

By: Gutierrez

H.B. No. 2646

A BILL TO BE ENTITLED

AN ACT

relating to the adoption of a land bank program by the Veterans' Land Board.

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

SECTION 1. Chapter 161, Natural Resources Code, is amended by adding Subchapter L to read as follows:

SUBCHAPTER L. VETERANS' LAND BANK PROGRAM

Sec. 161.551. DEFINITIONS. In this subchapter:

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

(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 by a municipality or county as a community housing development organization.

(3) "Land bank" means an entity established or approved by the board for the purpose of acquiring, holding, and transferring unimproved real property under this subchapter to provide affordable housing for veterans who are members of low income households.

1           (4) "Land bank plan" or "plan" means a plan adopted by  
2 the board as provided by Section 161.555.

3           (5) "Land bank program" or "program" means a program  
4 adopted under Section 161.553.

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

11           (7) "Qualified participating developer" means a  
12 developer who meets the requirements of Section 161.554 and  
13 includes a qualified organization under Section 161.560.

14           Sec. 161.552. APPLICABILITY OF OTHER LAW. This subchapter  
15 controls to the extent of any conflict between this subchapter and  
16 another provision of this chapter.

17           Sec. 161.553. LAND BANK PROGRAM. (a) The board shall adopt  
18 a land bank program and establish or approve a land bank for the  
19 purpose of acquiring, holding, and transferring unimproved real  
20 property under this subchapter to provide affordable housing for  
21 veterans who are members of low income households.

22           (b) Property held by the land bank must include property  
23 acquired in the manner provided by Section 161.557 and may include  
24 other property acquired by or transferred to the land bank.

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

27           Sec. 161.554. QUALIFIED PARTICIPATING DEVELOPER. To

1 qualify to participate in the program, a developer must:

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

5 (2) have a development plan approved by the board for  
6 the land bank property; and

7 (3) meet any other requirements adopted by the board  
8 in the land bank plan.

9 Sec. 161.555. LAND BANK PLAN. (a) The board shall operate  
10 the program in conformance with a land bank plan.

11 (b) The board shall adopt a plan annually. The plan may be  
12 amended from time to time.

13 (c) In developing the plan, the board shall consider any  
14 other housing plans adopted by a municipality or county in which the  
15 board intends to implement the program.

16 (d) The plan must include the following:

17 (1) a list of community housing development  
18 organizations eligible to participate in the right of first refusal  
19 provided by Section 161.560;

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

23 (3) the board's plan for affordable housing  
24 development on those parcels of real property; and

25 (4) the sources and amounts of public subsidies  
26 anticipated to be available for affordable housing development  
27 previously approved by the board at the time of the plan.

1       Sec. 161.556. PUBLIC HEARING ON PROPOSED PLAN. (a) Before  
2 adopting a plan, the board shall hold a public hearing on the  
3 proposed plan.

4       (b) The board shall provide notice of the hearing to all  
5 community housing development organizations and to neighborhood  
6 associations identified by the board as serving the neighborhoods  
7 in which properties anticipated to be available for sale or  
8 transfer to the land bank under this subchapter are located.

9       (c) The board shall make copies of the proposed plan  
10 available to the public not later than the 60th day before the date  
11 of the public hearing.

12       Sec. 161.557. PRIVATE SALE TO LAND BANK. (a)  
13 Notwithstanding any other law and except as provided by Subsection  
14 (e), property that is ordered sold pursuant to foreclosure of a tax  
15 lien may be sold in a private sale to a land bank by the officer  
16 charged with the sale of the property without first offering the  
17 property for sale as otherwise provided by Section 34.01, Tax Code,  
18 if:

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

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

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

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

6           (b) If the person being sued in a suit for foreclosure of a  
7 tax lien does not contest the market value of the property in the  
8 suit, the person waives the right to challenge the amount of the  
9 market value determined by the court for purposes of the sale of the  
10 property under Section 33.50, Tax Code.

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

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

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

26           (f) The owner of the property subject to sale may not  
27 receive any proceeds of a sale under this section. However, the

1 owner does not have any personal liability for a deficiency of the  
2 judgment as a result of a sale under this section.

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

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

14 Sec. 161.558. SUBSEQUENT RESALE BY LAND BANK. (a) Each  
15 subsequent resale by a land bank of property acquired by the land  
16 bank under Section 161.557 must comply with the conditions of this  
17 section.

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

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

27 (d) Unless the board increases the amount in its plan, the

1 number of properties acquired by a qualified participating  
2 developer under this section on which development has not been  
3 completed may not at any given time exceed three times the annual  
4 average residential production completed by the qualified  
5 participating developer during the preceding two-year period as  
6 determined by the board.

7 (e) The deed conveying a property sold by the land bank must  
8 include a right of reverter so that if the qualified participating  
9 developer does not apply for a construction permit and close on any  
10 construction financing within the two-year period following the  
11 date of the conveyance of the property from the land bank to the  
12 qualified participating developer, the property will revert to the  
13 land bank for subsequent resale to another qualifying participating  
14 developer or conveyance to the taxing units who were parties to the  
15 judgment for disposition as otherwise allowed under the law.

16 Sec. 161.559. RESTRICTIONS ON OCCUPANCY AND USE OF  
17 PROPERTY. (a) The land bank shall impose, in accordance with this  
18 section, deed restrictions on property sold to qualified  
19 participating developers requiring the development and subsequent  
20 sale or rental of the property to veterans who are members of low  
21 income households.

22 (b) At least 25 percent of the land bank properties sold  
23 during any given state fiscal year to be developed for sale shall be  
24 deed restricted for sale to households with incomes not greater  
25 than 60 percent of the area median family income, based on gross  
26 household income, adjusted for household size, for the applicable  
27 municipality or, if located in an area that is not part of a

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

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

6 (1) 100 percent of the rental units be occupied by and  
7 affordable to households with incomes not greater than 60 percent  
8 of area median family income, based on gross household income,  
9 adjusted for household size, for the applicable municipality or, if  
10 located in an area that is not part of a municipality, the  
11 applicable county, as determined annually by the United States  
12 Department of Housing and Urban Development;

13 (2) 40 percent of the units be occupied by and  
14 affordable to households with incomes not greater than 50 percent  
15 of area median family income, based on gross household income,  
16 adjusted for household size, for the applicable municipality or, if  
17 located in an area that is not part of a municipality, the  
18 applicable county, as determined annually by the United States  
19 Department of Housing and Urban Development; or

20 (3) 20 percent of the units be occupied by and  
21 affordable to households with incomes not greater than 30 percent  
22 of area median family income, based on gross household income,  
23 adjusted for household size, for the applicable municipality or, if  
24 located in an area that is not part of a municipality, the  
25 applicable county, as determined annually by the United States  
26 Department of Housing and Urban Development.

27 (d) The deed restrictions under Subsection (c) must require



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

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

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

16 Sec. 161.560. RIGHT OF FIRST REFUSAL. (a) In this section,  
17 "qualified organization" means a community housing development  
18 organization that:

19 (1) contains within its designated geographical  
20 boundaries of operation, as set forth in its application for  
21 certification filed with and approved by the municipality or county  
22 certifying the organization, a portion of the property that the  
23 land bank is offering for sale;

24 (2) has built at least three single-family homes or  
25 duplexes or one multifamily residential dwelling of four or more  
26 units in compliance with all applicable building codes within the  
27 preceding two-year period and within the organization's designated

1 geographical boundaries of operation; and

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

5 (b) The land bank shall first offer for sale to qualified  
6 organizations any property acquired by the land bank under Section  
7 161.557.

8 (c) Notice must be provided to the qualified organizations  
9 by certified mail, return receipt requested, not later than the  
10 60th day before the beginning of the period in which a right of  
11 first refusal may be exercised.

12 (d) The board shall specify in its plan the period during  
13 which the right of first refusal provided by this section may be  
14 exercised by a qualified organization. That period must be at least  
15 nine months but not more than 26 months from the date of the deed of  
16 conveyance of the property to the land bank.

17 (e) If the land bank conveys the property to a qualified  
18 organization before the expiration of the period specified by the  
19 board under Subsection (d), the interlocal agreement executed under  
20 Section 161.557(a)(4) must provide tax abatement for the property  
21 until the expiration of that period.

22 (f) During the specified period, the land bank may not sell  
23 the property to a qualified participating developer other than a  
24 qualified organization. If all qualified organizations notify the  
25 land bank that they are declining to exercise their right of first  
26 refusal during the specified period, or if an offer to purchase the  
27 property is not received from a qualified organization during that

1 period, the land bank may sell the property to any other qualified  
2 participating developer at the same price that the land bank  
3 offered the property to the qualified organizations.

4 (g) In its plan, the board shall establish the additional  
5 period, if any, that a property may be held in the land bank once an  
6 offer has been received and accepted from a qualified organization  
7 or other qualified participating developer.

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

18 (j) The land bank is not required to provide a right of first  
19 refusal to qualified organizations under this section if the land  
20 bank is selling property that reverted to the land bank under  
21 Section 161.558(e) or was acquired by the land bank in a manner  
22 other than that provided by Section 161.557.

23 Sec. 161.561. OPEN RECORDS AND MEETINGS. The land bank  
24 shall comply with the requirements of Chapters 551 and 552,  
25 Government Code.

26 Sec. 161.562. RECORDS; AUDIT; REPORT. (a) The land bank  
27 shall keep accurate minutes of its meetings and shall keep accurate

1 records and books of account that conform with generally accepted  
2 principles of accounting and that clearly reflect the income and  
3 expenses of the land bank and all transactions in relation to its  
4 property.

5 (b) The land bank shall file with the board not later than  
6 the 90th day after the close of the state fiscal year annual audited  
7 financial statements prepared by a certified public accountant.  
8 The financial transactions of the land bank are subject to audit by  
9 the board.

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

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

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

20 (A) the street address of the property;

21 (B) the legal description of the property;

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

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

26 (E) the amount of taxes and other costs owed at  
27 the time of the foreclosure if the property was acquired under

1 Section 161.557; and

2 (F) the assessed value of the property on the tax  
3 roll at the time of the foreclosure if the property was acquired  
4 under Section 161.557;

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

7 (A) the street address of the property;

8 (B) the legal description of the property;

9 (C) the name and mailing address of the  
10 purchaser;

11 (D) the price paid by the purchaser;

12 (E) the maximum incomes allowed for the  
13 households by the terms of the sale; and

14 (F) the source and amount of any public subsidy  
15 made available to facilitate the sale or rental of the property to a  
16 veteran who is a member of a household within the targeted income  
17 levels;

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

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

25 (d) The land bank shall maintain in its records for  
26 inspection a copy of the sale settlement statement for each  
27 property sold by a qualified participating developer and a copy of

1 the first page of the mortgage note with the interest rate and  
2 indicating the volume and page number of the instrument as filed  
3 with the county clerk.

4 (e) The land bank shall provide copies of the performance  
5 report to any taxing units who were parties to a sale of property  
6 under Section 161.557. The land bank shall provide notice of the  
7 availability of the performance report for review to the  
8 organizations and neighborhood associations identified by the  
9 board as serving the neighborhoods in which are located properties  
10 sold or transferred to the land bank under this subchapter.

11 (f) The land bank and the board shall maintain copies of the  
12 performance report available for public review.

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

15 (d) A charitable organization must be organized exclusively  
16 to perform religious, charitable, scientific, literary, or  
17 educational purposes and, except as permitted by Subsections (h)  
18 and (l), engage exclusively in performing one or more of the  
19 following charitable functions:

20 (1) providing medical care without regard to the  
21 beneficiaries' ability to pay, which in the case of a nonprofit  
22 hospital or hospital system means providing charity care and  
23 community benefits in accordance with Section 11.1801;

24 (2) providing support or relief to orphans,  
25 delinquent, dependent, or handicapped children in need of  
26 residential care, abused or battered spouses or children in need of  
27 temporary shelter, the impoverished, or victims of natural disaster

1 without regard to the beneficiaries' ability to pay;

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

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

5 (i) recreational or social activities; and

6 (ii) facilities designed to address the  
7 special needs of elderly persons; or

8 (B) the handicapped, including training and  
9 employment:

10 (i) in the production of commodities; or

11 (ii) in the provision of services under 41  
12 U.S.C. Sections 8501-8506;

13 (4) preserving a historical landmark or site;

14 (5) promoting or operating a museum, zoo, library,  
15 theater of the dramatic or performing arts, or symphony orchestra  
16 or choir;

17 (6) promoting or providing humane treatment of  
18 animals;

19 (7) acquiring, storing, transporting, selling, or  
20 distributing water for public use;

21 (8) answering fire alarms and extinguishing fires with  
22 no compensation or only nominal compensation to the members of the  
23 organization;

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

26 (10) preserving or conserving wildlife;

27 (11) promoting educational development through loans

1 or scholarships to students;

2 (12) providing halfway house services pursuant to a  
3 certification as a halfway house by the parole division of the Texas  
4 Department of Criminal Justice;

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

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

12 (15) providing for the organized solicitation and  
13 collection for distributions through gifts, grants, and agreements  
14 to nonprofit charitable, education, religious, and youth  
15 organizations that provide direct human, health, and welfare  
16 services;

17 (16) performing biomedical or scientific research or  
18 biomedical or scientific education for the benefit of the public;

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

23 (18) providing housing for low-income and  
24 moderate-income families, for unmarried individuals 62 years of age  
25 or older, for handicapped individuals, and for families displaced  
26 by urban renewal, through the use of trust assets that are  
27 irrevocably and, pursuant to a contract entered into before



1 December 31, 1972, contractually dedicated on the sale or  
2 disposition of the housing to a charitable organization that  
3 performs charitable functions described by Subdivision (9);

4 (19) providing housing and related services to persons  
5 who are 62 years of age or older in a retirement community, if the  
6 retirement community provides independent living services,  
7 assisted living services, and nursing services to its residents on  
8 a single campus:

9 (A) without regard to the residents' ability to  
10 pay; or

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

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

16 (A) the organization is exempt from federal  
17 income taxation under Section 501(a), Internal Revenue Code of  
18 1986, as amended, by being listed as an exempt entity under Section  
19 501(c)(3) of that code;

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

23 (C) the organization is governed by its members;

24 and

25 (D) the members of the organization share the  
26 responsibility for managing the housing;

27 (21) acquiring, holding, and transferring unimproved

1 real property under an urban land bank demonstration program  
2 established under Chapter 379C, Local Government Code, as or on  
3 behalf of a land bank;

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

7 (22-a) acquiring, holding, and transferring  
8 unimproved real property under a land bank program established  
9 under Subchapter L, Chapter 161, Natural Resources Code, as or on  
10 behalf of a land bank;

11 (23) providing housing and related services to  
12 individuals who:

13 (A) are unaccompanied and homeless and have a  
14 disabling condition; and

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

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

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

27 (o) For purposes of Subsection (a)(2), real property

1 acquired, held, and transferred by an organization that performs  
2 the function described by Subsection (d)(21), ~~[or]~~ (22), or (22-a)  
3 is considered to be used exclusively by the qualified charitable  
4 organization to perform that function.

5 SECTION 3. Section 11.18, Tax Code, as amended by this Act,  
6 applies only to an ad valorem tax year that begins on or after the  
7 effective date of this Act.

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