

1-1 By: Giddings (Senate Sponsor - West) H.B. No. 2801
1-2 (In the Senate - Received from the House May 19, 2003;
1-3 May 20, 2003, read first time and referred to Committee on
1-4 Intergovernmental Relations; May 22, 2003, reported favorably by
1-5 the following vote: Yeas 3, Nays 0; May 22, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to urban land bank demonstration programs.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Subtitle A, Title 12, Local Government Code, is
1-11 amended by adding Chapter 379C to read as follows:

1-12 CHAPTER 379C. URBAN LAND BANK DEMONSTRATION PROGRAM

1-13 Sec. 379C.001. SHORT TITLE. This chapter may be cited as
1-14 the Urban Land Bank Demonstration Program Act.

1-15 Sec. 379C.002. APPLICABILITY. This chapter applies only to
1-16 home-rule municipalities that:

1-17 (1) have a population of 1.18 million or more; and

1-18 (2) are located predominantly in a county that has a
1-19 total area of less than 1,000 square miles.

1-20 Sec. 379C.003. DEFINITIONS. In this chapter:

1-21 (1) "Community housing development organization" or
1-22 "organization" means an organization that:

1-23 (A) meets the definition of a community housing
1-24 development organization in 24 C.F.R. Section 92.2; and

1-25 (B) is certified by the municipality as a
1-26 community housing development organization.

1-27 (2) "Land bank" means an entity established or
1-28 approved by the governing body of a municipality for the purpose of
1-29 acquiring, holding, and transferring unimproved real property
1-30 under this chapter.

1-31 (3) "Low income household" means a household with a
1-32 gross income of not greater than 80 percent of the area median
1-33 family income, adjusted for household size, for the metropolitan
1-34 statistical area in which the municipality is located, as
1-35 determined annually by the United States Department of Housing and
1-36 Urban Development.

1-37 (4) "Qualified participating developer" means a
1-38 developer who meets the requirements of Section 379C.005 and
1-39 includes a qualified organization under Section 379C.011.

1-40 (5) "Urban land bank demonstration plan" or "plan"
1-41 means a plan adopted by the governing body of a municipality as
1-42 provided by Section 379C.006.

1-43 (6) "Urban land bank demonstration program" or
1-44 "program" means a program adopted under Section 379C.004.

1-45 Sec. 379C.004. URBAN LAND BANK DEMONSTRATION PROGRAM. (a)
1-46 The governing body of a municipality may adopt an urban land bank
1-47 demonstration program in which the officer charged with selling
1-48 real property ordered sold pursuant to foreclosure of a tax lien may
1-49 sell certain eligible real property by private sale for purposes of
1-50 affordable housing development as provided by this chapter.

1-51 (b) The governing body of a municipality that adopts an
1-52 urban land bank demonstration program shall establish or approve a
1-53 land bank for the purpose of acquiring, holding, and transferring
1-54 unimproved real property under this chapter.

1-55 Sec. 379C.005. QUALIFIED PARTICIPATING DEVELOPER. To
1-56 qualify to participate in an urban land bank demonstration program,
1-57 a developer must:

1-58 (1) have built three or more housing units within the
1-59 three-year period preceding the submission of a proposal to the
1-60 land bank seeking to acquire real property from the land bank;

1-61 (2) have a development plan approved by the
1-62 municipality for the land bank property; and

1-63 (3) meet any other requirements adopted by the
1-64 municipality in the urban land bank demonstration plan.

2-1 Sec. 379C.006. URBAN LAND BANK DEMONSTRATION PLAN. (a) A
 2-2 municipality that adopts an urban land bank demonstration program
 2-3 shall operate the program in conformance with an urban land bank
 2-4 demonstration plan.

2-5 (b) The governing body of a municipality that adopts an
 2-6 urban land bank demonstration program shall adopt a plan annually.
 2-7 The plan may be amended from time to time.

2-8 (c) In developing the plan, the municipality shall consider
 2-9 other housing plans adopted by the municipality, including the
 2-10 comprehensive plan submitted to the United States Department of
 2-11 Housing and Urban Development and all fair housing plans and
 2-12 policies adopted or agreed to by the municipality.

2-13 (d) The plan must include the following:

2-14 (1) a list of community housing development
 2-15 organizations eligible to participate in the right of first refusal
 2-16 provided by Section 379C.011;

2-17 (2) a list of the parcels of real property that may
 2-18 become eligible for sale to the land bank during the upcoming year;

2-19 (3) the municipality's plan for affordable housing
 2-20 development on those parcels of real property; and

2-21 (4) the sources and amounts of funding anticipated to
 2-22 be available from the municipality for subsidies for development
 2-23 of affordable housing in the municipality, including any money
 2-24 specifically available for housing developed under the program, as
 2-25 approved by the governing body of the municipality at the time the
 2-26 plan is adopted.

2-27 Sec. 379C.007. PUBLIC HEARING ON PROPOSED PLAN. (a) Before
 2-28 adopting a plan, a municipality shall hold a public hearing on the
 2-29 proposed plan.

2-30 (b) The city manager or the city manager's designee shall
 2-31 provide notice of the hearing to all community housing development
 2-32 organizations and to neighborhood associations identified by the
 2-33 municipality as serving the neighborhoods in which properties
 2-34 anticipated to be available for sale to the land bank under this
 2-35 chapter are located.

2-36 (c) The city manager or the city manager's designee shall
 2-37 make copies of the proposed plan available to the public not later
 2-38 than the 60th day before the date of the public hearing.

2-39 Sec. 379C.008. PRIVATE SALE TO LAND BANK. (a)
 2-40 Notwithstanding any other law and except as provided by Subsection
 2-41 (f), property that is ordered sold pursuant to foreclosure of a tax
 2-42 lien may be sold in a private sale to a land bank by the officer
 2-43 charged with the sale of the property without first offering the
 2-44 property for sale as otherwise provided by Section 34.01, Tax Code,
 2-45 if:

2-46 (1) the market value of the property as specified in
 2-47 the judgment of foreclosure is less than the total amount due under
 2-48 the judgment, including all taxes, penalties, and interest, plus
 2-49 the value of nontax liens held by a taxing unit and awarded by the
 2-50 judgment, court costs, and the cost of the sale;

2-51 (2) the property is not improved with a building or
 2-52 buildings;

2-53 (3) there are delinquent taxes on the property for
 2-54 each of the preceding six years; and

2-55 (4) the municipality has executed with the other
 2-56 taxing units that are parties to the tax suit an interlocal
 2-57 agreement that enables those units to agree to participate in the
 2-58 program while retaining the right to withhold consent to the sale of
 2-59 specific properties to the land bank.

2-60 (b) A sale of property for use in connection with the
 2-61 program is a sale for a public purpose.

2-62 (c) If the person being sued in a suit for foreclosure of a
 2-63 tax lien does not contest the market value of the property in the
 2-64 suit, the person waives the right to challenge the amount of the
 2-65 market value determined by the court for purposes of the sale of the
 2-66 property under Section 33.50, Tax Code.

2-67 (d) For any sale of property under this chapter, each person
 2-68 who was a defendant to the judgment, or that person's attorney,
 2-69 shall be given, not later than the 90th day before the date of sale,

3-1 written notice of the proposed method of sale of the property by the
 3-2 officer charged with the sale of the property. Notice shall be
 3-3 given in the manner prescribed by Rule 21a, Texas Rules of Civil
 3-4 Procedure.

3-5 (e) After receipt of the notice required by Subsection (d)
 3-6 and before the date of the proposed sale, the owner of the property
 3-7 subject to sale may file with the officer charged with the sale a
 3-8 written request that the property not be sold in the manner provided
 3-9 by this chapter.

3-10 (f) If the officer charged with the sale receives a written
 3-11 request as provided by Subsection (e), the officer shall sell the
 3-12 property as otherwise provided in Section 34.01, Tax Code.

3-13 (g) The owner of the property subject to sale may not
 3-14 receive any proceeds of a sale under this chapter. However, the
 3-15 owner does not have any personal liability for a deficiency of the
 3-16 judgment as a result of a sale under this chapter.

3-17 (h) Notwithstanding any other law, if consent is given by
 3-18 the taxing units that are a party to the judgment, property may be
 3-19 sold to the land bank for less than the market value of the property
 3-20 as specified in the judgment or less than the total of all taxes,
 3-21 penalties, and interest, plus the value of nontax liens held by a
 3-22 taxing unit and awarded by the judgment, court costs, and the cost
 3-23 of the sale.

3-24 (i) The deed of conveyance of the property sold to a land
 3-25 bank under this section conveys to the land bank the right, title,
 3-26 and interest acquired or held by each taxing unit that was a party
 3-27 to the judgment, subject to the right of redemption.

3-28 Sec. 379C.009. SUBSEQUENT RESALE BY LAND BANK. (a) Each
 3-29 subsequent resale of property acquired by a land bank under this
 3-30 chapter must comply with the conditions of this section.

3-31 (b) The land bank must sell a property to a qualified
 3-32 participating developer within the three-year period following the
 3-33 date of acquisition for the purpose of construction of affordable
 3-34 housing for sale or rent to low income households. If after three
 3-35 years a qualified participating developer has not purchased the
 3-36 property, the property shall be transferred from the land bank to
 3-37 the taxing units who were parties to the judgment for disposition as
 3-38 otherwise allowed under the law.

3-39 (c) Unless the municipality increases the amount in its
 3-40 plan, the number of properties acquired by a qualified
 3-41 participating developer under this section on which development has
 3-42 not been completed may not at any given time exceed three times the
 3-43 annual average residential production completed by the qualified
 3-44 participating developer during the preceding two-year period as
 3-45 determined by the municipality.

3-46 (d) The deed conveying a property sold by the land bank must
 3-47 include a right of reverter so that if the qualified participating
 3-48 developer does not apply for a construction permit and close on any
 3-49 construction financing within the two-year period following the
 3-50 date of the conveyance of the property from the land bank to the
 3-51 qualified participating developer, the property will revert to the
 3-52 land bank for subsequent resale to another qualified participating
 3-53 developer or conveyance to the taxing units who were parties to the
 3-54 judgment for disposition as otherwise allowed under the law.

3-55 Sec. 379C.010. RESTRICTIONS ON OCCUPANCY AND USE OF
 3-56 PROPERTY. (a) The land bank shall impose deed restrictions on
 3-57 property sold to qualified participating developers requiring the
 3-58 development and sale or rental of the property to low income
 3-59 households.

3-60 (b) At least 25 percent of the land bank properties sold
 3-61 during any given fiscal year to be developed for sale shall be deed
 3-62 restricted for sale to households with gross household incomes not
 3-63 greater than 60 percent of the area median family income, adjusted
 3-64 for household size, for the metropolitan statistical area in which
 3-65 the municipality is located, as determined annually by the United
 3-66 States Department of Housing and Urban Development.

3-67 (c) If property is developed for rental housing, the deed
 3-68 restrictions must be for a period of not less than 15 years and must
 3-69 require that:

4-1 (1) 100 percent of the rental units be occupied by
 4-2 households with incomes not greater than 60 percent of area median
 4-3 family income, based on gross household income, adjusted for
 4-4 household size, for the metropolitan statistical area in which the
 4-5 municipality is located, as determined annually by the United
 4-6 States Department of Housing and Urban Development;

4-7 (2) 40 percent of the units be occupied by households
 4-8 with incomes not greater than 50 percent of area median family
 4-9 income, based on gross household income, adjusted for household
 4-10 size, for the metropolitan statistical area in which the
 4-11 municipality is located, as determined annually by the United
 4-12 States Department of Housing and Urban Development; or

4-13 (3) 20 percent of the units be occupied by households
 4-14 with incomes not greater than 30 percent of area median family
 4-15 income, based on gross household income, adjusted for household
 4-16 size, for the metropolitan statistical area in which the
 4-17 municipality is located, as determined annually by the United
 4-18 States Department of Housing and Urban Development.

4-19 (d) The deed restrictions under Subsection (c) must require
 4-20 the owner to file an annual occupancy report with the municipality
 4-21 on a reporting form provided by the municipality. The deed
 4-22 restrictions must also prohibit any exclusion of an individual or
 4-23 family from admission to the development based solely on the
 4-24 participation of the individual or family in the housing choice
 4-25 voucher program under Section 8, United States Housing Act of 1937
 4-26 (42 U.S.C. Section 1437f), as amended.

4-27 (e) Except as otherwise provided by this section, if the
 4-28 deed restrictions imposed under this section are for a term of
 4-29 years, the deed restrictions shall renew automatically.

4-30 (f) The land bank or the governing body of the municipality
 4-31 may modify or add to the deed restrictions imposed under this
 4-32 section. Any modifications or additions made by the governing body
 4-33 of the municipality must be adopted by the municipality as part of
 4-34 its plan and must comply with the restrictions set forth in
 4-35 Subsections (b), (c), and (d).

4-36 Sec. 379C.011. RIGHT OF FIRST REFUSAL. (a) In this
 4-37 section, "qualified organization" means a community housing
 4-38 development organization that:

4-39 (1) contains within its designated geographical
 4-40 boundaries of operation, as set forth in its application for
 4-41 certification filed with and approved by the municipality, a
 4-42 portion of the property that the land bank is offering for sale;

4-43 (2) has built at least three single-family homes or
 4-44 duplexes or one multifamily residential dwelling of four or more
 4-45 units in compliance with all applicable building codes within the
 4-46 preceding two-year period and within the organization's designated
 4-47 geographical boundaries of operation; and

4-48 (3) within the preceding two-year period has built or
 4-49 rehabilitated housing units within a one-half mile radius of the
 4-50 property that the land bank is offering for sale.

4-51 (b) The land bank shall first offer a property for sale to
 4-52 qualified organizations.

4-53 (c) Notice must be provided to the qualified organizations
 4-54 by certified mail, return receipt requested.

4-55 (d) The municipality shall specify in its plan the period
 4-56 during which the right of first refusal provided by this section may
 4-57 be exercised by a qualified organization. That period must be at
 4-58 least nine months but not more than 26 months from the date of the
 4-59 deed of conveyance of the property to the land bank.

4-60 (e) During the specified period, the land bank may not sell
 4-61 the property to a qualified participating developer other than a
 4-62 qualified organization. If all qualified organizations notify the
 4-63 land bank that they are declining to exercise their right of first
 4-64 refusal during the specified period, or if an offer to purchase the
 4-65 property is not received from a qualified organization during that
 4-66 period, the land bank may sell the property to any other qualified
 4-67 participating developer at the same price that the land bank
 4-68 offered the property to the qualified organizations.

4-69 (f) In its plan, the municipality shall establish the amount

5-1 of additional time, if any, that a property may be held in the land
 5-2 bank once an offer has been received and accepted from a qualified
 5-3 organization or other qualified participating developer.

5-4 (g) If more than one qualified organization expresses an
 5-5 interest in exercising its right of first refusal, the organization
 5-6 that has designated the most geographically compact area
 5-7 encompassing a portion of the property shall be given priority.

5-8 (h) In its plan, the municipality may provide for other
 5-9 rights of first refusal for any other nonprofit corporation
 5-10 exempted from federal income tax under Section 501(c)(3), Internal
 5-11 Revenue Code of 1986, as amended, provided that the preeminent
 5-12 right of first refusal is provided to qualified organizations as
 5-13 provided by this section.

5-14 (i) The land bank is not required to provide a right of first
 5-15 refusal to qualified organizations under this section if the land
 5-16 bank is selling property that reverted to the land bank under
 5-17 Section 379C.009(d).

5-18 Sec. 379C.012. OPEN RECORDS AND MEETINGS. The land bank
 5-19 shall comply with the requirements of Chapters 551 and 552,
 5-20 Government Code.

5-21 Sec. 379C.013. RECORDS; AUDIT; REPORT. (a) The land bank
 5-22 shall keep accurate minutes of its meetings and shall keep accurate
 5-23 records and books of account that conform with generally accepted
 5-24 principles of accounting and that clearly reflect the income and
 5-25 expenses of the land bank and all transactions in relation to its
 5-26 property.

5-27 (b) The land bank shall file with the municipality not later
 5-28 than the 90th day after the close of the fiscal year annual audited
 5-29 financial statements prepared by a certified public accountant.
 5-30 The financial transactions of the land bank are subject to audit by
 5-31 the municipality.

5-32 (c) For purposes of evaluating the effectiveness of the
 5-33 program, the land bank shall submit an annual performance report to
 5-34 the municipality not later than November 1 of each year in which the
 5-35 land bank acquires or sells property under this chapter. The
 5-36 performance report must include:

5-37 (1) a complete and detailed written accounting of all
 5-38 money and properties received and disbursed by the land bank during
 5-39 the preceding fiscal year;

5-40 (2) for each property acquired by the land bank during
 5-41 the preceding fiscal year:

5-42 (A) the street address of the property;
 5-43 (B) the legal description of the property;
 5-44 (C) the date the land bank took title to the
 5-45 property;

5-46 (D) the name and address of the property owner of
 5-47 record at the time of the foreclosure;

5-48 (E) the amount of taxes and other costs owed at
 5-49 the time of the foreclosure; and

5-50 (F) the assessed value of the property on the tax
 5-51 roll at the time of the foreclosure;

5-52 (3) for each property sold by the land bank during the
 5-53 preceding fiscal year to a qualified participating developer:

5-54 (A) the street address of the property;
 5-55 (B) the legal description of the property;

5-56 (C) the name and mailing address of the
 5-57 developer;

5-58 (D) the purchase price paid by the developer;
 5-59 (E) the maximum incomes allowed for the
 5-60 households by the terms of the sale; and

5-61 (F) the source and amount of any public subsidy
 5-62 provided by the municipality to facilitate the sale or rental of the
 5-63 property to a household within the targeted income levels;

5-64 (4) for each property sold by a qualified
 5-65 participating developer during the preceding fiscal year, the
 5-66 buyer's household income and a description of all use and sale
 5-67 restrictions; and

5-68 (5) for each property developed for rental housing
 5-69 with an active deed restriction, a copy of the most recent annual

6-1 report filed by the owner with the land bank.

6-2 (d) The land bank shall maintain in its records for
6-3 inspection a copy of the sale settlement statement for each
6-4 property sold by a qualified participating developer and a copy of
6-5 the first page of the mortgage note with the interest rate and
6-6 indicating the volume and page number of the instrument as filed
6-7 with the county clerk.

6-8 (e) The land bank shall provide copies of the performance
6-9 report to the taxing units who were parties to the judgment of
6-10 foreclosure and shall provide notice of the availability of the
6-11 performance report for review to the organizations and neighborhood
6-12 associations identified by the municipality as serving the
6-13 neighborhoods in which properties sold to the land bank under this
6-14 chapter are located.

6-15 (f) The land bank and the municipality shall maintain copies
6-16 of the performance report available for public review.

6-17 SECTION 2. This Act takes effect September 1, 2003.

6-18

* * * * *