

Amend **CSSB 264** by adding the following appropriately numbered SECTIONS to the bill and renumbering existing SECTIONS of the bill accordingly:

SECTION \_\_. Subchapter K, Chapter 2306, Government Code, is amended by adding Section 2306.259 to read as follows:

Sec. 2306.259. HOMESTEAD PRESERVATION DISTRICT PILOT PROGRAM. (a) The department shall establish a homestead preservation district pilot program that meets the requirements of Chapter 373A, Local Government Code. The department shall select through a competitive application process not more than three municipalities in this state to participate in the program.

(b) The department shall develop a procedure for evaluating the administration of the program and for evaluating the effectiveness of the program in producing affordable housing and preserving home ownership. Not later than December 1 of each even-numbered year, the department shall submit to the legislature a report based on the results of the evaluation. In the report, the department may also make recommendations to the legislature regarding additional powers, the deletion of powers, or the modification of powers as the department considers appropriate for the increased effectiveness of participating municipalities in achieving the purposes of Chapter 373A, Local Government Code.

(c) The department may require participating municipalities to bear the reasonable costs of the department in evaluating the program and submitting a report on that evaluation as required by this section.

(d) In administering the program, the board may use money available to the department to provide financial assistance for housing production or homestead preservation to a municipality operating a homestead preservation district.

(e) This section expires September 1, 2007.

SECTION \_\_. Subtitle A, Title 12, Local Government Code, is amended by adding Chapter 373A to read as follows:

CHAPTER 373A. HOMESTEAD PRESERVATION DISTRICT PILOT PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 373A.001. PURPOSES. The purpose of this chapter is to create a pilot program administered by the Texas Department of

Housing and Community Affairs that:

(1) promotes the ability of this state and municipalities in this state to increase home ownership and provide affordable housing through public and private initiatives;

(2) prevents the involuntary loss of owner-occupied affordable housing by low-income and moderate-income homeowners living in disadvantaged neighborhoods; and

(3) promotes the economic welfare of municipalities and improves the economic and social conditions in disadvantaged neighborhoods by enhancing the physical and economic viability of home ownership among low-income and moderate-income residents in neighborhoods experiencing economic pressures.

Sec. 373A.0015. APPLICABILITY. This chapter applies only to municipalities in this state selected by the Texas Department of Housing and Community Affairs under Section 2306.259, Government Code, to participate in the pilot program.

Sec. 373A.002. DEFINITIONS. In this chapter:

(1) "District" means a homestead preservation district designated under Subchapter B.

(2) "Eligible individual or family" means an individual or family whose household income is at or below the greater of:

(A) the median family income of the district, adjusted for family size, as determined by the most recent United States decennial census and updated annually by the municipality under a methodology established by the municipality in its homestead preservation district plan; or

(B) 60 percent of the median family income of the municipality, adjusted for family size, as determined by the most recent United States decennial census and updated annually by the municipality under a methodology established by the municipality in its homestead preservation district plan.

(3) "Municipality" means the municipality that designates a district.

(4) "Neighborhood housing development corporation" means a neighborhood-based nonprofit housing development corporation:

(A) that is organized under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes);

(B) that is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as amended, by being listed under Section 501(c)(3) of that code; and

(C) whose board of directors includes residents of the neighborhood in which the corporation operates.

(5) "Taxing unit" has the meaning assigned by Section 1.04, Tax Code.

(6) "Trust" means a homestead land trust created or designated under Subchapter C.

[Sections 373A.003-373A.050 reserved for expansion]

SUBCHAPTER B. GENERAL POWERS AND DUTIES

Sec. 373A.051. MUNICIPAL POWER TO DESIGNATE DISTRICT. (a) To promote and expand the ownership of affordable housing and to prevent the involuntary loss of homesteads by existing homeowners living in the district, the governing body of a municipality by ordinance may designate as a homestead preservation district an area in the municipality that is eligible under Section 373A.052.

(b) The ordinance must describe the boundaries of the district and designate the powers that apply to the district under this subchapter.

(c) A municipality may not create more than one district under this subchapter.

(d) A municipality may abolish a district created under this subchapter by ordinance.

Sec. 373A.052. ELIGIBILITY FOR DESIGNATION. To be designated as a district under this subchapter, an area must be composed of contiguous United States census tracts that, based on the most recent federal decennial census, have a median family income of less than 80 percent of the median family income of the entire municipality.

Sec. 373A.053. DISTRICT PLAN. (a) A municipality that creates a district shall operate the district in conformity with a district plan adopted by the governing body of the municipality.

(b) The governing body of the municipality shall update the

plan every three years. The plan may be amended from time to time.

(c) The plan must include:

(1) an inventory of the housing and land resources suitable for housing in the district, including:

(A) an analysis of the affordable housing needs of the residents of the municipality and the district;

(B) an analysis of the physical condition of the existing housing stock in the district;

(C) an analysis of owner and rental housing costs in the district; and

(D) a roll of property in the district suitable for the development of affordable housing;

(2) a comprehensive strategy with quantifiable goals stating the actions the municipality plans to take to provide and preserve affordable housing in the district;

(3) estimates for a period of three years of the sources and amount of any funds that will be made available to the district for the purposes of constructing and preserving affordable housing in the district;

(4) the proposed use of funds identified in Subdivision (3);

(5) a map showing the boundaries of the district and any trusts existing in the district; and

(6) a methodology to be employed to ensure that housing created with funding from the municipality in the district remains affordable.

(d) The governing body of a municipality must hold a public hearing on a proposed district plan at least 30 days before the date the governing body adopts or updates the plan.

(e) The city manager or the city manager's designee or, if the municipality does not have a city manager, a person designated by the mayor shall make copies of the proposed district plan available to the public not later than the 60th day before the date of the public hearing.

Sec. 373A.054. ANNUAL REPORT. (a) A municipality that creates a district shall prepare annually a report that includes the following information about the district:

(1) an inventory of the affordable housing units created in the district during the preceding fiscal year with funding under this chapter, including:

(A) the address of the housing units;

(B) the income level of the individuals or families residing in the housing units; and

(C) the rent or sales price of the housing units;

(2) an inventory of the properties purchased in the district during the preceding fiscal year with funding under this chapter, including:

(A) the address of each property; and

(B) the income level of the individuals or families residing on each property;

(3) a list of demolition permits for residential property issued in the district by the municipality during the preceding fiscal year and, for each property for which a demolition permit was issued, the street address and appraised value of the property; and

(4) the amount of all funding provided by the municipality in the district for affordable housing during the preceding fiscal year, including:

(A) the source of the funding; and

(B) the recipient of the funding.

(b) The municipality shall submit the report to the Texas Department of Housing and Community Affairs and shall maintain copies of the report for public review.

Sec. 373A.055. GEOGRAPHIC INFORMATION SYSTEM LAND INVENTORY. (a) A municipality must develop and maintain a geographic information system database consisting of a computer-based system or a series of district maps that present the following data about properties in the district:

(1) the condition of each improved property as determined by the local appraisal district;

(2) the boundaries of any neighborhood associations, neighborhood housing development corporations, and trusts in the district;

(3) the zoning for each property;

(4) for each property, whether the property is publicly or privately owned; and

(5) the current land use of the property as determined by the local appraisal district.

(b) The municipality shall make the inventory available for inspection by the Texas Department of Housing and Community Affairs and by the public.

[Sections 373A.056-373A.100 reserved for expansion]

SUBCHAPTER C. HOMESTEAD LAND TRUST

Sec. 373A.101. CREATION. A municipality may create or designate one or more trusts to operate solely in the district under this subchapter and to accomplish the goals described in this subchapter.

Sec. 373A.102. NATURE OF TRUST. A trust must:

(1) be organized under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes);

(2) be exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as amended, by being listed under Section 501(c)(3) of that code;

(3) meet the requirements of a charitable organization provided by Sections 11.18(e) and (f), Tax Code, for which purpose the functions for which the trust is created are considered to be charitable functions; and

(4) be created for the purposes of:

(A) acquiring and retaining land in the district in trust for the low-income residents of the district; and

(B) preserving the long-term affordability of the land.

Sec. 373A.103. BOARD OF DIRECTORS. (a) A trust is governed by a board of seven directors.

(b) Directors of a trust serve staggered three-year terms, with the terms of two or three directors expiring each year.

(c) At all times, at least five of the directors of a trust must be residents of the district for which the trust was created.

(d) Except as provided by Subsection (e), the governing body of the municipality that creates a trust shall appoint the members

of the board of directors of the trust.

(e) If the trust owns land on which at least 20 occupied housing units are located, the governing body of the municipality shall appoint five of the directors and the residents of housing units shall appoint two of the directors. This subsection does not affect the eligibility of a director appointed under Subsection (d) to continue to serve on the board for the remainder of the term to which the director was appointed.

Sec. 373A.104. TRANSFER OF TITLE TO LAND. (a) A trust may transfer title to the land it owns only with the approval of:

- (1) six of the directors of the trust; and
- (2) the governing body of the municipality.

(b) A trust shall sell or lease homes located on land owned by the trust to eligible individuals or families at affordable prices or rents.

Sec. 373A.105. TRANSFER FROM GOVERNMENTAL ENTITIES; FORGIVENESS OF OUTSTANDING TAXES. (a) A governmental entity may transfer land to a trust for less than market value and without competitive bidding.

(b) A taxing unit may forgive outstanding taxes and fees on any property transferred by a governmental entity to a trust if otherwise allowed by law.

Sec. 373A.106. TAX EXEMPTION. Property owned by a trust is exempt from ad valorem taxation if the trust qualifies the property for an exemption under Section 11.18, Tax Code.

Sec. 373A.107. OPEN MEETINGS AND RECORDS. A trust is considered to be a governmental body for purposes of Chapters 551 and 552, Government Code.

[Sections 373A.108-373A.150 reserved for expansion]

#### SUBCHAPTER D. TAX INCREMENT FINANCING

Sec. 373A.151. AUTHORITY TO USE TAX INCREMENT FINANCING. A municipality may use tax increment financing under Chapter 311, Tax Code, in the manner provided by that chapter and as modified by this subchapter for the purposes of this subchapter.

Sec. 373A.152. BOUNDARIES OF REINVESTMENT ZONE. The boundaries of a reinvestment zone designated under this subchapter must be coextensive with or included entirely within the district.

Sec. 373A.153. ADMINISTRATION OF REINVESTMENT ZONE. (a)  
Section 311.009, Tax Code, does not apply to tax increment  
financing under this subchapter.

(b) For the purposes of tax increment financing under this  
subchapter, the governing body of the municipality is the board of  
directors of the reinvestment zone.

Sec. 373A.154. USE OF MONEY IN TAX INCREMENT FUND. (a)  
Notwithstanding Section 311.014, Tax Code, money in a tax increment  
fund established under this subchapter may be disbursed from the  
fund only to:

(1) make grants to a neighborhood housing development  
corporation or a trust to pay the project costs, as defined by  
Section 311.002, Tax Code, incurred by the corporation or trust in  
connection with the development of affordable housing in the  
reinvestment zone for eligible individuals or families; or

(2) make interest-free loans to a neighborhood housing  
development corporation certified by the municipality to be used to  
acquire land and construct or rehabilitate housing in the zone for  
eligible individuals or families.

(b) All owner-occupied housing constructed or rehabilitated  
with money from the tax increment fund must be affordable for at  
least 10 years using a resale formula designated by the  
municipality as provided by the district plan.

(c) All rental housing constructed or rehabilitated with  
money from the tax increment fund must be affordable for at least 40  
years using a methodology adopted by the municipality as provided  
by the district plan.

Sec. 373A.155. ANNUAL REPORT. The annual report required  
by Section 311.016, Tax Code, must:

(1) include, in addition to the information required  
by that section, a detailed accounting of the amount and purpose of  
expenditures from the tax increment fund, including the name of  
each recipient of a grant or loan from the fund; and

(2) be made available to the public on request in  
addition to being sent to the Texas Department of Housing and  
Community Affairs, the attorney general, and the comptroller.

[Sections 373A.156-373A.200 reserved for expansion]



SUBCHAPTER E. HOMESTEAD LAND BANK

Sec. 373A.201. DEFINITIONS. In this subchapter:

(1) "Homestead land bank plan" or "plan" means a plan adopted by the governing body of a municipality as provided by Section 373A.203.

(2) "Homestead land bank program" or "program" means a program adopted under Section 373A.202.

(3) "Land bank" means an entity established or approved by the governing body of a municipality for the purpose of acquiring, holding, and transferring unimproved real property under this subchapter.

Sec. 373A.202. HOMESTEAD LAND BANK PROGRAM. (a) The governing body of a municipality may adopt a homestead land bank program in which the officer charged with selling real property ordered sold pursuant to foreclosure of a tax lien may sell certain eligible real property by private sale for the purpose of affordable housing development as provided by this subchapter.

(b) The governing body of a municipality that adopts a program shall establish or approve a land bank for the purpose of acquiring, holding, and transferring unimproved real property under this subchapter.

Sec. 373A.203. HOMESTEAD LAND BANK PLAN. (a) A municipality that adopts a program shall operate the program in conformity with a homestead land bank plan adopted by the governing body of the municipality.

(b) The governing body of the municipality shall update the plan annually. The plan may be amended from time to time.

(c) In developing the plan, the municipality shall consider other housing plans adopted by the municipality, including the comprehensive plan submitted to the United States Department of Housing and Urban Development and all fair housing plans and policies adopted or agreed to by the municipality.

(d) The plan must include:

(1) a list of neighborhood housing development corporations eligible to participate in the purchase of property under this subchapter;

(2) a list of the parcels of real property that may

become eligible for sale to the land bank during the upcoming year;

(3) the municipality's plan for affordable housing development on those parcels of real property; and

(4) the sources and amounts of funding anticipated to be available from the municipality for subsidies for development of affordable housing in the district, including any money specifically available for housing developed under the program, as approved by the governing body of the municipality at the time the plan is adopted.

(e) The governing body of a municipality must hold a public hearing on a proposed plan at least 30 days before the date the governing body adopts or updates the plan.

(f) The city manager or the city manager's designee or, if the municipality does not have a city manager, a person designated by the mayor shall provide notice of the hearing to all neighborhood housing development corporations and to neighborhood associations identified by the municipality as serving the neighborhoods in which properties anticipated to be available for sale to the land bank under this subchapter are located.

(g) The city manager or the city manager's designee or, if the municipality does not have a city manager, a person designated by the mayor shall make copies of the proposed plan available to the public not later than the 60th day before the date of the public hearing.

Sec. 373A.204. PRIVATE SALE TO LAND BANK. (a) Notwithstanding any other law and except as provided by Subsection (f), property that is ordered sold pursuant to foreclosure of a tax lien may be sold in a private sale to a land bank by the officer charged with the sale of the property without first offering the property for sale as otherwise provided by Section 34.01, Tax Code, if:

(1) the market value of the property as specified in the judgment of foreclosure is less than the total amount due under the judgment, including all taxes, penalties, and interest, plus the value of nontax liens held by a taxing unit and awarded by the judgment, court costs, and the cost of the sale;

(2) the property is not improved with a building or

buildings;

(3) there are delinquent taxes on the property for each of the preceding six years; and

(4) the municipality has executed with the other taxing units that are parties to the tax suit an interlocal agreement that enables those units to agree to participate in the program while retaining the right to withhold consent to the sale of specific properties to the land bank.

(b) A sale of property for use in connection with the program is a sale for a public purpose.

(c) If the person being sued in a suit for foreclosure of a tax lien does not contest the market value of the property in the suit, the person waives the right to challenge the amount of the market value determined by the court for purposes of the sale of the property under Section 33.50, Tax Code.

(d) For any sale of property under this subchapter, each person who was a defendant to the judgment, or that person's attorney, shall be given, not later than the 90th day before the date of sale, written notice of the proposed method of sale of the property by the officer charged with the sale of the property. Notice shall be given in the manner prescribed by Rule 21a, Texas Rules of Civil Procedure.

(e) After receipt of the notice required by Subsection (d) and before the date of the proposed sale, the owner of the property subject to sale may file with the officer charged with the sale a written request that the property not be sold in the manner provided by this subchapter.

(f) If the officer charged with the sale receives a written request as provided by Subsection (e), the officer shall sell the property as otherwise provided by Section 34.01, Tax Code.

(g) The owner of the property subject to sale may not receive any proceeds of a sale under this subchapter. However, the owner does not have any personal liability for a deficiency of the judgment as a result of a sale under this subchapter.

(h) Notwithstanding any other law, if consent is given by the taxing units that are a party to the judgment, property may be sold to the land bank for less than the market value of the property

as specified in the judgment or less than the total of all taxes, penalties, and interest, plus the value of nontax liens held by a taxing unit and awarded by the judgment, court costs, and the cost of the sale.

(i) The deed of conveyance of the property sold to a land bank under this section conveys to the land bank the right, title, and interest acquired or held by each taxing unit that was a party to the judgment, subject to the right of redemption.

Sec. 373A.205. SUBSEQUENT RESALE BY LAND BANK. (a) Each subsequent resale of property acquired by a land bank under this subchapter must comply with the conditions of this section.

(b) The land bank must sell a property to a neighborhood housing development corporation within the three-year period following the date of acquisition for the purpose of construction of affordable housing for sale or rent to low-income households. If after three years a neighborhood housing development corporation has not purchased the property, the property shall be transferred from the land bank to the taxing units who were parties to the judgment for disposition as otherwise allowed under the law.

(c) The deed conveying a property sold by the land bank must include a right of reverter so that if the neighborhood housing development corporation does not apply for a construction permit and close on any construction financing within the three-year period following the date of the conveyance of the property from the land bank to the neighborhood housing development corporation, the property will revert to the land bank for subsequent resale to another neighborhood housing development corporation or conveyance to the taxing units who were parties to the judgment for disposition as otherwise allowed under law.

Sec. 373A.206. RESTRICTIONS ON OCCUPANCY AND USE OF PROPERTY. (a) A land bank shall impose deed restrictions on property sold to neighborhood housing development corporations requiring the development of the property for and the sale or rental of the property to eligible individuals or families.

(b) If property is developed for rental housing, the deed restrictions must be for a period of not less than 15 years.

(c) The deed restrictions under Subsection (b) must require

the owner to file an annual occupancy report with the municipality on a reporting form provided by the municipality. The deed restrictions must also prohibit the exclusion of an individual or family from admission to the development because the individual or family participates in the housing choice voucher program under Section 8, United States Housing Act of 1937 (42 U.S.C. Section 1437f), as amended.

(d) Additional occupancy and use restrictions may be adopted by the governing body of the municipality in the plan and applied to property sold to the land bank under this subchapter.

Sec. 373A.207. OPEN RECORDS AND MEETINGS. A land bank is considered to be a governmental body for purposes of Chapters 551 and 552, Government Code.

Sec. 373A.208. RECORDS; AUDIT; REPORT. (a) A land bank shall keep accurate minutes of its meetings and shall keep accurate records and books of account that conform with generally accepted accounting principles and that clearly reflect the income and expenses of the land bank and all transactions in relation to its property.

(b) The land bank shall file with the municipality not later than the 90th day after the close of the fiscal year annual audited financial statements prepared by a certified public accountant. The financial transactions of the land bank are subject to audit by the municipality.

(c) For purposes of evaluating the effectiveness of the program, the land bank shall submit an annual performance report to the municipality not later than November 1 of each year in which the land bank acquires or sells property under this subchapter. The performance report must include:

(1) a complete and detailed written accounting of all money and properties received and disbursed by the land bank during the preceding fiscal year;

(2) for each property acquired by the land bank during the preceding fiscal year:

(A) the street address of the property;

(B) the legal description of the property;

(C) the date the land bank took title to the

property;

(D) the name and address of the property owner of record at the time of the foreclosure;

(E) the amount of taxes and other costs owed at the time of the foreclosure; and

(F) the assessed value of the property on the tax roll at the time of the foreclosure;

(3) for each property sold by the land bank during the preceding fiscal year to a neighborhood housing development corporation:

(A) the street address of the property;

(B) the legal description of the property;

(C) the name and mailing address of the neighborhood housing development corporation;

(D) the purchase price paid by the neighborhood housing development corporation;

(E) the maximum incomes allowed for eligible individuals or families by the terms of the sale; and

(F) the source and amount of any public subsidy provided by the municipality to facilitate the sale or rental of the property to eligible individuals or families;

(4) for each property sold by a neighborhood housing development corporation during the preceding fiscal year, the buyer's household income and a description of all use and sale restrictions; and

(5) for each property developed for rental housing with an active deed restriction, a copy of the most recent annual report filed by the owner with the land bank.

(d) The land bank shall maintain in its records for inspection a copy of the sale settlement statement for each property sold by a neighborhood housing development corporation and a copy of the first page of the mortgage note with the interest rate and indicating the volume and page number of the instrument as filed with the county clerk.

(e) The land bank and the municipality shall submit the performance report to the Texas Department of Housing and Community Affairs and shall maintain copies of the report for public review.

[Sections 373A.209-373A.250 reserved for expansion]

SUBCHAPTER F. EXPIRATION OF CHAPTER

Sec. 373A.251. EXPIRATION DATE. Except as provided by Section 373A.252, this chapter expires September 1, 2007.

Sec. 373A.252. CONCLUSION OF DISTRICT MATTERS. (a) On the expiration of this chapter under Section 373A.251, the municipality that created a district under this chapter:

(1) assumes the place of any homestead land trust the municipality created or designated under this chapter and has the powers and duties of the land trust for all purposes;

(2) assumes the place of any homestead land bank established or approved by the municipality under this chapter and has the powers and duties of the land bank for all purposes; and

(3) shall take the actions necessary to conclude, before September 1, 2008, all matters relating to the district, including all matters relating to the homestead land trust, the homestead land bank, and tax increment financing affecting the district.

(b) Regardless of the expiration of this chapter under Section 373A.251, this chapter is continued in effect to the extent necessary for the municipality to conclude all matters relating to the district as required by Subsection (a)(3).

(c) The municipality, homestead land trust, homestead land bank, and other persons may not take any action during the existence of the district that would prevent the municipality from concluding all matters relating to the district as required by Subsection (a)(3).

(d) This section expires January 1, 2009.

SECTION \_\_\_\_\_. (a) Not later than January 1, 2004, the Texas Department of Housing and Community Affairs shall adopt rules and procedures for the homestead preservation district pilot program, including rules and procedures addressing the application deadlines for participation in the program.

(b) Not later than March 1, 2004, the department shall select three municipalities to participate in the homestead preservation district pilot program.