



## Legislation Details (With Text)

**File #:** 19-1442      **Version:** 2      **Name:** Ordinance re: Land Bank  
**Type:** Ordinance      **Status:** Adopted  
**File created:** 9/10/2019      **In control:** Law  
**On agenda:** 9/18/2019      **Final action:** 10/16/2019  
**Title:** AN ORDINANCE TO AMEND AND SUPPLEMENT TITLE XVIII, HOUSING CODE OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY, 2000, AS AMENDED AND SUPPLEMENTED, BY ADDING CHAPTER 14, ESTABLISHMENT OF LAND BANK.  
**Sponsors:** Council of the Whole

**Indexes:**

**Code sections:**

Date	Ver.	Action By	Action	Result
10/16/2019	2	Municipal Council	Close on Public Hearing and Adopt	Pass
10/2/2019	1	Municipal Council	Adopt on First Reading	Pass
9/18/2019	1	Municipal Council	Advance to First Reading	Pass

**AN ORDINANCE TO AMEND AND SUPPLEMENT TITLE XVIII, HOUSING CODE OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY, 2000, AS AMENDED AND SUPPLEMENTED, BY ADDING CHAPTER 14, ESTABLISHMENT OF LAND BANK.**

**WHEREAS**, difficult economic conditions coupled with the continued high rate of foreclosures have significantly increased the number of vacant, abandoned, neglected and other problem properties (collectively "Vacant and Abandoned Properties") in the City of Newark; and

**WHEREAS**, the continued presence and proliferation of these Vacant and Abandoned Properties in the City of Newark has a negative effect on the public health, safety and welfare, reduces property values and municipal revenue, and impedes the economic growth, development and revitalization of the City; and

**WHEREAS**, presently, many Vacant and Abandoned, rather than being productively reused, remain vacant despite frequent changes in ownership, and create and continue to have a blighting effect on their surroundings; and

**WHEREAS**, the City of Newark can benefit from more effective tools to control the inventory of Vacant and Abandoned Properties, in order to both minimize the harm and danger that they create in their present condition, and to facilitate their restoration to productive use and economic growth; and

**WHEREAS**, in order to most effectively and efficiently engage the local community in

identifying problem properties, the City of Newark can benefit from the publication of interactive online mapping databases of Vacant and Abandoned Properties; and

**WHEREAS**, to ensure that land banking activities are conducted in an honest and open manner, the public can also benefit from the inclusion of properties subject to land banking agreements within the interactive online mapping databases regardless of whether or not such properties are vacant and abandoned; and

**WHEREAS**, P.L. 2019, c.159 authorizes the City of Newark to establish a Land Bank and designate a single entity to achieve its goals.

**NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:**

**Note: Additions are shown in bold and underlined.**

**SECTION 1.** The Newark Municipal Code, Title XVIII, entitled Housing Code, is hereby amended to add a new Chapter 14, entitled Establishment of Land Bank.

**18: 14-1. Establishment of Land Bank**

**18: 14-1.1. Short Title**

This Chapter shall be known as the Land Bank of the City of Newark

**18: 14-1.2. Intent and Purpose**

It is the purpose of this Chapter to establish the land bank of the City of Newark and authorize the designation of a land bank entity by separate ordinance, which will use available resources to facilitate the return of vacant, blighted, abandoned and tax-delinquent properties to productive use, thereby combating community deterioration, creating economic growth and stabilizing the housing market.

**18:14-1.3. Authority**

This Chapter is adopted in accordance with the provisions of P.L. 2019, c.159, as enacted by the New Jersey Legislature and signed into law by the Governor on July 10, 2019.

**18:14-1.4. Definitions**

**“City”** means the City of Newark and hereinafter referred to as “City”, “City of Newark” or

“Municipality”.

“**Land bank entity**” means a public land bank entity, or a non-profit land bank entity.

“**Land bank property**” means property subject to a land banking agreement.

“**Land banking agreement**” means an agreement between a municipality and a land bank entity to act on behalf of the municipality to hold, maintain and lease or convey property owned by the municipality and not needed for any public purpose.

“**Non-profit land bank entity**” means a non-profit entity, established pursuant to the “New Jersey Nonprofit Corporation Act,” N.J.S.A. 15A:1-1 et seq., that has entered into a land banking agreement.

“**Public land bank entity**” means a redevelopment entity that has entered into a land banking agreement.

“**Redevelopment entity**” means either:

(1). A redevelopment entity designated by the municipality pursuant to Section 4 of the “Local Redevelopment and Housing Law,” P.L.1992, c.79 (C.40A:12A-4); and

(2). A county improvement authority designated by the municipality to act as a redevelopment entity pursuant to the “county improvement authorities law,” P.L.1960, c.183 (C.40:37A-44 et seq.) for the purpose of entering into a land banking agreement with said entity, without regard to whether the county improvement authority is otherwise acting as a redevelopment entity in the municipality; and

(3). The municipality itself, or one of its departments or agencies, but only if the municipality is executing redevelopment responsibilities directly pursuant to Section 4 of P.L.1992, c.79 (C.40A:12A-4). In such cases, the designated redevelopment entity shall not need to adopt separate ordinances or resolutions, as appropriate, for the purpose of adopting a land banking agreement or amendments pursuant to Subsections d. and e. of Section 5 of P.L. 2019, c.159 and the adoption of one ordinance to create the land banking agreement, and one ordinance for each amendment thereto shall suffice. Termination notice requirements, prescribed by Section 14 of P.L. 2019, c.159, also shall not be necessary.

“**Trust Agreement**” means an agreement between a municipality and land bank entity, pursuant to Subsection f. of Section 5 of P.L. 2019, c.159.

## **18:14-2. Authority to Designate a Land Bank Entity**

(a). The City may enter into a land banking agreement with a redevelopment entity, and designate the redevelopment entity as its land bank entity; or

(b). The City may enter into a land banking agreement with a non-profit entity so long as the by-laws of the non-profit entity provide that the Chief Financial Officer of the City serves on the board of the non-profit entity, ex officio.

### **18:14-3. The Land Banking Agreement**

The City of Newark shall enter into a land banking agreement with a designated land banking entity. The land banking agreement shall meet the following requirements and follow the following procedures:

(a). The land banking agreement shall establish the responsibilities of the land bank entity and shall specify the terms and conditions under which the land bank entity may acquire property on behalf of the City of Newark, demolish and otherwise clear buildings and conduct other site improvements located on the property, maintain and secure the property, conduct other activities on the property, and, notwithstanding the provisions of the "Local Lands and Buildings Law," P.L.1971, c.199 (C.40A:12-1 et seq.), lease or convey property held on behalf of the City of Newark.

(b). The land banking agreement shall provide for such municipal oversight of the land bank entity as the City of Newark deems necessary and appropriate and shall establish the manner in which any costs and revenues, including proceeds of the sale or leasing of land bank property shall be distributed.

(c). The land bank entity shall not lease any land bank property for an individual term of more than ninety (99) years. Land bank property that is leased, or conveyed by the land bank entity, shall be subject to ordinances adopted pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.), any redevelopment plan enacted pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.), and other applicable State statutes following the lease or conveyance.

(d). Prior to submission of the land banking agreement for approval by the Newark Municipal Council, the administration shall hold a public meeting to solicit the advice of the public on the substance and intent of the land banking agreement.

(e). The ordinance comprising the land banking agreement shall include findings establishing the need for land bank activity in the City of Newark, the public purpose that Newark intends the land bank entity to pursue, and the qualifications of the land bank entity to carry out the responsibilities established pursuant to the New Jersey Land Bank Law.

(f). The land banking agreement shall be adopted by an ordinance of the Newark Municipal Council and then by resolution of the Governing Body or board, as appropriate, of the land bank entity.

(g). The land banking agreement may be amended at any time by an ordinance of the Newark Municipal Council and then by resolution of the Board of Directors of the land bank entity.

(h). The City may authorize a land bank entity to hold property in trust on behalf of the City. The land banking agreement shall establish whether a trust agreement shall provide authorization to the land bank entity to convey property, lease property, and conduct other land banking activities without municipal authorization for each individual conveyance, and other action. If provided in the land banking agreement, each trust agreement shall provide the land bank entity with all the powers of property ownership, subject to the potential termination of the land banking agreement pursuant to Section 14 of P.L. 2019, c.159 and Section 18:14-8 of this Ordinance.

(i). The land bank entity is not subject to the requirements of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), in accordance with a land banking agreement or with contracts entered by the land bank entity in accordance with the land banking agreement. Public bidding is not necessary to enter into a land banking agreement, or, unless otherwise stated in the land banking agreement, for contracts entered into by the land bank entity in accordance with the land banking agreement.

#### **18:14-4. Authorized Activity of Land Bank Entity**

Pursuant to the land banking agreement or any subsequent amendment thereto, the land bank entity may be designated by the City of Newark to:

(a). Acquire properties on its behalf through contribution, gift, grant, bequest, purchase or otherwise, whether or not the property is located in an area designated as a redevelopment area or an area in need of rehabilitation; and

(b). Act as its agent, or in place of its municipal officer, with respect to acquisition of property, including but not limited to purchase of tax and other liens, foreclosure of tax and other liens, and individual abandoned property takings pursuant to paragraph (2) of Subsection c. of Section 37 of the "New Jersey Urban Redevelopment Act," P.L.1996, c.62 (C.55:19-56), on behalf of the City of Newark and to acquire and hold in trust such properties on behalf of the City of Newark; provided, however, that nothing in this Section shall authorize the use of eminent domain beyond that use already permitted by law; and

(c). The City of Newark, through the land banking agreement, may authorize the land bank entity to hold in trust on behalf of the City any property or properties held by the City and not being used for any public purpose, whether or not the property is located in an area designated as a redevelopment area or an area in need of rehabilitation, without public bidding and at such prices and upon such terms as the City deems reasonable in accordance with parameters that may be established in the land banking agreement. The trust agreement with the land bank entity shall be conditioned on the City's ability to regain control of the properties pursuant to Section 14 of P.L. 2019, c.159 and Section 18:14-8 of this Ordinance; and

(d). The City of Newark, through the land banking agreement, or through the adoption of a separate ordinance, may assign any tax liens or other liens to the land bank entity, subject to the provisions of R.S.54:5-112 and R.S.54:5-113, except that the liens may be assigned with or without consideration and at such prices and upon such terms as the City deems reasonable; and

(e). If the Municipal Council adopts an ordinance pursuant to Subsection (d) and permits the land bank entity to retain a portion of the interest payments on one or more tax liens, or the proceeds from one or more sheriff's sales or short sales, or both, then the City shall retain the authority to, at any time, by ordinance, restrict the amount of one or both of these funding sources that may be retained by the land bank entity following the date of adoption of the ordinance. The terms of a tax lien assignment pursuant to this Subsection shall remain intact, without restriction by a subsequent ordinance, for no less than one year; and

(f). The land banking agreement between the City and a land bank entity, may provide that properties held by the land bank entity in trust on behalf of the City pursuant to Subsections a, b, c, or d of this Section, are held in trust by the entity on behalf of the City for a public purpose and shall be exempt from property taxation until or unless leased or conveyed by the entity on behalf of the City or used by the entity for a purpose that is not eligible for exemption from taxation; and

(g). In leasing or conveying land bank property, unless the property is part of an area in need of redevelopment, a redevelopment entity shall not be subject to the provisions of section 9 of P.L.1992, c.79 (C.40A:12A-9), but shall be subject to any terms and conditions set forth in the land banking agreement.; and

(h). With the approval of the Municipal Council, the land bank entity may act as a land bank entity for more than one municipality at the same time, subject to the provisions of the "Uniform Shared Services and Consolidation Act," P.L.2007, c.63 (C.40A:65-1 et seq.).

#### **18:14-5. Property Taxes on Land Bank Properties**

(a). The City of Newark through the land banking agreement or a separate ordinance, may provide that a limited series of annual payments shall be made by the municipality to the land bank entity following one or more fiscal years during which a conveyance of one or more land bank

properties from the land bank entity to a private owner occurs, provided that:

1. Each payment that the City commits to making pursuant to this Subsection shall be anticipated in the municipal budget adopted for the fiscal year during which the payment shall be made.
2. A payment budgeted pursuant to this Subsection shall be limited by the terms of the ordinance, but this payment shall not exceed 50 percent of property taxes or payments in lieu of taxes 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. If a property has been conveyed by the land bank entity more than once, then property taxes and payments in lieu of taxes due and payable for that property shall not be applied to increase the annual limitation established pursuant to this Chapter.
3. An ordinance adopted pursuant to this Section may only be applied to real property on which no property tax has been paid, or payment in lieu of taxes collected, for at least two years prior to the property becoming a land bank property; and such ordinance may be applied to any individual conveyance, any group of conveyances, or all future conveyances that fit these criteria.

(b). The distribution of any proceeds associated with the sale and leasing of land bank property shall be addressed in the land banking agreement itself and in amendments thereto. Distributions to the land bank entity pursuant to this Subsection may be made in addition to payments provided pursuant to Subsection (a) and adhere to the following:

1. 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.
2. The account or accounts shall be deemed to be government records and subject to the provisions of P.L.1963, c.73 (C.47:1A-1 et seq.), commonly known as the "Open Public Records Act."

(c). For the purposes of this Section, "conveyance" shall not be construed to include a lease.

#### **18:14-6. Responsibilities of the Land Bank Entity**

- (a). After entering a land banking agreement, the land bank entity may modify its bylaws or

other governing documents to address actions taken on land bank property, including but not limited to, the leasing and conveyance of land bank property so long as such modifications are consistent with the provisions of the land banking agreement.

(b). Within six months after designation by the City of Newark, the land bank entity shall create a community advisory board, which shall consist of representatives of recognized community associations and non-profit organizations operating within the municipality, including those associations and organizations active in areas where the land bank entity anticipates holding properties.

(c). The land bank entity shall adopt policies and procedures to ensure that the community advisory board is provided with adequate information and opportunity to provide valued input into the decisions of the land bank entity in its capacity as a land bank entity.

(d). In coordination with the City of Newark and the community advisory board, the land bank entity shall, within a reasonable time, create, maintain, and make publicly available on its website, a database listing all current and former land bank properties, each owner of record since each property became a land bank property, and the sales price of each land bank property that has been purchased by the land bank entity on behalf of the City.

(e). Beginning thirty (30) days after the land bank entity publishes a database and every six (6) months thereafter, in accordance with the guidance provided by the Division of Local Government Services in the Department of Community Affairs, the land bank entity shall update those State agencies identified by the division concerning any changes to the database. To the extent that the database includes properties in foreclosure proceedings, and properties foreclosed within the six (6) month reporting period, the land bank entity shall take reasonable steps to ensure that the information provided is both accurate and consistent with any corresponding information provided by any State agency, or by the Judiciary.

(f). In coordination with the City of Newark and the Community Advisory Board, the land bank entity shall incorporate into the online database:

1. a list of all vacant and abandoned properties within the municipality; and
2. a mechanism to allow the public to offer suggestions concerning what properties should be labeled as vacant and abandoned; and
3. an interactive mapping component to allow the public to visualize the impact of land banking and the extent of vacant and abandoned properties within the municipality.

(g). On an annual basis, the Community Advisory Board shall report on the accuracy,



integrity, accessibility, and comprehensiveness of the database established. Each annual report shall be accessible to the public through the website of the City of Newark and the land bank entity.

(h). The land bank entity shall provide an annual report to the Newark Municipal Council and the public describing the properties being held by it as a land bank entity and the activities that it carried out during the year as a land bank entity.

#### **18:14-7. Authorization to Borrow Funds**

(a). To the extent that the statute under which a redevelopment entity was established, Section 4 of P.L.1992, c.79 (C.40A:12A-4), confers on that entity the power to borrow funds and incur debt, the redevelopment entity may exercise those powers in furtherance of its land banking obligations subject to the conditions and limitations set forth in Section 4 of P.L.1992, c.79 (C.40A:12A-4) or P.L.1960, c.183 (C.40:37A-44 et seq.).

(b). To the extent that the statute under which the redevelopment entity was established, Section 4 of P.L.1992, c.79 (C.40A:12A-4), provides that the City may guarantee its debt or other borrowing, the City may also guarantee its debt or other borrowing under the same terms and conditions, in furtherance of the entity's obligations as a land bank entity.

(c). The guaranteeing of debt and borrowing of funds permitted under Subsections a. and b. of this Section shall only be permitted so long as the land banking agreement itself also explicitly permits these actions.

#### **18:14-8. Termination of Land Banking Agreement**

(a). The City may, by ordinance, terminate the land banking agreement at any time, with or without cause, by providing the land bank entity with one year's notice of termination from the date of the adoption of that ordinance subject to:

(1). Termination of the land banking agreement under Subsection (a), shall not affect the status of any transaction properly entered into by the land bank entity prior to termination.

(2). Within 90 days following the date of termination, the land bank entity shall convey and transfer to the City, possession of all land bank property without consideration; provided, however, that the City of Newark and the entity may agree to allow the entity to retain possession and control over any properties that are the subject of a pending transaction by the entity until completion of the transaction, and until the end of any lease.

(b). With or without one year's notice to the land bank entity, the City may, by ordinance, terminate the land banking agreement upon notification of a determination from the County Prosecutor, or the Corporation Counsel, that the land bank entity, or a director or officer of the land

bank entity while acting in their official role, has breached an essential duty of the land banking agreement based upon an act or omission:

- (1) in violation of the land bank entity's duty of loyalty to the City and the general welfare of the residents of the City;
- (2) involving a knowing violation of criminal law; or
- (3) resulting in the receipt by a director or officer of the land bank entity, or by an associate of such person, of an improper personal benefit.

#### **18:14-9. Municipal Approval**

The transfer and sale of any properties, tax liens and other City owned property to the land bank entity shall be subject to Municipal Council approval.

**SECTION 2:** If any provision of this Ordinance or application thereof to any person(s) or circumstance is judged invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions or applications of the Ordinance that can be given effect without the invalidated provision or application, and to this end the provisions of this Ordinance are declared severable.

**SECTION 3:** The Ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey.

### **STATEMENT**

This Ordinance Amends Title XVIII, Housing Code, of the Revised General Ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented, and adds Chapter 14, Establishment of Land Bank.