

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Mathew J. Muratore

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act establishing the town of Plymouth Land Bank.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Mathew J. Muratore</i>	<i>1st Plymouth</i>	<i>12/2/2024</i>

HOUSE No.

[Pin Slip]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act establishing the town of Plymouth Land Bank.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. DEFINITIONS

2 For the purposes of this act, the words and phrases set forth in this section shall have the
3 following meanings:

4 1.1. “Affordable Housing” shall mean either single family or multi-family housing
5 that is deed restricted to provide for sale or rental only to those qualifying under state or federal
6 programs, which are eligible to be counted towards Plymouth’s Subsidized Housing Inventory
7 (SHI) as defined by the Commonwealth of Massachusetts Executive Office of Housing and
8 Livable Communities (“EOHLC”), and where the cost for purchase or rent of any single family
9 unit shall not exceed sixty percent (60%) of the annual median income (“AMI) established by the
10 United States Department of Housing and Urban Development (“HUD”) for the Town of
11 Plymouth or where the average cost for purchase or rent of units at any multi-family housing
12 shall not exceed sixty percent (60%) of the AMI. At the discretion of the Land Bank
13 Commission, Affordable Housing may include age restricted housing or veterans housing.

14 1.2. “Appointing Authority” shall mean any board, commission, committee or other
15 body as designated in Section 3.1.2. herein which appoints Commissioners to the Land Bank
16 Commission.

17 1.3 “Commissioner” shall refer to the members of the Town of Plymouth Land Bank
18 Commission.

19 1.3. “Fund” shall refer to the Town of Plymouth Land Bank Fund established under
20 the provisions of section eight.

21 1.4. “Institutional Lender” shall mean any bank as defined in section one of chapter
22 one hundred and sixty-seven of the General Laws, any insurance company as defined in section
23 one of chapter one hundred and seventy-five of the General Laws, and any mortgage company or
24 investment company that made more than twenty mortgage loans in the calendar year preceding
25 the year of the relevant mortgage for the purposes of subsection (m) of section twelve, and any
26 national bank, federal savings and loan, federal savings bank, bank holding company, or state or
27 federally chartered credit union.

28 1.5. “Land Bank, shall mean the Town of Plymouth Land Bank, established by section
29 two.

30 1.6. “Land Bank Commission” or “Commission” shall mean the Town of Plymouth
31 Land Bank Commission, established by section three.

32 1.7. “Land Use Category” shall refer to the category or categories as enumerated in
33 section five defining the use or uses for which real property interests obtained by the Land Bank
34 may be used.

35 1.8. “Legal representative” with respect to any person or entity, shall mean any other
36 person acting pursuant to a written power-of-attorney, guardianship, conservatorship, or similar
37 authority ordered by a court of law or executed by such person or entity; provided, however, that
38 any affidavit attesting to the true and complete purchase price of real property, submitted to the
39 land bank commission pursuant to section ten, may also be signed on behalf of such person or
40 entity by an attorney admitted to practice in the

41 Commonwealth.

42 1.9. “Purchaser” shall mean the transferee, grantee or recipient of any Real Property
43 Interest(s).

44 1.10. “Purchase price” shall mean all consideration paid or transferred by or on behalf
45 of a purchaser to a seller or their nominee, or for their benefit, for the transfer of any real
46 property interest, and shall include, but not be limited to, all cash or its equivalent so paid or
47 transferred, all cash or other property paid or transferred by or on behalf of the purchaser to
48 discharge or reduce any obligation of the seller; the principal amount of all notes or their
49 equivalent, or other deferred payments, given or promised to be given by or on behalf of the
50 purchaser to the seller or his nominee; the outstanding balance of all obligations of the seller
51 which are assumed by the purchaser or to which the real property interest transferred remains
52 subject after the transfer, determined at the time of transfer but excluding real estate taxes and
53 other municipal liens or assessments which are not overdue at the time of the transfer; and the
54 fair market value at the time of transfer of any other consideration or thing of value paid or
55 transferred by or on behalf of the purchaser, including, but not limited to, any property, goods or
56 services paid, transferred or rendered in exchange for such real property interest.

57 1.11. “Real Property Interest” shall mean any present or future legal equitable interest
58 in or to real property, including the option to purchase or a contractual interest in the purchase or
59 sale of real property, and any beneficial interest therein, including the interest of any beneficiary
60 in a trust which holds any legal or equitable interest in real property, but shall not include any
61 interest which is limited to any or all of the following: the dominant estate in any easement or
62 right of way; the right to enforce any restriction; any estate at will or at sufferance, and any estate
63 for years having a term of less than thirty years; the reversionary right, condition, or right of
64 entry for condition broken; the interest of a mortgagee or other secured party in any mortgage or
65 security agreement; the interest of a stockholder in a corporation, or a partner in a partnership,
66 unless it constitutes a transfer of a majority interest in such entity, changes the majority interest
67 holder of such entity, or any real property interest has been transferred to such entity for the
68 purpose of evading the fee imposed by section ten, or the creation of an affordable housing deed
69 restriction.

70 1.12 “Residence” shall refer to any single or multi-family dwelling purchased for owner
71 occupancy.

72 1.13. “Seller” shall refer to the transferor, grantor or immediate former owner of any
73 real property interests.

74 1.14. “Time of Transfer” of any Real Property Interest shall mean, at the time that such
75 transfer is legally effective as between the parties thereto, and, in any event, with respect to a
76 transfer evidenced by an instrument recorded with the Plymouth County registry of deeds or filed
77 with the assistant recorder of the Plymouth County registry district not later than the time of such
78 recording or filing.

79 1.15. “Transfer”, shall mean the event conveying legal interest in any Real Property
80 Interest as effectuated by the parties thereto including, but not limited to, the execution of
81 agreements, the payment of consideration, or the recording of any instrument with the
82 appropriate registry of deeds or filed with the assistant recorder of the appropriate registry
83 district.

84 1.16. “Town” shall refer to the Town of Plymouth, Massachusetts.

85 1.17. “Transaction Fee” shall refer to the fee paid to the Land Bank upon the transfer of
86 any real property interest in any real property situated within the Town.

87 SECTION 2. ESTABLISHMENT

88 2.1. There is hereby established a Town of Plymouth Land Bank, to be administered by a
89 Land Bank Commission established by section three, for the purpose of acquiring, holding, and
90 managing land and interests in the categories set forth in section five, and funds related thereto.

91 2.2 The Land Bank is hereby constituted a body politic and corporate and a public
92 instrumentality, and the exercise of the powers herein conferred upon the Land Bank shall be
93 deemed to be the performance of an essential governmental function.

94 2.3. This act shall not affect the eligibility of the Town to receive funds under the land
95 conservation program created under section eleven of chapter one hundred and thirty-two A of
96 the General Laws, or under any similar state program, or under any federal program.

97 SECTION 3. LAND BANK COMMISSION

98 3.1. Composition

99 3.1.1. The Land Bank shall be administered by a Land Bank Commission consisting of
100 nine Commissioners.

101 3.1.2. The Land Bank Commissioners shall be appointed by the Town as follows:

102 Executive (Currently Select Board): 2 appointees

103 Legislative (Currently Town Meeting

104 Appointed through the COPC) 2 appointees

105 Planning Board: 2 appointees

106 Affordable Housing Trust: 1 appointee

107 Open Space Committee: 1 appointee Land Use and Acquisition Committee: 1

108 appointee

109 3.1.3. No Appointing Authority may appoint one of its own members, and in the case of
110 any Appointing Authority representing a larger body, may not appoint a member of such larger
111 body.

112 3.1.4. All Commissioners must be legal residents of the Town.

113 3.1.5. No Commissioner may be an elected official of the Commonwealth of
114 Massachusetts, Plymouth County, or the Town.

115 3.1.6. All Commissioner appointments to the Land Bank shall be made upon acceptance
116 of this Act, in a publicly advertised, open session of such Appointing Authority comporting with
117 the Open Meeting Laws.

118 3.1.7. Should any appointing body(ies) be eliminated or dissolved by the Town, any
119 Commissioner(s) appointed by such body(ies) shall retain their position through their existing
120 term, and the Land Bank Commission shall select a replacement Appointing Authority or
121 Authorities within the sooner of ninety (90) days from the elimination or dissolution of the
122 Appointing Authority or thirty (30) days before the expiring term of any Commissioner
123 appointed by an eliminated or dissolved Appointing Authority.

124 3.2. Term of Office

125 The term of office for Commissioners shall be established as follows:

126 3.2.1 Each Commissioner is to be appointed to a three (3) year term.

127 3.2.2 The initial terms, drawn by lot by the initial nine appointed Commissioners, shall
128 be staggered so that following the initial appointment of Commissioners three (3)
129 Commissioners are appointed each year.

130 3.3 Removal from Office

131 3.3.1. A Commissioner shall automatically cease office without further action necessary
132 by the Commission or any Appointing Authority once they are no longer eligible to serve as a
133 Commissioner per the terms of this Act.

134 3.3.1.1. The term of a Commissioner who is elected to a State, Plymouth County,
135 or Town position shall cease effective the date the Commissioner takes the oath of office or
136 otherwise commences serving in such position, whichever is earlier.

137 3.3.2. A Commissioner may be removed from office for one of the following reasons:

138 3.3.2.1. They are no longer eligible to serve as a Commissioner per the terms
139 hereunder;

140 3.3.2.2. They fail to attend more than fifty percent (50%) of the Commission
141 meetings in any twelve-month period;

142 3.3.2.3. They have been convicted of a crime either involving fraud or dishonesty
143 or which requires the serving of any prison or jail sentence;

144 3.3.2.4. They have been found by the State Ethics Commission to have committed
145 a material violation of the State ethics law;

146 3.3.2.5. They are no longer able to carry out the required functions of the position
147 of Commissioner due to disability or incapacity; or

148 3.3.2.6. They have failed or refused to follow the rules for the Land Bank as
149 established herein or by the Commission.

150 3.3.3. Process for Removal of a Commissioner:

151 3.3.3.1. A Commissioner may be removed by either the Commission or the
152 Appointing Authority for that Commissioner.

153 3.3.3.2. Removal of a Commissioner shall be undertaken at a hearing before the
154 body seeking to remove the Commissioner (either the Commission or the Appointing Authority)
155 for which at least seven (7) days written notice has been provided to the Commissioner to be
156 removed. At such hearing, the basis for removal shall be presented and the Commissioner to be
157 removed shall be permitted to provide argument as to why removal is either inappropriate or
158 should not be exercised; and

159 3.3.3.2. At least two-thirds (2/3) of all Commissioners (excluding the
160 Commissioner whose removal is being sought) or members of the Appointing Authority must
161 vote in favor of removing the Commissioner for removal to occur.

162 3.3.4. Appointment following Removal or Resignation. In the event a Commissioner
163 resigns, is no longer eligible to serve, or is removed, the Appointing Authority for such
164 Commissioner shall appoint a replacement for the remaining term of that Commissioner.

165 3.4. Secretary of Energy and Environmental Affairs

166 The Secretary of the Commonwealth of Massachusetts Executive Office of Energy and
167 Environmental Affairs, or such similar position as may be established by the Commonwealth, or
168 their designee (“Secretary”) shall be a non-voting member of the Land Bank Commission. The
169 presence or absence of the Secretary shall not count towards the quorum count for the
170 Commission.

171 3.5. Compensation of Commissioners

172 Commissioners shall serve without compensation. With pre-approval of the Commission,
173 a Commissioner may be reimbursed expenses for a specific event in an amount not to exceed
174 \$3,000.

175 3.6. Rules

176 The Commissioners shall create and adopt the permanent operational rules for the Land
177 Bank Commission.

178 3.7. Organization

179 3.7.1. The Land Bank Commission shall elect a chair and a vice chair from among its
180 regular members.

181 3.7.2. The Land Bank Commission shall have a secretary and a treasurer, either or both
182 of whom may be Commissioners or who may be nonmembers specially retained by the
183 Commission.

184 3.7.3. The Land Bank Commission shall reorganize at least once per year following the
185 appointment and/or reappointment of members but may reorganize at any time by majority vote
186 of all Commissioners.

187 3.8. Management Plan

188 The Land Bank Commission shall adopt a management plan for managing each of its
189 land holdings in a manner consistent with section five. In preparing a management plan for any
190 parcel of land, the Land Bank Commission shall use, as guidelines, the Master Plan, Open Space
191 Plan, and Housing Production Plan of the Town.

192 3.9. Voting

193 3.9.1. Other than as otherwise specified herein, decisions of the Land Bank Commission
194 shall be by majority vote of those Commissioners present and voting at a meeting, and no
195 business shall be transacted at any meeting unless a majority of the Commissioners is present.

196 3.9.2. Decisions to acquire interests in land and to request state approval of any
197 proposed disposition of an interest in any parcel of land or of any change in its use shall require
198 the affirmative vote of six of the nine Commissioners.

199 3.10. Records

200 The Land Bank Commission shall keep accurate records of its meetings and actions and
201 shall file an annual report with the Town.

202 3.10. Public Meetings

203 All Land Bank Commission meetings shall be subject to the terms of the State Open
204 Meeting Law.

205 SECTION 4 AUTHORITY

206 The Land Bank Commission shall, subject to the provisions of this Act, have the power
207 and authority to do the following:

208 4.1. General Powers

209 4.1.1. Acquire, by purchase or gift, any Real Property Interest within the Town suitable
210 for the types of uses set forth in section five, including any improvements thereon; provided,
211 however, that the Land Bank Commission shall, in considering any such acquisition, use as
212 guidelines the Open Space, Housing Production, and Master Plans of the Town.

213 4.1.2. Accept gifts of funds to further the purposes of the Land Bank.

214 4.1.3. Recommend to the Town that it take any interests in land by eminent domain
215 pursuant to chapter seventy-nine of the General Laws, but only after having first made a
216 reasonable effort to negotiate the acquisition and purchase thereto prior to recommending such
217 taking.

218 4.1.4. Dispose of or lease all or any part of its interests in any parcel of land or change
219 the use of such parcel.

220 4.1.4.1. With respect to lands held solely in Land Use Category 5.1. herein, such
221 change of use or disposal shall also require the approval of the Secretary of the Executive Office
222 of Energy and Environmental Affairs and be subject to the provisions of Article XCVII of the
223 Articles of Amendment to the Constitution of the Commonwealth, to the extent applicable.

224 4.1.5. Incur debt, pledging the full faith and credit of the Town, but only after having
225 been authorized to do so in each instance by a two-thirds majority vote of the Town Meeting.

226 4.1.6. Prepare an annual budget.

227 4.1.7. Hire such staff and obtain such professional services and guidance as are
228 necessary in order to perform its duties, including conferring with Town staff and officials.

229 4.1.8. Administer and manage its interests in any parcel of land in a manner consistent
230 with section five and with the land management plan adopted for such parcel under section three
231 G.

232 4.1.9. Expend funds to supplement municipal, state or federal funds for the purchase of
233 interests in land of the types set forth in section five.

234 4.1.10. Adopt such regulations and procedures as it deems necessary or appropriate,
235 subject to the provisions of this act, regarding the use and investment of its funds and the keeping
236 of records and accounts.

237 4.2. Bonds and Notes

238 4.2.1. The Land Bank is hereby empowered to issue bonds or notes for the purpose of
239 acquiring land and interests in land as provided in section four. The proceeds of such bonds or
240 notes may be used to pay, in whole or in part, acquisition costs; to provide reserves for debt

241 service and other expenses; to pay consulting, appraisal, advisory and legal fees and costs
242 incidental to the issuance and sale of such bonds or notes; to purchase, refund or renew bonds or
243 notes previously issued; and to pay any other costs and expenses of the Land Bank necessary for
244 the accomplishment of

245 its purposes.

246 4.2.2. The Land Bank Commission shall have full power and authority to determine the
247 amount, form, terms, conditions, provisions for the payment of interest and all other details of
248 bonds or notes issued under this act, and to provide for their sale and issuance at such price and
249 in such manner as the Land Bank Commission shall determine, subject only to any limitations
250 set forth in this act.

251 4.2.3. The Land Bank Commission may enter into any agreements, including without
252 limitation a loan agreement and a trust agreement, necessary to effectuate and to secure any
253 bonds or notes issued by the Land Bank. Such agreements may pledge or assign, in whole or in
254 part, the revenues and other money held or to be received by the Land Bank. Such
255 agreements may contain provisions for protecting and enforcing the rights, security and remedy
256 of the holders of such bonds or notes including, without limiting the generality of the foregoing,
257 provisions defining defaults and providing for remedies in the event thereof which may include
258 the acceleration of maturities and covenants setting forth the duties of, and

259 limitations on, the land bank in relation to the custody, safeguarding, investment and
260 application of money, the issuance of additional debt obligations, the use of any surplus proceeds
261 of the borrowing, including any investment earnings thereon, and the establishment of special
262 funds and reserves.

263 4.2.4. The pledge of any such agreement shall be valid and binding and shall be deemed
264 continuously perfected for the purposes of the Uniform Commercial Code from the time when
265 the pledge is made; the revenues, money, rights and proceeds so pledged and then held or
266 thereafter acquired or received by the Land Bank shall immediately be subject to the lien of such
267 pledge without any physical delivery or segregation thereof or further act; and the lien of any
268 such pledge shall be valid and binding against all parties having claims of any kind in tort,
269 contract or otherwise against the Town, irrespective of whether such parties have notice thereof.
270 No document by which a pledge is created need be filed or recorded except in the records of the
271 Land Bank and no filing need be made under the Uniform
272 Commercial Code.

273 4.2.5. The trustee with respect to any such trust agreement entered into pursuant to this
274 section shall be a trust company or a bank having the powers of a trust company within the
275 Commonwealth. Any such trust agreement may provide that any money received thereunder
276 may be held, deposited or invested by the trustee, notwithstanding the provisions of section
277 eight, pending the disbursement thereof, in any deposits or investments which are lawful for the
278 funds of savings banks and shall provide that any officer with whom or any bank or trust
279 company with which such money shall be deposited shall act as trustee of such money and shall
280 hold and apply the same for the purposes hereof and thereof, subject to such regulation or
281 limitation as this act or such trust agreement may provide.

282 4.2.6. It shall be lawful for any bank or trust company within the commonwealth to act
283 as depository of the proceeds of bonds, revenues or other money hereunder and to furnish such

284 indemnifying bonds or to pledge such security, if any, as may be required by the Land Bank
285 Commission.

286 4.2.7. Any trust agreement entered into pursuant to this section may set forth the rights
287 and remedies of the holders of any bonds and of the trustee and may restrict the individual right
288 of action by any such holders. In addition, any such trust agreement may contain other such
289 provisions as the Land Bank Commission may deem reasonable and proper.

290 4.2.8. All expenses incurred in carrying out the provisions of such trust agreement may
291 be (i) treated as part of the cost of operation of the Land Bank and (ii) paid from the revenues or
292 other funds pledged or assigned to the payment of the principal of and the premium, if any, and
293 interest on the bonds or from any other funds available to the Land Bank.

294 4.2.9. In addition to other security provided herein or otherwise by law, bonds or notes
295 issued under this section may be secured, in whole or in part, by insurance or by letters or lines
296 of credit or other credit facilities issued to the Land Bank by any bank, trust company or other
297 financial institution, within or without the commonwealth, and the Land Bank may pledge or
298 assign any of its revenues as security for the reimbursement by the Land Bank to the issuers of
299 such letters or lines of credit, insurance or credit facilities of any payments made hereunder.

300 4.3. Definition as Securities

301 4.3.1. Bonds or notes issued under the provisions of this act are hereby made securities
302 in which all public officers and public bodies of the Commonwealth and its political
303 subdivisions, all insurance companies, trust companies in their commercial departments, savings
304 banks, cooperative banks, banking associations, investment companies, executors,
305 administrators, trustees and other fiduciaries may properly and legally invest funds, including

306 capital in their control or belonging to them. Such bonds and notes are hereby made securities
307 which may properly and legally be deposited with and received by any state or municipal officer
308 or any agency or political subdivision of the Commonwealth for any purpose for which the
309 deposit of bonds or obligations of the Commonwealth is now or may hereafter be authorized by
310 law.

311 4.3.2. Notwithstanding any of the provisions of this act or any recitals in any bonds
312 issued under this act, all such bonds shall be deemed to be investment securities under the
313 Uniform Commercial Code.

314 4.4. Consent of Town

315 Bonds and notes may be issued by the Land Bank Commission under this act without
316 obtaining the consent of any department, division, commission, board, bureau or agency of the
317 Town, except that if the Town is pledging its full faith and credit to secure an issue of such bonds
318 or notes of the Land Bank, they must be authorized by the appropriate two-thirds vote or votes of
319 the Town Meeting or any other Town boards authorized to issue such bonds and notes on behalf
320 of the Town.

321 4.5. Revenue

322 4.5.1. The Land Bank and all its revenues, income and real and personal property used
323 solely by the Land Bank in furtherance of its public purposes shall be exempt from taxation and
324 from betterments and special assessments and the land bank shall not be required to pay any tax,
325 excise or assessment to or for the Commonwealth or any of its political subdivisions.

326 4.5.2. Bonds and notes issued by the Land Bank, their transfer and the income
327 therefrom, including any profit made on the sale thereof, shall at all times be exempt from
328 taxation within the Commonwealth. The provisions of section twenty-seven C of chapter
329 twenty-nine of General Laws shall not apply to this section or any other provisions of this
330 chapter.

331 SECTION 5. LAND USE CATEGORIES

332 Real Property Interests to be acquired and held by the Land Bank shall be situated in the
333 Town and may be used for the following intended purposes:

334 5.1. Natural, Open Space, and Passive Recreational Land Category Land within this
335 category includes:

336 5.1.1. agricultural land;

337 5.1.2. forest land;

338 5.1.3. fresh water and saltwater marshes and other wetlands;

339 5.1.4. ocean and pond frontage, beaches, dunes and adjoining backlands;

340 5.1.5. land for nature or wildlife preserves;

341 5.1.6. easements for trails and for publicly owned lands;

342 5.1.7. land to protect existing and future wells, well fields, aquifers and recharge areas;

343 and

344 5.1.8. land for passive recreational use.

345 5.2. Active Recreational Land Category

346 Land in this category includes land used or to be used for outdoor recreation that requires
347 significant alteration of the natural landscape to provide playground or active sports facilities.
348 These include, but are not limited to, sport courts, ball fields, swimming pools or spray pads,
349 paved bike or walking trails, golf courses, marinas, enclosed dog parks, boat rentals, concession
350 stands, community gardens, outdoor skating rinks, locker-room buildings, bleachers or stands, or
351 other needed facilities.

352 5.3. Municipal Use Category

353 5.3.1. Land designated under this category may be used for public purposes and
354 facilities including, but not limited to, municipal wells, public safety facilities, schools and other
355 educational facilities, community centers, public meeting facilities, libraries, municipal
356 maintenance areas, and administration facilities.

357 5.3.2. Land designated under this category may be converted to use for any other
358 category by majority vote of the Land Bank Commission.

359 5.4. Affordable Housing Category

360 Land under this category may be used by the Town or transferred to private developers
361 for construction of single or multi-family housing as long as at least 50% of the housing units
362 developed are deed restricted Affordable Housing as defined herein. Funds may also be used to
363 “buy down” the Area Median Income (AMI) level of deed restricted affordable housing units to
364 meet the Affordable Housing definition herein.

365 5.5. When obtaining any Real Property Interest, the Land Bank Commission shall
366 identify the Land Use Category(ies) in which such real property falls and identify such
367 category(ies) in the management plan for such real property. Real Property Interests may be
368 identified as falling within multiple categories as potentially applicable to future use(s).

369 SECTION 6. MAINTENANCE AND IMPROVEMENTS TO REAL PROPERTY

370 6.1. The Land Bank Commission shall maintain any Real Property Interest obtained
371 pursuant to this act as follows:

372 6.1.1. Natural, Scenic, Open Space, Passive Recreational Land Category

373 Land in this category is expected to be kept predominantly in its natural, scenic or open
374 condition. However, the Land Bank Commission may make improvements to any land in this
375 category not inconsistent with such use. With respect to any such improvements, the Land Bank
376 Commission shall not permit any of the following without the approval of the Secretary of the
377 Executive Office of Energy and Environmental Affairs:

378 6.1.1.1. Construction or placing of buildings, roads, billboards or commercial
379 advertising, utilities or other structures on or above the surface, other than those ancillary to the
380 use of the land. Ancillary uses shall include, but not be limited to, creating parking areas,
381 facilities for community or public safety use, and trails or walkways to allow access to persons of
382 all abilities.

383 6.1.1.2. Dumping or placing of soil or other substance or material as landfill, or
384 dumping or placing of trash, waste or unsightly or offensive materials.

385 6.1.1.3. Removal or destruction of trees, shrubs or other vegetation other than for
386 general maintenance or for ancillary uses.

387 6.1.1.4. Excavation, dredging or removal of loam, peat, sand, gravel, soil, rock or
388 other mineral substance in such manner as to affect the surface.

389 6.1.1.5. Operation of motorized vehicles use except for maintenance and public
390 safety purposes.

391 6.1.1.6. Activities detrimental to drainage, flood control, water conservation,
392 erosion control or soil conservation.

393 6.1.1.7. Other acts or uses detrimental to the intended public use of such land or
394 water areas.

395 In determining whether or not to approve of a request from the Land Bank Commission,
396 the Secretary shall consider whether such request is in the interest of conservation and any
397 natural, state, regional or local program in furtherance thereof, and also any public, state,
398 regional or local comprehensive land use or development plan affecting the land and known
399 proposals by a governmental body for use of the land.

400 6.1.2. Active Recreational Land Category

401 Land in this category may be improved by or with the approval of the Land Bank to
402 accommodate sporting or recreational uses appropriate to the setting and location.

403 6.1.3. Municipal Use Category

404 6.1.3.1. Land designated under this category may be improved as necessary to
405 achieve designated public purposes.

406 6.1.3.2. Land which becomes designated by the Land Bank Commission for a
407 specific municipal purpose shall be transferred to the Town, which shall thereafter assume all
408 responsibility for its maintenance and development.

409 6.1.3.3. Land designated under this category may be converted at any time while
410 under the control of the Land Bank to use for any other category by affirmative vote of at least
411 two thirds of the Commissioners present and voting.

412 6.1.4. Affordable Housing Category

413 Land in this category may be improved to create Affordable Housing appropriate to the
414 setting, location, and needs of the community.

415 6.2. With respect to land designated for use under sections 6.1.1 and 6.1.2, neither the
416 Land Bank Commission nor the Town shall restrict access on the basis of residency or domicile.

417 SECTION 7. REPORTING

418 The Land Bank Commission shall file a report at least annually with the Secretary of the
419 Executive Office of Energy and Environmental Affairs, the Housing Authority, and the Town
420 setting forth its activities during the year preceding such filing. The report shall list all Real
421 Property Interests currently held by the Land Bank, including a description thereof and the Land
422 Use Category(ies) in which it falls; a list of acquisitions and dispositions of real property
423 interests by the Land Bank; and a list of improvements made to real property by the Land Bank
424 during such year. The report shall also include a current plan for its future operations which

425 shall be, as far as possible, consistent with the Open Space and Master Plans of the Town. The
426 report shall also provide such other information reasonably requested by the Secretary of the
427 Executive Office of Energy and Environmental affairs.

428 SECTION 8. FINANCES

429 8.1. The Land Bank Commission shall meet its financial obligations by drawing upon
430 a dedicated fund, to be set up as an account at an FDIC insured financial institution within the
431 Town. Deposits into the fund shall include:

432 8.1.1. Funds appropriated, borrowed or transferred to be deposited into the fund by the
433 Town Meeting;

434 8.1.2. Voluntary contributions of money and other liquid assets to the fund;

435 8.1.3. Revenues from fees imposed upon the transfer of real property interests as set
436 forth in section ten occurring after the effective date of this Act as set forth in section fifteen;

437 8.1.4. Proceeds from disposal or transfer of any real property or interests; and

438 8.1.5. Funds received from any federal, state, region, district or municipal source.

439 8.2. Grants or gifts of money or other assets to the Land Bank shall be expended only
440 for the purposes of the grant or gift and subject to any restrictions or limitations imposed thereon
441 by the grantor or donor thereof.

442 8.3. All expenses lawfully incurred by the Land Bank Commission in carrying out the
443 provisions of this act shall be evidenced by proper vouchers and shall be paid by the authorized

444 Land Bank Financial Officer or Director only upon submission of requests duly approved by the
445 Land Bank Commission.

446 8.4. The Land Bank Commission shall prudently manage available assets of the fund
447 in accordance with the regulations and procedures adopted by the Land Bank Commission
448 pursuant to clause (j) of section four, and all income thereon shall accrue to the fund.

449 8.5. The Land Bank Commission shall keep a full and accurate account of its action
450 including a record as to whom, from or to whom, and on what account money has been paid or
451 received relative to this act, and as to when, from and to whom and for what consideration real
452 property interests have been acquired, improved or disposed of. Said records or accounts shall be
453 subject to examination by the director of accounts or his agent pursuant to section forty-five of
454 chapter thirty-five of the General Laws.

455 SECTION 9. TRANSACTION FEES

456 9.1. There is hereby imposed a Transaction Fee equal to two per cent of the purchase
457 price upon the Transfer of any real property interest in any real property situated in the Town.

458 9.2. The fee percentage shall be reviewed at the first meeting of the Land Bank
459 Commission each calendar year and may be reduced or raised at such time by a two-thirds vote
460 of the Land Bank Commission; provided, however, that:

461 9.2.1. At no time may the fee percentage drop below one percent (1%) or rise above two
462 percent (2%).

463 9.2.2. No reduction in the fee percentage shall take effect until all bonds and notes of the
464 Land Bank issued prior thereto pursuant to section 4.2 shall have been paid in full.

465 9.3. The Transaction Fee shall be the liability of the purchaser of such real property
466 interest, and any agreement between the purchaser and the seller or any other person with
467 reference to the allocation of the responsibility for bearing said fee shall not affect such liability
468 of the purchaser.

469 9.4. The Transaction Fee shall be paid to the Land Bank Commission or its designee,
470 and shall be accompanied by a copy of the deed or other instrument evidencing such transfer, if
471 any, and an affidavit signed under oath or under the pains and penalties of perjury by the
472 purchaser or his legal representative, attesting to the true and complete purchase price and the
473 basis, if any, upon which the transfer is claimed to be exempt in whole or in part from the fee
474 imposed hereby. The Land Bank Commission, or its designee, shall promptly thereafter execute
475 and issue a certificate indicating that the appropriate fee has been paid or that the transfer is
476 exempt from the fee, stating the basis for the exemption.

477 9.5. The register of deeds for Plymouth County, and the assistant recorder for the
478 registry district of Plymouth County, shall not record or register, or receive, or accept for
479 recording or registration, any deed, except a mortgage deed, relative to a real property interest in
480 land situated in the Town to which has not been affixed such a certificate, executed by the Land
481 Bank Commission or its designee. Failure to comply with this requirement shall not affect the
482 validity of any instrument.

483 9.6. The Transaction Fee imposed hereunder shall be due simultaneously with the time
484 of transfer upon which it is imposed.

485 9.7. The Land Bank Commission shall deposit all Transaction Fees received hereunder
486 into the fund established by section eight.

487 SECTION 10 RECISSION

488 At any time within fourteen (14) days following the issuance of the certificate of payment
489 of the Transaction Fee imposed by section ten, the purchaser or his legal representative may
490 return said certificate to the Land Bank Commission or its designee for cancellation, together
491 with an affidavit signed under oath or under the pains and penalties of perjury attesting that the
492 transfer, with respect to which such certificate was issued, has not been consummated, and
493 thereupon the fee paid with respect to such transfer shall be forthwith returned to the purchaser
494 or his legal representative.

495 SECTION 11. EXEMPTIONS

496 11.1. The following Transfers of Real Property Interests shall be exempt from the fee
497 established by section ten:

498 11.1.1. Transfers to the government of the United States, the Commonwealth, the Town,
499 and any of their instrumentalities, agencies or subdivisions.

500 11.1.2. Transfers which, without additional consideration, confirm, correct, modify or
501 supplement a transfer previously made.

502 11.1.3. Transfers made as gifts without consideration, but only if at the time of Transfer
503 the purchaser is a lineal family member (ancestor, spouse, sibling, or descendent) by blood,
504 adoption, or marriage.

505 11.1.3.1. In any proceeding to determine the amount of any fee due hereunder, it
506 shall be presumed that any Transfer for consideration of less than fair market value of the Real
507 Property Interests transferred was made as a gift without consideration to the extent of the

508 difference between the fair market value of the real property interests transferred and the amount
509 of consideration claimed by the purchaser to have been paid or transferred, but only if the
510 purchaser shall have been at the time of transfer the spouse, the sibling, the lineal descendant, or
511 the lineal ancestor of the seller, by blood, adoption or marriage.

512 11.1.3.2. In all other instances, it shall be presumed that consideration was paid in
513 an amount equal to the fair market value of the real property interests transferred, at the time of
514 transfer. regardless as to the actual amount exchanged.

515 11.1.4. Transfers to the trustees of a trust in exchange for a beneficial interest received by
516 the seller in such trust or distribution by the trustees of a trust to the beneficiaries of such trust.

517 11.1.5. Transfers by operation of law without actual consideration, including but not
518 limited to transfers occurring by virtue of the death or bankruptcy of the owner of a real property
519 interest.

520 11.1.6. Transfers made in partition of the land and improvements thereto, under the
521 provisions of chapter two hundred and forty-one of the

522 General Laws;

523 11.1.7. Transfers to any charitable organization as defined in clause third of section five
524 of chapter fifty-nine of the General Laws, or any religious organization, provided that the real
525 property interests so transferred shall be required, and shall be, held by the charitable or religious
526 organization solely for its public, charitable or religious purposes.

527 11.1.8. Transfers to a mortgagee in foreclosure of the mortgage held by such mortgagee,
528 and transfers of the property subject to a mortgage to the mortgagee in consideration of the
529 forbearance of the mortgagee from foreclosing said mortgage.

530 11.1.9. Transfers made to a corporation or partnership or limited liability company at the
531 time of its formation, pursuant to which transfer no gain or loss is recognized under the
532 provisions of section three hundred and fifty- one or seven hundred and twenty-one of the
533 Internal Revenue Code of
534 1986, or such superseding provision.

535 11.1.10. Transfers made to a stockholder of a corporation in liquidation or partial
536 liquidation of the corporation, and transfers made to a partner of a partnership or a member of a
537 limited liability company in dissolution or partial dissolution of the partnership or limited
538 liability company.

539 11.1.11. Transfers consisting of the division of marital assets under the provisions
540 of section thirty-four of chapter two hundred and eight of the General Laws or other provisions
541 of law.

542 11.1.12. Transfers of property consisting in part of real property interests situated
543 within the Town and in part of other property interests.

544 11.1.12.1. To the extent that the property transferred consists of property other than
545 real property situated within the Town, the purchaser shall furnish the Land Bank Commission
546 with such information establishing the claim of exemption and manner of allocation of the

547 consideration for such transfers, as well as any such additional information as may be reasonably
548 requested.

549 11.1.13. An amount, determined on or before January 1 of each year by the Land
550 Bank Commission after due analysis of the range of real estate prices in the Town and in no
551 event less than \$350,000, of the purchase price of a Transfer of a Residence, provided that:

552 11.1.13.1.1. Such Transfer is made to a natural person or persons of whom neither they
553 nor their spouse at the time of such transfer has at any prior time owned or possessed any Real
554 Property Interest, either within or without the Town,

555 11.1.13.1.2. Such purchaser makes the Real Property Interest which is the subject of
556 the Transfer their domicile and primary residence within one year of the time of Transfer;

557 11.1.13.1.3. In the event of a subsequent transfer of all or part of the Real Property
558 Interest within two (2) years of the Transfer exempted from the fee under this subsection, other
559 than the transfer of a mortgage to an institutional lender, the fee exempted shall become due,
560 together with accumulated interest and penalties, and in addition to any fee otherwise due as a
561 result of the subsequent transfer. The purchaser shall certify as to the foregoing, and the Land
562 Bank Commission shall attach to the deed a certificate which shall recite the fact that there is
563 running with the land a lien equal to the amount of the fee exempted plus accumulated interest
564 and penalties until such time as all conditions of this subsection have been met. The Land Bank
565 Commission shall have the power, at any time and from time to time, to require any purchaser
566 claiming the exemption provided by this subsection to furnish such evidence of compliance
567 with the requirements of this subsection as the Land Bank Commission shall deem
568 necessary or appropriate. If any requirement or condition of this subsection is not met within

569 the time specified, the amount of the fee exempted plus accumulated interest and penalties
570 shall automatically become due and payable.

571 11.1.14. An amount, determined by a two-thirds (2/3) vote of the Commission on
572 or before January 1 of each year after due analysis of the range of real estate prices in the Town
573 and in no event less than \$350,000, of the purchase price of a Transfer of a Residence provided
574 that such Transfer is to a person or persons who had sold a Residence in the Town within eight
575 (8) months of such Transfer.

576 11.1.15. An amount, determined by a two-thirds (2/3) vote of the Commission on
577 or before January 1 of each year by the Land Bank Commission after due analysis of the range of
578 real estate prices in the Town and in no event less than \$350,000, of the purchase price of a
579 Transfer of a Residence provided that such transfer is pursuant to a federal, state, or Town
580 program, including those administered by their agencies or subdivisions, for affordable housing,
581 veterans housing, or disabled persons housing, whether or not such Residence falls within the
582 definition of Affordable Housing contained herein.

583 11.1.16. The Transfer of all or a portion of real property which is developed into
584 new affordable housing units counting towards the Town's Subsidized Housing Inventory which
585 are equal to or in excess of the number of affordable housing units required by any municipal,
586 state or federal governmental body or regulation including, but not limited to, M.G.L. c. 40B.

587 11.1.16.1. To be eligible for this exemption the purchaser must first pay the
588 Transaction Fee in full for the Transfer of said real property and then provide the Land Bank
589 Commission with documentation when the Affordable Housing Units required have been
590 leased/rented or deeded, at which time the Land Bank Commission shall determine the

591 percentage of the Transaction Fee that such Affordable units represent and issue a refund of that
592 portion of the Transaction Fee.

593 11.2. Except as otherwise provided, the person seeking benefit of any exemption to the
594 Transfer Fee shall have the burden of proof that any Transfer, or portion thereof, is exempt
595 hereunder, and shall be responsible for notifying the Land Bank Commission of any request for
596 exemption and provided such information as is reasonably requested by the Land Bank
597 Commission to establish eligibility for such request.

598 SECTION 12. INTEREST AND PENALTIES

599 12.1. A purchaser who fails to pay all or any portion of the fee established by section
600 ten on or before the time when the same is due shall be liable for the following additional
601 payments in addition to said fee.

602 12.1.1. Interest. The purchaser shall pay interest on the unpaid amount of the
603 Transaction Fee to be calculated from the time of Transfer at a rate equal to twelve per cent
604 (12%) per annum.

605 12.1.2. Penalties. Any person who, without fraud or willful intent to defeat or evade a
606 fee imposed by this act, fails to pay all or a portion of the fee within thirty days after the time of
607 transfer, shall pay a penalty equal to five per cent of the outstanding fee as determined by the
608 Land Bank Commission for each month or portion thereof that the fee is not paid in full;
609 provided, however, that in no event shall the amount of any penalty imposed hereunder exceed
610 twenty-five percent (25%) of the unpaid fee due at the time of transfer.

611 12.1.3. Whenever the Land Bank Commission determines by a preponderance of the
612 information provided and obtained that all of a portion of a fee due under this Act was unpaid
613 due to fraud or with intent to defeat or evade the fee imposed by this Act, a penalty equal to one
614 hundred percent (100%) of the amount of said fee as determined by the Land Bank Commission
615 shall be paid by the purchaser in addition to said fee.

616 12.2. The Land Bank Commission shall notify a purchaser by registered or certified
617 mail of any failure to discharge in full the amount of the fee due under this Act and any penalty
618 or interest assessed.

619 12.2.1.1. The Land Bank Commission shall grant a hearing on the matter of the
620 imposition of said fee, or of any interest or penalty assessed, if a petition requesting such hearing
621 is received by the Land Bank Commission within thirty days after the mailing of said notice.

622 12.2.1.2 The Land Bank Commission shall notify the purchaser in writing by registered
623 or certified mail of its determination concerning the deficiency, penalty or interest within fifteen
624 days after said hearing.

625 12.2.1.3. The Land Bank Commission shall have the authority to reduce any penalty, but
626 not interest, if it deems such action to be appropriate under the circumstances. The Land Bank
627 Commission may also change a prior determination as to whether or not a failure to pay the
628 Transaction Fee was intentional, and impose the appropriate penalty based on such
629 determination.

630 12.3. Any party aggrieved by a determination of the Land Bank Commission
631 concerning a deficiency, penalty or interest may, after payment of said deficiency, appeal to the

632 district or superior court in Plymouth County within ninety (90) days after the mailing of
633 notification of the Land Bank Commission. All decisions of said courts shall be appealable.

634 12.3.1. Upon the failure to timely petition for a hearing, or appeal to said courts, within
635 the time limits hereby established, the purchaser shall be bound by the terms of the notification,
636 assessment or determination, as the case may be, and shall be barred from contesting the fee, and
637 any interest and penalty, as determined by the Land Bank Commission.

638 12.4. Every notice to be given under this section by the Land Bank Commission shall
639 be effective if mailed by certified or registered mail to the purchaser at the address stated in a
640 recorded or registered instrument by virtue of which the purchaser holds any interest in land, the
641 Transfer of which gives rise to the fee which is the subject of such notice; and if no such address
642 is stated or if such Transfer is not evidenced by an instrument recorded or registered in the public
643 records in Plymouth County, such notice shall be effective when so mailed to the purchaser in
644 care of any person appearing of record to have a fee interest in such land, at the address of such
645 person as set forth in an instrument recorded or registered in Plymouth County.

646 12.5. All fees, penalties and interest required to be paid pursuant to this Act shall
647 constitute a personal debt of the purchaser and may be recovered in an action in contract or other
648 appropriate action, suit or proceeding brought by the Land Bank Commission; said action, suit or
649 proceeding shall be subject to the provisions of chapter two hundred and sixty of the General
650 Laws.

651 12.5.1 If any purchaser liable to pay the fee established by this Act neglects or refuses to
652 pay the same, the amount, including any interest and penalty thereon, may be enforced by

653 placement of a lien in favor of the Land Bank Commission upon all property and rights to
654 property, whether real or personal, belonging to such purchaser, regardless as to its location.

655 12.5.2. Said lien shall arise at the time of transfer and shall continue until the liability for
656 such amount is satisfied.

657 12.5.3. Said lien shall in any event terminate not later than six years following the time of
658 Transfer unless the Land Bank Commission brings suit to enforce said lien prior to that date.

659 12.5.4. Said lien shall not be valid as against any mortgagee, pledgee, purchaser or
660 judgment creditor unless notice thereof has been filed by the Land Bank Commission (i) with
661 respect to real property or fixtures located in Plymouth, in the registry of deeds for Plymouth
662 County i, or (ii) with respect to personal property, in the office in which a security of financing
663 statement or notice with respect to the property would be filed in order to perfect a
664 nonpossessory security interest belonging to the person named in the relevant notice, subject to
665 the same limitations as set forth in section fifty of chapter sixty-two of the

666 General Laws.

667 12.5.5. In any case where there has been a refusal or neglect to pay any fee, interest or
668 penalties imposed by this act, whether or not levy has been made, the Land Bank Commission, in
669 addition to other modes of relief, may direct a civil action to be filed in a district or superior
670 court of the Commonwealth to enforce the lien of the Land Bank Commission under this section
671 with respect to such liability or to subject any property of whatever nature of the delinquent, or in
672 which he has any right, title or interest, to the payment of such liability.

673 12.5.6. Upon satisfaction or termination of any Transaction Fee, interest, and penalties,
674 the Land Bank Commission shall issue a release of any lien imposed by this section. Such
675 release shall be conclusive evidence that the lien upon the property covered by the release is
676 extinguished.

677 SECTION 13. This Act, being necessary for the welfare of the Town of Plymouth and
678 its inhabitants, shall be liberally construed to effect the purposes hereof.

679 SECTION 14.

680 Should any provision of this Act later be deemed unlawful, invalid, or in conflict with
681 any other State or Federal law which takes preference, that shall not invalidate this Act. The
682 remaining provisions of this Act shall continue to be enforced consistent with the intent of this
683 Act and such applicable law(s).

684 SECTION 15. Acceptance of this Act by the Town of Plymouth following its
685 authorization by the Commonwealth of Massachusetts shall be by

686 the affirmative vote of a majority of the voters at any regular or special Town election at
687 which the question of acceptance has been placed on the ballot.

688 SECTION 16. The Effective Date of this Act shall be ninety (90) days from the date
689 upon which the final vote of a majority of voters accepting the Act has been verified by the
690 Plymouth Town Clerk.