



## STATE POLICY TOOLKIT: STATE LAND BANK ENABLING LEGISLATION

*Restoring Prosperity is a new approach to helping older industrial cities transition to the 21st century: by investing and encouraging development in already-existing towns and cities, planning for communities where people want to live and work, and creating better transportation, housing, and job choices for the new economy.*

Vacant properties can be costly and dangerous, reducing surrounding home values and spreading blight. These properties remain underutilized for a variety of reasons including a weak market, complicated title issues, and high redevelopment or demolition costs. One successful strategy to combat these problems is the development of a land bank. A variety of organizational structures may be employed (not necessarily requiring legislation) for entities that are generically called land banks<sup>1</sup>; however, this toolkit discusses specifically those independent authorities created by state statute. These public entities acquire, manage, and transfer ownership of tax-foreclosed properties not reclaimed or redeveloped by market forces. Land banks facilitate the properties' productive reuse through sales and transfers to city agencies, community development corporations, private developers, and adjacent property owners. State land bank statutes explicitly authorize the creation of local land bank entities, often at the city or county level, and grant them appropriate authority to accomplish state and local policy goals (e.g. to eliminate blight or create affordable housing). A state statute does not actually create the land bank, but merely allows for its creation (with the exception of the Michigan Land Bank Fast Track Authority); a subsequent local or county ordinance must be passed in order to establish a land bank authority.

### States with Model Policies

Since the 1970s, eight states have passed enabling legislation: Georgia, Indiana, Kentucky, Maryland, Michigan, Missouri, Ohio, and Texas. The newest land banks in Michigan are created through what is widely considered to be the strongest state policy; today that law is arguably the most emulated. Legislation recently passed in Maryland and pending in New York mirrors many of the strategies piloted in Michigan. Lawmakers in Ohio are also considering enhancements to their legislation based partly on Michigan's.

Michigan state law allows land banks in the state to recapture 50 percent of the property tax revenues for the first five years after transfer of property to a private party, which provides an ongoing income stream. It also permits land banks to borrow money, issue tax-exempt financing, and select properties to acquire from tax delinquency roles. Although the Michigan land bank law has led to successful and varied authorities throughout the state (including the state authority, there are 10 at last count), the entities' true strength comes from first reforming tax foreclosure laws that reduced the time for foreclosing on vacant, tax-delinquent properties and allowing Michigan land banks to acquire all tax-delinquent properties.

As a result, the impact of Genesee County's land bank in Flint neighborhoods has been particularly impressive. To date, 700 lots have been transferred for side yards, 90 affordable rentals and 80 single-family homes have been reconstructed, and the land bank's demolition program has increased home values. A recent study by the University of Michigan found that a \$3.5 million investment in demolition over 3 years resulted in an increase in surrounding property values of more than \$112.5 million.

### IMPORTANT FEATURES OF A GOOD POLICY

- **Flexibility:** While neighborhoods are inherently dynamic, state statutes can be inflexible. State legislation should establish basic authority for the range of powers of land banks and set clear policy priorities, but it should also allow local governments to determine operating principles (e.g. pricing, land use priorities) and give land bank directors the authority to adapt their efforts to changing neighborhood conditions.
- **Revenue sources:** Many land banks struggle without flexible funding sources. States should consider allowing a land bank to generate revenue from its operations as well as other sources. (See Michigan for model language).
- **Tax foreclosure streamlining:** The primary inventory of properties entering a land bank comes through the tax foreclosure process. In many states, however, the laws that govern this process allow property to sit vacant for years before it can be foreclosed upon. In the context of considering land bank legislation, it may be helpful to analyze the state's tax foreclosure laws and determine if they are accidentally promoting blight.

<sup>1</sup> Land bank activities might occur through a dedicated, state-authorized entity, as part of a general-purpose governmental body, or within another entity such as a redevelopment authority. The decision about which structure can best meet the needs of the community should be determined based on considerations including local political conditions and government capacity.



## STRUCTURING STATE LEGISLATION

Land bank statutes vary from state to state; however, to be most effective, their authors should consider the following issues:

- **Purpose:** Land banks are created to acquire, manage, and transfer ownership of property. They may help accomplish a variety of local and regional policy goals including removing blight, assembling parcels for redevelopment, creating affordable housing, and stabilizing property values. State statutes should present a broad mission statement and clearly communicate general policy priorities.
- **Interlocal agreements:** Often multiple jurisdictions exert some control and responsibility for vacant and tax-delinquent properties – tax assessment and collection often rests with the county, although municipalities also have jurisdiction over property within the city limits. Other governmental entities, including school boards, may also be able to levy taxes. Because of this fractured control, an interlocal, or intergovernmental, agreement is often necessary to ensure the land bank receives the appropriate powers to meet its goals. State legislation should provide clear parameters and statutory authority for interlocal agreements.
- **Structure:** State statutes should outline a system of governance for land banks (including the number of board members and how they will be appointed), and address how land banks should be staffed (by existing city agencies or independently).
- **Financing:** Many land banks receive revenue through multiple sources including operations, government grants, and tax revenue. States should ensure that land banks are given authority to generate revenue (e.g. by issuing bonds or notes). Specific financing needs will depend on the land bank’s inventory and program priorities.
- **Acquisition:** Some state statutes restrict the types of properties land banks can acquire, but in most cases, it is advantageous to allow land banks the flexibility to acquire all types of properties (with and without structures, residential, commercial, and industrial) through a variety of means (deed in lieu of foreclosure, donation, voluntary conveyance, or purchase).
- **Disposition:** State statutes should give land banks the authority to transfer properties in variety of ways. Land banks might transfer ownership for an array of different purposes (housing, side lots, commercial development, or other productive uses) and to an array of different entities (private developers, neighboring property owners, or community development corporations). End use may factor into the pricing of the property (e.g. developers planning to create affordable housing may be able to purchase at below-market rates), and land banks may have to be prepared, especially in areas with weak markets, to hold properties for a long period of time.

## THE GROUNDWORK FOR A GOOD POLICY

- **Know your community:** Gather data, including the number, location, and condition of vacant properties, and the costs they impose on governments and individuals. Identify current legal (and other) barriers to the creation of land banks and affiliated reforms, including tax foreclosures, so statutes can best address them. Seek to understand the motivations and opinions of elected leaders, developers, and other stakeholders, and their relationship to the range of issues addressed through land banking.
- **Identify critical policy goals:** Governments considering creating a land bank should identify the priority goals to be accomplished. Clearly stating these goals will help ensure that the programs and policies align. Possible goals might be to create affordable housing, add green space, hold property for future use, eliminate blight, or maximize revenue. Some goals may compete with each other so prioritizing them is important.
- **Catalyze leadership:** A group or individual that has credibility, strong ties to the state legislature, and the capacity to make inroads with potential opponents is critical to sustaining an advocacy effort. Likewise, a legislative champion who will take this issue to heart can be crucial to getting legislation passed.
- **Foster support:** A leader can’t do it alone. Particularly where initial support is lacking in the legislature, identify allies and engage potential opponents early, and draw from a broad coalition. If the entity will be based in the county, build support across jurisdictions.



## POLITICAL STRATEGY

A targeted political strategy is important to passing state land bank enabling legislation. Proponents have realized success in the past through committed leadership, a strong delegation of supporters, and clear messaging. Based on their unique political environments, advocates have pursued a variety of strategies:

- **Ohio:** In Ohio, the Cuyahoga County Treasurer led the effort to persuade legislators and cities that land bank legislation was needed to deal with the results of the mortgage crisis. As a result of his efforts, identical bills have been introduced in both houses of the legislature with top-level, bipartisan support. The bills amend existing law to authorize county governments to establish nonprofit Land Reutilization Corporations and to grant such entities access to an array of public funds along with authority to acquire, hold, and dispose of properties in accord with local land use plans.
- **Texas:** In Texas, a coalition of housing advocates, title attorneys and government officials concerned with vacant properties came together to brainstorm and look at best practices from other states. At the same time, government officials from the City of Dallas had begun to examine these issues. The two groups came together to draft state legislation that would allow a local land bank to be piloted in Dallas, which was passed in 2001. Based on its success in Dallas, in 2005, that legislation was expanded to apply to Houston, and in 2007, to apply statewide. Because the legislation was drafted with input from affordable housing groups and other community advocates, it has a strong policy focus on preserving affordable housing.
- **Pennsylvania:** While Pennsylvania has not yet passed legislation, land bank advocates have had great success in coalition building, passing six state bills aimed at curbing blight with broad bipartisan support. They started by issuing a report that mapped vacant properties in the state over a 20-year period, illustrating the costs of those properties to communities (see Sources of Information). They built a coalition of support, led by a credible nonprofit with a good relationship to the state legislature, and worked closely with potential opponents to assuage fears, build trust, and agree on common goals. Then, they worked with the legislature to pass some initial legislation that was uncontroversial, but represented important first steps and helped spur a dialogue. Now the state is poised to pass increasingly ambitious legislation to reclaim vacant properties and curb blight.

### Coalition Building

In some cases, state legislation has been passed with little opposition and a limited role for grassroots advocacy, particularly with early support from a legislative champion or one or more vocal local governments. In others, coalition building has been crucial. Part of an initial political strategy should be to determine if coalition building is necessary, or if the key state decision-makers are already on board. If properly engaged, affordable housing, environmental, and smart growth advocates, local governments, business leaders, developers and the real estate industry can all be allies. However, many of these groups will have a strong interest in how state legislation is structured, so outreach and compromise can be important steps in generating support. In general, a triumvirate of allies should be engaged early:

1) **Local governments**, particularly mayors trying to cope with vacant and abandoned properties. They may be immediate supporters, or they may need reassurance that sufficient local control of land use regulations will be retained.

2) **The business community**, including economic and business leaders, chambers of commerce, and developers who can speak to the financial and investment benefits of land banking. Real estate professionals and developers make unusual but important allies – shovel-ready properties with clear title, as well as more stable communities, are delivered through land banks' activities.

3) **The affordable housing community**, including CDCs, who can ensure that affordable housing provisions are included in legislative language.

An excellent example of successful state coalition building can be found in Ohio, where a consortium of local government actors, nonprofits, and civic organizations concerned with vacant property issues formed ReBuild Ohio. The effort grew out of the 2005 Ohio Vacant Properties Forum when participants realized the need for continued concerted action. Since its formation, ReBuild Ohio's listserv and regional meetings have been valuable resources, and the group's research agenda has been critical for setting the stage for state legislation.



## COMMUNICATIONS

Communicating the benefits of comprehensive land bank legislation, and gaining support from local governments, business leaders, nonprofits, and citizens is crucial. Although there are no ‘natural enemies’ of land banks, it is important to make sure people have a level of comfort and understanding about the way land banks function. Education, and a willingness to adjust statute language to meet valid concerns, is necessary.

## MESSAGES THAT WORK

Vacant properties cost communities a great deal more than just money. Code enforcement, property maintenance, and increased crime and arson rates drain city coffers, while lost property tax revenues decrease the amount of money coming in. Neighboring properties lose value and neighbors lose their sense of well-being and safety.

While a central city may be the most obvious “winner” by instituting a land bank, contagious blight affects inner ring suburbs, and when property is put back on the tax rolls and values increase through productive reuse, the county and state reap the rewards as well.

Simply put, land bank legislation helps bring abandoned properties back into productive use, generating tax revenue, raising property values, and creating community amenities such as affordable housing and green space.

### Addressing Concerns

A variety of stakeholders may have questions or voice concerns about land bank legislation. A dialogue can help clarify misunderstandings and assuage fears. The following represent some common sources of concern, as well as some ways to address them.

#### Land banks will erode local control.

In some instances, a state enabling statute might allow for the creation of county land banks that will acquire property within their municipalities. In many cases this makes sense as abandonment isn’t just a core-city problem and creating an entity that can take a countywide approach to the issue is beneficial. It will be important to write the statutes and ordinances to ensure that property transfers adhere to the local government’s vision.

#### Land banks reduce investment opportunities.

Land banks increase investment opportunities by offering a clear point of contact for real estate investors and transferring properties with clear title. There are “investors” who may profit less – speculators who have no ties to the community or real plans for property maintenance or reuse. Land banking properties is intended to result in upward momentum in a neighborhood rather than continued negligence.

#### Land banks only benefit urban areas

Blight is contagious – not only within neighborhoods but also across jurisdictions. Inner ring suburbs are seeing more abandonment, and as the mortgage crisis spreads to suburban and rural areas, the authority to create land banks is increasingly relevant to residents statewide. Using property productively and putting tax delinquent property back on the tax rolls benefits the entire county and state.

#### There will be fewer opportunities to create affordable housing.

Each land bank develops policy priorities and programs that support the vision of the municipality. Preserving and creating affordable housing often is a primary goal of a land bank; however, it is not the only goal. If the law allows, conveyance priorities and pricing policy can enable developers to acquire property for affordable housing at minimal cost.

#### The land bank will enter into “backroom deals” with developers.

Legislation should be drafted to ensure that land banks operate in a responsible, transparent manner. Land banks are public entities with a board that is generally appointed by elected officials who have to answer to constituents. It is the public’s responsibility to hold these officials accountable when they believe unethical activities are taking place. The board should also develop policies and priorities that dictate most of the disposition strategies. No board or staff members, or their organizations or businesses, should be involved in any land transactions. Some land banks have community advisory councils.

#### Land banks are slumlords that own a large inventory of unmanaged vacant properties.

It is possible, in weak market cities, that a land bank may need to hold property for a long period of time. Not being compelled to immediately release properties back into the market gives leaders and the community time to plan and create opportunities for the right development. Set reasonable public expectations and compare land management and reuse against the alternative of unmaintained properties and their impacts on neighboring residents who have no idea who to turn to if there is a problem.



## BUILDING THE CASE: RESEARCH

Good land bank legislation should be crafted in response to the conditions in the state and cities it is intended to serve. The coalition and legislators advocating for a land bank will be well served by having localized information about the costs of vacant and tax-delinquent properties in their communities and the benefits of reusing them. Often housing, code enforcement, or planning departments are already collecting relevant data. Many states prepare by issuing a study to explore these issues.

### Research Ideas

Data will not only help advocates make the case for a land bank statute, but will also help ensure that the statute is crafted in a way that addresses the needs of communities. Information should be gathered in each of the following areas without spending an undue amount of time or money:

- **Vacant properties in cities, counties, and statewide:** How many vacant properties are there? What type of properties are they? Where are they located? How long have they remained vacant? What condition are they in?
- **Tax delinquencies:** How prevalent are tax delinquencies? What portion of properties that become delinquent each year are redeemed? How quickly are they redeemed?
- **Costs to communities:** What is the cost of lost property tax revenues to local governments and school districts? How much are adjacent property owners losing in home values?
- **Impediments to putting properties back into productive use:** What mechanisms currently exist to acquire and convert vacant properties into productive use? What are the state, county, and local tax foreclosure, property disposition, and code enforcement policies and do they need improvement?

### GATHERING DATA

An up-to-date, parcel-based, real property information system helps communities both make the case for land bank legislation as well as the most informed land use decisions. A good information system is flexible, accessible, user-friendly, and easily updated. If your area does not already track vacant properties, partnering with a university may be a successful way to begin this process.

However, data gathering does not have to be sophisticated or expensive to be useful. Start with data you can obtain easily. Good sources include:

- City agencies, including housing, code enforcement, and planning departments;
- The Census Bureau; and
- HUD Aggregated USPS Administrative Data (visit: [huduser.org/DATASETS/usps.html](http://huduser.org/DATASETS/usps.html))



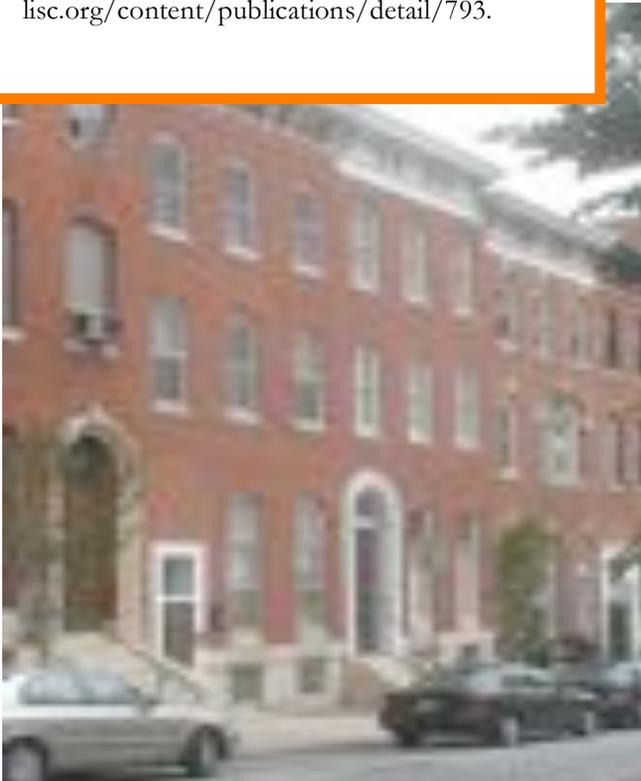


## RESOURCES

A variety of reports, books, studies, and organizations can provide guidance and support to advocates as they craft legislative language, develop a political strategy, and frame relevant issues. Other states that have passed or attempted to pass land bank legislation can provide valuable insights as well.

### Sample Legislative Language

*Land Bank Authorities: A Guide for the Creation and Operation of Local Land Banks*, written by Frank Alexander and published by the Local Initiatives Support Corporation, is an excellent resource. The guide provides sample language for state legislation, interlocal agreements, and local ordinances, as well as a wide variety of in depth information about land banks. Download the report for free at [lisc.org/content/publications/detail/793](http://lisc.org/content/publications/detail/793).



## SOURCES OF INFORMATION

### Organizations

The Genesee Institute  
[geneseeinstitute.org](http://geneseeinstitute.org)

National Vacant Properties Campaign  
[vacantproperties.org](http://vacantproperties.org)

### Policy Guidance

*Bringing Buildings Back: From Abandoned Properties to Community Assets*.

By Alan Mallach. Published by the National Housing Institute.  
[nhi.org/policy/BringingBuildingsBack.html](http://nhi.org/policy/BringingBuildingsBack.html)

*Landbanking as Metropolitan Policy* (working title)

By Frank Alexander. Available from the Brookings Institution in fall 2008.  
[brookings.edu](http://brookings.edu)

*Back on the Roll in Massachusetts: A Report on Strategies to Return Properties to Productive Use*.

Sponsored by the Citizens' Housing and Planning Association  
[chapa.org/pdf/taxtitle2000.pdf](http://chapa.org/pdf/taxtitle2000.pdf)

### State Research

*60 Million and Counting: The Cost of Vacant and Abandoned Properties in Eight Ohio Cities*.

Published by Rebuild Ohio.  
[communityresearchpartners.org/uploads/publications//FullReport\\_Nonembargoed.pdf](http://communityresearchpartners.org/uploads/publications//FullReport_Nonembargoed.pdf)

*Economic Impacts of Residential Property Abandonment and the Genesee County Land Bank in Flint, Michigan*

Published by the MSU Land Policy Institute  
[vacantproperties.org/resources/LPI\\_Genesee.pdf](http://vacantproperties.org/resources/LPI_Genesee.pdf)

*Blight Free Philadelphia*.

Published by Eastern Pennsylvania Organizing Project and Temple University.  
[www.temple.edu/rfd/content/BlightFreePhiladelphia.pdf](http://www.temple.edu/rfd/content/BlightFreePhiladelphia.pdf)

### Existing Land Banks

Genesee County Land Bank: [thelandbank.org](http://thelandbank.org)

Louisville Jefferson County Land Bank:  
[louisvilleky.gov/Housing/Landbank+Authority+Inc.htm](http://louisvilleky.gov/Housing/Landbank+Authority+Inc.htm)

Indianapolis Land Bank: [indylandbank.com](http://indylandbank.com)



**SAMPLE FACT SHEET:  
State Land Bank Legislation**

These properties often remain underutilized for reasons including a weak market, title issues, and high redevelopment or demolition costs. A land bank is a tool that can help tackle these issues. These public entities acquire surplus quantities of publicly- or privately-owned land not reclaimed or redeveloped by market forces. A land bank typically acquires properties from tax foreclosure rolls and holding, managing, and/or facilitating their productive reuse through sales and transfers to city agencies, community development corporations, private developers, and adjacent property owners. State land bank legislation explicitly authorizes the creation of local land bank entities and grants them appropriate authority to accomplish state and local policy goals.



Vacant properties can be costly and dangerous, reducing surrounding home values and spreading blight.

**Safer neighborhoods**

Vacant and abandoned properties contribute to blight, invite crime and pests, and provide unsafe play spaces. Because land banks help ensure that vacant properties are quickly reclaimed and properly managed, they can restore a sense of safety to neighborhoods and give surrounding property owners a place to turn if they have complaints or concerns.

**Better redevelopment opportunities**

Land banks are an effective mechanism to acquire and turn over vacant properties to owners who are ready to do something productive with them. The efficiency and predictability that land banks bring help create new opportunities for redevelopment and spur community revitalization.

**More community amenities**

Many land bank ordinances include side lot programs that allow adjacent property owners or community groups to turn vacant lots into gardens and other community green spaces, engaging community members in the beautification of their neighborhoods, and creating lasting amenities.



**THE NEED IN [INSERT STATE]**

*INSERT State-specific details, including:*

- *Number of vacant properties in the state*
- *Projections about potential payoffs of land banks, including reductions in crime, increases in neighboring property values, etc.*
- *Example(s) of a vacant property success story or need*
- *Specific problems or opportunities in the state related to vacant properties, including blight, affordable housing, crime, open space, etc.*

**SUPPORTERS**

*INSERT: List local supporters here. They might include business leaders, developers, affordable housing advocates, and smart growth organizations.*