
OLR Bill Analysis

sHB 7277

AN ACT CONCERNING THE CREATION OF LAND BANK AUTHORITIES.

SUMMARY

This bill establishes a framework for municipalities, either on their own or jointly with other municipalities, to create nonprofit land bank authorities (“authorities”) to acquire, maintain, and dispose of real property. It requires each authority to be governed by a board of directors and gives the board broad powers to carry out the authority’s purposes, including the power to enter into contracts and borrow money. It also gives authorities specific powers to acquire and dispose of property.

The bill exempts from state and local taxes any real property and interest in real property (“real property”) an authority holds and income it derives from the property. For any property conveyed by an authority, the bill requires the state and municipalities to remit to the authority 50% of the taxes they collect on the property in the following five years. The bill permits the authorities to impose a supplemental fee, penalty, or charge on delinquent property taxpayers in their respective municipalities. It also allows them to issue revenue bonds backed by the revenue from their assets (i.e., property sales).

Lastly, the bill establishes a process by which the authority’s board of directors may dissolve a land bank authority and specifies how it must distribute its assets if it dissolves.

EFFECTIVE DATE: Upon passage

ESTABLISHING A LAND BANK AUTHORITY

Under the bill, a municipality’s legislative body may establish by ordinance a land bank authority (i.e., a charitable nonstock corporation for the purposes of acquiring, maintaining, and disposing of real

property within the municipality). Two or more municipalities may also establish a shared authority by passing concurrent ordinances to enter into an intergovernmental cooperation agreement (presumably an interlocal agreement) to do so. Under the bill, the authorization applies to towns, cities, boroughs, consolidated towns and cities, and consolidated towns and boroughs.

The establishing ordinance or concurrent ordinances must name the land bank and establish parameters for its board of directors. Specifically, each ordinance must provide for the (1) number of members (five, seven, nine, or 11); their manner of appointment, qualifications, and term lengths; and (2) board's initial members, which may include elected officials and municipal employees.

BOARD OF DIRECTORS

Members and Officers

The board must annually select from among its members a chairperson, vice-chairperson, treasurer, and any other officers it deems necessary. It must also annually adopt bylaws for conducting its business.

Members serve without compensation but may be reimbursed for expenses they incur on the authority's behalf while performing their duties. They are not personally liable for the authority's bonds or other obligations, nor are they subject to creditors' rights, which apply only against the land bank.

Attendance and Removal

The board's bylaws must establish provisions governing board member attendance and meeting participation. The procedures may authorize a majority of the board's total membership to vote to remove members for failing to comply with its bylaws. Once so removed, members may only be reappointed if the board votes unanimously in favor of it. Any such vacancy is effective at the start of the month following the vote and must be filled according to the authority's establishing ordinance.

Meetings and Voting

The board must schedule and hold regular meetings and may hold special meetings on the call of the chairperson or a petition signed by a majority of the members. The board must keep and record minutes for each meeting.

A majority of members constitutes a quorum, and a majority of those present at any meeting at which there is a quorum can act, except as described below. Members may not vote by proxy and may request a roll call-vote on any action.

Under the bill, a majority of all members is required to:

1. adopt bylaws;
2. hire or fire employees and contractors unless the board has delegated that authority to an officer;
3. incur debt;
4. adopt or amend the authority's annual budget; and
5. sell, lease, encumber, or alienate any real or personal property valued at more than \$50,000.

Conflicts of Interest

The bill prohibits board members and authority staff from having any interest in (1) real property the authority holds or acquires or (2) contracts or proposed contracts for services or materials the authority provides or uses. The board may adopt bylaws to address actual and potential conflicts of interest and ethical guidelines for board members and staff.

GENERAL POWERS

The bill gives the boards broad contractual, financial, and development powers, excluding the power to take property by eminent domain. Under the bill, a board may:

1. adopt, amend, and repeal its bylaws;

2. sue and be sued in its own name and plead and be impleaded in any civil action, including in any action to clear title to property;
3. adopt and alter a seal;
4. borrow money from private lenders, municipalities, the state, or the federal government to fund its operations;
5. issue negotiable revenue bonds and notes;
6. secure the payment of some or all of the authority's debts or losses by procuring insurance or state or federal guarantees, and making the necessary premium payments;
7. enter into contracts or other instruments necessary, incidental, or convenient for carrying out the authority's purposes;
8. invest the authority's funds in securities, properties, or other financial instruments that it deems proper, and use any depository for the funds;
9. design, develop, construct, demolish, reconstruct, rehabilitate, renovate, and otherwise improve real property or any right or interest in the property;
10. set, charge, and collect rents, fees, or charges for the use of the authority's real property or any services the authority provides;
11. grant or acquire licenses, easements, leases, or options for the authority's real property; and
12. collaborate with public and private entities and other municipalities to own, manage, develop, and dispose of real property.

Staff

The bill authorizes the board to hire an executive director, legal counsel, and other staff it deems qualified and contract with one or more municipalities to staff the authority or a municipal department or

agency. The board may organize and reorganize the authority's executive, administrative, clerical, and other responsibilities, and specify the duties, powers, and compensation of its employees, agents, and consultants.

PROPERTY ACQUISITION AND DISPOSITION POWERS

Acquiring, Holding, and Maintaining Property

An authority may, as permitted by its board of directors, acquire real property located in the municipality or municipalities that established the land bank. It may purchase property or receive it as a gift, inheritance, transfer, exchange, foreclosure result, or through other means. It must hold the property it acquires in the authority's name and make an inventory of the property it holds available for public inspection.

The authority must maintain any property it acquires in accordance with the laws of the municipality or municipalities where the property is located. Although it may only hold property located in the municipality or municipalities that established it, it may enter into an intergovernmental cooperation agreement with a municipality to maintain property located there.

Disposing of Property

An authority may convey property or any interest in property that it holds through a conveyance, exchange, sale, transfer, lease, grant, release, demise, mortgage, or pledge of the property as collateral. Its board of directors may delegate to its staff the power to contract with a legal entity to do so.

Under the bill, the authority's ordinance (or concurrent ordinances) may (1) establish an order of priorities for the use of real property that it conveys and (2) set different requirements for the board's approval of property dispositions in certain locations or by certain means.

The authority's board must establish in its bylaws the terms and conditions for any consideration to be received for property conveyances, provided the consideration is in a form the board deems

to be in the authority's best interest.

FUNDING SOURCES

An authority may receive funding from the following sources:

1. grants and loans from municipal, state, federal, public, and private sources;
2. payments for services rendered, rent, insurance proceeds, investment income, and any other assets or activities; and
3. consideration for personal or real property interests it conveyed.

STATE AND LOCAL TAXES ON LAND BANK PROPERTIES

Under the bill, for any real property interest an authority conveys, the state and municipality in which the property is located must remit to the authority 50% of the taxes collected on such interest (presumably property taxes). This requirement applies beginning on October 1 immediately following the property's conveyance and annually for five years.

The bill also authorizes municipalities that establish an authority to impose a supplemental fee, penalty, or charge on delinquent property taxpayers and requires them to remit the revenue collected to the authority. By law, delinquent property taxes are subject to interest fees of 1.5% per month or 18% per year.

BONDING AUTHORITY

An authority may, by a resolution of its board of directors, issue limited obligation bonds (i.e., revenue bonds) to carry out its purposes. The board's resolution must establish (1) the bonds' form and denomination, (2) the manner of the bonds' sale and delivery, (3) the bonds' interest rate and maturity date, (4) the execution of such bonds by one or more board members, and (5) any board option to redeem the bond and the manner of redemption. The board must publish the resolution in a newspaper having general circulation in the municipality or municipalities, as applicable.

The authority must pay the bonds' principal, interest, and issuance costs from the revenue it derives from (1) the disposition of its assets or (2) any refunding bonds issued. The bonds may be secured by a mortgage on the authority's property or a pledge of its revenue, including state or federal grants or contributions. The bill provides that the authority bonds are negotiable instruments under state law and law merchant (i.e., commercial law).

The bonds are not a debt of the state or municipality and must contain a statement to that effect; similarly, any refunding bonds are not a debt or pledge of the municipality's credit and must contain a statement to that effect. But the bill authorizes any municipality that establishes an authority to guarantee, insure, or otherwise take on the authority's debt (primarily or secondarily) unless prohibited by any other statutory provision.

The bill specifies that authority bonds, and income derived from them, are exempt from state and municipal taxation. Existing law already exempts from state income tax the federally taxable interest on Connecticut state bonds or obligations (CGS § 12-701(20)).

DISSOLVING A LAND BANK

At least 60 days prior to considering a resolution to dissolve, the board must:

1. publish notice of its intent to dissolve in a newspaper of general circulation in the municipality or municipalities;
2. provide written notice to the municipality or municipalities that established the authority; and
3. send a notice by certified mail to the trustees of any outstanding authority bonds it issued.

Two-thirds of the board's full membership must approve the resolution, which takes effect 60 days after the resolution is adopted. Once dissolved, the authority's assets, including real and personal property, inure to the benefit of the municipality or municipalities that

established it.

If two or more municipalities established the authority and one municipality withdraws, the authority is not dissolved unless (1) authorized by the concurrent ordinances that established the authority or (2) no remaining municipality wishes to continue the authority.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable

Yea 22 Nay 0 (03/25/2019)