

By: Martinez Fischer

H.B. No. 4015

A BILL TO BE ENTITLED

AN ACT

relating to land bank demonstration programs.

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

SECTION 1. Chapter 379C, Local Government Code, is amended by adding Section 379C.015 to read as follows:

Sec. 379C.015. PARTICIPATION IN COUNTY LAND BANK PROGRAM.

(a) A land bank established or approved by the governing body of a municipality under this chapter may participate in a land bank program established or approved by a county under Chapter 388 if the participation of the municipality in the county land bank program is incorporated into each entity's land bank demonstration plan under Sections 379C.006 and 388.005, as applicable.

(b) The authority of a municipally established land bank participating in a program established under Chapter 388 is limited to the powers granted under this chapter.

SECTION 2. Subtitle B, Title 12, Local Government Code, is amended by adding Chapter 388 to read as follows:

CHAPTER 388. LAND BANK DEMONSTRATION PROGRAM

Sec. 388.001. APPLICABILITY. This chapter applies only to a county that:

(1) contains a majority of the territory of a home-rule municipality that has a population of 1.18 million or more; and

(2) has a total area of less than 1,300 square miles.

1 Sec. 388.002. DEFINITIONS. In this chapter:

2 (1) "Community housing development organization" or
3 "organization" means an organization that:

4 (A) meets the definition of a community housing
5 development organization in 24 C.F.R. Section 92.2; and

6 (B) is certified by the county as a community
7 housing development organization.

8 (2) "Land bank" means an entity established or
9 approved by the governing body of a county for the purpose of
10 acquiring, holding, and transferring unimproved real property
11 under this chapter.

12 (3) "Land bank demonstration plan" or "plan" means a
13 plan adopted by the governing body of a county as provided by
14 Section 388.005.

15 (4) "Land bank demonstration program" or "program"
16 means a program adopted under Section 388.003.

17 (5) "Low income household" means a household with a
18 gross income of not greater than 115 percent of the area median
19 family income, adjusted for household size, for the county, as
20 determined annually by the United States Department of Housing and
21 Urban Development.

22 (6) "Qualified participating developer" means a
23 developer who meets the requirements of Section 388.004 and
24 includes a qualified organization under Section 388.013.

25 Sec. 388.003. LAND BANK DEMONSTRATION PROGRAM. (a) The
26 governing body of a county may adopt a land bank demonstration
27 program in which the officer charged with selling real property

1 ordered sold pursuant to foreclosure of a tax lien may sell certain
2 eligible real property by private sale for purposes of affordable
3 housing development as provided by this chapter.

4 (b) The governing body of a county that adopts a land bank
5 demonstration program shall establish or approve a land bank for
6 the purpose of acquiring, holding, and transferring unimproved real
7 property under this chapter.

8 Sec. 388.004. QUALIFIED PARTICIPATING DEVELOPER. To
9 qualify to participate in a land bank demonstration program, a
10 developer must:

11 (1) have built one or more housing units within the
12 three-year period preceding the submission of a proposal to the
13 land bank seeking to acquire real property from the land bank;

14 (2) have a development plan approved by the county for
15 the land bank property; and

16 (3) meet any other requirements adopted by the county
17 in the land bank demonstration plan.

18 Sec. 388.005. LAND BANK DEMONSTRATION PLAN. (a) A county
19 that adopts a land bank demonstration program shall operate the
20 program in conformance with a land bank demonstration plan.

21 (b) The governing body of a county that adopts a land bank
22 demonstration program shall adopt a plan annually. The plan may be
23 amended from time to time.

24 (c) In developing the plan, the county shall consider any
25 other housing plans adopted by the county, including any fair
26 housing plans and policies adopted or agreed to by the county.

27 (d) The plan must include the following:

1 (1) a list of community housing development
2 organizations eligible to participate in the right of first refusal
3 provided by Section 388.013;

4 (2) a list of the parcels of real property that may
5 become eligible for sale to the land bank during the upcoming year;

6 (3) the county's plan for affordable housing
7 development on those parcels of real property; and

8 (4) the sources and amounts of funding anticipated to
9 be available from the county for subsidies for development of
10 affordable housing in the county, including any money specifically
11 available for housing developed under the program, as approved by
12 the governing body of the county at the time the plan is adopted.

13 Sec. 388.006. PUBLIC HEARING ON PROPOSED PLAN. (a) Before
14 adopting a plan, a county shall hold a public hearing on the
15 proposed plan.

16 (b) The county clerk or the county clerk's designee shall
17 provide notice of the hearing to all community housing development
18 organizations and to neighborhood associations identified by the
19 county as serving the neighborhoods in which properties anticipated
20 to be available for sale to the land bank under this chapter are
21 located.

22 (c) The county clerk or the county clerk's designee shall
23 make copies of the proposed plan available to the public not later
24 than the 60th day before the date of the public hearing.

25 Sec. 388.007. PRIVATE SALE TO LAND BANK. (a)
26 Notwithstanding any other law and except as provided by Subsection
27 (g), property that is ordered sold pursuant to foreclosure of a tax

1 lien may be sold in a private sale to a land bank by the officer
2 charged with the sale of the property without first offering the
3 property for sale as otherwise provided by Section 34.01, Tax Code,
4 if:

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

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

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

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

21 (b) The property may be sold to a land bank, regardless of
22 current zoning, and on development may be zoned for more than one
23 use that must include residential housing in accordance with this
24 chapter, provided that the requirements of Subsection (a) are
25 satisfied.

26 (c) A sale of property for use in connection with the
27 program is a sale for a public purpose.

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

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

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

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

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

25 (i) Notwithstanding any other law, if consent is given by
26 the taxing units that are a party to the judgment, property may be
27 sold to the land bank for less than the market value of the property

1 as specified in the judgment or less than the total of all taxes,
2 penalties, and interest, plus the value of nontax liens held by a
3 taxing unit and awarded by the judgment, court costs, and the cost
4 of the sale.

5 (j) The deed of conveyance of the property sold to a land
6 bank under this section conveys to the land bank the right, title,
7 and interest acquired or held by each taxing unit that was a party
8 to the judgment, subject to the right of redemption.

9 Sec. 388.008. SUBSEQUENT RESALE BY LAND BANK. (a) Except
10 as provided by Subsection (b), each subsequent resale of property
11 acquired by a land bank under this chapter must comply with the
12 conditions of this section.

13 (b) Notwithstanding any other law, this section does not
14 apply to property sold to an eligible adjacent property owner under
15 Section 388.011.

16 (c) Except as provided by Subsection (d), the land bank must
17 sell a property to a qualified participating developer within the
18 four-year period following the date of acquisition for the purpose
19 of construction of affordable housing for sale or rent to low income
20 households.

21 (d) Before the completion of the four-year period described
22 by Subsection (c), the land bank may, subject to Section 388.011:

23 (1) transfer property that the land bank determines is
24 not appropriate for residential development to the taxing units
25 described by Subsection (c); or

26 (2) sell property described by Subdivision (1) to a
27 political subdivision or a nonprofit organization.

1 (e) If after four years a qualified participating developer
2 has not purchased the property, the property shall be transferred
3 from the land bank to the taxing units who were parties to the
4 judgment for disposition as otherwise allowed under the law.

5 (f) Unless the county increases the amount in its plan, the
6 number of properties acquired by a qualified participating
7 developer under this section on which development has not been
8 completed may not at any given time exceed three times the annual
9 average residential production completed by the qualified
10 participating developer during the preceding two-year period as
11 determined by the county.

12 (g) The deed conveying a property sold by the land bank must
13 include a right of reverter so that if the qualified participating
14 developer does not apply for a construction permit and close on any
15 construction financing within the three-year period following the
16 date of the conveyance of the property from the land bank to the
17 qualified participating developer, the property will revert to the
18 land bank for subsequent resale in accordance with this chapter or
19 conveyance to the taxing units who were parties to the judgment for
20 disposition as otherwise allowed under the law. If the property is
21 replatted under Section 388.012, the right of reverter applies to
22 the entire property as replatted.

23 Sec. 388.009. RESTRICTIONS ON OCCUPANCY AND USE OF
24 PROPERTY. (a) The land bank shall impose deed restrictions on
25 property sold to qualified participating developers requiring the
26 development and sale, rental, or lease-purchase of the property to
27 low income households.

1 (b) Each land bank property sold during any given fiscal
2 year to be developed for sale must be deed restricted for sale to
3 low income households, and:

4 (1) at least 25 percent of those land bank properties
5 must be deed restricted for sale to households with gross household
6 incomes not greater than 60 percent of the area median family
7 income, adjusted for household size; and

8 (2) not more than 30 percent of those land bank
9 properties may be deed restricted for sale to households with gross
10 household incomes greater than 80 percent of the area median family
11 income, adjusted for household size.

12 (c) If property is developed for rental housing, the deed
13 restrictions must be for a period of not less than 15 years and must
14 require that:

15 (1) 100 percent of the rental units be occupied by
16 households with incomes not greater than 60 percent of area median
17 family income, based on gross household income, adjusted for
18 household size, for the county, as determined annually by the
19 United States Department of Housing and Urban Development;

20 (2) 40 percent of the units be occupied by households
21 with incomes not greater than 50 percent of area median family
22 income, based on gross household income, adjusted for household
23 size, for the county, as determined annually by the United States
24 Department of Housing and Urban Development; or

25 (3) 20 percent of the units be occupied by households
26 with incomes not greater than 30 percent of area median family
27 income, based on gross household income, adjusted for household

1 size, for the county, as determined annually by the United States
2 Department of Housing and Urban Development.

3 (d) The deed restrictions under Subsection (c) must require
4 the owner to file an annual occupancy report with the county on a
5 reporting form provided by the county. The deed restrictions must
6 also prohibit any exclusion of an individual or family from
7 admission to the development based solely on the participation of
8 the individual or family in the housing choice voucher program
9 under Section 8, United States Housing Act of 1937 (42 U.S.C.
10 Section 1437f), as amended.

11 (e) Except as otherwise provided by this section, if the
12 deed restrictions imposed under this section are for a term of
13 years, the deed restrictions shall renew automatically.

14 (f) The land bank or the governing body of the county may
15 modify or add to the deed restrictions imposed under this section.
16 Any modifications or additions made by the governing body of the
17 county must be adopted by the county as part of its plan and must
18 comply with the restrictions set forth in Subsections (b), (c), and
19 (d).

20 Sec. 388.010. LOT EXCHANGE PERMITTED. (a) Notwithstanding
21 Section 388.009, the land bank may permit a qualified participating
22 developer to exchange a property purchased from the land bank with
23 any other property owned by the developer if:

24 (1) the developer agrees to construct on the other
25 property affordable housing for low income households as provided
26 by this chapter; and

27 (2) the other property will be located in:

1 (A) a planned development incorporating the
2 property originally purchased from the land bank; or

3 (B) another location as approved by the land
4 bank.

5 (b) The land bank shall adjust the deed restrictions under
6 Section 388.009 for each of the properties exchanged by the
7 developer under this section.

8 Sec. 388.011. PROPERTY DETERMINED TO BE INAPPROPRIATE FOR
9 RESIDENTIAL DEVELOPMENT: RIGHT OF FIRST REFUSAL. (a) In this
10 section, "eligible adjacent property owner" means a person who:

11 (1) owns property located adjacent to property owned
12 by the land bank; and

13 (2) satisfies eligibility requirements adopted by the
14 land bank.

15 (b) Notwithstanding any other right of first refusal
16 granted under this chapter, if the land bank determines that a
17 property owned by the land bank is not appropriate for residential
18 development, the land bank first shall offer the property for sale
19 to an eligible adjacent property owner according to terms and
20 conditions developed by the land bank that are consistent with this
21 chapter.

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

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

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

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

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

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

10 (2) is made to a family member of the eligible adjacent
11 property owner or occurs as a result of the death of the eligible
12 adjacent property owner.

13 Sec. 388.012. REPLATTING BY QUALIFIED PARTICIPATING
14 DEVELOPER. The land bank may sell two adjacent properties that are
15 owned by the land bank to a qualified participating developer if:

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

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

21 Sec. 388.013. RIGHT OF FIRST REFUSAL TO QUALIFIED
22 ORGANIZATIONS. (a) In this section, "qualified organization"
23 means a community housing development organization that:

24 (1) contains within its designated geographical
25 boundaries of operation, as set forth in its application for
26 certification filed with and approved by the county, a portion of
27 the property that the land bank is offering for sale;

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

6 (3) within the preceding two-year period has built or
7 rehabilitated housing units within a one-half mile radius of the
8 property that the land bank is offering for sale.

9 (b) Except as provided by Section 388.011, the land bank
10 shall first offer a property for sale to qualified organizations.

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

13 (d) The county shall specify in its plan that the period
14 during which the right of first refusal provided by this section may
15 be exercised by a qualified organization is six months from the date
16 of the deed of conveyance of the property to the land bank.

17 (e) During the specified period, the land bank may not sell
18 the property to a qualified participating developer other than a
19 qualified organization. If all qualified organizations notify the
20 land bank that they are declining to exercise their right of first
21 refusal during the specified period, or if an offer to purchase the
22 property is not received from a qualified organization during that
23 period, the land bank may sell the property to any other qualified
24 participating developer at the same price that the land bank
25 offered the property to the qualified organizations.

26 (f) In its plan, the county shall establish the amount of
27 additional time, if any, that a property may be held in the land

1 bank once an offer has been received and accepted from a qualified
2 organization or other qualified participating developer.

3 (g) If more than one qualified organization expresses an
4 interest in exercising its right of first refusal, the organization
5 that has designated the most geographically compact area
6 encompassing a portion of the property shall be given priority.

7 (h) In its plan, the county may provide for other rights of
8 first refusal for any other nonprofit corporation exempted from
9 federal income tax under Section 501(c)(3), Internal Revenue Code
10 of 1986, as amended, provided that the preeminent right of first
11 refusal is provided to qualified organizations as provided by this
12 section.

13 (i) The land bank is not required to provide a right of first
14 refusal to qualified organizations under this section if the land
15 bank is selling property that reverted to the land bank under
16 Section 388.008(g).

17 Sec. 388.014. OPEN RECORDS AND MEETINGS. The land bank
18 shall comply with the requirements of Chapters 551 and 552,
19 Government Code.

20 Sec. 388.015. RECORDS; AUDIT; REPORT. (a) The land bank
21 shall keep accurate minutes of its meetings and shall keep accurate
22 records and books of account that conform with generally accepted
23 principles of accounting and that clearly reflect the income and
24 expenses of the land bank and all transactions in relation to its
25 property.

26 (b) The land bank shall file with the county not later than
27 the 90th day after the close of the fiscal year annual audited

1 financial statements prepared by a certified public accountant.
2 The financial transactions of the land bank are subject to audit by
3 the county.

4 (c) For purposes of evaluating the effectiveness of the
5 program, the land bank shall submit an annual performance report to
6 the county not later than November 1 of each year in which the land
7 bank acquires or sells property under this chapter. The
8 performance report must include:

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

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

14 (A) the street address of the property;

15 (B) the legal description of the property;

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

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

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

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

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

27 (A) the street address of the property;

1 (B) the legal description of the property;
2 (C) the name and mailing address of the
3 purchaser;

4 (D) the purchase price paid; and

5 (E) if sold to a qualified participating
6 developer:

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

9 (ii) the source and amount of any public
10 subsidy provided by the county to facilitate the sale or rental of
11 the property to a household within the targeted income levels;

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

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

19 (d) The land bank shall maintain in its records for
20 inspection a copy of the sale settlement statement for each
21 property sold by a qualified participating developer and a copy of
22 the first page of the mortgage note with the interest rate and
23 indicating the volume and page number of the instrument as filed
24 with the county clerk.

25 (e) The land bank shall provide copies of the performance
26 report to the taxing units who were parties to the judgment of
27 foreclosure and shall provide notice of the availability of the

1 performance report for review to the organizations and neighborhood
2 associations identified by the county as serving the neighborhoods
3 in which properties sold to the land bank under this chapter are
4 located.

5 (f) The land bank and the county shall maintain copies of
6 the performance report available for public review.

7 Sec. 388.016. PARTICIPATION IN MUNICIPAL LAND BANK PROGRAM.

8 (a) A land bank established or approved by the governing body of a
9 county under this chapter may participate in a land bank program
10 established or approved by a municipality under Chapter 379C if the
11 participation of the county in the municipal land bank program is
12 incorporated into each entity's land bank demonstration plan under
13 Sections 379C.006 and 388.005, as applicable.

14 (b) The authority of a county-established land bank
15 participating in a program established under Chapter 379C is
16 limited to the powers granted under this chapter.

17 SECTION 3. This Act takes effect September 1, 2015.