

## **BILL ANALYSIS**

C.S.H.B. 2175  
By: Deshotel  
Urban Affairs  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

In 2003, House Bill No. 2801, the Urban Land Bank Demonstration Program Act, was passed to provide a process and a tool to enable cities to more effectively pursue tax foreclosures on unproductive vacant properties. Back then, 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.

House Bill No. 2801 provided 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. House Bill No. 2801 permitted certain undeveloped real property to be conveyed to an urban land bank for the development of affordable housing

The proposed complete committee substitute for House Bill No. 2175, though, would allow other municipalities to create an Urban Land Bank that meet certain criteria.

### **RULEMAKING AUTHORITY**

In the opinion of the Committee, the bill does not expressly grant any additional rulemaking authority to a State officer, institution, department or agency.

### **SECTION-BY-SECTION ANALYSIS**

SECTION 1. Would amend Subtitle A, Title 12, of the Local Government Code by adding Chapter 397E, Urban Land Bank Program. This section may apply to any municipality that is not part of another Land Bank Program, Sections 379C, 379D or 373A.

Eligible municipalities may adopt an Urban Land Bank Program (Land Bank) 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.

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 and meet other requirements set by the municipality.

The plan must take into consideration all other plans including the comprehensive plan submitted to the U.S. Department of Housing and Urban Development and all fair housing plans and policies adopted or agreed upon by the municipality. Participation in the Land Bank 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 sale; 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.

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.

The proposed substitute 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 total of five 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.

The Land Bank must resell the property for construction of affordable housing within three years of taking ownership. The number of properties that 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.

Each property sold by the Land Bank would be deed-restricted for development of affordable housing. No less than 25% of the properties sold by the Land Bank for sale to homebuyers would be deed-restricted for sale to families with household incomes not exceeding 60% of Average Median Family Income (AMFI). If the property is sold for development of rental housing, the deed restrictions not less than 20 years 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 would 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.

Non-profit 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 nine months nor more than 26 months. If the property is conveyed to a qualified organization, the tax abatement would continue until the time specified by the interlocal agreement. The property may be sold to another qualified participating developer if the CHDO does not exercise its right. The plan must establish the amount of additional time that a property may be held in the land bank. The municipality may provide other rights of refusal for any non-profit, with the preeminent right of refusal going to the land.

The Land Bank would comply with the open meetings and open records requirements for governmental bodies.

C.S.H.B. 2175 80(R)

The Land Bank would:

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 would be provided to each participating taxing entity. Notice of availability of the report would be sent to CHDOs and neighborhood associations for neighborhoods where "banked" properties are located. The performance report would be kept available for public review.

SECTION 2: Would amend Section 11.18 of the Tax Code by amending subsection (d) and adding subsection (o) to include acquiring, holding and transferring unimproved real property under a urban land bank program as a charitable function.

SECTION 3: Section 11.18, as amended by this Act, would only refer to an ad valorem tax year beginning on or after the effective date of this Act.

SECTION 4: Would establish the effective date of this Act.

#### **EFFECTIVE DATE**

September 1, 2007

#### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

While preserving the intent of the original bill, the proposed complete committee substitute would change the original bill considerably.

The original bill amended Section 379C.002, Local Government Code by removing the brackets which only allows home-rule municipalities that have a population of 1.18 million or more and are located predominantly in a county that has a total area of less than 1,000 square miles and proposed to allow other municipalities to create an Urban Land Bank.

The substitute amends Subtitle A, Title 12, of the Local Government Code by adding Chapter 397E, Urban Land Bank Program which only applies to a municipality that is not part of another program; Sections 379C, 379D or 373A.

The substitute also amends Section 11.18 of the Tax Code by amending subsection (d) and adding subsection (o) to include acquiring, holding and transferring unimproved real property under a urban land bank program as a charitable function.

The substitute adds Section 3 to amend Section 11.18 to only refers to an ad valorem tax year beginning on or after the effective date of this Act, and adds Section 4 which establishes the effective date of this Act.