

IC 36-7-38

Chapter 38. Land Banks

IC 36-7-38-1

Definitions

Sec. 1. The following definitions apply throughout this chapter:

(1) "Distressed real property" includes real property in a neglected or unmarketable condition.

(2) "Eligible unit" means:

(A) a county;

(B) a consolidated city; or

(C) a second class city;

to which IC 36-7-9 applies.

(3) "Land bank" means an entity established by or in accordance with an ordinance adopted under section 2 of this chapter.

(4) "Person" means an individual, a corporation, a limited liability company, a partnership, or other legal entity.

As added by P.L.211-2016, SEC.1.

IC 36-7-38-2

Establishment of a land bank

Sec. 2. (a) The legislative body of an eligible unit may adopt an ordinance:

(1) establishing a body corporate and politic; or

(2) directing the executive of the eligible unit to organize a nonprofit corporation under IC 23-17;

as an independent instrumentality exercising essential governmental functions. The primary purpose of an entity established under this subsection is to manage and improve the marketability of distressed real property located in the territory of the eligible unit.

(b) The legislative body shall specify the following in the ordinance:

(1) The name of the entity.

(2) The number of board members, subject to section 3 of this chapter.

(c) The territory of a land bank established by a county is all the territory of the county, except for the territory of any second class city in the county that has established a land bank.

As added by P.L.211-2016, SEC.1.

IC 36-7-38-3

Bylaws

Sec. 3. The bylaws of the land bank must require the board of the land bank to:

(1) approve any purchase, transfer, or lease of real property held by the land bank in an open meeting of the board; and

(2) consider any pertinent information before approving the

purchase, transfer, or lease including:

- (A) the assessed value of the real property;
- (B) any factors that may affect the current value of the real property; and
- (C) the financial ability of the person to fulfill the conditions of the purchase, transfer, or lease.

As added by P.L.211-2016, SEC.1.

IC 36-7-38-4

Boards generally

Sec. 4. (a) A land bank is governed by a board of at least seven (7) and at most nine (9) directors.

(b) A director of a land bank appointed under this section must have demonstrated competency in an occupation or discipline that is relevant to the primary purpose of a land bank.

(c) Except as provided in this chapter, the term of a director of a land bank is for three (3) consecutive calendar years.

(d) If a director of a land bank is unable to complete the director's term, the authority that appointed the director shall appoint a successor to serve for the remainder of the incomplete term.

As added by P.L.211-2016, SEC.1.

IC 36-7-38-5

Boards of county land banks; counties not having a consolidated city

Sec. 5. (a) This section applies to the board of a county land bank established by a county that does not have a consolidated city.

(b) The board of a land bank to which this section applies is comprised of the following:

(1) A director appointed by the county treasurer. A director appointed under this subdivision must be a resident of the county.

(2) A director appointed by the county auditor. A director appointed under this subdivision must be a resident of the county.

(3) Five (5) directors respectively appointed by the executives of the five (5) municipalities in the county with the five (5) largest populations, as determined by the most recent federal decennial census. A director appointed under this subdivision must reside in the municipality of the appointing authority that appoints the director.

(4) At most two (2) additional directors appointed, as applicable, in the manner and subject to the requirements set forth in the land bank's bylaws.

(c) The terms of the initial directors of a land bank to which this section applies are equal to:

(1) the remainder of the calendar year in which the land bank is established; plus

- (2) a number of additional years equal to:
 - (A) one (1) calendar year, for:
 - (i) the director appointed under subsection (b)(1);
 - (ii) the director appointed under subsection (b)(2); and
 - (iii) the director appointed under subsection (b)(3) by the executive of the municipality in the county that has the largest population;
 - (B) two (2) calendar years, for directors appointed under subsection (b)(3) by the executives of the municipalities that have the second through the fourth largest populations in the county; and
 - (C) three (3) calendar years, for:
 - (i) the director appointed under subsection (b)(3) by the executive of the municipality that has the fifth largest population in the county; and
 - (ii) any directors appointed under subsection (b)(4).

As added by P.L.211-2016, SEC.1.

IC 36-7-38-6

Boards of county land banks; a county having a consolidated city

Sec. 6. (a) This section applies to the board of a county land bank established by a county that has a consolidated city.

(b) The board of a land bank to which this section applies is comprised of the following:

- (1) Three (3) directors appointed by the county executive. A director appointed under this subdivision must be a resident of the county.
- (2) Three (3) directors appointed by the legislative body of the county. A director appointed under this subdivision must be a resident of the county.
- (3) A director appointed by the county auditor. A director appointed under this subdivision must be a resident of the county.
- (4) A director appointed by the local community foundation. A director appointed under this subdivision must be a resident of the county.
- (5) At most one (1) additional director appointed, as applicable, in the manner and subject to the requirements set forth in the land bank's bylaws.

(c) The terms of the initial directors of a land bank to which this section applies are equal to:

- (1) the remainder of the calendar year in which the land bank is established; plus
- (2) a number of additional years equal to:
 - (A) one (1) calendar year, for directors appointed under subsection (b)(1);
 - (B) two (2) calendar years, for directors appointed under subsection (b)(2); and

(C) three (3) calendar years, for directors appointed under subsection (b)(3) through (b)(5).

As added by P.L.211-2016, SEC.1.

IC 36-7-38-7

Boards of land banks of second class cities

Sec. 7. (a) This section applies to the board of a land bank established by a second class city.

(b) The board of a land bank to which this section applies is comprised of the following:

(1) Three (3) directors appointed by the executive of the second class city. A director appointed under this subdivision must be a resident of the second class city.

(2) Three (3) directors appointed by the legislative body of the second class city. A director appointed under this subdivision must be a resident of the second class city.

(3) A director appointed by the county treasurer of the county in which the second class city is located, or the county treasurer of the county in which most residents of the second class city reside, if the second class city is located in more than one (1) county. A director appointed under this subdivision must be a resident of the second class city.

(4) At most two (2) additional directors appointed, as applicable, in the manner and subject to the requirements set forth in the land bank's bylaws.

(c) The terms of the initial directors of a land bank to which this section applies are equal to:

(1) the remainder of the calendar year in which the land bank is established; plus

(2) a number of additional years equal to:

(A) one (1) calendar year, for directors appointed under subsection (b)(1);

(B) two (2) calendar years, for directors appointed under subsection (b)(2); and

(C) three (3) calendar years, for directors appointed under subsection (b)(3) or (b)(4).

As added by P.L.211-2016, SEC.1.

IC 36-7-38-8

Powers

Sec. 8. Except as otherwise provided in this chapter, a land bank is granted all powers necessary, convenient, or appropriate to carry out and effectuate the land bank's public and corporate purposes, which include the power to do the following:

(1) Sue or be sued in the land bank's own name.

(2) Enter into contracts.

(3) Establish accounts with financial institutions.

(4) Acquire, lease, improve, repair, renovate, and dispose of

- property.
- (5) Borrow money, including issue bonds.
- (6) Pledge collateral.
- (7) Make investments.
- (8) Hire employees, including an executive director.
- (9) Procure insurance.

As added by P.L.211-2016, SEC.1.

IC 36-7-38-9

Objectives

Sec. 9. (a) A land bank shall endeavor to acquire a diverse portfolio of properties to enable the land bank to dispose of diverse properties in diverse real estate markets in the county or municipal territory that the land bank serves and, thereby, generate revenue for the land bank in a sustainable manner. A land bank shall acquire property for the purpose of supporting the mission of the land bank.

(b) A land bank's priorities concerning the disposition of properties from the land bank must support the mission of the land bank, which includes the sale or transfer of properties:

- (1) for redevelopment that will act as a catalyst for further development;
- (2) that support a comprehensive development plan or strategic plan for neighborhood revitalization;
- (3) that reduce blight in the community;
- (4) that revitalize or stabilize neighborhoods;
- (5) that will be returned to productive, tax paying status;
- (6) that will be returned to productive uses, including development of side lots, green spaces, and gardens;
- (7) that are available for immediate ownership or occupancy without a need for substantial rehabilitation;
- (8) that will be used for affordable housing; or
- (9) that will generate operating support for the functions of a land bank.

As added by P.L.211-2016, SEC.1.

IC 36-7-38-10

Duties

Sec. 10. (a) A land bank shall do the following:

- (1) Maintain an inventory of real property held by the land bank.
- (2) Develop policies, guidelines, and procedures for the acquisition, redevelopment, and disposition of property by and from the land bank. The policies, guidelines, and procedures developed under this subdivision must be formulated in plain language with the objective of being clearly understood.
- (3) Make the information described in subdivisions (1) and (2) available for inspection:
 - (A) at the offices of the land bank during regular business

hours; and

(B) on the land bank's Internet web site.

(4) Coordinate the land bank's activities with any land use plans that affect real property held by the land bank.

(b) If real property held by a county land bank is located in the territory of a municipality of the county, the county land bank shall offer to convey the real property to the municipality before the county land bank offers, or accepts an offer, to convey the real property to any other individual or entity. An offer to convey real property made by a county land bank to a municipality under this section expires sixty (60) days after the county land bank makes the offer, unless the county land bank and the municipality agree to another period.

As added by P.L.211-2016, SEC.1.

IC 36-7-38-11

Interlocal agreements

Sec. 11. A land bank may:

(1) enter into an interlocal agreement under IC 36-1-7 with another governmental entity; or

(2) otherwise contract with another governmental entity in Indiana to perform services for the governmental entity.

As added by P.L.211-2016, SEC.1.

IC 36-7-38-12

Relation to the unsafe building law

Sec. 12. (a) This subsection does not apply to a consolidated city. The legislative body of an eligible unit that has adopted an ordinance to create a land bank under section 2 of this chapter may not rescind the ordinance that the legislative body adopted under IC 36-7-9-3, unless the land bank is first dissolved.

(b) A land bank does not have authority to exercise the power of eminent domain.

As added by P.L.211-2016, SEC.1.

IC 36-7-38-13

Startup inventory of properties

Sec. 13. Within six (6) months after an eligible unit has established a land bank under this chapter, the eligible unit shall furnish the land bank with a list of real property:

(1) that is located in the territory of the land bank;

(2) for which the eligible unit holds:

(A) a tax sale certificate issued under IC 6-1.1-24; or

(B) a tax deed issued under IC 6-1.1-25; and

(3) that is not committed to a redevelopment project or for another purpose.

At the time the eligible unit furnishes the list to the land bank, the eligible unit shall offer to assign the tax sale certificates and convey

the real property described on the list to the land bank at no cost to the land bank. For each tract or item of real property described on the list, the offer expires six (6) months after the offer is made to the land bank, unless the eligible unit specifies a longer period in the offer. If, for a particular tract or item of real property on the list, the land bank accepts the offer, the eligible unit may assign the tax sale certificate or convey the real property, as applicable, to the land bank at no cost to the land bank. If, for a particular tract or item of real property on the list, the land bank rejects the offer, the eligible unit may dispose of the real property as otherwise provided by law.

As added by P.L.211-2016, SEC.1.

IC 36-7-38-14

Agreements with purchasers, lessees, and other transferees

Sec. 14. (a) The land bank may, as a condition of the purchase, transfer, or lease, require a person to enter into an agreement that conditions the purchase, transfer, or lease on the person fulfilling one (1) or more of the following terms:

- (1) If the property is a dwelling, reside in the real property as the person's principal place of residence for a specified period not to exceed three (3) years.
- (2) Bring the property up to minimum code standards in not more than twelve (12) months.
- (3) Carry adequate fire and liability insurance on the property at all times.
- (4) If the conveyance is to a person to develop the property, cause development of the property within a specified period, not to exceed five (5) years.
- (5) Comply with any additional terms, conditions, and requirements as the land bank requires that further the mission of the land bank.

(b) Any material failure of a person to fulfill the agreement described in subsection (a) nullifies the agreement. Upon nullification of the agreement:

- (1) the sale, transfer, or lease of the property is void; and
- (2) the land bank retains the interest in the property that the land bank possessed before the sale, transfer, or lease.

However, the land bank may grant the person a specified period, not to exceed two (2) years, to come into compliance with the terms of the agreement. The land bank may subordinate its interest under the terms of the agreement to financial institutions or persons lending money to the person for the purpose of allowing the person to fulfill the terms of the sale, transfer, or lease.

As added by P.L.211-2016, SEC.1.

IC 36-7-38-15

Usual procedures for disposition of property not applicable

Sec. 15. IC 36-1-11 does not apply to a sale, transfer, or lease of

property by the land bank.
As added by P.L.211-2016, SEC.1.

IC 36-7-38-16

Prohibited buyers; delinquent taxpayers

Sec. 16. (a) This section applies to the following:

- (1) A person who owes:
 - (A) delinquent taxes;
 - (B) special assessments;
 - (C) penalties;
 - (D) interest;
 - (E) costs directly attributable to a prior tax sale, if the tax sale occurs before July 1, 2016; or
 - (F) costs attributable to a prior tax sale or tax delinquency, if the tax sale occurs after June 30, 2016;

on a tract of real property listed under IC 6-1.1-24-1.

- (2) A person who is an agent of the person described in subdivision (1).

(b) A person subject to this section may not purchase, receive, or lease a tract that is offered by a land bank in a sale, exchange, or lease under this chapter.

(c) If a person purchases, receives, or leases a tract that the person was not eligible to purchase, receive, or lease under this section, the sale, transfer, or lease of the property is void and the land bank retains the interest in the tract that the land bank possessed before the sale, transfer, or lease of the tract.

As added by P.L.211-2016, SEC.1.

IC 36-7-38-17

Prohibited buyers; unauthorized foreign business associations

Sec. 17. (a) As used in this section, "foreign business association" means a corporation, professional corporation, nonprofit corporation, limited liability company, partnership, or limited partnership that is organized under the laws of another state or another country.

(b) A foreign business association may not purchase, receive, or lease property from a land bank unless at the time the sale, transfer, or lease occurs:

- (1) the foreign business association has obtained a certificate of authority from, or registered with, the secretary of state in accordance with the procedures described in IC 23, as applicable; and
- (2) the foreign business association is in good standing in Indiana as determined by the secretary of state.

(c) If a foreign business association purchases, receives, or leases a tract that the foreign business association was not eligible under subsection (b) to purchase, receive, or lease, the sale, transfer, or lease of the property is void and the land bank retains the interest in the tract that the land bank possessed before the sale, transfer, or

lease of the tract.
As added by P.L.211-2016, SEC.1.

IC 36-7-38-18

Employees

Sec. 18. (a) Employees of a land bank are not employees of the eligible unit that established the land bank.

(b) The board of a land bank may elect by resolution to provide programs of group health insurance for the land bank's employees and retired employees as provided under IC 5-10-8-2.6.

(c) The board of a land bank may elect by resolution to provide retirement and disability benefits for employees, which may be by means of participation in the public employees' retirement fund as provided under IC 5-10.3-6.

As added by P.L.211-2016, SEC.1.

IC 36-7-38-19

Exemption from income taxation

Sec. 19. A land bank's income is not subject to taxation under IC 6-3-1 through IC 6-3-7.

As added by P.L.211-2016, SEC.1.

IC 36-7-38-20

Limitation on property tax exemption for leased property

Sec. 20. Notwithstanding IC 6-1.1-10-4, after a land bank acquires title to a parcel of real property, the property tax exemption provided under IC 6-1.1-10-4 terminates for the parcel of real property on the final day of the first uninterrupted forty-eight (48) month period for which the land bank has leased, or offered to lease, all or part of the parcel of real property to one (1) or more tenants.

As added by P.L.211-2016, SEC.1.

IC 36-7-38-21

Transparency

Sec. 21. A land bank is subject to IC 5-14-1.5 (open door law) and IC 5-14-3 (public records law).

As added by P.L.211-2016, SEC.1.

IC 36-7-38-22

Audits

Sec. 22. The state board of accounts shall audit the funds and accounts of a land bank as provided under IC 5-11-1-25.

As added by P.L.211-2016, SEC.1.

IC 36-7-38-23

Immunity from civil liability; certain environmental damage

Sec. 23. A land bank may not be held liable for damages or subjected to equitable remedies for:

- (1) breach of a common law duty;
- (2) a violation of Indiana law; or
- (3) a violation of any order, permit, license, variance, or plan approval;

concerning environmental damage to, or attributable to, a tract or item of real property held by the land bank.

As added by P.L.211-2016, SEC.1.