

By: Gutierrez

H.B. No. 2646

Substitute the following for H.B. No. 2646:

By: Flynn

C.S.H.B. No. 2646

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the adoption of a land bank program by the Texas State  
3 Affordable Housing Corporation.

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

5 SECTION 1. Chapter 2306, Government Code, is amended by  
6 adding Subchapter PP to read as follows:

7 SUBCHAPTER PP. VETERANS' LAND BANK PROGRAM

8 Sec. 2306.1151. DEFINITIONS. In this subchapter:

9 (1) "Affordable" means that the monthly mortgage  
10 payment or contract rent does not exceed 30 percent of the  
11 applicable median family income for that unit size, in accordance  
12 with the income and rent limit rules adopted by the Texas Department  
13 of Housing and Community Affairs.

14 (2) "Community housing development organization" or  
15 "organization" means an organization that:

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

18 (B) is certified by a municipality or county as a  
19 community housing development organization.

20 (3) "Corporation" means the Texas State Affordable  
21 Housing Corporation.

22 (4) "Land bank" means an entity established or  
23 approved by the corporation for the purpose of acquiring, holding,  
24 and transferring unimproved real property under this subchapter to

1 provide affordable housing for veterans who are members of low  
2 income households.

3 (5) "Land bank plan" or "plan" means a plan adopted by  
4 the corporation as provided by Section 2306.1155.

5 (6) "Land bank program" or "program" means a program  
6 adopted under Section 2306.1153.

7 (7) "Low income household" means a household with an  
8 income of not greater than 80 percent of the area median family  
9 income, based on gross household income, adjusted for household  
10 size, for a municipality or, if located in an area that is not part  
11 of a municipality, a county, as determined annually by the United  
12 States Department of Housing and Urban Development.

13 (8) "Qualified participating developer" means a  
14 developer who meets the requirements of Section 2306.1154 and  
15 includes a qualified organization under Section 2306.1160.

16 (9) "Veteran" has the meaning provided by Section  
17 161.001, Natural Resources Code.

18 Sec. 2306.1152. APPLICABILITY OF OTHER LAW. This  
19 subchapter controls to the extent of any conflict between this  
20 subchapter and another provision of this chapter.

21 Sec. 2306.1153. LAND BANK PROGRAM. (a) The corporation  
22 shall adopt a land bank program and establish or approve a land bank  
23 for the purpose of acquiring, holding, and transferring unimproved  
24 real property under this subchapter to provide affordable housing  
25 for veterans who are members of low income households.

26 (b) Property held by the land bank must include property  
27 acquired in the manner provided by Section 2306.1157 and may

1 include other property acquired by or transferred to the land bank.

2 (c) A sale or other transfer of property for use in  
3 connection with the program is a sale for a public purpose.

4 Sec. 2306.1154. QUALIFIED PARTICIPATING DEVELOPER. To  
5 qualify to participate in the program, a developer must:

6 (1) have developed three or more housing units within  
7 the three-year period preceding the submission of a proposal to the  
8 land bank seeking to acquire real property from the land bank;

9 (2) have a development plan approved by the  
10 corporation for the land bank property; and

11 (3) meet any other requirements adopted by the  
12 corporation in the land bank plan.

13 Sec. 2306.1155. LAND BANK PLAN. (a) The corporation shall  
14 operate the program in conformance with a land bank plan.

15 (b) The corporation shall adopt a plan annually. The plan  
16 may be amended from time to time.

17 (c) In developing the plan, the corporation shall consider  
18 any other housing plans adopted by a municipality or county in which  
19 the corporation intends to implement the program.

20 (d) The plan must include the following:

21 (1) a list of community housing development  
22 organizations eligible to participate in the right of first refusal  
23 provided by Section 2306.1160;

24 (2) a list of the parcels of real property that may  
25 become eligible for sale or transfer to the land bank during the  
26 next year;

27 (3) the corporation's plan for affordable housing

1 development on those parcels of real property; and

2 (4) the sources and amounts of public subsidies  
3 anticipated to be available for affordable housing development  
4 previously approved by the corporation at the time of the plan.

5 Sec. 2306.1156. PUBLIC HEARING ON PROPOSED PLAN. (a)  
6 Before adopting a plan, the corporation shall hold a public hearing  
7 on the proposed plan.

8 (b) The corporation shall provide notice of the hearing to  
9 all community housing development organizations and to  
10 neighborhood associations identified by the corporation as serving  
11 the neighborhoods in which properties anticipated to be available  
12 for sale or transfer to the land bank under this subchapter are  
13 located.

14 (c) The corporation shall make copies of the proposed plan  
15 available to the public not later than the 60th day before the date  
16 of the public hearing.

17 Sec. 2306.1157. PRIVATE SALE TO LAND BANK. (a)  
18 Notwithstanding any other law and except as provided by Subsection  
19 (e), property that is ordered sold pursuant to foreclosure of a tax  
20 lien may be sold in a private sale to a land bank by the officer  
21 charged with the sale of the property without first offering the  
22 property for sale as otherwise provided by Section 34.01, Tax Code,  
23 if:

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

1 judgment, court costs, and the cost of the sale;

2 (2) the property is not improved with a building or  
3 buildings;

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

6 (4) all taxing units that are parties to the tax suit  
7 have executed an interlocal agreement that enables those units to  
8 agree to participate in the program while retaining the right to  
9 withhold consent to the sale of specific properties to the land  
10 bank.

11 (b) If the person being sued in a suit for foreclosure of a  
12 tax lien does not contest the market value of the property in the  
13 suit, the person waives the right to challenge the amount of the  
14 market value determined by the court for purposes of the sale of the  
15 property under Section 33.50, Tax Code.

16 (c) For any sale of property under this section, each person  
17 who was a defendant to the judgment, or that person's attorney,  
18 shall be given, not later than the 90th day before the date of sale,  
19 written notice of the proposed method of sale of the property by the  
20 officer charged with the sale of the property. Notice shall be  
21 given in the manner prescribed by Rule 21a, Texas Rules of Civil  
22 Procedure.

23 (d) After receipt of the notice required by Subsection (c)  
24 and before the date of the proposed sale, the owner of the property  
25 subject to sale may file with the officer charged with the sale a  
26 written request that the property not be sold in the manner provided  
27 by this section.

1       (e) If the officer charged with the sale receives a written  
2 request as provided by Subsection (d), the officer shall sell the  
3 property as otherwise provided in Section 34.01, Tax Code.

4       (f) The owner of the property subject to sale may not  
5 receive any proceeds of a sale under this section. However, the  
6 owner does not have any personal liability for a deficiency of the  
7 judgment as a result of a sale under this section.

8       (g) Notwithstanding any other law, if consent is given by  
9 the taxing units that are a party to the judgment, property may be  
10 sold to the land bank for less than the market value of the property  
11 as specified in the judgment or less than the total of all taxes,  
12 penalties, and interest, plus the value of nontax liens held by a  
13 taxing unit and awarded by the judgment, court costs, and the cost  
14 of the sale.

15       (h) The deed of conveyance of the property sold to a land  
16 bank under this section conveys to the land bank the right, title,  
17 and interest acquired or held by each taxing unit that was a party  
18 to the judgment, subject to the right of redemption.

19       Sec. 2306.1158. SUBSEQUENT RESALE BY LAND BANK. (a) Each  
20 subsequent resale by a land bank of property acquired by the land  
21 bank under Section 2306.1157 must comply with the conditions of  
22 this section.

23       (b) Within the three-year period following the date of  
24 acquisition, the land bank must sell a property to a qualified  
25 participating developer for the purpose of construction of  
26 affordable housing for sale or rent to veterans who are members of  
27 low income households.

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

5       (d) Unless the corporation increases the amount in its plan,  
6 the 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 corporation.

12       (e) 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 two-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 to another qualifying participating  
19 developer or conveyance to the taxing units who were parties to the  
20 judgment for disposition as otherwise allowed under the law.

21       Sec. 2306.1159. RESTRICTIONS ON OCCUPANCY AND USE OF  
22 PROPERTY. (a) The land bank shall impose, in accordance with this  
23 section, deed restrictions on property sold to qualified  
24 participating developers requiring the development and subsequent  
25 sale or rental of the property to veterans who are members of low  
26 income households.

27       (b) At least 25 percent of the land bank properties sold

1 during any given state fiscal year to be developed for sale shall be  
2 deed restricted for sale to households with incomes not greater  
3 than 60 percent of the area median family income, based on gross  
4 household income, adjusted for household size, for the applicable  
5 municipality or, if located in an area that is not part of a  
6 municipality, the applicable county, as determined annually by the  
7 United States Department of Housing and Urban Development.

8 (c) If property is developed for rental housing, the deed  
9 restrictions must be for a period of not less than 20 years and must  
10 require that:

11 (1) 100 percent of the rental units be occupied by and  
12 affordable to households with incomes not greater than 60 percent  
13 of area median family income, based on gross household income,  
14 adjusted for household size, for the applicable municipality or, if  
15 located in an area that is not part of a municipality, the  
16 applicable county, as determined annually by the United States  
17 Department of Housing and Urban Development;

18 (2) 40 percent of the units be occupied by and  
19 affordable to households with incomes not greater than 50 percent  
20 of area median family income, based on gross household income,  
21 adjusted for household size, for the applicable municipality or, if  
22 located in an area that is not part of a municipality, the  
23 applicable 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 and  
26 affordable to households with incomes not greater than 30 percent  
27 of area median family income, based on gross household income,



1 adjusted for household size, for the applicable municipality or, if  
2 located in an area that is not part of a municipality, the  
3 applicable county, as determined annually by the United States  
4 Department of Housing and Urban Development.

5 (d) The deed restrictions under Subsection (c) must require  
6 the owner to file an annual occupancy report with the corporation on  
7 a reporting form provided by the corporation. The deed  
8 restrictions must also prohibit any exclusion of an individual or  
9 family from admission to the development based solely on the  
10 participation of the individual or family in the housing choice  
11 voucher program under Section 8, United States Housing Act of 1937  
12 (42 U.S.C. Section 1437f), as amended.

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

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

21 Sec. 2306.1160. RIGHT OF FIRST REFUSAL. (a) In this  
22 section, "qualified organization" means a community housing  
23 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 municipality or county  
27 certifying the organization, a portion of the property that the

1 land bank is offering for sale;

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

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

10 (b) The land bank shall first offer for sale to qualified  
11 organizations any property acquired by the land bank under Section  
12 2306.1157.

13 (c) Notice must be provided to the qualified organizations  
14 by certified mail, return receipt requested, not later than the  
15 60th day before the beginning of the period in which a right of  
16 first refusal may be exercised.

17 (d) The corporation shall specify in its plan the period  
18 during which the right of first refusal provided by this section may  
19 be exercised by a qualified organization. That period must be at  
20 least nine months but not more than 26 months from the date of the  
21 deed of conveyance of the property to the land bank.

22 (e) If the land bank conveys the property to a qualified  
23 organization before the expiration of the period specified by the  
24 corporation under Subsection (d), the interlocal agreement  
25 executed under Section 2306.1157(a)(4) must provide tax abatement  
26 for the property until the expiration of that period.

27 (f) During the specified period, the land bank may not sell

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

9 (g) In its plan, the corporation shall establish the  
10 additional period, if any, that a property may be held in the land  
11 bank once an offer has been received and accepted from a qualified  
12 organization or other qualified participating developer.

13 (h) If more than one qualified organization expresses an  
14 interest in exercising its right of first refusal, the organization  
15 that has designated the most geographically compact area  
16 encompassing a portion of the property shall be given priority.

17 (i) In its plan, the corporation may provide for other  
18 rights of first refusal for any other nonprofit corporation  
19 exempted from federal income tax under Section 501(c)(3), Internal  
20 Revenue Code of 1986, as amended, provided that the preeminent  
21 right of first refusal is provided to qualified organizations as  
22 provided by this section.

23 (j) The land bank is not required to provide a right of first  
24 refusal to qualified organizations under this section if the land  
25 bank is selling property that reverted to the land bank under  
26 Section 2306.1158(e) or was acquired by the land bank in a manner  
27 other than that provided by Section 2306.1157.

1       Sec. 2306.1161. OPEN RECORDS AND MEETINGS. The land bank  
2 shall comply with the requirements of Chapters 551 and 552.

3       Sec. 2306.1162. RECORDS; AUDIT; REPORT. (a) The land bank  
4 shall keep accurate minutes of its meetings and shall keep accurate  
5 records and books of account that conform with generally accepted  
6 principles of accounting and that clearly reflect the income and  
7 expenses of the land bank and all transactions in relation to its  
8 property.

9       (b) The land bank shall file with the corporation not later  
10 than the 90th day after the close of the state fiscal year annual  
11 audited financial statements prepared by a certified public  
12 accountant. The financial transactions of the land bank are  
13 subject to audit by the corporation.

14       (c) For purposes of evaluating the effectiveness of the  
15 program, the land bank shall submit an annual performance report to  
16 the corporation not later than November 1 of each year in which the  
17 land bank acquires or sells property under this subchapter. The  
18 performance report must include:

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

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

24                       (A) the street address of the property;

25                       (B) the legal description of the property;

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

1           (D) the name and mailing address of the property  
2 owner of record at the time of the acquisition;

3           (E) the amount of taxes and other costs owed at  
4 the time of the foreclosure if the property was acquired under  
5 Section 2306.1157; and

6           (F) the assessed value of the property on the tax  
7 roll at the time of the foreclosure if the property was acquired  
8 under Section 2306.1157;

9           (3) for each property sold by the land bank during the  
10 preceding state fiscal year to a qualified participating developer:

11           (A) the street address of the property;

12           (B) the legal description of the property;

13           (C) the name and mailing address of the  
14 purchaser;

15           (D) the price paid by the purchaser;

16           (E) the maximum incomes allowed for the  
17 households by the terms of the sale; and

18           (F) the source and amount of any public subsidy  
19 made available to facilitate the sale or rental of the property to a  
20 veteran who is a member of a household within the targeted income  
21 levels;

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

26           (5) for each property developed for rental housing  
27 with an active deed restriction, a copy of the most recent annual

1 report filed by the owner with the land bank.

2 (d) The land bank shall maintain in its records for  
3 inspection a copy of the sale settlement statement for each  
4 property sold by a qualified participating developer and a copy of  
5 the first page of the mortgage note with the interest rate and  
6 indicating the volume and page number of the instrument as filed  
7 with the county clerk.

8 (e) The land bank shall provide copies of the performance  
9 report to any taxing units who were parties to a sale of property  
10 under Section 2306.1157. The land bank shall provide notice of the  
11 availability of the performance report for review to the  
12 organizations and neighborhood associations identified by the  
13 corporation as serving the neighborhoods in which are located  
14 properties sold or transferred to the land bank under this  
15 subchapter.

16 (f) The land bank and the corporation shall maintain copies  
17 of the performance report available for public review.

18 SECTION 2. Sections 11.18(d) and (o), Tax Code, are amended  
19 to read as follows:

20 (d) A charitable organization must be organized exclusively  
21 to perform religious, charitable, scientific, literary, or  
22 educational purposes and, except as permitted by Subsections (h)  
23 and (l), engage exclusively in performing one or more of the  
24 following charitable functions:

25 (1) providing medical care without regard to the  
26 beneficiaries' ability to pay, which in the case of a nonprofit  
27 hospital or hospital system means providing charity care and

1 community benefits in accordance with Section [11.1801](#);

2 (2) providing support or relief to orphans,  
3 delinquent, dependent, or handicapped children in need of  
4 residential care, abused or battered spouses or children in need of  
5 temporary shelter, the impoverished, or victims of natural disaster  
6 without regard to the beneficiaries' ability to pay;

7 (3) providing support without regard to the  
8 beneficiaries' ability to pay to:

9 (A) elderly persons, including the provision of:

- 10 (i) recreational or social activities; and  
11 (ii) facilities designed to address the  
12 special needs of elderly persons; or

13 (B) the handicapped, including training and  
14 employment:

- 15 (i) in the production of commodities; or  
16 (ii) in the provision of services under 41  
17 U.S.C. Sections 8501-8506;

18 (4) preserving a historical landmark or site;

19 (5) promoting or operating a museum, zoo, library,  
20 theater of the dramatic or performing arts, or symphony orchestra  
21 or choir;

22 (6) promoting or providing humane treatment of  
23 animals;

24 (7) acquiring, storing, transporting, selling, or  
25 distributing water for public use;

26 (8) answering fire alarms and extinguishing fires with  
27 no compensation or only nominal compensation to the members of the

1 organization;

2 (9) promoting the athletic development of boys or  
3 girls under the age of 18 years;

4 (10) preserving or conserving wildlife;

5 (11) promoting educational development through loans  
6 or scholarships to students;

7 (12) providing halfway house services pursuant to a  
8 certification as a halfway house by the parole division of the Texas  
9 Department of Criminal Justice;

10 (13) providing permanent housing and related social,  
11 health care, and educational facilities for persons who are 62  
12 years of age or older without regard to the residents' ability to  
13 pay;

14 (14) promoting or operating an art gallery, museum, or  
15 collection, in a permanent location or on tour, that is open to the  
16 public;

17 (15) providing for the organized solicitation and  
18 collection for distributions through gifts, grants, and agreements  
19 to nonprofit charitable, education, religious, and youth  
20 organizations that provide direct human, health, and welfare  
21 services;

22 (16) performing biomedical or scientific research or  
23 biomedical or scientific education for the benefit of the public;

24 (17) operating a television station that produces or  
25 broadcasts educational, cultural, or other public interest  
26 programming and that receives grants from the Corporation for  
27 Public Broadcasting under 47 U.S.C. Section 396, as amended;



1           (18) providing housing for low-income and  
2 moderate-income families, for unmarried individuals 62 years of age  
3 or older, for handicapped individuals, and for families displaced  
4 by urban renewal, through the use of trust assets that are  
5 irrevocably and, pursuant to a contract entered into before  
6 December 31, 1972, contractually dedicated on the sale or  
7 disposition of the housing to a charitable organization that  
8 performs charitable functions described by Subdivision (9);

9           (19) providing housing and related services to persons  
10 who are 62 years of age or older in a retirement community, if the  
11 retirement community provides independent living services,  
12 assisted living services, and nursing services to its residents on  
13 a single campus:

14                   (A) without regard to the residents' ability to  
15 pay; or

16                   (B) in which at least four percent of the  
17 retirement community's combined net resident revenue is provided in  
18 charitable care to its residents;

19           (20) providing housing on a cooperative basis to  
20 students of an institution of higher education if:

21                   (A) the organization is exempt from federal  
22 income taxation under Section 501(a), Internal Revenue Code of  
23 1986, as amended, by being listed as an exempt entity under Section  
24 501(c)(3) of that code;

25                   (B) membership in the organization is open to all  
26 students enrolled in the institution and is not limited to those  
27 chosen by current members of the organization;

1 (C) the organization is governed by its members;  
2 and

3 (D) the members of the organization share the  
4 responsibility for managing the housing;

5 (21) acquiring, holding, and transferring unimproved  
6 real property under an urban land bank demonstration program  
7 established under Chapter 379C, Local Government Code, as or on  
8 behalf of a land bank;

9 (22) acquiring, holding, and transferring unimproved  
10 real property under an urban land bank program established under  
11 Chapter 379E, Local Government Code, as or on behalf of a land bank;

12 (22-a) acquiring, holding, and transferring  
13 unimproved real property under a land bank program established  
14 under Subchapter PP, Chapter 2306, Government Code, as or on behalf  
15 of a land bank;

16 (23) providing housing and related services to  
17 individuals who:

18 (A) are unaccompanied and homeless and have a  
19 disabling condition; and

20 (B) have been continuously homeless for a year or  
21 more or have had at least four episodes of homelessness in the  
22 preceding three years;

23 (24) operating a radio station that broadcasts  
24 educational, cultural, or other public interest programming,  
25 including classical music, and that in the preceding five years has  
26 received or been selected to receive one or more grants from the  
27 Corporation for Public Broadcasting under 47 U.S.C. Section 396, as

1 amended; or

2           (25) providing, without regard to the beneficiaries'  
3 ability to pay, tax return preparation services and assistance with  
4 other financial matters.

5           (o) For purposes of Subsection (a)(2), real property  
6 acquired, held, and transferred by an organization that performs  
7 the function described by Subsection (d)(21), ~~[or] (22)~~, or (22-a)  
8 is considered to be used exclusively by the qualified charitable  
9 organization to perform that function.

10           SECTION 3. Section [11.18](#), Tax Code, as amended by this Act,  
11 applies only to an ad valorem tax year that begins on or after the  
12 effective date of this Act.

13           SECTION 4. This Act takes effect September 1, 2019.