) The incurring of debt;
- (d) Adoption or amendment of the annual budget;
- (e) Sale, lease, encumbrance, or alienation of real property, improvements or personal property with a value of more than \$50,000; and
- (f) Discharge and extinguishment of liens or claims for real property taxes owed to one or more of the Parties on Real Property acquired by the Land Bank.

**Section 4.09. Board Responsibilities.** The Board shall have all powers necessary to carry out and effectuate the purposes and provisions of this Resolution and the Land Bank Act, including, but not limited to, the powers set forth in Sections 48-4-106 and 48-4-112 of the Land Bank Act.

**Section 4.10. Fiduciary Duty.** The members of the Board are under a fiduciary duty to conduct the activities and affairs of the Land Bank in the best interests of the Land Bank, including the safekeeping and use of all Land Bank monies and assets. The members of the Board shall discharge their duties in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances.

**Section 4.11. Compensation.** The members of the Board shall receive no compensation for the performance of their duties. A Board member may engage in private or public employment, or in a profession or business, except to the extent prohibited by Georgia law. The Land Bank may reimburse members of the Board for actual and necessary expenses incurred in the discharge of their official duties on behalf of the Land Bank.

**Section 4.12. Executive Director.** The Board may select and retain an executive director. An executive director selected and retained by the Board shall administer the Land Bank in accordance with the operating budget adopted by the Board, general policy guidelines established by the Board, other applicable governmental procedures and policies and this Resolution. The executive director shall be responsible for the day-to-day operations of the Land Bank, the control, management, and oversight of the Land Bank's functions, and supervision of all Land Bank employees. All terms and conditions of the executive director's length of service shall be specified in a written contract between the executive director and the Board, provided that the executive director shall serve at the pleasure of the Board. The Board may delegate to the executive director any powers or duties it considers proper, under such terms, conditions and to the extent that the Board may specify.

**Section 4.13. Employees.** The Land Bank may employ or otherwise contract for the services of any staff deemed necessary to carry out the duties and responsibilities of the Land Bank. Such staff may be employed as employees of the Land Bank, or the services of such staff may be retained pursuant to contracts with \_\_\_\_\_ Consolidated Government or other public or private entities.

**Section 4.14. Expertise of Land Bank Staff.** The staff of the Land Bank shall be persons who have demonstrated special interest, experience or education in urban planning, community development, real estate, law, finance or related areas.



**Section 4.15. Ethics.** The Board shall adopt ethics policies governing the conduct of Board members, officers, appointees, employees and independent contractors. The policies shall be no less stringent than those provided for public officers and employees under Section 45-10-1 *et seq.* of the Official Code of Georgia Annotated, or corresponding provisions of future State code of ethics.

**Section 4.16. Conflicts of Interest.** Members of the Board and officers, appointees, employees and independent contractors of the Land Bank shall be deemed to be public officials for the purposes of Section 45-10-20 *et seq.* of the Official Code of Georgia Annotated, or corresponding provisions of future State conflicts of interest law, and are subject to any other applicable law with respect to conflicts of interest. The Land Bank shall establish policies and procedures requiring the disclosure of relationships that may give rise to a conflict of interest. The Board shall require that any member of the Board with a direct or indirect interest in any matter before the Board disclose the member's interest to the Board before the Board takes any action on the matter.

## ARTICLE V

### GENERAL POWERS OF LAND BANK

**Section 5.01. General Powers Under Land Bank Act.** The Land Bank may exercise all of the powers, duties, functions and responsibilities of a land bank under the Land Bank Act to the extent authorized by the Land Bank Act and any other Georgia law.

**Section 5.02. Tax Limitation.** The Land Bank shall not levy any type of tax or special assessment.

**Section 5.03. Eminent Domain Prohibited.** The Land Bank shall neither possess nor exercise the power of eminent domain.

**Section 5.04. Limitation on Political Activities.** The Land Bank shall not spend any public funds on political activities. Subject to the foregoing, this section is not intended to prohibit the Land Bank from engaging in activities authorized by applicable law.

**Section 5.05. No Waiver of Governmental Immunity.** No provision of the Resolution is intended, nor shall it be construed, as a waiver by \_\_\_\_\_ Consolidated Government of any governmental immunity provided under any applicable law.

**Section 5.06. Non-Discrimination.** The Land Bank shall comply with all applicable law prohibiting discrimination.

- (a) The Land Bank shall not provide services in a manner that discriminates against an individual because of religion, race, color, national origin, age, sex, sexual orientation, height, weight, marital status, partisan considerations, disability or genetic information.
- (b) The Land Bank shall not fail or refuse to hire, recruit, promote, demote, discharge or otherwise discriminate against an individual with respect to employment, compensation, or a term, condition or privilege of employment because of religion, race, color, national origin, age, sex, sexual orientation, height, weight, marital status, partisan considerations, disability or genetic information.

## ARTICLE VI

### SPECIFIC POWERS OF THE LAND BANK

**Section 6.01. Acquisition of Real Property.** Except as otherwise provided in this Resolution or under the Land Bank Act, the Land Bank may acquire, by gift, devise, transfer, exchange, foreclosure, purchase or otherwise, Real Property or personal property, or rights or interests in Real Property or personal property, on terms and conditions and in a manner the Board considers is in the best interest of the Land Bank. The Land Bank may purchase Real Property by purchase contract, lease purchase contract or otherwise. The Land Bank may acquire Real Property or rights or interests in Real Property for any purpose the Land Bank considers necessary to carry out the purposes of the Land Bank Act.

**Section 6.02. Tax Delinquent Real Property.** Subject to the notice provided to school districts pursuant to Section 48-4-112(a) of the Land Bank Act, and by resolution of the Board subject to the requirements of Section 4.08 of this Resolution, the Land Bank may discharge and extinguish Real Property tax liens and claims owed to \_\_\_\_\_ Consolidated Government that encumber Real Property owned by the Land Bank. The Land Bank may bid on and acquire title to Real Property in judicial and non-judicial tax enforcement proceedings in accordance with Section 48-4-112 of the Land Bank Act or such other general, special or local laws as may be applicable to the property tax

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## Appendix II-3 Resolution for Land Bank Creation by Consolidated Government



enforcement procedures of the Parties. The Land Bank may negotiate the acquisition of tax executions in accordance with Section 48-4-112 of the Land Bank Act or such other general, special or local laws as may be applicable to the property tax enforcement procedures of \_\_\_\_\_ Consolidated Government.

**Section 6.03. Quiet Title Actions.** The Land Bank may initiate a quiet title action to quiet title to interests in Land Bank Real Property.

**Section 6.04. Execution of Legal Documents Relating to Real Property.** All deeds, mortgages, contracts, leases, purchases or other contracts regarding Real Property of the Land Bank, including contracts to acquire or dispose of Real Property, shall be approved by the Board or by a Land Bank staff member designated by the Board, and executed in the name of the Land Bank.

**Section 6.05. Holding and Managing Real Property.** The Land Bank may hold and own in its name any Real Property acquired by the Land Bank or conveyed to the Land Bank by the State, \_\_\_\_\_ Consolidated Government, a local unit of government, an intergovernmental entity created under the laws of the State, or any other public or private Person, including, but not limited to, Real Property with or without clear title. The Land Bank may, without the approval of a local unit of government in which Real Property held by the Land Bank is located, control, hold, manage, maintain, operate, repair, lease as lessor, secure, prevent the waste or deterioration of, demolish, and take all other actions necessary to preserve the value of the Real Property it holds or owns. The Land Bank shall maintain all Real Property held by the Land Bank in accordance with applicable laws and codes. Real Property held by the Land Bank shall be inventoried and appraised and classified by the Land Bank according to the title status of the Real Property and suitability for use. The inventory shall be maintained as a public record and shall be filed in the principal office of the Land Bank. The Land Bank may take or perform actions with respect to Real Property held or owned by the Land Bank, including, but not limited to, the following:

- (a) grant or acquire a license, easement, or option with respect to Real Property as the Land Bank determines is reasonably necessary to achieve the purposes of this Resolution and the Land Bank Act;
- (b) fix, charge, and collect rents, fees, and charges for use of Land Bank Real Property or for services provided by the Land Bank;
- (c) pay any tax or special assessment due on Real Property acquired or owned by the Land Bank;
- (d) take any action, provide any notice, or institute any proceeding required to clear or quiet title to Real Property held by the Land Bank in order to establish ownership by and vest title to Real Property in the Land Bank; and
- (e) remediate environmental contamination on any Real Property held by the Land Bank.

**Section 6.06. Civil Action to Protect Land Bank Real Property.** The Land Bank may institute a civil action to prevent, restrain or enjoin the waste of or unlawful removal of any Real Property held by the Land Bank.

**Section 6.07. Environmental Contamination.** If the Land Bank has reason to believe that Real Property held by the Land Bank may be the site of environmental contamination, the Land Bank shall provide the Environmental Protection Division of the Georgia Department of Natural Resources with any information in the possession of the Land Bank that suggests that the Real Property may be the site of environmental contamination. The Land Bank shall cooperate with the Georgia Department of Natural Resources with regard to any request made or action taken by the Department of Natural Resources.

**Section 6.08. Transfer of Interests in Real Property by Land Bank.** On terms and conditions, in a manner, and for an amount of consideration the Land Bank considers proper, fair and reasonable, including for no monetary consideration, the Land Bank may convey, sell, transfer, exchange, lease as lessor, mortgage as mortgagor or otherwise dispose of Real Property or rights or interests in Real Property in which the Land Bank holds a legal interest to any public or private Person.

**Section 6.09. Criteria for Conveyance.** Land Bank Real Property shall be conveyed in accordance with the Land Bank Act and according to criteria determined in the discretion of the Board and contained in the policies and procedures adopted by the Board. The Board may adopt policies and procedures that set forth priorities for a transferee's use of Real Property conveyed by the Land Bank, including, but not limited to, affordable housing.

*[Section 48-4-109(f) of the Land Bank Act provides that the creating local government may establish a hierarchical ranking of priorities for the use of Real Property conveyed by the Land Bank. Such priorities may be inserted here. The creating local government may also leave the ranking of priorities in the discretion of the Land Bank Board.]*



**Section 6.10. Structure of Conveyances.** Transactions shall be structured in a manner that permits the Land Bank to enforce contractual agreements, real covenants and the provisions of any subordinate financing held by the Land Bank pertaining to development and use of the Real Property.

**Section 6.11. Disposition of Proceeds.** Any proceeds from the sale or transfer of Real Property by the Land Bank shall be retained, expended, or transferred by the Land Bank as determined by the Board in the best interests of the Land Bank and in accordance with the Land Bank Act.

## **ARTICLE VII**

### **BOOKS, RECORDS, AND FINANCES**

**Section 7.01. Land Bank Records.** The Land Bank shall keep and maintain at the principal office of the Land Bank all documents and records of the Land Bank. The records of the Land Bank, which shall be available to \_\_\_\_\_ Consolidated Government, shall include, but not be limited to, a copy of this Resolution along with any amendments to the Resolution. The records and documents shall be maintained until the termination of this Resolution and shall be delivered to any successor entity.

**Section 7.02. Financial Statements and Reports.** The Land Bank shall cause to be prepared, at the Land Bank's expense, audited financial statements (balance sheet, statement of revenue and expense, statement of cash flows and changes in fund balance) on an annual basis. Such financial statements shall be prepared in accordance with generally accepted accounting principles and accompanied by a written opinion of an independent certified public accounting firm.

**Section 7.03. Annual Budget.** The executive director, or other individual designated by the Board, shall prepare annually a budget for the Land Bank. The Board shall review and approve a budget for the Land Bank immediately preceding each Fiscal Year.

**Section 7.04. Deposits and Investments.** The Land Bank shall deposit and invest funds of the Land Bank, not otherwise employed in carrying out the purposes of the Land Bank, in accordance with an investment policy established by the Board consistent with laws and regulations regarding investment of public funds.

**Section 7.05. Disbursements.** Disbursements of funds shall be in accordance with guidelines established by the Board.

**Section 7.06. Performance Objectives.** Each Fiscal Year, the executive director, or other individual designated by the Board, shall prepare, for review and approval by the Board, objectives for the Land Bank's performance.

## **ARTICLE VIII**

### **FUNDING AND EXPENDITURES**

**Section 8.01. Budget Contributions.** While under no obligation, \_\_\_\_\_ Consolidated Government and any consolidated government, county, or city that joins the Land Bank after the Effective Date according to the procedures in Section 3.10 may contribute to the annual Land Bank budget in such manner as approved by the applicable local governing authority.

**Section 8.02. Tax Allocation.** In accordance with Section 48-4-110(c) of the Land Bank Act, \_\_\_\_% [*Allocation up to 75% permitted*] of the Real Property taxes collected on Real Property, exclusive of any state or school district ad valorem tax, conveyed by the Land Bank after the Effective Date shall be remitted to the Land Bank commencing with the first taxable year following the date of conveyance and shall continue for a period of five years.

**Section 8.03. Management of Funds.** The Land Bank executive director, or other individual designated by the Board, shall be designated the fiscal agent of the Land Bank's account established for the management of sales proceeds, monetary contributions made by the Parties, and other Land Bank funds. Standard accounting procedures shall be used in the management of the accounts.

**Section 8.04. Authorized Expenditures.** The Land Bank shall in its sole discretion and within its budget expend such funds as necessary to carry out the powers, duties, functions and responsibilities of a land bank under the Land Bank Act consistent with this Resolution.



## ARTICLE IX

### DURATION OF RESOLUTION

**Section 9.01. Duration.** This Resolution shall commence on the Effective Date and shall remain in full force and effect until such time as it has been terminated by \_\_\_\_\_ Consolidated Government.

**Section 9.02. Termination.** The Land Bank shall be terminated by (i) affirmative resolution approved by the governing authority of \_\_\_\_\_ Consolidated Government, or (ii) by affirmative resolution approved by two-thirds of the membership of the Board and in accordance with Section 48-4-111 of the Land Bank Act.

**Section 9.03. Disposition upon Termination.** As soon as possible after termination, the Land Bank shall finish its affairs as follows:

- (a) all of the Land Bank's debts, liabilities, and obligations to its creditors and all expenses incurred in connection with the termination of the Land Bank and distribution of its assets shall be paid first;
- (b) the remaining Real Property and personal property owned by the Land Bank, if any, shall be distributed to any successor entity, subject to approval of \_\_\_\_\_ Consolidated Government. In the event that no successor entity exists, the remaining Real Property and personal property, and other assets of the Land Bank, shall become assets of the consolidated government, county or city in which the Real Property is located, unless provided otherwise in any applicable intergovernmental contracts; and
- (c) liability shall be absorbed upon termination as agreed upon by the Board of the Land Bank. In the absence of agreement by the Board, liability associated with each property shall be with the consolidated government, county or city in which the property is located.

## ARTICLE X

### MISCELLANEOUS

**Section 10.01. Notices.** Any and all correspondence or notices required, permitted or provided for under this Resolution to be delivered to \_\_\_\_\_ Consolidated Government shall be sent by first-class mail. Notices to \_\_\_\_\_ Consolidated Government shall be sent to: \_\_\_\_\_. All notices sent to the addresses listed above, unless said address is changed in writing, shall be binding as of the date such notice is deposited with sufficient postage with the United States Postal Service.

**Section 10.02. Interpretation of Resolution.** \_\_\_\_\_ Consolidated Government intends that this Resolution shall be construed liberally to effectuate the intent and purposes of this Resolution and the legislative intent and purposes of the Land Bank Act as complete and independent authorization for the performance of each and every act and thing authorized by this Resolution and the Land Bank Act. All powers granted to the Land Bank under this Resolution and the Land Bank Act shall be broadly interpreted to effectuate the intent and purposes and not as a limitation of powers.

**Section 10.03. Severability of Provisions.** If any provision of this Resolution, or its application to any Person or circumstance, is invalid or unenforceable, the remainder of this Resolution and the application of that provision to other Persons or circumstances are not affected but will be enforced to the extent permitted by law.

**Section 10.04. Governing Law.** This Resolution is made and entered into in the State of Georgia and shall in all respects be interpreted, enforced and governed under the laws of the State of Georgia without regard to the doctrines of conflict of laws. The language of all parts of this Resolution shall in all cases be construed as a whole according to its plain and fair meaning.

**Section 10.05. Captions and Headings.** The captions, headings, and titles in this Resolution are intended for the convenience of the reader and are not intended to have any substantive meaning or to be interpreted as part of this Resolution.

**Section 10.06. Terminology.** All terms and words used in this Resolution, regardless of the number or gender in which they are used, are deemed to include any other number and any other gender as the context may require.

**Section 10.07. Cross-References.** References in this Resolution to any article include all sections, subsections, and paragraphs in the article, unless specifically noted otherwise. References in this Resolution to any section include all subsections and paragraphs in the section.



**Section 10.08. Jurisdiction and Venue.** In the event of any dispute over the meaning, interpretation, or implementation of the terms of this Resolution, the matter under dispute, unless resolved by \_\_\_\_\_ Consolidated Government, shall be submitted to the Superior Courts of \_\_\_\_\_ County.

**Section 10.09. Amendments to Resolution.** This Resolution may be amended or an alternative form of this Resolution adopted only upon written amendment approved by \_\_\_\_\_ Consolidated Government.

**Section 10.10. Amendments to Land Bank Act.** The Land Bank and Board shall have any powers authorized pursuant to any amendments, replacements, or substitutions to the Land Bank Act, unless the Resolution is amended to provide otherwise.

**Section 10.11. Effective Date.** This Resolution shall become effective as of the Effective Date.

This Resolution is executed by the authorized representatives of \_\_\_\_\_ Consolidated Government on the date(s) indicated below:

\_\_\_\_\_ **Consolidated Government**

a Georgia public body corporate

By: \_\_\_\_\_

Name:

Title:

Date:



## Appendix II-4 Resolutions for Conversion of Existing Land Bank to 2012 Land Bank

### RESOLUTION OF THE BOARD OF DIRECTORS OF THE [ ] LAND BANK AUTHORITY TO CONTINUE IN EXISTENCE IN ACCORDANCE WITH THE 2012 GEORGIA LAND BANK ACT

WHEREAS the [ ] Land Bank Authority (hereinafter “Land Bank”) was created on [ ], pursuant to Section 48-4-61 of the Official Code of Georgia Annotated by [*Intergovernmental Contract between [ ] County and [ ] City*] [*Resolution of the [ ] Consolidated Government*];

WHEREAS Section 48-4-100 *et seq.* of the Official Code of Georgia Annotated (hereinafter the “Land Bank Act”) authorizes any Georgia Land Bank Authority created prior to July 1, 2012, to continue in existence in accordance with the provisions of the Land Bank Act upon the unanimous consent of the Board members, and contingent upon the appointment of at least one additional Board member so that there are an odd number of Board members;

Accordingly, pursuant to Section 48-4-104(j) of the Land Bank Act, the Board of Directors of the Land Bank unanimously resolves on this [ ] day of [ ], 20[ ], to continue in existence in accordance with the provisions of the Land Bank Act and will thus exercise the additional authorities and powers contained herein.

This Resolution will be effective on the date that [ ] *County and the City of [ ] jointly nominate and approve*] [ ] *Consolidated Government nominates and approves*] at least one additional Board member to the Board of Directors of the Land Bank so that there are an odd number of Board members.

BE IT RESOLVED by the [ ] **Land Bank Authority**  
(a Georgia public body corporate and politic)

By: \_\_\_\_\_

Name:

Title: Chair of the Board

Date:



**RESOLUTION OF [\_\_\_\_\_ COUNTY/CITY/CONSOLIDATED GOVERNMENT]  
APPOINTING \_\_\_\_\_ MEMBERS OF THE \_\_\_\_\_ LAND BANK AUTHORITY**

WHEREAS the \_\_\_\_\_ Land Bank Authority (hereinafter “Land Bank”) was created on \_\_\_\_\_, pursuant to Section 48-4-61 of the Official Code of Georgia Annotated by [*Intergovernmental Contract between \_\_\_\_\_ County and \_\_\_\_\_ City*] [*Resolution of the \_\_\_\_\_ Consolidated Government*];

WHEREAS Section 48-4-100 *et seq.* of the Official Code of Georgia Annotated (hereinafter the “Land Bank Act”) authorizes any Georgia Land Bank Authority created prior to July 1, 2012, to continue in existence in accordance with the provisions of the Land Bank Act upon the unanimous consent of the Board members, and contingent upon the appointment of at least one additional Board member;

WHEREAS on \_\_\_\_\_, in accordance with Section 48-4-104(j) of the Land Bank Act the Board of Directors of the Land Bank unanimously resolved to continue in existence according to the provisions of the Land Bank Act contingent upon the appointment of at least one additional Board member so that there are an odd number of Board members;

Accordingly, pursuant to Section 48-4-104(j) of the Land Bank Act [\_\_\_\_\_ Consolidated Government] hereby nominates and approves the following individual(s) to serve as member(s) of the Board of Directors of the Land Bank:

\_\_\_\_\_ is hereby appointed for an initial term of \_\_\_\_ years.

\_\_\_\_\_ is hereby appointed for an initial term of \_\_\_\_ years.

\_\_\_\_\_ is hereby appointed for an initial term of \_\_\_\_ years.

\_\_\_\_\_ is hereby appointed for an initial term of \_\_\_\_ years.

\_\_\_\_\_ is hereby appointed for an initial term of \_\_\_\_ years.

*[Multiple additional board members may be nominated and approved so long as there are an odd number of total land bank board members between 5 and 11.]*

This Resolution shall take effect immediately upon adoption.

BE IT RESOLVED by this **Governing Authority of \_\_\_\_\_**  
(a Georgia public body corporate)

By: \_\_\_\_\_

Name:

Title:

Date:



**RESOLUTION ADOPTING AN AMENDED [INTERGOVERNMENTAL CONTRACT]  
[RESOLUTION] GOVERNING THE \_\_\_\_\_ LAND BANK AUTHORITY**

WHEREAS the \_\_\_\_\_ Land Bank Authority (hereinafter “Land Bank”) was created on \_\_\_\_\_, pursuant to Section 48-4-61 of the Official Code of Georgia Annotated by [*Intergovernmental contract between \_\_\_\_\_ County and \_\_\_\_\_ City*] [*Resolution of the \_\_\_\_\_ Consolidated Government*];

WHEREAS Section 48-4-100 *et seq.* of the Official Code of Georgia Annotated (hereinafter the “Land Bank Act”) authorizes any Georgia Land Bank Authority created prior to July 1, 2012, to continue in existence in accordance with the provisions of the Land Bank Act upon the unanimous consent of the Board members, and contingent upon the appointment of at least one additional Board member;

WHEREAS on \_\_\_\_\_, in accordance with Section 48-4-104(j) of the Land Bank Act, the Board of Directors of the Land Bank unanimously resolved to continue in existence according to the provisions of the Land Bank Act contingent upon the appointment of at least one additional Board member so that there an odd number of Board members;

WHEREAS on \_\_\_\_\_, in accordance with Section 48-4-104(j) of the Land Bank Act, the [\_\_\_\_\_] *City/County/Consolidated Government*] nominated and approved \_\_\_\_\_ new Board member(s) such that there are now an odd number of Board members of the Land Bank;

WHEREAS the Land Bank is now authorized in accordance with the provisions of the Land Bank Act to exercise the additional authorities and powers contained therein; and

WHEREAS the Land Bank member(s), as that term is defined in Section 48-4-102(5) of the Land Bank Act, including the undersigned, find that the exercise of such additional authorities and powers by the Land Bank requires amendment to the [*Intergovernmental Contract between \_\_\_\_\_ County and \_\_\_\_\_ City*] [*Resolution of the \_\_\_\_\_ Consolidated Government*] dated \_\_\_\_\_, creating the Land Bank;

Accordingly, the [*Intergovernmental contract between \_\_\_\_\_ County and \_\_\_\_\_ City*] [*Resolution of the \_\_\_\_\_ Consolidated Government*] dated \_\_\_\_\_, creating the Land Bank is hereby amended and substituted with the new [*Intergovernmental Contract*] [*Resolution*] attached hereto as Exhibit A.

This Resolution shall take effect immediately upon adoption.

BE IT RESOLVED by this **Governing Authority of \_\_\_\_\_**  
(a Georgia public body corporate)

By: \_\_\_\_\_

Name:

Title:

Date:

**[EXHIBIT A]**

*Exhibit A to the Resolution of the Governing Authority amending an intergovernmental contract or resolution governing an existing land bank should consist of the applicable intergovernmental contract or resolution provided in Appendix B-1 or B-3 subject to the following substitution:*

*The following "PREAMBLE" should be substituted for the preamble to Appendix B-1 or B-3:*

**PREAMBLE**

This amended [Intergovernmental Contract] [Resolution] entered into this \_\_\_\_ day of \_\_\_\_, 20\_\_\_\_, pursuant to the provisions of Sections 48-4-100 through 48-4-112 of the Official Code of Georgia Annotated (hereinafter the "Land Bank Act"), [between \_\_\_\_\_ COUNTY and the CITY/CITIES OF \_\_\_\_\_ and \_\_\_\_\_] [by \_\_\_\_\_ **CONSOLIDATED GOVERNMENT**] is for the purpose of amending and replacing the [Intergovernmental Contract] [Resolution] dated \_\_\_\_\_, creating the \_\_\_\_\_ Land Bank Authority (hereinafter "Land Bank") so as to continue in full force and affect all of the powers and authorities contained therein, except to the extent modified or expanded in this [Intergovernmental Contract] [Resolution] as authorized by the Land Bank Act.

WHEREAS the Land Bank shall continue to exist pursuant to this [Intergovernmental Contract] [Resolution];

WHEREAS title to all assets and inventory held by the Land Bank prior to the date of this [Intergovernmental Contract] [Resolution] shall continue to be held by the Land Bank, and management and disposition of such inventory shall be subject to the provisions of the Land Bank Act and this [Intergovernmental Contract] [Resolution], including the tax allocation program authorized in Section 48-4-110(c) of the Land Bank Act and Section 8.02 of this [Intergovernmental Contract] [Resolution].

Accordingly, the [Parties agree] [\_\_\_\_\_ Consolidated Government resolves] to the following:

*[Insert Articles I - X of Appendix B-1 or B-3 as applicable, including appropriate signature pages thereto.]*

# Appendix III

## Land Bank Operations Template Documents

### Appendix III-1 Sample Land Bank Administrative Policies

#### \_\_\_\_ LAND BANK AUTHORITY ADMINISTRATIVE POLICIES AND PROCEDURES

AS APPROVED AND ADOPTED BY THE BOARD OF DIRECTORS ON \_\_\_\_, 20\_\_

These policies and procedures are a consolidation of and codification of all prior policies and procedures of the Land Bank Authority (hereinafter “LBA”) and supersede all such prior policies and procedures.

#### Section 1. Role as a Public Authority.

- 1.1 **Public Authority.** The LBA is a public entity authorized by state law and created pursuant to [an *intergovernmental contract between* \_\_\_\_\_ *County and the City of* \_\_\_\_\_] [*the resolution of* \_\_\_\_\_ *Consolidated Government*] dated \_\_\_\_\_. It is governed by a Board of Directors appointed by \_\_\_\_\_ and by \_\_\_\_\_.
- 1.2 **Governing Authority.** The core governing documents of the LBA are Sections 48-4-100 *et seq.* of the Official Code of Georgia Annotated (hereinafter the “Land Bank Act”), the [*intergovernmental contract between* \_\_\_\_\_ *County and the City of* \_\_\_\_\_] [*resolution of* \_\_\_\_\_ *Consolidated Government*] dated \_\_\_\_\_, the Articles of Incorporation, and the By-laws.
- 1.3 **Purposes.** The LBA is established to acquire the tax delinquent properties, surplus properties of the local governments, and other properties in order to foster the public purpose of returning land which is in a nonrevenue-generating, nontax-producing status to an effective utilization status in order to provide affordable housing, new industry and jobs for the citizens of Georgia.

#### Section 2. Priorities for Property Use.

- 2.1 **Governmental Use.** As a governmental entity created by \_\_\_\_\_ and \_\_\_\_\_, the first priority use of real property of the LBA is to make available its properties to the local governments for public use and ownership as determined by the local governments.
- 2.2 **Affordable Housing.** The first use of real property of the LBA for nongovernmental purposes is the production or rehabilitation of housing for persons with low or moderate incomes. On an annual basis the Board of Directors will establish the applicable definitions of “low income” and “moderate income”.
- 2.3 **Other Purposes.** The LBA may consider permitting the property to be used for other community improvement purposes. These uses should be consistent with the following priorities: neighborhood revitalization; return of the property to productive tax-paying status; land assemblage for economic development; long-term “banking” of properties for future strategic uses; and provision of financial resources for operating functions of the LBA.

*[Note that land bank members may, in the resolution or intergovernmental contract creating a land bank, establish a hierarchical ranking of priorities for the use of real property conveyed by a land bank, or, if the resolution or intergovernmental contract creating the land bank is silent, the board of directors may establish a hierarchical ranking of priorities for the use of real property conveyed by a 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; (4) use as conservation areas; (5) use for land trusts or for other public entities. O.C.G.A. § 48-4-109(f). Such ranking of priorities should be reflected in the administrative policies of the land bank.]*

- 2.4 **Neighborhood Consultation.** The LBA expects every applicant seeking to acquire property from the LBA to demonstrate prior consultation with neighborhood associations and nonprofit entities in the geographical location of the property.



### Section 3. Priorities for Identity of Transferees.

- 3.1 **Priority Transferees.** Except where limited by the terms of its acquisition, the first priority for use of real property held by the LBA shall be for conveyance to local government entities for public use. The second priority shall be neighborhood nonprofit entities seeking to obtain the land for low-income housing. The third priority shall be other individuals and entities intending to produce low-income or moderate income housing. The LBA may also, at its discretion, give priority to: nonprofit institutions such as academic institutions and religious institutions; entities that are a partnership, limited liability corporation, or joint venture comprised of a private nonprofit corporation and a private for-profit entity; and individuals who own and occupy residential property for purposes of the Side Lot Disposition Program.
- 3.2 **Transferee Qualifications.** All applicants seeking to acquire property from the LBA, or to enter into transaction agreements with the LBA, will be required to provide as part of the application such information as may be requested by the LBA, including but not limited to (a) the legal status of the applicant, its organizational and financial structure, and (b) its prior experience in developing and managing real property.
- 3.3 **Reserved Discretion.** The LBA reserves full and complete discretion to decline applications and proposed transaction agreements from individuals and entities that meet any of the following criteria:
  - (a) failure to perform in prior transactions with the LBA,
  - (b) ownership of properties that became delinquent in ad valorem tax payments and remain delinquent in ad valorem tax payments during their ownership,
  - (c) parties that are barred from transactions with local government entities,
  - (d) parties not able to demonstrate sufficient experience and capacity to perform in accordance with the requirements of the LBA,
  - (e) ownership of properties that have any unremediated citation for violation of state and local codes and ordinances, and
  - (f) properties that have been used by the transferee or a family member of the transferee as his or her personal residence at any time during the twelve (12) months immediately preceding the submission of application (except in rental cases).

### Section 4. Priorities Concerning Neighborhood and Community Development.

The LBA reserves the right to consider the impact of a property transfer on short- and long-term neighborhood and community development plans. In doing so, the LBA may prioritize the following in any order in which it deems appropriate: the preservation of existing stable and viable neighborhoods; neighborhoods in which a proposed disposition will assist in halting a slowly occurring decline or deterioration; neighborhoods which have recently experienced or are continuing to experience a rapid decline or deterioration; geographic areas which are predominantly non-viable for purposes of residential or commercial development.

### Section 5. Conveyances to the LBA.

- 5.1 **Sources of Property Inventory.** Sources of real property inventory of the LBA include, but are not limited to, the following: (a) transfers from local governments, (b) acquisitions by the LBA at tax foreclosures, (c) donations from private entities, (d) market purchases, (e) conduit transfers contemplating the simultaneous acquisition and disposition of property, and (f) other transactions such as land banking agreements.
- 5.2 **Policies Governing the Acquisition of Properties.** In determining which, if any, properties shall be acquired by the LBA, the LBA shall give consideration to the following factors:
  - (a) Proposals and requests by nonprofit corporations that identify specific properties for ultimate acquisition and redevelopment.
  - (b) Proposals and requests by governmental entities that identify specific properties for ultimate use and redevelopment.
  - (c) Residential properties that are occupied or are available for immediate occupancy without need for substantial rehabilitation.



- (d) Improved properties that are the subject of an existing order for demolition of the improvements and properties that meet the criteria for demolition of improvements.
  - (e) Vacant properties that could be placed into a Side Lot Disposition Program.
  - (f) Properties that would be in support of strategic neighborhood stabilization and revitalization plans.
  - (g) Properties that would form a part of a land assemblage development plan.
  - (h) Properties that will generate operating resources for the functions of the LBA.
- 5.3 **Acquisitions through Delinquent Tax Enforcement Proceedings.** The Tax Commissioner may combine properties from one or more of the foregoing categories in structuring the terms and conditions of the tax foreclosure procedures, and the LBA may acquire any such properties prior to sales, at such sales, or subsequent to sales as authorized by law. In determining the nature and extent of the properties to be acquired the Tax Commissioner shall also give consideration to underlying values of the subject properties, the financial resources available for acquisitions, the operational capacity of the LBA, and the projected length of time for transfer of such properties to the ultimate transferees.
- 5.4 **Transaction Agreements.** In all cases involving conduit transfers and land banking agreements a transaction agreement must be approved in advance and executed by the LBA and the grantor of the property. In the case of conduit transfers such a transaction agreement will generally be in the form of an Acquisition and Disposition Agreement prepared in accordance with these Policies. In the case of a land banking relationship such a transaction agreement will generally be in the form of a land banking agreement prepared in accordance with these Policies. These transaction agreements shall be in form and content as deemed by the LBA to be in the best interest of the LBA, and shall include to the extent feasible specification of all documents and instruments contemplated by the transaction as well as the rights, duties and obligations of the parties.
- 5.5 **Title Assurance.** In all acquisitions of property by the LBA through transaction agreements the LBA generally requires a certificate of title based upon a full title examination and, in the case of Land Banking Agreements, a policy of title insurance insuring the LBA subject to such outstanding title exceptions as are acceptable to the LBA in its sole discretion.
- 5.6 **Environmental Concerns.** The LBA reserves full and complete discretion to require in all transaction agreements that satisfactory evidence be provided to the LBA that the property is not subject to environmental contamination as defined by federal or state law.

## Section 6. Conveyances from the LBA.

- 6.1 **Covenants, Conditions and Restrictions.** All conveyances by the LBA to third parties shall include such covenants, conditions and restrictions as the LBA deems necessary and appropriate in its sole discretion to ensure the use, rehabilitation and redevelopment of the property in a manner consistent with the public purposes of the LBA. Such requirements may take the form of a deed creating a defeasible fee, recorded restrictive covenants, subordinate financing being held by the LBA, contractual development agreements, or any combination thereof.
- 6.2 **Options.** Options are available for 10% of the parcel price for up to a 12-month period. This fee will be credited to the parcel price at closing. If closing does not occur, the fee is forfeited. All option agreements are subject to all policies and procedures of the LBA pertaining to property transfers.
- 6.3 **Deed Without Warranty.** All conveyances from the LBA to third parties shall be by Quitclaim Deed.

## Section 7. Collaboration with Not-for-Profit Entities.

- 7.1 **Transactions with Not-for-Profit Entities.** The LBA is willing to enter into conduit transfers with not-for-profit corporate entities as outlined in this section. These not-for-profit corporate entities would secure donations of or purchase tax delinquent properties from owners, transfer these properties to the LBA for waiver of taxes, and “buy back” these properties for use in affordable housing development.
- 7.2 The LBA will extinguish non-delinquent taxes which were the responsibility of the transferring Not-for-Profit Entity.



- 7.3 **Documentation of Lot Purchase.** The applicant must document the purchase process extensively. This documentation should include, but is not limited to, the following information per parcel:
- (a) The total purchase price for the property, including the net proceeds paid or payable to the seller;
  - (b) The total amount spent to acquire the property (e.g., legal counsel, administrative costs);
  - (c) The development costs impacting the final sale price; and
  - (d) The total amount of delinquent ad valorem taxes (County, City, School District), special assessments, and other liens and encumbrances against the property and the length of delinquency for each.
- 7.4 **Maximum Costs.** The total of these costs should exceed the maximum allowable lot cost (i.e., the cost that will permit the production of low-to-moderate income housing) before the LBA may consider the waiver of back taxes in total or in part.
- 7.5 **LBA Discretion.** Some properties may present unusual or extenuating circumstances to the developer due to lack of funding for housing production or related costs. The LBA reserves the right to evaluate and consider these properties case-by-case.

## Section 8. Collaboration with For-Profit Entities.

- 8.1 **Transactions with For-Profit Entities.** The LBA is willing to enter into conduit transfers with for-profit corporate entities as outlined in this section. The corporate entities would secure donations of or purchase tax delinquent properties from owners, transfer these properties to the LBA for waiver of taxes, and “buy back” these properties for use in affordable housing development.
- 8.2 **Eligibility.** Eligibility for this option will be based on certain criteria. These shall include the geographical location of the property. The corporate entity must first identify and consult with any active non-profit entities that may have an interest in developing the property. If an interest exists, the non-profit and for-profit must forge an agreement for joint development.
- 8.3 **Documentation of Lot Purchase.** The applicant must document the purchase process extensively. This documentation should include, but is not limited to, the following information per parcel:
- (a) The total purchase price for the property, including the net proceeds paid or payable to the seller;
  - (b) The total amount spent to acquire the property (e.g., legal counsel, administrative costs, etc.);
  - (c) The development costs impacting the final sale price; and
  - (d) The total amount of delinquent ad valorem taxes (County, City, School District), special assessments, and other liens and encumbrances against the property and the length of delinquency for each.
- 8.4 **Maximum Costs.** The total of these costs should exceed the maximum allowable lot cost (i.e., the cost that will permit the production of low-to-moderate income housing) before the LBA may consider the waiver of back taxes in total or in part.
- 8.5 **LBA Discretion.** Some properties may present unusual or extenuating circumstances to the developer due to lack of funding for housing production or related costs. The LBA reserves the right to evaluate and consider these properties case-by-case.

## Section 9. Property for Community Improvements.

- 9.1 **Community Improvement Property.** The LBA is willing to accept donations of property to be transferred into a non revenue-generating, non tax-producing use that is for community improvement or other public purposes. Under the provisions of the governing documents of the LBA, the LBA is permitted to assemble tracts or parcels of property for community improvement or other public purposes.
- 9.2 **Eligibility.** Properties can be conveyed to the LBA for waiver of delinquent taxes and then reconveyed by the LBA to be utilized for community improvement purposes including but not limited to community gardens, parking for non-profit functions such as a school or cultural center, or a playground for after-school or day care. The application must demonstrate that the proposed community improvements are consistent with the area redevelopment plans and community revitalization.



- 9.3 **Transferee.** The application must identify and be signed by the ultimate transferee of the property from the LBA. The transferee should be a governmental entity, a not-for-profit property entity, or in rare cases a for-profit entity that is capable of holding and maintaining the property in the anticipated conditions and for the anticipated purposes.
- 9.4 **Restrictive Covenants.** The LBA, in the conveyance of the property to the transferee, will impose covenants, conditions and restrictions as necessary to ensure that the property is used for community improvement or other public purposes.

## Section 10. Conduit Transfers - Reasonable Equity Policy.

- 10.1 **Purpose.** In order to prevent benefits accruing to owners of property that is tax delinquent by virtue of the exercise of the tax extinguishment power of the LBA, the LBA establishes this reasonable equity policy.
- 10.2 **Definitions.** The reasonable equity policy is based on the value of the property and the equity of its owner. While any valuation of equity is subjective, it can be reasonably estimated.
- (a) "Fair Market Value" shall be determined by staff according to the tax assessor's valuation, in conjunction with the average sale price in a given community. In instances where multiple valuations unreasonably differ, the staff or Board shall have full authority to require a professional appraisal. This appraisal shall only be required for proposals that have significant variances in valuation and entail transactions in which the owner received in excess of \$20,000.
  - (b) "Net Equity" shall mean the current fair market value, as determined by LBA staff, less the total amount of all liens and encumbrances (tax liens, associated interest, and penalties; special assessments; mortgages; judgments, etc.).
- 10.3 **Less than \$2,000 Net Equity.** To ensure that an owner does not receive unwarranted benefit, the LBA will not consider transactions in which the owner's net equity is less than \$2,000 and the owner receives more than nominal compensation for the sale of his property. Nominal compensation is hereby defined as \$2,000.
- 10.4 **Equity in Excess of \$2,000.** To ensure that the owner does not receive an unwarranted benefit, the LBA will not participate in transactions in which the owner receives an amount greater than 75% of net equity.
- 10.5 **Speculation.** To ensure that speculators do not seek to take advantage of the LBA, staff shall closely review instances in which the owner is receiving money far in excess of his investment while consistently ignoring his tax responsibility. Particular attention shall be given to properties purchased in the last three years.
- 10.6 **Excessive Sales Price.** In communities that are experiencing internal and surrounding redevelopment, it is unacceptable for an owner to seek a profit in excess of 75% of net equity. Such an owner may believe that the market will bear more than is offered and would therefore be unwilling to sell the property for a reasonable amount. In such an instance, it would fall to the Tax Commissioner's Office to bring the property to the courthouse steps where the actual fair market value will be determined.
- 10.7 **Non-Conforming Situations.** To ensure the flexibility of the Board, the LBA will reserve the right to modify or change this policy if a situation clearly warrants a change in an effort to protect the interests of the LBA and the public.
- 10.8 **Strategic Importance.** To preserve the integrity of the LBA's mission, all properties petitioned to the LBA Board of Directors must pass the test of strategic importance. The LBA may receive proposals that may pass other criteria but which may not be crucial to the redevelopment of a neighborhood. Staff must be able to assure the LBA Board that the transaction is not simply allowable but a necessary component of the comprehensive redevelopment of a neighborhood. Such a transaction must be evaluated in terms of neighborhood redevelopment and ensure a long-term tax benefit to the City and County.

## Section 11. Owner Occupant Policy.

- 11.1 **Scope.** This section is applicable to those situations in which an individual (as opposed to a corporate not-for-profit or for-profit entity) contemplates conveying to the LBA real property that is encumbered by delinquent property taxes, having the taxes extinguished by the LBA, and the property reconveyed by the LBA to the individual for occupancy by that individual following construction of new housing or rehabilitation of existing housing.



**11.2 Purpose.** This policy is based on the opportunity for an individual to participate in the benefits derived from the authorization of tax extinguishment by the LBA where the individual applicant did not amass the tax delinquency, but desires to construct or rehabilitate housing in order to use the subject property as his or her own primary residence. Owner-occupant developers shall be required to meet the established LBA Board Petitioning Requirements which include the following: (a) Developer Profile, (b) Development Proposal, (c) Funding Commitment Letter, (d) Development Cost Estimate, (e) Site Control, and (f) Title Report.

**11.3 Primary Residence.** “Primary Residence” shall mean that upon completion of the construction or rehabilitation, the owner-occupant must reside in the property for a minimum of five (5) years and shall pay all tax obligations which become due and payable after the execution of the Sale and Disposition Contract. At the expiration of the five-year term, where an owner-occupant may seek to sell the property, the owner must offer the property for a sale price not to exceed the current Fair Market Value.

**11.4 Requirements and Conditions.**

- (a) The applicant must either rehabilitate unoccupied substandard existing housing or create new housing where housing does not exist.
- (b) The subject property must not have been used by the applicant as his or her personal residence at any time during the twelve (12) months immediately preceding the submission of the application.
- (c) The owner-occupant shall enter into a Sale and Disposition Contract with the Authority and shall be responsible for the completion of the construction or rehabilitation within the three (3) year time limit as prescribed in the covenants of the Contract.
- (d) The LBA will extinguish no delinquent taxes which were the responsibility of the applicant. This would include any taxes which the applicant was responsible for either as owner of the subject property or as a result of any contractual obligation. Such taxes, if any, must be paid prior to the LBA extinguishing any other taxes.
- (e) The owner-occupant shall provide evidence of clear title and the financial ability to perform said Contract with the expressed obligation to reside in the property for a minimum of five (5) years or the delinquent taxes will be reinstated.
- (f) During the term of the occupancy, the owner-occupant shall pay all ad valorem taxes which accrue and shall maintain the property in compliance with the required code enforcement ordinances of the governing jurisdiction.
- (g) The owner-occupant must meet the applicable household income standards established by the LBA.
- (h) If the applicant fails to honor any portion of his or her Contract with the LBA to provide new or rehabilitated housing, the applicant must make a payment of funds to the LBA in an amount equal to the amount of all taxes extinguished by the LBA pursuant to the Contract. These funds shall then be paid by the LBA to the respective taxing authorities in the same proportion as the taxes were levied prior to the extinguishment.

**11.5 LBA Discretion.** Applications shall be evaluated based on the long-term benefit to be derived from achieving the basic mandate of the LBA which seeks to return non-revenue generating parcels to a productive and effective use that will put the property back in to an active tax revenue status.

## Section 12. Side Lot Disposition Program.

**12.1 Side Lot Transfers.** Individual parcels of property may be acquired by the Tax Commissioner, the [County/City/Consolidated Government], or the LBA, and transferred to individuals in accordance with the following policies. The transfer of any given parcel of property in the Side Lot Disposition Program is subject to override by higher priorities as established by the LBA.

**12.2 Qualified Properties.** Parcels of property eligible for inclusion in the Side Lot Disposition Program shall meet the following minimum criteria:

- (a) The property shall be vacant unimproved real property;
- (b) The property shall be physically contiguous to adjacent owner-occupied residential property, with not less than a 75% common boundary line at the side;



- (c) The property shall consist of no more than one lot capable of development. Initial priority shall be given to the disposition of properties of insufficient size to permit independent development; and
- (d) No more than one lot may be transferred per contiguous lot.

**12.3 Side Lot Transferees.**

- (a) All transferees must own the contiguous property, and priority is given to transferees who personally occupy the contiguous property.
- (b) The transferee must not own any real property (including both the contiguous lot and all other property in the County) that is subject to any unremediated citation of violation of the state and local codes and ordinances.
- (c) The transferee must not own any real property (including both the contiguous lot and all other property in the County) that is tax delinquent.
- (d) The transferee must not have been the prior owner of any real property in the County that was transferred to a local government as a result of tax foreclosure proceedings unless the LBA approves the anticipated disposition prior to the effective date of completion of such tax foreclosure proceedings.

**12.4 Pricing.**

- (a) Parcels of property that are not capable of independent development may be transferred for nominal consideration.
- (b) Parcels of property that are capable of independent development shall be transferred for consideration in an amount not less than the amount of the costs incurred in acquisition, demolition and maintenance of the lot.

**12.5 Additional Requirements.**

- (a) As a condition of transfer of a lot the transferee must enter into an agreement that the lot transferred will be consolidated with the legal description of the contiguous lot, and not subject to subdivision or partition within a five year period following the date of the transfer.
- (b) In the event that multiple adjacent property owners desire to acquire the same side lot, the lot shall either be transferred to the highest bidder for the property, or divided and transferred among the interested contiguous property owners.



## Appendix III-2 Sample Land Bank Depository Agreement Policy

### \_\_\_\_\_ LAND BANK AUTHORITY LAND BANK DEPOSITORY AGREEMENT PROGRAM

#### Section 1. Scope.

These policies and procedures for a land banking program of the \_\_\_\_\_ Land Bank Authority have been adopted by the Board of Directors of the LBA in accordance with and pursuant to Section 48-4-100 *et seq.* of the Official Code of Georgia Annotated (hereinafter the “Land Bank Act”) and the \_\_\_\_\_ Intergovernmental Agreement/Resolution dated \_\_\_\_\_.

- 1.1 As set forth in these policies and procedures, the land banking program consists of transactions in which a grantor transfers real property to the LBA and the property is held by the LBA pending a transfer back to the original grantor, to a grantee identified in a banking agreement, or to a third party selected by the LBA.
- 1.2 The goals of this land banking program include, but are not limited to, the acquisition of real property for or on behalf of a governmental entity or a not-for-profit corporation in order to:
  - (a) Permit advance acquisition of potential development sites in anticipation of rapidly rising land prices;
  - (b) Facilitate pre-development planning, financing and structuring;
  - (c) Minimize or eliminate violations of housing and building codes and public nuisances on properties to be developed for affordable housing; and
  - (d) Hold parcels of land for future strategic governmental purposes such as affordable housing and open spaces and greenways.
- 1.3 The LBA is not required to enter into a Banking Agreement with any person or entity, and at all times retains full discretion and authority to decline to enter into a Banking Agreement. These policies and procedures are applicable only to real property of the LBA which is acquired by the LBA in accordance with an executed Banking Agreement and are not otherwise applicable to real property acquired by the LBA pursuant to any other agreements or procedures.

#### Section 2. Definitions.

As used in these policies and procedures the following terms shall have the definitions set forth:

- (a) “Banking Agreement” shall mean a written agreement between a Grantor and the LBA which identifies the Property, the length of the banking term, the potential Grantee or Grantees, the range of permissible uses of the Property following transfer by the LBA, the permitted encumbrances on the Property, the rights and duties of the parties, the responsibility of the Grantor for the Holding Costs, the possible advance funding of Holding Costs, the forms of the instruments of conveyance and such other matters as appropriate.
- (b) “Grantor” shall mean the party that transfers or causes to be transferred to the LBA a tract of Property pursuant to a Banking Agreement. An eligible Grantor shall be an entity described in Section 4.
- (c) “Grantee” shall mean the party or parties identified in a Banking Agreement as the party to whom the Property is to be transferred from the LBA. An eligible “Grantee” shall be an entity described in Section 4.
- (d) “Holding Costs” shall mean any and all costs, expenses, and expenditures incurred by the LBA, whether as direct disbursements, as pro rata costs, or as administrative costs, that are attributable to the ownership and maintenance of a tract of Property. The LBA shall maintain records of the monthly Holding Costs for each Property.
- (e) “Property” shall mean the real property and improvements (if any) located thereon identified in a Banking Agreement and transferred to the LBA pursuant to a Banking Agreement, together with all right, title and interest in appurtenances, benefits and easements related thereto.



### Section 3. Eligible Property.

Property which is eligible for Banking Agreement must either be (a) unimproved real property or (b) real property with unoccupied single family residences. At any given point in time no more than twenty (20) percent of the parcels of Property being held by the LBA pursuant to Banking Agreements can be newly constructed unoccupied single family residences.

- (a) In the event that a tract of Property contains improvements which are to be demolished or removed, such Property may qualify as eligible Property for a Banking Agreement so long as adequate and sufficient funds are placed in escrow at the time of the Banking Agreement closing so as to assure that all improvements will be demolished and removed within sixty (60) days of closing.
- (b) Property that is ineligible for a Banking Agreement includes all other forms of improved real property, all real property which is occupied, and all real property that has been identified by the United States Environmental Protection Agency, the Environmental Protection Division of the State of Georgia or the Georgia Department of Natural Resources as containing hazardous substances and materials.

### Section 4. Eligible Grantors and Grantees.

Parties eligible to be a Grantor or a Grantee are governmental entities and not-for-profit corporations defined as tax-exempt entities under Section 501(c)(3) of the Internal Revenue Code. A limited partnership entity is eligible to be a Grantor or a Grantee so long as a governmental entity or not-for-profit corporation has a controlling interest in such entity.

### Section 5. Title.

Unless and except to the extent expressly authorized in a Banking Agreement, Property transferred to the LBA pursuant to a Banking Agreement shall be fee simple title free and clear of all liens and encumbrances. A policy of title insurance must be issued in favor of the LBA as the insured party at the closing pursuant to the Banking Agreement containing such exceptions on Schedule B-1 as are approved by the LBA.

- (a) Governmental liens for water and sewer, and governmental liens for nuisance abatement activities or code enforcement activities may exist as a matter of record title at the time of such closing if and only if such liens are expressly acceptable to the LBA and are subject to waiver or discharge by the governmental entity holding such liens without cost to the LBA.
- (b) A deed to secure debt or security deed may encumber Property at the time of the transfer to the LBA provided that the obligations secured by such security instrument do not require monthly or periodic payment of sums by the LBA to the mortgagee. Under no circumstances will the LBA have direct liability to a mortgage pursuant to a security instrument. It is anticipated that each Banking Agreement that contemplates the transfer of Property to the LBA encumbered by a security instrument will require a separate written agreement between the mortgagee and the LBA which provides, among other things, that (1) the mortgagee expressly consents to the transfer to the LBA, (2) the mortgagee expressly subordinates its interests to covenants, conditions and restrictions as may be required by the LBA, and (3) prior to the exercise of mortgagee rights under the security instrument, the mortgagee will request on behalf of the Grantor the reconveyance of the Property to the Grantor and pay to the LBA the Holding Costs attributable to the Property.
- (c) At the time of closing pursuant to a Banking Agreement, all ad valorem taxes which are due and payable on the Property must be paid in full. An exception to this requirement of no outstanding ad valorem tax liens may be granted (1) when the Grantor is acquiring the Property from a third party and immediately conveying the Property to the LBA pursuant to a Banking Agreement and (2) the acquisition of the Property by the Grantor from the third party otherwise complies with the Reasonable Equity Policy of the LBA.

### Section 6. Length of Banking Term.

A Banking Agreement may permit a maximum banking term of thirty-six (36) months for transactions in which the Grantor is a not-for-profit entity, and sixty (60) months for transactions in which the Grantor is a governmental entity.

**Section 7. Transfer at Request of Grantor.**

A Banking Agreement shall authorize a Grantor to request a transfer of the Property by the LBA to a Grantee at any time within the banking term.

- (a) A conveyance by the LBA to the Grantee identified pursuant to a Banking Agreement shall occur within thirty (30) days of receipt of a written request for a transfer.
- (b) As a condition precedent to the transfer by the LBA, the full amount of Holding Costs incurred by the LBA attributable to the Property shall be paid to the LBA. The LBA shall provide to the Grantor in accordance with Section 10 a statement of the Holding Costs attributable to the Property.
- (c) At the time of the transfer by the LBA to the Grantee the LBA shall impose such restrictions and conditions on the use and development of the property in accordance with Section 11 hereof and the applicable Banking Agreement.
- (d) Conveyance by the LBA to a Grantee shall be by quitclaim deed.

**Section 8. Transfer at Request of LBA.**

At any time and at all times during the term of a Banking Agreement the LBA shall have the right, in its sole discretion, to request in writing that the Grantor or its designee accept a transfer of the Property from the LBA.

- (a) A transfer by the LBA pursuant to this Section 8 shall be subject to the same terms and conditions as set forth in Section 7.
- (b) In the event that the Grantor (or its designee) is unwilling or unable to accept a transfer of the Property from the LBA, and reimburse the LBA in full for the Holding Costs, then and in that event the LBA shall have the right to terminate in writing the Banking Agreement and the Property shall become an asset of the LBA and subject to use, control and disposition by the LBA in its sole discretion subject only to the provisions of the LBA Statute and the Intergovernmental Agreement.

**Section 9. Banking Agreement Closing.**

Within a time period specified in a fully executed Banking Agreement, a closing of the transfer of the Property to the LBA shall occur. At such closing the fully executed instrument of conveyance and other closing documents shall be delivered by the appropriate party to the appropriate parties. The appropriate documents shall be immediately recorded, and a title insurance policy shall be issued. All costs of closing shall be borne by the Grantor.

**Section 10. Holding Costs.**

Holding Costs shall be paid as a condition precedent to a transfer of Property from the LBA. Either the Grantor or the Grantee can request in writing at any time a statement of the Holding Costs, which statement will be provided by the LBA within fifteen (15) business days of receipt of the request. The LBA shall also have the right to request in writing that the Grantor or Grantee reimburse on written demand the LBA for Holding Costs. In the event that the LBA is not timely reimbursed for its Holding Costs in response to its written request for reimbursement the LBA may request a transfer pursuant to Section 8.

**Section 11. Public Purpose Restrictions.**

All Property held by the LBA and transferred by the LBA pursuant to a Banking Agreement shall be subject to covenants and conditions providing that the Property is to be used for the following goals: (a) the production or rehabilitation of housing for persons with low incomes, (b) the production or rehabilitation of housing for persons with low or moderate incomes, (c) community improvements, or (d) other public purposes. Each Banking Agreement will specify the range of permissible uses and the manner in which such use restriction is secured. Such restrictions and conditions may be imposed either in the form of contractual obligations, deed covenants, rights of reacquisition, or any combination thereof.

**Section 12. Delegation of Authority to Executive Director.**

The Executive Director, in conjunction with an officer of the Board of Directors, shall have full power and authority to enter into and execute Banking Agreements having form and content consistent with the Land Bank Act, the [intergovernmental agreement] [resolution], and these policies and procedures. The Executive Director shall summarize for the Board of Directors on a regular basis the nature and number of Banking Agreements, the aggregate Holding Costs, and all transfers to and from the LBA pursuant to Banking Agreements. Any provision of any Banking Agreement not consistent with these policies and procedures shall require the express approval of the Board of Directors.



## Appendix III-3 Resolution To Extinguish Delinquent Ad Valorem Taxes

### RESOLUTION OF THE [ ] LAND BANK BOARD OF DIRECTORS TO EXTINGUISH CERTAIN DELINQUENT AD VALOREM PROPERTY TAXES

WHEREAS, in enacting Section 48-4-100 *et seq.* of the Official Code of Georgia Annotated (hereinafter the “Land Bank Act”), the Georgia General Assembly found that it is in the best interests of the State of Georgia and local units of government in this State to assemble or dispose of public property, including dilapidated, abandoned and tax delinquent property, in a coordinated manner to foster the development of that property and to promote economic growth in the State of Georgia;

WHEREAS the [ ] Land Bank (hereinafter “Land Bank”) is a public body corporate and politic authorized by and operating pursuant to the Land Bank Act and the [Intergovernmental Contract] [Resolution] dated [ ];

WHEREAS pursuant to Section 48-4-112(a) of the Land Bank Act, the Land Bank is authorized by resolution of the Board of Directors to discharge and extinguish ad valorem tax liens and claims, including any interest and penalties attached thereto, owed to the local governments that are members of the Land Bank and that encumber real property owned by the Land Bank;

WHEREAS pursuant to Section 48-4-112(a) of the Land Bank Act, whenever any real property owned by the Land Bank is encumbered by a lien or claim for real property taxes owed to a school district, the Land Bank is authorized by resolution of the Board of Directors to discharge and extinguish any and all such liens or claims, including any interest and penalties attached thereto *[upon written notice to the school district and the school district’s failure to object in writing within 30 days of receipt of such notice]* *[pursuant to an Intergovernmental Contract between the Land Bank and the school district]*;

WHEREAS on [date], the Land Bank acquired from [transferring entity] certain real property located at [address], with parcel ID number [ ] (hereinafter the “Property”) by [form of conveyance] filed and recorded in Deed Book [ ], Page [ ], [ ] County, Georgia;

WHEREAS on this [ ] day of [ ], 20[ ], the Property is encumbered by liens for unpaid ad valorem taxes, including interest and penalties attached thereto, owed to [ ] County and the City of [ ] [Consolidated Government] and [ ] School District for Tax Years including [delinquent tax years] in the amount of [amount owed];

WHEREAS the Land Bank desires to discharge and extinguish all such liens and claims for delinquent ad valorem taxes in order to facilitate return of the Property to productive use; and

WHEREAS [the Land Bank notified the [ ] School District of its intent to extinguish all such liens and claims encumbering the Property via the letter attached hereto as Exhibit A and sent certified mail, return receipt requested, and the [ ] School District presented no written objection to the proposed extinguishment within 30 days of receipt of such notice] [the Land Bank is authorized to extinguish ad valorem tax liens and claims on the Property owed to [ ] School District pursuant to the Intergovernmental Contract between the Land Bank and the [ ] School District dated [ ]];

RESOLVED therefore, pursuant to Sections 48-4-104(i) and 48-4-112(a) of the Land Bank Act, a majority of the entire Land Bank Board of Directors hereby discharges and extinguishes the liens and claims for unpaid ad valorem taxes, including any interest and penalties attached thereto, owed to [ ] County and the City of [ ] [Consolidated Government] and [ ] School District for Tax Years including [delinquent tax years] in the amount of [amount owed] that encumber the Property.

The Land Bank executive director or her/his designee is hereby directed to file in the appropriate public records evidence of the extinguishment and dissolution of such liens or claims.

**Land Bank Operations Template Documents**

Appendix III-3 Resolution To Extinguish Delinquent Ad Valorem Taxes



This Resolution was adopted by the Board of Directors of the \_\_\_\_\_ Land Bank at its meeting on \_\_\_\_, 20\_\_\_\_.

By: \_\_\_\_\_

Name:

Title: Secretary of the Board

[SEAL]

[Date]

To: \_\_\_\_\_ County Tax Commissioner  
Address

From: \_\_\_\_\_, Executive Director of the \_\_\_\_\_ Land Bank  
Address

Re: Delinquent Ad Valorem Tax Lien Extinguishment for [Parcel Id. # and Address]

Commissioner \_\_\_\_\_:

Pursuant to the authority granted by Section 48-4-112(a) of the Official Code of Georgia, the \_\_\_\_\_ Land Bank Board of Directors resolved on [Date], to discharge and extinguish the liens and claims for unpaid ad valorem taxes, including any interest and penalties attached thereto, owed to [\_\_\_\_\_*County and the City of*\_\_\_\_\_] [\_\_\_\_\_*Consolidated Government*] and [\_\_\_\_\_*School District*] for Tax Years including [*delinquent tax years*] in the amount of [*amount owed*] that encumber the real property located at [*address*] with parcel ID number \_\_\_\_\_. The resolution, signed and sealed by the secretary of the Board of the \_\_\_\_\_ Land Bank is enclosed with this letter.

Pursuant to Section 48-4-112(a) of the Official Code of Georgia, evidence of the extinguishment of such liens and claims must be filed in the appropriate public records. Accordingly, please ensure that this letter, the enclosed resolution and the extinguishment of ad valorem liens and claims that previously encumbered the real property described herein are appropriately filed and reflected in the records of the \_\_\_\_\_ County Tax Commissioner.

Signed,

\_\_\_\_\_

Title: Executive Director

\_\_\_\_\_ Land Bank

# Appendix IV

## Directory of Georgia Land Banks and Georgia Habitat for Humanity Affiliates

### **Athens-Clarke County Land Bank Authority**

P.O. Box 1868  
301 College Ave. Athens, GA 30603  
706.613.3031

### **Augusta, Georgia Land Bank Authority**

925 Laney Walker Blvd., 3rd Floor Augusta, GA 30901  
706.849.3737  
[www.augustaga.gov/index.aspx?nid=1338](http://www.augustaga.gov/index.aspx?nid=1338)

### **Columbus/Muskogee Land Bank Authority**

Department of Community Reinvestment  
420 10th St., 2nd Floor Columbus, GA 31901  
706.653.4613  
[http://www.columbusga.org/ccg\\_boards/board\\_descriptions2.htm#land](http://www.columbusga.org/ccg_boards/board_descriptions2.htm#land)

### **Chatham County/City of Savannah Land Bank Authority**

6 E. Bay St. Savannah, GA 31405  
912.525.3100

### **Dalton-Whitfield Land Bank Authority**

301 West Crawford St. Dalton GA 30720

### **DeKalb Regional Land Bank**

150 Ponce de Leon Ave., Suite 330 Decatur, GA 30030  
404.286.3308  
<http://www.co.dekalb.ga.us/commdev/LandBank.html>

### **Fulton County/City of Atlanta Land Bank Authority**

34 Peachtree St., Suite 1900 Atlanta, GA 30303-5013  
404.525.9336  
[www.fccalandbank.org](http://www.fccalandbank.org)

### **Griffin-Spalding County Land Bank Authority**

406 N. Hill St. Griffin, GA 30223  
678.688.8124

### **Macon-Bibb County Land Bank Authority, Inc.**

682 Cherry St., Suite 300 Macon, GA 31201  
478.741.9005

### **Rome-Floyd Land Bank Authority**

Floyd County Government  
12 E. 4th Ave. Rome, GA 30161  
706.236.4400  
[www.romefloyd.com/Infrastructure/LandBankAuthority/tabid/300/Default.aspx](http://www.romefloyd.com/Infrastructure/LandBankAuthority/tabid/300/Default.aspx)

### **Statesboro-Bulloch County Land Bank Authority**

City of Statesboro  
P.O. Box 348 50 East Main St. Statesboro, GA 30459  
912.764.0683  
<http://bullochcounty.net/government/elected-officials/boards-and-committees/land-bank-authority/>

### **Thomasville-Thomas Land Bank Authority**

413 West Jackson St. Thomasville, GA 31792

### **Valdosta-Lowndes County Land Bank Authority**

City of Valdosta, Georgia  
P.O. Box 1125 Valdosta, GA 31603  
229.259.3571  
<http://www.valdostacity.com/Index.aspx?page=115>



## Georgia Affiliates – Habitat for Humanity International

### **Albany, Georgia**

Flint River HFH  
717 Pine Ave. Albany, Georgia 31702  
229.446.8199

### **Americus, Georgia**

New Horizons HFH of Gtr Sumter  
512 Spring St. Americus, Georgia 31709-3425  
229.928.9577

### **Athens, Georgia**

Athens Area HFH  
P.O. Box 1261 Athens, Georgia 30603-1261  
706.208.1001

### **Atlanta, Georgia**

Atlanta HFH  
519 Memorial Dr. SE Atlanta, Georgia 30312-2218  
404.223.5180

### **Auburn, Georgia**

Barrow County HFH  
P.O. Box 1144 Auburn, Georgia 30011-1144  
770.277.7997

### **Augusta, Georgia**

Augusta/CSRA HFH  
P.O. Box 657 Augusta, Georgia 30903-0657  
706.481.8681

### **Bainbridge, Georgia**

Bainbridge-Decatur Co., HFH  
P.O. Box 1711 Bainbridge, Georgia 39818-1711  
229.416.4236

### **Blakely, Georgia**

Blakely-Early County HFH  
6411 Old Lucile Rd. Blakely, Georgia 39823  
229.723.8183

### **Brunswick, Georgia**

Glynn County, HFH of  
P.O. Box 296 Brunswick, Georgia 31521-0296  
912.265.7455

### **Cairo, Georgia**

Grady County HFH  
P.O. Box 1229 Cairo, Georgia 39828-0996  
229.377.0953

### **Calhoun, Georgia**

Gordon County, Inc., HFH of  
136 W Belmont Dr. PMB 136 Calhoun, Georgia 30701-3064  
706.625.9929

### **Carrollton, Georgia**

West Georgia HFH  
P.O. Box 85 Carrollton, Georgia 30112-0002  
770.830.2000

### **Cartersville, Georgia**

Bartow Area HFH  
P.O. Box 3392 Cartersville, Georgia 30120-1707  
770.382.6293

### **Cherrylog, Georgia**

Fannin & Gilmer Co., Inc., HFH of  
P.O. Box 51 Cherrylog, Georgia 30522-0051  
706.632.6337

### **Clarksville, Georgia**

Northeast Georgia, HFH of  
P.O. Box 982 Clarksville, Georgia 30523-0017  
706.754.5313

### **Clayton, Georgia**

Rabun County, HFH of  
P.O. Box 1394 Clayton, Georgia 30525-0035  
706.490.1707

### **Columbus, Georgia**

Columbus Area HFH  
P.O. Box 1193 Columbus, Georgia 31902-1193  
706.653.6003

**Comer, Georgia**

Madison County HFH  
P.O. Box 693 Comer, Georgia 30629-0693  
706.783.4191

**Conyers, Georgia**

Conyers-Rockdale, HFH of  
P.O. Box 183 1117 W Ave. Conyers, Georgia 30012-0183  
770.785.7675

**Cordele, Georgia**

Crisp Area HFH  
205 15th Ave. Cordele, Georgia 31010  
229.271.8000

**Covington, Georgia**

Newton County, Inc., HFH of  
P.O. Box 2777 Covington, Georgia 30015-7777  
770.786.0213

**Dahlonega, Georgia**

Lumpkin County, Inc., HFH of  
P.O. Box 1002 Dahlonega, Georgia 30533-0017  
706.864.7584

**Dalton, Georgia**

Dalton/Whitfield HFH  
P.O. Box 2477 Dalton, Georgia 30722-2477  
706.272.3336

**Darien, Georgia**

McIntosh Co., Inc., HFH of  
P.O. Box 2058 Darien, Georgia 31305-2058  
912.832.5439

**Dublin, Georgia**

Dublin-Laurens Co., HFH  
1101 Hillcrest Pkwy Ste L Dublin, Georgia 31021-3581  
478.275.1818

**Eastman, Georgia**

Dodge County, HFH of  
711 Soperton Highway Eastman, Georgia 31023-6446  
478.374.4841

**Eatonton, Georgia**

Putnam, HFH of  
104 Whitney St. Eatonton, Georgia 31024  
706.485.6550

**Fitzgerald, Georgia**

Fitzgerald/Ben Hill Co., HFH  
P.O. Box 5198 Fitzgerald, Georgia 31750-5198  
229.423.7145

**Forsyth, Georgia**

Monroe County HFH  
P.O. Box 673 Forsyth, Georgia 31029-0673  
478.994.0832

**Fort Valley, Georgia**

Peach Area HFH  
P.O. Box 101 Fort Valley, Georgia 31030-0101  
478.825.2704

**Gainesville, Georgia**

Hall County, HFH of  
P.O. Box 2514 Gainesville, Georgia 30503  
678.450.5998

**Greensboro, Georgia**

Greene County HFH  
P.O. Box 321 Greensboro, Georgia 30642-0321  
706.453.1718

**Greenville, Georgia**

Meriwether County, HFH in  
P.O. Box 151 Greenville, Georgia 30222-0151  
706.672.4007

**Griffin, Georgia**

Griffin Area HFH  
1386 Carver Rd. Griffin, Georgia 30224-3917  
770.468.4431

**Hartwell, Georgia**

Hart County HFH, Inc.  
P.O. Box 146 Hartwell, Georgia 30643-0146  
706.246.2802

**Jasper, Georgia**

Pickens Co., Inc., HFH  
135 Cares Dr. Jasper, Georgia 30143  
706.253.2393

**Jefferson, Georgia**

Jackson County HFH  
P.O. Box 424 Jefferson, Georgia 30549  
706.336.0061

**Jesup, Georgia**

Wayne County, HFH of  
P.O. Box 173 Jesup, Georgia 31598  
912.579.2205

**Jonesboro, Georgia**

Southern Crescent HFH  
9570 Tara Blvd. Jonesboro, Georgia 30236  
770.477.2367

**Kingsland, Georgia**

Camden County, HFH of  
302 S Lee St. Kingsland, Georgia 31548  
912.673.1266

**La Fayette, Georgia**

Walker County GA, HFH of  
108 W Lafayette Sq., #Ste203 La Fayette, Georgia 30728  
706.638.0035

**Lagrange, Georgia**

Troup County, Inc., HFH,  
P.O. Box 327 Lagrange, Georgia 30241-0006  
706.837.0702

**Lavonia, Georgia**

Franklin County HFH  
P.O. Box 454 Lavonia, Georgia 30553-0454  
706.356.5479

**Macon, Georgia**

Macon Area HFH  
690 Holt Ave. Macon, Georgia 31204  
478.745.0630

**Madison, Georgia**

Morgan County, HFH of  
P.O. Box 207 Madison, Georgia 30650-0207  
706.431.6139

**Milledgeville, Georgia**

Milledgeville/Baldwin Co., GA, HFH of  
P.O. Box 605 Milledgeville, Georgia 31059-0605  
478.453.9617

**Monroe, Georgia**

Walton County HFH  
P.O. Box 603 Monroe, Georgia 30655-0603  
770.868.5105

**Moultrie, Georgia**

Colquitt County HFH  
P.O. Box 1611 Moultrie, Georgia 31776-1611  
229.890.8322

**Newnan, Georgia**

Newnan-Coweta HFH  
150 Pine Rd. Newnan, Georgia 30263  
770.253.7003

**Pine Mountain, Georgia**

Harris County HFH  
P.O. Box 1522 Pine Mountain, Georgia 31822-1522  
706.457.2721

**Ringgold, Georgia**

Catoosa County, HFH of  
P.O. Box 490 Ringgold, Georgia 30736-0490  
706.861.5858

**Rome, Georgia**

Rome and Floyd County HFH, Inc  
10 Central Plaza Rome, Georgia 30161  
706.378.0030

**Roswell, Georgia**

North Central Georgia, HFH  
814 Mimosa Blvd., Bldg C Roswell, Georgia 30075-4410  
770.587.9679

**Savannah, Georgia**

Coastal Empire HFH  
P.O. Box 13211 Savannah, Georgia 31416-0211  
912.353.8122

**Smyrna, Georgia**

NW Metro Atlanta, HFH  
1625 Spg Rd. SE Smyrna, Georgia 30080-3774  
770.432.7954

**Springfield, Georgia**

Effingham County, HFH of  
P.O. Box 578 Springfield, Georgia 31329-0578  
912.826.6433

**Statesboro, Georgia**

Bulloch County, HFH of  
20 East Cherry St. Statesboro, Georgia 30458-5287  
912.489.2076

**Stone Mountain, Georgia**

Gwinnett County HFH  
P.O. Box 870408 Stone Mountain, Georgia 30087  
770.931.8080

**Summerville, Georgia**

Chattooga County HFH  
P.O. Box 59 Summerville, Georgia 30747-0059  
706.857.3494

**Talbotton, Georgia**

Talbot County, HFH of  
P.O. Box 177 Talbotton, Georgia 31827  
706.846.8401

**Thomaston, Georgia**

Thomaston/Upson County, HFH  
P.O. Box 443 Thomaston, Georgia 30286-0006  
706.647.5426

**Thomasville, Georgia**

Thomasville-Thomas Co., HFH  
4131 Highway 122 Thomasville, Georgia 31757  
229.228.7875

**Tifton, Georgia**

Tift County HFH  
P.O. Box 377 Tifton, Georgia 31793-0377  
229.402.1896

**Toccoa, Georgia**

Stephens County HFH  
P.O. Box 1771 Toccoa, Georgia 30577-1432  
706.886.3790

**Tucker, Georgia**

DeKalb, Inc., HFH-  
P.O. Box 403 Tucker, Georgia 30085  
770.270.6813

**Valdosta, Georgia**

Valdosta-Lowndes Co., HFH  
2010 E Cypress St. Valdosta, Georgia 31601  
229.245.1330

**Vidalia, Georgia**

Vidalia Area HFH  
P.O. Box 809 Vidalia, Georgia 30475-0809  
912.537.4626

**Warner Robins, Georgia**

Houston County HFH  
P.O. Box 7506 Warner Robins, Georgia 31095-7506  
478.328.3388

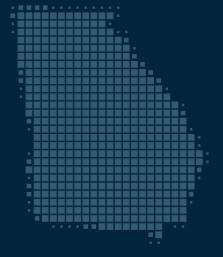
**Waycross, Georgia**

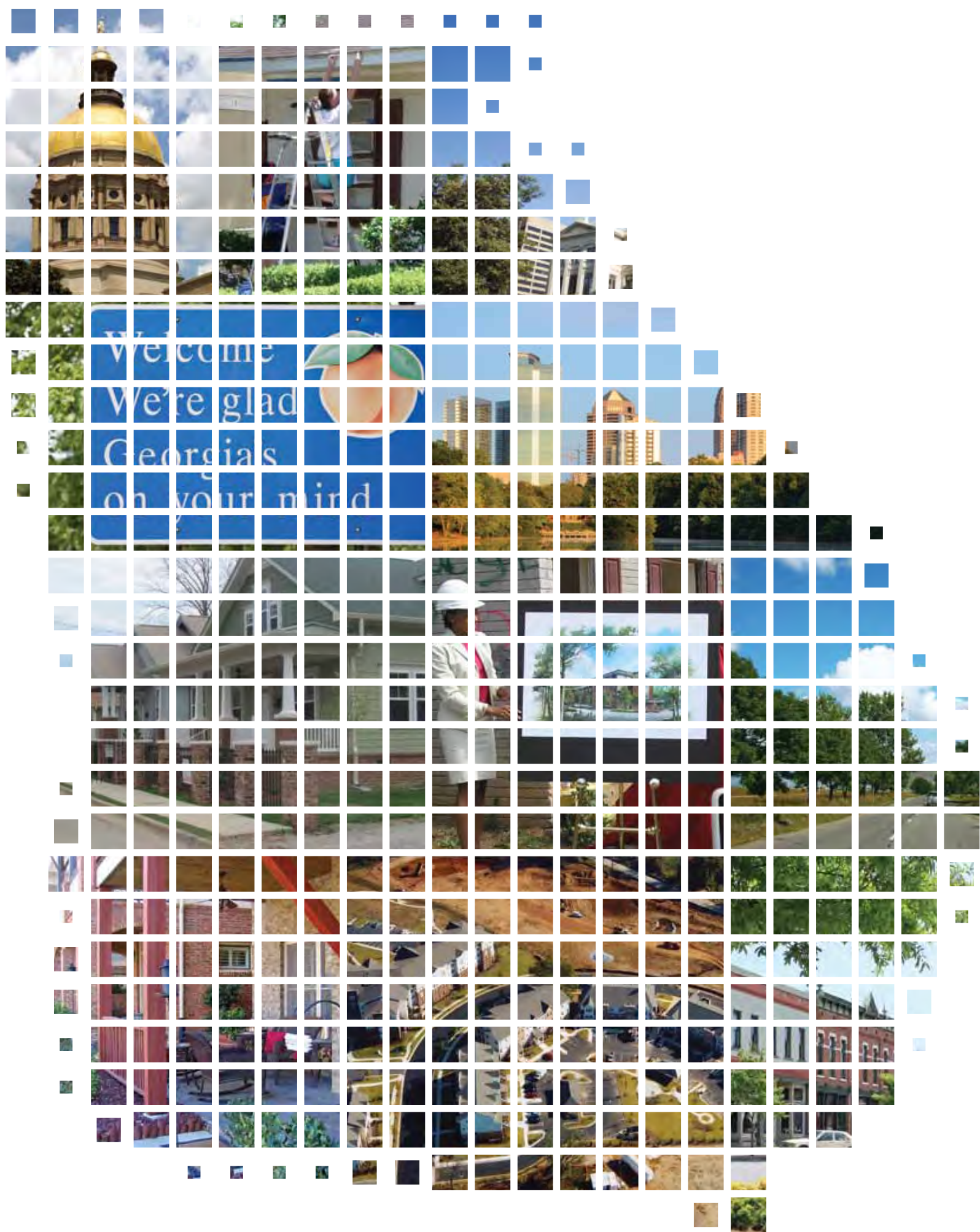
Satilla HFH  
P.O. Box 2447 Waycross, Georgia 31502-2447  
912.385.7219

**Young Harris, Georgia**

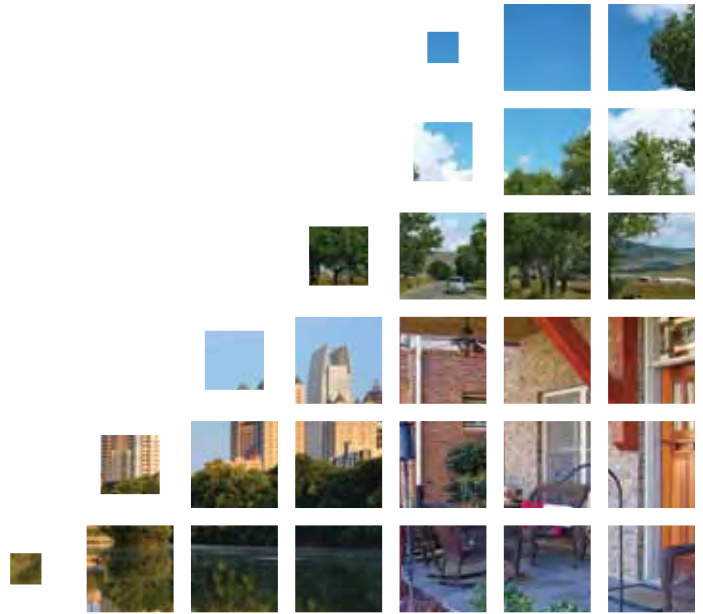
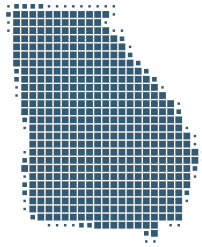
Towns/Union Counties, HFH  
P.O. Box 270 Young Harris, Georgia 30582-0270  
706.379.2484







# Georgia Land Bank Resource Manual



Center for  
**COMMUNITY PROGRESS**

Turning Vacant Spaces into Vibrant Places

## MICHIGAN

421 Garland Street, Suite A  
Flint, Michigan 48503  
877.542.4842

## WASHINGTON, DC

1001 Connecticut Avenue, NW, Suite 1235  
Washington, DC 20036  
877.542.4842

## NEW ORLEANS

800 Common Street, Suite 220  
New Orleans, Louisiana 70112  
504.236.8333

[www.communityprogress.net](http://www.communityprogress.net)