

# CITY OF HUNTINGTON

WEST VIRGINIA

800 Fifth Avenue  
P.O. Box 1659  
Huntington, WV 25717

Steve Williams,  
Honorable Mayor

## HOME RULE PILOT PROGRAM

Revised April 2013

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## **The City of Huntington Home Rule Pilot Program Executive Summary**

Huntington is a community with unlimited potential. We have a major university, excellent hospitals, and a reemerging central business district. As a result we are the nucleus of a geographical area that extends as far away as Pike County, KY and Scioto County, OH. While the population within Huntington city limits was once approaching 100,000, census estimates now have the population under 50,000. As our population has decreased, our obligations to our residents have not. We have many challenges to deal with, and having a declining tax base only adds more burdens to the remaining residents and businesses that call Huntington home. We have outlined solutions to what we see as some of our most pressing short-term and long-term challenges.

### *1. Land Bank Fast Track Authority*

The ability to tackle our increasing dilapidated-structure problem may be accomplished by simplifying the process for us to create a land banking authority. These structures are magnets to curious children as well as ill-intended criminals. By allowing cities to become more involved in the tax lien process, we will be able to demolish the dangerous buildings more quickly and, even better, make it easier to transfer to entities that will rehabilitate these buildings. Once rehabilitated, they can again be productive taxpayers to the city, county, and state while bringing up surrounding property values.

On August 24, 2009, City Council passed an ordinance (Article 1760) to establish a Land Bank Fast Track Authority. The purpose of the ordinance is to stabilize neighborhoods, preserve and increase property value, and reduce the expense and burden on the state and its subdivisions of the tax lien sale system.

The ordinance is based on a Michigan law that provides for the establishment of a Land Bank Fast Track Authority. The Michigan model illustrates how a Land Bank Fast Track Authority reduces the burden and expense of tax delinquent properties to the state and units of local government. The ordinance is a hybrid between the Michigan model and the existing West Virginia tax lien process that was worked out in consultation with the Cabell County's Chief Tax Deputy. The ordinance provides for:

- The creation of a Land Bank Fast Track Authority
- The right of first refusal to purchase all delinquent tax liens within the city
- Boarding up, repair, or demolition of properties while holding the tax lien and recovery of the costs as additional statutory costs at the time of redemption
- 1% interest per month earned on the tax liens to be used to fund the Land Bank Fast Track Authority as provided in current statutes



- The assembly and possession of lots that are not redeemed and provide for the quick return to the tax roles

The Land Bank Authority will take over and manage properties with funds that would have gone to out-of-state investors under the current system. The proposal will also provide an immediate benefit to the County and State by providing for the sale of 100% of all tax liens in the city.

A petition has been filed for a writ of mandamus by Prospector, LLC, against the Cabell County Sheriff involving provisions in the land bank ordinance.

On October 21, 2009, Circuit Judge Jane Husted allowed the city to intervene in the petition for a writ of mandamus and asked the city and attorney David Lockwood, who is representing Prospector, to file briefs on the case. The petition centers on a provision in the city's land bank ordinance that allows the city to purchase liens on tax-delinquent properties prior to the county's annual tax auctions. Prospector argues in the petition, however, that all tax liens must be sold to the highest bidder at a public auction.

The petition in the underlying litigation simply says that the proposed land bank ordinance conflicts with state law (which of course it does) and that it also conflicts with the West Virginia Constitution. Clearly, the City does not believe there is any conflict with Sec. 39 and 39a of the West Virginia Constitution. We believe this argument is utterly without merit. The petition does not challenge the home rule statute itself but merely challenges the land bank ordinance. The City of Huntington is currently in the process of finishing its motion for summary judgment, and then the petitioner will file their motion for summary judgment. If we suffer an adverse ruling before the circuit court, it is expected that we would file an immediate appeal before the West Virginia Supreme Court.

Attorney Mike Woelfel, who represents Sheriff McComas, has filed an answer to the petition saying the sheriff plans to adhere to state law and sell all tax liens to the highest bidder at auction. According to a report in the Herald-Dispatch, the sheriffs of Cabell and Wayne counties say they will not comply with the Huntington ordinance that allows the city to purchase liens on tax-delinquent properties prior to the counties' annual tax auctions.

Cabell Sheriff Tom McComas and Wayne Sheriff Greg Farley say they have consulted with the state Auditor's Office about Huntington's new land bank ordinance and have been advised that it conflicts with state law.

According to state laws that govern county tax auctions, all tax-delinquent property must be sold at the auction, McComas said. "The city is under the impression that the home rule statute gives them the authority to pre-empt state law and acquire property in advance of an auction," McComas said. "Unless I'm ordered otherwise by a court, I'm going to abide by what state law says." "I'll bend over backward to help the city of Huntington in any way I can, but I just can't break state law," Farley added. "Sheriff McComas and I are in complete agreement on this."

This is the second Home Rule ordinance that has been challenged. The City of Huntington believes that ordinances passed under the state home rule program carry the same weight as any other legislation and "allow deviation from current state statutes, policies, rules and responsibilities that prevent or restrict the carrying out of duties and responsibilities in a cost-effective, efficient and timely manner."



In 2009 the City of Huntington utilized its Home Rule Authority and established a Land Bank for the purpose of intervening in the County Tax Lien process which was identified as a major contributor to the spreads of slum and blight. The beauty of our Land Bank Fast Track Authority is that it addresses a problem without increasing taxes and is self sustaining. The system provides a funding stream to deal with derelict properties and is proving itself as a valuable tool in our efforts to stabilize and reverse slum and blighting trends in many of our neighborhoods.

Since 2009 the Land Bank has purchased 700 tax liens utilizing the traditional method of tax sale instead of the method proposed in the City's Land Bank Ordinance. Of those liens, the Land Bank has received title to 162 properties since April 2011, holds 98 tax liens from the 2011 sale that will come due in March 2013, and 85 tax liens from the 2012 sale that will come due in March 2014. The Land Bank has sold 31 properties and has 11 more under contract.

The previous redemption rate was 65%, which left the Land Bank with title to 35% of the tax liens purchased. In the first two years, the Land Bank purchased a large number of known "problem" properties with the purpose of getting them out of the tax lien cycle. We anticipate future redemption rates will be around 75% now that these properties are out of the system.

Funding for the Land Bank comes primarily from a \$1.5 million line of credit. The Land Bank has invested \$250,000 in demolition and maintenance of its properties to date. Early projections estimated the Land Bank at a breakeven point in 5 years. The early projections assumed most properties would have a structure and most of the properties purchased in the first two tax lien years would be blighted. However, what we have experienced is that most properties are vacant and many are in fair condition. This has decreased estimated demolition costs and increased the number of properties that are ready to easily rehab. The value of these properties in the open market is hard to estimate, but it's not unreasonable to assume a breakeven today if the Land Bank liquidated its current assets.

The Land Bank is currently targeting possible redevelopment zones for tax lien purchases and actively looking at strategies to increase revenue and innovative ways to maintain and repurpose properties. Vacant lots are being made available for side yards and parcels are being combined to increase overall potential.

Recent collaboration with the National Guard regarding the demolition of dilapidated structures is an example of ways the Land Bank has leveraged resources. The Land Bank is also developing bidding strategies geared toward targeting future tax lien purchases that have a high probability of redemption in the hopes of increasing interest income.

In August 2011 the Land Bank Fast Track Authority made its first property sale at 1326 Washington Avenue for \$10,000. The Land Bank total investment on this property is \$3,261.02. Since that time 31 properties have been sold including one in the Fairfield West Redevelopment area which will be used to build a 40-unit affordable housing complex for seniors.



A formal application process has been developed which provides consistent information regarding proposed future uses to better inform the board when considering proposals. The applications include construction, rehabilitation, yard expansions and donations of Land Bank properties.

Looking ahead three years, we anticipate reducing the balance owed on the line of credit to approximately \$250,000. The goal of the Land Bank is to eliminate the need for a line of credit entirely. By the end of year five we anticipate the payoff of the line of credit, and the land Bank will begin to operate from funds generated through the tax lien process.

A final outcome on this case is pending.

## *2. Local options for Addressing Fire Damage to Residential/Commercial Structures*

The City of Huntington's original application for the West Virginia Home Rule Pilot Program contained a provision requiring insurance companies to set aside a portion of insurance proceeds for demolition. In 2010, the West Virginia Legislature passed a Fire Insurance Proceeds Bill that eliminates the need for this issue to be addressed by the Home Rule Pilot Program. The following is a summary of events that lead up to the signing of the bill:

On October 24, 2008, Council for the City of Huntington passed an ordinance (Article 954) based on Section 3929.25 and 3929.86 of the Ohio Revised Code that calls for insurance companies to transfer a portion of the proceeds from a fire insurance claim to the Finance Director of the City of Huntington (Approved ordinance is Attachment B). If the owner pays to rebuild or tear down the fire-damaged property within a certain amount of time, the money transferred to the Finance Director will be returned to the owner. If the owner walks away from the property, the City would use the money in the account to pay for demolition of the burned property.

Members of the City of Huntington's Home Rule team had several meetings with representatives of the Insurance Commissioner's office and the West Virginia Insurance Federation while working out the details of the ordinance. The Insurance Federation took issue with the City of Huntington enacting an ordinance that set out different guidelines than those used in other parts of the state. As a potential compromise, the City agreed to work with State legislators on a solution that would be consistent across the state and delayed the effective date of the article until July 1, 2009.

On July 1, 2009 the Insurance Federation filed the lawsuit against the city of Huntington in Cabell Circuit Court. The lawsuit was prompted by the enactment of the ordinance. The West Virginia Insurance Federation contended in the lawsuit that the Home Rule Pilot Program giving Huntington and three other cities home rule powers is unconstitutional and should be terminated.

The City of Huntington worked closely with Governor Joe Manchin and our legislators on a bill that would allow counties and municipalities to place a statutory lien on a portion of fire insurance proceeds when there is a total loss. Governor Manchin proposed the bill during the West Virginia Legislature's regular session in January and touted its potential while touring several dilapidated structures in Huntington in March.

On June 16, 2010, Governor Manchin signed the Fire Insurance Proceeds Bill into law. The bill was a compromise between Huntington and the Insurance Federation.



### *3. Increased Capacity to Collect City Fee/Taxes*

Increased ability to collect taxes and fees would also help to ensure that people are paying their fair share. Many business and individuals evade their obligations, as they know of the inabilities we have in collecting from them. The lien process giving Huntington higher priority would help ensure that the public is being reimbursed while requiring the property owners with delinquent fees to be made current.

The Huntington City Council passed an ordinance (Article 773.12-14) on August 24, 2009, which requires all landowners to pay the City any past-due refuse, municipal or other fees prior to transfer of property. The ordinance became effective on October 1, 2009. The new ordinance requires owners and closing agents to check for past-due balances with the City prior to a sale. The fees are removed from the sale proceeds and forwarded to the City after the closing. Any balances owed the City after a closing will become the responsibility of the new owner, thus giving the new owner a basis for legal action against the previous owner or closing agent. Since enactment, the City of Huntington has collected in excess of \$300,000 in delinquent fees.

The Huntington City Council passed an ordinance (Article 773.15) on October 26, 2009, modeled after HB2723 (with a few changes using Home Rule powers) which allows the City to place a lien against any property which owes past-due municipal or refuse fees. The ordinance allows the Legal Department to place liens without the costly and time-consuming judgment lien process. Taxpayers are afforded a 90-day due process period (as is in HB2723) and a hearing before the Municipal Service Fee Board prior to liens being placed. This ordinance acts as a second defense against properties being transferred with past-due balances. Since enactment over 4,300 "Notice of Lien" letters have been sent to property owners and over 400 liens have been issued.

### *4. Municipal Sales, Service and Use Tax/Municipal Occupation Tax*

The City implemented a One Percent (1.0%) Municipal Retail Sales, Service and Use Tax on January 1, 2012. To date the tax has allowed the City to eliminate the B&O tax on Manufacturing and to lower in half the B&O Tax on Retail and Service businesses. The implementation was smooth and there have been no problems with its implementation. All zip code files were provided to the State Tax Department by the City and collection is the responsibility of the State Tax Department. Local retailers have cooperated and the additional burden has been minimal as the Tax Department forms provide for both the local and state sales tax on one form. Businesses in Huntington have enjoyed a reduction in taxes of over \$5.3 million since the implementation of the tax.

The Municipal Occupation Tax was never implemented and was rescinded by City Council in March 13, 2013. The City will not seek a Municipal Occupation Tax through Home Rule Authority.

### *5. On Spot Citation*

Modeled after the City of Charleston's Home Rule Building and Zoning Enforcement provision, the City of Huntington is seeking to mirror the On Spot Citation ordinance. This ordinance is of extreme importance as our municipality seeks to address code enforcement violations with a more expedient system to notify violations similar to traffic citations, as compared to the lengthy process outlined by existing state code.



# Section I Narrative



## Section I

### A. Narrative

#### 1. Land Bank Fast Track Authority

Proposed Solution Area(s): Organizational & Administrative

*Specific state laws, policy rule or regulation in question*  
West Virginia Code §11A-1-1 et. sec.

##### A. Specific Problem

Collection and enforcement of property taxes allows government to collect the taxes due, but encourages urban decay.

The good intentions of the declaration of legislative purpose and policy have failed to produce the desired benefits; the policy has contributed greatly to slum and blighting conditions and to the decline of Huntington's residential neighborhoods.

The purpose of the enactment was:

- To provide for the speedy and expeditious enforcement of tax claims of the state and its subdivisions
- To provide for the transfer of delinquent and nonentered land to those more responsible to, or better able to bear, the duties of citizenship than the former owners
- To permit deputy commissioners of delinquent and nonentered lands to sell lands without the necessity of proceedings in the circuit courts
- To reduce the expense and burden on the state and its subdivisions of tax sales

The provisions that were intended to provide for the speedy and expeditious enforcement of tax claims has resulted in a slow-moving process. There is not a set time limit on how long the process will take under West Virginia Law. The process simply takes as long as it takes.

A piece of property is placed for auction at a county's annual tax lien sale if the taxes on the property are delinquent for the previous year. At the sale, people bid on the tax lien, or the tax debt on the property, not the property itself. According to Tom Bell, the former Cabell County Chief Tax Deputy, the minimum bid must cover the taxes for the previous year and the current year. The money collected from the minimum bids is disbursed to the county and its levying bodies. Any amount that a lien holder bids above the minimum price is placed into the Sale of Tax Lien Surplus Fund.

If a lien is purchased at a tax sale, the original property owner has 18 months to pay the taxes plus 1% interest per month. That money, including the interest, is then given to the lien holder. The lien holder receives the amount bid above the minimum price.

"It's a process by which the lien holder can receive a pretty good return on their investment," Bell said. "I don't know of too many places these days where you can get a 12% annual return."



If the original property owner, however, fails to pay the taxes within 18 months, the lien holder has the option of taking title of the property or forfeiting his or her bid when returning the property to the original property owner.

“When it reaches this point, it has been three-and-a-half years from the time that the original property owner stopped paying their taxes,” Bell said. “The whole process is crazy, because we’re teaching people to not pay their taxes. People call in all the time asking what the last day is to pay their taxes before they lose their property. In the meantime, nothing productive is happening with the property.”

The tax foreclosure process can take even longer if a property lien goes unsold at a county sale. In that case, it is sent to the State Auditor’s Office, which gives the original property owner another 18 months to pay the taxes before the property falls into a statewide delinquent tax sale. “If the property lien is purchased at the State sale, the original property owner has another 90 to 120 days to redeem the property before the title is transferred to a new owner,” said Russ Rollyson, a Deputy State Auditor who handles delinquent real estate.

“If the property is not sold at a delinquent land sale, then anyone can walk into our office and make us an offer,” said Rollyson. “That happens a lot, too.”

If the property goes unsold, it can remain with the Deputy State Auditor for any amount of time until someone offers a bid that is agreeable and approved by the auditor. Dilapidated properties can linger for years in a lax lien limbo and greatly contribute to the spread of slum and blighting conditions, reduction in property value, and a direct correlation to increases in crime.

#### *Proposed Solution*

Flint, Michigan and Huntington, WV may be hundreds of miles apart, but they share the same dilemma. Both are fighting to stop the advancement of urban decay that is fueled by population loss.

Urban researchers and planners across the country, however, say Flint is a leading example of how communities can aggressively manage dilapidated housing problems by making tax-delinquent properties available for redevelopment.

Flint has suffered from a slow progression of layoffs at General Motors over the past 30 years. In the 1970s, the company employed 79,000 people in Flint alone. The city’s population came close to 200,000. Today, GM employs 15,000 in Flint, which now has a population of 118,000.

“We were a one-company town that was devastated when the company was forced to make adjustments,” said Dan Kildee, Treasurer for Genesee County, in which Flint is located.

With that came rampant housing vacancy and abandonment problems that were exacerbated by a tax foreclosure system that kept tax-reverted properties out of circulation and prevented them from being redeveloped for up to seven years. Except for a few minor differences, Michigan’s old tax foreclosure system mirrors the same system West Virginia uses today, he said.



Under the Michigan model, the process takes two years or less. The City of Huntington's proposal would reduce the process to 18 months. Under the proposal, a Land Bank Fast Track Authority would be created. The Authority would purchase 100% of the tax liens at the County sale. The Authority will take title to all properties that are not redeemed in the 18-month redemption period.

### B. Specific Problem

The provisions, intended to provide for the transfer of delinquent and nonentered land to those more responsible or better able to bear the duties of citizenship than the former owners, have not met the desired outcome. The buyers in such transactions are typically motivated by money and show little interest or responsibility with the property; in turn, there is little thought placed into the effect the delinquent properties have on surrounding neighborhoods.

Tax lien sales attract different people for different reasons, but there are generally three broad groups, according to Tom Bell. The three categories are: out-of-state investment companies, local rental property landlords, and average citizens not in the real estate business.

The first, and largest group, are out-of-state investment companies looking to make a quick profit, he said. "These companies have no interest in acquiring real estate," Bell said. "Instead, they purchase a large number of delinquent tax tickets at a sale in hopes that the property owner will pay taxes months later so they can collect interest. All these companies are looking for is the 12% annual return on their investment," Bell said.

At the Cabell County 2006 tax sale, 501 tax tickets were sold. Of those, 121, or 24%, were purchased by Sun Rise Atlantic LLC, an investment company based in Atlanta, GA. Thirty other tax tickets were purchased by a group listed as Sass Muni V DTR, which, according to the Cabell County Clerk's Office, is an investment company based in Philadelphia, PA.

According to Bell, landlords who are looking to acquire rental property at a bargain-basement price comprise the second group that regularly attends tax sales. "[The landlords' way of] thinking is that if they can [purchase] an undesirable piece of property for a couple thousand dollars, then they can turn it into rental property and make their money back within a few months," he said.

The third tier of individuals who purchase tax liens are average citizens looking to acquire a specific piece of property, Bell said. It might be a side lot they are looking to buy or the dilapidated house next door that is dragging down the value of their own home. "They have to up their bids considerably to ensure they get the property," he said.

### Proposed Solution

In Michigan, county tax lien sales were always full of out-of-state investors looking for a return on their investment or landlords seeking inexpensive property. "It's a system that creates a speculator market and allows the devaluation of not only the tax-delinquent property, but also neighboring properties," Kildee said. "It's an economic model that doesn't play out well in weak-market neighborhoods."

The Land Bank Fast Track Authority will have the right of first refusal to all liens at the tax lien sale. It is anticipated that 100% of all liens will be purchased by the Authority, which eliminates speculators and out-of-state investors looking to make a quick profit. The Authority would receive 1% interest per month on all properties redeemed. The funds would provide a means to sustain the



Land Bank Authority. An existing authority or board such as the Huntington Urban Renewal Authority would be utilized to act as the Land Bank Fast Track Authority. The Authority would then maintain, demolish, renovate, and redevelop the property in order to fast track their productive reuse.

“The beauty of the program is that it’s self-sufficient,” said Kildee, who serves as Chairman of the Land Bank Authority. Funds used to maintain a Land Department and late fees collected from delinquent property owners that were given to land speculators as interest on their investment under the old system are now used by the land bank to maintain, redevelop, and market properties.

By giving units of local government options with tax delinquent properties, the legislative purpose and policy to provide for the transfer of delinquent and nonentered land to those more responsible, or better able to bear, the duties of citizenship than the former owners can be realized.

### C. Specific Problem

The provisions to reduce the expense and burden on the state and its subdivisions of tax sales has in itself created undue expense and burden for the City of Huntington in dealing with outcomes of the system. Tax lien sales are increasingly becoming a problem for communities dealing with dilapidated housing. Properties languish during the lengthy process and often fall back into the hands of original owners or land speculators.

Every November, dozens of people gather in a courtroom at the Cabell County Courthouse for the County’s tax lien sale. Up for bid are the delinquent tax tickets for hundreds of properties. Many properties fall into the sale because their owners are unable or unwilling to pay their taxes on time. Other properties are simply abandoned.

For Cabell County and its levying bodies, the tax lien sale works as it is intended. Taxes are paid on a delinquent property, funneling much-needed revenue into the treasury of the school district and county and local governments. But for Huntington’s rapidly deteriorating housing stock, a tax lien sale may be its worst enemy. “Very rarely is there a happy ending for a piece of property that ends up in a tax lien sale,” said Tom Bell, formerly Cabell County’s Chief Tax Deputy. “These are properties that people have walked away from because they have little or no value.”

And most of the time, the properties purchased via the tax lien sale fall back into the hands of people who previously abandoned them or to a land speculator who is looking for a quick profit rather than a home to redevelop. Neither outcome helps the city’s vexing problem with its housing stock. Since 2006, the City of Huntington’s Unsafe Building Commission has ordered the demolition of more than 80 homes, and another 220 properties have been labeled as fire-damaged, unsafe, or in need in major upgrades. City housing inspectors believe there are probably hundreds of homes that have not been inspected or are a couple years away from disrepair. Last year, the City of Huntington spent \$200,000 of public funds on demolition and placed liens on the properties. It is likely that many of these properties will eventually appear at a Cabell or Wayne County tax lien sale and the City will lose its lien.

### Proposed Solution

The Michigan model illustrates how a Land Bank Fast Track Authority reduces the burden and expense of tax-delinquent properties to the state and units of local government. The Land Bank



Authority takes over and manages unsold properties with funds that would have gone to out-of-state investors. Over the past five years, the land bank has demolished 745 homes and rehabilitated 85 others. Almost 850 pieces of vacant property have been turned into green spaces, community gardens or small parks, while an additional 350 properties were given to adjacent property owners to use as a side yard or lot. The land bank also has teamed up with housing developers to build 130 new homes. It now is working on turning a 99-unit apartment building into a 24-unit condominium complex.

Michigan State University recently completed a two-year study on the effectiveness of the Genesee County Land Bank Authority. The study focused on 400 properties that the land bank acquired, demolished, and returned to the market. “We spent \$3.5 million to demolish these 400 properties, but our investment increased the value of surrounding properties by \$112 million,” Kildee said. “That’s the true benefit of intervention.”

“Improving the housing stock of a city, especially in one that has suffered from population decline, is not as easy as convincing lawmakers to change state laws,” Kildee said. “It requires strategic planning and acceptance that a community can be better even though it’s smaller. Becoming smaller is a hard pill for any community to swallow because of America’s obsession with growth and expansion. It’s the academic approach for building cities,” he said. “But even if you come to the conclusion that it’s OK to be smaller, you still have to figure out how to manage a city that was built for a larger population.”

#### *Fiscal Impact*

In 2005, the City undertook an ambitious program aimed at revitalizing a four-block section of Artisan Avenue between Hal Greer Blvd. and 20<sup>th</sup> Street. This was a relatively new approach for the City of Huntington to revitalize a neighborhood that has been plagued by an alarming increase in vacant, dilapidated homes. A basic conditions report was prepared for this area and the structural conditions of the primary properties were indicated. Based on the survey, 50 out of the 79 primary buildings were code deficient or economically infeasible to rehabilitate, which is 63% of all buildings in the study area. Title examinations were prepared and the examinations uncovered that nearly one half of these properties were purchased at tax lien sales. The tax lien process can be pointed to as one of the greatest single contributing factors to the decline and lack of investment in this neighborhood.

The City of Huntington will need to invest millions in public dollars to redevelop this neighborhood and undo the damage done by the State’s tax collection process. The Michigan model shows how this could have been avoided. The creation of a Land Bank Fast Track Authority could take on the redevelopment of these slum and blighted areas without the need for additional public investment. The model is a win for the State and County tax collection process and addresses the decline of our neighborhoods that we experience under current law.

The Michigan model is self-sufficient and does not require additional tax dollars to function. A Michigan University study indicated that \$3.5 million was spent to demolish and put 400 properties back on the market. The investment increased the surrounding property values by \$112 million. This averages \$8,750 invested per site and a \$32 increase in property value for every dollar spent.



In 2007, Cabell County auctioned off 1,180 liens on properties located within the city of Huntington. The county indicates that they have a success rate between 95% and 97%. This will leave approximately 50 liens of property unsold. Over a five-year period, this will amount to approximately 250 properties. Under the Michigan model, these properties would go the Land Bank Authority. Using the averages from the Michigan University study, the City would need to invest \$2.2 million to demolish the 250 structures. Since the model is self-sufficient, the taxpayers would save \$437,500 per year in demolition costs, versus the system currently in existence. With a \$32 increase for every dollar spent, we would anticipate a \$70 million increase in the surrounding property values. Within the city of Huntington, this raise in property values would increase the property taxes collected by the county to more than \$1 million per year.

*Administrative Feasibility*

The Huntington Urban Renewal Authority will serve in the capacity as the Land Bank Fast Track Authority. The Huntington Urban Renewal Authority has proven experience in the redevelopment of residential and commercial properties. A recent project of HURA was the \$50 million redevelopment of the “Superblock” in the central business district, into what is now Pullman Square. The City possesses the necessary experience in demolition, rehabilitation, and redevelopment via the Community Develop Block Grant program. The City has been a CDBG recipient for over 33 years.



## **2. Local Options for Addressing Fire Damage to Residential/Commercial Structures**

Proposed Solution Area: Administrative

*Specific state laws, policy rule or regulation in question*

In 2010, the West Virginia Legislature passed a Fire Insurance Proceeds Bill that eliminates the need for this issue to be addressed by the Home Rule Pilot Program (see Executive Summary).



### 3. Increased Capacity to Collect City Fees/Taxes

Proposed Solution Area: Taxing and Administrative

*Specific state laws, policy rule or regulation in question*

West Virginia Code § 8-13-13

#### *Specific Problem*

Though cities are permitted to charge these fees in accordance with §8-13-13 of the West Virginia Code, municipalities endeavoring to collect said fees that are necessary for providing governmental services are positioned no better than any other creditor attempting to collect a delinquent debt. Thus, in order to collect these necessary fees, municipalities must institute litigation at significant expense to the citizens. Though a judgment may be granted in favor of the municipality, often the prospects of the judgment being satisfied are remote.

Inasmuch as payment of these fees is essential to the maintenance and provision of vital services, the failure to timely remit payments operates to lessen services for the entire community. Municipalities are in dire need of statutory modifications that assist in the timely collection of municipal service fees. Though the West Virginia Supreme Court has clearly indicated that fees owed pursuant to a properly enacted service fee ordinance are not taxes, it no doubt would be equitable and advantageous to the entire community that these fees be treated similar to taxes in operational effect.

#### *Proposed Solutions*

Specifically, §8-13-13 forbids delinquent fees to operate as a lien on the property as security for payments due under a properly enacted municipal service fee ordinance. If the fees were permitted to operate as a lien on the property as security for payments, there would undoubtedly be fewer burdens on the citizen fee/tax payer for expensive litigation costs in order to collect delinquent fees. Thus, in order to limit or, minimize the costs borne by citizens associated with collection of delinquent fees and to assist local government in the collection of said fees, the City of Huntington proposes the following solutions:

- Provide for statutory liens for delinquent fees through a formalized process of notification to property owners. Allow the requirement that all delinquent fees be paid current prior to any property within the City being transferred by any means or process
- Require that any closing statement or any entity closing the sale or transfer of property be required to determine if any City taxes/fees are delinquent and to provide for their payment as part of closing process

#### *Fiscal Impact*

Although difficult to determine the true fiscal impact, the City of Huntington estimates the above changes would generate an additional amount of \$300,000 to \$500,000 in delinquent fees.

#### *Administrative Feasibility*

During the transfer of property or closure of sale, the closing entity would contact the City of Huntington with the name and address of the property being sold. The City would send the closing entity a form with the appropriate amount needing to be withheld at closing.



#### 4. Municipal Occupation Tax / Municipal Retail Sales-Use Tax

Proposed Solution Area: Taxing

*Specific state laws, policy rule or regulation in question*

West Virginia Code § 8-13-13

##### Specific Problem

There are currently provisions in West Virginia Code to allow cities to use a municipal retail sales/use tax, but their use is so highly restricted by statute that only very small cities with no B&O tax, is capable of using them. When the legislature in 2004 passed Senate Bill 701, it allowed:

- Cities could impose a municipal sales/use tax but only if it repealed entirely their B & O tax. (8-13C-2(a)). No Class I or II West Virginia City, including Huntington, could raise enough revenue from a city sales/use tax sufficient to replace the revenue lost from B & O repeal. In Huntington it would have only replaced around 40%.

Further, the maximum rate for both taxes was set at 1% (8-13C-3(a) (1) and 8-13C-4). The proposal advanced by Huntington in this Home Rule proposal is to remove the restrictions on the use of this tax so it can be used for relief of other business taxes and to fund necessary capital improvements. The use of the municipal sales/use tax is used toward tax reform which includes the reduction of the B & O tax.

##### Proposed Solution

The city of Huntington proposes that it be given the authority to impose a municipal retail sales/use tax. The reason for the request is not to place additional tax burdens on the citizens of the City, but to create a fairer way for the City to raise revenue. This new source of revenue is used to reduce the current B & O taxes paid by businesses within the City.

The reasons for using a municipal retail/sales use tax to reduce the B & O tax are:

- The B & O tax was rejected as being anti-business and a hindrance to economic development when the State repealed its use in the 1980s.
- Studies including those done for Governors Underwood and Manchin have found the local B & O levy to be a major reason why business locates just outside city limits. The relocation of one of Huntington's major taxpayers outside the City was due primarily to avoiding the B & O Tax as was the location of a major retailer just outside City boundaries. The significant numbers of vacant and abandoned buildings along Huntington's streets provide further confirmation.

The use of a municipal retail sales/use tax would eliminate the current B & O tax on manufacturing and reduce the current B & O tax on retail and service establishments. While they would still be taxed, there are advantages to this approach:



- The State Department of Taxation would be able to collect the tax and remit to the City after deduction of a 1% administrative fee. Since the current B & O tax is basically one of honesty, the ability to use State collection would improve equitability.

*Specific Provisions of the Municipal Sales/Use Tax*

The specific provisions regarding the sales/use tax are listed in entirety of attached Municipal Sales, Services and Use Tax ordinance, Article 776 of the Codified Ordinances of the City of Huntington.

*Fiscal Impact*

*Feasibility of Municipal Sales/Use Tax*

*Administrative Feasibility*

SB 701 clearly provides for the administration of a local sales/use tax to be levied at the retail level. The municipal sales/use tax uses a base identical to the State's (8-13C-4(c) (1)), with identical exemptions and exceptions (8-13C-4(c) (1) (A)). The State Tax Commissioner is to administer, enforce and collect the tax. (8-13C-4(4)). All provisions of the State sales service and use tax will be applied to the local tax (11-10-3(d)). The State will use "destination" not "origin" to determine the legal nexus of the sale for municipal purposes as is the case with the State tax.

*Fiscal Feasibility*

Since implementation in January, 2012 the City has earned \$7 million in Municipal Sales Tax Revenue.

**Of Note: The City of Huntington has removed from this proposal the Municipal Occupation tax. Huntington City Council and Mayor Steve Williams rescinded all ordinances related to the Municipal Occupation Tax March 13, 2013.**



| Data Narrative

### City of Huntington Estimated Revenue Impact of Tax Reform

As of April 8, 2013

Prepared by Deron Runyon, Finance Director

	FY2013 7/1/2012-6/30/2013	FY2014 7/1/2013-6/30/2014
<b><i>Estimated Increases:</i></b>		
Sales Tax*	\$ <u>6,244,000</u>	\$ <u>5,426,000</u>
Total Increases	\$ 6,244,000	\$ 5,426,000
<b><i>Estimated Decreases:</i></b>		
B&O Tax Reductions		
- Manufacturing	\$ (220,000)	\$ (220,000)
- Retail	\$ (1,726,000)	\$ (1,743,000)
- Service	\$ <u>(2,394,000)</u>	\$ <u>(2,457,000)</u>
Total B&O Reductions	\$ (4,340,000)	\$ (4,420,000)
Total Decreases	\$ (4,340,000)	\$ (4,420,000)
Net New Revenue	\$ <u><u>1,904,000</u></u>	\$ <u><u>1,006,000</u></u>

\* Assumes elimination of sales tax on food in FY2014



## 5. Creation of On Spot Citation

Proposed Solution Area: Administrative

### *Specific state laws, policy rule or regulation in question*

West Virginia Code § 8-12-16

### *Specific Problem*

There is currently a lengthy process for municipalities to address issues related to code enforcement. Currently inspections and compliance employees issue citations after application and approval by the municipal court in accordance with W.Va. Code § 8-12-16 which mandates certain procedural and notice requirements including a requirement that, “[a]ll orders issued by the enforcement agency shall be served in accordance with the law of this state concerning the service of process in civil actions” and a requirement that such orders “be posted in a conspicuous place on the premises affected by the complaint or order . . . .” Further, W.Va. Code § 8-12-16(d) currently mandates that “no ordinance shall be adopted without providing therein for the right to apply to the circuit court for a temporary injunction restraining the enforcement agency pending final disposition of the cause.” The current process may take a month or more, fostering recidivism.

### *Proposed Solutions*

Modeled after the successful City of Charleston “On Spot Citation” as provided in their existing Home Rule Application the City of Huntington is proposing that:

“that building and zoning administrators and/or City law enforcement officers be given power to issue citations for reoccurring exterior sanitation/common nuisance violations (including, but not limited to, trash/rubbish, overgrown weeds/grass, junked or otherwise unlawfully situated motor vehicles, maintenance of vacant structures, broken windows or glass, failure to maintain sidewalks and driveways) at the site of the violation and at the time the violation is recognized, similar to the manner in which traffic citations are issued”

### *Administrative Feasibility*

The City of Huntington currently employs individuals within the Division of Inspection and Compliance and with the Huntington Police Department to issue citations. These same individuals would administer On Spot Citations as proposed in attached ordinance Article 502 Enforcement of Municipal Code Provisions.



# Section II

# Ordinances