

1-1 By: Giddings (Senate Sponsor - West) H.B. No. 1742
1-2 (In the Senate - Received from the House May 7, 2007;
1-3 May 8, 2007, read first time and referred to Committee on
1-4 Intergovernmental Relations; May 18, 2007, reported adversely,
1-5 with favorable Committee Substitute by the following vote: Yeas 4,
1-6 Nays 0; May 18, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 1742 By: West

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to urban land bank demonstration programs.
1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-12 SECTION 1. Section 361.1875, Health and Safety Code, is
1-13 amended to read as follows:
1-14 Sec. 361.1875. EXCLUSION OF CERTAIN POTENTIALLY
1-15 RESPONSIBLE PARTIES. (a) The commission may not name a person as a
1-16 responsible party for an enforcement action or require a person to
1-17 reimburse remediation costs for a site if the commission has
1-18 conducted an investigation of a site owned or operated by the person
1-19 and as a result of the investigation has determined that:
1-20 (1) the contaminants that are the subject of
1-21 investigation under this subchapter appear to originate from an
1-22 up-gradient, off-site source that is not owned or operated by the
1-23 person;
1-24 (2) additional corrective action is not required at
1-25 the site owned or operated by the person; and
1-26 (3) the commission will not undertake a formal
1-27 enforcement action in the matter.
1-28 (b) The commission may not name a land bank established
1-29 under Chapter 379C, Local Government Code, as a responsible party
1-30 for an enforcement action or require the land bank to reimburse
1-31 remediation costs for a site if the commission has conducted an
1-32 investigation of a site owned or operated by the land bank and as a
1-33 result of the investigation has determined that:
1-34 (1) the contaminants that are the subject of
1-35 investigation under this subchapter:
1-36 (A) appear to originate from an up-gradient,
1-37 off-site source that is not owned or operated by the land bank; or
1-38 (B) appear to have been present on the site
1-39 before the land bank purchased the site; and
1-40 (2) the land bank could not have reasonably known
1-41 about the contaminants at the time the land bank purchased the site.
1-42 SECTION 2. Section 361.271(b), Health and Safety Code, is
1-43 amended to read as follows:
1-44 (b) A political subdivision, a land bank established under
1-45 Chapter 379C, Local Government Code, or an officer or employee of
1-46 the political subdivision or land bank is not a person responsible
1-47 for solid waste released or threatened to be released from a
1-48 facility or at a site if:
1-49 (1) the political subdivision or land bank acquired
1-50 ownership or control of the facility or site through a
1-51 [bankruptcy,] tax delinquency[, abandonment,] or if the
1-52 subdivision acquired ownership or control of the facility or site
1-53 through bankruptcy, abandonment, or other circumstances in which
1-54 the subdivision involuntarily acquired title to the facility or
1-55 site by virtue of the subdivision's function as sovereign; and
1-56 (2) the political subdivision, land bank, officer, or
1-57 employee did not cause or contribute to the release or threatened
1-58 release of solid waste at the facility or site.
1-59 SECTION 3. Section 379C.003(3), Local Government Code, is
1-60 amended to read as follows:
1-61 (3) "Low income household" means a household with a
1-62 gross income of not greater than 115 [80] percent of the area median
1-63 family income, adjusted for household size, for the metropolitan

2-1 statistical area in which the municipality is located, as
2-2 determined annually by the United States Department of Housing and
2-3 Urban Development.

2-4 SECTION 4. Section 379C.008(a), Local Government Code, is
2-5 amended to read as follows:

2-6 (a) Notwithstanding any other law and except as provided by
2-7 Subsection (f), property that is ordered sold pursuant to
2-8 foreclosure of a tax lien may be sold in a private sale to a land
2-9 bank by the officer charged with the sale of the property without
2-10 first offering the property for sale as otherwise provided by
2-11 Section 34.01, Tax Code, if:

2-12 (1) the market value of the property as specified in
2-13 the judgment of foreclosure is less than the total amount due under
2-14 the judgment, including all taxes, penalties, and interest, plus
2-15 the value of nontax liens held by a taxing unit and awarded by the
2-16 judgment, court costs, and the cost of the sale;

2-17 (2) the property is not improved with a habitable
2-18 building or buildings or an uninhabitable building or buildings
2-19 that are occupied as a residence by an owner or tenant who is
2-20 legally entitled to occupy the building or buildings;

2-21 (3) there are delinquent taxes on the property for a
2-22 total of at least five [each of the preceding six] years; and

2-23 (4) the municipality has executed with the other
2-24 taxing units that are parties to the tax suit an interlocal
2-25 agreement that enables those units to agree to participate in the
2-26 program while retaining the right to withhold consent to the sale of
2-27 specific properties to the land bank.

2-28 SECTION 5. Section 379C.010(b), Local Government Code, is
2-29 amended to read as follows:

2-30 (b) Each land bank property sold during any given fiscal
2-31 year to be developed for sale must be deed restricted for sale to
2-32 low income households, and:

2-33 (1) at [At] least 25 percent of those [the] land bank
2-34 properties must [sold during any given fiscal year to be developed
2-35 for sale shall] be deed restricted for sale to households with gross
2-36 household incomes not greater than 60 percent of the area median
2-37 family income, adjusted for household size; and

2-38 (2) not more than 30 percent of those land bank
2-39 properties may be deed restricted for sale to households with gross
2-40 household incomes greater than 80 percent of the area median family
2-41 income, adjusted for household size [, for the metropolitan
2-42 statistical area in which the municipality is located, as
2-43 determined annually by the United States Department of Housing and
2-44 Urban Development].

2-45 SECTION 6. Section 379C.011(d), Local Government Code, is
2-46 amended to read as follows:

2-47 (d) The municipality shall specify in its plan that the
2-48 period during which the right of first refusal provided by this
2-49 section may be exercised by a qualified organization is six [~~That~~
2-50 ~~period must be at least nine months but not more than 26~~] months
2-51 from the date of the deed of conveyance of the property to the land
2-52 bank.

2-53 SECTION 7. Section 11.18, Tax Code, is amended by amending
2-54 Subsection (d) and adding Subsection (o) to read as follows:

2-55 (d) A charitable organization must be organized exclusively
2-56 to perform religious, charitable, scientific, literary, or
2-57 educational purposes and, except as permitted by Subsections (h)
2-58 and (l), engage exclusively in performing one or more of the
2-59 following charitable functions:

2-60 (1) providing medical care without regard to the
2-61 beneficiaries' ability to pay, which in the case of a nonprofit
2-62 hospital or hospital system means providing charity care and
2-63 community benefits in accordance with Section 11.1801;

2-64 (2) providing support or relief to orphans,
2-65 delinquent, dependent, or handicapped children in need of
2-66 residential care, abused or battered spouses or children in need of
2-67 temporary shelter, the impoverished, or victims of natural disaster
2-68 without regard to the beneficiaries' ability to pay;

2-69 (3) providing support to elderly persons, including

3-1 the provision of recreational or social activities and facilities
3-2 designed to address the special needs of elderly persons, or to the
3-3 handicapped, without regard to the beneficiaries' ability to pay;
3-4 (4) preserving a historical landmark or site;
3-5 (5) promoting or operating a museum, zoo, library,
3-6 theater of the dramatic or performing arts, or symphony orchestra
3-7 or choir;
3-8 (6) promoting or providing humane treatment of
3-9 animals;
3-10 (7) acquiring, storing, transporting, selling, or
3-11 distributing water for public use;
3-12 (8) answering fire alarms and extinguishing fires with
3-13 no compensation or only nominal compensation to the members of the
3-14 organization;
3-15 (9) promoting the athletic development of boys or
3-16 girls under the age of 18 years;
3-17 (10) preserving or conserving wildlife;
3-18 (11) promoting educational development through loans
3-19 or scholarships to students;
3-20 (12) providing halfway house services pursuant to a
3-21 certification as a halfway house by the pardons and paroles
3-22 division of the Texas Department of Criminal Justice;
3-23 (13) providing permanent housing and related social,
3-24 health care, and educational facilities for persons who are 62
3-25 years of age or older without regard to the residents' ability to
3-26 pay;
3-27 (14) promoting or operating an art gallery, museum, or
3-28 collection, in a permanent location or on tour, that is open to the
3-29 public;
3-30 (15) providing for the organized solicitation and
3-31 collection for distributions through gifts, grants, and agreements
3-32 to nonprofit charitable, education, religious, and youth
3-33 organizations that provide direct human, health, and welfare
3-34 services;
3-35 (16) performing biomedical or scientific research or
3-36 biomedical or scientific education for the benefit of the public;
3-37 (17) operating a television station that produces or
3-38 broadcasts educational, cultural, or other public interest
3-39 programming and that receives grants from the Corporation for
3-40 Public Broadcasting under 47 U.S.C. Section 396, as amended;
3-41 (18) providing housing for low-income and
3-42 moderate-income families, for unmarried individuals 62 years of age
3-43 or older, for handicapped individuals, and for families displaced
3-44 by urban renewal, through the use of trust assets that are
3-45 irrevocably and, pursuant to a contract entered into before
3-46 December 31, 1972, contractually dedicated on the sale or
3-47 disposition of the housing to a charitable organization that
3-48 performs charitable functions described by Subdivision (9);
3-49 (19) providing housing and related services to persons
3-50 who are 62 years of age or older in a retirement community, if the
3-51 retirement community provides independent living services,
3-52 assisted living services, and nursing services to its residents on
3-53 a single campus:
3-54 (A) without regard to the residents' ability to
3-55 pay; or
3-56 (B) in which at least four percent of the
3-57 retirement community's combined net resident revenue is provided in
3-58 charitable care to its residents; [~~or~~]
3-59 (20) providing housing on a cooperative basis to
3-60 students of an institution of higher education if:
3-61 (A) the organization is exempt from federal
3-62 income taxation under Section 501(a), Internal Revenue Code of
3-63 1986, as amended, by being listed as an exempt entity under Section
3-64 501(c)(3) of that code;
3-65 (B) membership in the organization is open to all
3-66 students enrolled in the institution and is not limited to those
3-67 chosen by current members of the organization;
3-68 (C) the organization is governed by its members;
3-69 and

4-1 (D) the members of the organization share the
4-2 responsibility for managing the housing; or

4-3 (21) acquiring, holding, and transferring unimproved
4-4 real property under an urban land bank demonstration program
4-5 established under Chapter 379C, Local Government Code, as or on
4-6 behalf of a land bank.

4-7 (o) For purposes of Subsection (a)(2), real property
4-8 acquired, held, and transferred by an organization that performs
4-9 the function described by Subsection (d)(21) is considered to be
4-10 used exclusively by the qualified charitable organization to
4-11 perform that function.

4-12 SECTION 8. (a) Section 361.1875, Health and Safety Code, as
4-13 amended by this Act, applies only to a site investigation conducted
4-14 by the Texas Commission on Environmental Quality that begins on or
4-15 after the effective date of this Act. A site investigation that
4-16 begins before the effective date of this Act is governed by the law
4-17 in effect at the time the investigation began, and the former law is
4-18 continued in effect for that purpose.

4-19 (b) Section 361.271(b), Health and Safety Code, as amended
4-20 by this Act, applies only to an enforcement action initiated by the
4-21 Texas Commission on Environmental Quality on or after the effective
4-22 date of this Act. An enforcement action initiated before the
4-23 effective date of this Act is governed by the law in effect at the
4-24 time the action was initiated, and the former law is continued in
4-25 effect for that purpose.

4-26 (c) The changes in law made by this Act to Chapter 379C,
4-27 Local Government Code, apply only to an urban land bank
4-28 demonstration program operating in conformance with an urban land
4-29 bank demonstration plan adopted by the governing body of a
4-30 municipality on or after the effective date of this Act. An urban
4-31 land bank demonstration program operating in conformance with an
4-32 urban land bank demonstration plan adopted before the effective
4-33 date of this Act is governed by the law in effect at the time the
4-34 plan was adopted until a subsequent plan is adopted, and the former
4-35 law is continued in effect for that purpose.

4-36 (d) Section 11.18, Tax Code, as amended by this Act, applies
4-37 only to an ad valorem tax year that begins on or after the effective
4-38 date of this Act.

4-39 SECTION 9. This Act takes effect September 1, 2007.

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