

## House Bill 602 (AS PASSED HOUSE AND SENATE)

By: Representatives Cheokas of the 138<sup>th</sup> and Rynders of the 152<sup>nd</sup>A BILL TO BE ENTITLED  
AN ACT

1 To create the Americus-Sumter County Land Bank Authority; to provide for its membership,  
2 terms of office, powers, duties, and authority; to provide for related matters; to repeal  
3 conflicting laws; and for other purposes.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

5 **SECTION 1.**

6 Pursuant to Article 6 of Chapter 4 of Title 48 of the O.C.G.A., the "Georgia Land Bank Act,"  
7 there is created the Americus-Sumter County Land Bank Authority. Such authority shall  
8 have perpetual existence until terminated and dissolved in accordance with Code Section  
9 48-4-111 of the O.C.G.A.

10 **SECTION 2.**

11 (a) The authority shall be governed by a seven-member board of directors, the members of  
12 which shall be appointed as provided in this section.  
13 (b) Three members of the board of directors shall be appointed by the governing authority  
14 of the City of Americus, and three members of the board of directors shall be appointed by  
15 the governing authority of Sumter County. The seventh member of the board of directors  
16 shall be a joint appointment agreed upon by the governing authority of the City of Americus  
17 and the governing authority of Sumter County.  
18 (c) The terms of members of the board of directors shall be for four years and until their  
19 respective successors are appointed and qualified; provided, however, that the initial terms  
20 of two of the members appointed by the governing authority of the City of Americus and two  
21 of the members appointed by the governing authority of Sumter County shall be for two  
22 years and until their respective successors are appointed and qualified. Such members  
23 having initial two-year terms of office shall be designated at the time of their appointments.  
24 The other members shall serve initial four-year terms of office and until their respective  
25 successors are appointed and qualified.

26 (d) Persons appointed to the board of directors shall be at least 21 years of age at the time  
27 of their appointment, shall have resided in the incorporated area of the City of Americus or  
28 the unincorporated area of Sumter County for a period of at least two years immediately  
29 preceding the date of their appointment, and shall take such oath of office as may be  
30 prescribed by law upon such appointment.

31 (e) Members appointed by the governing authority of the City of Americus shall reside in  
32 the incorporated area of the City of Americus during their respective terms of office.  
33 Members appointed by the governing authority of Sumter County shall reside in the  
34 unincorporated area of Sumter County during their respective terms of office. The member  
35 who is jointly appointed by the governing authority of the City of Americus and the  
36 governing authority of Sumter County shall reside in either the incorporated area of the City  
37 of Americus or the unincorporated area of Sumter County during his or her term of office.

38 (f) At least one of the members appointed by the governing authority of the City of  
39 Americus and one of the members appointed by the governing authority of Sumter County  
40 shall be a person who is experienced in real property transactions, the taxation of real  
41 property, and the valuation of real property.

42 (g) The governing authority of the City of Americus and the governing authority of Sumter  
43 County shall each be authorized to appoint a tax commissioner or tax collector to serve as  
44 an ex officio member of the board of directors.

45 (h) Nothing in this Act shall prohibit the appointment of an elected member of the governing  
46 authority of the City of Americus or the governing authority of Sumter County as a member  
47 of the board of directors.

48 (i) Members of the board of directors shall be subject to removal in accordance with the  
49 provisions of Code Section 48-4-104 of the O.C.G.A.

50 (j) Vacancies on the board of directors shall be filled in the same manner as the original  
51 appointment for the unexpired term of office.

52 (k) Members of the board of directors shall serve without compensation but may be  
53 reimbursed for actual expenses incurred in the performance of duties on behalf of the  
54 authority.

55 (l) Meetings, determination of quorums, and voting shall be governed by the provisions of  
56 Code Section 48-4-104 of the O.C.G.A.

57

### SECTION 3.

58 (a) The board of directors shall establish rules and regulations for its operation consistent  
59 with the provisions of Article 6 of Chapter 4 of Title 48 of the O.C.G.A., the "Georgia Land  
60 Bank Act."

61 (b) The board of directors shall at its first meeting of each year select from among its  
62 members a chairperson, vice chairperson, secretary, treasurer, and such other officers as the  
63 board may determine by its rules.

64 **SECTION 4.**

65 The authority shall have those powers, duties, abilities, immunities, limitations, and  
66 obligations provided in Article 6 of Chapter 4 of Title 48 of the O.C.G.A., the "Georgia Land  
67 Bank Act."

68 **SECTION 5.**

69 All laws and parts of laws in conflict with this Act are repealed.

## **Americus Sumter Land Bank Authority**

### **Administrative Policies and Procedures**

**As approved and adopted by the Board of Directors on April 6, 2016**

These policies and procedures are a consolidation of and codification of all prior policies and procedures of the Land Bank Authority (hereinafter “LBA”) and supersede all such prior policies and procedures.

#### **Section 1. Role as a Public Authority.**

**1.1 Public Authority.** The LBA is a public entity authorized by state law and created pursuant to House Bill 602 and an intergovernmental contract between Sumter County and the City of Americus dated January 12, 2016. It is governed by a Board of Directors appointed by Sumter County and the City of Americus.

**1.2 Governing Authority.** The core governing documents of the LBA are Sections 48-4-100 et seq. of the Official Code of Georgia Annotated (hereinafter the “Land Bank Act”) and the [intergovernmental contract between Sumter County and the City of Americus .

**1.3 Purposes.** The LBA is established to acquire the tax delinquent properties, surplus properties of the local governments, and other properties in order to foster the public purpose of returning land which is in a nonrevenue-generating, nontax-producing status to an effective utilization status in order to provide housing, new industry and jobs for the citizens of Georgia.

#### **Section 2. Priorities for Property Use.**

**2.1 Uses of Property.** The LBA may consider permitting the property to be used for public use and ownership of local governmental entities and for community improvement purposes. With respect to community improvement purposes, such uses should be consistent with the following priorities: neighborhood revitalization; return of the property to productive tax-paying status; land assemblage for economic development; long-term “banking” of properties for future strategic uses; and provision of financial resources for operating functions of the LBA.

**2.2 Neighborhood Consultation.** The LBA expects every applicant seeking to acquire property from the LBA to demonstrate prior consultation with neighborhood associations and nonprofit entities in the geographical location of the property.

#### **Section 3. Priorities for Identity of Transferees.**

**3.1 Transferee Qualifications.** All applicants seeking to acquire property from the LBA, or to enter into transaction agreements with the LBA, will be required to provide as part of the application such information as may be requested by the LBA, including but not limited to (a) the legal status of the applicant, its organizational and financial structure, and (b) its prior experience in developing and managing real property.

**3.2 Reserved Discretion.** The LBA reserves full and complete discretion to decline applications and proposed transaction agreements from individuals and entities that meet any of the following criteria:

- (a) Failure to perform in prior transactions with the LBA,
- (b) Ownership of properties that became delinquent in ad valorem tax payments and remain delinquent in ad valorem tax payments during their ownership,
- (c) Parties that are barred from transactions with local government entities,
- (d) Parties not able to demonstrate sufficient experience and capacity to perform in accordance with the requirements of the LBA,
- (e) Ownership of properties that have any un-remediated citation for violation of state and local codes and ordinances, and
- (f) Properties that have been used by the transferee or a family member of the transferee as his or her personal residence at any time during the twelve (12) months immediately preceding the submission of application (except in rental cases).

#### **Section 4. Priorities Concerning Neighborhood and Community Development.**

The LBA reserves the right to consider the impact of a property transfer on short- and long-term neighborhood and community development plans. In doing so, the LBA may prioritize the following in any order in which it deems appropriate: the preservation of existing stable and viable neighborhoods; neighborhoods in which a proposed disposition will assist in halting a slowly occurring decline or deterioration; neighborhoods which have recently experienced or are continuing to experience a rapid decline or deterioration; geographic areas which are predominantly non-viable for purposes of residential or commercial development.

#### **Section 5. Conveyances to the LBA.**

**5.1 Sources of Property Inventory.** Sources of real property inventory of the LBA include, but are not limited to, the following: (a) transfers from local governments, (b) acquisitions by the LBA at tax foreclosures, (c) donations from private entities, (d) market purchases, (e) conduit transfers contemplating the simultaneous acquisition and disposition of property, and (f) other transactions such as land banking agreements.

**5.2 Policies Governing the Acquisition of Properties.** In determining which, if any, properties shall be acquired by the LBA, the LBA shall give consideration to the following factors:

- (a) Proposals and requests by nonprofit corporations that identify specific properties for ultimate acquisition and redevelopment.
- (b) Proposals and requests by governmental entities that identify specific properties for ultimate use and redevelopment.

- (c) Residential properties that are occupied or are available for immediate occupancy without need for substantial rehabilitation.
- (d) Improved properties that are the subject of an existing order for demolition of the improvements and properties that meet the criteria for demolition of improvements.
- (e) Vacant properties that could be placed into a Side Lot Disposition Program.
- (f) Properties that would be in support of strategic neighborhood stabilization and revitalization plans.
- (g) Properties that would form a part of a land assemblage development plan.
- (h) Properties that will generate operating resources for the functions of the LBA.

**5.3 Acquisitions through Delinquent Tax Enforcement Proceedings.** The Tax Commissioner may combine properties from one or more of the foregoing categories in structuring the terms and conditions of the tax foreclosure procedures and the LBA may acquire any such properties prior to sales, at such sales, or subsequent to sales as authorized by law.

**5.4 Transaction Agreements.** In all cases involving conduit transfers and land banking agreements, a transaction agreement must be approved in advance and executed by the LBA and the grantor of the property. In the case of conduit transfers such a transaction agreement will generally be in the form of an Acquisition and Disposition Agreement prepared in accordance with these Policies. In the case of a land banking relationship such a transaction agreement will generally be in the form of a land banking agreement prepared in accordance with these Policies. These transaction agreements shall be in form and content as deemed by the LBA to be in the best interest of the LBA, and shall include to the extent feasible specification of all documents and instruments contemplated by the transaction as well as the rights, duties and obligations of the parties.

**5.5 Title Assurance.** In all acquisitions of property by the LBA through transaction agreements the LBA generally requires a certificate of title based upon a full title examination conducted in accord with the Title Standards of the State Bar of Georgia. Title insurance shall be required in the discretion of the LBA. Unless otherwise agreed by the LBA, the curing of title defects shall be undertaken at the expense of the grantor of the property. Nothing herein shall prohibit the LBA's waiver of title defects, in the LBA's sole and absolute discretion, that do not materially impair the title to be acquired by the LBA.

**5.6 Environmental Concerns.** The LBA reserves full and complete discretion to require in all transaction agreements that satisfactory evidence be provided to the LBA that the property is not subject to environmental contamination as defined by federal or state law.

## **Section 6. Conveyances from the LBA.**

**6.1 Covenants, Conditions and Restrictions.** All conveyances by the LBA to third parties shall include such covenants, conditions and restrictions as the LBA deems necessary and appropriate in its sole discretion

to ensure the use, rehabilitation and redevelopment of the property in a manner consistent with the public purposes of the LBA. Such requirements may take the form of a deed creating a defeasible fee, recorded restrictive covenants, subordinate financing being held by the LBA, contractual development agreements, or any combination thereof. All such covenants, conditions, and restrictions shall be in recordable form and actually recorded in the Office of the Clerk of the Superior Court of Sumter County at the time of the conveyance of the property by the LBA.

**6.2 Options.** Options to purchase property of the LBA may be granted by the LBA are available for 10% of the agreed parcel price for up to a 12-month period. This option fee will be credited against the parcel price at closing. If closing does not occur, the fee is forfeited. All option agreements are subject to all policies and procedures of the LBA pertaining to property transfers, and nothing in these policies shall be construed to require the LBA to grant an option to purchase to any particular person or entity, or with respect to any particular property, if the LBA finds that the granting of such option is not in the best interest of carrying out the purposes of the LBA .

**6.3 Deed Without Warranty; Limited Warranty Deed.** All conveyances from the LBA to third parties shall be by Quitclaim Deed or Limited Warranty Deed.

## **Section 7. Collaboration with Not-for-Profit Entities.**

**7.1 Transactions with Not-for-Profit Entities.** The LBA is willing to enter into conduit transfers with not for-profit corporate entities as outlined in this section. These not-for-profit corporate entities would secure donations of or purchase tax delinquent properties from owners, transfer these properties to the LBA for waiver of taxes, and “buy back” these properties for use in affordable housing development.

**7.2 The LBA will extinguish non-delinquent taxes which were the responsibility of the transferring not-for Profit Entity.**

**7.3 Documentation of Lot Purchase.** The applicant must document the purchase process extensively. This documentation should include, but is not limited to, the following information per parcel:

- (a) The total purchase price for the property, including the net proceeds paid or payable to the seller;
- (b) The total amount spent to acquire the property (e.g., legal counsel, administrative costs);
- (c) The development costs impacting the final sale price; and
- (d) The total amount of delinquent ad valorem taxes (County, City, School District), special assessments, and other liens and encumbrances against the property and the length of delinquency for each.

**7.4 LBA Discretion.** Some properties may present unusual or extenuating circumstances to the developer due to lack of funding for housing production or related costs. The LBA reserves the right to evaluate and consider these properties case-by-case.

## **Section 8. Collaboration with For-Profit Entities.**

**8.1 Transactions with For-Profit Entities.** The LBA is willing to enter into conduit transfers with for-profit corporate entities as outlined in this section. The corporate entities would secure donations of or purchase tax delinquent properties from owners, transfer these properties to the LBA for waiver of taxes, and “buy back” these properties for use in affordable housing development.

**8.2 Eligibility.** Eligibility for this option will be based on certain criteria. These shall include the geographical location of the property. The corporate entity must first identify and consult with any active non-profit entities that may have an interest in developing the property. If an interest exists, the non-profit and for-profit must enter into an agreement for joint development.

**8.3 Documentation of Lot Purchase.** The applicant must document the purchase process extensively. This documentation should include, but is not limited to, the following information per parcel:

- (a) The total purchase price for the property, including the net proceeds paid or payable to the seller;
- (b) The total amount spent to acquire the property (e.g., legal counsel, administrative costs, etc.);
- (c) The development costs impacting the final sale price; and
- (d) The total amount of delinquent ad valorem taxes (County, City, School District), special assessments, and other liens and encumbrances against the property and the length of delinquency for each.

**8.4 LBA Discretion.** Some properties may present unusual or extenuating circumstances to the developer due to lack of funding for housing production or related costs. The LBA reserves the right to evaluate and consider these properties on a case-by-case basis.

## **Section 9. Property for Community Improvements.**

**9.1 Community Improvement Property.** The LBA is willing to accept donations of property to be transferred into a non-revenue-generating, non-tax-producing use that is for community improvement or other public purposes. Under the provisions of the governing documents of the LBA, the LBA is permitted to assemble tracts or parcels of property for community improvement or other public purposes.

**9.2 Eligibility.** Properties can be conveyed to the LBA for waiver of delinquent taxes and then reconveyed by the LBA to be utilized for community improvement purposes, including, but not limited to, community gardens, parking for non-profit functions such as a school or cultural center, or a playground for after-school or day care. The application must demonstrate that the proposed community improvements are consistent with the area redevelopment plans and community revitalization.

**9.3 Transferee.** The application must identify and be signed by the ultimate transferee of the property from the LBA. The transferee should be a governmental entity, a not-for-profit property entity, or in rare

cases a for-profit entity that is capable of holding and maintaining the property in the anticipated conditions and for the anticipated purposes.

**9.4 Restrictive Covenants.** The LBA, in the conveyance of the property to the transferee, will impose covenants, conditions and restrictions as necessary to ensure that the property is used for community improvement or other public purposes. All such covenants shall be in recordable form and actually recorded in the Office of the Clerk of the Superior Court of Sumter County at the time of the conveyance of the property by the LBA.

## **Section 10. Conduit Transfers - Reasonable Equity Policy.**

**10.1 Purpose.** In order to prevent benefits accruing to owners of property that is tax delinquent by virtue of the exercise of the tax extinguishment power of the LBA, the LBA establishes this reasonable equity policy.

**10.2 Definitions.** The reasonable equity policy is based on the value of the property and the equity of its owner. While any valuation of equity is subjective, it can be reasonably estimated.

(a) "Fair Market Value" shall be determined by staff according to the tax assessor's valuation, in conjunction with the average sale price in a given community. In instances where multiple valuations unreasonably differ, the staff or Board shall have full authority to require a professional appraisal. This appraisal shall only be required for proposals that have significant variances in valuation and entail transactions in which the owner received in excess of \$20,000.

(b) "Net Equity" shall mean the current fair market value, as determined by LBA staff, less the total amount of all liens and encumbrances (tax liens, associated interest, and penalties; special assessments; liens; mortgages; judgments; and similar encumbrances which can be satisfied by the payment of money.).

**10.3 Less than \$2,000 Net Equity.** To ensure that an owner does not receive unwarranted benefit, the LBA will not consider transactions in which the owner's net equity is less than \$2,000 and the owner receives more than nominal compensation for the sale of his property. Nominal compensation is defined as \$2,000.

**10.4 Equity in Excess of \$2,000.** To ensure that the owner does not receive an unwarranted benefit, the LBA will not participate in transactions in which the owner receives an amount greater than 75% of net equity.

**10.5 Speculation.** To ensure that speculators do not seek to take advantage of the LBA, staff shall closely review instances in which the owner is receiving money far in excess of his investment while consistently ignoring his tax responsibility. Particular attention shall be given to properties purchased in the last three years.

**10.6 Excessive Sales Price.** In communities that are experiencing internal and surrounding redevelopment, it is unacceptable for an owner to seek a profit in excess of 75% of net equity. Such an owner may believe

that the market will bear more than is offered and would therefore be unwilling to sell the property for a reasonable amount. In such an instance, it would fall to the Tax Commissioner's Office to bring the property to the courthouse steps where the actual fair market value will be determined.

**10.7 Non-Conforming Situations.** To ensure the flexibility of the Board, the LBA will reserve the right to modify or change this policy if a situation clearly warrants a change in an effort to protect the interests of the LBA and the public.

**10.8 Strategic Importance.** To preserve the integrity of the LBA's mission, all properties petitioned to the LBA Board of Directors must pass the test of strategic importance. The LBA may receive proposals that may pass other criteria but which may not be considered crucial to the redevelopment of a neighborhood. Staff must be able to assure the LBA Board that the transaction is not simply allowable but a necessary component of the comprehensive redevelopment of a neighborhood. Such a transaction must be evaluated in terms of neighborhood redevelopment and ensure a long-term tax benefit to the City and County.

## **Section 11. Owner Occupant Policy.**

**11.1 Scope.** This section is applicable to those situations in which an individual (as opposed to a corporate not-for-profit or for-profit entity) contemplates conveying to the LBA real property that is encumbered by delinquent property taxes, having the taxes extinguished by the LBA, and the property reconveyed by the LBA to the individual for occupancy by that individual following construction of new housing or rehabilitation of existing housing.

**11.2 Purpose.** This policy is based on the opportunity for an individual to participate in the benefits derived from the authorization of tax extinguishment by the LBA where the individual applicant did not amass the tax delinquency, but desires to construct or rehabilitate housing in order to use the subject property as his or her own primary residence. Owner-occupant developers shall be required to meet the established LBA Board Petitioning Requirements which include the following: (a) Developer Profile, (b) Development Proposal, (c) Funding Commitment Letter, (d) Development Cost Estimate, (e) Site Control, and (f) Title Report.

**11.3 Primary Residence.** "Primary Residence" shall mean that upon completion of the construction or rehabilitation, the owner-occupant must continue to own and reside in the property as the owner-occupant's primary residence for a minimum of five (5) years and shall pay all tax obligations which become due and payable with respect to the property after the execution of the Sale and Disposition Contract. Such ownership and occupancy requirements shall be established in the form of a written covenant which shall be recorded in the Office of the Clerk of the Superior Court of Sumter County at the time of the conveyance of the property by the LBA. At the expiration of the five-year term, the owner-occupant shall be authorized to sell the property or no longer use the property as the owner-occupant's primary residence, or both. In the event that the owner-occupant dies during such five (5) year period, then the personal representative of the owner-occupant may sell the property on behalf of the estate if

such personal representative is otherwise authorized to do so under Georgia law, notwithstanding the limitations upon the transfer of the property during such five (5) year period.

#### **11.4 Requirements and Conditions.**

- (a) The applicant must either rehabilitate unoccupied substandard existing housing or create new housing where housing does not exist.
- (b) The subject property must not have been used by the applicant as his or her personal residence at any time during the twelve (12) months immediately preceding the submission of the application.
- (c) The owner-occupant shall enter into a Sale and Disposition Contract with the Authority and shall be responsible for the completion of the construction or rehabilitation within the three (3) year time limit as prescribed in the covenants of the Contract.
- (d) The LBA will extinguish no delinquent taxes which were the responsibility of the applicant. This would include any taxes which the applicant was responsible for either as owner of the subject property or as a result of any contractual obligation. Such taxes, if any, must be paid prior to the LBA extinguishing any other taxes. No taxes shall be extinguished until such time as the construction or rehabilitation of the property has been finally completed, inspected by the LBA staff, and certified by the LBA staff as having been completed in accord with the covenants applicable to such property.
- (e) The owner-occupant shall provide evidence of clear title and the financial ability to perform said Contract with the expressed obligation to reside in the property for a minimum of five (5) years or the delinquent taxes will be reinstated.
- (f) During the term of the occupancy, the owner-occupant shall pay all ad valorem taxes which accrue and shall maintain the property in compliance with the required code enforcement ordinances of the governing jurisdiction.
- (g) The owner-occupant must meet the applicable household income standards established by the LBA.
- (h) If the applicant fails to honor any portion of his or her Contract with the LBA to provide new or rehabilitated housing, the applicant must make a payment of funds to the LBA in an amount equal to the amount of all taxes extinguished by the LBA pursuant to the Contract. These funds shall then be paid by the LBA to the respective taxing authorities in the same proportion as the taxes were levied prior to the extinguishment.

**11.5 LBA Discretion.** Applications shall be evaluated based on the long-term benefit to be derived from achieving the basic policies of the LBA which seeks to return non-tax revenue generating parcels to a productive and effective use that will put the property back in to an active tax revenue status.

## **Section 12. Side Lot Disposition Program.**

**12.1 Side Lot Transfers.** Individual parcels of property may be acquired by the LBA, and transferred to individuals in accordance with the following policies. The transfer of any given parcel of property in the Side Lot Disposition Program is subject to override by higher priorities as established by the LBA.

**12.2 Qualified Properties.** Parcels of property eligible for inclusion in the Side Lot Disposition Program shall meet the following minimum criteria:

- (a) The property shall be vacant unimproved real property;
- (b) The property shall be physically contiguous to adjacent owner-occupied residential property, with not less than a 75% common boundary line at the side;
- (c) The property shall consist of no more than one lot capable of development. Initial priority shall be given to the disposition of properties of insufficient size to permit independent development; and
- (d) No more than one lot may be transferred per contiguous lot.

### **12.3 Side Lot Transferees.**

- (a) All transferees must own the contiguous property, and priority is given to transferees who personally occupy the contiguous property.
- (b) The transferee must not own any real property (including both the contiguous lot and all other property in the County) that is subject to any unremediated citation of violation of the state and local codes and ordinances.
- (c) The transferee must not own any real property (including both the contiguous lot and all other property in the County) that is tax delinquent.
- (d) The transferee must not have been the prior owner of any real property in the City or the County that was transferred to a local government as a result of tax foreclosure proceedings unless the LBA approves the anticipated disposition prior to the effective date of completion of such tax foreclosure proceedings.

### **12.4 Pricing.**

- (a) Parcels of property that are not capable of independent development may be transferred for nominal consideration as determined by the LBA.
- (b) Parcels of property that are capable of independent development shall be transferred for consideration in an amount not less than the amount of the costs incurred by the LBA in acquisition, demolition and maintenance of the lot; provided, however, that where the cost incurred by the LBA for acquisition, demolition, or maintenance exceeds the fair market value of

the parcel, then the LBA shall be authorized to sell the parcel for the fair market value thereof as determined by the LBA. .

**12.5 Additional Requirements.**

(a) As a condition of transfer of a lot, the transferee must enter into an agreement that the lot transferred will be consolidated with the legal description of the contiguous lot, and not subject to subdivision, sale, transfer, or partition within a five (5) year period following the date of the transfer.

(b) In the event that multiple adjacent property owners desire to acquire the same side lot, the lot shall either be transferred to the highest bidder for the property, or divided and transferred among the interested contiguous property owners.

**Section 13. Amendments to Policies and Procedures.**

The LBA shall be authorized to amend or modify these Policies and Procedures by majority vote of the LBA from time to time.