

By: Lucio

S.B. No. 986

A BILL TO BE ENTITLED

AN ACT

relating to an urban land bank program in certain municipalities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle A, Title 12, Local Government Code, is amended by adding Chapter 379E to read as follows:

CHAPTER 379E. URBAN LAND BANK PROGRAM

Sec. 379E.001. SHORT TITLE. This chapter may be cited as the Urban Land Bank Program Act.

Sec. 379E.002. APPLICABILITY. This chapter applies only to a municipality to which Chapter 379C or 379D does not apply and that is located in a metropolitan statistical area and has a population of 100,000 or more.

Sec. 379E.003. DEFINITIONS. In this chapter:

(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.

(2) "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 community housing development organization.

1 (3) "Land bank" means an entity established or
2 approved by the governing body of a municipality for the purpose of
3 acquiring, holding, and transferring unimproved real property
4 under this chapter.

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

11 (5) "Qualified participating developer" means a
12 developer who meets the requirements of Section 379E.005 and
13 includes a qualified organization under Section 379E.011.

14 (6) "Urban land bank plan" or "plan" means a plan
15 adopted by the governing body of a municipality as provided by
16 Section 379E.006.

17 (7) "Urban land bank program" or "program" means a
18 program adopted under Section 379E.004.

19 Sec. 379E.004. URBAN LAND BANK PROGRAM. (a) The governing
20 body of a municipality may adopt an urban land bank program in which
21 the officer charged with selling real property ordered sold
22 pursuant to foreclosure of a tax lien may sell certain eligible real
23 property by private sale for purposes of affordable housing
24 development as provided by this chapter.

25 (b) The governing body of a municipality that adopts an
26 urban land bank program shall establish or approve a land bank for
27 the purpose of acquiring, holding, and transferring unimproved real

1 property under this chapter.

2 Sec. 379E.005. QUALIFIED PARTICIPATING DEVELOPER. To
3 qualify to participate in an urban land bank program, a developer
4 must:

5 (1) have developed three or more housing units within
6 the three-year period preceding the submission of a proposal to the
7 land bank seeking to acquire real property from the land bank;

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

10 (3) meet any other requirements adopted by the
11 municipality in the urban land bank plan.

12 Sec. 379E.006. URBAN LAND BANK PLAN. (a) A municipality
13 that adopts an urban land bank program shall operate the program in
14 conformance with an urban land bank plan.

15 (b) The governing body of a municipality that adopts an
16 urban land bank program shall adopt a plan annually. The plan may
17 be amended from time to time.

18 (c) In developing the plan, the municipality shall consider
19 other housing plans adopted by the municipality, including the
20 comprehensive plan submitted to the United States Department of
21 Housing and Urban Development and all fair housing plans and
22 policies adopted or agreed to by the municipality.

23 (d) The plan must include the following:

24 (1) a list of community housing development
25 organizations eligible to participate in the right of first refusal
26 provided by Section 379E.011;

27 (2) a list of the parcels of real property that may

1 become eligible for sale to the land bank during the next year;

2 (3) the municipality's plan for affordable housing
3 development on those parcels of real property; and

4 (4) the sources and amounts of money anticipated to be
5 available from the municipality for subsidies for development of
6 affordable housing in the municipality, including any money
7 specifically available for housing developed under the program, as
8 approved by the governing body of the municipality at the time the
9 plan is adopted.

10 Sec. 379E.007. PUBLIC HEARING ON PROPOSED PLAN. (a) Before
11 adopting a plan, a municipality shall hold a public hearing on the
12 proposed plan.

13 (b) The city manager or the city manager's designee shall
14 provide notice of the hearing to all community housing development
15 organizations and to neighborhood associations identified by the
16 municipality as serving the neighborhoods in which properties
17 anticipated to be available for sale to the land bank under this
18 chapter are located.

19 (c) The city manager or the city manager's designee shall
20 make copies of the proposed plan available to the public not later
21 than the 60th day before the date of the public hearing.

22 Sec. 379E.008. PRIVATE SALE TO LAND BANK. (a)
23 Notwithstanding any other law and except as provided by Subsection
24 (f), property that is ordered sold pursuant to foreclosure of a tax
25 lien may be sold in a private sale to a land bank by the officer
26 charged with the sale of the property without first offering the
27 property for sale as otherwise provided by Section 34.01, Tax Code,

1 if:

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

7 (2) the property is not improved with a building or
8 buildings;

9 (3) there are delinquent taxes on the property for a
10 total of at least five years; and

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

16 (b) A sale of property for use in connection with the
17 program is a sale for a public purpose.

18 (c) If the person being sued in a suit for foreclosure of a
19 tax lien does not contest the market value of the property in the
20 suit, the person waives the right to challenge the amount of the
21 market value determined by the court for purposes of the sale of the
22 property under Section 33.50, Tax Code.

23 (d) For any sale of property under this chapter, each person
24 who was a defendant to the judgment, or that person's attorney,
25 shall be given, not later than the 90th day before the date of sale,
26 written notice of the proposed method of sale of the property by the
27 officer charged with the sale of the property. Notice must be given

1 in the manner prescribed by Rule 21a, Texas Rules of Civil
2 Procedure.

3 (e) After receipt of the notice required by Subsection (d)
4 and before the date of the proposed sale, the owner of the property
5 subject to sale may file with the officer charged with the sale a
6 written request that the property not be sold in the manner provided
7 by this chapter.

8 (f) If the officer charged with the sale receives a written
9 request as provided by Subsection (e), the officer shall sell the
10 property as otherwise provided in Section 34.01, Tax Code.

11 (g) The owner of the property subject to sale may not
12 receive any proceeds of a sale under this chapter. However, the
13 owner does not have any personal liability for a deficiency of the
14 judgment as a result of a sale under this chapter.

15 (h) Notwithstanding any other law, if consent is given by
16 the taxing units that are a party to the judgment, property may be
17 sold to the land bank for less than the market value of the property
18 as specified in the judgment or less than the total of all taxes,
19 penalties, and interest, plus the value of nontax liens held by a
20 taxing unit and awarded by the judgment, court costs, and the cost
21 of the sale.

22 (i) The deed of conveyance of the property sold to a land
23 bank under this section conveys to the land bank the right, title,
24 and interest acquired or held by each taxing unit that was a party
25 to the judgment, subject to the right of redemption.

26 Sec. 379E.009. SUBSEQUENT RESALE BY LAND BANK. (a) Each
27 subsequent resale of property acquired by a land bank under this

1 chapter must comply with the conditions of this section.

2 (b) Within the three-year period following the date of
3 acquisition, the land bank must sell a property to a qualified
4 participating developer for the purpose of construction of
5 affordable housing for sale or rent to low income households. If
6 after three years a qualified participating developer has not
7 purchased the property, the property shall be transferred from the
8 land bank to the taxing units who were parties to the judgment for
9 disposition as otherwise allowed under the law.

10 (c) Unless the municipality increases the amount in its
11 plan, the number of properties acquired by a qualified
12 participating developer under this section on which development has
13 not been completed may not at any time exceed three times the annual
14 average residential production completed by the qualified
15 participating developer during the preceding two-year period as
16 determined by the municipality.

17 (d) The deed conveying a property sold by the land bank must
18 include a right of reverter so that, if the qualified participating
19 developer does not apply for a construction permit and close on any
20 construction financing within the two-year period following the
21 date of the conveyance of the property from the land bank to the
22 qualified participating developer, the property will revert to the
23 land bank for subsequent resale to another qualified participating
24 developer or conveyance to the taxing units who were parties to the
25 judgment for disposition as otherwise allowed under the law.

26 Sec. 379E.010. RESTRICTIONS ON OCCUPANCY AND USE OF
27 PROPERTY. (a) The land bank shall impose deed restrictions on

1 property sold to qualified participating developers requiring the
2 development and sale or rental of the property to low income
3 households.

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

11 (c) If property is developed for rental housing, the deed
12 restrictions must be for a period of not less than 20 years and must
13 require that:

14 (1) 100 percent of the rental units be occupied by and
15 affordable to households with incomes not greater than 60 percent
16 of area median family income, based on gross household income,
17 adjusted for household size, for the metropolitan statistical area
18 in which the municipality is located, as determined annually by the
19 United States Department of Housing and Urban Development;

20 (2) 40 percent of the units be occupied by and
21 affordable to households with incomes not greater than 50 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; or

26 (3) 20 percent of the units be occupied by and
27 affordable to households with incomes not greater than 30 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.

5 (d) The deed restrictions under Subsection (c) must require
6 the owner to file an annual occupancy report with the municipality
7 on a reporting form provided by the municipality. The deed
8 restrictions must also prohibit any exclusion of an individual or
9 family from admission to the development based solely on the
10 participation of the individual or family in the housing choice
11 voucher program under Section 8, United States Housing Act of 1937
12 (42 U.S.C. Section 1437f), as amended.

13 (e) Except as otherwise provided by this section, if the
14 deed restrictions imposed under this section are for a term of
15 years, the deed restrictions shall renew automatically.

16 (f) The land bank or the governing body of the municipality
17 may modify or add to the deed restrictions imposed under this
18 section. Any modifications or additions made by the governing body
19 of the municipality must be adopted by the municipality as part of
20 its plan and must comply with the restrictions set forth in
21 Subsections (b), (c), and (d).

22 Sec. 379E.011. RIGHT OF FIRST REFUSAL. (a) In this
23 section, "qualified organization" means a community housing
24 development organization that:

25 (1) contains within its designated geographical
26 boundaries of operation, as set forth in its application for
27 certification filed with and approved by the municipality, a

1 portion of the property that the land bank is offering for sale;

2 (2) has built at least three single-family homes or
3 duplexes or one multifamily residential dwelling of four or more
4 units in compliance with all applicable building codes within the
5 preceding two-year period and within the organization's designated
6 geographical boundaries of operation; and

7 (3) within the preceding three-year period has
8 developed or rehabilitated housing units within a two-mile radius
9 of the property that the land bank is offering for sale.

10 (b) The land bank shall first offer a property for sale to
11 qualified organizations.

12 (c) Notice must be provided to the qualified organizations
13 by certified mail, return receipt requested, not later than the
14 60th day before the beginning of the period in which a right of
15 first refusal may be exercised.

16 (d) The municipality shall specify in its plan the period
17 during which the right of first refusal provided by this section may
18 be exercised by a qualified organization. That period must be at
19 least nine months but not more than 26 months from the date of the
20 deed of conveyance of the property to the land bank.

21 (e) If the land bank conveys the property to a qualified
22 organization before the expiration of the period specified by the
23 municipality under Subsection (d), the interlocal agreement
24 executed under Section 379E.008(a)(4) must provide tax abatement
25 for the property until the expiration of that period.

26 (f) During the specified period, the land bank may not sell
27 the property to a qualified participating developer other than a

1 qualified organization. If all qualified organizations notify the
2 land bank that they are declining to exercise their right of first
3 refusal during the specified period, or if an offer to purchase the
4 property is not received from a qualified organization during that
5 period, the land bank may sell the property to any other qualified
6 participating developer at the same price that the land bank
7 offered the property to the qualified organizations.

8 (g) In its plan, the municipality shall establish the amount
9 of additional time, if any, that a property may be held in the land
10 bank once an offer has been received and accepted from a qualified
11 organization or other qualified participating developer.

12 (h) If more than one qualified organization expresses an
13 interest in exercising its right of first refusal, the organization
14 that has designated the most geographically compact area
15 encompassing a portion of the property shall be given priority.

16 (i) In its plan, the municipality may provide for other
17 rights of first refusal for any other nonprofit corporation
18 exempted from federal income tax under Section 501(c)(3), Internal
19 Revenue Code of 1986, as amended, provided that the preeminent
20 right of first refusal is provided to qualified organizations as
21 provided by this section.

22 (j) The land bank is not required to provide a right of first
23 refusal to qualified organizations under this section if the land
24 bank is selling property that reverted to the land bank under
25 Section 379E.009(d).

26 Sec. 379E.012. OPEN RECORDS AND MEETINGS. The land bank
27 shall comply with the requirements of Chapters 551 and 552,

1 Government Code.

2 Sec. 379E.013. RECORDS; AUDIT; REPORT. (a) The land bank
3 shall keep accurate minutes of its meetings and shall keep accurate
4 records and books of account that conform with generally accepted
5 principles of accounting and that clearly reflect the income and
6 expenses of the land bank and all transactions in relation to its
7 property.

8 (b) The land bank shall file with the municipality not later
9 than the 90th day after the close of the fiscal year annual audited
10 financial statements prepared by a certified public accountant.
11 The financial transactions of the land bank are subject to audit by
12 the municipality.

13 (c) For purposes of evaluating the effectiveness of the
14 program, the land bank shall submit an annual performance report to
15 the municipality not later than November 1 of each year in which the
16 land bank acquires or sells property under this chapter. The
17 performance report must include:

18 (1) a complete and detailed written accounting of all
19 money and properties received and disbursed by the land bank during
20 the preceding fiscal year;

21 (2) for each property acquired by the land bank during
22 the preceding fiscal year:

23 (A) the street address of the property;

24 (B) the legal description of the property;

25 (C) the date the land bank took title to the
26 property;

27 (D) the name and address of the property owner of

1 record at the time of the foreclosure;

2 (E) the amount of taxes and other costs owed at
3 the time of the foreclosure; and

4 (F) the assessed value of the property on the tax
5 roll at the time of the foreclosure;

6 (3) for each property sold by the land bank during the
7 preceding fiscal year to a qualified participating developer:

8 (A) the street address of the property;

9 (B) the legal description of the property;

10 (C) the name and mailing address of the
11 developer;

12 (D) the purchase price paid by the developer;

13 (E) the maximum incomes allowed for the
14 households by the terms of the sale; and

15 (F) the source and amount of any public subsidy
16 provided by the municipality to facilitate the sale or rental of the
17 property to a household within the targeted income levels;

18 (4) for each property sold by a qualified
19 participating developer during the preceding fiscal year, the
20 buyer's household income and a description of all use and sale
21 restrictions; and

22 (5) for each property developed for rental housing
23 with an active deed restriction, a copy of the most recent annual
24 report filed by the owner with the land bank.

25 (d) The land bank shall maintain in its records for
26 inspection a copy of the sale settlement statement for each
27 property sold by a qualified participating developer and a copy of

1 the first page of the mortgage note with the interest rate and
2 indicating the volume and page number of the instrument as filed
3 with the county clerk.

4 (e) The land bank shall provide copies of the performance
5 report to the taxing units who were parties to the judgment of
6 foreclosure and shall provide notice of the availability of the
7 performance report for review to the organizations and neighborhood
8 associations identified by the municipality as serving the
9 neighborhoods in which properties sold to the land bank under this
10 chapter are located.

11 (f) The land bank and the municipality shall maintain copies
12 of the performance report available for public review.

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

15 (d) A charitable organization must be organized exclusively
16 to perform religious, charitable, scientific, literary, or
17 educational purposes and, except as permitted by Subsections (h)
18 and (l), engage exclusively in performing one or more of the
19 following charitable functions:

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

24 (2) providing support or relief to orphans,
25 delinquent, dependent, or handicapped children in need of
26 residential care, abused or battered spouses or children in need of
27 temporary shelter, the impoverished, or victims of natural disaster

1 without regard to the beneficiaries' ability to pay;

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

6 (4) preserving a historical landmark or site;

7 (5) promoting or operating a museum, zoo, library,
8 theater of the dramatic or performing arts, or symphony orchestra
9 or choir;

10 (6) promoting or providing humane treatment of
11 animals;

12 (7) acquiring, storing, transporting, selling, or
13 distributing water for public use;

14 (8) answering fire alarms and extinguishing fires with
15 no compensation or only nominal compensation to the members of the
16 organization;

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

19 (10) preserving or conserving wildlife;

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

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

25 (13) providing permanent housing and related social,
26 health care, and educational facilities for persons who are 62
27 years of age or older without regard to the residents' ability to

1 pay;

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

5 (15) providing for the organized solicitation and
6 collection for distributions through gifts, grants, and agreements
7 to nonprofit charitable, education, religious, and youth
8 organizations that provide direct human, health, and welfare
9 services;

10 (16) performing biomedical or scientific research or
11 biomedical or scientific education for the benefit of the public;

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

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

24 (19) providing housing and related services to persons
25 who are 62 years of age or older in a retirement community, if the
26 retirement community provides independent living services,
27 assisted living services, and nursing services to its residents on

1 a single campus:

2 (A) without regard to the residents' ability to
3 pay; or

4 (B) in which at least four percent of the
5 retirement community's combined net resident revenue is provided in
6 charitable care to its residents; ~~or~~

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

9 (A) the organization is exempt from federal
10 income taxation under Section 501(a), Internal Revenue Code of
11 1986, as amended, by being listed as an exempt entity under Section
12 501(c)(3) of that code;

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

16 (C) the organization is governed by its members;
17 and

18 (D) the members of the organization share the
19 responsibility for managing the housing; or

20 (21) acquiring, holding, and transferring unimproved
21 real property under an urban land bank program established under
22 Chapter 379E, Local Government Code, as or on behalf of a land bank.

23 (o) For purposes of Subsection (a)(2), real property
24 acquired, held, and transferred by an organization that performs
25 the function described by Subsection (d)(21) is considered to be
26 used exclusively by the qualified charitable organization to
27 perform that function.

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

4 SECTION 4. This Act takes effect September 1, 2007.