

BILL ANALYSIS

C.S.H.B. 1795
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Defense & Veterans' Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The negative effects associated with a wide range of problem properties and vacant, abandoned, and tax delinquent properties too often combine to escalate the destabilization of once vibrant cities and neighborhoods. Such properties create fire and safety hazards for local businesses and residents, in addition to driving down property values and reducing local tax dollars. In efforts to stop this downward spiral and to convert such liabilities into community-building assets, certain land bank programs have been created as a direct response to the building trend of property vacancies and abandonment. It has been suggested that the establishment of a veterans' land bank program could help strategically reduce these liabilities if such a program is structured by the legislature to provide more housing opportunities for veterans in low-income households. C.S.H.B. 1795 seeks to aid in these efforts by requiring the Texas State Affordable Housing Corporation to adopt a veterans' land bank program for the purpose of acquiring, holding, and transferring unimproved real estate property to provide affordable housing for veterans who are members of low-income households.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Department of Housing and Community Affairs in SECTION 2 of this bill.

ANALYSIS

C.S.H.B. 1795 amends the Government Code to require the Texas State Affordable Housing Corporation (TSAHC) to adopt a veterans' land bank program and establish or approve a veterans' land bank for the purpose of acquiring, holding, and transferring unimproved real property to provide affordable housing for veterans who are members of low-income households.

C.S.H.B. 1795 establishes that a sale or other transfer of property for use in connection with the program is a sale for a public purpose. The bill provides the following regarding property held by the land bank:

- the held property may include property other than property acquired pursuant to foreclosure of a tax lien;
- the held property must include property sold pursuant to a foreclosure and acquired in the manner provided by the bill; and
- the land bank must first offer for sale to qualified organizations any property acquired under the bill's provisions pursuant to foreclosure.

A "qualified organization" is defined, for purposes of the first offer to it under the bill's provisions, a community housing development organization that:

- contains within its designated geographical boundaries of operation, as set forth in its application for certification filed with and approved by the municipality or county certifying the organization, a portion of the property that the land bank is offering for sale;
- has built at least three single-family homes or duplexes or one multifamily residential dwelling of four or more units in compliance with all applicable building codes within the preceding two-year period and within the organization's designated geographical boundaries of operation; and
- within the preceding three-year period has developed or rehabilitated housing units within a two-mile radius of the property that the veterans' land bank is offering for sale.

C.S.H.B. 1795 provides that property that is ordered sold pursuant to a foreclosure may be sold in a private sale to a land bank by the officer charged with the sale of the property without first offering the property for sale, as otherwise provided by the Tax Code, under the following conditions:

- if the market value of the property as specified in the judgment of foreclosure is less than the total amount due under the judgment, including all taxes, penalties, and interest, plus the value of nontax liens held by a taxing unit and awarded by the judgment, court costs, and the cost of the sale;
- if the property is not improved with a building or buildings;
- if there are delinquent taxes on the property for a total of at least five years; and
- if all taxing units that are parties to the tax suit have executed an interlocal agreement that enables those units to agree to participate in the program while retaining the right to withhold consent to the sale of specific properties to the land bank.

If the person being sued in a suit for foreclosure of a tax lien does not contest the market value of the property in the suit, the person waives the right to challenge the amount of the market value determined by the court for purposes of the sale of the property under the Tax Code provisions regarding the adjudged market value of the property on the date of trial.

C.S.H.B. 1795 provides the following with respect to any sale of property the land bank acquires pursuant to foreclosure under the prescribed conditions:

- each person who was a defendant to the judgment, or that person's attorney, must be given, not later than the 90th day before the date of sale, written notice of the proposed method of sale of the property by the officer charged with the sale of the property;
- notice must be given in the manner prescribed by the Texas Rules of Civil Procedure;
- after receipt of the notice and before the date of the proposed sale, the owner of the property subject to sale may file with the officer charged with the sale a written request that the property not be sold in the manner provided by the bill to the land bank;
- if the officer charged with the sale receives a written request, the officer shall sell the property as otherwise provided by the Tax Code; and
- the owner of the property subject to sale may not receive any proceeds of a sale under the bill's provisions but does not have any personal liability for a deficiency of the judgment as a result of a sale under the bill's provisions.

C.S.H.B. 1795 provides the following:

- if consent is given by the taxing units that are a party to the judgment, property may be sold to the veterans' land bank for less than the market value of the property as specified in the judgment or less than the total of all taxes, penalties, and interest, plus the value of nontax liens held by a taxing unit and awarded by the judgment, court costs, and the cost of the sale; and
- the deed of conveyance of the property sold to a veterans' land bank under the bill's provisions conveys to the veterans' land bank the right, title, and interest acquired or held by each taxing unit that was a party to the judgment, subject to the right of redemption.

C.S.H.B. 1795 provides that, to qualify to participate in the program, a developer must, as follows:

- have developed three or more housing units within the three-year period preceding the submission of a proposal to the land bank seeking to acquire real property from the land bank;
- have a development plan approved by the TSAHC for the land bank property; and
- meet any other requirements adopted by the TSAHC in the land bank plan.

C.S.H.B. 1795 requires the TSAHC to operate the program in conformance with a veterans' land bank plan and provides the following with respect to a plan:

- a plan must be adopted annually by the TSAHC;
- a plan may be amended from time to time;
- in developing the plan, the TSAHC must consider any other housing plans adopted by a municipality or county in which the TSAHC intends to implement the program; and
- the plan must include the TSAHC's plan for affordable housing development on parcels of real property.

C.S.H.B. 1795 requires the TSAHC, before adopting a plan, to hold a public hearing on the proposed plan and provides the following with respect to the hearing:

- the TSAHC must provide notice of the hearing to all community housing development organizations and to neighborhood associations identified by the TSAHC as serving the neighborhoods in which properties anticipated to be available for sale or transfer to the veterans' land bank under the bill's provisions are located; and
- the TSAHC must make copies of the proposed plan available to the public not later than the 30th day before the date of the public hearing.

C.S.H.B. 1795 provides the following with respect to a qualified organization's right of first refusal for property the land bank must first offer to it:

- notice must be provided to the qualified organizations by certified mail, return receipt requested, not later than the 60th day before the beginning of the period in which a right of first refusal may be exercised;
- the TSAHC must specify in its plan the period during which the right of first refusal may be exercised by a qualified organization;
- that period must be at least nine months but not more than 26 months from the date of the deed of conveyance of the property to the land bank;
- if the land bank conveys the property to a qualified organization before the expiration of the period specified by the TSAHC, the interlocal agreement executed under the bill's provisions must provide tax abatement for the property until the expiration of that period;
- during the specified period, the land bank may not sell the property to a qualified participating developer other than a qualified organization;
- if all qualified organizations notify the veterans' land bank that they are declining to exercise their right of first refusal during the specified period, or if an offer to purchase the property is not received from a qualified organization during that period, the veterans' land bank may sell the property to any other qualified participating developer at the same price that the veterans' land bank offered the property to the qualified organizations;
- in its plan, the TSAHC must establish the additional period, if any, that a property may be held in the veterans' land bank once an offer has been received and accepted from a qualified organization or other qualified participating developer;
- if more than one qualified organization expresses an interest in exercising its right of first refusal, the organization that has designated the most geographically compact area encompassing a portion of the property must be given priority;

- in its plan, the TSAHC may provide for other rights of first refusal for any other 501(c)(3) nonprofit corporation, provided that the preeminent right of first refusal is provided to qualified organizations; and
- the land bank is not required to provide a right of first refusal to qualified organizations under this subsection if the land bank is selling property that:
 - reverted to the veterans' land bank under the bill's provisions; or
 - was acquired by the land bank in a manner other than that provided by the bill with respect to property acquired pursuant to foreclosure.

C.S.H.B. 1795 provides the following compliance requirements with respect to each subsequent resale by a land bank of property acquired by the bank pursuant to foreclosure under the bill's provisions:

- within the 10-year period following the date of acquisition, the land bank must sell a property to a qualified participating developer for the purpose of construction of affordable housing for sale or rent to veterans who are members of low-income households;
- if after 10 years a qualified participating developer has not purchased the property, the property must be transferred from the land bank to the taxing units who were parties to the judgment for disposition as otherwise allowed under the law; and
- the deed conveying a property sold by the land bank must include a right of reverter so that if the qualified participating developer does not apply for a construction permit and close on any construction financing within the two-year period following the date of the conveyance of the property from the veterans' land bank to the qualified participating developer, the property will revert to the veterans' land bank for the following:
 - subsequent resale to another qualifying participating developer; or
 - conveyance to the taxing units who were parties to the judgment for disposition as otherwise allowed under the law.

C.S.H.B. 1795 requires a land bank to impose deed restrictions on property sold to qualified participating developers requiring the development and subsequent sale or rental of the property to veterans who are members of low-income households. The bill provides the following:

- at least 25 percent of the land bank properties sold during any given state fiscal year to be developed for sale must be deed restricted for sale to households with incomes not greater than 80 percent of the area median family income, based on gross household income, adjusted for household size, for the applicable municipality or, if located in an area that is not part of a municipality, the applicable county, as determined annually by HUD;
- if property is developed for rental housing, the deed restrictions must be for a period of not less than 20 years and must require that 100 percent of the rental units be occupied by and affordable to households with incomes not greater than 60 percent of area median family income, based on gross household income, adjusted for household size, for the applicable municipality or, if located in an area that is not part of a municipality, the applicable county, as determined annually by HUD;
- the deed restrictions relating to rental housing must require the owner to file an annual occupancy report with the TSAHC on a reporting form provided by the TSAHC;
- the deed restrictions must also prohibit any exclusion of an individual or family from admission to the development based solely on the participation of the individual or family in the federal Section 8 housing choice voucher program;
- if the deed restrictions imposed are for a term of years, the deed restrictions renew automatically;
- the land bank or the TSAHC may modify or add to the deed restrictions; and
- any modifications or additions made by the TSAHC must be adopted by the TSAHC as part of its plan and must comply with the bill's deed restrictions.

C.S.H.B. 1795 requires the veterans' land bank to comply with state open meetings law and state public information law and provides for recordkeeping and annual performance evaluation and reporting requirements.

C.S.H.B. 1795 requires the state low income housing plan to also include the land bank plan developed under the bill's provisions.

C.S.H.B. 1795 sets out the following definitions, among others, for purposes of its provisions:

- "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; and
- "low-income household" means a household with an income of not greater than 80 percent of the area median family income, based on gross household income, adjusted for household size, for a municipality or, if located in an area that is not part of a municipality, a county, as determined annually by HUD.

C.S.H.B. 1795 amends the Tax Code to establish that acquiring, holding, and transferring unimproved real property under a veterans' land bank program is a charitable function of a charitable organization for property tax exemption purposes.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1795 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes a requirement not in the original requiring the state low income housing plan to also include the veteran's land bank plan.

The substitute changes the original's deadline for the TSAHC to make publicly available a proposed veterans' land bank plan from not later than the 60th day before the date of the related public hearing to not later than the 30th day before such date.

The substitute changes the following from the original's three-year period to a 10-year period:

- the period whose expiration triggers the requirement that the land bank sell acquired property for the intended purpose; and
- the period whose expiration triggers the transfer back to applicable taxing units of acquired property that has not been purchased by a qualified participating developer.

The substitute changes the original's requirement that at least 25 percent of land bank properties sold during any given state fiscal year to be developed for sale must be deed restricted for sale to households with incomes not greater than 60 percent of the area median family income, based on certain factors. The substitute increases that income cap to 80 percent, subject to those same factors.

The substitute does not include the following from the original:

- the original's limitation on the number of properties acquired by a developer on which development has not been completed and the method for calculating that limitation;
- the original's alternative deed restrictions, that are for a period of not less than 20 years, on the percentage of rental units that must be occupied by and affordable to households

- with not greater than 50 percent of area median family income or with not greater than 30 percent of the area median family income;
- the original's requirement that a land bank plan include, in addition to the TSAHC's plan for affordable housing development on the applicable parcels, the following:
 - a list of community housing development organizations eligible to participate in the right of first refusal;
 - a list of the parcels of real property that may become eligible for sale or transfer to the land bank during the next year; or
 - the sources and amounts of public subsidies anticipated to be available for affordable housing development previously approved by the TSAHC at the time of the plan; and
 - the original's requirement that a land bank file with the TSAHC not later than the 90th day after the close of the state fiscal year annual audited financial statements prepared by a certified public accountant and the specification that the financial transactions of the land bank are subject to audit by the TSAHC.

The substitute clarifies the original's references to the land bank, a land bank program, and a land bank plan by instead calling them, respectively, the veterans' land bank, the veterans' land bank program, and the veterans' land bank plan.