

BILL ANALYSIS

C.S.H.B. 2801
By: Giddings
Urban Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Many Texas urban communities are facing severe shortages of housing which is affordable to lower-income households; these households provide workers necessary to the growth of the local economy. At the same time, older larger Texas cities find themselves facing a growing number of vacant lots with property tax delinquencies. Vacant lots contribute to destabilization of established neighborhoods. Lower property values, accompanied by delinquent taxes and non-tax liens, make these properties less desirable for new private investment. As a result, the number of unproductive properties in older neighborhoods continues to climb while the fortunes of the neighborhoods fall.

The proposed Urban Land Bank Demonstration Program Act would provide a process and a tool to enable cities to more effectively pursue tax foreclosure on unproductive vacant properties in return for assembling the acquired property for placement into productive use in the development of affordable housing. Currently, property ordered sold pursuant to foreclosure of a tax lien may be sold at a public auction, such as a Sheriff's sale, to the highest bidder for a bid sufficient to pay the lesser of the aggregate amount of the judgment against the property or the market value of the property as specified in the judgment. This legislation provides the means for direct sale of tax-foreclosed property by the officer making the sale to a land bank created by a municipality for the purpose of assembling property for affordable housing development. At the same time, it includes protection for property owners faced with tax foreclosure who do not want their property to be subject to this process. It insures that productive nonprofit Community-based Housing Development Organizations (CHDOs) will play a strong role in developing the housing placed in the land bank. It also provides a means for private developers to participate in affordable housing production, a critical participation given the tremendous scope of the need being addressed. The process requires development of a local plan by the municipality, coordination with participating taxing entities, public notice, public participation, local accountability, and ultimately, the creation of new housing affordable to lower income households.

Pursuant to the Texas Property Code, properties sold for failure to pay delinquent taxes are done so by foreclosing on a tax lien and a public auction on the courthouse steps, usually by the sheriff or constable. Committee Substitute House Bill 2801 would permit certain undeveloped real property to be conveyed to an urban land bank for the development of affordable housing. C.S.H.B. 2801 would enact the Urban Land Bank Demonstration Program Act, as chapter 379C of the Local Government Code.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle A, Title 12, of the Local Government Code by adding Chapter 397C, Urban Land Bank Demonstration program, comprised of the following Sections:

Sec. 379C.001 Provides for a short title of the Act.

Sec. 379C.002 Provides that the Act would be applicable only to home-rule cities with a population of 1.8 million or more.

Sec. 379C.003 Defines terms used in the Act.

- Sec. 379C.004 Eligible municipalities may adopt an Urban Land Bank Demonstration Program allowing a private sale of tax-foreclosed property by the officer making the sale to a municipally created land bank for the purposes of affordable housing development. The participating municipality must establish or approve a land bank to acquire, hold and transfer unimproved real property.
- Sec. 379C.005 In order to qualify to acquire and develop property from the land bank, a developer must have built three or more housing units prior to submitting a proposal to the land bank and have a development plan for the property approved by the municipality.
- Sec. 379C.006 Participation in the Demonstration Program requires the municipality to develop an annual plan that includes the following: a list of the community housing development organizations eligible to exercise a right of first refusal on the properties acquired through the program; a list of properties anticipated for acquisition; the anticipated affordable development on these properties; and the sources and amount of any funds available from the municipality to subsidize development of affordable housing.
- Sec. 379C.007 Adoption of the plan must follow public notice, including community housing development organizations and affected neighborhood associations, a 60-day public review period and a public hearing.
- Sec. 379C.008 The bill provides an alternative to the public auction/sale of tax-foreclosed property by allowing a direct sale by the officer making the sale to a municipally created land bank under the following conditions: the market value of the property is less than the amount of taxes, non-tax liens and court and associated sale costs on the property; the property is vacant, without buildings; there are delinquent taxes owed on the property for each of the last six years; there is an interlocal agreement among the taxing entities party to the tax suit to permit the direct sale; and within a 90-day period following notice of the proposed direct sale, the property owner subject to the suit has not exercised the right to the public auction/sale of the property by the officer making the sale.
- Sec. 379C.009 The Land Bank must resell the property for construction of affordable housing within three years of taking ownership. The number of properties a developer may acquire from the Land Bank is based on prior housing production experience. The developer must apply for a building permit and construction financing must be in place within 24 months of acquisition of the property or it will revert to the Land Bank.
- Sec. 379C.010 Each property sold by the Land Bank will be deed restricted for development of affordable housing. If the property is developed for sale the household income of the homebuyer cannot exceed 80% of the area median family income (AMFI) as determined by the US Department of Housing and Urban Development (HUD) for the area in which the property is located. No less than 25% of the properties sold by the Land Bank for sale to homebuyers will be deed restricted for sale to families with household incomes not exceeding 60% of AMFI. If the property is sold for development of rental housing, the deed restrictions will require the following occupancy restrictions: 100% of the units must be occupied by households with incomes not greater than 60% AMFI; 40% of the units must be occupied by households with incomes not greater than 50% AMFI; or 20% of the units must be occupied by households with incomes not greater than 30% AMFI. The rental property owner must file annual occupancy reports. Deed restrictions will renew automatically. Either the land bank or the governing body of the municipality may modify or add to deed restrictions; if the municipality makes changes, these must be adopted by the municipality as part of its plan.
- Sec. 379C.011 Nonprofit Community Housing Development Organizations (CHDOs) providing housing within the same area as “banked” properties will have a right of first refusal on the purchase of the property. The CHDO may exercise that right within a period of not less than 9 months nor more than 26 months. The property may be sold to another qualified participating developer if the CHDO does not exercise its right.

Sec. 379C.012 The Land Bank will comply with the open meetings and open records requirements for governmental bodies.

Sec. 379.013 The Land Bank will: keep accurate minutes and records; keep accurate books of account in accordance with generally accepted accounting principals and provide annual audited financial statements to the municipality; and provide an annual performance report to the municipality setting forth the Land Bank's revenues and expenditures and providing a detailed accounting of each property transaction. Copies of the performance report will be provided to each participating taxing entity. Notice of availability of the report will be sent to CHDOs and neighborhood associations for neighborhoods where "banked" properties are located. The performance report will be kept available for public review.

SECTION 2. Effective date.

EFFECTIVE DATE: September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute differs from the original in providing for automatic renewal of deed restrictions and also would enable the city or land bank to modify or change deed restrictions.