

## Land Bank Participation in the Land Recycling Program

### What are Land Banks?

Land Banks are public entities, which local municipalities or public bodies may establish pursuant to the Land Bank Legislation (Land Bank Act), Act 53 of 2012, 68 Pa. C.S. §§ 2101-2120, which promotes the redevelopment of certain vacant, abandoned, and tax-delinquent properties that otherwise pose local health and safety concerns and generate minimal to no tax revenue. The Land Bank Act authorizes a local governing body to establish a Land Bank through ordinance, which may then acquire and direct the redevelopment of local property to the benefit of the local community.

For more information about the Land Bank Act, please visit:

[www.legis.state.pa.us/WU01/LI/LI/US/HTM/2012/0/0153..HTM](http://www.legis.state.pa.us/WU01/LI/LI/US/HTM/2012/0/0153..HTM).

### Can a Land Bank be a “Responsible Person” under the Environmental Acts?

Land Banks may acquire properties that require remediation as part of the redevelopment effort. As a result of its acquisition, a Land Bank becomes an owner of a property and, potentially, a “responsible person” under Section 103 of the Land Recycling and Environmental Remediation Standards Act (Act 2), 35 P.S. § 6026.101, that may be subject to enforcement action by the Pennsylvania Department of Environmental Protection (DEP) under the environmental acts for contamination at a property. A “responsible person” may voluntarily address its liability to DEP through Act 2, which enumerates the administrative and remedial criteria necessary to demonstrate attainment of a remediation standard and obtain a relief of liability for any contamination that the “responsible person” addresses.

For more information on DEP’s Land Recycling Program, please visit:

[www.dep.pa.gov/Business/Land/LandRecycling/Pages/default.aspx](http://www.dep.pa.gov/Business/Land/LandRecycling/Pages/default.aspx).

### Can an entity be exempt from liability to DEP?

To incentivize funding property remediation and redevelopment, some entities may be exempt from liability to DEP under the Economic Development Agency, Fiduciary and Lender Environmental Liability Protection Act (Act 3), 35 P.S. §§ 6027.1-6027.14. Provided that the entity does not cause or exacerbate a property’s contamination, an entity that qualifies as an “Economic Development Agencies” is not liable to DEP as “responsible person” in an action under the environmental acts. 35 P.S. § 6027.4(b)(1) (relating to scope of liability). In short, Act 3 defines “Economic Development Agencies” to be:

1. Redevelopment authorities;
2. Industrial development agencies;
3. Area loan organizations;
4. Commonwealth or municipal authorities that acquire titles or an interest in property;
5. Municipalities, municipal industrial development, or community development departments organized by ordinance and that buy and sell land for community development purposes;
6. Tourist promotion agencies that acquire sites as part of a heritage program;
7. Conservancies the renew or reclaim industrial sites.

35 P.S. § 6020.3.

For more information about Act 3, please visit:

[www.legis.state.pa.us/cfdocs/Legis/LI/uconsCheck.cfm?txtType=HTM&yr=1995&sessInd=0&smthLwln d=0&act=0003](http://www.legis.state.pa.us/cfdocs/Legis/LI/uconsCheck.cfm?txtType=HTM&yr=1995&sessInd=0&smthLwln d=0&act=0003).

## Can a Land Bank qualify as an “Economic Development Agency” under Act 3?

As noted above, Act 3 defines Economic Development Agencies as, among other things, “any Commonwealth or municipal authority which acquires title or an interest in property” or “Municipalities or municipal industrial development or community development departments organized by ordinance under a home rule charter which buy and sell land for community development purposes.” 35 P.S. § 6027.3.

The Land Bank Act defines a Land Bank to be “[a] public body and a body corporate and politic” established under the act. 68 Pa. C.S. § 2103 (relating to definitions). The Land Bank Act also provides that Land Banks may be established through ordinance by appropriate local governmental bodies (68 Pa. C.S. § 2014) (relating to creation and existence), and that Land Banks can acquire, hold title to property in its own name (68 Pa. C.S. § 2109) (relating to acquisition of property), and dispose of property (68 Pa. C.S. § 2110) (relating to disposition of property).

Provided that a Land Bank is formed pursuant to the appropriate municipal authority and that a Land Bank is authorized to act in a manner that would qualify it as an Economic Development Agency under Act 3, including the acquisition and conveyance of property, a Land Bank may be exempt from liability as a “responsible person” to DEP.

Nothing within Act 3 shall affect the rights, immunities, or other defenses that are available under other applicable law to an Economic Development Agency, nor shall Act 3 be construed to create any new, different or additional liability for or create a private right of action against an Economic Development Agency. 35 P.S. § 6027.8.

**Please note, DEP does not approve or disapprove of any entity’s status under Act 3.** DEP may treat an entity as an Economic Development Agency provided that the entity is:

1. Established as a public entity pursuant to the Land Bank Act;
2. Established through ordinance by an appropriate local government authority;
3. Authorized to acquire, hold title to, and dispose of property.

DEP recommends that an entity consult with legal counsel to determine if it qualifies as a Land Bank and an Economic Development Agency that may be exempt from liability to DEP under Act 3. Relevant information may include, but is not limited to:

1. A Land Bank’s authorizing charter and/or ordinance;
2. A Land Bank’s by-laws and/or governing documents that direct its authority in regard to the acquisition, management, and disposition of property.

For more information, visit the Pennsylvania Department of Community and Economic Development “Blight and Land Banks” web page at: [dced.pa.gov/local-government/blight-and-land-banks/](http://dced.pa.gov/local-government/blight-and-land-banks/).

For more information, visit [www.dep.pa.gov](http://www.dep.pa.gov).