Virginia Land Banks & The Receivership Statute: How They Work Together to Address Blight

Description

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Introduction

Across Virginia, localities are grappling with vacant, abandoned, and blighted properties that threaten neighborhood stability and public safety. Two legal tools have emerged as particularly important in addressing these challenges: **land banks** and the **receivership statute**. Each has a distinct role, but together they form a powerful framework for reclaiming derelict properties and returning them to productive community use.

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What is a Land Bank in Virginia?

Virginia authorizes land banks under the **Virginia Land Bank Entities Act (Va. Code Â§ 15.2-7500 et seq.)**. A land bank is a public or nonprofit entity that localities may create (individually or jointly) to acquire, manage, and repurpose troubled properties.

Key powers of a land bank include:

- Acquiring property through donation, purchase, tax foreclosure, or transfer from local governments.
- Clearing title and extinguishing liens.
- Holding, managing, and maintaining property until it can be redeveloped.
- Conveying property in furtherance of community development objectives, such as affordable housing, green space, or economic revitalization.

Notable examples include the Maggie Walker Community Land Trust, designated by Richmond, Chesterfield, and Henrico as their regional land bank; the Chesapeake Land Bank Authority; and the Danville Neighborhood Development Corporation. Currently the Virginia Land Banks are located only in a handful of jurisdictions â?? typically those experiencing struggling housing markets (e.g., Danville, Roanoke, Chesapeake, Martinsville) while rapidly growing regions like Northern Virginia generally have not.

The Maggie Walker Community Land Trust (MWCLT) was founded in 2016 as a nonprofit 501(c)(3) organization governed by a volunteer Board of Directors. The purpose was to create permanent affordable homeownership opportunities for low- and moderate-income households in Richmond. The MWCLT retains ownership of the land, while qualified homebuyers purchase the house at a reduced price. The homeowners enter into a long-term ground lease (typically 99 years) and agree to resale restrictions that ensure affordability even when they sell. When they resell, the homeowners keep all of their down payment and a portion of the appreciated value, while the rest of the appreciation stays embedded in the home to keep it affordable for the next buyer. So far MWCLT is on track to close on its

100th home sale since founding. The MWCLT was named in honor of the first Black woman to charter and lead a U.S. bank.

Note the statute provides land banks with very broad powers:

â??The land bank entity may acquire real property or interests in real property by gift, devise, transfer, exchange, purchase, or otherwise on terms and conditions and in a manner the land bank entity considers proper.â?• **(Va. Code Â§ 15.2-7507).**

The definition of â??real propertyâ?• in Virginia law is not limited to residential use. This means commercial property is eligible for acquisition, management, and disposition by a land bank. So, on the face of the statute, a Virginia land bank can acquire, hold, and dispose of commercial property just like residential property.

That being said, the main focus of Virginia Land Banks is to focus on residential blight and affordable housing, because thatâ??s where the need is most acute and where local governments direct resources. Even where commercial properties are eligible, many localities use other toolsâ??economic development authorities, redevelopment and housing authorities, or downtown development corporationsâ??for commercial revitalization.

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What Is the Receivership Statute?

Virginia law also provides a court-supervised enforcement tool to address derelict housing: the **receivership statute (Va. Code Â§ 15.2-907.2)**.

Under this law, a circuit court may appoint either a locality or a land bank entity as a **receiver** for a derelict and blighted residential dwelling. Receivership is available only after:

1. The locality has declared the property to be a *derelict* building in compliance with the provisions of **Va. Code Â§ 15.2-907.1**. â??Derelict buildingâ?• means a residential or nonresidential building or structure, whether or not construction has been completed, that might endanger the publicâ??s health, safety, or welfare and for a continuous period in excess of six months, it has been (i) vacant, (ii) boarded up in accordance with the building code, and (iii) not lawfully connected to electric service from a utility service provider or not lawfully connected to any required water or sewer service from a utility service provider (**Va. Code Â§ 15.2-907.1.)**.
2. The property has been found to be *blighted* under the spot blight abatement process **(Va. Code Â§ 36-49.1:1)**. A locality can petition a court to appoint a *receiver* (i.e., land bank entity) to take control of a property if the owner fails to remedy the blight. â??Blighted areaâ?• means any area that endangers the public health, safety or welfare; or any area that is detrimental to the public health, safety, or welfare because commercial, industrial, or residential structures or improvements are dilapidated, or deteriorated or because such structures or improvements violate minimum health and safety standards **(Va. Code Â§ 36-3)**.
3. The owner has failed to comply with remediation requirements. The owner or owners of record shall have 30 days from the date the notice is sent in which to respond in writing with a spot blight abatement plan to address the blight within a reasonable time. Notice is sent by regular mail to the last address listed for the owner on the localityâ??s assessment records for the property, together with a copy of such spot blight abatement plan prepared by the agency, authority, or locality. If the owner or owners of record fail to respond within the 30-day period with a written spot blight abatement plan that is acceptable to the chief executive of the agency, authority or

locality, the agency, authority or locality may request the locality to declare the property as blighted, which declaration shall be by ordinance adopted by the governing body. **(Va. Code Â§ 36-49.1:1)**

Once appointed, the receiver can then repair, rehabilitate, or even sell the property to eliminate the conditions that endanger health, safety, or welfare, provided that repairs comply with the Uniform Statewide Building Code and do not change the propertyâ??s zoning use. Importantly, receivership does **not** transfer ownership outright, but it gives the receiver control until costs are recovered and compliance achieved. A receivership may last up to two years, and **a lis pendens must be recorded to provide notice.**

How Receivership Liens Work

One of the most powerful features of the statute is the treatment of a receiverâ??s costs. All expensesâ??plus reasonable attorneyâ??s feesâ??become a **lien on the property that is on par with delinquent real estate taxes**. This gives the lien **super-priority** status, meaning it outranks mortgages and other encumbrances until satisfied.

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Required sales process to enforce the lien.
A receiver **canâ??t** just sell the property unilaterally. Enforcement requires:

1. **Court order of sale** on application;
2. Court appoints a **special commissioner** (a locality attorney may serve);
3. **Newspaper notice published three times** (1st notice no more than 35 days before sale; and the 3rd notice appearing no less than 7 days before the sale);
4. **Public auction**;
5. **Accounting and confirmation** by the court;
6. **Deed passes free and clear** to purchaser upon confirmation;
7. **Surplus** (after receiverâ??s lien, taxes, penalties, interest, attorneyâ??s fees, costs, and recorded liens) goes to the former owner/heirs/assignees.
8. **Owners may redeem any time before the 2-year receivership expires while property is still subject to receivership or prior to the confirmation of the sale at public auction by paying all amounts in full**.

Provided the owner does not redeem the real property, the result is clear title for the purchaser, free and clear of prior liens.

The Relationship Between Land Banks and Receivership

The land bank and receivership statutes are complementary.

- The **receivership statute** is a legal mechanism for dealing with *specific blighted properties* where the owner is unresponsive. Itâ??s about enforcement and remediation.
- The **land bank** provides the *long-term stewardship mechanism* to manage, rehabilitate, and redevelop those properties once control is secured.

Virginia law explicitly allows land banks to serve as receivers. This means a court can appoint a land bank as receiver for a blighted property, giving it authority to repair or auction the property and then manage it in line with community development goals.

Step-by-step: a typical receivership case with a land bank

1. Locality has an ordinance and **tax-abatement program** under Â§ 15.2-907.1; it declares the structure **derelict**.
2. Locality also completes **spot blight** steps under Â§ 36-49.1:1.
3. Owner is notified and has 30 days to comply.
4. Owner fails to comply within said 30 days; locality petitions to appoint **itself or its land bank** as **receiver** and records a **lis pendens**.
5. Court appoints the receiver; receiver **procures repairs** (public-procurement rules apply).
6. Receiverâ??s costs become a **lien with tax-lien parity**.
7. If not repaid, receiver applies for **order of sale** â?? **public auction** via special commissioner â?? proceeds pay the receiver/taxes first; **surplus** to prior owner/heirs.
8. Owner can **redeem** by paying **all** amounts **before confirmation.**

Practical Implications for Localities

Localities considering these tools should be mindful of several practical points:

- **Residential scope only:** Receivership under Â§ 15.2-907.2 applies only to *residential dwellings*. Other types of blight require different statutes.
- **Program prerequisites:** A derelict-building tax abatement program under Â§ 15.2-907.1 must be in place before receivership can be pursued.
- **No zoning changes via repairs:** Court orders will not permit repairs that alter zoning use.

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Due process protections: Under Â§ 15.2-907.2 owners retain the right to redeem the property at any time prior to the expiration of the two-year period or prior to confirmation of sale at public auction by paying the receiverâ??s lien in full and the taxes, penalties, interest, reasonable attorney fees, costs, and any recorded liens chargeable against the property. Partial payment shall not be sufficient to redeem the property and shall not operate to suspend the receivership. The courts oversee all auctions and deed transfers.

Conclusion

Virginiaâ??s land bank statute and receivership statute work hand in hand to provide both the legal authority and the organizational capacity to address blight. Receivership offers a judicial pathway to intervene when private owners fail, while land banks provide the long-term infrastructure for stewardship and redevelopment. Together, they empower localities to transform vacant and derelict or blighted housing into assets that stabilize and strengthen communities. Land banks are governmental or quasi-governmental units and, as such, constitutional notice requirements may come into play. Should you find yourself dealing with the sale of property out of a land bank, or find that one is in the recent chain of title, you may want to reach out to your title insurerâ??s counsel to determine what specific steps, requirements or exceptions, if any, they want you to take or include.



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Laura Wakefield, an Underwriting Counsel for Westcor Land Title Insurance Company, has over 35 years of real estate industry experience. She began her career as a recorder and title examiner at Real Title Company in Fairfax, VA and then went on to work for Commonwealth Land Title Insurance Company in Fairfax, VA as a residential and commercial title examiner, underwriter and eventually as a legal assistant to underwriting counsel. The summer after her first year of law school, Laura began working at K. Hovnanian Homes (formerly Washington Homes) as a law clerk and then as in-house legal counsel once she passed the bar. Then she transitioned to Shulman Rogers in Potomac, MD as an associate counsel working on land acquisition agreements and sales contracts for another national home builder. Laura left the law firm life to go in-house again and joined InSite Wireless Group, a telecommunications company in Alexandria, VA, as Senior Legal Counsel on the acquisition team reviewing title and survey and obtaining policies as well as drafting documents to facilitate acquisitions,

closings and securitizations. When the cell tower company was acquired, Laura took a short break before joining a national underwriter as one of the Virginia underwriting counsel.
Laura once imagined herself traveling the world as a Peace Corps volunteer or ambassador, thanks to her International Studies degree from George Mason University. But with initials that spelled out â??LAW,â?• it seemed inevitableâ??she headed to the University of Baltimore School of Law for her JD.
She calls Leesburg, VA home, where she shares life with her cherished pups, Monster and Julep. After work, youâ??ll often find them curled up together enjoying Hallmark movies.

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