

House Bill 2344
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Section 379C.008, Local Government Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

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

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

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

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

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

(a-1) The property may be sold to a land bank,

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(2) the property is not 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;

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

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

(a-1) The property may be sold to a land bank,

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regardless of current zoning, and on development may be zoned for more than one use that must include residential housing in accordance with this chapter, provided that the requirements of Subsection (a) are satisfied.

SECTION 2. Section 379C.009, Local Government Code, is amended by amending Subsections (a), (b), and (d) and adding Subsection (a-1) to read as follows:

(a) Except as provided by Subsection (a-1), each ~~[Each]~~ subsequent resale of property acquired by a land bank under this chapter must comply with the conditions of this section.

(a-1) Notwithstanding any other law, this section does not apply to property sold to an eligible adjacent property owner under Section 379C.0106.

(b) The land bank must sell a property to a qualified participating developer within the four-year ~~[three-year]~~ period following the date of acquisition for the purpose of construction of affordable housing for sale or rent to low income households. If after four ~~[three]~~ years a qualified participating developer has not purchased the property, the property shall be transferred from the land bank to the taxing units who were parties to the judgment for disposition as otherwise allowed under the law.

(d) The deed conveying a property sold by the land bank must include a right of reverter so that if the qualified participating developer does not apply for a construction permit and close on any construction financing within

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regardless of current zoning, and on development may be zoned for more than one use that must include residential housing in accordance with this chapter, provided that the requirements of Subsection (a) are satisfied.

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the ~~three-year~~ ~~[two-year]~~ period following the date of the conveyance of the property from the land bank to the qualified participating developer, the property will revert to the land bank for subsequent resale in accordance with this chapter ~~[to another qualified participating developer]~~ or conveyance to the taxing units who were parties to the judgment for disposition as otherwise allowed under the law. If the property is replatted under Section 379C.0107, the right of reverter applies to the entire property as replatted.

SECTION 3. Section 379C.010(a), Local Government Code, is amended to read as follows:

(a) The land bank shall impose deed restrictions on property sold to qualified participating developers requiring the development and sale, ~~[or]~~ rental, or lease-purchase of the property to low income households.

SECTION 4. Chapter 379C, Local Government Code, is amended by adding Section 379C.0105 to read as follows:

Sec. 379C.0105. LOT EXCHANGE PERMITTED. (a) Notwithstanding Section 379C.010, the land bank may permit a qualified participating developer to exchange a property purchased from the land bank with any other property owned by the developer if:

(1) the developer agrees to construct on the other

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property affordable housing for low income households as provided by this chapter; and
(2) the other property will be located in:
(A) a planned development incorporating the property originally purchased from the land bank; or
(B) another location as approved by the land bank.
(b) The land bank shall adjust the deed restrictions under Section 379C.010 for each of the properties exchanged by the developer under this section.

SECTION 5. Chapter 379C, Local Government Code, is amended by adding Section 379C.0106 to read as follows:

Sec. 379C.0106. PROPERTY DETERMINED TO BE INAPPROPRIATE FOR RESIDENTIAL DEVELOPMENT: RIGHT OF FIRST REFUSAL. (a)
In this section, "eligible adjacent property owner" means a person who:

- (1) owns property located adjacent to property owned by the land bank;
 - (2) has owned the adjacent property and continuously occupied that property as a primary residence for the two-year period preceding the date of the sale; and
 - (3) satisfies eligibility requirements adopted by the land bank.
- (b) Notwithstanding any other right of first refusal granted under this chapter, if the land bank determines that a property owned by the land bank is not appropriate

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for residential development, the land bank first shall offer the property for sale to an eligible adjacent property owner according to terms and conditions developed by the land bank that are consistent with this chapter.

(c) The land bank shall sell the property to an eligible adjacent property owner, at whichever value is lower:

(1) the fair market value for the property as determined by the appraisal district in which the property is located;
or

(2) the sales price recorded in the annual plan.

(d) Except as provided by Subsection (e), an adjacent property owner that purchases property under this section may not lease, sell, or transfer that property to another person before the third anniversary of the date the adjacent property owner purchased that property from the land bank.

(e) Subsection (d) does not apply to the transfer of property purchased under this section if the transfer:

(1) is made according to a policy adopted by the land bank; and

(2) 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.

SECTION 6. Chapter 379C, Local Government Code, is amended by adding Section 379C.0107 to read as follows:

Sec. 379C.0107. REPLATTING BY QUALIFIED

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PARTICIPATING DEVELOPER. The land bank may sell two adjacent properties that are owned by the land bank to a qualified participating developer if:

(1) at least one of the properties is appropriate for residential development; and

(2) the developer agrees to replat the two adjacent properties as one property that is appropriate for residential development.

SECTION 7. The heading to Section 379C.011, Local Government Code, is amended to read as follows:
Sec. 379C.011. RIGHT OF FIRST REFUSAL **IN**
QUALIFIED ORGANIZATIONS.

SECTION 8. Section 379C.011(b), Local Government Code, is amended to read as follows:

(b) Except as provided by Section 379C.0106, the ~~[The]~~ land bank shall first offer a property for sale to qualified organizations.

SECTION 9. Section 379C.013(c), Local Government Code, is amended to read as follows:

(c) For purposes of evaluating the effectiveness of the program, the land bank shall submit an annual performance report to the municipality not later than November 1 of each year in which the land bank

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SECTION 7. The heading to Section 379C.011, Local Government Code, is amended to read as follows:
Sec. 379C.011. RIGHT OF FIRST REFUSAL **TO**
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acquires or sells property under this chapter. The performance report must include:

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

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

(A) the street address of the property;

(B) the legal description of the property;

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

(D) the name and address of the property owner of record at the time of the foreclosure;

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

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

(3) for each property sold by the land bank during the preceding fiscal year to a qualified participating developer or eligible adjacent property owner:

(A) the street address of the property;

(B) the legal description of the property;

(C) the name and mailing address of the purchaser ~~[developer]~~;

(D) the purchase price paid ~~[by the developer]~~; and

(E) if sold to a qualified participating developer:

(i) the maximum incomes allowed for the households by the terms of the sale; and

(ii) ~~(F)~~ the source and amount of any public subsidy provided by the municipality to facilitate the sale or

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rental of the property to a household within the targeted income levels;

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

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

SECTION 10. The changes in law made by this Act 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 this Act.

SECTION 11. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

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SECTION 10. The changes in law made by this Act apply to property **held by the land bank or** 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 this Act.

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