

1-1 By: Lucio S.B. No. 986
1-2 (In the Senate - Filed February 27, 2007; March 7, 2007,
1-3 read first time and referred to Committee on Intergovernmental
1-4 Relations; April 19, 2007, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 4, Nays 0;
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1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 986 By: Wentworth

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

1-10 relating to an urban land bank program in certain municipalities.
1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-12 SECTION 1. Subtitle A, Title 12, Local Government Code, is
1-13 amended by adding Chapter 379E to read as follows:

1-14 CHAPTER 379E. URBAN LAND BANK PROGRAM
1-15 Sec. 379E.001. SHORT TITLE. This chapter may be cited as
1-16 the Urban Land Bank Program Act.

1-17 Sec. 379E.002. APPLICABILITY; CONSTRUCTION WITH OTHER
1-18 LAW. This chapter applies only to a municipality:

- 1-19 (1) to which Chapter 379C or 379D does not apply; and
1-20 (2) that has not ever adopted a homestead land bank
1-21 program under Subchapter E, Chapter 373A.

1-22 Sec. 379E.003. DEFINITIONS. In this chapter:

1-23 (1) "Affordable" means that the monthly mortgage
1-24 payment or contract rent does not exceed 30 percent of the
1-25 applicable median family income for that unit size, in accordance
1-26 with the income and rent limit rules adopted by the Texas Department
1-27 of Housing and Community Affairs.

1-28 (2) "Community housing development organization" or
1-29 "organization" means an organization that:

1-30 (A) meets the definition of a community housing
1-31 development organization in 24 C.F.R. Section 92.2; and

1-32 (B) is certified by the municipality as a
1-33 community housing development organization.

1-34 (3) "Land bank" means an entity established or
1-35 approved by the governing body of a municipality for the purpose of
1-36 acquiring, holding, and transferring unimproved real property
1-37 under this chapter.

1-38 (4) "Low income household" means a household with a
1-39 gross income of not greater than 80 percent of the area median
1-40 family income, adjusted for household size, for the metropolitan
1-41 statistical area in which the municipality is located, as
1-42 determined annually by the United States Department of Housing and
1-43 Urban Development.

1-44 (5) "Qualified participating developer" means a
1-45 developer who meets the requirements of Section 379E.005 and
1-46 includes a qualified organization under Section 379E.011.

1-47 (6) "Urban land bank plan" or "plan" means a plan
1-48 adopted by the governing body of a municipality as provided by
1-49 Section 379E.006.

1-50 (7) "Urban land bank program" or "program" means a
1-51 program adopted under Section 379E.004.

1-52 Sec. 379E.004. URBAN LAND BANK PROGRAM. (a) The
1-53 governing body of a municipality may adopt an urban land bank
1-54 program in which the officer charged with selling real property
1-55 ordered sold pursuant to foreclosure of a tax lien may sell certain
1-56 eligible real property by private sale for purposes of affordable
1-57 housing development as provided by this chapter.

1-58 (b) The governing body of a municipality that adopts an
1-59 urban land bank program shall establish or approve a land bank for
1-60 the purpose of acquiring, holding, and transferring unimproved real
1-61 property under this chapter.

1-62 Sec. 379E.005. QUALIFIED PARTICIPATING DEVELOPER. To
1-63 qualify to participate in an urban land bank program, a developer

2-1 must:

2-2 (1) have developed three or more housing units within
2-3 the three-year period preceding the submission of a proposal to the
2-4 land bank seeking to acquire real property from the land bank;

2-5 (2) have a development plan approved by the
2-6 municipality for the land bank property; and

2-7 (3) meet any other requirements adopted by the
2-8 municipality in the urban land bank plan.

2-9 Sec. 379E.006. URBAN LAND BANK PLAN. (a) A municipality
2-10 that adopts an urban land bank program shall operate the program in
2-11 conformance with an urban land bank plan.

2-12 (b) The governing body of a municipality that adopts an
2-13 urban land bank program shall adopt a plan annually. The plan may
2-14 be amended from time to time.

2-15 (c) In developing the plan, the municipality shall consider
2-16 other housing plans adopted by the municipality, including the
2-17 comprehensive plan submitted to the United States Department of
2-18 Housing and Urban Development and all fair housing plans and
2-19 policies adopted or agreed to by the municipality.

2-20 (d) The plan must include the following:

2-21 (1) a list of community housing development
2-22 organizations eligible to participate in the right of first refusal
2-23 provided by Section 379E.011;

2-24 (2) a list of the parcels of real property that may
2-25 become eligible for sale to the land bank during the next year;

2-26 (3) the municipality's plan for affordable housing
2-27 development on those parcels of real property; and

2-28 (4) the sources and amounts of money anticipated to be
2-29 available from the municipality for subsidies for development of
2-30 affordable housing in the municipality, including any money
2-31 specifically available for housing developed under the program, as
2-32 approved by the governing body of the municipality at the time the
2-33 plan is adopted.

2-34 Sec. 379E.007. PUBLIC HEARING ON PROPOSED
2-35 PLAN. (a) Before adopting a plan, a municipality shall hold a
2-36 public hearing on the proposed plan.

2-37 (b) The city manager or the city manager's designee shall
2-38 provide notice of the hearing to all community housing development
2-39 organizations and to neighborhood associations identified by the
2-40 municipality as serving the neighborhoods in which properties
2-41 anticipated to be available for sale to the land bank under this
2-42 chapter are located.

2-43 (c) The city manager or the city manager's designee shall
2-44 make copies of the proposed plan available to the public not later
2-45 than the 60th day before the date of the public hearing.

2-46 Sec. 379E.008. PRIVATE SALE TO LAND
2-47 BANK. (a) Notwithstanding any other law and except as provided by
2-48 Subsection (f), property that is ordered sold pursuant to
2-49 foreclosure of a tax lien may be sold in a private sale to a land
2-50 bank by the officer charged with the sale of the property without
2-51 first offering the property for sale as otherwise provided by
2-52 Section 34.01, Tax Code, if:

2-53 (1) the market value of the property as specified in
2-54 the judgment of foreclosure is less than the total amount due under
2-55 the judgment, including all taxes, penalties, and interest, plus
2-56 the value of nontax liens held by a taxing unit and awarded by the
2-57 judgment, court costs, and the cost of the sale;

2-58 (2) the property is not improved with a building or
2-59 buildings;

2-60 (3) there are delinquent taxes on the property for a
2-61 total of at least five years; and

2-62 (4) the municipality has executed with the other
2-63 taxing units that are parties to the tax suit an interlocal
2-64 agreement that enables those units to agree to participate in the
2-65 program while retaining the right to withhold consent to the sale of
2-66 specific properties to the land bank.

2-67 (b) A sale of property for use in connection with the
2-68 program is a sale for a public purpose.

2-69 (c) If the person being sued in a suit for foreclosure of a

3-1 tax lien does not contest the market value of the property in the
 3-2 suit, the person waives the right to challenge the amount of the
 3-3 market value determined by the court for purposes of the sale of the
 3-4 property under Section 33.50, Tax Code.

3-5 (d) For any sale of property under this chapter, each person
 3-6 who was a defendant to the judgment, or that person's attorney,
 3-7 shall be given, not later than the 90th day before the date of sale,
 3-8 written notice of the proposed method of sale of the property by the
 3-9 officer charged with the sale of the property. Notice must be given
 3-10 in the manner prescribed by Rule 21a, Texas Rules of Civil
 3-11 Procedure.

3-12 (e) After receipt of the notice required by Subsection (d)
 3-13 and before the date of the proposed sale, the owner of the property
 3-14 subject to sale may file with the officer charged with the sale a
 3-15 written request that the property not be sold in the manner provided
 3-16 by this chapter.

3-17 (f) If the officer charged with the sale receives a written
 3-18 request as provided by Subsection (e), the officer shall sell the
 3-19 property as otherwise provided in Section 34.01, Tax Code.

3-20 (g) The owner of the property subject to sale may not
 3-21 receive any proceeds of a sale under this chapter. However, the
 3-22 owner does not have any personal liability for a deficiency of the
 3-23 judgment as a result of a sale under this chapter.

3-24 (h) Notwithstanding any other law, if consent is given by
 3-25 the taxing units that are a party to the judgment, property may be
 3-26 sold to the land bank for less than the market value of the property
 3-27 as specified in the judgment or less than the total of all taxes,
 3-28 penalties, and interest, plus the value of nontax liens held by a
 3-29 taxing unit and awarded by the judgment, court costs, and the cost
 3-30 of the sale.

3-31 (i) The deed of conveyance of the property sold to a land
 3-32 bank under this section conveys to the land bank the right, title,
 3-33 and interest acquired or held by each taxing unit that was a party
 3-34 to the judgment, subject to the right of redemption.

3-35 Sec. 379E.009. SUBSEQUENT RESALE BY LAND BANK. (a) Each
 3-36 subsequent resale of property acquired by a land bank under this
 3-37 chapter must comply with the conditions of this section.

3-38 (b) Within the three-year period following the date of
 3-39 acquisition, the land bank must sell a property to a qualified
 3-40 participating developer for the purpose of construction of
 3-41 affordable housing for sale or rent to low income households. If
 3-42 after three years a qualified participating developer has not
 3-43 purchased the property, the property shall be transferred from the
 3-44 land bank to the taxing units who were parties to the judgment for
 3-45 disposition as otherwise allowed under the law.

3-46 (c) Unless the municipality increases the amount in its
 3-47 plan, the number of properties acquired by a qualified
 3-48 participating developer under this section on which development has
 3-49 not been completed may not at any time exceed three times the annual
 3-50 average residential production completed by the qualified
 3-51 participating developer during the preceding two-year period as
 3-52 determined by the municipality.

3-53 (d) The deed conveying a property sold by the land bank must
 3-54 include a right of reverter so that, if the qualified participating
 3-55 developer does not apply for a construction permit and close on any
 3-56 construction financing within the two-year period following the
 3-57 date of the conveyance of the property from the land bank to the
 3-58 qualified participating developer, the property will revert to the
 3-59 land bank for subsequent resale to another qualified participating
 3-60 developer or conveyance to the taxing units who were parties to the
 3-61 judgment for disposition as otherwise allowed under the law.

3-62 Sec. 379E.010. RESTRICTIONS ON OCCUPANCY AND USE OF
 3-63 PROPERTY. (a) The land bank shall impose deed restrictions on
 3-64 property sold to qualified participating developers requiring the
 3-65 development and sale or rental of the property to low income
 3-66 households.

3-67 (b) At least 25 percent of the land bank properties sold
 3-68 during any given fiscal year to be developed for sale shall be deed
 3-69 restricted for sale to households with gross household incomes not

4-1 greater than 60 percent of the area median family income, adjusted
 4-2 for household size, for the metropolitan statistical area in which
 4-3 the municipality is located, as determined annually by the United
 4-4 States Department of Housing and Urban Development.

4-5 (c) If property is developed for rental housing, the deed
 4-6 restrictions must be for a period of not less than 20 years and must
 4-7 require that:

4-8 (1) 100 percent of the rental units be occupied by and
 4-9 affordable to households with incomes not greater than 60 percent
 4-10 of area median family income, based on gross household income,
 4-11 adjusted for household size, for the metropolitan statistical area
 4-12 in which the municipality is located, as determined annually by the
 4-13 United States Department of Housing and Urban Development;

4-14 (2) 40 percent of the units be occupied by and
 4-15 affordable to households with incomes not greater than 50 percent
 4-16 of area median family income, based on gross household income,
 4-17 adjusted for household size, for the metropolitan statistical area
 4-18 in which the municipality is located, as determined annually by the
 4-19 United States Department of Housing and Urban Development; or

4-20 (3) 20 percent of the units be occupied by and
 4-21 affordable to households with incomes not greater than 30 percent
 4-22 of area median family income, based on gross household income,
 4-23 adjusted for household size, for the metropolitan statistical area
 4-24 in which the municipality is located, as determined annually by the
 4-25 United States Department of Housing and Urban Development.

4-26 (d) The deed restrictions under Subsection (c) must require
 4-27 the owner to file an annual occupancy report with the municipality
 4-28 on a reporting form provided by the municipality. The deed
 4-29 restrictions must also prohibit any exclusion of an individual or
 4-30 family from admission to the development based solely on the
 4-31 participation of the individual or family in the housing choice
 4-32 voucher program under Section 8, United States Housing Act of 1937
 4-33 (42 U.S.C. Section 1437f), as amended.

4-34 (e) Except as otherwise provided by this section, if the
 4-35 deed restrictions imposed under this section are for a term of
 4-36 years, the deed restrictions shall renew automatically.

4-37 (f) The land bank or the governing body of the municipality
 4-38 may modify or add to the deed restrictions imposed under this
 4-39 section. Any modifications or additions made by the governing body
 4-40 of the municipality must be adopted by the municipality as part of
 4-41 its plan and must comply with the restrictions set forth in
 4-42 Subsections (b), (c), and (d).

4-43 Sec. 379E.011. RIGHT OF FIRST REFUSAL. (a) In this
 4-44 section, "qualified organization" means a community housing
 4-45 development organization that:

4-46 (1) contains within its designated geographical
 4-47 boundaries of operation, as set forth in its application for
 4-48 certification filed with and approved by the municipality, a
 4-49 portion of the property that the land bank is offering for sale;

4-50 (2) has built at least three single-family homes or
 4-51 duplexes or one multifamily residential dwelling of four or more
 4-52 units in compliance with all applicable building codes within the
 4-53 preceding two-year period and within the organization's designated
 4-54 geographical boundaries of operation; and

4-55 (3) within the preceding three-year period has
 4-56 developed or rehabilitated housing units within a two-mile radius
 4-57 of the property that the land bank is offering for sale.

4-58 (b) The land bank shall first offer a property for sale to
 4-59 qualified organizations.

4-60 (c) Notice must be provided to the qualified organizations
 4-61 by certified mail, return receipt requested, not later than the
 4-62 60th day before the beginning of the period in which a right of
 4-63 first refusal may be exercised.

4-64 (d) The municipality shall specify in its plan the period
 4-65 during which the right of first refusal provided by this section may
 4-66 be exercised by a qualified organization. That period must be at
 4-67 least nine months but not more than 26 months from the date of the
 4-68 deed of conveyance of the property to the land bank.

4-69 (e) If the land bank conveys the property to a qualified

5-1 organization before the expiration of the period specified by the
 5-2 municipality under Subsection (d), the interlocal agreement
 5-3 executed under Section 379E.008(a)(4) must provide tax abatement
 5-4 for the property until the expiration of that period.

5-5 (f) During the specified period, the land bank may not sell
 5-6 the property to a qualified participating developer other than a
 5-7 qualified organization. If all qualified organizations notify the
 5-8 land bank that they are declining to exercise their right of first
 5-9 refusal during the specified period, or if an offer to purchase the
 5-10 property is not received from a qualified organization during that
 5-11 period, the land bank may sell the property to any other qualified
 5-12 participating developer at the same price that the land bank
 5-13 offered the property to the qualified organizations.

5-14 (g) In its plan, the municipality shall establish the amount
 5-15 of additional time, if any, that a property may be held in the land
 5-16 bank once an offer has been received and accepted from a qualified
 5-17 organization or other qualified participating developer.

5-18 (h) If more than one qualified organization expresses an
 5-19 interest in exercising its right of first refusal, the organization
 5-20 that has designated the most geographically compact area
 5-21 encompassing a portion of the property shall be given priority.

5-22 (i) In its plan, the municipality may provide for other
 5-23 rights of first refusal for any other nonprofit corporation
 5-24 exempted from federal income tax under Section 501(c)(3), Internal
 5-25 Revenue Code of 1986, as amended, provided that the preeminent
 5-26 right of first refusal is provided to qualified organizations as
 5-27 provided by this section.

5-28 (j) The land bank is not required to provide a right of first
 5-29 refusal to qualified organizations under this section if the land
 5-30 bank is selling property that reverted to the land bank under
 5-31 Section 379E.009(d).

5-32 Sec. 379E.012. OPEN RECORDS AND MEETINGS. The land bank
 5-33 shall comply with the requirements of Chapters 551 and 552,
 5-34 Government Code.

5-35 Sec. 379E.013. RECORDS; AUDIT; REPORT. (a) The land bank
 5-36 shall keep accurate minutes of its meetings and shall keep accurate
 5-37 records and books of account that conform with generally accepted
 5-38 principles of accounting and that clearly reflect the income and
 5-39 expenses of the land bank and all transactions in relation to its
 5-40 property.

5-41 (b) The land bank shall file with the municipality not later
 5-42 than the 90th day after the close of the fiscal year annual audited
 5-43 financial statements prepared by a certified public accountant.
 5-44 The financial transactions of the land bank are subject to audit by
 5-45 the municipality.

5-46 (c) For purposes of evaluating the effectiveness of the
 5-47 program, the land bank shall submit an annual performance report to
 5-48 the municipality not later than November 1 of each year in which the
 5-49 land bank acquires or sells property under this chapter. The
 5-50 performance report must include:

5-51 (1) a complete and detailed written accounting of all
 5-52 money and properties received and disbursed by the land bank during
 5-53 the preceding fiscal year;

5-54 (2) for each property acquired by the land bank during
 5-55 the preceding fiscal year:

5-56 (A) the street address of the property;
 5-57 (B) the legal description of the property;
 5-58 (C) the date the land bank took title to the
 5-59 property;

5-60 (D) the name and address of the property owner of
 5-61 record at the time of the foreclosure;

5-62 (E) the amount of taxes and other costs owed at
 5-63 the time of the foreclosure; and

5-64 (F) the assessed value of the property on the tax
 5-65 roll at the time of the foreclosure;

5-66 (3) for each property sold by the land bank during the
 5-67 preceding fiscal year to a qualified participating developer:

5-68 (A) the street address of the property;
 5-69 (B) the legal description of the property;

6-1 (C) the name and mailing address of the
6-2 developer;
6-3 (D) the purchase price paid by the developer;
6-4 (E) the maximum incomes allowed for the
6-5 households by the terms of the sale; and
6-6 (F) the source and amount of any public subsidy
6-7 provided by the municipality to facilitate the sale or rental of the
6-8 property to a household within the targeted income levels;
6-9 (4) for each property sold by a qualified
6-10 participating developer during the preceding fiscal year, the
6-11 buyer's household income and a description of all use and sale
6-12 restrictions; and
6-13 (5) for each property developed for rental housing
6-14 with an active deed restriction, a copy of the most recent annual
6-15 report filed by the owner with the land bank.
6-16 (d) The land bank shall maintain in its records for
6-17 inspection a copy of the sale settlement statement for each
6-18 property sold by a qualified participating developer and a copy of
6-19 the first page of the mortgage note with the interest rate and
6-20 indicating the volume and page number of the instrument as filed
6-21 with the county clerk.
6-22 (e) The land bank shall provide copies of the performance
6-23 report to the taxing units who were parties to the judgment of
6-24 foreclosure and shall provide notice of the availability of the
6-25 performance report for review to the organizations and neighborhood
6-26 associations identified by the municipality as serving the
6-27 neighborhoods in which properties sold to the land bank under this
6-28 chapter are located.
6-29 (f) The land bank and the municipality shall maintain copies
6-30 of the performance report available for public review.
6-31 SECTION 2. Section 11.18, Tax Code, is amended by amending
6-32 Subsection (d) and adding Subsection (o) to read as follows:
6-33 (d) A charitable organization must be organized exclusively
6-34 to perform religious, charitable, scientific, literary, or
6-35 educational purposes and, except as permitted by Subsections (h)
6-36 and (l), engage exclusively in performing one or more of the
6-37 following charitable functions:
6-38 (1) providing medical care without regard to the
6-39 beneficiaries' ability to pay, which in the case of a nonprofit
6-40 hospital or hospital system means providing charity care and
6-41 community benefits in accordance with Section 11.1801;
6-42 (2) providing support or relief to orphans,
6-43 delinquent, dependent, or handicapped children in need of
6-44 residential care, abused or battered spouses or children in need of
6-45 temporary shelter, the impoverished, or victims of natural disaster
6-46 without regard to the beneficiaries' ability to pay;
6-47 (3) providing support to elderly persons, including
6-48 the provision of recreational or social activities and facilities
6-49 designed to address the special needs of elderly persons, or to the
6-50 handicapped, without regard to the beneficiaries' ability to pay;
6-51 (4) preserving a historical landmark or site;
6-52 (5) promoting or operating a museum, zoo, library,
6-53 theater of the dramatic or performing arts, or symphony orchestra
6-54 or choir;
6-55 (6) promoting or providing humane treatment of
6-56 animals;
6-57 (7) acquiring, storing, transporting, selling, or
6-58 distributing water for public use;
6-59 (8) answering fire alarms and extinguishing fires with
6-60 no compensation or only nominal compensation to the members of the
6-61 organization;
6-62 (9) promoting the athletic development of boys or
6-63 girls under the age of 18 years;
6-64 (10) preserving or conserving wildlife;
6-65 (11) promoting educational development through loans
6-66 or scholarships to students;
6-67 (12) providing halfway house services pursuant to a
6-68 certification as a halfway house by the pardons and paroles
6-69 division of the Texas Department of Criminal Justice;

7-1 (13) providing permanent housing and related social,
7-2 health care, and educational facilities for persons who are 62
7-3 years of age or older without regard to the residents' ability to
7-4 pay;

7-5 (14) promoting or operating an art gallery, museum, or
7-6 collection, in a permanent location or on tour, that is open to the
7-7 public;

7-8 (15) providing for the organized solicitation and
7-9 collection for distributions through gifts, grants, and agreements
7-10 to nonprofit charitable, education, religious, and youth
7-11 organizations that provide direct human, health, and welfare
7-12 services;

7-13 (16) performing biomedical or scientific research or
7-14 biomedical or scientific education for the benefit of the public;

7-15 (17) operating a television station that produces or
7-16 broadcasts educational, cultural, or other public interest
7-17 programming and that receives grants from the Corporation for
7-18 Public Broadcasting under 47 U.S.C. Section 396, as amended;

7-19 (18) providing housing for low-income and
7-20 moderate-income families, for unmarried individuals 62 years of age
7-21 or older, for handicapped individuals, and for families displaced
7-22 by urban renewal, through the use of trust assets that are
7-23 irrevocably and, pursuant to a contract entered into before
7-24 December 31, 1972, contractually dedicated on the sale or
7-25 disposition of the housing to a charitable organization that
7-26 performs charitable functions described by Subdivision (9);

7-27 (19) providing housing and related services to persons
7-28 who are 62 years of age or older in a retirement community, if the
7-29 retirement community provides independent living services,
7-30 assisted living services, and nursing services to its residents on
7-31 a single campus:

7-32 (A) without regard to the residents' ability to
7-33 pay; or

7-34 (B) in which at least four percent of the
7-35 retirement community's combined net resident revenue is provided in
7-36 charitable care to its residents; ~~or~~

7-37 (20) providing housing on a cooperative basis to
7-38 students of an institution of higher education if:

7-39 (A) the organization is exempt from federal
7-40 income taxation under Section 501(a), Internal Revenue Code of
7-41 1986, as amended, by being listed as an exempt entity under Section
7-42 501(c)(3) of that code;

7-43 (B) membership in the organization is open to all
7-44 students enrolled in the institution and is not limited to those
7-45 chosen by current members of the organization;

7-46 (C) the organization is governed by its members;
7-47 and

7-48 (D) the members of the organization share the
7-49 responsibility for managing the housing; or

7-50 (21) acquiring, holding, and transferring unimproved
7-51 real property under an urban land bank program established under
7-52 Chapter 379E, Local Government Code, as or on behalf of a land bank.

7-53 (o) For purposes of Subsection (a)(2), real property
7-54 acquired, held, and transferred by an organization that performs
7-55 the function described by Subsection (d)(21) is considered to be
7-56 used exclusively by the qualified charitable organization to
7-57 perform that function.

7-58 SECTION 3. Section 11.18, Tax Code, as amended by this Act,
7-59 applies only to an ad valorem tax year that begins on or after the
7-60 effective date of this Act.

7-61 SECTION 4. This Act takes effect September 1, 2007.

7-62 * * * * *