

BILL ANALYSIS

S.B. 986
By: Lucio
Urban Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

In 2003, the Urban Land Bank Demonstration Program (program) was created by the 78th Legislature in order to provide an opportunity to address the dual problems of insufficient low-income housing and decaying neighborhoods by turning tax delinquent properties into affordable housing.

The program was initiated in a home-rule municipality with a population of 1.18 million or more and predominantly in a county with an area of less than 1,000 square miles. These provision made the program applicable only to the City of Dallas.

In 2005, the program was expanded to municipalities with a population of 1.9 million or more, which applies only to the City of Houston.

The engrossed version of Senate Bill No. 986 creates the Urban Land Bank Program for all municipalities with a population of 100,000 or more.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a State officer, institution, department or agency.

SECTION-BY-SECTION ANALYSIS

SECTION 1. Amends Subtitle A, Title 12, Local Government Code, by adding Chapter 379E, as follows:

CHAPTER 379E. URBAN LAND BANK PROGRAM

Sec. 379E.001. SHORT TITLE. Authorizes this chapter to be cited as the Urban Land Bank Program Act.

Sec. 379E.002. APPLICABILITY; CONSTRUCTION WITH OTHER LAW. Provides that this chapter applies only to a municipality to which Chapter 379C (Urban Land Bank Demonstration Program) or 379D (Urban Land Bank Program in Municipality with Population of 1.9 Million or More) does not apply, and that has not ever adopted a homestead land bank program under Subchapter E (Homestead Land Bank Program), Chapter 373A.

Sec. 379E.003. DEFINITIONS. Defines "affordable," "community housing development organization" or "organization," "land bank," "low income household," "qualified participating developer," "urban land bank plan" or "plan," and "urban land bank program" or "program."

Sec. 379E.004. URBAN LAND BANK PROGRAM.

(a) Authorizes the governing body of a municipality to adopt an urban land bank program (program) in which the officer charged with selling certain real property is authorized to sell certain eligible real property by private sale for purposes of affordable housing development as provided by this chapter.

(b) Requires the governing body of a municipality that adopts a program to establish or approve a land bank for the purposes of acquiring, holding, and transferring unimproved real property under this chapter.

Sec. 379E.005. QUALIFIED PARTICIPATING DEVELOPER. Sets forth the qualification requirements for a developer in order to participate in a program.

Sec. 379E.006. URBAN LAND BANK PLAN.

(a) Requires a municipality that adopts a program to operate the program in conformance with an urban land bank plan (plan).

(b) Requires the governing body of a municipality that adopts a program to adopt a plan annually, which is authorized to be amended from time to time.

(c) Require the municipality, in developing the plan, to consider any other fair housing plans or policies adopted or agreed to by the municipality, including the comprehensive plan submitted to the United States Department of Housing and Urban Development.

(d) Sets forth the required content for a plan under this chapter.

Sec. 379E.007. PUBLIC HEARING ON PROPOSED PLAN.

(a) Requires a municipality to hold a public hearing on the proposed plan before it is adopted.

(b) Requires the city manager, or designee thereof, to provide notice of the hearing to all community housing development organizations and to neighborhood associations identified by the municipality as serving the neighborhoods in which properties anticipated to be available for sale to the land bank under this chapter are located.

(c) Requires the city manager, or designee thereof, to make copies of the proposed plan available to the public not later than the 60th day before the date of the public hearing.

Sec. 379E.008. PRIVATE SALE TO LAND BANK.

(a) Authorizes certain property, notwithstanding any other law and except as provided by Subsection (f), to be sold in a private sale to a land bank by the officer charged with the sale of the property (officer) without first offering the property for sale as otherwise provided by Section 34.01 (Sale of Property), Tax Code, under certain circumstances.

(b) Provides that the sale of property for use in connection with the program is a sale for a public purpose.

(c) Provides that a person who is being sued in a suit for foreclosure of a tax lien waives the right to challenge the amount of the market value determined by the court for purposes of the sale of the property under Section 33.50 (Adjudged Value), Tax Code, if the person does not contest the market value of the property in the suit.

(d) Requires, for any sale of property under this chapter, each person who was a defendant to the judgment, or that person's attorney, to be given written notice of the proposed method of sale of the property by the officer, and requires such notice to be given in the manner prescribed by Rule 21a, Texas Rules of Civil Procedure.

(e) Authorizes the owner of the property subject to sale, after receipt of the notice and before the date of the proposed sale, to file a written request with the officer that the property not be sold in the manner provided by this chapter.

(f) Requires the officer to sell the property as otherwise provided in Section 34.01, Tax Code, if the officer receives a written request as provided by Subsection (e).

(g) Prohibits the owner of the property subject to sale from receiving any proceeds of a sale under this chapter, and provides that the owner does not have any personal liability for a deficiency of the judgment as a result of a sale.

(h) Authorizes property, if consent is given by the taxing units that are a party to the judgment, to be sold to the land bank for less than the market value of the property or less than the total value of all taxes, penalties, and interest, plus the value of nontax liens held by a taxing unit and awarded by the judgment, court costs, and the cost of the sale.

(i) Provides that the deed of conveyance of the property sold to a land bank conveys the right, title, and interest acquired or held by certain taxing units to the land bank, subject to the right of redemption.

Sec. 379E.009. SUBSEQUENT RESALE BY LAND BANK.

(a) Requires each subsequent resale of property acquired under this chapter to comply with the conditions of this section.

(b) Requires the land bank, within the three-year period following the date of acquisition to sell a property to a qualified participating developer (developer) for the purpose of construction of affordable housing for sale or rent to low income households. Requires the property to be transferred to certain taxing units for disposition as otherwise allowed under the law, if a developer has not purchased the property after three years.

(c) Sets forth the maximum number of properties that may be acquired by a developer, unless the municipality increases the amount in its plan.

(d) Requires the deed conveying the property sold by the land bank to include a right of reverter so that the property will revert to the land bank for subsequent resale to another developer or conveyance to certain taxing units for disposition, if the developer does not apply for a construction permit and close on any construction financing with a certain timeframe.

Sec. 379E.010. RESTRICTIONS ON OCCUPANCY AND USE OF PROPERTY.

(a) Requires the land bank to impose deed restrictions on property sold to a developer requiring the development and sale or rental of the property to low income households.

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

(c) Requires the deed restrictions to be for a period of not less than 20 years and meet certain requirements if the property is developed for rental housing.

(d) Requires the deed restrictions under Subsection (c) to require the owner to file an annual occupancy report with the municipality on a reporting form provided by the municipality. Require the deed restrictions to prohibit any exclusion of an individual or family from admission to the development based solely on the participation of the individual or family in the housing choice voucher program under federal law.

(e) Requires the deed restrictions to renew automatically if said restrictions are for a term of years, except as otherwise provided by this section.

(f) Authorizes the governing body of a municipality to modify or add to the deed restrictions imposed under this section, and require any modifications or additions to be adopted by the municipality as part of its plan and to comply with the restrictions set forth in this section.

Sec. 379E.011. RIGHT OF FIRST REFUSAL.

(a) Defines "qualified organization."

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- (b) Requires the land bank to first offer a property for sale to qualified organizations.
- (c) Requires notice to be provided to the qualified organizations by certified mail, return receipt requested, not later than the 60th day before the beginning of the period in which a right of first refusal may be exercised.
- (d) Requires the municipality to specify in its plan the period during which the right of first refusal may be exercised by a qualified organization, and requires that period to be at least nine months but not more than 26 months from the date of the deed conveyance of the property to the land bank.
- (e) Requires the interlocal agreement executed under Section 379E.008(a)(4) to provide tax abatement for the property until the expiration of the period specified by the municipality under Subsection (d), if the land bank conveys the property before the expiration of that period.
- (f) Prohibits the land bank from selling the property to a developer other than a qualified organization during the specified period. Authorizes the land bank to sell the property to any other developer at the same price that the land bank offered the property to the qualified organizations, under certain circumstances.
- (g) Requires a municipality, in its plan, to establish the amount of additional time that a property may be held in the land bank once an offer has been received and accepted from a qualified organization or other developer.
- (h) Requires the organization having designated the most geographically compact area encompassing a portion of the property to be given priority if more than one qualified organization expresses an interest in exercising its right of first refusal.
- (i) Authorizes a municipality, in its plan, to provide for other rights of first refusal for any other nonprofit corporation exempted from income tax, provided that the preeminent right of first refusal is provided to qualified organizations.
- (j) Provides that the land bank is not required to provide a right of first refusal to qualified organizations if the bank is selling property reverted to the land bank.

Sec. 379E.012. OPEN RECORDS AND MEETINGS. Requires the land bank to comply with the requirement of Chapters 551 (Open Meetings) and 552 (Public Information), Government Code.

Sec. 379E.013. RECORDS; AUDIT; REPORT.

- (a) Requires the land bank to keep accurate minutes of its meetings and keep accurate records and books of account that conform with generally accepted principles of accounting and that clearly reflect the income and expenses of the land bank and all transactions in relation to its property.
- (b) Requires the land bank to file with the municipality annual audited financial statements prepared by a certified public accountant not later than the 90th day after the close of the fiscal year, and provides that the financial transactions of the land bank are subject to audit by the municipality.
- (c) Requires the land bank, for the purposes of evaluating the effectiveness of the program, to submit an annual performance report to the municipality not later than November 1 of each year in which the bank acquires or sell property under this chapter. Sets forth the required content of the performance report.
- (d) Requires the land bank to maintain certain copies of documents in its records for inspection.
- (e) Requires the land bank to provide copies of the performance report to certain taxing units and to provide notice of the availability of the report for review to the organizations and

neighborhood associations serving the neighborhoods in which properties sold to the land bank under this chapter are located.

(f) Requires the land bank and the municipality to maintain copies of the performance report available for public review.

SECTION 2. Amends Section 11.18, Tax Code, by amending Subsection (d) and adding Subsection (o), as follows:

(d) Adds to the list of charitable functions that a charitable organization must be engaged in, the acquiring, holding, and transferring of unimproved real property under an urban land bank program established under Chapter 379E, Local Government Code, as or on behalf of a land bank.

(o) Provides that real property acquired, held, and transferred by an organization that performs the function under Subsection (d)(21) is considered to be exclusively by the qualified charitable organization to perform that function.

SECTION 3. Provides that Section 11.18 (Charitable Organizations), Tax Code, as amended by this Act, applies only to an ad valorem tax year that begins on or after the effective date of this Act.

SECTION 4. Effective date: September 1, 2007.

EFFECTIVE DATE

September 1, 2007