



Dealing with Blight: Strategies for Tennessee's Communities

November 2012





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Dealing with Blight: Strategies for Tennessee's Communities

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November 28, 2012

The Honorable Ron Ramsey
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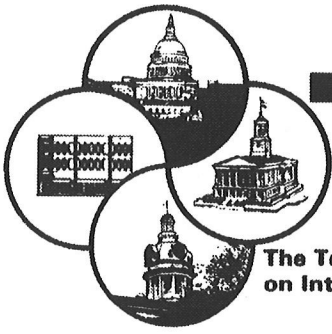
Dear Lieutenant Governor Ramsey and Chairman Ramsey:

Transmitted herewith is a Commission report on Senate Joint Resolution 103 (McNally, Kyle, Marrero), passed by the Senate in 2011, and House Bill 2996 (Parkinson) [Senate Bill 2933 (Norris, Campfield)], referred by the House State and Local Government Committee for study in 2012. The report was approved by the Tennessee Advisory Commission on Intergovernmental Relations November 28, 2012, and is hereby submitted for your consideration.

Sincerely,

Senator Mark Norris
Chairman

Lynnis Roehrich-Patrick
Executive Director



TACIR

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MEMORANDUM

TO: Commission Members
FROM: Lynnise Roehrich-Patrick
Executive Director
DATE: 28 November 2012

SUBJECT: Blight Legislation from the 107th General Assembly—Final Report

The attached report, prepared in response to two pieces of legislation concerning remedies for blight that were referred to TACIR for study by the 107th General Assembly, is submitted for approval.

Senate Joint Resolution 103 by Senator Randy McNally, passed by the Senate in 2011, directed TACIR to

- study the overall effects on local governments when blighted properties are left vacant,
- recommend solutions that will assist such local governments to return such properties to beneficial reuse, and
- report its findings and recommendations, including any proposed legislation or interim reports upon conclusion of its study, to the Chairmen of the Finance, Ways and Means Committees of the Senate and the House of Representatives.

House Bill 2996 (Parkinson) [Senate Bill 2933 (Norris, Campfield)] was referred by the State and Local Government Subcommittee. This bill would have required municipalities that have adopted a slum clearance ordinance or a vacant properties acquisition ordinance to report the owner and address of unfit, blighted, and deteriorated commercial properties to the Secretary of State for publication on the Secretary of State's website until such condition is cured.

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Enhancing Remedies for Blight

Blight, always an issue of community concern, is even more so now because of the recent housing crisis and the downturn in the economy. In response to concerns expressed by several local communities, the 107th General Assembly considered a number of bills addressing blight, two of which were referred to the Tennessee Advisory Commission on Intergovernmental Relations (TACIR) for study. Although many cities are struggling with blight, the success of others indicates that current laws are generally adequate. The difficulty for most local governments is finding the resources to use them successfully.

State law gives municipalities and counties a number of tools for alleviating blight, some more widely used than others. While the laws are adequate on the whole, four of them apply only to certain jurisdictions:

- The Neighborhood Preservation Act, which allows any neighbor or interested party to sue the owner of a property not maintained to community standards, applies in Davidson and Shelby counties.
- The Residential Rental Inspection law, which authorizes a municipality to establish a residential rental inspection program for deteriorated or deteriorating rental properties, applies in Davidson County and in the city of Oak Ridge.
- The Vacant Properties Acquisition Act, which authorizes the use of eminent domain to acquire, hold, manage, and dispose of vacant blighted property, applies in only ten counties.¹
- The Local Enterprise Zones law allows certain local governments² to provide incentives and exemptions to qualified businesses and residents in depressed areas, including exemptions from any local rule or regulation other than health and safety provisions.

It may be advantageous to extend these laws to other jurisdictions by making them applicable statewide. State law also authorizes municipalities, but not counties, to establish an office of administrative

Although many cities are struggling with blight, the success of other cities indicates that current laws are generally adequate. It may be advantageous to extend statewide some that are now limited to certain cities.

¹ Bradley, Davidson, Hamilton, Henry, Knox, Loudon, Madison, Roane, Shelby, and Williamson.

² Fourteen home rule cities, three metropolitan governments, and two counties with a charter form of government.

In 2012, the General Assembly authorized a pilot land bank program in the city of Oak Ridge. Land banks have been used successfully in other states to deal with blight.

hearing officer to hear cases involving building and maintenance code violations. These officers can impose \$500 fines, which far exceed the \$50 fine limit placed on courts by the state's constitution.³ It may be advantageous to extend similar authority to county governments or otherwise provide for the higher \$500 fine as has been done in other states. The General Assembly may also wish to consider allowing local governments to provide incentives for the renovation or demolition of derelict buildings, as is done in Virginia.

Another approach to combating blight that has been used elsewhere with success is currently being tested here in Tennessee. In 2012, the General Assembly authorized a pilot land bank program in the city of Oak Ridge. As described in the law, a land bank can be used by communities to return vacant, abandoned, and tax delinquent property to productive use. The Comptroller's Office is charged with monitoring the pilot program for three years and recommending whether to continue, expand, or discontinue it. Extending this authority to other jurisdictions is an option that should be considered when the Comptroller's report is complete.

Legislative Action by the 107th General Assembly

Senate Joint Resolution 103 (McNally, Kyle, Marrero), passed by the Senate in 2011, directed the Commission to

- study the overall effects on local governments when blighted properties are left vacant;
- recommend solutions that will assist such local governments to return such properties to beneficial reuse; and
- report its findings and recommendations, including any proposed legislation or interim reports upon conclusion of its study, to the Chairmen of the Finance, Ways and Means Committees of the Senate and the House of Representatives.

The impetus for this study came out of Oak Ridge, which has a unique history. It was founded as the site for a uranium enrichment facility that was a part of the World War II era Manhattan Project, the operation that produced the world's first atomic bomb. Tens of thousands of

³ There could potentially be a conflict between Tennessee Code Annotated § 6-54-1009 and Tennessee Constitution Article VI, § 14. It has not been clearly established by case law that Tennessee Code Annotated § 6-54-1009 does not violate Tennessee Constitution Article VI, § 14.

workers were brought into the area between 1942 and 1945 to build and staff the facility now known as the Oak Ridge National Laboratory. To accommodate the massive number of workers that were moved into the "secret city," houses were either brought into the area or erected on site. The houses, most of them small, were meant to be temporary dwelling units.

Plans were to move them out when the war was over. However, the temporary dwelling units were never moved. Instead, they were sold to private owners, and the units sit there still today, some vacant, some occupied. The buildings are now more than 70 years old, and they are in various stages of disrepair. Many are owned by absentee landlords and are not properly maintained.⁴

The House State and Local Government Committee referred another blight-related bill to TACIR for study during the 2012 session. House Bill 2996 (Parkinson) [Senate Bill 2933 (Norris, Campfield)] requires municipalities that cite property owners under slum clearance or vacant properties acquisition ordinances to report the owners and addresses of those properties to the Secretary of State for publication on the Secretary of State's website until such condition is cured. No other state maintains a website listing, but several cities do, which suggests that a web listing of this type may be effective at the local level. It is not clear that it would be equally effective at the state level. Moreover, it would be difficult, if not impossible, to ensure the consistency and completeness of a statewide list that depends on submission of information by the hundreds of cities and counties across the state.

What is Blight?

Governments have struggled to define blight for years. The Great Depression fostered early efforts by local, state, and federal officials to define blight, although at that time the term "slum" was used. The Hoover administration, at a housing conference in 1930, defined a slum as "a residential area where the houses and conditions of life are of such a squalid and wretched character and which hence has become a

⁴ Information about the history of Oak Ridge and the "secret city" houses from author interview with Kathryn Baldwin, Director of Community Development, City of Oak Ridge; Amy Fitzgerald, Government Affairs Coordinator, City of Oak Ridge; Kenneth Krushenski, City Attorney, City of Oak Ridge; Bill Nolan, Lobbyist, City of Oak Ridge; and Mark Watson, City Manager, City of Oak Ridge. Interview conducted July 20, 2011.

Much of the housing in Oak Ridge is unique; 49% of the housing units were constructed between 1940 and 1960. Most of the housing north of Oak Ridge Turnpike was built during World War II. The housing constructed at that time had outer walls prefabricated from fiber board with cement-asbestos bonded to each side, a material known as "cemesto." Houses were often set diagonally to the street so that windows looked past each other rather than directly into one another. There were eight different cemesto designs, each intended to last about 25 years.

Excerpt from the Oak Ridge draft housing plan currently being prepared, an element of the Comprehensive Plan. August 2012.

social liability to the community.”⁵ In language that later appeared in the National Housing Act of 1937, the National Association of Housing Officials defined a slum as “an area in which predominate dwellings that either because of dilapidation, obsolescence, overcrowding, poor arrangement or design, lack of ventilation, light or sanitary facilities or a combination of these factors, are detrimental to the safety, health, morals, and comfort of the inhabitants thereof.”⁶

In more recent times, the *Kelo v. City of New London* decision has affected how states define blight.⁷ In *Kelo*, the United States Supreme Court held that the general benefits a community enjoyed from economic growth qualified private redevelopment plans as a permissible “public use” under the takings clause of the Fifth Amendment of the US Constitution.⁸ The Court noted in the decision that nothing in the opinion prevented a state from placing further restrictions on its takings power. In response to the *Kelo* decision, the Tennessee General Assembly narrowed the state’s statutory definitions of blight and public use in 2006. The new definition of blight precludes findings of blight based “solely [on] a loss of property value to surrounding properties [or] the need for increased tax revenues.”⁹ This definition plus the narrow definition of “public use” adopted at the same time¹⁰ prevents the use of blight as pretext for the use of eminent domain for private economic development in Tennessee.

Effects of Blight

The negative effects of blighted properties and structures are well documented as are the significant community costs associated with these properties. For example, a Brookings Institution study found that abandoned or vacant properties heighten the need for fire and police services, code enforcement, property maintenance and demolition, and increase government expenditures.¹¹ A study of

⁵ Gordon 2003.

⁶ Ibid.

⁷ See 545 U.S. 469 (2005).

⁸ This Supreme Court decision was decided in favor of the city. The court held that the acquisition of unblighted properties by eminent domain to allow implementation of a waterfront development plan did not violate the takings clause of the Fifth Amendment; there was no basis for finding that economic development was not a valid public purpose or for requiring that expected public benefits were reasonably certain to accrue.

⁹ Tennessee Code Annotated § 13-20-201.

¹⁰ Tennessee Code Annotated § 29-17-102.

¹¹ Mallach and Vey 2011.

blight in Washington, DC, found that vacant, blighted properties are often tax delinquent, lower property values, and result in loss of tax revenue.¹² A 2010 study commissioned by Philadelphia had similar findings. The study found that “vacant property reduces market values by 6.5% citywide and by as much as 20% in neighborhoods with the most empty lots and structures.”¹³

In addition to community costs, blighted properties also negatively affect individual homeowners and residents. Homeowners in blighted neighborhoods may have higher insurance premiums or lose their coverage completely. A large number of vacant homes within a neighborhood increases the likelihood that property values will decline, which in turn causes more homes to be abandoned. This trend may lower the quality of life in these neighborhoods.¹⁴

Current State Laws and How They are Used

A number of Tennessee laws are being used effectively to combat blight. The City of Springfield, in Robertson County, for example, has used an aggressive code enforcement program to demolish and rehabilitate blighted properties. This is something it has been able to do largely because the downturn in the housing market and the falloff in construction, with its consequent decline in building permit applications, freed up staff in its codes department to focus on blighted properties. Memphis has successfully instituted its “Campaign to End Blight” under the Neighborhood Preservation Act, and Metro Nashville’s Department of Codes Administration has used the Residential Rental Inspections Act successfully to inspect and upgrade rental properties. Although the Neighborhood Preservation Act and the Residential Rental Inspections Act have been successful in Memphis and Nashville, these laws apply only to limited jurisdictions and cannot be used elsewhere. The Acquisition of Vacant Properties Act is also limited, applying only to ten counties.

Code Enforcement

Any effective code enforcement program involves actively identifying problem properties and initiating action rather than waiting for a complaint to be filed. Building, housing, and property maintenance codes establish minimum standards for properties. Certified building

Although the Neighborhood Preservation Act and the Residential Rental Inspections Act have been successful in Memphis and Nashville, these laws apply only to limited jurisdictions and cannot be used elsewhere.

¹² National Vacant Properties Campaign 2005.

¹³ Fraser 2011.

¹⁴ National Vacant Properties Campaign 2005.

and property inspectors identify problems and get cases into the court system. Most cities in Tennessee have a program to address building code enforcement, issue building permits, and enforce property maintenance codes.

The City of Springfield may have created the most comprehensive program in the state by using a variety of laws to deal with blight. The city has aggressive code enforcement and slum clearance programs. Since January 2011, 46 houses that were listed to be condemned have been demolished or rehabilitated by either the city or the owner. Thirty-one additional houses were in process by November 2011.¹⁵

Building and Property Maintenance Codes. State law authorizes municipalities and counties to adopt all or any portion of any published compilation of rules and regulations that have been prepared by various technical trade associations.¹⁶ Examples include the building codes, fire codes, electrical and plumbing codes, and any code or regulation that protects the public safety, health, and welfare. Like Springfield, Chattanooga and Oak Ridge have aggressive code enforcement programs and have demolished a number of blighted buildings. Staff of Metro Nashville's Department of Codes Administration believe that locally adopted codes can work to reduce blight if vigorously enforced.

Slum Clearance Ordinances.¹⁷ State law also authorizes municipalities by ordinance to issue orders requiring owners to repair or demolish structures that are unfit for human habitation or use, assess the cost to the owner, and levy a lien upon the property if the costs are not paid. Springfield's building inspectors use this authority to identify blighted properties and notify the owners to demolish or repair them.

Residential Rental Inspections.¹⁸ This law authorizes a municipality to adopt an ordinance to establish a residential rental inspection program for deteriorated or deteriorating rental properties within an established residential rental inspection district. It is currently available only to Metro Nashville and Oak Ridge. Metro Nashville's Department of Codes Administration has used this program successfully to inspect and upgrade rental properties. Oak Ridge has not yet implemented this program.

¹⁵ Information about efforts in Springfield from author interview with George James, Director of Community Development, City of Springfield, and Scott McDaniel, Codes Administrator, City of Springfield. Interview conducted November 2011.

¹⁶ Tennessee Code Annotated §§ 6-54-502 and 5-20-102.

¹⁷ Tennessee Code Annotated Title 13, Chapter 21, Part 1.

¹⁸ Tennessee Code Annotated Title 13, Chapter 21, Part 3.

Administrative Inspection Warrants.¹⁹ State law authorizes municipal or county building officials to obtain an administrative inspection warrant when a request to inspect property for code violations is denied. Springfield's building inspectors use this provision to obtain administrative search warrants when a request to inspect a property is denied. A detailed guide to properly use this tool is available from the University of Tennessee Municipal Technical Advisory Service (MTAS).²⁰

Administrative Fines for Code Violations. Tennessee courts cannot levy fines in excess of \$50 without a jury.²¹ Such low fines are not effective in deterring building and property code violations. To remedy this problem, the General Assembly passed a law in 2010 authorizing municipalities to create an office of administrative hearing officer to hear building and property maintenance code violations and levy a fine of up to \$500 per violation.²² A number of Tennessee municipalities have adopted an ordinance creating an administrative hearing officer position, including Metro Nashville, Cleveland, Maryville, Alcoa, Knoxville, Etowah, Collegedale, and East Ridge.²³

This administrative approach may also speed up the process of corrective action by avoiding the lengthy process of the court system. MTAS has offered courses to train new hearing officers. A sample ordinance to create the office of an administrative hearing officer is also available from MTAS.²⁴ Counties have expressed interest in gaining similar authority. Chattanooga is considering creating an administrative hearing office under this law.

Environmental Courts. An environmental court division may be established within any county general sessions court under Public Chapter 426, Acts of 1991, to handle code enforcement cases more efficiently. Consolidation of all codes cases in the environmental court results in better tracking of offenders and streamlined corrective measures. Environmental courts have been established in Davidson, Hamilton, and Shelby counties where Metro Nashville, Chattanooga,

The General Assembly passed a law in 2010 authorizing municipalities to create an office of administrative hearing officer to hear building and property maintenance code violations and levy a fine of up to \$500 per violation.

¹⁹ Tennessee Code Annotated § 68-120-117.

²⁰ Ashburn 2010.

²¹ Tennessee Constitution Article VI, Section 14.

²² Tennessee Code Annotated Title 6, Chapter 54, Part 10.

²³ This list may not be a complete list of the municipalities that have adopted an administrative hearing ordinance. TACIR staff contacted the University of Tennessee Municipal Technical Advisory Service staff who stated that a complete list was not available.

²⁴ Jones 2011.

and both Shelby County and Memphis have used them to prosecute code enforcement cases.

Other Enforcement Actions against Property Owners

In addition to codes established by local ordinance, there are a number of provisions in state law directly authorizing action against property owners requiring them to meet certain health and safety standards. One of those provisions is available to neighbors.

Neighborhood Preservation Act.²⁵ This law allows any neighbor or interested party to bring a civil action against the owner of a property not maintained to community standards. The law applies only in Davidson and Shelby counties. Under this act, the City of Memphis initiated an aggressive program to combat blight. Known as "Mayor A C Wharton's Campaign to End Blight," the program involves filing suit against property owners to force by court order the demolition, rehabilitation, or title divestiture of targeted properties. A total of 138 lawsuits were filed in 2010. An additional 86 lawsuits were filed on February 8, 2012. At that time, the original 138 lawsuits had resulted in 46 completed rehabilitations and 19 demolitions. In all, 18 rehabilitations were underway and 24 court cases were still pending.²⁶

Removal of Vegetation and Debris. State law authorizes municipalities and counties to require the owner(s) of any property that has become overgrown with trees, brush, grass, weeds or that has accumulated debris, trash, litter, or garbage to remedy the conditions immediately upon receiving notice of such conditions. State law also authorizes local governments to correct problems if owners fail to do so within the specified time and file a lien upon the property for the total costs incurred in the process.²⁷

Injunctions and Penalties for Dangerous Conditions. State fire prevention and investigation laws authorize local officials to order the removal or remedy of dangerous or defective building conditions. Failure to comply with the order is a Class B misdemeanor. If the owner does not comply with the order and the condition is not remedied, the law empowers an authorized official to repair, tear down, or demolish the building and see that materials are removed and all dangerous conditions remedied at the expense of the party or parties. If the conditions threaten the safety and welfare of the

²⁵ Tennessee Code Annotated Title 13, Chapter 6.

²⁶ See <http://memphistn.gov/blight.html> for additional information.

²⁷ Tennessee Code Annotated §§ 6-54-113 and 5-1-115.

public, an injunction may also be issued without allegation or proof that there is no adequate remedy in law.²⁸

Forced Tax Sales. Owners of blighted properties often neglect to pay their property taxes and become delinquent. When that happens, county trustees can force a tax sale after proper notice and a waiting period, and the property can be purchased by anyone. The original property owner has a year to redeem the property by paying all taxes, penalties, and interest due.²⁹ This can be a lengthy process, but it can also be a mechanism for bringing property into compliance with building and maintenance codes. If purchased by a nonprofit such as a community development corporation, for example, the property may be redeveloped.

Redevelopment of Blighted Areas

Numerous strategies for redeveloping blighted areas are available to local governments under current law, including incentives to improve depressed areas, special assessments to fund improvements in central business districts, and outright acquisition of blighted properties for redevelopment. In addition, the legislature created a pilot program in Oak Ridge allowing the city to establish a land bank to acquire and hold property for future development.

Local Enterprise Zones in Depressed Areas. In areas of pervasive poverty, unemployment, and general distress as defined in state law, certain local governments can establish enterprise zones governed by a corporate board with broad authority to acquire, manage, and dispose of property and make loans and grants to improve public safety.³⁰ This authority is limited to the state's fourteen home rule cities, three metropolitan governments, and the two counties with a charter form of government under Title 5, Chapter 1, Part 2 of the state code. These local governments can also provide incentives and exemptions to qualified businesses and residents in the zone, including exemptions from any local rule or regulation other than health and safety provisions.³¹ There are two enterprise zones in the state, one in Nashville and one in Memphis.

Numerous strategies for redeveloping blighted areas are available to local governments under current law, including incentives to improve depressed areas, special assessments to fund improvements in central business districts, and outright acquisition of blighted properties for redevelopment.

²⁸ Tennessee Code Annotated, Title 68, Chapter 102, Part 1.

²⁹ Tennessee Code Annotated Title 67, Chapter 5.

³⁰ Tennessee Code Annotated § 13-28-208. These boards do not have eminent domain power and, therefore, cannot acquire property by condemnation.

³¹ Tennessee Code Annotated Title 13, Chapter 28, Part 2.

Acting under a redevelopment plan adopted by a municipality or agency designated by it, housing authorities may acquire blighted areas or other real property “for the purpose of removing, preventing, or reducing blight, blighting factors, or the causes of blight” and redevelop it.

Tennessee Code Annotated § 13-20-202.

Central Business Improvement Districts. Property owners representing at least two-thirds of the property value in any area may petition the local government to establish a central business improvement district (CBID) with a special property tax assessment earmarked for improvements in that district.³² These districts are then created by the local governing body along with a board of commissioners for the district with power to determine the assessment to be made for authorized improvements as well as any compensation to be paid to owners of property “taken or injured by such improvements.”³³ The local government also has power under this law “to condemn and take easements necessarily incidental to the plan of improvement adopted for such districts.”³⁴ CBIDs have been established in Nashville, Knoxville, Memphis, Johnson City, Sevierville, and Clarksville.

Housing Authorities. Acting under a redevelopment plan adopted by a municipality or agency designated by it, housing authorities may acquire blighted areas or other real property “for the purpose of removing, preventing, or reducing blight, blighting factors, or the causes of blight” and redevelop it.³⁵ Under this law, the authority can completely redevelop properties and whole sections of a community. Despite the difficulty they often face in obtaining funds, housing authorities around the state are working hard to fight blight in their communities.

- The Knoxville Community Development Corporation (KCDC) is the city’s housing and redevelopment agency. The city has used KCDC to condemn blighted and vacant properties in order to clear the title to blighted properties, since a clear title is required for resale and redevelopment. KCDC has spearheaded several redevelopment projects in downtown Knoxville.³⁶ Recently, it has started a grant-based facade improvement program that is designed to upgrade the appearance of the Magnolia Warehouse District and attract people to the area.³⁷
- The Memphis Housing Authority and the Memphis Division of Housing and Community Development work in conjunction to address slum conditions, blight, and deterioration in the

³² Tennessee Code Annotated Title 7, Chapter 84.

³³ Tennessee Code Annotated § 7-84-303.

³⁴ Tennessee Code Annotated § 7-84-301.

³⁵ Tennessee Code Annotated § 13-20-202.

³⁶ Knoxville Community Development Corporation.

³⁷ Saracino 2012.

city.³⁸ These agencies receive entitlement funds each year, including Community Development Block Grant (CBDG) funds, to improve physical and social conditions in low-income communities and Home Investment Partnerships Act (HOME) funds to develop standard affordable housing.³⁹

- The Metropolitan Development and Housing Agency (MDHA) is the housing authority for Nashville. It has a variety of programs addressing blight and housing rehabilitation. For example, MDHA has used the federal HOME program to assist in the rehabilitation of thousands of homes. It has also used federal Neighborhood Stabilization Program grants received in 2009 and 2010 to stabilize communities that suffer from foreclosure and abandonment. MDHA provides grants and low-interest loans to low-income individuals to rehabilitate their homes.⁴⁰

Acquisition of Vacant Property. Local governments in ten counties⁴¹ may declare that an area is blighted or deteriorated and establish a vacant property review committee to certify the specific properties in the area that meet the statutory definition of blighted or deteriorated. To be certified as blighted or deteriorated, the properties must be vacant and the owners must have been given a chance to eliminate the conditions that violate local codes or law.⁴² Metro Nashville has adopted a spot blight ordinance under the authority granted by this part and has appointed a Vacant Properties Review Commission to certify that identified properties are in fact blighted.⁴³

Land Bank Pilot Program. In 2012, the General Assembly created the Tennessee Local Land Bank Pilot Program,⁴⁴ authorizing the City

The Metropolitan Development and Housing Agency (MDHA) has used the federal HOME program to assist in the rehabilitation of thousands of homes.

³⁸ See <http://www.cityofmemphis.org/framework.aspx?page=4> for additional information.

³⁹ HOME is the largest federal block grant to state and local governments designed exclusively to create affordable housing for low-income households. Each year, it allocates approximately \$2 billion among the states and hundreds of localities nationwide. See http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/affordablehousing/programs/home for additional information.

⁴⁰ See <http://www.nashville-mdha.org> for additional information.

⁴¹ Bradley, Davidson, Hamilton, Henry, Knox, Loudon, Madison, Roane, Shelby, and Williamson.

⁴² Tennessee Code Annotated Title 13, Chapter 21, Part 2.

⁴³ Terry Cobb, Director of Codes Administration, and William Penn, Assistant Director for Property Standards, interview with Bill Terry, October 2011.

⁴⁴ Tennessee Code Annotated Title 13, Chapter 30.

Land bank corporations can be used as a legal and financial mechanism to return vacant, abandoned, and tax-foreclosed properties to productive use through rehabilitation, demolition, or redevelopment and then sell them.

of Oak Ridge to create a land bank corporation with broad powers to acquire, hold, improve, and convey any interest in real property.⁴⁵ The Comptroller's Office is directed to monitor the land bank for three years and recommend whether the pilot project should be continued, expanded, or discontinued together with any legislative actions necessary to do so. Oak Ridge is in the initial stages of establishing the program.

Land bank corporations can be used as a legal and financial mechanism to return vacant, abandoned, and tax-foreclosed properties to productive use through rehabilitation, demolition, or redevelopment and then sell them. According to a study by the University of Michigan, "successful land bank programs revitalize blighted neighborhoods and direct reinvestment back into these neighborhoods to support their long-term community vision."⁴⁶

Michigan is considered to have the strongest state laws for land banking. One of the leading land bank programs in the country is in Genesee County, Michigan. Since its inception in 2002, the Genesee County Land Bank, in cooperation with public, private, and non-profit partners, has acquired more than 4,000 residential, commercial, and industrial properties through the tax foreclosure process.⁴⁷ Other states that have adopted land bank legislation include Georgia, Indiana, Texas, Kentucky, Missouri, Ohio, and Maryland. Currently, legislation is pending in New York. Texas adopted legislation in 2001 for a land bank pilot program in the city of Dallas. The program was expanded to include Houston in 2005 and, based on its success, was made applicable statewide in 2007.⁴⁸

Proposed Statewide Listing of Blighted Properties

Representative Antonio Parkinson introduced House Bill 2996 [Senate Bill 2933 (Norris, Campfield)] because he has great concern about vacant or marginally occupied commercial property that is owned by out-of-town or out-of-state owners. This legislation would require municipalities with slum clearance or vacant properties acquisition ordinances to report to the Secretary of State the street address and owner of any commercial property found to violate those ordinances.

⁴⁵ Tennessee Code Annotated § 13-30-109. These boards do not have eminent domain power and, therefore, cannot acquire property by condemnation.

⁴⁶ de Wit, Jessica.

⁴⁷ Genesee County Land Bank.

⁴⁸ Smart Growth America.

Cities making such reports would also be required to notify the Secretary promptly when the violation was cured. The Secretary would then be required to publish the property owner's name and the address of the property on the Secretary of State's website and remove the information when so notified. According to the fiscal note, this would cost the state over \$25,000 annually. Representative Parkinson believes that posting the owners' names on this website will spur remedial actions.⁴⁹

Several cities across the country maintain a website of blighted properties. Reading, Pennsylvania, has a blighted properties website that is known locally as the "Wall of Shame." It includes a location map of the properties, a picture of the building in question, and the name and address of the property owner. Coal Township, Pennsylvania, also maintains a "Wall of Shame" on its website that lists the address of the blighted property along with the owner's name and telephone number. These are but two examples. These websites are presumably effective since the local governments continue to maintain them.

House Bill 2996 proposes a state-level listing. A web listing of this type may be effective at the local level, but it is not clear that it would be equally effective at the state level. No other state maintains a website listing blighted residential or commercial properties, possibly because the definition of blight depends on community standards, which makes it difficult to ensure complete and consistent reporting by local governments.

Other States' Laws

All states have laws to combat blight. However, with foreclosures and abandonment of properties on the rise, along with a sluggish economy, legislatures are revisiting these laws to determine whether they are sufficient or new legislation is needed to help local governments deal with blighted properties. Some states have passed new legislation to levy a state fine on blighted property, while others have enacted laws to provide tax incentives for the demolition or renovation of these properties. Tennessee has neither of these provisions.

Connecticut. In 2012, the Governor of Connecticut signed a new quality of life law, Public Act 12-146, increasing the fines for violations of municipal blight ordinances. If the property owner or absentee

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⁴⁹ Representative Antonio Parkinson, interview with Bill Terry, July 12, 2012.

Virginia passed a law in 2009 that, in addition to the usual authority to enforce codes on derelict buildings, provides incentives for the renovation or demolition of those buildings.

landlord, after receiving notification and given an opportunity to remedy the situation, willfully continues to violate the law, he or she may be fined by the state not more than \$250 for each day that the blighted condition continues.⁵⁰

California. The Governor of California, in August 2012, signed Assembly Bill 2314 giving local governments authority to impose a \$1,000 per day, per violation fine against owners of blighted, foreclosed properties. Owners may also be required to repair the property or pay the city for doing so. In addition, the bill provided an incentive to potential homebuyers, investors, or developers to purchase blighted properties by preventing blight enforcement actions from being taken against new purchasers for 60 days, provided repairs are being made to the property.⁵¹

Virginia. Virginia passed a law in 2009 that, in addition to the usual authority to enforce codes on derelict buildings, provides incentives for the renovation or demolition of those buildings. The law authorizes any locality that has adopted a tax abatement program (also authorized in the law) to require owners to submit a plan for either renovation or demolition. If the owner demolishes the building according to the plan within 90 days after permit approvals, the building and demolition permit fees are refunded to the owner. If the owner renovates the building according to the plan, the building permit and plan fees may be refunded. The real estate taxes on the subject property on an amount equal to the costs of the renovation or demolition are abated for a period of at least 15 years.⁵²

⁵⁰ 2012 Connecticut Public Acts No. 12-146.

⁵¹ California Civil Code § 2929.3 and California Health & Safety Code § 17980 et seq.

⁵² Virginia Code Annotated § 15.2-907.

Appendix

SENATE JOINT RESOLUTION 103

By McNally

A RESOLUTION to direct the Tennessee Advisory Committee on Intergovernmental Relations to study problems local communities are having with vacant blighted properties and recommend solutions to return such properties to beneficial use.

WHEREAS, many local communities across Tennessee are experiencing significant problems associated with vacant, blighted properties; now, therefore,

BE IT RESOLVED BY THE SENATE OF THE ONE HUNDRED SEVENTH GENERAL ASSEMBLY, the House of Representative concurring, that the Tennessee Advisory Committee on Intergovernmental Relations (TACIR) is directed to perform a study of the overall effects on local governments when blighted properties are left vacant and recommend solutions that will assist such local governments to return such properties to beneficial reuse. It is the legislative intent that this study be conducted from TACIR's existing resources.

BE IT FURTHER RESOLVED, that all appropriate state departments and agencies shall provide assistance to TACIR.

BE IT FURTHER RESOLVED, that TACIR is requested to report its findings and recommendations, including any proposed legislation or interim reports upon conclusion of its study, to the Chairmen of the Finance, Ways and Means Committees of the Senate and the House of Representatives.

HOUSE BILL 2996

By Parkinson

AN ACT to amend Tennessee Code Annotated, Title 13,
relative to properties in disrepair.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 13, Chapter 21, Part 1, is amended by adding the following as a new section:

(a) Any municipality, the governing body of which has adopted an ordinance pursuant to § 13-21-103, shall report to the secretary of state the street address of any commercial property that is found to be unfit for human occupation or use pursuant to this part, together with the name of the owner of such property. The report shall be made within three (3) days of the date that the finding of unfitness is made.

(b) Any municipality that submits a report to the secretary of state pursuant to subsection (a) shall promptly notify the secretary when a property for which such a report was submitted is no longer unfit for human occupation or use.

(c) Upon receiving a report pursuant to subsection (a), the secretary of state shall publish the name of the property owner and the address of the commercial property so reported on the secretary of state's web site in such a manner that informs the public that the property has been found to be unfit. Upon receiving a notification pursuant to subsection (b), the secretary of state shall remove from the secretary's web site the name of the property owner and the address of the commercial property to which the notice applies.

SECTION 2. Tennessee Code Annotated, Title 13, Chapter 21, Part 2, is amended by adding the following as a new section:

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(a) Any municipality, the governing body of which has adopted an ordinance pursuant to § 13-21-203, shall report to the secretary of state the address of any commercial property that is determined to be blighted or deteriorated pursuant to § 13-21-205 together with the name of the owner of such property. The report shall be made within three (3) days of the date that the finding of blight or deterioration is made.

(b) Any municipality that submits a report to the secretary of state pursuant to subsection (a) shall promptly notify the secretary when a property for which such a report was submitted is no longer blighted or deteriorated.

(c) Upon receiving a report pursuant to subsection (a), the secretary of state shall publish the name of the property owner and the address of the commercial property so reported on the secretary of state's web site in such a manner that informs the public that the property has been found to be blighted or deteriorated. Upon receiving a notification pursuant to subsection (b), the secretary of state shall remove from the secretary's web site the name of the property owner and the address of the commercial property to which the notice applies.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

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Persons Interviewed

Kathryn Baldwin, Director of Community Development, City of Oak Ridge

Steve Barlow, Attorney, Brewer & Barlow PLC, Memphis

Terrence Cobb, former Director, Department of Codes and Building Safety, Metropolitan Government of Nashville and Davidson County

Rogers Doughty, Project Manager, Economic Development, City of Knoxville Community Development

Amy Fitzgerald, Government and Public Affairs Coordinator, City of Oak Ridge

Ron Fults, Legal Counsel, Greater Nashville Regional Council

Onzie Horne, Deputy Director, Division of Community Enhancement, City of Memphis

George James, Director of Planning, City of Springfield

Beverly P. Johnson, Administrator, Neighborhood Services and Community Development, City of Chattanooga

Christy Kinard, Assistant County Attorney, Shelby County

Kenneth Krushenski, City Attorney, City of Oak Ridge

Steve Lockwood, Executive Director, Frayser Community Development Corporation, Memphis

David Massey, Neighborhood Coordinator, City of Knoxville Community Development

Scott McDaniel, Codes Administrator, City of Springfield

Johnie McKay, Director, Division of Community Enhancement, City of Memphis

Randy McNally, State Senator, District 5

Alvin Nance, Executive Director/CEO, Knoxville's Community Development Corporation

Bill Nolan, Lobbyist, City of Oak Ridge

Antonio Parkinson, State Representative, District 98

William Penn, Assistant Director of the Property Standards Division, Codes Administration, Metropolitan Government of Nashville and Davidson County

Jim Todd, Metropolitan Nashville Environmental Court Referee

Emily Trenholm, Executive Director, Community Development Council of Greater Memphis

Rebecca Wade, Deputy Director, City of Knoxville Community Development

Mark Watson, City Manager, City of Oak Ridge