

By: Giddings

H.B. No. 2801

A BILL TO BE ENTITLED

AN ACT

relating to urban land bank demonstration programs.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle A, Title 12, Local Government Code, is amended by adding Chapter 379C to read as follows:

CHAPTER 379C. URBAN LAND BANK DEMONSTRATION PROGRAM

Sec. 379C.001. SHORT TITLE. This chapter may be cited as the Urban Land Bank Demonstration Program Act.

Sec. 379C.002. APPLICABILITY. This chapter applies only to home-rule municipalities with a population of 1.8 million or more.

Sec. 379C.003. DEFINITIONS. In this chapter:

(1) "Community housing development organization" or "organization" means an organization that:

(A) meets the definition of a community housing development organization in 24 C.F.R. Section 92.2; and

(B) is certified by the municipality as a community housing development organization.

(2) "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 chapter.

(3) "Low income household" means a household with a gross income of not greater than 80 percent of the area median family income, adjusted for household size, for the metropolitan

1 statistical area in which the municipality is located, as  
2 determined annually by the United States Department of Housing and  
3 Urban Development.

4 (4) "Qualified participating developer" means a  
5 developer who meets the requirements of Section 379C.005 and  
6 includes a qualified organization under Section 379C.011.

7 (5) "Urban land bank demonstration plan" or "plan"  
8 means a plan adopted by the governing body of a municipality as  
9 provided by Section 379C.006.

10 (6) "Urban land bank demonstration program" or  
11 "program" means a program adopted under Section 379C.004.

12 Sec. 379C.004. URBAN LAND BANK DEMONSTRATION PROGRAM. (a)  
13 The governing body of a municipality may adopt an urban land bank  
14 demonstration program in which the officer charged with selling  
15 real property ordered sold pursuant to foreclosure of a tax lien may  
16 sell certain eligible real property by private sale for purposes of  
17 affordable housing development as provided by this chapter.

18 (b) The governing body of a municipality that adopts an  
19 urban land bank demonstration program shall establish or approve a  
20 land bank for the purpose of acquiring, holding, and transferring  
21 unimproved real property under this chapter.

22 Sec. 379C.005. QUALIFIED PARTICIPATING DEVELOPER. To  
23 qualify to participate in an urban land bank demonstration program,  
24 a developer must:

25 (1) have built three or more housing units within the  
26 three-year period preceding the submission of a proposal to the  
27 land bank seeking to acquire real property from the land bank;

1           (2) have a development plan approved by the  
2 municipality for the land bank property; and

3           (3) meet any other requirements adopted by the  
4 municipality in the urban land bank demonstration plan.

5           Sec. 379C.006. URBAN LAND BANK DEMONSTRATION PLAN. (a) A  
6 municipality that adopts an urban land bank demonstration program  
7 shall operate the program in conformance with an urban land bank  
8 demonstration plan.

9           (b) The governing body of a municipality that adopts an  
10 urban land bank demonstration program shall adopt a plan annually.  
11 The plan may be amended from time to time.

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

17           (d) The plan must include the following:

18           (1) a list of community housing development  
19 organizations eligible to participate in the right of first refusal  
20 provided by Section 379C.011;

21           (2) a list of the parcels of real property that may  
22 become eligible for sale to the land bank during the upcoming year;

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

25           (4) the sources and amounts of funding anticipated to  
26 be available from the municipality for subsidies for development  
27 of affordable housing in the municipality, including any money

1 specifically available for housing developed under the program, as  
2 approved by the governing body of the municipality at the time the  
3 plan is adopted.

4 Sec. 379C.007. PUBLIC HEARING ON PROPOSED PLAN. (a) Before  
5 adopting a plan, a municipality shall hold a public hearing on the  
6 proposed plan.

7 (b) The city manager or the city manager's designee shall  
8 provide notice of the hearing to all community housing development  
9 organizations and to neighborhood associations identified by the  
10 municipality as serving the neighborhoods in which properties  
11 anticipated to be available for sale to the land bank under this  
12 chapter are located.

13 (c) The city manager or the city manager's designee shall  
14 make copies of the proposed plan available to the public not later  
15 than the 60th day before the date of the public hearing.

16 Sec. 379C.008. PRIVATE SALE TO LAND BANK. (a)  
17 Notwithstanding any other law and except as provided by Subsection  
18 (f), property that is ordered sold pursuant to foreclosure of a tax  
19 lien may be sold in a private sale to a land bank by the officer  
20 charged with the sale of the property without first offering the  
21 property for sale as otherwise provided by Section 34.01, Tax Code,  
22 if:

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

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

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

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

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

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

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

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

1 by this chapter.

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

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

9 (h) Notwithstanding any other law, if consent is given by  
10 the taxing units that are a party to the judgment, property may be  
11 sold to the land bank for less than the market value of the property  
12 as specified in the judgment or less than the total of all taxes,  
13 penalties, and interest, plus the value of nontax liens held by a  
14 taxing unit and awarded by the judgment, court costs, and the cost  
15 of the sale.

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

20 Sec. 379C.009. SUBSEQUENT RESALE BY LAND BANK. (a) Each  
21 subsequent resale of property acquired by a land bank under this  
22 chapter must comply with the conditions of this section.

23 (b) The land bank must sell a property to a qualified  
24 participating developer within the three-year period following the  
25 date of acquisition for the purpose of construction of affordable  
26 housing for sale or rent to low income households. If after three  
27 years a qualified participating developer has not purchased the

1 property, the property shall be transferred from the land bank to  
2 the taxing units who were parties to the judgment for disposition as  
3 otherwise allowed under the law.

4 (c) Unless the municipality increases the amount in its  
5 plan, the number of properties acquired by a qualified  
6 participating developer under this section on which development has  
7 not been completed may not at any given time exceed three times the  
8 annual average residential production completed by the qualified  
9 participating developer during the preceding two-year period as  
10 determined by the municipality.

11 (d) The deed conveying a property sold by the land bank must  
12 include a right of reverter so that if the qualified participating  
13 developer does not apply for a construction permit and close on any  
14 construction financing within the two-year period following the  
15 date of the conveyance of the property from the land bank to the  
16 qualified participating developer, the property will revert to the  
17 land bank for subsequent resale to another qualified participating  
18 developer or conveyance to the taxing units who were parties to the  
19 judgment for disposition as otherwise allowed under the law.

20 Sec. 379C.010. RESTRICTIONS ON OCCUPANCY AND USE OF  
21 PROPERTY. (a) The land bank shall impose deed restrictions on  
22 property sold to qualified participating developers requiring the  
23 development and sale or rental of the property to low income  
24 households.

25 (b) At least 25 percent of the land bank properties sold  
26 during any given fiscal year to be developed for sale shall be deed  
27 restricted for sale to households with gross household incomes not

1 greater than 60 percent of the area median family income, adjusted  
2 for household size, for the metropolitan statistical area in which  
3 the municipality is located, as determined annually by the United  
4 States Department of Housing and Urban Development.

5 (c) If property is developed for rental housing, the deed  
6 restrictions must be for a period of not less than 15 years and must  
7 require that:

8 (1) 100 percent of the rental units be occupied by  
9 households with incomes not greater than 60 percent of area median  
10 family income, based on gross household income, adjusted for  
11 household size, for the metropolitan statistical area in which the  
12 municipality is located, as determined annually by the United  
13 States Department of Housing and Urban Development;

14 (2) 40 percent of the units be occupied by households  
15 with incomes not greater than 50 percent of area median family  
16 income, based on gross household income, adjusted for household  
17 size, for the metropolitan statistical area in which the  
18 municipality is located, as determined annually by the United  
19 States Department of Housing and Urban Development; or

20 (3) 20 percent of the units be occupied by households  
21 with incomes not greater than 30 percent of area median family  
22 income, based on gross household income, adjusted for household  
23 size, for the metropolitan statistical area in which the  
24 municipality is located, as determined annually by the United  
25 States Department of Housing and Urban Development.

26 (d) The deed restrictions under Subsection (c) must require  
27 the owner to file an annual occupancy report with the municipality



1 on a reporting form provided by the municipality. The deed  
2 restrictions must also prohibit the exclusion of an individual or  
3 family from admission to the development because the individual or  
4 family participates in the housing choice voucher program under  
5 Section 8, United States Housing Act of 1937 (42 U.S.C. Section  
6 1437f), as amended.

7 (e) Additional occupancy and use restrictions may be  
8 adopted by the governing body of the municipality in the plan and  
9 applied to property sold to the land bank under this chapter.

10 Sec. 379C.011. RIGHT OF FIRST REFUSAL. (a) In this  
11 section, "qualified organization" means a community housing  
12 development organization that:

13 (1) contains within its designated geographical  
14 boundaries of operation, as set forth in its application for  
15 certification filed with and approved by the municipality, a  
16 portion of the property that the land bank is offering for sale;

17 (2) has built at least three single-family homes or  
18 duplexes or one multifamily residential dwelling of four or more  
19 units in compliance with all applicable building codes within the  
20 preceding two-year period and within the organization's designated  
21 geographical boundaries of operation; and

22 (3) within the preceding two-year period has built or  
23 rehabilitated housing units within a one-half mile radius of the  
24 property that the land bank is offering for sale.

25 (b) The land bank shall first offer a property for sale to  
26 qualified organizations.

27 (c) Notice must be provided to the qualified organizations

1 by certified mail, return receipt requested.

2 (d) The municipality shall specify in its plan the period  
3 during which the right of first refusal provided by this section may  
4 be exercised by a qualified organization. That period must be at  
5 least nine months but not more than 26 months from the date of the  
6 deed of conveyance of the property to the land bank.

7 (e) During the specified period, the land bank may not sell  
8 the property to a qualified participating developer other than a  
9 qualified organization. If all qualified organizations notify the  
10 land bank that they are declining to exercise their right of first  
11 refusal during the specified period, or if an offer to purchase the  
12 property is not received from a qualified organization during that  
13 period, the land bank may sell the property to any other qualified  
14 participating developer at the same price that the land bank  
15 offered the property to the qualified organizations.

16 (f) In its plan, the municipality shall establish the amount  
17 of additional time, if any, that a property may be held in the land  
18 bank once an offer has been received and accepted from a qualified  
19 organization or other qualified participating developer.

20 (g) If more than one qualified organization expresses an  
21 interest in exercising its right of first refusal, the organization  
22 that has designated the most geographically compact area  
23 encompassing a portion of the property shall be given priority.

24 (h) In its plan, the municipality may provide for other  
25 rights of first refusal for any other nonprofit corporation  
26 exempted from federal income tax under Section 501(c)(3), Internal  
27 Revenue Code of 1986, as amended, provided that the preeminent

1 right of first refusal is provided to qualified organizations as  
2 provided by this section.

3 (i) The land bank is not required to provide a right of first  
4 refusal to qualified organizations under this section if the land  
5 bank is selling property that reverted to the land bank under  
6 Section 379C.009(d).

7 Sec. 379C.012. OPEN RECORDS AND MEETINGS. The land bank  
8 shall comply with the requirements of Chapters 551 and 552,  
9 Government Code.

10 Sec. 379C.013. RECORDS; AUDIT; REPORT. (a) The land bank  
11 shall keep accurate minutes of its meetings and shall keep accurate  
12 records and books of account that conform with generally accepted  
13 principles of accounting and that clearly reflect the income and  
14 expenses of the land bank and all transactions in relation to its  
15 property.

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

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

26 (1) a complete and detailed written accounting of all  
27 money and properties received and disbursed by the land bank during

1 the preceding fiscal year;

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

4 (A) the street address of the property;

5 (B) the legal description of the property;

6 (C) the date the land bank took title to the  
7 property;

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

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

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

14 (3) for each property sold by the land bank during the  
15 preceding fiscal year to a qualified participating developer:

16 (A) the street address of the property;

17 (B) the legal description of the property;

18 (C) the name and mailing address of the  
19 developer;

20 (D) the purchase price paid by the developer;

21 (E) the maximum incomes allowed for the  
22 households by the terms of the sale; and

23 (F) the source and amount of any public subsidy  
24 provided by the municipality to facilitate the sale or rental of the  
25 property to a household within the targeted income levels;

26 (4) for each property sold by a qualified  
27 participating developer during the preceding fiscal year, the

1 buyer's household income and a description of all use and sale  
2 restrictions; and

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

6 (d) The land bank shall maintain in its records for  
7 inspection a copy of the sale settlement statement for each  
8 property sold by a qualified participating developer and a copy of  
9 the first page of the mortgage note with the interest rate and  
10 indicating the volume and page number of the instrument as filed  
11 with the county clerk.

12 (e) The land bank shall provide copies of the performance  
13 report to the taxing units who were parties to the judgment of  
14 foreclosure and shall provide notice of the availability of the  
15 performance report for review to the organizations and neighborhood  
16 associations identified by the municipality as serving the  
17 neighborhoods in which properties sold to the land bank under this  
18 chapter are located.

19 (f) The land bank and the municipality shall maintain copies  
20 of the performance report available for public review.

21 SECTION 2. This Act takes effect September 1, 2003.