

By: Lucio

S.B. No. 1691

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of the rural housing land assemblage program.

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

SECTION 1. Subtitle C, Title 12, Local Government Code, is amended by adding Chapter 394A to read as follows:

CHAPTER 394A. RURAL HOUSING LAND ASSEMBLAGE PROGRAM

Sec. 394A.001. SHORT TITLE. This chapter may be cited as the Rural Housing Land Assemblage Program Act.

Sec. 394A.002. DEFINITIONS. In this chapter:

(1) "Affordable" means that the monthly mortgage payment or contract rent does not exceed 30 percent of the applicable median income for that unit size, in accordance with the income and rent limit rules adopted by the department.

(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 as a community housing development organization according to the requirements of federal law.

(3) "Department" means the Texas Department of Housing and Community Affairs.

(4) "Low-income household" means:

1 (A) for rental housing, a household with a gross
2 income not to exceed 60 percent of the greater of the area median
3 income or national nonmetropolitan median income, adjusted for
4 household size, as determined annually by the United States
5 Department of Housing and Urban Development; or

6 (B) for purchased housing, a household with a
7 gross income not to exceed 80 percent of the greater of the area
8 median income or the state median income, adjusted for household
9 size, as determined annually by the United States Department of
10 Housing and Urban Development or by the department based on data
11 from the United States Department of Housing and Urban Development,
12 as appropriate.

13 (5) "Qualified participating developer" means a
14 developer who meets the requirements of Section 394A.005 and
15 includes a qualified organization under Section 394A.011.

16 (6) "Rural county" means a county classified as a
17 rural county by the United States Department of Agriculture for
18 purposes of the rural housing loan programs authorized by the
19 Housing Act of 1949 (42 U.S.C. Section 1471 et seq.).

20 (7) "Rural housing land assemblage entity" or "entity"
21 means an entity established or designated by the governing bodies
22 of one or more rural municipalities or rural counties for the
23 purpose of implementing and operating a rural housing land
24 assemblage program.

25 (8) "Rural housing land assemblage plan" or "plan"
26 means a plan adopted and approved as provided by Section 394A.006.

27 (9) "Rural housing land assemblage program" means a

1 program to acquire, hold, and transfer real property under this
2 chapter for the purpose of providing affordable housing for
3 low-income households.

4 (10) "Rural municipality" means a municipality
5 classified as a rural municipality by the United States Department
6 of Agriculture for purposes of the rural housing loan programs
7 authorized by the Housing Act of 1949 (42 U.S.C. Section 1471 et
8 seq.).

9 Sec. 394A.003. RURAL HOUSING LAND ASSEMBLAGE PROGRAM. The
10 governing bodies of one or more rural municipalities or rural
11 counties may participate in a rural housing land assemblage
12 program. As part of the program, a participating rural
13 municipality or county shall:

14 (1) with any other participating rural municipalities
15 or counties, enter into interlocal agreements governing the scope
16 and operation of the program, subject to the provisions of this
17 chapter; and

18 (2) establish or designate an entity to serve as the
19 rural housing land assemblage entity in charge of implementing and
20 operating the program.

21 Sec. 394A.004. RURAL HOUSING LAND ASSEMBLAGE ENTITY. A
22 rural housing land assemblage entity may acquire, hold, and
23 transfer, for the purpose of providing affordable housing for
24 low-income households, real property that is not improved with a
25 habitable building or buildings and is otherwise unoccupied.

26 Sec. 394A.005. QUALIFIED PARTICIPATING DEVELOPER. To
27 qualify to participate in a rural housing land assemblage program,

1 a developer must:

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

6 (2) have a development plan approved by the entity and
7 each participating rural municipality or county for the property;
8 and

9 (3) meet any other requirements adopted by the entity
10 in the rural housing land assemblage plan.

11 Sec. 394A.006. RURAL HOUSING LAND ASSEMBLAGE PLAN. (a) A
12 rural housing land assemblage entity that implements and operates a
13 rural housing land assemblage program shall operate the program in
14 conformance with a rural housing land assemblage plan. The entity
15 shall adopt a plan annually and may amend the plan as necessary.
16 The adoption of the plan and any amendments to the plan are subject
17 to approval by the governing body of each participating rural
18 municipality or county.

19 (b) In developing the plan, a rural housing land assemblage
20 entity shall consider housing plans adopted by each participating
21 rural municipality or county, including comprehensive plans
22 submitted to the United States Department of Housing and Urban
23 Development and all fair housing plans and policies adopted or
24 agreed to by the municipalities or counties.

25 (c) The plan must include the following:

26 (1) a list of qualified organizations eligible to
27 participate in the right of first refusal provided by Section

1 394A.011;

2 (2) the amount of time, if any, that a property may be
3 held by a rural housing land assemblage entity once an offer has
4 been received and accepted from a qualified organization or other
5 qualified participating developer;

6 (3) a list of the parcels of real property that may
7 become eligible for sale to the entity during the upcoming year;

8 (4) the entity's plan for affordable housing
9 development on those parcels of real property; and

10 (5) the sources and amounts of funding anticipated to
11 be available from each participating rural municipality or county
12 for subsidies for development of affordable housing in the
13 applicable rural municipality or county, including any money
14 specifically available for housing developed under the program, as
15 approved by the governing body of the applicable rural municipality
16 or county before the plan is adopted by the entity.

17 Sec. 394A.007. PUBLIC HEARING ON PROPOSED PLAN. (a) Before
18 adopting a plan, a rural housing land assemblage entity shall hold a
19 public hearing on the proposed plan.

20 (b) The director of the rural housing land assemblage entity
21 shall provide notice of the hearing to all community housing
22 development organizations and to neighborhood associations
23 identified by the entity as serving the areas in which properties
24 anticipated to be available for sale to the entity under this
25 chapter are located.

26 (c) The director of the rural housing land assemblage entity
27 shall make copies of the proposed plan available to the public not

1 later than the 60th day before the date of the public hearing.

2 Sec. 394A.008. PRIVATE SALE TO LAND ASSEMBLAGE ENTITY. (a)
3 Notwithstanding any other law and except as provided by Subsection
4 (f), real property that is ordered sold pursuant to foreclosure of a
5 tax lien may be sold in a private sale to a rural housing land
6 assemblage entity by the officer charged with the sale of the
7 property, without first offering the property for sale as otherwise
8 provided by Section 34.01, Tax Code, if:

9 (1) the property is used for the purpose of providing
10 affordable housing as described by Section 394A.004;

11 (2) the market value of the property as appraised by
12 the local appraisal district and as specified in the judgment of
13 foreclosure is less than the total amount due under the judgment,
14 including all taxes, penalties, and interest, plus the value of
15 nontax liens held by a taxing unit and awarded by the judgment,
16 court costs, and the cost of the sale;

17 (3) the property is not improved with a habitable
18 building or buildings and is otherwise unoccupied;

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

21 (5) each rural municipality or rural county that
22 participates in the rural housing land assemblage program has
23 executed with the other taxing units that are parties to the tax
24 suit an interlocal agreement that enables those units to agree to
25 participate in the program while retaining the right to withhold
26 consent to the sale of specific properties to the entity.

27 (b) A sale of property for use in connection with the rural

1 housing land assemblage program is a sale for a public purpose.

2 (c) If the person being sued in a suit for foreclosure of a
3 tax lien does not contest the market value of the property in the
4 suit, the person waives the right to challenge the amount of the
5 market value determined by the court for purposes of the sale of the
6 property under Section 33.50, Tax Code.

7 (d) For any sale of property under this section, each person
8 who was a defendant to the judgment, or that person's attorney,
9 shall be given, not later than the 60th day before the date of sale,
10 written notice of the proposed method of sale of the property by the
11 officer charged with the sale of the property. Notice shall be
12 given in the manner prescribed by Rule 21a, Texas Rules of Civil
13 Procedure.

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

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

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

26 (h) Notwithstanding any other law, if consent is given by
27 the taxing units that are a party to the judgment, property may be

1 sold to the rural housing land assemblage entity for less than the
2 market value of the property as specified in the judgment or less
3 than the total of all taxes, penalties, and interest, plus the value
4 of nontax liens held by a taxing unit and awarded by the judgment,
5 court costs, and the cost of the sale.

6 (i) The deed of conveyance of the property sold to a rural
7 housing land assemblage entity under this section conveys to the
8 entity the right, title, and interest acquired or held by each
9 taxing unit that was a party to the judgment, subject to the right
10 of redemption.

11 Sec. 394A.009. EXEMPTION FROM AD VALOREM TAXATION.

12 Property sold to and held by a rural housing land assemblage entity
13 for subsequent resale is entitled to an exemption from ad valorem
14 taxation for a period not to exceed three years from the date of
15 acquisition. The exemption period may be renewed for a property for
16 an additional period, not to exceed three years, on approval of the
17 governing body of each participating rural municipality or county
18 and any other taxing unit in which the property is located. Property
19 is entitled to an exemption under this section only during the
20 period the property is held by the entity.

21 Sec. 394A.010. SUBSEQUENT RESALE BY LAND ASSEMBLAGE ENTITY.

22 (a) Except as provided by Subsection (b), each subsequent resale of
23 property acquired by a rural housing land assemblage entity under
24 this chapter must comply with the conditions of this section.

25 (b) Notwithstanding any other law, this section does not
26 apply to property sold to an eligible adjacent property owner under
27 Section 394A.012.

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

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

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

27 Sec. 394A.011. RIGHT OF FIRST REFUSAL TO QUALIFIED

1 ORGANIZATIONS. (a) In this section, "qualified organization"
2 means a community housing development organization that:

3 (1) contains within its designated geographical
4 boundaries of operation, as set forth in its application for
5 certification, a portion of the property that a rural housing land
6 assemblage entity is offering for sale;

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

12 (3) within the preceding two-year period has built or
13 rehabilitated housing units within a one-half mile radius of the
14 property that the entity is offering for sale.

15 (b) Except as provided by Section 394A.012, a rural housing
16 land assemblage entity shall first offer a property for sale to
17 qualified organizations.

18 (c) Notice must be provided to the qualified organizations
19 by certified mail, return receipt requested.

20 (d) A rural housing land assemblage entity shall specify in
21 its plan that the period during which the right of first refusal
22 provided by this section may be exercised by a qualified
23 organization is six months from the date of the deed of conveyance
24 of the property to the entity.

25 (e) During the specified period, a rural housing land
26 assemblage entity may not sell the property to a qualified
27 participating developer other than a qualified organization. If

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

8 (f) If more than one qualified organization expresses an
9 interest in exercising its right of first refusal, the organization
10 that has designated the most geographically compact area
11 encompassing a portion of the property shall be given priority.

12 (g) In its plan, a rural housing land assemblage entity may
13 provide for rights of second refusal for any other nonprofit
14 corporation exempted from federal income tax under Section
15 501(c)(3), Internal Revenue Code of 1986, as amended. The rights of
16 second refusal permitted by this subsection must be exercised
17 during the period described by Subsection (d).

18 (h) A rural housing land assemblage entity is not required
19 to provide a right of first refusal to qualified organizations
20 under this section if the entity is selling property that reverted
21 to the entity under Section 394A.010.

22 Sec. 394A.012. PROPERTY DETERMINED TO BE INAPPROPRIATE FOR
23 RESIDENTIAL DEVELOPMENT: PREEMINENT RIGHT OF FIRST REFUSAL. (a)
24 In this section, "eligible adjacent property owner" means a person
25 who:

26 (1) owns property located adjacent to property owned
27 by a rural housing land assemblage entity;

1 (2) has owned the adjacent property and continuously
2 occupied that property as a primary residence for the two-year
3 period preceding the date of the sale; and

4 (3) satisfies eligibility requirements specified by
5 the entity in its annual plan.

6 (b) Notwithstanding any other right of first refusal
7 granted under this chapter, if a rural housing land assemblage
8 entity determines that a property owned by the entity is not
9 appropriate for residential development, the entity first shall
10 offer the property for sale to an eligible adjacent property owner
11 according to terms and conditions that are consistent with this
12 chapter, as specified by the entity in its annual plan.

13 (c) A rural housing land assemblage entity shall sell the
14 property to an eligible adjacent property owner, at whichever value
15 is lower:

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

19 (2) the sales price recorded in the entity's annual
20 plan.

21 (d) Except as provided by Subsection (e), an adjacent
22 property owner that purchases property under this section may not
23 lease, sell, or transfer that property to another person before the
24 third anniversary of the date the adjacent property owner purchased
25 that property from a rural housing land assemblage entity.

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

1 (1) is made according to a policy adopted by a rural
2 housing land assemblage entity in its annual plan; and

3 (2) is made to a family member of the eligible adjacent
4 property owner or occurs as a result of the death of the eligible
5 adjacent property owner.

6 Sec. 394A.013. RESTRICTIONS ON OCCUPANCY AND USE OF
7 PROPERTY. (a) A rural housing land assemblage entity shall impose
8 deed restrictions on property sold to qualified participating
9 developers requiring the development and sale, rental, or
10 lease-purchase of the property to low-income households.

11 (b) Each rural housing land assemblage entity property sold
12 during any given fiscal year to be developed for sale must be
13 deed-restricted for sale to low-income households.

14 (c) If property is developed for rental housing, the deed
15 restrictions must be for a period of not less than 15 years and must
16 require that 100 percent of the rental units be occupied by
17 low-income households.

18 (d) The deed restrictions under Subsection (c) must require
19 the owner to file an annual occupancy report with the rural housing
20 land assemblage entity and with each participating rural
21 municipality or county on a reporting form provided by the entity.
22 The deed restrictions must also prohibit any exclusion of an
23 individual or family from admission to the development based solely
24 on the participation of the individual or family in the housing
25 choice voucher program under Section 8, United States Housing Act
26 of 1937 (42 U.S.C. Section 1437f), as amended.

27 (e) Except as otherwise provided by this section, if the

1 deed restrictions imposed under this section are for a term of
2 years, the deed restrictions shall renew automatically.

3 (f) A rural housing land assemblage entity may modify or add
4 to the deed restrictions imposed under this section. Any
5 modifications or additions must be adopted by the entity as part of
6 its plan and must comply with the restrictions set forth in
7 Subsections (b), (c), and (d).

8 Sec. 394A.014. DEPARTMENT RULEMAKING AUTHORITY. The
9 department shall develop and adopt guidelines and rules governing
10 the operation of a rural housing land assemblage program, including
11 reporting requirements for rural housing land assemblage entities
12 and additional affordability terms and income targeting.

13 Sec. 394A.015. OPEN RECORDS AND MEETINGS. A rural housing
14 land assemblage entity is subject to Chapters 551 and 552,
15 Government Code.

16 Sec. 394A.016. RECORDS; AUDIT. (a) A rural housing land
17 assemblage entity shall keep accurate minutes of its meetings and
18 shall keep accurate records and books of account that conform with
19 generally accepted principles of accounting and that clearly
20 reflect the income and expenses of the entity and all transactions
21 in relation to its property.

22 (b) Not later than the 90th day after the close of a rural
23 housing land assemblage entity's fiscal year, the entity shall file
24 with each participating rural municipality or county annual audited
25 financial statements prepared by a certified public accountant.
26 The financial transactions of the entity are subject to audit by a
27 participating rural municipality or county and by the department.

1 SECTION 2. This Act takes effect September 1, 2011.