

By: Gallegos

S.B. No. 1722

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. Section 379C.002, Local Government Code, is amended to read as follows:

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

~~(1)~~ have a population of 750,000 ~~[1.18 million]~~ or more ~~and~~

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

SECTION 2. Section 379C.003, Local Government Code, is amended by amending Subdivisions (1) and (3) and adding Subdivisions (1-a), (3-a), and (3-b) to read as follows:

(1) "Affordable" means that the monthly mortgage payment or contract rent does not exceed 30 percent of the applicable median family income for that unit size, in accordance with the income and rent limit rules adopted by the Texas Department of Housing and Community Affairs.

(1-a) "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

1 community housing development organization;

2 (C) is governed exclusively by a board of at  
3 least five members unrelated by blood, marriage, or business  
4 interest; and

5 (D) is not controlled, directly or indirectly, by  
6 any other party through any contract, arrangement, understanding,  
7 relationship, voting power, affiliation, trust, proxy, power of  
8 attorney, pooling arrangement, security, warrant, partnership,  
9 option, discretionary account, joint venture, interlocking  
10 directors, or other device, as evidenced by a notarized affidavit  
11 signed by each board member.

12 (3) "Low income household" means a household with a  
13 gross income of not greater than 60 [~~80~~] percent of the area median  
14 family income, adjusted for household size, for the metropolitan  
15 statistical area in which the municipality is located, as  
16 determined annually by the United States Department of Housing and  
17 Urban Development.

18 (3-a) "Middle income household" means a household with  
19 a gross income of greater than 80 percent and not greater than 100  
20 percent of the area median family income, adjusted for household  
21 size, for the metropolitan statistical area in which the  
22 municipality is located, as determined annually by the United  
23 States Department of Housing and Urban Development.

24 (3-b) "Moderate income household" means a household  
25 with a gross income of greater than 60 percent and not greater than  
26 80 percent of the area median family income, adjusted for household  
27 size, for the metropolitan statistical area in which the

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

3 SECTION 3. Section 379C.005, Local Government Code, is  
4 amended to read as follows:

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

8 (1) have developed [~~built~~] three or more housing units  
9 within the three-year period preceding the submission of a proposal  
10 to the land bank seeking to acquire real property from the land  
11 bank;

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

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

16 SECTION 4. Sections 379C.007(b) and (c), Local Government  
17 Code, are amended to read as follows:

18 (b) The mayor [~~city manager~~] or the mayor's [~~city manager's~~]  
19 designee shall provide notice of the hearing to all community  
20 housing development organizations and to neighborhood associations  
21 identified by the municipality as serving the neighborhoods in  
22 which properties anticipated to be available for sale to the land  
23 bank under this chapter are located.

24 (c) The mayor [~~city manager~~] or the mayor's [~~city manager's~~]  
25 designee shall make copies of the proposed plan available to the  
26 public not later than the 60th day before the date of the public  
27 hearing.

1           SECTION 5. Section 379C.008, Local Government Code, is  
2 amended by amending Subsections (a) and (d) and adding Subsection  
3 (j) to read as follows:

4           (a) Notwithstanding any other law and except as provided by  
5 Subsection (f), property that is ordered sold pursuant to  
6 foreclosure of a tax lien may be sold in a private sale to a land  
7 bank by the officer charged with the sale of the property without  
8 first offering the property for sale as otherwise provided by  
9 Section 34.01, Tax Code, if:

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

16           (2) the property is not improved with a habitable  
17 building or buildings;

18           (3) there are delinquent taxes on the property for a  
19 total of at least five [~~each of the preceding six~~] years; and

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

25           (d) For any sale of property under this chapter, each person  
26 who was a defendant to the judgment, or that person's attorney,  
27 shall be given, not later than the 30th [~~90th~~] day before the date

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

5 (j) Property sold to and held by the land bank for  
6 subsequent resale is eligible for an exemption from ad valorem  
7 taxes for a period not to exceed three years from the date of  
8 acquisition.

9 SECTION 6. Section 379C.009(d), Local Government Code, is  
10 amended to read as follows:

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 later of the date of the conveyance of the property from the land  
16 bank to the qualified participating developer or the expiration of  
17 the period specified by the municipality under Section 379C.011(d),  
18 the property will revert to the land bank for subsequent resale to  
19 another qualified participating developer or conveyance to the  
20 taxing units who were parties to the judgment for disposition as  
21 otherwise allowed under the law.

22 SECTION 7. Section 379C.010, Local Government Code, is  
23 amended by amending Subsections (a), (b), (c), and (f) and adding  
24 Subsection (b-1) to read as follows:

25 (a) The land bank shall impose deed restrictions on property  
26 sold to qualified participating developers requiring the  
27 development and sale or rental of the property to low or moderate

1 income households, except that not more than 20 percent of the units  
2 in any given area may be made available to middle income households.

3 (b) At least 30 [~~25~~] percent of the land bank properties  
4 sold during any given fiscal year to be developed for sale shall be  
5 deed restricted for sale to households with gross household incomes  
6 not greater than 60 percent of the area median family income,  
7 adjusted for household size, for the metropolitan statistical area  
8 in which the municipality is located, as determined annually by the  
9 United States Department of Housing and Urban Development.

10 (b-1) At least 50 percent of the land bank properties sold  
11 during any given fiscal year to be developed for sale shall be deed  
12 restricted for sale to households with gross household incomes not  
13 greater than 80 percent of the area median family income, adjusted  
14 for household size, for the metropolitan statistical area in which  
15 the municipality is located, as determined annually by the United  
16 States Department of Housing and Urban Development.

17 (c) If property is developed for rental housing, the deed  
18 restrictions must be for a period of not less than 20 [~~15~~] years and  
19 must require that:

20 (1) 100 percent of the rental units be occupied by and  
21 affordable to households with incomes not greater than 60 percent  
22 of area median family income, based on gross household income,  
23 adjusted for household size, for the metropolitan statistical area  
24 in which the municipality is located, as determined annually by the  
25 United States Department of Housing and Urban Development;

26 (2) 40 percent of the units be occupied by and  
27 affordable to households with incomes not greater than 50 percent

1 of area median family income, based on gross household income,  
2 adjusted for household size, for the metropolitan statistical area  
3 in which the municipality is located, as determined annually by the  
4 United States Department of Housing and Urban Development; or

5 (3) 20 percent of the units be occupied by and  
6 affordable to households with incomes not greater than 30 percent  
7 of area median family income, based on gross household income,  
8 adjusted for household size, for the metropolitan statistical area  
9 in which the municipality is located, as determined annually by the  
10 United States Department of Housing and Urban Development.

11 (f) The land bank or the governing body of the municipality  
12 may modify or add to the deed restrictions imposed under this  
13 section. Any modifications or additions made by the governing body  
14 of the municipality must be adopted by the municipality as part of  
15 its plan and must comply with the restrictions set forth in  
16 Subsections (a), (b), (b-1), (c), and (d).

17 SECTION 8. Section 379C.011, Local Government Code, is  
18 amended by amending Subsections (a), (c), (d), and (e) and adding  
19 Subsections (d-1) and (e-1) to read as follows:

20 (a) In this section, "qualified organization" means a  
21 community housing development organization that:

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

26 (2) has built at least three single-family homes or  
27 duplexes or one multifamily residential dwelling of four or more

1 units in compliance with all applicable building codes within the  
2 preceding two-year period and within the organization's designated  
3 geographical boundaries of operation; and

4 (3) within the preceding three-year [~~two-year~~] period  
5 has developed [~~built~~] or rehabilitated housing units within a  
6 one-half mile radius of the property that the land bank is offering  
7 for sale.

8 (c) Notice must be provided to the qualified organizations  
9 by certified mail, return receipt requested, not later than the  
10 60th day before the beginning of the period in which a right of  
11 first refusal may be exercised.

12 (d) The municipality shall specify in its plan the period  
13 during which the right of first refusal provided by this section may  
14 be exercised by a qualified organization. That period must be at  
15 least 90 days in duration and begin at least three [~~nine~~] months but  
16 not more than 26 months following [~~from~~] the date of the deed of  
17 conveyance of the property to the land bank.

18 (d-1) If the land bank conveys the property to a qualified  
19 organization before the expiration of the period specified by the  
20 municipality under Subsection (d), the interlocal agreement  
21 executed under Section 379C.008(a)(4) must provide tax abatement  
22 for the property until the expiration of that period.

23 (e) During the specified period, the land bank may not sell  
24 the property to a qualified participating developer other than a  
25 qualified organization. If all qualified organizations notify the  
26 land bank that they are declining to exercise their right of first  
27 refusal during the specified period, or if an offer to purchase the



1 property is not received from a qualified organization during that  
2 period, except as provided by Subsection (e-1) the land bank may  
3 sell the property to any other qualified participating developer at  
4 the same price that the land bank offered the property to the  
5 qualified organizations.

6 (e-1) If the property sold to another qualified  
7 participating developer under Subsection (e) is to be occupied by a  
8 middle income household, the price for the property is the lesser of  
9 the market value for the property or 15 percent of the qualified  
10 developer's subsequent sales price for the property. The land bank  
11 shall contribute any difference in the price of the property under  
12 this subsection and the price under Subsection (e) to a fund used to  
13 subsidize the affordability of properties to be sold to low income  
14 households.

15 SECTION 9. Section 379C.013(d), Local Government Code, is  
16 amended to read as follows:

17 (d) The land bank shall maintain in its records for  
18 inspection a complete copy of the sale settlement statement for  
19 each property sold by a qualified participating developer and a  
20 copy of the first page of the mortgage note with the interest rate  
21 and indicating the volume and page number of the instrument as filed  
22 with the county clerk.

23 SECTION 10. (a) The changes in law made by this Act apply  
24 only to an urban land bank demonstration program operating in  
25 conformance with an urban land bank demonstration plan adopted by  
26 the governing body of a municipality on or after the effective date  
27 of this Act. An urban land bank demonstration program operating in

1 conformance with an urban land bank demonstration plan adopted  
2 before the effective date of this Act is governed by the law in  
3 effect at the time the plan was adopted until a subsequent plan is  
4 adopted, and the former law is continued in effect for that purpose.

5 (b) Section 379C.008(j), Local Government Code, as added by  
6 this Act, does not affect tax liability accruing before the  
7 effective date of this Act. That liability continues in effect as  
8 if this Act had not been enacted, and the former law is continued in  
9 effect for the collection of taxes due and for civil and criminal  
10 enforcement of the liability for those taxes.

11 SECTION 11. This Act takes effect September 1, 2005.