

# **WEST VIRGINIA LEGISLATURE**

## **2020 REGULAR SESSION**

**Introduced**

### **House Bill 4394**

BY DELEGATES ROHRBACH, LOVEJOY, MILLER AND

FLEISCHAUER

[Introduced January 16, 2020; Referred to the  
Committee on Political Subdivisions then the  
Judiciary]

1 A BILL to amend and reenact §31-18E-9 of the West Virginia Code, 1931, as amended, relating  
 2 to making permanent the right of first refusal land reuse agencies and municipal land  
 3 banks have on tax-delinquent properties; expanding the circumstances when the right of  
 4 first refusal may be used; clarifying provisions related to the right of first refusal; and  
 5 authorizing land reuse agencies and municipal land banks to reject adjacent property  
 6 owner's request to purchase property in certain circumstances.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 18E. WEST VIRGINIA LAND REUSE AGENCY AUTHORIZATION ACT.**

**§31-18E-9. Acquisition of property.**

1 (a) *Title to be held in its name.* – A land reuse agency or municipal land bank shall hold in  
 2 its own name all real property it acquires.

3 (b) *Tax exemption.* – (1) Except as set forth in subdivision (2) of this subsection, the real  
 4 property of a land reuse agency or municipal land bank and its income and operations are exempt  
 5 from property tax.

6 (2) Subdivision (1) of this subsection does not apply to real property of a land reuse agency  
 7 or municipal land bank after the fifth consecutive year in which the real property is continuously  
 8 leased to a private third party. However, real property continues to be exempt from property taxes  
 9 if it is leased to a nonprofit or governmental agency at substantially less than fair market value.

10 (c) *Methods of acquisition.* – A land reuse agency or municipal land bank may acquire real  
 11 property or interests in real property by any means on terms and conditions and in a manner the  
 12 land reuse agency considers proper: *Provided,* That a land reuse agency or municipal land bank  
 13 may not acquire any interest in oil, gas or minerals which have been severed from the realty.

14 (d) *Acquisitions from municipalities or counties.* – (1) A land reuse agency or municipal  
 15 land bank may acquire real property by purchase contracts, lease purchase agreements,  
 16 installment sales contracts and land contracts and may accept transfers from municipalities or  
 17 counties upon terms and conditions as agreed to by the land reuse agency or municipal land bank

18 and the municipality or county.

19 (2) A municipality or county may transfer to a land reuse agency or municipal land bank  
20 real property and interests in real property of the municipality or county on terms and conditions  
21 and according to procedures determined by the municipality or county as long as the real property  
22 is located within the jurisdiction of the land reuse agency or municipal land bank.

23 (3) An urban renewal authority, as defined in §16-18-4 of this code, located within a land  
24 reuse jurisdiction established under this article may, with the consent of the local governing body  
25 and without a redevelopment contract, convey property to the land reuse agency. A conveyance  
26 under this subdivision shall be with fee simple title, free of all liens and encumbrances.

27 (e) *Maintenance.* – A land reuse agency or municipal land bank shall maintain all of its  
28 real property in accordance with the statutes and ordinances of the jurisdiction in which the real  
29 property is located.

30 (f) *Prohibition.* – (1) Subject to the provisions of subdivision (2) of this subsection, a land  
31 reuse agency or municipal land bank may not own or hold real property located outside the  
32 jurisdictional boundaries of the entities which created the land reuse agency under §31-18E-4(c)  
33 of this code.

34 (2) A land reuse agency or municipal land bank may be granted authority pursuant to an  
35 intergovernmental cooperation agreement with a municipality or county to manage and maintain  
36 real property located within the jurisdiction of the municipality or county.

37 (g) *Acquisition of tax delinquent properties.* – (1) Notwithstanding any other provision of  
38 this code to the contrary, if authorized by the land reuse jurisdiction which created a land reuse  
39 agency or municipal land bank or otherwise by intergovernmental cooperation agreement, a land  
40 reuse agency or municipal land bank may acquire an interest in tax delinquent property through  
41 the provisions of chapter 11-a of this code. Notwithstanding the provisions of §11a-3-8 of this  
42 code, if no person present at the tax sale bids the amount of the taxes, interest and charges due  
43 on any unredeemed tract or lot or undivided interest in real estate offered for sale, the sheriff shall,

44 prior to certifying the real estate to the Auditor for disposition pursuant to §11a-3-44 of this code,  
45 provide a list of all of said real estate within a land reuse or municipal land bank jurisdiction to the  
46 land reuse agency or municipal land bank and the land reuse agency or municipal land bank shall  
47 be given an opportunity to purchase the tax lien and pay the taxes, interest and charges due for  
48 any unredeemed tract or lot or undivided interest therein as if the land reuse agency or municipal  
49 land bank were an individual who purchased the tax lien at the tax sale.

50 (2) Notwithstanding any other provision of this code to the contrary, if authorized by the  
51 land reuse jurisdiction which created a land reuse agency or municipal land bank or otherwise by  
52 intergovernmental cooperation agreement, the land reuse agency or municipal land bank shall  
53 have the right of first refusal to purchase any tax-delinquent property which is within municipal  
54 limits, and meets one or more of the following criteria: (A) It has an assessed value of \$25,000  
55 \$100,000 or less; (B) there are municipal liens on the property that exceed the amount of back  
56 taxes owed in the current tax cycle; (C) the property has been on the municipality's vacant  
57 property registry for 24 consecutive months or longer; (D) the property was sold at a tax sale  
58 within the previous three years, was not redeemed, and no deed was secured by the previous  
59 lien purchaser; or (E) ~~it~~ has been condemned: *Provided*, That the land reuse agency or municipal  
60 land bank satisfies the requirements of subdivision (3) of this subsection. A list of properties which  
61 meet the criteria of this subdivision shall regularly be compiled by the sheriff of the county, and a  
62 land reuse agency or municipal land bank may purchase any qualifying tax-delinquent property  
63 for an amount equal to the taxes owed and any related fees before such property is placed for  
64 public auction.

65 (3) When a land reuse agency or municipal land bank exercises a right of first refusal in  
66 accordance with subdivision (2) of this section, the land reuse agency or municipal land bank  
67 shall, within 15 days of obtaining a tax deed, provide written notice to all owners of real property  
68 that is adjacent to the tax-delinquent property. Any such property owner shall have a period of  
69 120 days from the receipt of notice, actual or constructive, to ~~exercise a right to purchase~~ express

70 an interest in purchasing the tax-delinquent property from the land reuse agency or municipal land  
71 bank for an amount equal to the amount paid for the property plus expenses incurred by the land  
72 reuse agency or municipal land bank: *Provided*, That ~~in the event more than one adjacent land~~  
73 ~~owner desires to purchase the tax-delinquent property, it shall be sold to the adjacent property~~  
74 ~~owner offering the highest bid. It is the duty of the adjacent property owner to establish that he or~~  
75 ~~she is the actual owner of property that is adjacent to the~~ land reuse agency or municipal land  
76 bank may refuse to sell the property to the adjacent property owner that expressed interest in the  
77 tax-delinquent property if that property owner or an entity owned by the property owner or its  
78 directors is delinquent on any and all state and local taxes and all or municipal fees on his or her  
79 adjacent any of its property. ~~are current and non-delinquent.~~

80 ~~(3) Effective July 1, 2020, the provisions of subdivisions (2) and (3) of this subsection shall~~  
81 ~~sunset and have no further force and effect.~~

82 ~~(4) Prior to January 1, 2020, any land reuse agency or municipal land bank which~~  
83 ~~exercises the authority granted by this subsection may submit to the Joint Committee on~~  
84 ~~Government and Finance a report on the entity's activities related to the purchase of tax-~~  
85 ~~delinquent properties and any benefits realized from the authority granted by this subsection.~~

NOTE: The purpose of this bill is to make permanent a land reuse agency or municipal land bank's right of first refusal on certain properties at a county tax sale.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.