

By: Lucio

S.B. No. 1117

A BILL TO BE ENTITLED

AN ACT

relating to the authority of a municipality to adopt a land bank program.

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

SECTION 1. Section 379E.002, Local Government Code, is amended to read as follows:

Sec. 379E.002. APPLICABILITY; CONSTRUCTION WITH OTHER LAW. This chapter applies only to a municipality:

- (1) to which Chapter 379C or 379D does not apply; ~~and~~
- (2) that does not operate a land bank under Chapter 379F; and
- (3) that has not ever adopted a homestead land bank program under Subchapter E, Chapter 373A.

SECTION 2. Subtitle A, Title 12, Local Government Code, is amended by adding Chapter 379F to read as follows:

CHAPTER 379F. MUNICIPAL LAND BANK PROGRAM

Sec. 379F.001. APPLICABILITY; CONSTRUCTION WITH OTHER LAW.

This chapter applies only to a municipality:

- (1) to which Chapter 379C or 379D does not apply;
- (2) that does not operate a land bank under Chapter 379E; and
- (3) that has not ever adopted a homestead land bank program under Subchapter E, Chapter 373A.

Sec. 379F.002. DEFINITIONS. In this chapter:

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

6 (2) "Community housing development organization" or
7 "organization" means an organization that:

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

10 (B) is certified by the municipality as a
11 community housing development organization.

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

16 (4) "Land bank plan" or "plan" means a plan adopted by
17 the governing body of a municipality as provided by Section
18 379F.005.

19 (5) "Land bank program" or "program" means a program
20 adopted under Section 379F.003.

21 (6) "Low income household" means a household with an
22 income of not greater than 80 percent of the area median family
23 income, based on gross household income, adjusted for household
24 size, for the metropolitan statistical area in which the
25 municipality is located, as determined annually by the United
26 States Department of Housing and Urban Development.

27 (7) "Moderate income household" means a household

1 that:

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

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

7 (ii) the size of the household;

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

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

14 (v) standards that are established for the
15 purpose of federal programs and that use income to determine
16 eligibility for the programs; and

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

18 (8) "Qualified participating developer" means a
19 developer who meets the requirements of Section 379F.004 and
20 includes a qualified organization under Section 379F.010.

21 Sec. 379F.003. LAND BANK PROGRAM. (a) The governing body
22 of a municipality may adopt a land bank program in which the officer
23 charged with selling real property ordered sold pursuant to
24 foreclosure of a tax lien may sell certain eligible real property by
25 private sale for purposes of affordable housing development as
26 provided by this chapter.

27 (b) The governing body of a municipality that adopts a land

1 bank program shall establish or approve a land bank to exercise the
2 powers of acquiring, holding, developing, and transferring real
3 property under this chapter.

4 Sec. 379F.004. QUALIFIED PARTICIPATING DEVELOPER. To
5 qualify to participate in a land bank program, a developer other
6 than the land bank must:

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

10 (2) have a development plan approved for the land bank
11 property by the land bank or the municipality; and

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

14 Sec. 379F.005. LAND BANK PLAN. (a) A municipality that
15 adopts a land bank program shall operate the program in conformance
16 with a land bank plan.

17 (b) The governing body of a municipality that adopts a land
18 bank program shall adopt a plan annually. The plan may be amended
19 from time to time.

20 (c) In developing the plan, the municipality shall consider
21 any other housing plans adopted by the municipality, including any
22 fair housing plans and policies adopted or agreed to by the
23 municipality.

24 (d) The plan must include the following:

25 (1) a list of community housing development
26 organizations eligible to participate in the right of first refusal
27 provided by Section 379F.010;

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

3 (3) the municipality's plan for affordable housing
4 development on those parcels of real property; and

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

11 Sec. 379F.006. PUBLIC HEARING ON PROPOSED PLAN. (a) Before
12 adopting a plan, a municipality shall hold a public hearing on the
13 proposed plan.

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

20 (c) The city manager or the city manager's designee shall
21 make copies of the proposed plan available to the public not later
22 than the 60th day before the date of the public hearing.

23 Sec. 379F.007. PRIVATE SALE TO LAND BANK. (a)
24 Notwithstanding any other law and except as provided by Subsection
25 (f), property that is ordered sold pursuant to foreclosure of a tax
26 lien may be sold in a private sale to a land bank by the officer
27 charged with the sale of the property without first offering the

1 property for sale as otherwise provided by Section 34.01, Tax Code,
2 if:

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

8 (2) there are delinquent taxes on the property for a
9 total of at least five years; and

10 (3) the municipality has executed with the other
11 taxing units that are parties to the tax suit an interlocal
12 agreement that enables those units to agree to participate in the
13 program while retaining the right to withhold consent to the sale of
14 specific properties to the land bank.

15 (b) A sale of property for use in connection with the
16 program is a sale for a public purpose.

17 (c) If the person being sued in a suit for foreclosure of a
18 tax lien does not contest the market value of the property in the
19 suit, the person waives the right to challenge the amount of the
20 market value determined by the court for purposes of the sale of the
21 property under Section 33.50, Tax Code.

22 (d) For any sale of property under this chapter, each person
23 who was a defendant to the judgment, or that person's attorney,
24 shall be given, not later than the 90th day before the date of sale,
25 written notice of the proposed method of sale of the property by the
26 officer charged with the sale of the property. Notice shall be
27 given in the manner prescribed by Rule 21a, Texas Rules of Civil

1 Procedure.

2 (e) After receipt of the notice required by Subsection (d)
3 and before the date of the proposed sale, the owner of the property
4 subject to sale may file with the officer charged with the sale a
5 written request that the property not be sold in the manner provided
6 by this chapter.

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

10 (g) The owner of the property subject to sale may not
11 receive any proceeds of a sale under this chapter. However, the
12 owner does not have any personal liability for a deficiency of the
13 judgment as a result of a sale under this chapter.

14 (h) Notwithstanding any other law, if consent is given by
15 the taxing units that are a party to the judgment, property may be
16 sold to the land bank for less than the market value of the property
17 as specified in the judgment or less than the total of all taxes,
18 penalties, and interest, plus the value of nontax liens held by a
19 taxing unit and awarded by the judgment, court costs, and the cost
20 of the sale.

21 (i) The deed of conveyance of the property sold to a land
22 bank under this section conveys to the land bank the right, title,
23 and interest acquired or held by each taxing unit that was a party
24 to the judgment, subject to the right of redemption.

25 Sec. 379F.008. SUBSEQUENT RESALE OR DEVELOPMENT BY LAND
26 BANK. (a) Within the five-year period following the date of
27 acquisition of a property by a land bank, the land bank must:

1 (1) sell the property to a qualified participating
2 developer for the purpose of construction or rehabilitation of
3 affordable housing for sale or rent to low or moderate income
4 households; or

5 (2) develop the property for the purposes described by
6 Subdivision (1).

7 (b) If after five years a qualified participating developer
8 has not purchased the property or the land bank has not developed
9 the property, the property shall be transferred from the land bank
10 to the taxing units who were parties to the judgment for disposition
11 as otherwise allowed under the law.

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

19 (d) The deed conveying a property sold by the land bank must
20 include a right of reverter so that if the qualified participating
21 developer does not apply for a construction permit and close on any
22 construction financing within the three-year period following the
23 date of the conveyance of the property from the land bank to the
24 qualified participating developer, the property will revert to the
25 land bank for development by the land bank, subsequent resale to
26 another qualifying participating developer, or conveyance to the
27 taxing units who were parties to the judgment for disposition as

1 otherwise allowed under the law.

2 (e) Each subsequent resale that a land bank makes to a
3 qualified participating developer with respect to a property
4 acquired by the land bank under this chapter must comply with the
5 conditions of this section.

6 Sec. 379F.009. RESTRICTIONS ON OCCUPANCY AND USE OF
7 PROPERTY. (a) The land bank shall impose deed restrictions on
8 property developed by the land bank or sold to qualified
9 participating developers requiring the development and subsequent
10 sale or rental of the property to low or moderate income households.

11 (b) For land bank properties developed by the land bank for
12 sale, and for land bank properties sold to a qualifying
13 participating developer for development for sale, the deed
14 restrictions must require that, in any given fiscal year:

15 (1) at least 50 percent of the units must be sold to
16 families with a household income of not more than 80 percent of the
17 area median family income, based on gross household income and
18 adjusted for household size, for the metropolitan statistical area
19 in which the units are located; and

20 (2) the remaining units must be sold to families with a
21 household income of not more than 120 percent of the area median
22 family income, based on gross household income and adjusted for
23 household size, for the metropolitan statistical area in which the
24 units are located.

25 (c) If property is developed and used for rental housing,
26 the deed restrictions must be for a period of not less than 20 years
27 and must require that at least 80 percent of the units are occupied

1 by and affordable to households with incomes not greater than 80
2 percent of area median family income, based on gross household
3 income, adjusted for household size, for the metropolitan
4 statistical area in which the units are located, as determined
5 annually by the United States Department of Housing and Urban
6 Development, and must also require that:

7 (1) at least 40 percent of the rental units are
8 occupied by and affordable to households with incomes not greater
9 than 60 percent of area median family income, based on gross
10 household income, adjusted for household size, for the metropolitan
11 statistical area in which the units are located, as determined
12 annually by the United States Department of Housing and Urban
13 Development; or

14 (2) at least 20 percent of the units are occupied by
15 and affordable to households with incomes not greater than 50
16 percent of area median family income, based on gross household
17 income, adjusted for household size, for the metropolitan
18 statistical area in which the units are located, as determined
19 annually by the United States Department of Housing and Urban
20 Development.

21 (d) The deed restrictions under Subsection (c) must require
22 the owner to file an annual occupancy report with the municipality
23 on a reporting form provided by or acceptable to the municipality.
24 The deed restrictions must also prohibit any exclusion of an
25 individual or family from admission to the development based solely
26 on the participation of the individual or family in the housing
27 choice voucher program under Section 8, United States Housing Act

1 of 1937 (42 U.S.C. Section 1437f), as amended.

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

5 (f) The land bank or the governing body of the municipality
6 may modify or add to the deed restrictions imposed under this
7 section. Any modifications or additions made by the governing body
8 of the municipality must be adopted by the municipality as part of
9 its plan and must comply with the restrictions set forth in
10 Subsections (b), (c), and (d).

11 Sec. 379F.010. RIGHT OF FIRST REFUSAL. (a) In this
12 section, "qualified organization" means a community housing
13 development organization that:

14 (1) contains within its designated geographical
15 boundaries of operation, as set forth in its application for
16 certification filed with and approved by the municipality, a
17 portion of the property that the land bank is offering for sale;

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

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

26 (b) The land bank shall first offer a property for sale to
27 qualified organizations.

1 (c) Notice must be provided to the qualified organizations
2 by certified mail, return receipt requested, not later than the
3 60th day before the beginning of the period in which a right of
4 first refusal may be exercised.

5 (d) The municipality shall specify in its plan the period
6 during which the right of first refusal provided by this section may
7 be exercised by a qualified organization. That period must be at
8 least nine months but not more than 26 months from the date of the
9 deed of conveyance of the property to the land bank.

10 (e) If the land bank conveys the property to a qualified
11 organization before the expiration of the period specified by the
12 municipality under Subsection (d), the interlocal agreement
13 executed under Section 379F.007(a)(3) must provide tax abatement
14 for the property until the expiration of that period.

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

24 (g) In its plan, the municipality shall establish the amount
25 of additional time, if any, that a property may be held in the land
26 bank once an offer has been received and accepted from a qualified
27 organization or other qualified participating developer.

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

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

11 (j) The land bank is not required to provide a right of first
12 refusal to qualified organizations under this section if the land
13 bank is selling property that reverted to the land bank under
14 Section 379F.008(d).

15 Sec. 379F.011. OPEN RECORDS AND MEETINGS. The land bank
16 shall comply with the requirements of Chapters 551 and 552,
17 Government Code.

18 Sec. 379F.012. RECORDS; AUDIT; REPORT. (a) The land bank
19 shall keep accurate minutes of its meetings and shall keep accurate
20 records and books of account that conform with generally accepted
21 principles of accounting and that clearly reflect the income and
22 expenses of the land bank and all transactions in relation to its
23 property.

24 (b) The land bank shall file with the municipality not later
25 than the 90th day after the close of the fiscal year annual audited
26 financial statements prepared by a certified public accountant.
27 The financial transactions of the land bank are subject to audit by

1 the municipality.

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

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

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

12 (A) the street address of the property;

13 (B) the legal description of the property;

14 (C) the date the land bank took title to the
15 property;

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

18 (E) the amount of taxes and other costs owed at
19 the time of the foreclosure; and

20 (F) the assessed value of the property on the tax
21 roll at the time of the foreclosure;

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

24 (A) the street address of the property;

25 (B) the legal description of the property;

26 (C) the name and mailing address of the
27 purchaser;

1 (D) the price paid by the purchaser;

2 (E) the maximum incomes allowed for the
3 households by the terms of the sale; and

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

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

11 (5) for each property developed for rental housing
12 with an active deed restriction, a copy of the most recent annual
13 report for the property.

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

20 (e) The land bank shall provide copies of the performance
21 report to the taxing units who were parties to the judgment of
22 foreclosure and shall provide notice of the availability of the
23 performance report for review to the organizations and neighborhood
24 associations identified by the municipality as serving the
25 neighborhoods in which properties sold to the land bank under this
26 chapter are located.

27 (f) The land bank and the municipality shall maintain copies

1 of the performance report available for public review.

2 SECTION 3. Sections 11.18(d) and (o), Tax Code, are amended
3 to read as follows:

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

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

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

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

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

24 (B) the handicapped, including training and
25 employment:

26 (i) in the production of commodities; or
27 (ii) in the provision of services under 41

1 U.S.C. Sections 8501-8506;

2 (4) preserving a historical landmark or site;

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

6 (6) promoting or providing humane treatment of
7 animals;

8 (7) acquiring, storing, transporting, selling, or
9 distributing water for public use;

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

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

15 (10) preserving or conserving wildlife;

16 (11) promoting educational development through loans
17 or scholarships to students;

18 (12) providing halfway house services pursuant to a
19 certification as a halfway house by the parole division of the Texas
20 Department of Criminal Justice;

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

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

1 (15) providing for the organized solicitation and
2 collection for distributions through gifts, grants, and agreements
3 to nonprofit charitable, education, religious, and youth
4 organizations that provide direct human, health, and welfare
5 services;

6 (16) performing biomedical or scientific research or
7 biomedical or scientific education for the benefit of the public;

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

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

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

25 (A) without regard to the residents' ability to
26 pay; or

27 (B) in which at least four percent of the

1 retirement community's combined net resident revenue is provided in
2 charitable care to its residents;

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

5 (A) the organization is exempt from federal
6 income taxation under Section 501(a), Internal Revenue Code of
7 1986, as amended, by being listed as an exempt entity under Section
8 501(c)(3) of that code;

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

12 (C) the organization is governed by its members;
13 and

14 (D) the members of the organization share the
15 responsibility for managing the housing;

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

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

23 (22-a) acquiring, holding, developing, and
24 transferring real property under a land bank program established
25 under Chapter 379F, Local Government Code, as or on behalf of a land
26 bank;

27 (23) providing housing and related services to

1 individuals who:

2 (A) are unaccompanied and homeless and have a
3 disabling condition; and

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

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

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

16 (o) For purposes of Subsection (a)(2), real property
17 acquired, held, and transferred by an organization that performs
18 the function described by Subsection (d)(21), ~~or~~ (22), or (22-a)
19 is considered to be used exclusively by the qualified charitable
20 organization to perform that function.

21 SECTION 4. Section 11.18, Tax Code, as amended by this Act,
22 applies only to an ad valorem tax year that begins on or after the
23 effective date of this Act.

24 SECTION 5. This Act takes effect September 1, 2019.