Land Banks:
An Urban Innovation
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Executive Summary

This paper presents the findings of the student group that engaged in a research project on behalf of the Albany County Land Bank and the Capital Region Land Bank as part of a joint class offered by Albany Law School and the Rockefeller College of Public Affairs & Policy. The first section of the paper discusses the causes and effects of blight, which is land incapable of being beneficial to a community without outside intervention. This paper then provides an overview of the history and purpose of land banks within the United States, with a focus on the powers granted to land banks in New York State and the land banks’ impact on blight.

The following section examines the funding predicament that land banks face: although land banks provide tremendous benefit to communities, much of these benefits are difficult to quantify, capture, and communicate. For example, ascertaining the true measure of the land bank’s efforts to eliminate blight is challenging because the value is disbursed among so many different individual groups, such as the neighbors whose properties rise in value because of the removal of the blighted property. Upon examining the various value types that land banks create, we focused on the economic value and impact on quality of life.

Part of the economic value land banks generate is spotlighted in interviews with local residents, and the impact of land banks upon the communities they serve was captured using preliminary data collection and analysis. Through this analysis, we found that each land bank property effectively increases the value of surrounding properties by 5%. When one adds the value that comes from eliminating a blighted property, that value “swing” is a positive 10% increase, and this is to all neighboring properties, not just those renovated by the land banks.

The impact of land banks on quality of life was determined by analyzing how blighted properties—the properties land banks are designed to remove—affect the livability of an area, with particular emphasis on how blighted properties alter physical safety and the proximity to natural living environments, which land banks are a driving force in creating. We found that the properties land banks develop into community gardens and parks likely increase the value of surrounding property. Similarly, we determined that land banks create value both by eliminating blight, but also by reducing the intervention of police and fire services and by fostering the effective use of vacant property. We recommend that the land banks requisition additional research to analyze the direct impact of land banks on how neighborhoods are affected by increases in green space and safety and security. Additionally, analyzing and surveying different stakeholder groups could be useful for land banks when advocating for funding.

The long-term, economic viability of land banks is next examined. We discuss prevailing models for financing land banks and describe four mechanisms that could benefit New York land banks: Integrated Code Enforcement—which promotes collaboration between code enforcement, community partners, and land banks; Expedited Site Control, which aims to decrease the length of time properties remain in a state of deterioration prior to being acquired by a land bank; 5-year, 50% Tax Recapture, the funding mechanism by which land banks receive 50% of the taxes collected on properties they sell; and Delinquent Tax Assessment & Collection, through which land banks could receive a portion of the penalties paid by property owners delinquent on their taxes. We found that integrating code enforcement can be highly beneficial to New York’s land banks by spurring the engagement of
community stakeholders and streamlining a coordinated community approach to blight. Additionally, integrating code enforcement can save municipalities money through the creation of unified code enforcement systems and operations. Similarly, 5-year 50% Tax Recapture provisions can serve as a suitable, long-term, land bank funding mechanism if amendments are made to New York’s laws to change the tax recapture program’s implementation from permissive to mandatory. Expedited Site Control can be established in New York with the creation of an expedited tax foreclosure process mirroring that contained in the zombie property legislation; the framework of New York’s process can incorporate the beneficial aspects of the expedited foreclosure processes established in Michigan, Ohio, and Maryland. Similarly, allowing land banks to benefit from the funding streams created by delinquent property owners can serve as another suitable means of funding for land banks in the long term.
1.0 Introduction

1.1 Law and Urban Innovation

This research is the result of the work carried out by students enrolled in the course “Law and Urban Innovation: Creative Problem Solving,” a joint course between Albany Law School and the Nelson A. Rockefeller College of Public Affairs & Policy at the University at Albany. The class was taught by Professors Ray Brescia (Albany Law) and Meghan Cook (Rockefeller College). The course examined how critical problem solving is used in legal practice, advocacy, and nonprofit management and began with studies of how those in the legal profession use a range of tools when they address a range of social issues. We, the students of this joint course, then participated in a group project focused on land banks, which resulted in this White Paper and a presentation for community partners, elected officials, and invited guests.

Adam Zaranko, Executive Director of the Albany County Land Bank Corporation; and David Hogenkamp, Executive Director of the Capital Region Land Bank were our project partners and provided critical advice, insights, and guidance throughout the entire semester.

1.2 Purpose of Project

The project purpose was to assist the land banks, in both the Capital District, and throughout the state, by exploring the legal and fiscal environment in order to provide recommendations to secure dedicated funding sources. More specifically, the project had three goals to explore and make recommendations about the:

- Public value that land banks bring to their stakeholders;
- The ideal legal environment in which land banks function;
- Long-term funding alternatives that would allow land banks to operate in a sustainable fashion.
This paper presents not only the project results but sets forth information on why land banks were created and how they have had an impact on NYS. It details the issues of blight, the background and history of land banks in both NY and the US, the authority of land banks, and then the results of the semester-long work to expand the public value proposition, suggest changes to the statute and laws, and identify mechanisms for dedicated funding in NYS. Ultimately, we believe the recommendations offered in this paper will help the Albany County Land Bank Corporation and the Capital Region Land Bank serve as sustainable models for land banks in New York State.

1.3 Blight

Blight is a problem that affects cities and towns of all sizes across the United States. The term “blight” is generally used to describe vacant and abandoned properties, houses in disrepair, and environmental contamination.1 Blight can be defined as “land so damaged or neglected that it is incapable of being beneficial to a community without outside intervention.”2 Often caused by mortgage or tax foreclosure, the problem of blight intensified due to the economic recession that began with the subprime mortgage crisis in 2007. Over time, communities have suffered the negative economic and social impacts of this neglect. A blighted building decreases neighboring property values and burdens local governments due to the high costs of maintenance or demolition local governments may incur as a result of a blighted property, while the real estate taxes on such properties typically go unpaid. Furthermore, blight disproportionately affects marginalized communities—often low-income communities of color— that may already face issues of violence, hold little political power, and have limited access to effective social networks and are often denied access to effective public services.3

2 Id.
3 Id.
Nevertheless, despite these problems caused by blight, communities, governments and non-profit organizations have been working for decades to address the issues created by blight through different programs and policies. Cities enforce building codes, non-profits work with individuals to prevent foreclosures, neighborhoods organize community clean-ups and greening initiatives and land banks make sure tax-foreclosed properties become beneficial to their communities.

1.4 A Brief History of Land Banking in the United States

By the mid-20th century, the industrial boom of the late 19th and early 20th centuries had started to wane, and jobs were leaving formerly bustling industrial cities. To combat the new blight problem, cities began turning to land banks. Land banks are quasi-public authorities, authorized by state legislation, to acquire, maintain, rehabilitate, sell, and/or repurpose tax foreclosed, vacant and abandoned property, with the intents of improving neighborhoods and returning property back to tax rolls.

The first land bank, St. Louis (MO) Land Reutilization Authority, was established in 1971 to sell tax-delinquent properties that went unsold at Sheriff's auctions. Ohio passed its first legislation in 1976, and expanded its legislation in 1988, to include expedited tax foreclosure and to allow tax abatements on land bank properties.

Michigan passed some of the most “progressive” land banking legislation in 2003. After the Genesee County (MI) Land Bank Authority proved successful and became a model for other land

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6 U.S. DEP’T OF HOUS. & URBAN DEV., supra note 4.
7 Id.
8 Id.
banks around the country,9 land banks caught on as an effective and reliable tool to combat blight.10 The U.S. Department of Housing and Urban Development (HUD) issued a report, “Revitalizing Foreclosed Properties with Land Banks,” in August 2009, endorsing land banks as a way to revive abandoned and tax foreclosed properties.11

According to the Center for Community Progress, there are approximately 170 land banks currently operating in the United States, and it ranks Michigan, Ohio and New York as having the most active land banks.12 This total number is up from 75 in 2015, a nearly 120% increase in just the last three years.13

1.5 Land Banking in New York State

On July 29, 2011, Governor Andrew Cuomo signed into law the Land Bank Act (the Act), allowing foreclosing governmental units (FGU) to create land banks.14 The Act was added to the Not-For-Profit Corporation Law.15 The bill passed the Senate unanimously, and passed the Assembly by a vote of 130-11.16 The majority of assembly members voting against the bill represented various parts of New York City, with the members from the 145th District (Buffalo) and 125th District (Ithaca) joining the nay vote.17 The state legislature, in enacting the Land Bank Act, described its legislative purposes as follows:

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10 U.S. DEP’T OF HOUS. & URBAN DEV., supra note 4, at 2.
11 Id.
14 Id. at 1.
15 N.Y. NOT-FOR-PROFIT CORP., § 1600.
16 Bill Jacket, supra note 13, at 2.
17 Id. at 3–4.
A crisis exists in many Upstate New York cities and their metro areas caused by disinvestment in real property and resulting in a significant amount of vacant and abandoned property . . . Problems associated with abandoned property include crime, fire, disease, and diminished value of surrounding properties. Abandoned property creates a haven for illicit and dangerous activity . . . This bill seeks to solve the problems of vacant and abandoned property in a coordinated manner and to foster the development of such property and promote economic growth.\[18\]

1.5.1 What the Land Bank Act Authorizes

FGUs are defined as “tax districts,” according to the New York Real Property tax laws,\[19\] and include counties, except where cities and towns carry out tax foreclosures according to county code; and cities, towns and villages, except where the county carries out tax foreclosures according to city charter or county code.\[20\] To create a land bank, an FGU only needs to pass appropriate ordinances or resolutions authorizing its creation.\[21\] While school districts are authorized to impose property taxes, they are not considered a tax district in relation to land banks. However, school districts may opt to participate in a land bank with an intergovernmental cooperation agreement with either an FGU or an existing land bank.\[22\]

The Act makes land banks a type-c not-for-profit,\[23\] which is a not-for-profit, charitable corporation seeking a lawful public or quasi-public objective.\[24\] The reasoning behind this is that local governments may not create municipal authorities without legislative action.\[25\] The Land Bank Act authorizes the following for land banks and FGUs.

- Land banks are not required for tax districts;\[26\]

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\[19\]Id. at 14.

\[20\]N.Y. REAL PROP. TAX, § 1102.

\[21\]Bill Jacket, supra note 13, at 14.

\[22\]N.Y. NOT-FOR-PROFIT CORP., § 1603(e).

\[23\]Bill Jacket, supra note 13, at 14.

\[24\]N.Y. NOT-FOR-PROFIT CORP., § 1603.

\[25\]See N.Y. REAL PROP. TAX, § 1102.

\[26\]N.Y. NOT-FOR-PROFIT CORP., § 1603(a).
• Create a land bank with another tax district;\textsuperscript{27}

• Contract with municipalities for services, including staff;\textsuperscript{28}

• Create a selection method for board members;\textsuperscript{29} and

• Purchase other real property consistent with its approved redevelopment plan.\textsuperscript{30}

Land banks are required to fulfill the following:

• Maintain an inventory of acquired property and keep it available for public review;\textsuperscript{31}

• Maintain property according to municipal law;\textsuperscript{32}

• Acquire approval for its redevelopment plan from the authorizing FGU(s); and

• Land Bank Boards of Directors must have at least five but no more than eleven members, and must maintain an odd number of members.\textsuperscript{33}

Land Banks are limited in the following ways:

• Land banks do not have the power of eminent domain;\textsuperscript{34}

• Land banks are not permitted to own property outside the authorizing FGU(s)’ jurisdiction;\textsuperscript{35}

and

• Land banks must be approved by the Urban Development Corporation and can be audited by either the Authority Budget Office or the State Comptroller’s Office.\textsuperscript{36}

Land banks have authority to operate as not-for-profit entities, which acquire and sell property, but their powers are not unrestricted. There is still oversight by the state legislature and the FGU(s) which created the land bank.

\textsuperscript{27} N.Y. NOT-FOR-PROFIT CORP., § 1603(b).
\textsuperscript{28} N.Y. NOT-FOR-PROFIT CORP., § 1606.
\textsuperscript{29} N.Y. NOT-FOR-PROFIT CORP., § 1605.
\textsuperscript{30} N.Y. NOT-FOR-PROFIT CORP., § 1608.
\textsuperscript{31} N.Y. NOT-FOR-PROFIT CORP., § 1609.
\textsuperscript{32} N.Y. NOT-FOR-PROFIT CORP., § 1608.
\textsuperscript{33} N.Y. NOT-FOR-PROFIT CORP., § 1605.
\textsuperscript{34} N.Y. NOT-FOR-PROFIT CORP., § 1607.
\textsuperscript{35} N.Y. NOT-FOR-PROFIT CORP., § 1608.
\textsuperscript{36} N.Y. NOT-FOR-PROFIT CORP., § 1603.
When first enacted, the Act authorized the creation of ten land banks. On several occasions, the New York State Legislature has increased the number of land banks allowed in the state, including the most recent increase in 2018. New York can now have up to twenty-five land banks. Currently, there are twenty-four land banks in operation in New York State. (See Appendix B for the list of land banks.)

1.6 Land Bank Impact to Date in New York State

Land banks have made a significant impact on community life in New York State. The following accomplishments demonstrate the impact of New York State land banks since the first land banks were formed in 2012:

- 2,000 problem properties have been acquired, largely through the tax-foreclosure process;
- 482 unsafe structures were demolished;
- 400 structures renovated or stabilized;
- $77 million in private investment was made that returned $28.4 million in assessed value to the tax rolls

As the above demonstrates, New York State now has an active network of land banks that have accomplished a lot in the six years since the first land banks were formed in New York. However, we believe land banks can do more to demonstrate how they have improved the communities in which they operate.

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37 N.Y. Not-for-Profit Corp. Ch. 35, §1603(g) (2011) (amended 2014).
38 N.Y. Not-for-Profit Corp. Ch. 35, §1603(g) (2017).
1.7 Our Focus – Albany, NY & Schenectady, NY

Throughout this project, we have worked closely with two of the New York State land banks: the Albany County Land Bank, which serves Albany County, and the Capital Region Land Bank, which serves Schenectady County and the City of Amsterdam. These organizations consistently provide their respective communities with significant benefits. For example, from July 2016 through June 2017 alone, the Albany County Land Bank acquired 470 properties, sold 73 vacant and abandoned properties, fully renovated 39 buildings, stabilized 26 buildings, improved 94 vacant lots, and demolished 17 blighted buildings.\footnote{\textit{Albany Cty. Land Bank Corp.}, 2016/2017 Annual Report 8 (2017).}

In just one neighborhood, the Capital Region Land Bank has renovated 10 vacant properties, improved the facades of 6 buildings, demolished 25 blighted buildings, established Tribute Park on the site of formerly vacant and abandoned buildings, and has done asbestos abatement in several properties.\footnote{\textit{Capital Region Land Bank Wins $1.7 Million Grant}, \textit{Downtown Schenectady Improvement Corp.}, (Mar. 27, 2017) \url{http://downtownschenectady.org/capital-region-land-bank-wins-1-7-million-grant/}.} Furthermore, the land bank has worked on several large-scale projects in Schenectady. It has converted St. Mary’s Church into a restaurant and banquet facility, created apartments in a former County building, and renovated the Schaeffer Senior Center building.\footnote{\textit{Metroplex and Land Bank Approve More Eastern Avenue Renovations}, \textit{Downtown Schenectady Improvement Corp.}, (Jan. 25, 2018) \url{http://downtownschenectady.org/metroplex-land-bank-approve-eastern-avenue-renovations/}.}

Albany and Schenectady were the focus of the project so that we could explore in a local context the public value proposition and identify the most appropriate funding and legal mechanisms to ensure long-term, viable funding for all land banks in NYS.

1.8 Inflection Point

Land banks provide a wide range of benefits to the communities that they serve. Some of these benefits are easily ascertained by way of qualitative and quantitative data, while other benefits
are not as easily shown. Notwithstanding the difficulty of showing some of the benefits that land banks provide, one thing that is clear is that land banks are vital. However, in order to allow New York State land banks to continue their good work, they will need some help. The original funding provided to the land banks across the state in 2011 is almost completely depleted, and, as a result, the leadership of New York’s land banks are trying to figure out potential sources of future, dedicated funding.

The remainder of this paper will present the results of the exploration into public value proposition as well as the legal and funding mechanisms that were identified. Through these findings and recommendations, this paper will also present why NYS should want land banks to remain in existence and how that goal can be accomplished.

2.0 Expanding the Value Proposition

2.1 New Ways to Justify Value Land Banks Bring to Communities

The following sections illustrate the broad public value that land banks bring to the neighborhoods. Since land banks operate within a business model that does not lend itself to a strict Return on Investment (ROI) approach, identifying the multiple types of value that accrue within in a neighborhood is essential to fully understand the impact of land banks. Public value is an area of study that has been the focus of many public administration scholars for decades but for the purposes of this work, the class used the public value framework developed by the Center for Technology in
This model identifies that there are seven public value types that can be realized by stakeholders, those include:

- **Social Value** - Family or community relationships, social mobility, status, identity
- **Political Value** - Personal or corporate influence on government and politics
- **Quality of Life Value** - Security, health, recreation, personal liberty
- **Stewardship Value** - Public’s view of government officials as faithful stewards
- **Ideological Value** - Alignment of beliefs, moral or ethical values with government actions or outcomes
- **Economic Value** - Income, asset values, liabilities, entitlements, and risks to these
- **Strategic Value** - Economic or political advantage or opportunities, goals, resources, for innovation or planning.

For the purposes of this class, we chose two public value types that would serve as the focus of the public value impacts of land banks: the economic value and the quality of life value. We chose these because land banks gather data to highlight their direct impact, but do not currently capture reliable data to show how their target neighborhoods as a whole change over time. Although this change is palpable and recognized by stakeholders in both Albany and Schenectady, such knowledge is largely anecdotal and difficult to capture. Land banks must not limit themselves in their efforts to find sustainable funding solutions. Nor should they fail to capture data to prove that the land banks’ own investments make a real impact on the communities in which they operate and often leverage limited funds to inspire neighborhood investment beyond the properties owned by the land bank. The following sections detail the exploration and identification of how the land banks have had both an economic and quality-of-life impact on the communities they serve.

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2.2 Economic Value of the Land Banks

2.2.1 What We Know

Vacant and abandoned properties in an area can greatly decrease the property value of homes on the same street, and even decrease the property value for all homes in the surrounding neighborhood. These vacant and abandoned properties have little to no traditional real estate value, but once these properties are acquired by land banks and these land banks renovate and improve the properties, they gradually gain real estate value. A general increase in property values in any given area served by a land bank also increases the overall stability of the neighborhood. In addition to the fact that renovating properties on any given block increases the real estate values for that particular area, it also increases the morale of nearby residents and encourages them to also make improvements and renovations to their own properties in the neighborhood.45

Blight also greatly affects taxpayers and the jurisdictions where blighted properties are located. Such conditions decrease nearby property values, which, in turn, decreases tax revenue for the jurisdiction while simultaneously placing a great financial burden on neighboring residents. In many instances, residents in that tax jurisdiction must make up for the reduced overall tax revenue caused by vacant, abandoned, and tax-foreclosed properties. Blighted properties also demand frequent attention from local police, fire, and code enforcement personnel, creating even greater strain on public resources.46

Under New York State law, land banks are able to acquire tax-foreclosed properties, a major contributor to blight, and often are not required to pay full back taxes on the properties that they acquire. These once blighted assets will eventually increase in value and be sold, returning them to the tax rolls and productive use.

45 CTR. FOR CMTY. PROGRESS, supra note 31.
46 Id.
From July 2016 to June 2017, the Albany County Land Bank Corporation invested $1,291,148 in property improvements which resulted in 26 stabilizations of deteriorated structures, 39 full rehabilitations of vacant buildings, and 17 demolitions of blighted structures. The Albany County Land Bank Corporation improved 44 vacant lots, which represented a 132% increase in the number of vacant lots improved over the previous year. As of 2017, the Albany County Land Bank Corporation had sold 73 previously vacant and abandoned properties; 60% of all the buildings were sold to owner-occupants with 47% of all sales in low-income focus neighborhoods.47

The Albany County Land Bank Corporation also helped generate $3,032,026 in private investment and returned $2,529,493 to the tax rolls.48 Additionally, the Albany County Land Bank Corporation has calculated that it produces a combined value of $13.50 for every dollar of direct operating funds provided by Albany County.49 As a relatively young organization (founded in 2014), the Albany County Land Bank Corporation is able to do more each year—acquire more properties, maintain more properties, sell more properties, and generate more economic value for Albany County.

These statistics capture the economic impact of land bank properties in Albany County, but fail to capture the impact of the activity inspired by the Albany County Land Bank Corporation’s efforts, especially in priority neighborhoods like Arbor Hill and the South End.

2.2.2 Research and Findings

In an effort to expand the knowledge on the economic value created by land banks, we have attempted to measure the increase in property values throughout an entire neighborhood due to land

48 Id.
49 Id.
bank activity, as opposed to the increase in property value of only land bank properties. To do this, we focused on the neighborhood surrounding Eastern Avenue in Schenectady:

![Figure 1: Eastern Avenue Neighborhood, Schenectady](image)

By conducting a thorough search of the properties in the Eastern Avenue neighborhood on Realtor.com, we were able to select several properties that have sold twice since the land bank was founded and calculate the average increase in property value of those properties over time. We focused on Schenectady because the Capital Region Land Bank has been operating two years longer than the Albany County Land Bank, providing two additional years of data. As such, there were more properties in the Schenectady neighborhood that had been sold twice, which gave us the most accurate
data from which to work. The following table shows the increase in value realized by ten properties within the target neighborhood of the Eastern Avenue Corridor:

<table>
<thead>
<tr>
<th>Property Address</th>
<th>1st Sale Date</th>
<th>1st Sale Price</th>
<th>2nd Sale Date</th>
<th>2nd Sale Price</th>
<th>% Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>111 Elmer Avenue</td>
<td>4/26/2013</td>
<td>$133,000.00</td>
<td>3/22/2018</td>
<td>$152,110.00</td>
<td>14.37%</td>
</tr>
<tr>
<td>1052 Eastern Avenue</td>
<td>1/20/2017</td>
<td>$27,500.00</td>
<td>12/20/2017</td>
<td>$145,000.00</td>
<td>427.27%</td>
</tr>
<tr>
<td>732 Eastern Avenue</td>
<td>1/9/2013</td>
<td>$20,500.00</td>
<td>1/28/2018</td>
<td>$69,900.00</td>
<td>240.98%</td>
</tr>
<tr>
<td>1133 Eastern Avenue</td>
<td>4/20/2017</td>
<td>$22,500.00</td>
<td>5/24/2017</td>
<td>$47,000.00</td>
<td>108.89%</td>
</tr>
<tr>
<td>1191 Eastern Avenue</td>
<td>3/2/2016</td>
<td>$11,000.00</td>
<td>6/24/2016</td>
<td>$18,250.00</td>
<td>65.91%</td>
</tr>
<tr>
<td>870 Eastern Avenue</td>
<td>9/8/2013</td>
<td>$20,000.00</td>
<td>2/7/2014</td>
<td>$24,000.00</td>
<td>20.00%</td>
</tr>
<tr>
<td>764 Eastern Avenue</td>
<td>10/18/2013</td>
<td>$15,560.00</td>
<td>2/13/2015</td>
<td>$18,000.00</td>
<td>15.68%</td>
</tr>
<tr>
<td>847 Eastern Avenue</td>
<td>8/30/2012</td>
<td>$28,500.00</td>
<td>6/22/2015</td>
<td>$45,000.00</td>
<td>57.89%</td>
</tr>
<tr>
<td>317 Victory Avenue</td>
<td>11/14/2014</td>
<td>$13,500.00</td>
<td>9/19/2017</td>
<td>$40,000.00</td>
<td>196.30%</td>
</tr>
<tr>
<td>124 Prospect</td>
<td>9/28/2016</td>
<td>$13,000.00</td>
<td>9/7/2016</td>
<td>$24,000.00</td>
<td>84.62%</td>
</tr>
</tbody>
</table>

Figure 2: Eastern Avenue Neighborhood Property Values

The above data shows significant property value increase to several properties along Eastern Avenue, beyond those owned by the land bank. Using data from the ten properties surveyed, the average increase in property value is 123%. Given that there are twenty-five land bank properties in this neighborhood, we can estimate that each land bank property has the effect of increasing the value of surrounding properties by about 5%. This analysis shows spillover from the presence of land banks to home values throughout the target neighborhood. Given that research shows that vacant and abandoned properties generally result in a reduction in property values of neighboring properties of roughly 5%, land banks, by improving otherwise vacant properties, can create up to a ten percent “swing” in property values, and not just of the properties they renovate. This change appears evident even in surrounding properties as well.
2.2.3 Stakeholder Stories

Beyond the above analysis, our research yielded many compelling stories that inspired our work. Ms. Bonnie Novella formed a private equity real estate opportunity fund, Mohawk Realty Partners, with the focus in a very concentrated three-block section of lower Eastern Avenue in Schenectady. Several investors and Bonnie pool their cash to buy properties, renovate them, and rent them, with plans to hold them for seven to ten years. Each home requires about $150k - $200k to renovate, making this a highly capital-intensive process that takes roughly one-year to complete for each house.

Ms. Novella describes the background of this Eastern Avenue target neighborhood as being, “plagued with vacant homes, drug houses and [a] lack of capital improvement to existing houses.” She described the impact the Capital Region Land Bank had on her success as an investor saying, “the Capital Region Land Bank has been an essential resource for me, and without them I would be fractionally ineffective in my Fund’s mission of transforming the neighborhood, instilling hope, providing beautiful homes, providing a great Live-Work-Play area, and installing plants/flowers/trees.”

Ultimately, Ms. Novella believes the Capital Region Land Bank continues to be instrumental in her Fund’s mission. Beyond typical resources, Ms. Novella described the other ways in which the Capital Region Land Bank has assisted her:

[The Capital Region Land Bank] has helped me work through the complicated legal process of acquiring vacant homes, has connected me with available (very much needed) grant funds, [has] helped me find contractors, given me encouragement when at times I am exhausted, and helped me find important contacts in Code Enforcement and at the City of Schenectady. Their vision, and ability to introduce me to important resources, is the primary reason I have succeeded in our property completions. In my opinion, this is an excellent “public-private” collaboration, given that the capital contributions from me and my investors working in conjunction with grant funds and public resources, was highly productive together.”

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50 Interview with Bonnie Novella, developer, Schenectady County (March 30, 2018).
Ms. Novella is just one of the developers in the Eastern Avenue neighborhood to whom the Capital Region Land Bank provides resources. Ms. Novella described how residents seem excited and said:

I regularly receive positive comments from them on the work we are all doing. I have also been asked by some residents how they can buy their own house, and I suggest they call David [Hogenkamp] to see what programs might exist for new buyers. The positive energy is palpable here...despite the cold winter...and everyone is looking forward to the spring and the next phase!

Overall, the value of the Land Bank is clear to this real estate developer who has been able to make her livelihood by rehabilitating blighted homes within the Capital Region Land Bank’s targeted neighborhood of Eastern Avenue.

We have also seen that the redevelopment initiated by the Albany County Land Bank Corporation has led neighborhood residents to invest further in the neighborhood around Fourth Ave. in the South End of Albany. Several residents who own homes and live on Fourth Ave. between Elizabeth Street and Clinton Street have either purchased or are preparing to purchase vacant lots, which they plan to improve and maintain. For example, Francisco Almonte purchased and renovated 133 Fourth Ave and is currently in the process of purchasing a vacant lot at 42 Alexander Street, to provide additional green space for his building. He also hopes to purchase and renovate another privately owned vacant building on the block to protect his initial investment. Across the street, the person who purchased 150 Fourth Ave. from the Albany County Land Bank Corporation is rehabilitating the property and hopes to purchase two vacant lots behind the property on Third Ave. as well. This block of Third Ave. is particularly desolate, with half the block made up of vacant lots, a number of houses with “red X’s”, and only a few properties that appear occupied on the entire block. Back on Fourth Ave., the owner of 135 Fourth Ave. recently contacted the Albany County Land Bank
Corporation because he is doing renovations to the property and needs rear access through a lot on Alexander Street that the land bank owns.\textsuperscript{51}

Charlotte O'Connor, Neighborhood Planning and Program Coordinator at the Albany County Land Bank, noted that many residents have seen the work put into land bank properties and have begun investing in their own properties because they do not want to “drag down the neighborhood,” sometimes with direct help from the land bank, and sometimes on their own. When they see that properties are being improved and taken care of, they rise to the occasion and improve their own properties.\textsuperscript{52} These examples show how the positive work of a land bank can result in spurring improvements to properties in the neighborhoods around the properties that are owned by the land bank in the same way that community members are improving properties in the South End.

The improvements inspired by land banks help create stable, vibrant communities where people want to live. An elected member of the Albany Common Council, representing the 10th Ward, Owusu-Chief Anane said:

The land bank is a great way to connect families, especially first-time homebuyers, to abandoned properties that can be rehabilitated to affordable homes. The land bank can help people to resources that can assist with financing the purchase and rehabilitation of these properties. Their greatest value to Albany is that they turn a property that is taking up space and is becoming a burden to the city into a home that will grow the city’s tax base and increase the value to the homes and businesses surrounding it. Also, they act as checks and controls over prospective buyers for example, they will check an applicant’s history for code violations, owed taxes, bad reputation within the community, budget, experience, and reason for the buyer to purchase the property to endure it doesn't fall into bad hands. They'll also add enforcement measures into the contracts to ensure the city can claw the properties back if the buyer doesn't hold true to their word. Previously we had the auction, which was great for County coffers but awful for the neighborhoods, as we didn't exert any control over who bought it and their potential uses.\textsuperscript{53}

\textsuperscript{51} Interview with Charlotte O'Connor, Neighborhood Planning and Program Coordinator, Albany Count Land Bank (Mar. 30, 2018).
\textsuperscript{52} \textit{Id.}
\textsuperscript{53} E-mail from Hon. Owusu-Chief Anane, Council Member, Albany Common Council (Date?).
These are powerful stories that offer illustrations of the homes, lots, and lives affected by the efforts of land banks. People want to invest in a neighborhood where those around them care for their homes, partially because they see the potential for property values to rise and for their investments to pay off in the future. These investments, in turn, actually help boost property values and alleviate the burden of code enforcement on city government by ensuring that properties are sold to responsible owners. With data, this powerful message can be leveraged to tell a much broader story of land banks and the public value they create.

2.2.4 Recommendations in Expanding the Value Proposition

Land banks should try to turn these anecdotes into hard data to prove that the larger economic impact of their efforts reach far beyond the properties owned by the land bank itself. These efforts provide a catalyst for neighbors and local residents to invest their time, energy, and dollars in neighborhoods negatively affected by blight. While our findings are preliminary and require deeper investigation, they provide the foundation to show there is a ripple effect in neighborhoods and deserve further study. It will be useful, going forward, to study how much property values and tax revenues have increased in the land banks’ focus neighborhoods as one way to prove their economic value. Information regarding property value and tax assessments can be found on the City of Albany’s GIS map, as well as on websites like Realtor.com and Zillow.com. Because the public information regarding property values is limited, it would prove useful to assess, in a more rigorous fashion, additional properties and property values for such a study.

In addition, a similarly rigorous analysis of these and other anecdotes would yield formal data that land banks can use when advocating for funding from the state government and private funding sources. The land banks in Schenectady and Albany could conduct surveys of different stakeholder
groups to aggregate data on the perceived and real value land banks bring to the areas they serve. Then, these stories can be combined with wider data, showing that the individuals do, indeed, represent a larger trend within their stakeholder group. Land banks can find commonalities in this data to focus their operations as well as their efforts to secure funding.

2.3 Illustrating the Quality of Life Impacts

2.3.1 What we know

The general quality of life of any neighborhood can be measured by looking at the livability of the area, which requires consideration of the following factors: (1) access to health and emergency care, (2) access to education and the quality of the education, (3) opportunities for leisure and social interaction, (4) proximity to new businesses and local community development, (5) proximity to a natural living environment, and (6) physical safety. These six factors can be positively or negatively impacted in a community. In communities where there is a presence of vacant and abandoned properties, i.e. blighted properties, there can be lower quality of life but in communities where there is not, there can be an increased quality of life. While all the factors associated with quality of life are important, we place particular emphasis on physical safety and proximity to a natural living environment provided by green spaces, such as parks and gardens, in the neighborhoods studied.

Land banks often acquire vacant lots and properties and then, depending on the condition of the property, either renovate the homes and re-sell the renovated properties to new residents or create community gardens and parks from vacant lots and properties in poor condition that need to be demolished. These changes to the properties then advance the development of a community with a natural living environment and a community that is more safe and secure for its residents.

2.3.1.1 New Businesses and Community Development

The benefit of new businesses and community development organizations, particularly in a neighborhood that had not recently enjoyed the benefits of either, is clear. The close proximity of these new businesses and organizations furthers the economic development, sense of community, and convenience of access to necessary goods and services for residents in the neighborhood. Furthermore, the services provided by several community development organizations greatly improve the conditions and quality of life afforded to residents in need of the services.

Several land banks throughout the United States have worked to promote the development of both national and local community organizations in focus neighborhoods to better the quality of life for residents. However, the mission of these organizations can vary greatly based on the location and the needs of the residents. These missions can include environmental, health-related, educational, artistic, and cultural services and opportunities and, as a result, benefit residents of the focus neighborhoods where such organizations operate.

Moreover, efforts by land banks can clear vacant lots and buildings and replace these parcels of land, which otherwise drain money from the municipality and residents and contribute to increased urban blight. Furthermore, new commercial units that can increase the quality of life and the local economy. Much like community development organizations, the types of businesses placed in different focus neighborhoods vary based on the needs of neighborhood residents and the types of businesses that can be accommodated at the proposed building site. However, regardless of the business that is ultimately chosen, so long as it benefits these local residents, it is sure that the business will be much more beneficial to the community than any unoccupied lot. Therefore, the presence of businesses and community development organizations in target urban neighborhoods and the effective placement of such commercial entities by the land banks greatly contributes to and benefits the quality of life of local residents.
2.3.1.2 Nature and the Community

The development of green space increases property value of homes within close proximity to open green spaces. On average, proximity to any type of open space increases the property value of the home by 1.43 percent.\(^{55}\) However, the increase to property values also varies slightly based on the type of green space. Homes located within 1,500 feet of a park typically experience a 1.8 percent increase in property value, while homes located within 1,000 feet of a community garden typically experience a 1.5 percent increase in property value.\(^{56}\) Moreover, even an eleven-percent increase in green space will increase property values for homes within two hundred to three hundred square feet by 1.5 percent, which benefits both the municipality and individual resident homeowners.\(^{57}\) In fact, depending on the size of the area in question, community gardens can provide municipalities with gross tax benefits of up to $563 million over a 20-year period.\(^{58}\)

In addition to increasing property values, the creation of community gardens and parks as urban green spaces also benefits the overall quality of life in other ways. Both parks and community gardens benefit the municipality, individual residents, and community groups. First, community gardens increase the amount of local food production, which in turn reduces greenhouse gases emitted in food transportation and restores oxygen to reduce air pollution in urban areas. Residents who use the community gardens to grow produce for their families save between $75 and $380 in food costs per season.\(^{59}\) Moreover, the presence of community gardens, parks, and other green spaces is associated with significant health benefits. Studies show that the presence of green spaces “fosters recovery from mental fatigue, improves outlook and life satisfaction, helps us to cope with and recover

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\(^{56}\) Id.

\(^{57}\) Id. at 245.


\(^{59}\) Id. at 2.
from stress, improves our ability to recover from illness and injury, restores concentration, and improves productivity.”  Green spaces also provide places for children to play and adults to exercise. Some community gardens allow all community members to harvest local organic fruits and vegetables, thereby advancing the health of residents who take advantage of these spaces. Also, green spaces generally provide places to hold social and cultural events, which cultivate both a sense of community and of belonging among residents. Community gardens in particular can serve as a place where schools can educate students in an outdoor classroom environment.

Community gardens also create beautiful natural spaces where only vacant lots previously existed. Vacant lots are properties that drain municipal funds, decrease neighboring property values, and increase criminal activity in the area. Conversely, parks and community gardens are cleaner spaces that promote the health and wellbeing of residents at little cost to the municipality in which the new green space is located because these spaces cost relatively little to maintain. Finally, green spaces help reduce urban crime rates. Buildings with the largest nearby green space experienced 52% fewer crimes than those with no nearby greenspace.  Similarly, buildings with only moderate amounts of nearby green space experienced 42% fewer crimes than those with no nearby green space.

Accordingly, based on the results of this research, one can see that those properties obtained by the land bank in the Capital Region that have been developed into community gardens and parks likely improve the quality of life for residents of the region.

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60 Id.


62 Id.
2.3.1.3 Neighborhood Safety and Security

In addition to the effect of green space in reducing the crime rate of an area, the elimination of vacant lots and vacant buildings by the land banks can greatly improve the overall safety and security of an area. One can measure the safety of a community by the presence of crime and fires as well as the adequacy of lighting in a neighborhood. Vacant and abandoned properties increase crime and fire, and diminish lighting. As a result, they, decrease general safety in the neighborhoods in which they are found.

Vandalism and arson are the most common crimes that plague abandoned and vacant properties. Such properties often become locations where thieves, drug dealers, and squatters occupy. Theft of copper, appliances, and items left behind by the previous owners also frequently occurs. Of open and abandoned buildings nationwide, roughly 83 percent showed evidence of illegal activity. Increased vacancies leave fewer neighbors to monitor criminal activity in their neighborhood.

According to the Department of Housing and Urban Development (HUD), after a property becomes vacant, the rate of violent crime within 250 feet of the property is fifteen percent higher than the rate in the area between 250 and 350 feet from the property in question. Moreover, according to the United States Fire Administration, 28,000 fires occurred annually in vacant residences between 2006 and 2008 and about eleven percent of these fires spread to other nearby buildings.

In addition to vacant buildings, land banks also obtain possession of vacant lots and these lots can also contribute to neighborhood-wide blight unless they are dealt with in an effective and

65 Id.
66 Id.
productive way. In order to reduce the number of vacant and abandoned spaces, these lots can be put to vacant use to both eliminate safety and liability concerns and increase the amount of local green space.

The work of land banks to revitalize an area can help to improve quality of life for those who live, work, and play in the target neighborhoods, as has been demonstrated by many ongoing efforts and initiatives in both Albany and Schenectady.

2.3.2 Research

Two areas were the main focus of expanding the quality-of-life value proposition, the increase in community development and the increase in green spaces. The team looked at specific partnerships within the city and the impact they had on the structures within the city and then looked at the increase in number and types of green space. Both in depth looks at these two factors of quality of life are explained in the following sections.

2.3.2.1 Community Development

In addition to addressing the negative consequences of blight by eliminating vacant properties and lots, the land banks are also taking affirmative steps to increase community development in the areas in which they are operating. For example, the Albany County Land Bank, in partnership with the City of Cohoes, is working to demolish a building that was vacant for many years and the site will now host seventy new housing units and will include integrated services that support individuals with disabilities residing in these units: offering them education, therapy, and job training.⁶⁷ From July 2016 to July 2017, 267 properties acquired by the Albany County Land Bank were located in focus

⁶⁷ ALBANY CTY. LAND BANK CORP., supra note 32, at 8.
neighborhoods and seventy percent of all property improvements made were in these focus neighborhoods.  

Also, from July 2016 to July 2017, the Albany County Land Bank hosted 25 open houses, workshops, and events and 75 one-on-one assistance sessions, which have been targeted toward first-time homebuyers to increase their opportunities for property acquisition. About 60 percent of all buildings sold by the Albany County Land Bank have been sold to owner-occupants who have a vested interest in the advancement and further development of their neighborhoods. In Schenectady, the land bank is also trying to revitalize Schenectady’s Eastern Avenue Corridor and three businesses have recently relocated to this area, have expanded their operations, or renovated their properties.

2.3.2.2 Green Spaces

The Albany County Land Bank has taken steps to repurpose previously vacant lots across the county, which were costly for the municipality to maintain and harmed neighborhood property values, by selling lots to individual owners for their development or by working with the Community Food System to create new community gardens. Community gardens increase access to nutritious foods for local residents, create volunteer and vocational training opportunities to support the local economy, and generate local health and environmental benefits.

For instance, in our focus neighborhood in Albany County, the area surrounding Fourth Avenue in the south end of Albany, there are now several green spaces, including both community gardens and other green spaces, where vacant lots used to exist. The green spaces located within two

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68 Id. at 10.
69 Id. at 11.
70 Id. at 10.
71 Id. at 6.
72 Id.
blocks of Fourth Ave. in the south end of Albany that were sold or developed by the land bank include the following:

- Community Gardens: 68 Plum Street, 315 South Pearl Street, 74 Elizabeth Street
- Side Lots: 71 Clinton Street, 54 Odell Street
- Other Green Spaces: 121 Fourth Avenue, 48 Alexander Street, 52 Alexander Street, 63 Delaware Street

The following map shows these nine green space properties that have been developed near Fourth Avenue in the south end of Albany through efforts or sales initiated by the Albany County Land Bank:

75 Id.
76 Id.
77 Id.
Therefore, direct and indirect effects of land bank actions by the Albany County Land Bank added over 17,000 square feet of green space to this area of Albany alone.\textsuperscript{78} Nearly 6,000 square feet of this space is community garden space.\textsuperscript{79} As a factor that impacts quality of life in a community, an increase in green space and natural living areas in the focus neighborhood will subsequently increase the overall quality of life in the area. In summary, these recent efforts by the Albany County Land Bank have improved the quality of life by decreasing blight and increasing natural green spaces in the focus neighborhoods that we studied.

2.4.3 Stakeholder stories

In addition to the data provided by the land banks and the municipalities that the land banks serve, which demonstrate the positive effects of the land bank, we also acquired statements from individual stakeholders about the value that the land banks added to the community, which had been affected by blight. These individuals expressed their own personal experiences and the direct impacts that land bank efforts have had on the quality of life of individuals in the focus neighborhoods.

2.4.3.1 Community Development and Increased Green Space

For instance, according to the statements from Albany residents, the Albany County Land Bank leadership seems to care a great deal about meeting the needs of homebuyers and the community in any given land transaction that the land bank initiates. For example, one Albany resident said:

\begin{quote}
I recently bought a vacant lot through the "Spend a Little, Get A LOT!" program. I've spent the last six years staring and dreaming at that lot that I can see right from my front stoop. I'm excited and energized by the possibilities my little plot of land holds. It was a wonderful experience and I greatly appreciate the Albany County Land Bank
\end{quote}

\textsuperscript{78} Id.
\textsuperscript{79} Id.
prioritizing neighborhood residents by making this process easy and accessible for the people who actually live here. Thank you.\(^{80}\)

Moreover, the land bank is dedicated to creating a community with a natural living environment for new and current residents in the focus neighborhoods. Notably, with the collaborative work of multiple developers and the Land Bank, Ms. Novella, an area resident, said, “the transformation is finally visible...with the beautiful Tribute Park, and each of our houses are (soon) to be full of plants and flowers and fresh facades.” Therefore, residents, the land banks, and local developers have been working to transform existing vacant lots to green spaces that can be used by residents and are rehabilitating vacant buildings that will also have landscaped grounds with a close proximity to green spaces.

2.4.3.2 Safety and Security

The issues surrounding public safety are directly related to the value proposition. Schenectady Chief of Police, Eric Clifford, describes the relationship between his department and the Land Bank saying the following: “The land bank benefits the police department by building strong neighborhoods with people who have a vested interest. Neighborhoods with people who own homes tend to be safer and have less crime and quality of life issues. As the people are the police, the more eyes and ears out there helping us, the more we can do as an agency to keep people safe. The land bank revitalizing homes in neighborhoods helps us achieve keeping people safe.”\(^{81}\) Therefore, according to the Police Chief Clifford, the Capital Region Land Bank has successfully decreased the number of vacant properties and, as a result, has assisted the police department in reducing crime in the area.

\(^{80}\) Communication with Albany resident
\(^{81}\) Interview with Eric Clifford, Chief of Police, City of Schenectady (March 23, 2018).
The Chief of Police also said he has seen improvements to the Eastern Avenue neighborhood:

“While Eastern Avenue still has some work that is needed, it is noticeable that the neighborhood has turned the corner and is headed in the right direction. In a similar direction, Craig Street in Hamilton Hill has turned the corner, I see Eastern Avenue making a strong comeback as more properties are improved and home/business owners plant roots.”

In the same interview with Chief Clifford, another Land Bank ally, Michael Eidens, the Schenectady Commissioner of Public Safety, offered the following: “I want to emphasize the clear relationship between healthy neighborhoods and public safety. All of the efforts being made to support healthy neighborhoods, of which the Land Bank is one, are important steps in the right direction.”

In Albany, Sam Fein, a county legislator offered his opinion on the impact of the land banks: “as buildings get renovated, people start to feel better about their neighborhood and the quality of life improves.” Furthermore, Lieutenant Geraci noted that new owners of land bank properties are not absentee landlords and as such, they provide “a good point of contact” for police, from which to solve problems in the neighborhood collaboratively. Lieutenant Geraci went on to say:

All of these [arson, theft of copper pipes, drug use, potential sexual assault, dumping of garbage, criminal mischief] lend to the perception of crime, the fear of crime and a diminished quality of life. And if you have multiple vacant/abandoned buildings on a particular block or in a particular neighborhood it just intensifies those perceptions. The mere fact that an owner is invested in a particular property and maintains such property sends a clear message to deviant users that they are not welcome. A well-lit, well maintained, secured property and an owner willing to prosecute those found committing above offenses will mitigate many of these issues.

82 Id.
83 Interview with Michael Eidens, Commissioner of Public Safety, City of Schenectady (March 23, 2018).
84 Interview with Sam Fein, Legislator, Albany County (March 28, 2018).
85 Interview with Anthony Geraci, Lieutenant, Albany Police Department (March 31, 2018).
86 Id.
Ultimately, according to all of these stakeholders, both the Albany County Land Bank and the Capital Region Land Bank have greatly improved the quality of life of the focus neighborhoods located in the municipalities by assisting neighbors, local government officials, and the police force.

2.4.4 Recommendations

Although we have conducted considerable research on the quality-of-life impacts of land bank efforts in the various different local communities, there is much more that could be done moving forward to better measure these impacts. We have been able to synthesize existing data from different sources but given the time constraints of this course and the project timeline, it would also be necessary to conduct further research to more thoroughly analyze the direct impact of the land banks as an isolated factor on how an increase in green space in communities and increased safety and security impacts a neighborhood or community.

In addition, a rigorous analysis of these stakeholder statements and other anecdotal information gathered throughout the research conducted for this section of the report would yield formal data that land banks can utilize when advocating for funding with the New York State government and with private funding sources. The land banks in Schenectady and Albany could conduct surveys of different stakeholder groups to aggregate data on the perceived and real value land banks bring to the areas they serve. Then, these stories can be combined with wider data, showing that the individuals do, indeed, represent a larger trend within their stakeholder group. Land banks can identify patterns in this data to focus their operations as well as their efforts to secure long term, dedicated funding.
3.0 Mechanisms and Strategies for Long Term Viability

In the following section, we explore four land bank financing and legal mechanisms that hold the potential of helping New York State land banks secure stable, dedicated funding. These mechanisms were selected after reviewing innovations and best practices from other states, as well as inspecting the current legal framework established by the NYS Land Bank Act. For each model, we will present the benefits and risks, the implications in execution, and propose recommendations as appropriate.

3.0.1 For Land Banks, Success does not equal Profit

One central issue with land banks is the common tendency to judge an organization by the profit it generates, or its financial ROI. For those not familiar with land banks, it may be assumed that they will eventually turn a profit or be in a position to sustain themselves. There are even some arguments that land banks have an unjustified advantages in the market because they can purchase properties at a price lower than the market value of such properties.87 Such assumptions are perhaps uninformed, as land banks typically invest a far larger amount into the property than they can recover. As such, land banks across the country are left fighting to secure long-term, stable funding so that they can continue to transform communities.

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3.0.2 Prevailing Models of Financing Land Banks and Models Applicable in the NYS Context

Currently land banks in the U.S are operating on a mix of different funding sources. Some of the most common funding mechanisms are:

- **General Revenue Funds**: Some land banks receive operating funds from state or local budgets. However, as local governments are facing increasing fiscal stress, many land banks are seeing dwindling budgetary allocations.

- **Property Tax Recapture**: Local governments use this mechanism as an alternative to direct budgetary allocations. We will discuss aspects of its implementation later in the text.

- **Public and Private Grants**: One of the most common funding resources for land banks and other community development organizations. Grants are mostly awarded on a program/project basis, in most cases, however, they do not cover administrative/operating costs for the land banks.

- **Charitable Contributions**: While donations are not uncommon, they generally are not a significant resource for land banks.

- **Asset Forfeitures**: Some local governments use funds and resources recovered from criminal and civil forfeitures to subsidize land banks. Many jurisdictions are required by law to utilize such funds for law enforcement purposes only.

Based on our review of these different mechanisms as well as an assessment of what might be feasible under the NYS land bank statute and an analysis of the operating environment of the
Albany County Land Bank and Capital Region Land Bank, we propose four mechanisms that have the potential to help land banks in the region and the state secure stable, long-term funding. Economically, the following mechanisms provide both short-term and long-term funding streams for NYS land banks. Politically, their implementation does not require radical legislative changes or re-allocation of limited public resources. The four mechanisms include:

- Integrated Code Enforcement
- Expedited Foreclosure Proceedings
- 5-year, 50% Tax Recapture
- Delinquent Tax Assessment & Collection (DTAC)

The following diagram shows the 4 mechanisms on a short term to long term range:

![Image](image.png)

*Figure 3: Land Bank Funding Models Applicable in the NYS Context*

In summary, the four mechanisms include the following. First, an Integrated Code Enforcement approach that strengthens local compliance programs and related revenue collection by promoting collaborative efforts between code enforcement departments, land banks, and other community partners. This creates an opportunity for land banks to share in new revenues generated as a result of such a comprehensive process. Second, an Expedited Foreclosure Proceeding process helps identify problem properties and get land banks involved earlier in the life cycle of an
abandoned property, when interventions might be less expensive and less dramatic. This will ultimately decrease the cost of rehabilitation and return the property to the local tax base faster.

Third, when these properties begin generating taxes again, the 5-year, 50% Tax Recapture program bridges the gap between the land banks’ success and continuing its operations. In the long run, interest and penalties on delinquent property taxes likely create the most consistent and reliable source of prospective funding for land banks. Fourth, a Delinquent Tax and Assessment Collection program that would enable the land banks to benefit from the receipt of a portion of delinquent taxes paid within their respective jurisdictions. The following presents each mechanism in more detail.

3.1 Integrated Code Enforcement

Rampant violations of housing, health, and safety codes accelerate the decline of blighted neighborhoods, directly undermining broader community stabilization efforts. Problems arise where traditional code enforcement programs are less equipped to address modern challenges, like predatory lending, high rates of foreclosure, widespread vacancy and abandonment, and “get-rich-quick house flipping.” In order to adapt to these challenges, local governments are revamping housing code and other types of enforcement, most often prioritizing streamlined data collection and interagency partnerships. According to experts with the Vacant Property Research Network (VPRN), these efforts are well worth the investment: “If done right, an effective code enforcement program can support neighborhood revitalization projects and contribute to the overall health of its residents.”

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But municipalities also realize that improving enforcement can also generate significant revenues, a rare win-win for decision makers. And so, legacy cities across the country are betting on innovative pilot programs of all sorts. But those generating the most interest of policy makers are noted for leveraging actionable data and public/private partnership to expand capacity despite tight budgetary constraints—an approach generally referred to as “integrated code enforcement.” Kermit Lind, a leading authority on neighborhood stabilization strategies, defines this new approach as:

A system that requires agencies, departments, and institutions dealing with real property conditions to align in pursuit of common objectives attainable only by mutual effort.  

The concept stands in stark contrast to a more traditional approach involving individual agencies and departments pursuing their own, and, at times, conflicting agendas.

The goal of an integrated system is to facilitate joint code enforcement partnerships to mitigate high rates of vacancy, abandonment, and decay in a community’s most challenging neighborhoods, with a special emphasis on resolving high-priority cases of noncompliance. To achieve that goal, government departments with overlapping responsibility for code enforcement activities operate in unison on a shared data platform, avoiding duplication wherever possible.

But the integrated enforcement model goes further, calling for collaboration that extends beyond government to include independent, non-profit, and community-based organizations that share an interest in combatting blight. Some cities have partnered with law school clinics, leveraging the support of law students to initiate thousands of lawsuits aimed at banks, mortgage servicers, and other institutional interest holders failing to maintain pre-foreclosed vacant properties. Others have

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turned to various community-based nonprofits because leaders of these organizations are typically the most effective mediators between governmental departments and the public—and “often in the best position to use the official data to identify the challenges and problems in code enforcement cases.”92 This type of partnership ultimately facilitates a cohesive, “all-hands-on-deck” pooling of public and private resources, skills, and expertise in order to maximize community benefits. Participants in a joint code enforcement program operate as a cohesive unit, strategically targeting high-priority neighborhoods for concentrated, focused inspection. But with the help of nongovernmental partners, municipal code enforcement personnel are able to focus less on routine administrative activities, like serving notice, and more on investigations and the execution of police powers. So, to increase productivity, compliance, and revenue collection, cities around the country are developing their own versions of such a partnership—or what Kermit Lind refers to as a “coalition of the willing.”93


93 Lind, supra note 73, at 217–18.
3.1.1 Where Integrated Enforcement Works

The City of Cleveland’s Building & Housing Department chose to supplement its code enforcement capacity through partnerships with various community development corporations (CDCs) in 2008. The CDC partners were tasked with conducting field surveys, managing code complaints, and providing investigative and remedial support. This arrangement allowed the city to 1) leverage the benefits of community engagement; 2) resolve existing overlap with governmental and nongovernmental organizations; 3) focus on process improvement and limiting “Non-Value Activities”; and 4) “maximize Building & Housing’s capacity to provide effective code enforcement for the whole city.”

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95 Id. at 2
Key Takeaways from Cleveland’s Experience:

- CDC partnership to mobilize supplemental code enforcement personnel;
- CDC staff survey sites, verify complaints, and prioritize cases;
- Priority cases referred back to the city for expedited treatment;
- City staff eliminate non-value activities, maximize investigation & prosecution;
- CDC staff provide reports & other supporting documents for pending court action.

Likewise, Youngstown, Ohio, began revamping its code enforcement program in 2015. City officials partnered with strategists from the Vacant Property Research Network (VPRN) on what would become an ongoing three-year effort to resolve high rates of noncompliance. The project consisted of three phases: assessment & recommendations (2015); an overhaul of policies, procedures, and data systems (2016); and lastly, the streamlining of legal processes to better target chronic
violators. Eventually, the team also plans to develop financing strategies to assist low-income homeowners to keep properties up to code.\textsuperscript{96}

Like most legacy cities, the primary challenge for city officials in Youngstown was to do more with less given tight budget restraints. As a result, forming strategic partnerships with community-based organizations was vital to the success of the initiative.\textsuperscript{97} With a declining population and a small percentage of properties still generating tax revenues, the city’s budget continued to dwindle. Other challenges included constant turnover in code enforcement leadership, a lack of uniform policies and procedures, underutilized data, a high percentage of non-compliant cases, and insufficient litigation and judicial capacity.\textsuperscript{98}

In light of these obstacles, the research team drafted Youngstown’s first Code Enforcement Policies and Procedures Manual (P&P Manual), and developed a list of core performance measures for the Mayor and the Code Enforcement Managers to monitor enforcement activities.\textsuperscript{99}

**Key Takeaways from Youngstown’s Experience:**

- Developed joint enforcement effort with Youngstown Neighborhood Development Corp;
- Streamlined inspection and investigation procedures;
- Authorized use of city water records to identify vacant property owners;
- Created standards for prioritizing enforcement action;
- $1,600 cap on administrative penalties before pursuing alternatives;
- Criminal prosecution, receivership, and foreclosure as alternative recourse.

\textsuperscript{96} VACANT PROP. RESEARCH NETWORK, supra. note 71.
\textsuperscript{97} Id.
\textsuperscript{98} JOE SCHILLING, ET AL., CITY OF YOUNGSTOWN CODE ENFORCEMENT TECHNICAL ASSISTANCE AND CAPACITY BUILDING PROJECT PHASE ONE REPORT AND RECOMMENDATIONS (2015), p. 3
3.1.2 How Integrated Code Enforcement Can Benefit New York

As part of a recent effort to streamline actionable data on blighted properties, the City of Albany and its partners developed an electronic data-sharing program to enable stakeholders across multiple departments to better navigate today’s environment.\textsuperscript{100} The data includes information on vacant, tax-delinquent, and otherwise dysfunctional properties. In essence, these developments suggest that integration is well underway in Albany. However, the city faces significant challenges ahead. Tight budget constraints limit the reach of city code enforcement personnel, while recent estimates place the total number of vacant structures at 1,044.\textsuperscript{101} City leadership may find viable solutions in further integrating its code enforcement program, specifically through private sector partnerships and joint enforcement activities.

In theory, a city can generate significant revenues by leveraging its code enforcement activities. However, the reality is that enforcement is typically limited due to staffing shortages and difficulty identifying absentee owners of noncompliant properties. In Albany, inspectors reportedly issued more than 7,700 violations in 2017,\textsuperscript{102} many for failure to register vacant properties with the Department of Building & Compliance pursuant to Albany City Code § 133-78, which mandates annual fees on vacant properties ranging from $250 to $2,000, as well as a $10,000 cash bond. However, despite the aggressive efforts of enforcement personnel, roughly 30\% of Albany’s vacant properties are reported to be in compliance with the registry. The city collected just $116,906 in registration fees and additional penalties in 2017.\textsuperscript{103} Contrast that with Wilmington, Delaware, a city similarly dealing with just over 1,000 vacant structures, but whose vacant property registry grossed $1,050,000 in its third year of

\textsuperscript{100} Amanda Fries, “Albany Vacant Building List to Help Target Problem Properties,” \textit{Albany Times Union}, January 2018.
\textsuperscript{101} Id.
\textsuperscript{102} Id.
\textsuperscript{103} Id.
implementation—an 82% increase in revenues over that period. But Albany may also be hampered by particularly punitive measures written into its vacant property registry, which many view as “disincentives” to comply with the law.

Alternatively, tough legislation can be viewed as an important weapon in this fight. Banks and other entities holding an interest in vacant property often purposefully ignore regulations due to market disincentives to care for a non-performing asset. Lack of enforcement of the law accounts for much of the current dilemma regarding vacant structures, whose owners quietly undermine neighborhood stabilization efforts—that is, “until they are tracked down by diligent investigators” and forced to comply with the law. New York’s “zombie law” (RPAPL § 1308) is specifically designed to address this issue. The statute imposes a duty to inspect, secure, and maintain vacant and abandoned properties on negligent mortgagees, banks, and other potentially deep-pocketed interest holders. Properties left to deteriorate in a state of ownership limbo are referred to as “zombies,” hence the name and purpose of § 1308. Failure to comply renders the interest holders liable for civil penalties up to $500 for each day in violation. Furthermore, “the municipality in which such residential real property is located, shall have the right to enforce the obligations.”

But the Zombie Law and other legislation targeting negligent actors must be tied to a proactive enforcement program. As one VPRN study argues, “all effective enforcement programs have a legal ‘backstop’ where they can take cases in order to achieve compliance.” Several cities have taken their enforcement agenda to court, aggressively litigating cases against deep-pocketed institutional owners,

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106 Lind, supra note 73, at 213
107 N.Y. REAL PROP. ACTS § 1308 (8) (a-c) (2016).
with considerable success. Cleveland, Cincinnati, and Los Angeles have all waged “cutting-edge” legal battles against large banks for noncompliance, resulting in tens of millions of dollars in fines, demolition costs, and other settlements.\textsuperscript{109}

In order to target such high-impact, high-priority cases, code enforcement authorities must implement an efficient system for dealing with the vast majority of routine, low-impact inspection cases while focusing much of those authorities’ energies toward the more serious cases of neglect. In essence, this is the purpose of the integrated enforcement model. With the assistance of partner organizations, code enforcement personnel are free to aggressively prosecute the most egregious violators. And high on a list of independent organizations capable of stepping into a mutually beneficial partnership with municipal code enforcement agencies are the land banks. Routinely tasked with managing hundreds, sometimes thousands, of the most troublesome properties across town, land bank staff have acquired unique skills and experience well-suited to providing technical assistance and strategic planning input to various code enforcement personnel and the city’s attorneys. Municipalities may also choose to enlist the support of local community development corporations and volunteers, as was the case in Cleveland. There, the additional, grant-funded manpower enabled city inspectors to focus in on strategic, high-priority enforcement cases. Cleveland and Memphis have both enjoyed great success in leveraging partnerships with local law schools, whose eager students have been bringing the fight to negligent vacant property owners.\textsuperscript{110}

Integrated code enforcement initiatives can ultimately save money while increasing revenue collection. Those revenue gains could provide both direct and indirect benefits to the land banks. In order to sustain the land banks’ vital contributions to broader neighborhood stabilization efforts, land banks...


\textsuperscript{110} Barlow, supra. note 73.
banks might directly share in the new revenues generated. Indirectly, revenues can also be diverted towards revolving loan funds and rehabilitation project grants to enlist community members willing to invest in land bank-owned properties, with just marginal financial assistance. To maximize the effects of such efforts, those funds might be administered by a community lending organization with expertise in counseling inexperienced but qualified buyers and overseeing the distribution of funds. In any case, effective code enforcement can help stem the tide of rampant noncompliance, from which the land banks stand to benefit over the long term as a result of fewer properties likely in the tax foreclosure pipeline and “upstream” acquisition—meaning the land bank takes title to a property prior to it falling into an irreversible state of disrepair. Only through these creative measures can land banks potentially operate with just minimal subsidies over the long term. But the first step is to develop an integrated, comprehensive code enforcement program to gain control over the most rapidly declining neighborhoods.

3.1.3 Implementation Considerations

Given the financial concerns shared by land banks and New York’s municipalities, joint code enforcement efforts are likely the most practical way forward, because such efforts can be undertaken with less cost than some other, more intensive efforts. A formal partnership agreement between municipal code enforcement departments and local land banks could culminate in an aggressive but efficient program that generates new revenues for mutual benefit. After all, the two entities essentially patrol the same beat—albeit with different but similar tools and aims. With some limitations, a partnership agreement could allow municipal departments to rely on the land banks’ manpower, expertise, data collection, and ties to the community, in exchange for a share of revenues obtained through the integrated efforts. Joint enforcement arrangements are now becoming more
commonplace, and the New York Department of State even issued a guide to forming service agreements, stating in part: “a local government may consider having some of its code-related duties performed by an independent, nongovernmental contractor.” These types of collaborative, partnership-based solutions are increasingly the rule and no longer an exception when it comes to cost-effective strategies.

However, where Albany and other upstate municipalities have made efforts to modernize enforcement programs through the use of electronic data collection and other technologies, leaders should also heed caution. Pioneers of Cleveland’s integration model eventually realized that technology could not fix the city’s code enforcement process, which was “fundamentally broken, chaotic, duplicative, and confusing.” In those cases, modern technology can actually exacerbate the problem, and so focusing on processes and eliminating the inefficiencies that hinder all of the moving parts of an operation should generally precede efforts to add technology and automation to data collection and management. Otherwise, an organization risks “buying technology that will simply automate chaos.”

3.2 Expedited Foreclosure Proceedings

As properties that land banks acquire often move through either through either tax foreclosure or mortgage foreclosure processes, the length of these foreclosure proceedings play a part in determining the length of time that each abandoned property remains in a state of deterioration; consequently, the length of the state’s foreclosure process in part determines the condition of the

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112 FRATER, supra. note 80, at 4
113 Id.
properties land banks acquire, and in turn, the cost of structural rehabilitation.¹¹⁴ Cognizant of this relationship, several land bank enacting statutes included changes to their foreclosure processes and the creation of expedited foreclosure proceedings that streamline the transfer of abandoned, vacant and otherwise deteriorating property to land banks.¹¹⁵ The intended outcome is an interruption of the cycle of deterioration by allowing earlier acquisition of selected properties and thus reduce the overall direct and indirect costs of blight. This section will explore whether it would make sense for land banks in New York to pursue changes to New York’s laws that might borrow innovations used in other jurisdictions that expedite the tax foreclosure process.

The Michigan Land Bank Fast Track Act created a streamlined tax foreclosure process via §124.759 (Expedited quiet title and foreclosure action; procedure), enabling land bank authorities to initiate tax foreclosure actions on the properties they hold.¹¹⁶ First, the land bank records a notice of pending action with the register of deeds in the county, then the land bank initiates a records search upon the property to determine any defendants requiring notification¹¹⁷ and files a petition with the circuit court clerk seeking a judgement vesting absolute title in the authority, without the right of redemption.¹¹⁸ After receiving the petition, the clerk immediately schedules a hearing within 10 days of the date requested by the authority and no later than 90 days from the filing date.¹¹⁹ Upon completion of the records search, and not less than 30 days prior to the foreclosure hearing, the land bank must notify any defendants identified in the records search and post a physical notice on the property indicating it has been transferred to the land bank.¹²⁰ The circuit court must enter judgement

¹¹⁵ See e.g. Emily M. Morrison, Comment, Bank on It: Preventing Re-Blight and Avoiding Costly Litigation in Modern Land Banking, 48 U. Tol. L. Rev. 137, 165 (2016) (arguing for fast-track foreclosure proceedings).
¹¹⁷ Mich. Comp. Laws Serv. §124.759 (2) (LexisNexis through 2018 Public Act 101)
¹¹⁸ Mich. Comp. Laws Serv. §124.759 (3) (LexisNexis through 2018 Public Act 101)
within 10 days of the hearing’s conclusion, thereby transferring a fee simple title to the authority.\textsuperscript{121} The statute further streamlines the process by enabling the land banks to consolidate their foreclosure actions into a single yearly petition that lists all the properties which the authority seeks to foreclose upon.\textsuperscript{122}

The Ohio land bank statute streamlined tax foreclosure\textsuperscript{123} proceeding for land banks by creating an alternative redemption period for abandoned property,\textsuperscript{124} significantly reducing the amount of time needed to procure vacant and abandoned property.\textsuperscript{125} In any petition for tax foreclosure on abandoned land where a land bank or other municipal corporation requests title, the county treasurer can invoke the alternative redemption period; upon adjudication of foreclosure, the court will extinguish any statutory or common law right of redemption and directly transfer the deed to the land bank or municipal corporation.\textsuperscript{126} The title is transferred “without appraisal and without sale, free and clear of all impositions.”\textsuperscript{127}

In 2017, Maryland passed legislation modifying their mortgage foreclosure laws to include an expedited foreclosure action for abandoned and vacant residential property.\textsuperscript{128} The expedited foreclosure process allows secured parties to petition circuit courts for leave to immediately commence an action to foreclose a mortgage or deed of trust on a residential property on the basis that the property is vacant and abandoned.\textsuperscript{129} The statute prescribes criteria for determining whether a property is vacant and abandoned, including requiring property to be (1) defaulted for 120 days or

\textsuperscript{121} MICH. COMP. LAWS SERV. §124.759 (7) (LexisNexis through 2018 Public Act 101)
\textsuperscript{122} MICH. COMP. LAWS SERV. §124.759 (11) (LexisNexis through 2018 Public Act 101)
\textsuperscript{123} The alternative redemption period may only be invoked on foreclosure proceedings actioned under §323.25 (Enforcement of tax lien), §323.66 (Authority of board of revision to foreclose state’s lien…), and §5721.18 (Foreclosure proceedings on lien of state.) OHIO REV CODE ANN. §323.75 (A) (LexisNexis through file 51 (HB 45)).
\textsuperscript{124} OHIO REV CODE ANN. §323.78 (LexisNexis through file 51 (HB 45))
\textsuperscript{125} See Thomas J. Fitzpatrick IV, Understanding Ohio’s Land Bank Legislation at 7 (aval. at http://www.ohioenvironmentallawblog.com/uploads/file/Policy%20Analysis%20of%20new%20land%20bank%20law.pdf)
\textsuperscript{126} OHIO REV CODE ANN. §5721.18 (LexisNexis through file 51 (HB 45))
\textsuperscript{127} Id.
\textsuperscript{128} Residential Property – Vacant and Abandoned Property http://mgaleg.maryland.gov/2017RS/bills/hb/hb0702t.pdf
\textsuperscript{129} MD. CODE. ANN., REAL PROP. § 7-105.14 (b) (LexisNexis through April 10, 2018).
more, (2) for there to be no mortgagor filing an answer or written statement of vacancy provided to the court, and (3) the finding of at least three “circumstances constituting vacant and abandoned property.”

Circumstances include the disconnection of utility services, lack of occupancy, citations by municipal corporations regarding the failure to maintain the premises, broken windows and boarded entrances, and the existence of junk, litter, or trash.

In 2016, the passage of new legislation in New York created an expedited mortgage foreclosure process for vacant and abandoned property in the Zombie Property and Foreclosure Prevention Legislation via an expedited application for judgement of foreclosure and sale for vacant and abandoned residential property. The law enables plaintiffs in a mortgage foreclosure proceeding to apply a judgement of foreclosure and sale of a property if it is vacant and abandoned. The law also creates a duty for mortgage holders to inspect, secure, and maintain vacant and abandoned residential properties subject to foreclosure proceedings and mandates the creation of an electronic database of vacant and abandoned properties overseen by the department of financial services.

The advantages of the expedited tax foreclosure processes of Michigan and Ohio can be gained in New York by establishing an expedited tax foreclosure process that parallels the process created in the zombie property legislation. Although the foreclosure process created by the zombie property legislation concerns the mortgage foreclosure process, it can be re-tooled to function as an expedited tax foreclosure process for land banks because the legislation establishes similar requirements for finding vacancy and abandonment as the expedited tax foreclosure of Michigan and Ohio; therefore, the use of these criteria for expediting tax foreclosure will not be unprecedented or

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130 MD. CODE. ANN., REAL PROP. § 7-105.14 (c) (LexisNexis through April 10, 2018).
131 MD. CODE. ANN., REAL PROP. § 7-105.14 (d) (LexisNexis through April 10, 2018).
133 N.Y. REAL PROP. ACTS. LAW § 1309 (LexisNexis 2018)
134 See N.Y. REAL PROP. ACTS. LAW § 1310 & 1308 (LexisNexis 2018)
135 As the purpose of this report is investigative, additional and robust legislative research will be required to flesh out the transfer of property from the mortgagees to land banks.
groundbreaking, but rather a natural and needed evolution. The inclusion of the ability for land banks to file these foreclosure requests in a single consolidated yearly petition, like in Michigan’s foreclosure framework, can reduce the burdens associated with litigation.

Another hypothetical way to improve the law is the creation of a new section permitting the instantaneous transfer of vacant and abandoned property from mortgagees to land bank organizations, and by amending the land bank powers to explicitly permit land banks to utilize the process established in §1309; this allows the quick transfer of problem properties to land banks.136 Upon the initiation of the expedited foreclosure process or when registering property as vacant and abandoned, the mortgagee should have the ability to transfer the property to land banks free and clear of impositions. This allows mortgagors to bypass the process entirety and transfer problematic properties to land banks, quickly passing their obligation to maintain the structures to the land banks that are better suited to maintain and repair property. The land banks benefit by the additional inventory options that would strengthen their ability to urban plan effectively. Additionally, the inherent statutory funding mechanism for land banks (the 5/year, 50% tax recapture) would be bolstered without the creation of any tax. Zombie properties are generally (or at least ideally, given that the law mandates their maintenance) better maintained than those that land banks would otherwise traditionally acquire, therefore the overall return on investment from the zombie property tax recapture will be larger. The communities that land banks serve also benefit from the land bank’s involvement as land banks are better suited at selecting candidates that will not re-blight the neighborhood, the problem zombie properties represent.137

136 Although the party transferring the property to the land bank benefits by discharging their duty to inspect and maintain the property established via. §1307 and §1308 of Article 13, and by avoiding litigation expenses and sale procedures, these transfers could be further incentivized via the establishment of tax benefits.

### Summary Table by State

The following table presents a short description of the laws associated with expedited process for both tax and mortgage foreclosure in Michigan, Ohio, Maryland, and New York.

<table>
<thead>
<tr>
<th>State</th>
<th>Tax or Mortgage</th>
<th>Laws Associated with Expedited Process</th>
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| Michigan  | Tax             | (1) Land bank initiates foreclosure action on individual properties  
(2) Land bank searches for records identifying owners  
(3) Authority files petition with circuit court  
(4) Notification to inform owners of property interest  
(5) Circuit court enters judgement 10 days after hearing, court vests fee simple to land bank. |
| Ohio      | Tax             | (1) In a foreclosure proceeding upon a property pursuant to section §323.25 (Enforcement of tax lien), 323.65 (Foreclosure Proceedings for Abandoned Lands) or §5721.18 (Foreclosure Proceedings on lien of state), the county treasurer may invoke an alternative redemption period  
(2) If a land bank or other governmental unit requests title of the parcel, upon adjudication of foreclosure, the court shall foreclose upon the property, terminate any right of redemption, and transfer the deed directly to the requesting institution; no further act is required to extinguish any statutory or common law of redemption |
| Maryland  | Mortgage        | (1) Mortgagee petitions circuit court for immediate foreclosure mortgage on property on the basis that property is abandoned  
(2) Mortgagee notifies mortgagor by sending copy of the petition to last known address by mail  
(3) Upon finding that the property is vacant and abandoned, the court must grant the petition and immediately foreclosure. |
| New York  | Mortgage        | (1) Mortgagee applies via. notice of motion or order for foreclosure and sale on the grounds that the property is vacant and abandoned; Court promptly notifies the defendant  
(2) Court makes a written finding of vacant abandonment as soon as practically possible  
(3) If found to be vacant and abandoned, the property is foreclosed upon; if the property is purchased by the plaintiff of the foreclosure, the property must be placed on sale within 180 days. |

### Proposed Legislation Changes

The following points present the proposed legislation changes necessary to enable the expedited process in NYS, with new, proposed sections in italics.
Article 13 §1316: Transfer of vacant and abandoned property to land banks

1. The plaintiff in any foreclosure proceeding may, upon determining a property to be vacant and abandoned as defined in section thirteen hundred nine of this article, may transfer, gift, or sell their entire interest to a land banking organization established pursuant to section sixteen hundred three of article sixteen.

Article 16 §1607: Powers

(a) A land bank A land bank shall constitute a charitable not-for-profit corporation under New York law, which powers shall include all powers necessary to carry out and effectuate the purposes and provisions of this article, including the following powers in addition to those herein otherwise granted:

(22) to receive and manage vacant and abandoned properties pursuant to section thirteen hundred sixteen of article thirteen (Transfer of vacant and abandoned property to land banks), and to act as the petitioner within the expedited foreclosure proceeding established via section thirteen hundred nine of the article.

3.3 Tax Recapture as a Land Bank Funding Stream

Tax recapture programs are statutorily created funding streams for land banks. In the land bank context, tax recapture is a program that channels the property taxes generated by a newly sold property back to the land bank that sold the property for a period of years. Tax recapture is often justified by advocates based on the fact that land banks create the tax revenue the land bank will ultimately receive through tax capture by putting a property back on the tax rolls with the added benefit that “all surrounding properties will have a higher reassessed tax value.” This impact on surrounding property values results in more tax revenue for local governments. Seven states included


The major differences among the statutory schemes are the percent of tax recaptured, the number of years tax recapture is in place, and whether the tax recapture is mandatory or permissive.\footnote{See Johnson, supra note 95, at 1085.} Five states (Michigan,\footnote{Mich. Comp. Laws Ann. § 211.025.} New York,\footnote{N.Y. Not-For-Profit Corp. § 1610.} Pennsylvania,\footnote{tit. 68 Pa. Stat. and Cons. Ann. § 2111.} Nebraska,\footnote{Neb. Rev. Stat. Ann. § 19-5211.} and West Virginia\footnote{W. Va. Code Ann. § 31-18E-11.}) follow a five-year/fifty percent model where the land bank receives fifty percent of all property taxes for five years on a land bank sold property. Georgia and Missouri have varied from the five-year/fifty percent scheme. Georgia’s program allows land banks to recapture 75% of taxes on properties sold for five years.\footnote{G.A. CODE ANN. § 48-4-110. See also Frank S. Alexander & Sara J. Toering, Georgia Land Bank Resource Manual 18–19 (2013), https://www.gmanet.com/GMASite/media/images/landbank_resource_manual.pdf (discussing Georgia’s tax recapture scheme).} Missouri allows a 100% recapture of taxes for three years.\footnote{Id., § 141.988 R.S. Mo. See also https://scholarship.law.missouri.edu/cgi/viewcontent.cgi?article=1003&context=betr} These different tax recapture statutes represent a balance between the need to fund land banks and the desire to maximize tax revenue for local governments.\footnote{See Alexander, supra note 2, at 59.} A lower tax recapture percentage can reduce the “skepticism from local bodies and individuals that might hinder implementation” of a tax recapture program.\footnote{Johnson, supra note 3, at 1085.} A higher percentage of recapture for a shorter period of time may also reduce local skepticism.

The second major distinction among tax recapture statutes is whether tax recapture is mandatory or permissive.\footnote{See Figure 1, supra pg. 2 (listing mandatory/permissive statutes in “Recapture Scheme” column.)} In states where tax recapture is mandatory, a taxing governmental unit
must disburse the allocated revenue to the land bank. If tax recapture is permissive, as in New York State (see below), it is left up to a taxing governmental unit to enact a local law or ordinance to fund land banks through tax recapture. In states where tax recapture is permissive, the potential funding stream has gone almost entirely unused. This is because the incentives underlying permissive tax recapture require that the multi-layered taxing authorities (city, town, county, school district, fire district, etc.) all participate, and agree to institute the tax recapture program. One taxing authority is unlikely to forego revenue without all others agreeing to participate and do the same. Otherwise, the non-participating entities become free-riders and receive the benefits of the land bank restoring taxable property to their tax rolls without paying for the land bank’s services. After all, why should one taxing unit within a land banks jurisdiction shoulder the brunt of funding when all others do not share the responsibility equally? With a land bank scheme that is permissive, a land bank with a county-wide jurisdiction, which would include different taxing authorities within it, would need to convince the county government, any city governments, town governments, and other taxing districts within the county to also pass separate tax recapture ordinances. These complexities involving multiple local government taxing authorities can render the permissive tax recapture provision ineffective. The following figure shows the different tax recapture schemes and statutory language in the seven states that allow tax recapture.

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155 Cf. Payton Heins et al., Take it to the Bank: How Land Banks Are Strengthening America’s Neighborhood’s 42 (2014), http://www.thelandbank.org/downloads/ccp_take_it_to_the_bank.pdf (explaining that there has been “no rush” to execute local ordinances to implement tax recapture).
<table>
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<th>State &amp; Law</th>
<th>Recapture Scheme</th>
<th>Statutory Language</th>
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| Michigan    | 5yr/50% Mandatory | “The eligible tax reverted property specific tax is an annual tax, payable at the same times, in the same installments, and to the same officer or officers as taxes imposed under the general property tax act and the state education tax act are payable. The eligible tax reverted property specific tax is subject to the same collection fee and interest as taxes imposed under the general property tax act. Except as otherwise provided in this section, the officer or officers shall disburse the eligible tax reverted property specific tax payments received by the officer or officers each year as follows:  
- Fifty percent of the eligible tax reverted property specific tax to and among this state and cities, townships, villages, school districts, counties, or other taxing units, at the same times and in the same proportions as required by law for the disbursement of taxes collected under the general property tax act.  
- Fifty percent of the eligible tax reverted property specific tax to the authority that sold or otherwise conveyed the property under the land bank fast track act which sale or conveyance caused the property to be eligible tax reverted property.” |
| New York    | 5yr/50% Permissive | “Upon the adoption of a local law, ordinance, or resolution by municipality, school district or any taxing district, fifty percent of the real property taxes collected on any specific parcel of real property identified by such municipality, school district or any taxing jurisdiction may be remitted to the land bank, in accordance with procedures established by regulations promulgated by the department of taxation and finance. Such allocation of real property tax revenues shall commence with the first taxable year following the date of conveyance and shall continue for a period of five years.” |
| Pennsylvania| 5yr/50% Permissive | “A taxing jurisdiction may authorize the remittance or dedication of a portion of real property taxes collected pursuant to the laws of this Commonwealth to a land bank for real property conveyed by a land bank.”  
- Allocation of property tax revenues in accordance with this subsection, if authorized by the taxing jurisdiction, shall commence with the first taxable year following the date of conveyance and continue for a period of up to five years and may not exceed a maximum of 50% of the aggregate property tax revenues generated by the property.” |
| West Virginia| 5yr/50% Permissive | “A taxing jurisdiction may authorize the remittance or dedication of a portion of real property taxes collected pursuant to the laws of this state to a land reuse agency on real property conveyed by a land reuse agency.”  
- Allocation of property tax revenues in accordance with this subsection, if authorized by the taxing jurisdiction, begins with the first taxable year following the date of conveyance and continues for a period of up to five years and may not exceed a maximum of fifty percent of the aggregate property tax revenues generated by the property.” |
| Nebraska    | 5yr/50% Mandatory  | “Fifty percent of the real property taxes collected on real property conveyed by a land bank pursuant to the laws of this state shall be remitted to the land bank. Such allocation of property tax revenue shall commence with the first taxable year following the date of conveyance and shall continue for a period of five years.” |
| Georgia     | % set by local law | “Up to 75 percent of the real property taxes collected on real property, exclusive of any state or school district ad valorem tax, conveyed by a land bank pursuant to the laws of this state shall be remitted to the land bank. The specific percentage of such taxes to be remitted, as to each land bank member, shall be set forth in the local law, ordinance, or resolution or in the intergovernmental contract of the land bank. Such allocation of property tax revenues shall commence with the first taxable year following the date of conveyance and shall continue for a period of five years.” |
| Missouri    | 3yr/100% Mandatory | “If a land bank agency sells or otherwise disposes of a parcel of real estate held by it, any land taxes assessed against such parcel for the three tax years following such sale or disposition by such land bank agency that are collected by the collector in a calendar year and not refunded... shall be distributed by the collector to such land bank agency no later than March first of the following calendar year.” |

Figure 7: Land Bank Statutory Tax Recapture Schemes by State

Michigan was one of the first states in the county to enact land bank legislation and the first to use tax recapture.\textsuperscript{156} New York’s Land Bank Act, passed in 2001, is based in large part on Michigan’s law.\textsuperscript{157} When New York passed its Land Bank Act, it was intended that land banks be “self-funded”

\textsuperscript{156} See ALEXANDER, supra note 2, at 15, 50.
with a tax recapture program. This tax recapture funding was a major selling point of the Act because the legislature believed that tax recapture would make land banks “revenue neutral” for state government and would not require direct funding from the state budget.

There is a major distinction between Michigan’s tax recapture program and New York’s program, however. Michigan’s tax recapture program is mandatory while New York’s is permissive. Because tax recapture is permissive in New York, it allows jurisdictions to “opt-in” to such a tax recapture scheme. And local taxing authorities have, for the most part, been disinclined to do so: only one land bank located within New York State is currently funded with tax recapture funds. By not mandating tax recapture, New York land banks have been denied the funding stream the legislature initially intended for them when it passed the land bank legislation. New York land banks should work with local elected officials and state representatives to seek an amendment to the Land Bank Act to mandate tax recapture. This would ensure a clear, mandatory, and dedicated funding stream for land banks.

To make the case for mandatory tax recapture in New York, it is important to understand how much revenue the land banks would have received (and future tax revenues to the taxing authority) if tax recapture was a mandatory aspect of the New York State land bank legislative scheme at the start

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158 See Id. at 174.
159 See MICH. COMP. LAWS ANN. § 211.025; N.Y. NOT-FOR-PROFIT CORP. § 1610.
160 See Bill Jacket at 174. Michigan was more realistic than New York about the costs of running a successful land bank. While debating the bill, the Michigan Senate Finance Committee found that given the expense of holding, maintaining, and selling vacant property “there is a significant chance that [land banks] would not be able to cover its administrative expenses.” MICH. SENATE FISCAL AGENCY, LAND BANK FAST TRACK BILL ANALYSIS 15 (2003). The Finance Committee also anticipated that Land Banks “would require certain expenditures to cover the staffing and overhead costs.” Id.
of land bank operations in the state. During the five years from when the Land Bank Act was passed in 2011 to December 2016, the original ten land banks returned $28.4 million in assessed value to the tax rolls.\textsuperscript{162} This accounted for $2 million in additional local tax revenues.\textsuperscript{163} Had tax recapture been mandatory, land banks would have received half of that $2 million amount. While this amount may seem modest when spread over ten land banks, it is important to note that the first few years are likely the least productive for the land banks compared to later years because time is required to build infrastructure, transfer tax delinquent properties to the land banks, and to begin to sell the properties.

Figure\textsuperscript{7} (\textit{see appendix C}) is an estimate of how much tax recapture revenue four New York land banks would have received for 2018 if tax recapture had been mandated from the beginning of land bank operations in the state. These estimates are based on reported assessed value returned to tax rolls and property taxes generated by the land banks. For example, if Albany County Land Bank had tax recapture from the beginning of its operations, it would have received an estimated $117,792 for 2018.\textsuperscript{164} The Greater Syracuse Land Bank would have received $470,000 from tax recapture in 2018.\textsuperscript{165} Greater Syracuse Land Banks’s success in returning assessed value to the tax rolls demonstrates the potential for tax recapture to serve as a dedicated funding stream. Greater Syracuse Land Bank is two years older than Albany County Land Bank and the Capital District Land Bank has had more time to sell properties and thus has added more additional assessed value to its tax rolls.\textsuperscript{166} As these two younger land banks grow, the potential rewards of mandatory tax recapture do too.

\textsuperscript{162}See CTR. FOR CMTY. PROGRESS, supra note 31, at 21.

\textsuperscript{163}Id.

\textsuperscript{164}See Figure Two, infra

\textsuperscript{165}See Figure Two, infra. Syracuse has previously estimated that it would have taken $200,000 from tax recapture in the 2017 calendar year (likely not including school taxes) if tax recapture had been implemented from the start of operations. PAYTON HEINS ET AL., supra note 18, at 42.

To maximize funding from tax recapture, land banks will need to focus on increasing assessed value returned to the tax rolls. This can be done by selling more properties and selling the properties with the highest assessed value. For example, the Albany County Land Bank would have to sell 110 properties a year for five years with an average of $20,000 in assessed value per property to receive approximately $250,000 from tax recapture a year. Alternatively, if Albany County Land Bank sold 90 properties a year with an average assessed value of $50,000 for five years it would receive $500,000 from tax recapture. The Capital District Land Bank would have to sell 95 properties a year for five years with an average of $20,000 in assessed value per property to receive $250,000 from tax recapture a year.

These examples demonstrate the potential benefits of tax recapture funding. These calculations likely underestimate the potential rewards of tax recapture because the Albany County Land Bank and the Capital District Land Bank sell to buyers that commit to making substantial improvements to the property purchased. Tax recapture can be maximized by more frequently reassessing properties sold by land banks to reflect after-sale improvements made to those properties. A property assessed at $20,000 when sold by a land bank may have $80,000 in improvements completed by the next year. To enhance tax recapture, Albany and Schenectady should encourage local government to implement a program to reassess the value of properties sold by the land bank.

167 The following calculations are based on the following formulas: n properties sold ×
average assessed value × 5 years = total assessed value returned in fifth year.
total assessed value returned × tax rate = property taxes generated in fifth year.
property taxes generated in fifth year × .5 = tax recapture revenue. Thus n properties sold ×
average assessed value × 5 years × tax rate × .5 = tax recapture revenue.
Here the inputs are, 110 × 20,000 × 5 × .04445 × .5 = $244,475. EMPIRE CTR., supra note 33 (Albany’s tax rate is .04445).

168 Using the tax recapture formula in footnote 44 the tax recapture revenue would be: 90 × 20,000 × 5 × .05267 × .5 = $500,062.5. Schenectady 2015 City Tax Report, EMPIRE CTR. http://www.seethroughny.net/benchmarking/property-tax-calculator/single/2015/420253000000-420100000000-420553000000# (last visited Mar. 9, 2018) (The City of Schenectady has a total tax rate of $52.67 per $1000 in assessed value). For mathematical simplicity, this estimate is based on the assumption that all of the properties that the Capital District Land Bank sells are located in the city of Schenectady.
after renovations are completed. The Albany County Land Bank could sell fifty properties a year for five years with an average assessed value of $20,000, but after reassessment, the properties from the first four of the five years might be valued as high as $100,000. If timely reassessed, the land bank would have returned $21 million in assessed value to the tax rolls.\textsuperscript{170} Albany County Land Bank would receive $466,725 from tax recapture after that fifth year as a reward for its labor.\textsuperscript{171}

Tax recapture is not without its limitations. The revenue funneled to land banks from tax recapture is not nearly enough to cover New York land banks’ operating expenses. Even in Michigan, the original tax recapture state, the program has not been a sufficient source of income for land banks to cover all of their operating expenses. Genesee County Land Bank, one of the largest in Michigan, receive a meager 1\% of its revenue for 2012/2013 from tax recapture.\textsuperscript{172} Despite this, tax recapture provides three major benefits. First, it gives land banks a dedicated funding stream. Currently, New York land banks have no dedicated funding. Second, tax recapture revenues for land banks only stand to grow with time as New York’s young land banks get better at what they do. Third, with confidence, land banks could seek a budget line from the legislature with proof that tax recapture alone is not enough to support their necessary work. To thrive, land banks require a diverse funding portfolio. Tax recapture should be just one of many funding sources for land banks.

To create mandatory tax recapture the New York State Legislature would have to amend the Land Bank Act. To do this, New York should look to the states with mandatory five-year/fifty percent schemes: Michigan and Nebraska. The Nebraska law simply states

\textsuperscript{170}This estimate is based on this formula: \((n \text{ properties sold per year} \times \text{average assessed value} \times 1 \text{ year}) + (n \text{ properties sold per year} \times \text{average reassessed value} \times 4 \text{ years}) = \text{total assessed value returned in fifth year.}\). Thus, \((50 \times $20,000) + (50 \times $100,000 \times 4 \text{ years}) = $21,000,000\).

\textsuperscript{171}The formula for this calculation is: \(\text{total assessed value returned} \times \text{tax rate} = \text{property taxes generated in fifth year. Property taxes generated in fifth year} \times .5 = \text{tax recapture revenue}\). The inputs are: $21,000,000 \times .04445 = $934,500 in property taxes generated in the fifth year. Multiplied by 50\%, this figure equals $466,725 in tax recapture revenue.

\textsuperscript{172}PAYTON HEINS ET AL., supra note 18, at 28. The lack of success of tax recapture in Michigan may be explained by the fact that Michigan has significantly lower tax rates than New York and because land banks in Michigan operate in one of the most depressed housing markets in the country.
Fifty percent of the real property taxes collected on real property conveyed by a land bank pursuant to the laws of this state shall be remitted to the land bank. Such allocation of property tax revenue shall commence with the first taxable year following the date of conveyance and shall continue for a period of five years.¹⁷³

This language ensures that land banks will actually receive funding from tax recapture. The language in the Michigan Land Bank statute is more precise about the procedures by which the tax is paid, collected, and then disbursed to the land banks.¹⁷⁴ The statute also clarifies that the tax will be subject to the same fees and interest in the General Property Tax Act.¹⁷⁵ Specifically, the statute states:

The eligible tax reverted property specific tax is an annual tax, payable at the same times, in the same installments, and to the same officer or officers as taxes imposed under the general property tax act and the state education tax act are payable. The eligible tax reverted property specific tax is subject to the same collection fee and interest as taxes imposed under the general property tax act. Except as otherwise provided in this section, the officer or officers shall disburse the eligible tax reverted property specific tax payments received by the officer or officers each year as follows:

(a) Fifty percent of the eligible tax reverted property specific tax to and among this state and cities, townships, villages, school districts, counties, or other taxing units, at the same times and in the same proportions as required by law for the disbursement of taxes collected under the general property tax act.
(b) Fifty percent of the eligible tax reverted property specific tax to the authority that sold or otherwise conveyed the property under the land bank fast track act which sale or conveyance caused the property to be eligible tax reverted property.¹⁷⁶

The New York State Legislature should adopt language similar to that found in the Nebraska and Michigan statutes to enact mandatory tax recapture for land banks. Here is an example of what changes could be made to the New York Land Bank act to create mandatory tax recapture:

Upon the adoption of a local law, ordinance, or resolution by municipality, school district or any taxing district, Fifty percent of the real property taxes collected by any taxing jurisdiction on any specific parcel of real property conveyed by a land bank identified by such municipality, school district or any taxing jurisdiction must be remitted to the conveying land bank, in accordance with procedures established by regulations promulgated by the department of taxation and finance. Such allocation of

¹⁷⁵ See id.
¹⁷⁶ Id.
real property tax revenues shall commence with the first taxable year following the
date of conveyance and shall continue for a period of five years. 177

This language is just one example of how to alter the New York statute. The procedural
requirements found in Michigan’s statute would be helpful additions to an amendment to New York’s
laws as well. New York Land Banks should work with their partners in local and state government to
pursue these changes.

3.4 Delinquent Tax & Assessment Collection (“DTAC”)

Land banks across the state operate differently, but all are still determining how to best utilize
the tools given to them by Article 16 of the N.Y. Not-for-Profit Law (the Act). It has been argued
that the use of a portion of the revenue generated from the collection of paid delinquent taxes is “the
most practical mechanism for establishing and operating a land bank.” 178 This way of funding land
banks is commonly referred to as DTAC, and the process involves creating a fund, controlled by a
county treasurer, that is funded by the collection of delinquent taxes in the county. The revenue in the
DTAC fund can then be used for a number of uses, which are typically defined by statute. One of
which being to support land banks. An example that is commonly referenced to show that DTAC can
successfully support a land bank is Ohio’s use of DTAC. 3.4.1 How Ohio Makes DTAC Work

Ohio Revised Code (“OCR”) § 321.261 establishes the delinquent tax assessment and
collection fund (the “DTAC fund”). This legislation essentially creates two DTAC funds, one for the
county prosecutor and one for the county treasurer. 179 OCR § 321.26(A) provides that each DTAC
fund shall receive two and a half percent (2.5%) of all delinquent real property, personal property,

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177 N.Y. NOT-FOR-PROFIT CORP. § 1610
179 HAMILTON Cty., OHIO, DELINQUENT TAX ASSESSMENT & COLLECTION (DTAC) IMPACT ON MUNICIPALITIES 1,
manufactured home and mobile home taxes and special assessments. Subsection (A)(2) of section 321.261, allows a county to allocate money from the county treasurer’s DTAC fund to the land banks. In most instances such allocation is not mandatory, though it become mandatory if the county treasurer either (a) raises the delinquent tax amount or (b) pledges to continue to use the “line-of-credit” mechanism.

The following present key components of DTAC

**Additional Monies to Land Banks:** When delinquent taxes are raised, additional money earned must go to the land banks. The law in Ohio currently allows county commissioners in New York State to increase the amount of the delinquent tax in their jurisdiction, if there is a land bank in their jurisdiction, by an additional five percent (5%) to a total of ten percent (10%). However, if the commissioners decide to exercise this authority, then the revenue from this additional five percent (5%) tax is for the exclusive use of the land bank in the jurisdiction. This is one way that allocation of the money in the DTAC fund to the land banks can become mandatory on the part of the county. This has become a major source of funding for county land banks in Ohio.

**Line of Credit.** The use of a “line of credit” mechanism to fund the DTAC fund can also become a source of mandatory funding for the land banks. The law also allows for this arrangement between a county treasurer and a taxing district within the county. The county treasurer gives delinquent tax anticipation notes, which draw on a line of credit, to the taxing

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180 Note that Ohio refers to their land banks as county land reutilization corporation (“CLRCs”), because they are separate entities, as opposed to municipal programs. This came about as part of the 2009 revisions to Ohio’s Land Banking Legislation.


182 Id.

183 Id.

This acts just like any other line of credit, and the amount of money that the county treasurer is able to advance to a taxing district depends on the amount of delinquent, unpaid taxes currently owed. The county treasurer is able to determine this amount because the county auditor is required to compile a list of all properties that are delinquent immediately after the August settlement between the auditor and treasurer, as required by OCR § 321.24(C). The required list, which is given to the treasurer by the auditor, is required to include: (1) a description of the property, (2) the name of the person in whose name the property is listed, and (3) the amount of taxes, penalties, interest, recoupment charges, and special assessments due. In addition, if there is a county land bank that receives penalties and interest this must also be shown on the list. When the advanced amounts are later collected, this money is put into the treasurer’s DTAC fund. The county, in addition to retaining the money to cover the amount advanced to the taxing district(s), retains any interest and penalties that are paid in regard to the delinquent taxes owed. The funds generated by this payment of interest and penalties can then be used to pay for land bank expenses. Further, the law allows the county treasurer to pledge the current year’s unpaid, delinquent taxes to repay the debt of the land banks. Such agreements can include covenants that state “as long as there is outstanding land bank debt, the county treasurer will continue to issue advances to its taxing districts.” Thus, a pledge containing a covenant such as this essentially creates a stream of mandatory, reoccurring funding for the land banks.

185 Ohio County Commissioners, supra note 136, at 25.
188 See Ohio County Commissioners, supra note 134, at 56.
190 Ohio Rev. Code § 321.341(C).
191 See Ohio County Commissioners, supra note 136, at 26.
**Monies to the Treasurer and Monies to the Land Bank.** It is important to note that money being distributed to the Treasurer’s DTAC is not the same as it being given to the land banks. There are two mechanisms that create mandatory, reoccurring funding for the land banks using the DTAC fund of the treasurer. However, it should be understood that all monies distributed to the treasurer’s DTAC fund are *not just* for land bank use. Rather, the DTAC fund’s primary function is to provide funds in connection with the collection of real and manufactured home taxes and special assessments and to assist with foreclosure actions.193 The legislation, without the use of the above two mechanisms, merely allows for a portion of the money that is distributed to the county treasurer’s DTAC fund to be used for land bank expenses, and/or distributed directly to the land banks.194

Other states have implemented DTAC and learning from their experience can be helpful. Ohio’s legislation allowed for a steady and consistent source of funding for the land banks within the state. Together, all of the above-mentioned provisions of Ohio’s code have the potential to allow for a steady and consistent revenue stream for Ohio’s land banks when properly used. Also, note that the taxes paid by Ohio residents were not increased due to the 2009 land bank legislation amendments that allow for the use of DTAC funds to support land banks.195

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193 **OHIO REV. CODE** § 321.261.
194 *Id.*
3.4.2 Can DTAC Work In New York?

The Land Bank legislation in New York is different than that of Ohio. However, under the current legislation, New York land banks could try to establish their own DTAC funding system. One impediment to a New York DTAC system is that raising the amount of delinquent taxes by five percent is likely not an option in New York, because delinquent taxes are already above 10%. Thus, an additional 5% increase, like what is allowed under Ohio’s law, may be excessive and therefore not a likely power that New York county treasurers would exercise. This is an impediment to implementing DTAC in New York State in the future because this takes away one of the avenues that in Ohio is used to create mandatory funding. The following present suggestions on how to leverage DTAC in NYS:

**New York Not-for-Profit Law § 1610 can be used to create a fund similar to the Ohio treasurer’s DTAC fund.** N.Y. Not-for-Profit Law § 1610(A) allows for municipalities to provide funding to the land banks, by way of grants or loans. This subsection would allow a municipality that has a land bank to remit all, or just a portion of, the penalties and interest paid on delinquent taxes (or all property taxes) to the land banks, either in the guise of a loan or grant. Further, N.Y. Not-for-Profit Law § 1610(C) allows for up to fifty percent (50%) of all real property taxes collected by a municipality, school district or taxing district on specified parcels of real property to be given to the land banks. If these two subsections are used, the revenue produced can be used to create a land bank fund. Instead of providing the money directly to the land banks, the money would be distributed into the fund. When the money in the fund is needed, the land bank can withdraw funds from the fund. This would create a source of permanent funding.
New York Not-for-Profit Law § 1611 bonds can be effective if there is a source of permanent funding. N.Y. Not-for-Profit Law §1611 gives New York land banks the ability to issue tax-exempt bonds. This is an extremely underutilized mechanism that is available to the land banks. A main reason for its lack of use is because it is not clear if the land banks have fully explored its potential as a funding stream. The issuance of these bonds to individual or private investors is not a great option for land banks, however, because of the inability of the land banks to provide an attractive return on such an investment. A number of land bank projects do generate positive cash flow. This being the case, there is not much incentive for an investor to purchase land bank bonds in such projects – i.e. they may get no return on their investment. However, if there is a revolving fund of money available (i.e. by using N.Y. Not-for-Profit Law § 1610) to the land banks this gives more security to potential investors, and thus can make them more willing to invest. Land banks could then take a number of approaches. One would be to issue bonds only on projects that are likely to generate revenue. For example, mixed-use, commercial or multifamily projects may produce a meaningful return on investment and thus they might generate sufficient revenue to pay back the bonds and make a profit. For the investors, the likelihood of the project generating money, as well as knowing that the land bank has its fund just in case the project does not goes as planned, will make them more inclined to invest in them. The money from the fund established by using N.Y. Not-for-Profit § 1610, as well as other land bank revenue, could fund a portion of the project, federal and state grants could fund a portion of these projects as well, and the remaining portion could be funded by section 1611 bonds. The profit on the sale of the building, or operation and leasing of the building (depending on the type of project), would pay back the bonds, and additional revenue would belong to the land banks.
A fund similar to the Ohio treasurer’s DTAC fund is possible, but like in Ohio, the land bank needs the cooperation of its respective municipality. N.Y. Not-for-Profit Law §§ 1610 and 1611, although not as helpful as the Ohio legislation, can still be used to generate a consistent source of funding for the land banks. The above funding options, if implemented in New York, would provide land banks with more freedom and ability to operate. They might generate significant, positive spillover effects. The land banks would attract private investors, because the municipality would back their investments through N.Y. Not-for-Profit Law § 1610 funding. As such, they would have more money up front to put into their projects to produce better end products, which in turn would result in higher revenue for the land banks, with the end result that the land banks not need as much municipal funding to maintain themselves.

Legislative Action is Required. A “DTAC-like” funding system is possible in New York State if the legislation currently in place is used properly. However, there will likely need to be legislative change, so that there can be reoccurring revenue that can help them sustain themselves and continue the good work that they can offer to the communities that they support.

Conclusion

New York State Land Banks create enormous value for the localities they serve, and the findings in this report present both an expanded view of that value and offer appropriate mechanisms for long term sustainability. The following recommendations are intended to spark discussion, collaboration, and resolution with regard to the functioning of land banks to help address blighted neighborhoods throughout upstate New York.
Expanding the Public Value Proposition

1. Further research is needed to expand on the foregoing efforts to quantify the positive impact land bank activities have on neighboring property values. This will enhance the economic indicators that already demonstrate the impact of land banks.

2. New methods of research are necessary to measure local quality of life indicators that have major implications for land banks—such as crime reduction, expanding green space, and facilitating new business investment. Local university partners could potentially provide technical assistance with new research. This could include surveys and interviews for priority neighborhoods to generate powerful anecdotal evidence to support all types of public value propositions for land banks.

Implementing Mechanisms for Long Term Viability

1. As municipalities around the country turn to public/private partnership to counter tight budget restraints, New York’s land banks should attempt to facilitate joint and integrated code enforcement programs that generate significant, positive revenues and otherwise further the mission of land banks through early intervention with respect to properties and upstream acquisition.

2. While expedited foreclosure is a sensitive topic, other states have developed legislation and enforcement initiatives to utilize such mechanisms to target absentee speculators and profiteers, while providing much needed assistance to struggling homeowners. Finding ways to implement similar strategies, whether by new or existing legal frameworks, would be a major victory for land banks and the communities they serve.

3. Permissive language in New York’s “tax recapture” provision of the land bank statute renders this funding mechanism almost entirely ineffective. Advocates could encourage
New York legislators to amend the language of the statute to make tax recapture a mandatory funding mechanism for land banks, as is the case in other states.

4. Land bank advocates should encourage New York policymakers to see the major benefits that a delinquent tax assessment & collection (DTAC) fund has generated in Ohio communities and to consider enabling land banks in New York to undertake similar strategic development approaches.

Finally, we believe that land banks and their supporters should continue to search for viable, dedicated, and sustainable sources of long-term funding so that they can continue the great work of leading the transformation of NYS communities.
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Appendix B: New York State Land Banks

Currently Operating New York State Land Banks (New York Land Bank Association)

1. Albany County Land Bank Corp.
2. Allegany County Land Bank
3. Broome County Land Bank Corporation
4. Buffalo Erie Niagara Land Improvement Corp.
5. Capital Region Land Bank
6. Cattaraugus County Land Bank Corp.
7. Chautauqua County Land Bank Corp.
8. Chemung County Land Bank
9. Finger Lakes Regional Land Bank Corp. (Seneca County)
10. Greater Mohawk Valley Land Bank
11. Greater Syracuse Land Bank
12. Kingston City Land Bank (approved 3/29/18, waiting for Articles of Incorporation)
13. Livingston County Land Bank
14. Nassau County Land Bank
15. Newburgh Community Land Bank
16. Niagara-Orleans Regional Land Improvement Corp.
17. Oswego County Land Bank
18. Rochester Land Bank Corp.
19. Steuben County Land Bank
20. Suffolk County Land Bank Corp.
21. Sullivan County Land Bank Corp.
22. Tioga County Property Development Corp.
23. Troy Community Land Bank
24. Wayne County Land Bank

Map of New York State Land Banks as of March 2017 (Albany County Land Bank Corporation)
Appendix C: Tax Recapture Revenue if Implemented from Beginning of Operations

<table>
<thead>
<tr>
<th>Land Bank</th>
<th>Year Created</th>
<th>Assessed Value Returned to Tax Rolls</th>
<th>Property Taxes Generated for 2017.</th>
<th>Estimated Land Bank Tax Recapture Revenue for 2018.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Albany County Land Bank</td>
<td>2014</td>
<td>$5,300,000153</td>
<td>$235,585154</td>
<td>$117,792155</td>
</tr>
<tr>
<td>Greater Syracuse Land Bank</td>
<td>2012</td>
<td>$13,000,000155</td>
<td>$939,000157</td>
<td>$469,500158</td>
</tr>
<tr>
<td>Buffalo, Erie, Niagara Land Improvement Corp.</td>
<td>2012</td>
<td>$5,000,000159</td>
<td>$133,150158</td>
<td>$66,575161</td>
</tr>
<tr>
<td>Newburgh Community Land Bank</td>
<td>2012</td>
<td>$3,000,000162</td>
<td>$116,000153</td>
<td>$58,000164</td>
</tr>
</tbody>
</table>


152 For simplicity, the assessed value returned to tax rolls is calculated from the date each land bank was created. For the land banks in Syracuse, Buffalo, and Newburgh, this should have no effect on calculations because the date from creation to the most recent tax assessments runs from 2012 to 2017, or five years. This makes a fairly accurate estimate of a five-year recapture program. The estimates for Albany County Land Bank significantly underestimate the rewards of a five-year tax recapture program because data is only available for three years, from its creation in 2014 to 2017.


154 Property Taxes Generated for 2017 is calculated by multiplying the Assessed Value Enabled to Return by the city of Albany’s total tax rate of $44.45 per $1,000 in assessed value. Albany 2015 City Tax Report, Empire Ctr. http://www.seethroughny.net/benchmarking/property-tax-calculator/single/2015/1020100000-1010000000-1050100000-1050100000# (last visited Mar. 9, 2018). Thus, assessed value × tax rate = taxes generated or 5,300,000 × .04445 = 235,585. For mathematical simplicity, this estimate is based on the assumption that all of the properties that Albany County Land Bank sells are located in the city of Albany.

153 This figure is calculated by taxes generated × 50% = tax recapture revenue or 235,585 × 0.5 = 117,792.


155 Id.

156 Id. (this figure is calculated by multiplying the property taxes generated for 2017 time 50%).