



House of Representatives

General Assembly

File No. 616

January Session, 2019

Substitute House Bill No. 7277

House of Representatives, April 11, 2019

The Committee on Planning and Development reported through REP. MCCARTHY VAHEY, C. of the 133rd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE CREATION OF LAND BANK AUTHORITIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. (NEW) (*Effective from passage*) (a) As used in this section:
- 2 (1) "Land bank authority" means a charitable nonstock corporation
3 established by a municipality, or by two or more municipalities, for the
4 purposes of acquiring real property, maintaining any such real
5 property and disposing of any such real property within such
6 municipality or municipalities, as applicable;
- 7 (2) "Board of directors" means the board of directors for a land bank
8 authority;
- 9 (3) "Municipality" means any town, city or borough, consolidated
10 town and city or consolidated town and borough; and
- 11 (4) "Real property" means land, subterranean or subsurface rights,

12 structures, any and all easements, air rights and franchises and every
13 estate, right or interest therein.

14 (b) The legislative body of any municipality, by ordinance, or the
15 legislative bodies of two or more municipalities, by concurrent
16 ordinances entering into an intergovernmental cooperation agreement,
17 may establish a land bank authority. Any such ordinance or concurrent
18 ordinances, as applicable, shall set forth (1) the name of the land bank
19 authority, (2) the size of the board of directors, provided such board
20 shall consist of five, seven, nine or eleven members, (3) the
21 qualifications, manner of appointment and terms of office of such
22 board's members, and (4) the members initially appointed to serve on
23 such board, any of which may, notwithstanding any provision of the
24 general statutes, be an individual elected to an office or otherwise
25 employed by any such municipality.

26 (c) (1) Annually, the members of the board of directors of a land
27 bank authority shall (A) select from among themselves a chairperson,
28 vice-chairperson, treasurer and any other officer as such board may
29 deem necessary to carry out the purposes of this section, and (B) adopt
30 bylaws for the conduct of business in carrying out such purposes.

31 (2) Bylaws adopted by such board of directors shall establish
32 procedures relative to the attendance and participation of board
33 members at any meeting of such board, which procedures may
34 provide for removal of a member from such board for failure to
35 comply with such bylaws by a majority vote of the total membership
36 of such board, provided any individual so removed shall be ineligible
37 for reappointment to such board unless such reappointment is
38 unanimously confirmed by such board. Any such removal shall create
39 a vacancy on such board effective the first day of the month
40 immediately following such removal. Any such vacancy shall be filled
41 as set forth pursuant to subdivision (3) of subsection (b) of this section.

42 (3) (A) Each member of such board of directors shall serve without
43 compensation, except that such board may reimburse any such
44 member for expenses incurred in the performance of such member's

45 duties on behalf of such authority.

46 (B) No board member, and no staff as described in subsection (d) of
47 this section, may acquire any interest in any real property held by such
48 authority or in any real property to be acquired by or from such
49 authority. No board member and no such staff may have any interest
50 in any contract or proposed contract for materials or services to be
51 furnished or used by such authority. The board of directors of such
52 authority may adopt additional bylaws to address actual and potential
53 conflicts of interest and ethical guidelines for such board members and
54 staff.

55 (C) No board member shall be personally liable on any bond or
56 obligation of such authority, and any right of a creditor shall be against
57 such authority only.

58 (4) (A) Regular meetings of such board of directors shall be held in
59 accordance with a schedule adopted by such board. Special meetings
60 of such board shall be held upon the call of the chairperson or upon a
61 signed petition of a majority of the total membership of such board. A
62 majority of the total membership of such board of directors shall
63 constitute a quorum for the transaction of any business. Except as
64 provided in subparagraph (B) of this subdivision and subsection (j) of
65 this section, approval of any board action shall be by a majority vote of
66 the members of such board present and voting. No board member may
67 vote by proxy. Any board member may request a roll-call vote on any
68 action taken by such authority. Such board shall cause minutes and a
69 record to be kept of each meeting.

70 (B) The following board actions shall be approved by a majority
71 vote of the total membership of such board: (i) Adoption of bylaws for
72 the conduct of business; (ii) hiring or firing of any employee or
73 contractor of such land bank authority, except that such board may
74 delegate the exercise of any such action to an officer of such authority
75 and to an extent as may be specified by such board in such delegation;
76 (iii) incurrence of debt; (iv) adoption or amendment of an annual
77 budget; and (v) sale, lease, encumbrance or alienation of any real

78 property, improvements thereto or personal property valued in an
79 amount exceeding fifty thousand dollars.

80 (d) (1) The board of directors of a land bank authority may hire an
81 executive director, legal counsel and any other staff such board deems
82 qualified to serve such authority. Such board may contract with one or
83 more municipalities for the staffing of such authority or of any
84 department or agency of any such municipality.

85 (2) Such board may (A) organize and reorganize the executive,
86 administrative, clerical and other responsibilities of such authority,
87 and (B) fix the duties, powers and compensation of each employee,
88 agent and consultant of such authority.

89 (e) (1) The board of directors of a land bank authority may exercise
90 any power necessary to carry out the purposes of this section,
91 including:

92 (A) To adopt, amend and repeal bylaws for the conduct of its
93 business;

94 (B) To sue and be sued in its own name, to plead and be impleaded
95 in any civil action, including, but not limited to, any such action to
96 clear title to property of such authority;

97 (C) To adopt a seal and to alter such seal;

98 (D) To borrow from private lenders, municipalities, the state or the
99 federal government any moneys necessary for the operation of such
100 authority;

101 (E) To issue negotiable revenue bonds and notes in accordance with
102 this section;

103 (F) To procure (i) insurance or guarantees from the state or the
104 federal government for the payment of any debt or part thereof
105 incurred by such authority, and to pay any premium in connection
106 therewith, and (ii) insurance against any loss in connection with any

107 real property, asset or activity of such authority;

108 (G) To enter into any contract or other instrument necessary,
109 incidental or convenient for carrying out the purposes of this section;

110 (H) To invest moneys of such authority in any instrument,
111 obligation, security or property deemed proper, and to name and use
112 any depository for any such moneys;

113 (I) To design, develop, construct, demolish, reconstruct, rehabilitate,
114 renovate, relocate and otherwise improve any real property or any
115 right or interest therein;

116 (J) To fix, charge and collect any rent, fee or charge for the use of
117 any real property of such authority and for any service provided by
118 such authority;

119 (K) To grant or acquire any license, easement, lease or option with
120 respect to any real property of such authority; and

121 (L) To enter into any collaborative relationship with any
122 municipality and other public and private entities for the ownership,
123 management, development and disposition of any real property.

124 (2) The board of directors of a land bank authority shall neither
125 possess nor exercise the power of eminent domain.

126 (f) (1) Notwithstanding any provision of the general statutes, a land
127 bank authority (A) may, on terms and conditions and in a manner
128 deemed proper by the board of directors of such authority, acquire any
129 real property or interest thereof by gift, devise, transfer, exchange,
130 foreclosure, purchase or other means, (B) shall hold in its own name
131 any property so acquired, and (C) shall create and make available for
132 public inspection an inventory of any property held by such authority.

133 (2) Such authority shall not hold any real property or interest
134 thereof located outside of the municipality or municipalities, as
135 applicable, that established such authority, and shall maintain all of its

136 real property in accordance with the laws of the municipality or
137 municipalities in which such property is located. Such authority may,
138 pursuant to an intergovernmental cooperation agreement with a
139 municipality, maintain real property located within such municipality.

140 (3) Any real property or interest thereof held by such authority, and
141 any income derived therefrom, shall be exempt from taxation by the
142 state and by any political subdivision thereof.

143 (g) (1) A land bank authority may convey, exchange, sell, transfer,
144 lease, grant, release, demise, mortgage or otherwise pledge or
145 hypothecate any interest in any real property held by such authority.
146 Except as may be provided in subdivision (3) of this subsection, the
147 board of directors of such authority may delegate to its staff the power
148 to contract with a legal entity for the conveyance of any such interest.

149 (2) Such board of directors shall set forth in such board's bylaws the
150 terms and conditions of any consideration to be received by such
151 authority for the conveyance of any interest in any real property held
152 by such authority, provided such consideration shall be in a form
153 deemed by such board to be in the best interest of such authority.

154 (3) The ordinance or concurrent ordinances, as applicable, adopted
155 pursuant to subsection (b) of this section may (A) establish an order of
156 priorities for the use of any interest in any real property conveyed by
157 such authority, and (B) require that certain means of disposing of any
158 such interest, or that the disposition of any such interest in certain
159 locations, be subject to different requirements for approval by the
160 board of directors of such authority.

161 (h) (1) A land bank authority may receive (A) grants or loans from
162 (i) the municipality or municipalities, as applicable, that established
163 such authority, (ii) any other municipality, (iii) the state, (iv) the
164 federal government, or (v) any other public or private source, and (B)
165 payment for (i) any service rendered, (ii) any rent or leasehold, (iii) any
166 consideration related to the disposition of any interest in real or
167 personal property held by such authority, (iv) any proceeds of

168 insurance coverage for any loss incurred, (v) any income from
169 investments, and (vi) any other asset or activity provided for under
170 this section.

171 (2) Commencing on October first immediately following the
172 conveyance of any interest in real property by a land bank authority,
173 and annually thereafter for five years, fifty per cent of the taxes
174 collected by a municipality or the state pursuant to state law on any
175 such interest so conveyed shall be remitted to such authority by such
176 municipality or the state.

177 (3) The municipality or municipalities, as applicable, that
178 established a land bank authority may provide for a supplemental fee,
179 penalty or charge to be imposed for the nonpayment by citizens of
180 such municipality or municipalities liable for property taxes assessed
181 against them. Any such supplemental fee, penalty or charge collected
182 by such municipality or municipalities shall be remitted to such
183 authority.

184 (i) (1) A land bank authority may issue limited obligation bonds,
185 pursuant to resolution of the board of directors of such authority, to
186 carry out the purposes of this section. Such resolution shall set forth
187 (A) the form and denomination of any such bond, (B) the manner of
188 sale at public sale or private sale and of delivery of such bond, (C) the
189 manner in which such bond bears interest and matures, (D) the
190 execution of such bond by one or more board members, and (E) any
191 option of such board to redeem any such bond and the manner of such
192 redemption. Such board shall publish such resolution in a newspaper
193 having general circulation within the municipality or municipalities, as
194 applicable, that established such authority.

195 (2) Such authority may pay the principal and interest of any such
196 bond, as well as the cost of issuance and any other incidental cost of
197 such bond, solely from revenues derived from the disposition of any
198 asset of such authority, except that for any refunding bond issued by
199 such board of directors, such authority may also make such payment
200 from the investment of any proceeds of such refunding bond. Any

201 such bond may be secured by a mortgage of any interest in any
202 property of such authority or by pledge of any such revenues,
203 including grants or contributions from the state or any agency thereof
204 or the federal government or any agency thereof. Any such refunding
205 bond shall not constitute under state law an indebtedness or pledge of
206 the general credit of any municipality, and shall contain a recital to
207 that effect. Any such bond shall be a negotiable instrument under state
208 law and law merchant.

209 (3) (A) Except as provided in subparagraph (B) of this subdivision,
210 (i) any such bond shall not be a debt of any municipality or of the state,
211 (ii) such bond shall contain a recital to that effect, and (iii) any
212 revenues and any interest of real property of any municipality or of the
213 state shall not be liable for any such bond.

214 (B) Any municipality that established a land bank authority may
215 guarantee, insure or otherwise become primarily or secondarily
216 obligated on the indebtedness of such authority, unless otherwise
217 prohibited by any other provision of the general statutes.

218 (4) Any bond issued by such authority, and any income derived
219 therefrom, shall be exempt from taxation by the state and by any
220 political subdivision of the state.

221 (j) The board of directors of a land bank authority may, by
222 resolution adopted by two-thirds of the total membership of such
223 board, dissolve such authority, provided such dissolution shall take
224 effect sixty days after the adoption of such resolution. Sixty days prior
225 to such board's consideration of such resolution, such board shall (1)
226 give written notice thereof to the municipality or municipalities, as
227 applicable, that established such authority, (2) publish notice thereof in
228 a newspaper having general circulation in such municipality or
229 municipalities, and (3) send notice thereof by certified mail to the
230 trustee of any outstanding bond of such authority. Each interest in real
231 or personal property and each asset of such authority at the time of
232 dissolution shall inure to the benefit of such municipality or
233 municipalities, as applicable. If two or more municipalities established

234 a land bank authority pursuant to this section, the withdrawal of one
 235 such municipality shall not dissolve such authority unless (A) the
 236 concurrent ordinances entering such municipalities into an
 237 intergovernmental cooperation agreement so provides, or (B) no such
 238 municipality wishes to continue the existence of such authority.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section

Statement of Legislative Commissioners:

In Subsec. (c)(2), "in" was deleted in the last sentence for clarity and "(4)" was changed to "(3)" for accuracy; in Subsec. (e)(1)(B), "please" was changed to "plead" for accuracy; in Subsec. (e)(1)(J), "and" was changed to "or" for accuracy; in Subsec. (i)(1)(D), "more" was inserted before "board members" for accuracy; in Subsec. (i)(3)(B) "state law" was changed to "any provision of the general statutes", for clarity; and in Subsec. (j), "of" was inserted before "dissolution" in the penultimate sentence for clarity.

PD *Joint Favorable Subst. -LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 20 \$	FY 21 \$
Resources of the General Fund	GF - Revenue Loss	Potential	Potential

Note: GF=General Fund

Municipal Impact: See Below

Explanation

This bill establishes a framework for municipalities, either on their own or jointly with other municipalities, to create nonprofit land bank authorities to acquire, maintain, and dispose of real property.

The bill results in a potential grand list reduction to municipalities that establish land bank authorities by exempting properties owned by land banks from property taxes. Any grand list reduction would vary based on the value of the property before it was purchased by the land bank.

The bill also results in a potential revenue loss to the state and municipalities by 1) requiring both to remit 50% of any real estate conveyance taxes collected on property conveyed by a land bank authority and 2) exempting any income derived from properties held by land banks from state taxes. Any revenue loss would vary based on the number of properties acquired by land banks, their value, and any related income generated.

The bill allows a municipality that establishes a land bank to guarantee or insure the indebtedness of the authority. A municipality that chose to do this would incur debt service costs in the out years if

the authority ever disbanded.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of land banks established and their associated activities.

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)