

By: Lucio

S.B. No. 1117

A BILL TO BE ENTITLED

AN ACT

relating to the functions of certain urban land bank programs.

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

SECTION 1. Section 379E.003, Local Government Code, is amended by amending Subdivision (3) and adding Subdivision (4-a) to read as follows:

(3) "Land bank" means an entity established or approved by the governing body of a municipality to exercise ~~for~~ the powers ~~purpose~~ of acquiring, holding, developing, and transferring ~~unimproved~~ real property under this chapter.

(4-a) "Moderate income household" means a household that:

(A) requires assistance in securing sanitary, decent, and safe housing, considering:

(i) the amount of the total income available for housing needs of the individuals or families who are members of the household;

(ii) the size of the household;

(iii) the cost and condition of available housing facilities;

(iv) the ability of the individuals or families who are members of the household to compete successfully in the private housing market and to pay the amounts required by that market for sanitary, decent, and safe housing; and

1                    (v) standards that are established for the  
2 purpose of federal programs and that use income to determine  
3 eligibility for the programs; and

4                    (B) does not qualify as a low income household.

5            SECTION 2. Section 379E.004(b), Local Government Code, is  
6 amended to read as follows:

7            (b) The governing body of a municipality that adopts an  
8 urban land bank program shall establish or approve a land bank to  
9 exercise [~~for~~] the powers [~~purpose~~] of acquiring, holding,  
10 developing, and transferring [~~unimproved~~] real property under this  
11 chapter.

12            SECTION 3. Section 379E.005, Local Government Code, is  
13 amended to read as follows:

14            Sec. 379E.005. QUALIFIED PARTICIPATING DEVELOPER. To  
15 qualify to participate in an urban land bank program, a developer  
16 other than the land bank must:

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

20            (2) have a development plan approved [~~by the~~  
21 ~~municipality~~] for the land bank property by the land bank or the  
22 municipality; and

23            (3) meet any other requirements adopted by the  
24 municipality in the urban land bank plan.

25            SECTION 4. Section 379E.006(c), Local Government Code, is  
26 amended to read as follows:

27            (c) In developing the plan, the municipality shall consider

1 any other housing plans adopted by the municipality, including any  
2 [~~the comprehensive plan submitted to the United States Department~~  
3 ~~of Housing and Urban Development and all~~] fair housing plans and  
4 policies adopted or agreed to by the municipality.

5 SECTION 5. Section 379E.008(a), Local Government Code, is  
6 amended to read as follows:

7 (a) Notwithstanding any other law and except as provided by  
8 Subsection (f), property that is ordered sold pursuant to  
9 foreclosure of a tax lien may be sold in a private sale to a land  
10 bank by the officer charged with the sale of the property without  
11 first offering the property for sale as otherwise provided by  
12 Section 34.01, Tax Code, if:

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

18 (2) the property is not improved with a habitable  
19 building or buildings or an uninhabitable building or buildings  
20 that are occupied as a residence by an owner or tenant who is  
21 legally entitled to occupy the building or buildings;

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

24 (4) the municipality has executed with the other  
25 taxing units that are parties to the tax suit an interlocal  
26 agreement that enables those units to agree to participate in the  
27 program while retaining the right to withhold consent to the sale of

1 specific properties to the land bank.

2 SECTION 6. Section 379E.009, Local Government Code, is  
3 amended to read as follows:

4 Sec. 379E.009. SUBSEQUENT RESALE OR DEVELOPMENT BY LAND  
5 BANK. (a) Within the five-year period following the date [~~Each~~  
6 ~~subsequent resale~~] of acquisition of a property [~~acquired~~] by a  
7 land bank, the land bank [~~under this chapter must comply with the~~  
8 ~~conditions of this section.~~

9 [~~(b) Within the three-year period following the date of~~  
10 ~~acquisition, the land bank~~] must:

11 (1) sell the [~~a~~] property to a qualified participating  
12 developer for the purpose of construction or rehabilitation of  
13 affordable housing for sale or rent to low or moderate income  
14 households; or

15 (2) develop the property for the purposes described by  
16 Subdivision (1).

17 (b) If after five [~~three~~] years a qualified participating  
18 developer has not purchased the property or the land bank has not  
19 developed the property, the property shall be transferred from the  
20 land bank to the taxing units who were parties to the judgment for  
21 disposition as otherwise allowed under the law.

22 (c) Unless the municipality increases the amount in its  
23 plan, the number of properties acquired by a qualified  
24 participating developer under this section on which development has  
25 not been completed may not at any given time exceed three times the  
26 annual average residential production completed by the qualified  
27 participating developer during the preceding three-year [~~two-year~~]

1 period as determined by the municipality.

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

12 (e) Each subsequent resale that a land bank makes to a  
13 qualified participating developer with respect to a property  
14 acquired by the land bank under this chapter must comply with the  
15 conditions of this section.

16 SECTION 7. Sections 379E.010(a), (b), (c), and (d), Local  
17 Government Code, are amended to read as follows:

18 (a) The land bank shall impose deed restrictions on property  
19 developed by the land bank or sold to qualified participating  
20 developers requiring the development and subsequent sale or rental  
21 of the property to low or moderate income households.

22 (b) For land bank properties developed by the land bank for  
23 sale, and for [~~At least 25 percent of the~~] land bank properties sold  
24 to a qualified participating developer for development for sale, in  
25 [~~during~~] any given fiscal year:

26 (1) at least 45 percent of the properties must [~~to~~] be  
27 deed restricted for sale [~~developed for sale shall be deed~~

1 ~~restricted for sale~~] to households with a ~~[gross]~~ household income  
2 of [incomes] not more ~~[greater]~~ than 80 ~~[60]~~ percent of the area  
3 median family income, based on gross household income, adjusted for  
4 household size, for the metropolitan statistical area in which the  
5 properties are [municipality is] located, as determined annually by  
6 the United States Department of Housing and Urban Development;

7           (2) at least 25 percent of the properties must be deed  
8 restricted for sale to households with a household income of not  
9 more than 60 percent of the area median family income, based on  
10 gross household income, adjusted for household size, for the  
11 metropolitan statistical area in which the properties are located,  
12 as determined annually by the United States Department of Housing  
13 and Urban Development; and

14           (3) the remaining properties must be deed restricted  
15 for sale to households with a household income of not more than 120  
16 percent of the area median family income, based on gross household  
17 income, adjusted for household size, for the metropolitan  
18 statistical area in which the properties are located, as determined  
19 annually by the United States Department of Housing and Urban  
20 Development.

21           (c) If property is developed and used for rental housing,  
22 the deed restrictions must be for a period of not less than 30 ~~[20]~~  
23 years and must require that 100 percent of the units are occupied by  
24 and affordable to households with incomes not greater than 80  
25 percent of area median family income, based on gross household  
26 income, adjusted for household size, for the metropolitan  
27 statistical area in which the units are located, as determined

1 annually by the United States Department of Housing and Urban  
2 Development, and must also require that of those units:

3 (1) at least 40 ~~[100]~~ percent are ~~[of the rental units~~  
4 ~~be]~~ occupied by and affordable to households with incomes not  
5 greater than 60 percent of area median family income, based on gross  
6 household income, adjusted for household size, for the metropolitan  
7 statistical area in which the units are ~~[municipality is]~~ located,  
8 as determined annually by the United States Department of Housing  
9 and Urban Development; and

10 (2) at least 20 ~~[40]~~ percent are ~~[of the units be]~~  
11 occupied by and affordable to households with incomes not greater  
12 than 50 percent of area median family income, based on gross  
13 household income, adjusted for household size, for the metropolitan  
14 statistical area in which the units are ~~[municipality is]~~ located,  
15 as determined annually by the United States Department of Housing  
16 and Urban Development ~~[, or~~

17 ~~[(3) 20 percent of the units be occupied by and~~  
18 ~~affordable to households with incomes not greater than 30 percent~~  
19 ~~of area median family income, based on gross household income,~~  
20 ~~adjusted for household size, for the metropolitan statistical area~~  
21 ~~in which the municipality is located, as determined annually by the~~  
22 ~~United States Department of Housing and Urban Development].~~

23 (d) The deed restrictions under Subsection (c) must require  
24 the owner to file an annual occupancy report with the municipality  
25 on a reporting form provided by or acceptable to the  
26 municipality. The deed restrictions must also prohibit any  
27 exclusion of an individual or family from admission to the

1 development based solely on the participation of the individual or  
2 family in the housing choice voucher program under Section 8,  
3 United States Housing Act of 1937 (42 U.S.C. Section 1437f), as  
4 amended.

5 SECTION 8. Sections 379E.013(c) and (d), Local Government  
6 Code, are amended to read as follows:

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

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

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

17 (A) the street address of the property;

18 (B) the legal description of the property;

19 (C) the date the land bank took title to the  
20 property;

21 (D) the name and mailing address of the property  
22 owner of record at the time of the foreclosure;

23 (E) the amount of taxes and other costs owed at  
24 the time of the foreclosure; and

25 (F) the assessed value of the property on the tax  
26 roll at the time of the foreclosure;

27 (3) for each property sold by the land bank during the



1 preceding fiscal year to a qualified participating developer:

2 (A) the street address of the property;

3 (B) the legal description of the property;

4 (C) the name and mailing address of the purchaser  
5 ~~[developer]~~;

6 (D) the ~~[purchase]~~ price paid by the purchaser  
7 ~~[developer]~~;

8 (E) the maximum incomes allowed for the  
9 households by the terms of the sale; and

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

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

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

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

26 SECTION 9. Section 11.18(d), Tax Code, is amended to read as  
27 follows:

1 (d) A charitable organization must be organized exclusively  
2 to perform religious, charitable, scientific, literary, or  
3 educational purposes and, except as permitted by Subsections (h)  
4 and (l), engage exclusively in performing one or more of the  
5 following charitable functions:

6 (1) providing medical care without regard to the  
7 beneficiaries' ability to pay, which in the case of a nonprofit  
8 hospital or hospital system means providing charity care and  
9 community benefits in accordance with Section [11.1801](#);

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

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

17 (A) elderly persons, including the provision of:  
18 (i) recreational or social activities; and  
19 (ii) facilities designed to address the  
20 special needs of elderly persons; or

21 (B) the handicapped, including training and  
22 employment:

23 (i) in the production of commodities; or  
24 (ii) in the provision of services under 41  
25 U.S.C. Sections 8501-8506;

26 (4) preserving a historical landmark or site;

27 (5) promoting or operating a museum, zoo, library,

1 theater of the dramatic or performing arts, or symphony orchestra  
2 or choir;

3 (6) promoting or providing humane treatment of  
4 animals;

5 (7) acquiring, storing, transporting, selling, or  
6 distributing water for public use;

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

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

12 (10) preserving or conserving wildlife;

13 (11) promoting educational development through loans  
14 or scholarships to students;

15 (12) providing halfway house services pursuant to a  
16 certification as a halfway house by the parole division of the Texas  
17 Department of Criminal Justice;

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

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

25 (15) providing for the organized solicitation and  
26 collection for distributions through gifts, grants, and agreements  
27 to nonprofit charitable, education, religious, and youth

1 organizations that provide direct human, health, and welfare  
2 services;

3 (16) performing biomedical or scientific research or  
4 biomedical or scientific education for the benefit of the public;

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

9 (18) providing housing for low-income and  
10 moderate-income families, for unmarried individuals 62 years of age  
11 or older, for handicapped individuals, and for families displaced  
12 by urban renewal, through the use of trust assets that are  
13 irrevocably and, pursuant to a contract entered into before  
14 December 31, 1972, contractually dedicated on the sale or  
15 disposition of the housing to a charitable organization that  
16 performs charitable functions described by Subdivision (9);

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

22 (A) without regard to the residents' ability to  
23 pay; or

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

27 (20) providing housing on a cooperative basis to

1 students of an institution of higher education if:

2 (A) the organization is exempt from federal  
3 income taxation under Section 501(a), Internal Revenue Code of  
4 1986, as amended, by being listed as an exempt entity under Section  
5 501(c)(3) of that code;

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

9 (C) the organization is governed by its members;  
10 and

11 (D) the members of the organization share the  
12 responsibility for managing the housing;

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

17 (22) acquiring, holding, and transferring  
18 ~~unimproved~~ real property under an urban land bank program  
19 established under Chapter 379E, Local Government Code, as or on  
20 behalf of a land bank;

21 (23) providing housing and related services to  
22 individuals who:

23 (A) are unaccompanied and homeless and have a  
24 disabling condition; and

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

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

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

10           SECTION 10. The changes in law made by this Act to Chapter  
11 [379E](#), Local Government Code, apply only to a property acquired by a  
12 land bank on or after the effective date of this Act. A property  
13 acquired by a land bank before the effective date of this Act is  
14 governed by the law in effect immediately before the effective date  
15 of this Act, and the former law is continued in effect for that  
16 purpose.

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

20           SECTION 12. This Act takes effect September 1, 2019.