

BILL ANALYSIS

C.S.H.B. 2344
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Urban Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In 2003, the Texas Legislature authorized home-rule municipalities that have a population of 1.18 million or more and that are located predominantly in a county that has a total area of less than 1,000 square miles to adopt an urban land bank demonstration program in which the officer charged with selling real property ordered sold pursuant to foreclosure of a tax lien may sell certain eligible real property by private sale for purposes of affordable housing development. The original legislation required the governing body of a municipality that adopts an urban land bank demonstration program to establish or approve a land bank for the purpose of acquiring, holding, and transferring unimproved real property.

C.S.H.B. 2344 allows a land bank to permit a qualified participating developer to exchange a property purchased from the land bank with any other property owned by the developer under certain conditions. The bill requires the land bank to adjust the deed restrictions on the occupancy and use of the property for each of the properties exchanged by the developer. The bill also provides a right of first refusal to eligible adjacent property owners for property owned by the land bank that has been deemed inappropriate for residential development.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2344 amends the Local Government Code to add provisions that apply only to home-rule municipalities that have a population of 1.18 million or more, are located predominantly in a county that has a total area of less than 1,000 square miles, and have adopted an urban land bank demonstration program under state law. The bill authorizes property that is ordered sold pursuant to foreclosure of a tax lien to be sold in a private sale to a land bank, regardless of current zoning, and on development to be zoned for more than one use that includes residential housing in accordance with the law governing urban land bank demonstration programs, provided that the requirements regarding property that is sold in a private sale to a land bank are satisfied. The bill specifies that the requirement that the property not be improved with a habitable building or buildings or an uninhabitable building or buildings that are occupied as a residence by an owner or tenant who is legally entitled to occupy the building or buildings includes a building or buildings that are claimed as a residence.

C.S.H.B. 2344 provides that provisions regarding subsequent resale of property by a land bank do not apply to property sold to an eligible adjacent property owner under the bill's provisions. The bill increases from three years to four years the period during which a land bank must sell a property to a qualified participating developer following the date of acquisition or the property will be transferred from the land bank to the taxing units. The bill increases from two years to three years the period during which a qualified participating developer must apply for a construction permit and close on any construction financing or the property will revert to the

land bank for subsequent resale. The bill specifies that the subsequent resale of the land is in accordance with the urban land bank demonstration program rather than to another qualified participating developer. The bill establishes that if the property is replatted by a qualified participating developer under the bill's provisions, the right of reverter applies to the entire property as replatted. The bill specifies that the requirement to impose deed restrictions on the occupancy and use of property sold to qualified participating developers also includes the lease-purchase of the property to low income households.

C.S.H.B. 2344 authorizes a land bank to permit a qualified participating developer to exchange a property purchased from the land bank with any other property owned by the developer if the developer agrees to construct on the other property affordable housing for low-income households and the property will be located in a planned development incorporating the property originally purchased from the land bank or another location as approved by the land bank. The bill requires the land bank to adjust the required deed restrictions for each of the properties exchanged by the developer.

C.S.H.B. 2344 requires a land bank, if the land bank determines that a property owned by the land bank is not appropriate for residential development, to first offer the property for sale to an eligible adjacent property owner according to terms and conditions developed by the land bank. The bill requires the land bank to sell the property to an eligible adjacent property owner at the fair market value for the property as determined by the appraisal district in which the property is located or the sales price recorded in the annual plan, whichever value is lower. The bill prohibits such a purchaser from leasing, selling, or transferring the property to another person before the third anniversary of the date the adjacent property owner purchased the property from the land bank. The bill specifies that the prohibition does not apply to the transfer of property purchased from a land bank if the transfer is made according to a policy adopted by the land bank and is made to a family member of the eligible adjacent property owner or occurs as a result of the death of the eligible adjacent property owner. The bill makes conforming changes relating to the right of first refusal and records, audits, and reports of an urban land bank demonstration program.

C.S.H.B. 2344 authorizes a land bank to sell two adjacent properties that are owned by the land bank to a qualified participating developer if at least one of the properties is appropriate for residential development and the developer agrees to replat the two adjacent properties as one property that is appropriate for residential development.

C.S.H.B. 2344 defines "eligible adjacent property owner" for purposes of these provisions. The bill makes its provisions apply to property purchased from a land bank by a qualified participating developer or an eligible adjacent property owner without regard to whether the purchase was made before, on, or after the effective date of the bill.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2344 removes a provision from the original requiring property that is sold in a private sale to a land bank to be located in an area that is not zoned for residential housing but will, on development, be zoned for more than one use that includes residential housing. The substitute adds a provision not in the original to authorize property that is ordered sold pursuant to foreclosure of a tax lien to be sold in a private sale to a land bank, regardless of current zoning, and on development to be zoned for more than one use that includes residential housing in accordance with urban land bank demonstration programs, provided that the requirements regarding property that is sold in a private sale to a land bank are satisfied.

C.S.H.B. 2344 adds a provision not in the original to specify that provisions regarding subsequent resale of property by a land bank do not apply to property sold to an eligible adjacent property owner. The substitute adds a provision not in the original to establish that property sold by a land bank will revert to the land bank for subsequent resale in accordance with the urban land bank demonstration program, rather than to another qualified participating developer, if certain deadlines are not met. The substitute differs from the original by providing that if such property is replatted by a qualified participating developer, the right of reverter applies to the entire property as replatted.

C.S.H.B. 2344 differs from the original by authorizing a land bank to permit a qualified participating developer to exchange a property purchased from the land bank with any other property owned, rather than purchased, by the developer if the developer agrees to construct on the property affordable housing for low-income households and the property meets certain other criteria.

C.S.H.B. 2344 adds a provision not in the original to authorize a land bank to sell two adjacent properties that are owned by the land bank to a qualified participating developer if at least one of the properties is appropriate for residential development and the developer agrees to replat the two adjacent properties as one property that is appropriate for residential development. The substitute adds provisions not in the original to make conforming changes relating to right of first refusal and records, audits, and reports of an urban land bank demonstration program.