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**MICHIGAN LAND BANK &
COMMUNITY DEVELOPMENT
ACT, AUTHORITY, & FUND**

House Bill 4480

Sponsor: Rep. David Robertson

House Bill 4481

Sponsor: Rep. Alma Stallworth

House Bill 4482

Sponsor: Rep. Gene DeRossett

House Bill 4483

Sponsor: Rep. Chris Kolb

House Bill 4484

Sponsor: Rep. Edward Gaffney

House Bill 4488

Sponsor: Rep. Ruth Ann Jamnick

**Committee: Land Use and Environment
Complete to 6-13-03**

House Bills 4480- 4484 and 4488 (6-13-03)

A SUMMARY OF HOUSE BILLS 4480 - 4484 AS INTRODUCED 3-27-03 AND HOUSE BILLS 4488 AS INTRODUCED 4-1-03

These bills would create the Michigan Land Bank and Community Development Act, and establish the Land Bank and Community Development Fund, and Michigan Land Bank and Community Development Authority, and provide for the creation of municipal land bank and development authorities in order to assist governments with the acquisition and redevelopment of land within their jurisdictions that does not have clear title, customarily due to tax liens on the property. Five of the six bills—all except House Bill 4484—are tie-barred to each other so that none could become law unless the others also were enacted. The tie-barred bills are House Bills 4480, 4481, 4482, 4483, and 4488. A detailed description of each bill follows.

The package of bills would, in brief, do the following.

- Create 1) a land bank authority at the state level; 2) a metropolitan land bank authority for a city with a population of at least 750,000 (Detroit); and 3) allow for the creation of other land bank authorities at the county or multi-jurisdictional local level under certain circumstances. Each kind of authority would be authorized to enter into an interlocal agreement with the other for the joint exercise of powers and duties. The land banks, generally speaking, would acquire, assemble, dispose of, and quiet title to tax-reverted (and other) property.

- Allow a land bank to initiate an expedited quiet title and foreclosure action to quiet title to real property the land bank held. The process provided would allow a land bank to file a

single petition with a circuit court listing all property (within the court's jurisdiction) subject to expedited foreclosure and for which the land bank sought to quiet title. The process would require title searches and notification of those discovered to have an interest in the property.

- Create a program under which a specific tax would be levied in lieu of property taxes on property sold by a land bank, with 50 percent of the revenue from the specific tax to be used by the land bank, among other things, to cover the costs to clear or quiet title to property held by the land bank or to repay loans made by the state for use in clearing titles. The remaining 50 percent of revenue would be disbursed to the state, cities, school districts, counties, and authorities in the same manner and in the same proportions as property taxes are disbursed. The amount of the specific tax to be collected from a parcel would be the same as the amount that would have been collected from the levying of property taxes. Allow the state treasurer to invest surplus funds in loans to land banks for the purpose of clearing or quieting title to tax reverted property held by or under the control of a land bank

- Establish additional procedures for a foreclosing governmental unit to follow in attempting to determine the address of a person with an interest in property, as part of the delinquency, foreclosure, and forfeiture procedures for property taxes. (Those procedures would also be included in the new act creating land banks.)

- Allow the governor by executive order to transfer to the authority tax reverted property to which the state held title, and the state administrative board would be required by the legislation to transfer certain specified parcels of surplus state property in the Detroit area to the new state authority. Generally, tax reverted property and tax delinquent property held by a qualified city (a city of at least 750,000 population, meaning Detroit) would be transferred to the new metropolitan authority automatically with the appointment of authority board members. (The mayor could act to rescind a transfer of a parcel or parcels within 60 days of the transfer.)

- Put into statute a legislative finding regarding the operation of land banks and the assembly and disposal of public property. The finding would say, among other things, that "it is in the best interests of this state and local units of government . . . to assemble and dispose of public property, including tax reverted property, in a coordinated manner to foster the development of that property and to promote economic growth . . . It is declared to be a valid purpose for a land bank . . . to acquire, assemble, dispose of, and quiet title to property . . . [and] to provide for the financing [of those activities]".

House Bill 4483 would create a new act, the Michigan Land Bank and Community Development Authority Act. The act would contain three chapters: Chapter Two would create a new state land bank authority to be directed by a five-member board of directors appointed by the governor, with one member approved by the mayor of Detroit. Chapter Three would create a metropolitan land bank authority in a city with a population of at least 750,000 (Detroit) upon the appointment of a five-member board of directors by the city's chief executive officer (the mayor), with one member approved by the governor. Each kind of authority would be authorized to enter into an interlocal agreement with the other for the joint exercise of powers and duties. Chapter Three also would permit (in some cases) a county to create a metropolitan authority by resolution of the county board of commissioners and would permit two or more cities, villages, townships, or counties to enter into an intergovernmental agreement providing for the creation of a metropolitan authority if there were at least 250 parcels of tax reverted

property within the area covered by the interlocal agreement. Chapter One would contain general provisions pertaining to the operation of the land banks created by the other two chapters. Included would be provisions setting forth an expedited quiet title and foreclosure process that a land bank could initiate in order to quiet title to real property that it held. Under these provisions, a land bank could file a single petition in circuit court listing all property (within the court's jurisdiction) subject to expedited foreclosure and for which the land bank sought to quiet title.

House Bill 4483 contains extensive provisions regarding the powers and operations of the state and metropolitan land banks. A land bank could, generally speaking, "do all things necessary or convenient to implement the purposes, objectives, and provisions" of the new act. In the exercise of its powers and duties, an authority would have complete control as fully and completely as if it represented a private property owner and would not be subject to restrictions imposed by the charter, ordinances, or resolutions of a local unit of government. However, a land bank specifically could not levy any tax or special assessment; could not exercise the power of eminent domain or condemn property; and could not expend any funds for, or related to, the development of a casino.

House Bill 4480 would amend the Brownfield Redevelopment Financing Act (MCL 125.2652 et al) to enable the tax increment financing board that implements a 'brownfield' plan' to include, as an eligible activity, assistance to a land bank in clearing or quieting title to and disposing of property owned or held by a land bank, or property over which the land bank may exercise its authority under the Michigan Land Bank and Community Development Act.

The Brownfield Redevelopment Financing Act permits a brownfield authority (established by a municipality) to capture property tax revenue based on increases in the assessed value of eligible property, and to use the revenue for the costs of eligible activities on eligible property. Under the bill, for property owned by or under the control of a land bank, or over which a land bank could exercise its authority, tax increment revenues related to a brownfield plan could be used for the following: a) eligible activities attributable to any eligible property owned by or under the control of the land bank or over which the land bank could exercise authority; b) the cost of principal and interest on any obligation issued by the brownfield authority to pay the costs of eligible activities; c) the reasonable costs of preparing a work plan or remedial action plan; and d) the actual cost of the review of the work plan or remedial action plan.

Currently under the law, a 'brownfield plan' must contain 14 components, each providing particular kinds of information, including but not limited to 1) a brief summary of the eligible activities proposed for each property, and 2) an estimate of the captured taxable value and tax increment revenues for each year of the plan and from each parcel of eligible property. Under the bill, these provisions would be retained, and each would be specifically applied to eligible property that qualified on the basis that the property was owned or held by a land bank, or that the land bank could exercise its authority over.

Under the law, a brownfield authority must determine the captured taxable value of each parcel of eligible property that is included in a brownfield zone. The calculation of captured taxable value is based on the amount by which the current taxable value of eligible property,

including property for which specific taxes are paid in lieu of property taxes, exceeds the property's initial taxable value. The definition of 'initial taxable value' specifies that property exempt from taxation at the time that initial taxable value is determined must be zero, but property for which a specific tax is paid in lieu of property tax is not considered tax exempt. Under the bill, the definition of "specific taxes" would include 'that portion of the tax levied under the proposed Tax Reverted Property Clean Title Act that was not required to be distributed to a land bank.'

Under the bill, the definition for "blighted property" would be expanded to mean property owned or under the control of a land bank. Further, the bill specifies that the sale, lease, or transfer of the property by a land bank after the property's inclusion in a 'brownfield plan' would not result in the loss to the property of its status as "blighted" for the purposes of the act.

House Bill 4481 would amend the General Property Tax Act (MCL 211.1 et al) to specify that the governing body of a local tax collecting unit could adopt a resolution (subsequently filed with the State Tax Commission) to exempt the collection of taxes for eligible tax reverted property. If a resolution was adopted, an exemption would be effective for any parcel sold by the local tax collection unit beginning on December 31 in the year in which the parcel was sold, and continuing until December 31 five years after the initial exemption was granted. The bill specifies that property exempt would be subject to the specific tax levied under the Tax Reverted Clean Title Act. Under the bill, "eligible tax reverted property" would mean property that met all of the following conditions: a) was returned as delinquent for taxes levied before January 1, 1999; b) was subject to disposition, sale, and redemption for the enforcement and collection of the tax liens in the method and manner provided in sections 60 and 77; c) the title to which was transferred to the local tax collecting unit as a result of the nonpayment of the tax liens; and d) was sold by the local tax collecting unit, and as a result of that sale, if not for the exemption under this section, would be placed on the tax roll and would be subject to the collection of taxes under this act.

House Bill 4482 would create a new act known as the Tax Reverted Clean Title Act, and specify that eligible tax reverted property (property sold by a land bank) be exempt from ad valorem property taxes collected under the General Property Tax Act. Under the bill, the assessor of each local tax collecting unit would determine annually, as of December 31, the value and taxable value of each parcel of eligible tax reverted property, and furnish that information to the legislative body of the tax collecting unit. Then there would be levied upon every owner of tax reverted property, a specific tax to be known as the 'eligible tax reverted property specific tax'. The amount of this tax in each year would be equal to the amount of tax that would have been collected on the parcel under the General Property Tax Act.

The bill specifies that the 'eligible tax reverted property specific tax' would be collected, disbursed, and assessed in accord with this act. The tax would be annual, and payable at the same times, in the same installments, and to the same officers as taxes imposed under the General Property Tax Act. The tax payments received each year would be disbursed as follows: a) 50 percent to and among the state, cities, school districts, counties, and authorities, at the same times and in the same proportion as required by law for the disbursement of taxes collected under the General Property Tax Act, and b) 50 percent to the local tax collecting unit in which the tax

reverted property was located. There the taxes disbursed would be used to clear title on eligible tax reverted property within that local tax collecting unit, or to repay a loan made under House Bill 4488.

For intermediate school districts that receive aid under sections 56, 62, and 81 of the State School Aid Act, the bill specifies that of the amount of 'eligible tax reverted property specific tax' that would otherwise be disbursed to an ISD, all or a portion (to be determined on the basis of the tax rates being utilized to compute the amount of state aid) would be paid to the state treasury, and credited to the State School Aid Fund. The amount that would otherwise be disbursed to local school districts would be paid instead to the state treasury and credited to the State School Aid Fund. The bill would require that the officer send a copy of the amount of disbursement made to each unit to the State Tax Commission, on a form provided by the commission.

The bill specifies that eligible tax reverted property that is located in a renaissance zone under the Michigan Renaissance Zone Act would be exempt from the 'eligible tax reverted property specific tax', to the extent and for the duration provided in that act, except for that portion of the 'eligible tax reverted property specific tax' attributable to a tax described in section 7ff(2) of the General Property Tax Act 211/7ff . [Under that section, property in a renaissance zone is not exempt from collection of 1) a special assessment levied by the local tax collecting unit; 2) property taxes specifically levied to pay obligations approved by the electors or pledging the unlimited taxing power of the local unit; or 3) a tax levied under provisions of the Revised School Code that permit school districts to levy a regional enhancement property tax for district operations; up to three additional mills for enhanced operating revenue; and up to five mills to create a sinking fund for school sites or building repair or construction.]

Finally, the bill also specifies that the amount of the 'eligible tax reverted property specific tax' applicable to real property, until paid, would be a lien on that property. Proceedings on that lien, as provided by law for the foreclosure in the circuit court of mortgage liens, could start only upon the filing by the tax collecting officer, of a certificate of nonpayment of the 'eligible tax reverted property specific tax', together with an affidavit of proof of service of that nonpayment certificate upon the owner of the property by certified mail, filed with the register of deeds on the county where the property is located.

House Bill 4484 would amend the General Property Tax Act (MCL 211.78i et al) to revise the notice requirements that governmental units currently use in order to provide notice to delinquent property tax holders.

The General Property Tax Act provides that, by May 1 immediately following the forfeiture of property to a county treasurer, the foreclosing governmental unit must initiate a title search to identify the owners of a property interest, who are entitled to notice of a show cause hearing and a foreclosure hearing. The bill would retain this provision, but allow the foreclosing governmental unit to obtain a title search "or other title product from one or more authorized representatives." Under the bill, "authorized representative" includes a) a title insurance company or agent licensed to conduct business in the state; b) an attorney licensed to practice in the state; c) a person accredited in title search procedures by a nationally recognized

organization; and d) a person with demonstrated experience in the field of title searching, as determined by the Department of the Treasury.

The bill describes the steps a governmental unit must follow to ensure that notice is given, and each protocol depends upon whether the notice must reach property owners who are individuals, partnerships, corporations, limited partnerships, limited liability partnerships, or limited liability companies. Under the bill, officials would be required to search phone books, the records in the office of the county register of deeds, tax records in the office of the county treasurer, records in the offices of both the local assessors and local treasurers, and the Department of Treasury. The types of notice include certified mail, personal service, personal visits, the conspicuous posting of the notice on the property, and publication in the local newspapers for three successive weeks. If occupants of the property were encountered, and they appeared to lack the ability to understand their rights, the person serving notice would be required to notify the Family Independence Agency, or provide the occupant with the names and telephone numbers of the agencies that could assist the occupant.

The bill also describes the contents of the notice, and specifies that one hearing must be held for each owner of a property interest who was entitled to notice, allowing the property owner to ‘show cause’ why the tax sale and the deed to the governmental unit should be canceled.

The bill specifies that if the owner of a property interest is accorded the minimum due process required under the state constitution, then the Department of Treasury’s failure to comply with the notice provisions described in the bill would not invalidate any proceedings under the act. Further, the property owner who claimed he or she did not receive any notice would be prohibited from bringing an action for possession of the property against any subsequent owner, and could only bring an action to recover monetary damages. An owner could file a claim with the Department of Treasury, and an informal conference would be conducted. The owner could appeal a decision of the department to the Court of Claims. However, an action for money damages could not be brought more than two years after the hearing. The bill specifies that any money damages recoverable could not exceed the fair market value of the property on that date.

House Bill 4488 would amend Public Act 105 of 1855 which regulates the disposition of the surplus funds in the state treasury (MCL 21.144) to specify that the state treasurer may invest surplus funds in loans to land banks at the market rate of interest, for the purpose of clearing or quieting title to tax reverted property held by or under the control of a land bank. Under the bill, a loan made to a land bank could not be for a period of more than 10 years, and all other terms of the loan, including security if any, would be prescribed by the state treasurer. The bill specifies that loans made under this act would not be subject to the Revised Municipal Finance Act (Public Act 34 of 2001) but would be subject to the Agency Financing Reporting Act (Public Act 470 of 2002). Finally, the bill specifies that as used in this section, “land bank” and “tax reverted property” mean those terms as defined in the Michigan Land Bank and Community Development Act.

Analyst: J. Hunault

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.