

Local Finance Notice

LFN 2025-17

December 11, 2025

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The New Jersey Land Bank Law

P.L. 2019, c. 159, known as the “New Jersey Land Bank Law,” provides an additional tool for municipalities to revitalize and reuse neglected and blighted properties for public benefit. This Local Finance Notice reviews various requirements for the creation and operation of a land bank entity, including the underlying agreement between the municipality and the land bank entity, and best practices for how land banks should monitor and identify distressed properties.

Overview

The New Jersey Land Bank Law (hereinafter Land Bank Law) permits municipalities to enter into land banking agreements with public or nonprofit entities to “hold, maintain and lease or convey” abandoned, vacant, and neglected properties on the municipality’s behalf for productive reuse purposes.

A public land bank entity can be:

- a redevelopment entity designated by the municipality pursuant to N.J.S.A. 40A:12A-4 of the “Local Redevelopment and Housing Law;”
- the municipality itself, but only if the municipality is executing redevelopment responsibilities directly—including through one of its departments or agencies—pursuant to N.J.S.A. 40A:12A-4; or
- a county improvement authority designated by a municipality to act as a redevelopment entity pursuant to the “County Improvement Authorities Law (N.J.S.A. 40:37A-44 et seq.),” for the purpose of entering into a land banking agreement, without regard to whether the authority is otherwise acting as a redevelopment entity in the municipality.

Non-profit land bank entities must be established pursuant to the “New Jersey Non-Profit Corporation Act,” (N.J.S.A.15A:1-1 et seq.). The by-laws of a non-profit land bank entity must additionally provide that the municipality’s chief financial officer shall serve *ex officio* on the entity’s board.

A land bank entity may simultaneously serve more than one municipality under a shared services agreement pursuant to the Uniform Shared Services and Consolidation Law (N.J.S.A. 40A:65-1 et seq.).

The Land Bank Law gives land bank entities extensive powers and control over properties acquired and held on behalf of municipalities, with the land banking agreement shaping land bank entities' powers, activities, and the degree of municipal oversight. While the Land Bank Law provides the structure and components of the land banking agreement, the law allows significant discretion on the part of municipalities to define land bank entities roles and responsibilities as its designee.

Municipalities seeking to establish land banks should take the preliminary step of assessing their community, economic, and logistical realities and goals, evaluating existing policies subject to other laws and regulations and reviewing current redevelopment programs, expenditures, and partnerships. Assistance from sophisticated redevelopment and bond counsel is required throughout the planning and implementation process, particularly with respect to the land banking agreement and related ordinances.

Land Banking Agreement Creation, Modification & Termination

Pursuant to N.J.S.A. 40A:12A-78, the municipality and a land bank entity must enter into a land banking agreement. The land banking agreement establishes the land bank entity's responsibilities, the terms and conditions under which the land bank entity may operate, the degree of municipal oversight over the land bank entity and its activities, and the manner in which costs and revenues, including proceeds, will be distributed. The land banking agreement can specify performance benchmarks and other terms to ensure the land bank entity meets the needs of the municipality. A municipality is not required to follow the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) in selecting a land bank entity.

A land banking agreement must be adopted by an ordinance of the municipality's governing body and by resolution of the land bank entity's board or governing body. The ordinance must include findings supporting the need for land bank activity in the municipality, the public purpose intended for the land bank entity to pursue, and the land bank entity's qualifications to carry out its prescribed responsibilities. Before final adoption of the ordinance, the municipal governing body must hold a public meeting to receive public feedback on the substance and intent of the land banking agreement.

The land banking agreement may be amended at any time by municipal ordinance and land bank entity resolution. Following entrance into a land banking agreement, the land bank entity may modify its bylaws or other governing documents to address actions taken on land bank property so long as such modifications are consistent with the land banking agreement.

Pursuant to N.J.S.A. 40A:12A-87, a municipality may terminate a land banking agreement at any time by ordinance with or without cause so long as the municipality provides the land bank entity with one year's notice. A municipality may terminate a land banking agreement without one year prior notice upon notification of a determination from the county prosecutor or the municipal counsel that the land bank entity, or an officer or director thereof while acting within their official role, breached an essential duty of the land banking agreement based upon an act or omission:

- involving a knowing violation of criminal law;
- in violation of the land bank entity's duty of loyalty to the municipality and the general welfare of the municipality's residents; or

- resulting in the receipt of an improper personal benefit by a director or officer of the land bank entity, or by an associate thereof.

Within 90 days following the date of termination, the land bank entity must convey and transfer all remaining land bank properties to the municipality without consideration. The termination does not affect any prior transactions properly entered into by the land bank entity prior to termination, and the municipality may agree to allow for the land bank entity to retain possession and control over properties with pending transactions.

If a municipality that is directly implementing redevelopment plans and carrying out redevelopment projects seeks to engage in land banking activities, a single ordinance with the required land banking agreement must be set forth, upon the adoption of which the municipality may start engaging in land banking activities. In these instances, practicality would dictate that the municipality have an individual department act as the municipality's land bank entity. No notice of termination is required before the governing body can repeal the ordinance authorizing the municipality to undertake land banking activities. Other requirements of a land bank entity discussed below, such as a property database, annual reporting, and the establishment of a community advisory board, also apply to a municipality operating its own land bank.

The Division reminds local government officials involved with oversight or operation of a land bank entity of their continuing obligation to comply with the Local Government Ethics Law (N.J.S.A. 40A:9-22.1 et seq.).

Land Bank Entity Powers; Exemption of Land Bank Properties from Taxation

A municipality can grant land bank entities extensive resources and authority to act on its behalf. N.J.S.A. 40A:12A-79 allows for a municipality to designate a land bank entity to acquire properties via contributions, gifts, grants, bequest, purchase, or other means regardless of whether a property is in a redevelopment area or an area in need of rehabilitation. Subject to terms and conditions established under the land banking agreement, the land banking entity may acquire, modify and improve, maintain and secure, and lease or convey the property held on behalf of the municipality.

The lease or conveyance of a land bank property is not subject to the Local Land and Buildings Law (N.J.S.A. 40A:12-1 et seq.). Although the sale of land bank property below market value may be warranted under certain circumstances, such as implementation of an income-restricted affordable housing program or where extensive environmental remediation is needed, land bank properties generally should be conveyed through some competitive process such as a real estate auction or issuance of requests for proposal. This is particularly important for more desirable real estate with higher property value. Real property held by a land bank entity cannot be leased for an individual term exceeding 99 years.

Developers seeking new land bank properties should not have tax delinquencies on properties they had previously purchased. Further, sales contracts between land bank entities and certain purchasers, including developers and commercial purchasers, should include deed restrictions and provisions reverting title back to the land bank if the buyer fails to comply with specified conditions. The purpose of these actions is to ensure fair price on sales and promote development and productive use.

Notwithstanding the terms of the agreement, property leased or conveyed by a land bank entity shall be subject to municipal land use ordinances, any redevelopment plan enacted pursuant to the Local Redevelopment and Housing Law (N.J.S.A. 40A:12A-1 et seq.) and other applicable State statutes. Unless the property is part of an area in need of redevelopment, the lease or conveyance of property by a redevelopment entity acting as a land bank entity shall only be subject to terms and conditions set forth in the land banking agreement and is not subject to the provisions of N.J.S.A. 40A:12A-9 requiring certain redevelopment-related covenants.

Through the land banking agreement itself, or through the adoption of a separate ordinance, a municipality may authorize the land bank entity to hold in trust on behalf of the municipality any municipal properties not being used for any public purpose. The property is not required to be located in an area designated as a redevelopment area or an area in need of rehabilitation. Without soliciting public bids, the municipality may transfer such property at such prices and upon such terms as the municipality deems reasonable in accordance with any parameters established in the land banking agreement.

If a municipality authorizes a land bank entity to hold property in trust, the land banking agreement must stipulate whether a trust agreement between the municipality and the land bank entity will authorize the land bank entity to convey property, lease property, or conduct other land banking activities without prior individual authorization from the municipality. If provided in the land banking agreement, each trust agreement shall provide the land entity with all the powers of property ownership subject to the municipality's ability to regain control of the properties upon termination of the land banking agreement.

A land bank agreement may designate the land bank entity to act as the municipality's agent with respect to the acquisition of property, including but not limited to the purchase of tax and other liens, the foreclosure of properties subject to such liens, and takings of individual abandoned properties pursuant to N.J.S.A. 55:19-56(c)(2). However, the use of eminent domain is not permitted beyond what is already allowed by law.

The land banking agreement or a separate ordinance may authorize the municipality to assign any tax liens or other liens to a land bank entity, subject to the private sale provisions of N.J.S.A. 54:5-112 and 113, except that the liens may be assigned with or without consideration and at a price and terms as the municipality deems reasonable. The terms of a tax lien assignment pursuant to this subsection shall remain intact, without restriction by a subsequent ordinance, for at least one year.

Furthermore, a land banking agreement may provide that properties acquired by the land bank entity pursuant to N.J.S.A. 40A:12A-79 or held by the land bank entity in trust on behalf of the municipality pursuant to N.J.S.A. 40A:12A-80 are held in trust for a public purpose and shall be exempt from property taxes until or unless leased or conveyed by the land bank entity on behalf of the municipality or used by the land bank entity for a purpose not eligible for property tax exemption. A redevelopment entity's power to borrow funds and incur debt pursuant to N.J.S.A. 40A:12A-4 or N.J.S.A. 40:37A-44 et seq. may be exercised in furtherance of its land banking obligations. A municipality may also guarantee the redevelopment entity's debt and other borrowing under the same terms and conditions as under N.J.S.A. 40A:12A-4 or N.J.S.A. 40:37A-44 et seq. However, the municipality's guarantee of debt and borrowing of funds is only permitted if the land banking agreement explicitly permits the actions. The law does not grant similar authority to non-profit entities.

Public bidding is not required to enter into a land banking agreement or, unless otherwise specified in the land banking agreement, for related contracts entered into by a land bank entity.

Municipal Taxation, Financing, and Payments

The Land Bank Law establishes various funding mechanisms for land bank entities. As stated above, the distribution of any proceeds associated with the sale or lease of a land bank property shall be addressed in the land banking agreement. The land banking agreement should also define the land bank entity's ability to accept public and private funding through grants or donations towards fulfilling its mission.

N.J.S.A. 40A:12A-89 allows a municipality, pursuant to the land banking agreement or a separate ordinance, to commit to providing a limited series of annual payments to the land bank entity following one or more fiscal years during which a conveyance of one or more land bank properties to a private owner occurs. Each payment shall be anticipated in the municipal budget adopted for the fiscal year during which the payment shall be made. The budgeted payment shall be limited by the terms of the land banking agreement or ordinance, as applicable. However, the payment shall not exceed an amount greater than 50% of property taxes or payments in lieu of taxes (PILOT payments) due and payable in the fiscal year for all properties that had been land bank properties within the 10 fiscal years prior to the fiscal year for which the payment is budgeted, and on which no property taxes or PILOT payments had been collected for at least two years prior to the property being acquired by the land bank entity. Properties conveyed by a land bank entity more than once shall not count towards increasing the total maximum payment amount.

The municipality may adopt an ordinance allowing the land bank entity to retain a portion of the interest payments on one or more tax liens the municipality assigns to the land bank entity, or the proceeds from one or more sheriff's sales or short sales, or both; however, at any time the municipality may restrict by ordinance the amount of one or both of these funding sources that may be retained by the land bank entity following the date the restriction is enacted.

Proceeds associated with the sales and leasing of land bank property, and all other proceeds obtained by the land bank entity on behalf of the municipality under the ordinance, shall be maintained in one or more accounts, separate from all other accounts maintained by the entity serving as the land bank entity. The account or accounts shall be deemed to be government records and subject to the provisions of the Open Public Records Act (N.J.S.A. 47:1A-1 et seq.).

Collaboration and Oversight

A close working relationship between the municipality and the land bank entity is critical to the land bank's effective ongoing operation. Such collaboration will minimize potential conflicts in land use goals, clarify the function of the land bank with respect to its departments (e.g., planning, housing, economic development, public works), and address local strategic priorities concerning community revitalization. Land bank entities should have a strategic focus on specific types of development targeted in an area in line with local priorities, with the aim of expeditious acquisition and disposition of properties when appropriate.

At least one official should be designated to closely monitor the land bank entity, oversee related transactions and activities, and review the land bank entity's annual audit. The designated official should provide regular updates to the municipal governing body. Further, the municipal code

enforcement office should actively monitor land bank properties and build regular communication with land bank entity leadership to ensure proper maintenance and timely resolution of any violations.

Community Advisory Board

Upon being designated by a municipality, N.J.S.A. 40A:12A-84 gives land bank entities six months to create a community advisory board. The board must consist of representatives of recognized community and nonprofit organizations operating within the municipality, including organizations which are active within communities where the land bank entity anticipates acquiring properties. The land bank entity must adopt policies and procedures to ensure the advisory board is provided with adequate information and allowed to provide meaningful input into decision-making regarding the entity's land banking activities. These policies and procedures should be incorporated into the land bank entity's bylaws.

Identifying Vacant and Abandoned Properties

It is critical for a land bank entity to work closely with a municipality's "public officer," who is responsible for identifying nuisance properties along with maintaining an abandoned property list pursuant to N.J.S.A. 55:19-55. Properties that have not been legally occupied for more than six months and that meet any one of the criteria stated in N.J.S.A. 55:19-81, as determined by the public officer, may be deemed to be an abandoned property. Pursuant to N.J.S.A. 55:19-84, a municipality may bring an action in Superior Court with the purpose of transferring possession and control of an abandoned property in need of rehabilitation and developing a rehabilitation plan. Likewise, where a municipality has established a property registration program for properties in foreclosure pursuant to [L. 2021, c.444 \(N.J.S.A. 40:48-2.12s1 through s3\)](#), a land bank entity needs to work with the public officer or other official or private vendor responsible for maintaining the registration database.

The Department of Community Affairs has established an [online filing system](#) pursuant to [L. 2019, c. 134](#) for lenders and loan servicers to report Notices of Intent to Foreclose filed with the State when these Notices are sent to residential mortgage debtors. Counties, municipalities, and certain State agencies have read-only access to the reported data that falls within their respective jurisdictions. Land bank entities are encouraged to work with their municipalities in monitoring this database to identify potential vacant and abandoned residential properties.

Land Bank Entity Database

Land bank entities must provide an annual report to the municipal governing body and the public describing its held properties and all land banking activities during the year. Annual reports should also disclose the land bank entity's budget, sources of funding, objectives, and progress towards achieving key metrics. In coordination with the municipality and the community advisory board, the land bank entity must additionally create and maintain a publicly available website which includes a database listing:

- all current and former land bank properties;
- each owner of record since the property was acquired by the land bank; and

- the sales price of each property that has been purchased by the land bank entity on behalf of the municipality.

The Land Bank Law encourages land bank entities to work with the municipality and community advisory board to incorporate into its database a list of all vacant and abandoned properties within the municipality (including an interactive map showing the impact of land banking), the extent of vacant and abandoned properties, and a mechanism allowing the public to suggest what other properties should be labeled as vacant and abandoned. The land bank entity must take reasonable steps to ensure that information on foreclosed properties as contained in the database is both accurate and consistent with any corresponding information that may be provided by the Judiciary or by any State agency.

Land bank entities are encouraged to track and publish, as appropriate, comprehensive legal, environmental, and financial status data to ensure proper documentation, transparency, and decision-making. The database should also:

1. Record physical characteristics of the property and relevant land use restrictions. This should include at a minimum the zoning classification, presence and condition of existing structures, and parcel size.
2. Include information related to any unique programs or projects associated with land bank properties. Land bank entities should additionally keep record of any conditions placed on land bank properties, particularly eligibility restrictions for prospective purchasers (e.g., first-time homebuyers, low-income families, municipal residents, etc.), inclusion of properties within specific programs (homeownership, minority/women-owned business creation, community development, etc.), or usage requirements (e.g., affordable housing, greenspace, commercial mix-use, etc.).
3. Be structured and maintained in a manner which accommodates low-English proficiency residents and persons with disabilities. Plain language and multilingual explanations for land bank property details and other pertinent land bank information contained within the database, particularly languages that may be spoken by 10 percent or more of the municipality's population, should be included whenever possible. Land bank entities should also implement ADA-compliant design principles for rendering website content accessible to the visually impaired. Local governments are required to implement Web Content Accessibility Guidelines (WCAG) Version 2.1, Level AA as the technical standard for their website content and mobile apps: the deadline for municipalities with populations of 50,000 or more is April 24, 2026 while municipalities with less than 50,000 residents and special districts (e.g. redevelopment agencies and housing authorities) have until April 26, 2027. Please review the [U.S. Department of Justice's Final Rule](#) for further information.
4. In promoting financial and legal transparency, maintain sale settlement statement copies for both properties acquired by the land bank entities and those conveyed to private entities. Expenses related to the maintaining and improving of land bank properties should also be documented.

At least annually, the community advisory board must produce a report, which shall be publicly available via both the municipal website and land bank entity's website discussing the accuracy, integrity, accessibility, and comprehensiveness of the database. This report may be incorporated into the above-referenced annual report on the land bank entity's activities and properties. A land

bank entity's failure to comply with the database requirement will not result in penalty but shall be prominently noted in the annual report.

Beginning 30 days after initial database publication and every six months thereafter, a land bank entity shall update the Department of Community Affairs' Office of Local Planning Services concerning any changes to their database.

Approved: Michael F. Rogers, Director

Document	Internet Address
New Jersey Land Bank Law (L. 2019, c. 159)	https://pub.njleg.state.nj.us/Bills/2018/PL19/159_.PDF
ADA Web Design Principles – Final Rule	https://www.ada.gov/resources/2024-03-08-web-rule/
L.2021, c.444	https://pub.njleg.state.nj.us/Bills/2020/PL21/444_.PDF
Online Filing – Notices of Intent to Foreclose	https://www.nj.gov/dca/foreclosure.html
L. 2019, c.134	https://pub.njleg.state.nj.us/Bills/2018/PL19/134_.PDF