

BILL ANALYSIS

S.B. 402
By: West
Land & Resource Management
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Community land trusts (CLTs) have been successfully used in other states to develop vacant and blighted land for permanent affordable housing. By 2008, there were over 200 CLTs in 41 states. Under this model, the CLT sells a home at a restricted sales price and leases the underlying land to the homeowner through a long-term renewable lease, providing an opportunity for homeownership for low-income families who would otherwise be unable to afford it.

S.B. 402 establishes the CLT model in statute and authorizes a city or county by ordinance or order to create or designate a CLT, including those operated by a housing finance corporation or either a city or county-certified community housing development organization. S.B. 402 defines the income qualifications for the single-family and multi-family units within the CLT.

S.B. 402 provides that the land and improvements within the CLT be valued similarly to other property used for affordable housing in Texas and authorizes an optional municipal or county tax exemption, approved by the governing body, for the property within the CLT.

S.B. 402 amends current law relating to community land trusts.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

ANALYSIS

SECTION 1. Amends Subtitle A, Title 12, Local Government Code, by adding Chapter 373B, as follows:

CHAPTER 373B. COMMUNITY LAND TRUSTS

Sec. 373B.001. DEFINITION. Defines "community housing development organization" in this chapter.

Sec. 373B.002. CREATION OR DESIGNATION. Authorizes the governing body of a municipality or county by ordinance or order to create or designate one or more community land trusts (CLTs), including a housing finance corporation established under Chapter 394 (Housing Finance Corporations in Municipalities and Counties) or a land trust operated by a community housing development organization certified by the municipality or county, to operate in the municipality or county.

Sec. 373B.003. NATURE OF TRUST. Requires that a CLT created or designated under Section 373B.002 be a nonprofit organization that is created to acquire and hold land for the benefit of developing and preserving long-term affordable housing in the municipality or county, and exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, by being certified as an exempt organization under Section 501(c)(3) of that code.

Sec. 373B.004. PURPOSES OF TRUST. Sets forth the purposes of a CLT.

Sec. 373B.005. OWNERSHIP OF LAND AND HOUSING UNITS. Authorizes a CLT to retain title to land it acquires and to sell housing units located on the land and to lease the land under ground leases with terms of at least 99 years, or lease housing units located on the land.

Sec. 373B.006. QUALIFICATIONS OF PURCHASERS OR LESSEES OF HOUSING UNITS. (a) Authorizes a CLT to sell housing units only to families with a yearly income at the time of sale at or below 80 percent of the area median family income, adjusted for family size.

(b) Authorizes a CLT, notwithstanding Subsection (a), for housing units located on one or more tracts of land owned by the CLT that constitute a contiguous geographic area or are located in the same platted subdivision, to sell not more than 20 percent of the housing units to families with a yearly income at the time of sale that exceeds the amount provided by Subsection (a) but does not exceed 120 percent of the area median family income, adjusted for family size.

(c) Requires that at least 25 percent of the housing units sold by the CLT be sold to families with a yearly income at the time of sale at or below 60 percent of the area median family income, adjusted for family size.

(d) Authorizes a CLT to lease housing units only to families with a yearly income at the time of lease at or below 60 percent of the area median family income, adjusted for family size.

(e) Authorizes the trust, notwithstanding Subsection (d), for housing units located on one or more tracts of land owned by the CLT that constitute a contiguous geographical area or are located in the same platted subdivision, to lease not more than 20 percent of the housing units to families with a yearly income at the time of the lease that exceeds the amount provided by Subsection (d) but does not exceed 80 percent of the area median family income, adjusted for family size.

Sec. 373B.007. RELATION TO OTHER LAW. Provides that this chapter does not preclude the creation of a land trust by a nonprofit organization, including a community housing development organization, under other statutory or common law or the operation of that land trust inside or outside a municipality or county that has created or designated a CLT under Section 373B.002.

Sec. 373B.008. APPLICABILITY OF CHAPTER TO TRUST OPERATED BY HOUSING FINANCE CORPORATION. Provides that Section 373B.003 does not apply to a CLT operated in the municipality or county by a housing finance corporation established under Chapter 394.

SECTION 2. Amends Subchapter B, Chapter 11, Tax Code, by adding Section 11.1827, as follows:

Sec. 11.1827. COMMUNITY LAND TRUST. (a) Defines "community land trust" in this section.

(b) Provides that, in addition to any other exemption to which the CLT is authorized to be entitled, a CLT is entitled to an exemption from taxation by a taxing unit of land owned by the CLT, together with the housing units located on the land if they are owned by the CLT, if the CLT meets certain criteria and the exemption is adopted by the governing body of the taxing unit before July 1 in the manner provided by law for official action by the body.

(c) Prohibits property owned by a CLT from being exempted under Subsection (b) after the third anniversary of the date the trust acquires the property unless the CLT is offering to sell or lease or is leasing the property as provided by Chapter 373B, Local Government Code.

(d) Provides that a CLT entitled to an exemption from taxation by a taxing unit under Subsection (b) is also entitled to an exemption from taxation by the taxing unit of any real or tangible personal property the CLT owns and uses in the administration of its acquisition, construction, repair, sale, or leasing of property. Requires that the property, to qualify for an exemption under this subsection, be used exclusively by the CLT, except that another person is authorized to use the property for activities incidental to the CLT's use that benefit the beneficiaries of the CLT.

(e) Requires a CLT, to receive an exemption under this section, to annually have an audit prepared by an independent auditor. Requires that the audit include a detailed report on the trust's sources and uses of funds, and any other information required by the governing body of the municipality or county that created or designated the CLT under Section 373B.002, Local Government Code.

(f) Requires the CLT, not later than the 180th day after the last day of the CLT's most recent fiscal year, to deliver a copy of the audit required by Subsection (e) to the governing body of the municipality or county or an entity designated by the governing body, and the chief appraiser of the appraisal district in which the property subject to the exemption is located.

SECTION 3. Amends Section 11.43(c), Tax Code, to provide that an exemption provided by Section 11.1827, in addition to certain other sections, once allowed, need not be claimed in subsequent years, and except as otherwise provided by Subsection (e) (relating to prohibiting receiving of an exemption), the exemption applies to the property until it changes ownership or the person's qualification for the exemption changes.

SECTION 4. Amends Section 23.21, Tax Code, by adding Subsections (c) and (d), as follows:

(c) Requires the chief appraiser, in appraising land or a housing unit that is leased by a CLT created or designated under Section 373B.002, Local Government Code, to a family meeting the income-eligibility standards established by Section 373B.006 of that code under regulations or restrictions limiting the amount that the family may be required to pay for the rental or lease of the property, to take into account the extent to which that use and limitation reduce the market value of the property.

(d) Requires the chief appraiser, in appraising a housing unit that the owner or a predecessor of the owner acquired from a CLT created or designated under Section 373B.002, Local Government Code, and that is located on land owned by the trust and leased by the owner of the housing unit, to take into account the extent to which any regulation or restrictions limiting the right of the owner of the housing unit to sell the housing unit, including any limitation on the price for which the housing unit may be sold, reduce the market value of the housing unit.

SECTION 5. Provides that this Act applies only to ad valorem taxes imposed for a tax year beginning on or after the effective date of this Act.

SECTION 6. Effective date: January 1, 2012.

EFFECTIVE DATE

January 1, 2012.