

By: Giddings

H.B. No. 1742

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 361.1875, Health and Safety Code, is amended to read as follows:

Sec. 361.1875. EXCLUSION OF CERTAIN POTENTIALLY RESPONSIBLE PARTIES. (a) The commission may not name a person as a responsible party for an enforcement action or require a person to reimburse remediation costs for a site if the commission has conducted an investigation of a site owned or operated by the person and as a result of the investigation has determined that:

(1) the contaminants that are the subject of investigation under this subchapter appear to originate from an up-gradient, off-site source that is not owned or operated by the person;

(2) additional corrective action is not required at the site owned or operated by the person; and

(3) the commission will not undertake a formal enforcement action in the matter.

(b) The commission may not name a land bank established under Chapter 379C, Local Government Code, as a responsible party for an enforcement action or require the land bank to reimburse remediation costs for a site if the commission has conducted an investigation of a site owned or operated by the land bank and as a

1 result of the investigation has determined that:

2 (1) the contaminants that are the subject of
3 investigation under this subchapter:

4 (A) appear to originate from an up-gradient,
5 off-site source that is not owned or operated by the land bank; or

6 (B) appear to have been present on the site
7 before the land bank purchased the site; and

8 (2) the land bank could not have reasonably known
9 about the contaminants at the time the land bank purchased the site.

10 SECTION 2. Section 361.271(b), Health and Safety Code, is
11 amended to read as follows:

12 (b) A political subdivision, a land bank established under
13 Chapter 379C, Local Government Code, or an officer or employee of
14 the political subdivision or land bank is not a person responsible
15 for solid waste released or threatened to be released from a
16 facility or at a site if:

17 (1) the political subdivision or land bank acquired
18 ownership or control of the facility or site through a
19 [bankruptcy,] tax delinquency[~~, abandonment,~~] or if the
20 subdivision acquired ownership or control of the facility or site
21 through bankruptcy, abandonment, or other circumstances in which
22 the subdivision involuntarily acquired title to the facility or
23 site by virtue of the subdivision's function as sovereign; and

24 (2) the political subdivision, land bank, officer, or
25 employee did not cause or contribute to the release or threatened
26 release of solid waste at the facility or site.

27 SECTION 3. Section 379C.003(3), Local Government Code, is

1 amended to read as follows:

2 (3) "Low income household" means a household with a
3 gross income of not greater than 115 [~~80~~] percent of the area median
4 family income, adjusted for household size, for the metropolitan
5 statistical area in which the municipality is located, as
6 determined annually by the United States Department of Housing and
7 Urban Development.

8 SECTION 4. Section 379C.008(a), Local Government Code, is
9 amended to read as follows:

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

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

21 (2) the property is not improved with:

22 (A) a habitable building or buildings; or

23 (B) an uninhabitable building or buildings that
24 are occupied as a residence by an owner or tenant who is legally
25 entitled to occupy the building or buildings;

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

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

6 SECTION 5. Section 379C.010(b), Local Government Code, is
7 amended to read as follows:

8 (b) Each land bank property sold during any given fiscal
9 year to be developed for sale must be deed restricted for sale to
10 low income households, and:

11 (1) at [At] least 20 [25] percent of those [the] land
12 bank properties must [sold during any given fiscal year to be
13 developed for sale shall] be deed restricted for sale to households
14 with gross household incomes not greater than 60 percent of the area
15 median family income, adjusted for household size; and

16 (2) not more than 30 percent of those land bank
17 properties may be deed restricted for sale to households with gross
18 household incomes greater than 80 percent of the area median family
19 income, adjusted for household size [, for the metropolitan
20 statistical area in which the municipality is located, as
21 determined annually by the United States Department of Housing and
22 Urban Development].

23 SECTION 6. Section 379C.011(d), Local Government Code, is
24 amended to read as follows:

25 (d) The municipality shall specify in its plan that the
26 period during which the right of first refusal provided by this
27 section may be exercised by a qualified organization is six [~~That~~

1 ~~period must be at least nine months but not more than 26]~~ months
2 from the date of the deed of conveyance of the property to the land
3 bank.

4 SECTION 7. Section 11.18, Tax Code, is amended by amending
5 Subsection (d) and adding Subsection (o) to read as follows:

6 (d) A charitable organization must be organized exclusively
7 to perform religious, charitable, scientific, literary, or
8 educational purposes and, except as permitted by Subsections (h)
9 and (l), engage exclusively in performing one or more of the
10 following charitable functions:

11 (1) providing medical care without regard to the
12 beneficiaries' ability to pay, which in the case of a nonprofit
13 hospital or hospital system means providing charity care and
14 community benefits in accordance with Section 11.1801;

15 (2) providing support or relief to orphans,
16 delinquent, dependent, or handicapped children in need of
17 residential care, abused or battered spouses or children in need of
18 temporary shelter, the impoverished, or victims of natural disaster
19 without regard to the beneficiaries' ability to pay;

20 (3) providing support to elderly persons, including
21 the provision of recreational or social activities and facilities
22 designed to address the special needs of elderly persons, or to the
23 handicapped, without regard to the beneficiaries' ability to pay;

24 (4) preserving a historical landmark or site;

25 (5) promoting or operating a museum, zoo, library,
26 theater of the dramatic or performing arts, or symphony orchestra
27 or choir;

1 (6) promoting or providing humane treatment of
2 animals;

3 (7) acquiring, storing, transporting, selling, or
4 distributing water for public use;

5 (8) answering fire alarms and extinguishing fires with
6 no compensation or only nominal compensation to the members of the
7 organization;

8 (9) promoting the athletic development of boys or
9 girls under the age of 18 years;

10 (10) preserving or conserving wildlife;

11 (11) promoting educational development through loans
12 or scholarships to students;

13 (12) providing halfway house services pursuant to a
14 certification as a halfway house by the pardons and paroles
15 division of the Texas Department of Criminal Justice;

16 (13) providing permanent housing and related social,
17 health care, and educational facilities for persons who are 62
18 years of age or older without regard to the residents' ability to
19 pay;

20 (14) promoting or operating an art gallery, museum, or
21 collection, in a permanent location or on tour, that is open to the
22 public;

23 (15) providing for the organized solicitation and
24 collection for distributions through gifts, grants, and agreements
25 to nonprofit charitable, education, religious, and youth
26 organizations that provide direct human, health, and welfare
27 services;

1 (16) performing biomedical or scientific research or
2 biomedical or scientific education for the benefit of the public;

3 (17) operating a television station that produces or
4 broadcasts educational, cultural, or other public interest
5 programming and that receives grants from the Corporation for
6 Public Broadcasting under 47 U.S.C. Section 396, as amended;

7 (18) providing housing for low-income and
8 moderate-income families, for unmarried individuals 62 years of age
9 or older, for handicapped individuals, and for families displaced
10 by urban renewal, through the use of trust assets that are
11 irrevocably and, pursuant to a contract entered into before
12 December 31, 1972, contractually dedicated on the sale or
13 disposition of the housing to a charitable organization that
14 performs charitable functions described by Subdivision (9);

15 (19) providing housing and related services to persons
16 who are 62 years of age or older in a retirement community, if the
17 retirement community provides independent living services,
18 assisted living services, and nursing services to its residents on
19 a single campus:

20 (A) without regard to the residents' ability to
21 pay; or

22 (B) in which at least four percent of the
23 retirement community's combined net resident revenue is provided in
24 charitable care to its residents; [~~or~~]

25 (20) providing housing on a cooperative basis to
26 students of an institution of higher education if:

27 (A) the organization is exempt from federal

1 income taxation under Section 501(a), Internal Revenue Code of
2 1986, as amended, by being listed as an exempt entity under Section
3 501(c)(3) of that code;

4 (B) membership in the organization is open to all
5 students enrolled in the institution and is not limited to those
6 chosen by current members of the organization;

7 (C) the organization is governed by its members;
8 and

9 (D) the members of the organization share the
10 responsibility for managing the housing; or

11 (21) acquiring, holding, and transferring unimproved
12 real property under an urban land bank demonstration program
13 established under Chapter 379C, Local Government Code, as or on
14 behalf of a land bank.

15 (o) For purposes of Subsection (a)(2), real property
16 acquired, held, and transferred by an organization that performs
17 the function described by Subsection (d)(21) is considered to be
18 used exclusively by the qualified charitable organization to
19 perform that function.

20 SECTION 8. (a) Section 361.1875, Health and Safety Code, as
21 amended by this Act, applies only to a site investigation conducted
22 by the Texas Commission on Environmental Quality that begins on or
23 after the effective date of this Act. A site investigation that
24 begins before the effective date of this Act is governed by the law
25 in effect at the time the investigation began, and the former law is
26 continued in effect for that purpose.

27 (b) Section 361.271(b), Health and Safety Code, as amended

1 by this Act, applies only to an enforcement action initiated by the
2 Texas Commission on Environmental Quality on or after the effective
3 date of this Act. An enforcement action initiated before the
4 effective date of this Act is governed by the law in effect at the
5 time the action was initiated, and the former law is continued in
6 effect for that purpose.

7 (c) The changes in law made by this Act to Chapter 379C,
8 Local Government Code, apply only to an urban land bank
9 demonstration program operating in conformance with an urban land
10 bank demonstration plan adopted by the governing body of a
11 municipality on or after the effective date of this Act. An urban
12 land bank demonstration program operating in conformance with an
13 urban land bank demonstration plan adopted before the effective
14 date of this Act is governed by the law in effect at the time the
15 plan was adopted until a subsequent plan is adopted, and the former
16 law is continued in effect for that purpose.

17 (d) Section 11.18, Tax Code, as amended by this Act, applies
18 only to an ad valorem tax year that begins on or after the effective
19 date of this Act.

20 SECTION 9. This Act takes effect September 1, 2007.