

BILL ANALYSIS

Senate Research Center
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S.B. 356
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AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

The Urban Land Bank Demonstration Act will provide an opportunity for municipalities with a population of 1.9 million or more to address the dual needs of insufficient affordable housing and older neighborhoods at risk.

As proposed, S.B. 356 allows the governing body of a municipality to adopt an urban land bank demonstration program in which the officer charged with selling real property ordered sold pursuant to foreclosure of a tax lien may sell certain eligible real property by private sale for purposes of affordable housing development.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle A, Title 12, Local Government Code, by adding Chapter 379D, as follows:

CHAPTER 379D. URBAN LAND BANK DEMONSTRATION PROGRAM IN MUNICIPALITY WITH POPULATION OF 1.9 MILLION OR MORE

Sec. 379D.001. SHORT TITLE. Authorizes this chapter to be cited as the Urban Land Bank Demonstration Program Act for Municipalities with a Population of 1.9 Million or More.

Sec. 379D.002. APPLICABILITY. Provides that this chapter applies only to a municipality with a population of 1.9 million or more.

Sec. 379D.003. DEFINITIONS. Defines "community housing development organization," "land bank," "low income household," "qualified participating developer," "urban land bank demonstration plan," or "plan," and "urban land bank demonstration program," or "program."

Sec. 379D.004. URBAN LAND BANK DEMONSTRATION PROGRAM. (a) Authorizes the governing body of a municipality to adopt an urban land bank demonstration program in which the officer charged with selling real property ordered sold pursuant to foreclosure of a tax lien may sell certain eligible real property by private sale for purposes of affordable housing development.

(b) Requires the governing body of a municipality that adopts an urban land bank demonstration program to establish or approve a land bank for the purpose of acquiring, holding, and transferring unimproved real property.

Sec. 379D.005. QUALIFIED PARTICIPATING DEVELOPER. Requires a developer, to qualify to participate in an urban land bank demonstration program, to meet certain requirements.

Sec. 379D.006. URBAN LAND BANK DEMONSTRATION PROGRAM. (a) Requires a municipality that adopts an urban land bank demonstration program to operate the program in conformance with an urban land bank demonstration plan.

(b) Requires the governing body of a municipality that adopts an urban land bank demonstration program to adopt a plan annually. Authorizes the plan to be amended from time to time.

(c) Requires the municipality, in the developing plan, to consider other housing plans adopted by the municipality, including the comprehensive plan submitted to the United States Department of Housing and Urban Development and all fair housing plans and policies adopted or agreed to by the municipality.

(d) Requires the plan to include certain information.

Sec. 379D.007. PUBLIC HEARING ON PROPOSED PLAN. (a) Requires a municipality, before adopting a plan, to hold a public hearing on the proposed plan.

(b) Requires the city manager or the city manager's designee to provide notice of the hearing to all community housing development organizations and to neighborhood associations identified by the municipality as serving the neighborhoods in which properties anticipated to be available for sale to the land bank are located.

(c) Requires the city manager or the city manager's designee to make copies of the proposed plan available to the public no later than the 60th day before the date of the public hearing.

Sec. 379D.008. PRIVATE SALE TO LAND BANK. (a) Authorizes property that is ordered sold pursuant to foreclosure of a tax lien to 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 Section 34.01 (Sale of Property), Tax Code, if certain procedures are followed, notwithstanding any other law and except as provided by Subsection (f).

(b) Provides that a sale of property for use in connection with the program is a sale for a public purpose.

(c) Provides that 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 the purposes of the sale of the property under Section 33.50 (Adjudged Value), Tax Code.

(d) Requires each person who was a defendant to the judgment, or that person's attorney, for any sale of property under this chapter, to be given, no 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. Requires the notice to be given in the manner prescribed by Rule 21a, Texas Rules of Civil Procedure.

(e) Authorizes the owner of the property subject to sale, after receipt of the notice by Subsection (d) and before the date of the proposed sale, to file with the officer charged with the sale a written request that the property not be sold in the manner provided by this chapter.

(f) Requires the officer, if the officer charged with the sale receives written request as provided by Subsection (e), to sell the property as otherwise provided in Section 34.01 (Sale of Property), Tax Code.

(g) Prohibits the owner of the property subject to sale from receiving any proceeds of a sale. Provides that the owner does not have any personal liability for a deficiency of the judgment as a result of a sale.

(h) Authorizes property, if consent is given by the taxing units that are a party to the judgment, notwithstanding any other law, to be sold to the 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.

(i) Provides that the deed of conveyance of the property sold to a land bank conveys to the 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.

Sec. 379D.009. SUBSEQUENT RESALE BY LAND BANK. (a) Requires each subsequent resale of property acquired by a land bank to comply with the conditions of this section.

(b) Requires the land bank to sell a property to a qualified participating developer within the three-year period following the date of acquisition for the purpose of construction of affordable housing for sale or rent to low income households. Requires that the property to be transferred from the land bank to the taxing units who were parties to the judgment for disposition as otherwise allowed under the law, if after three years a qualified participating developer has not purchased the property.

(c) Prohibits the number of properties acquired by a qualified participating developer on which development has not been completed, at any given time, from exceeding three times the annual average residential production completed by the qualified participating developer during the preceding two-year period as determined by the municipality, unless the municipality increases the amount in its plan.

(d) Requires the deed conveying a property sold by the land bank to 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 land bank to the qualified participating developer, the property will revert to the land bank for subsequent resale to another qualified participating developer or conveyance to the taxing units who were parties to the judgment for disposition as otherwise allowed under the law.

Sec. 379D.010. RESTRICTIONS ON OCCUPANCY AND USE OF PROPERTY. (a) Requires the land bank to impose deed restrictions on property sold to qualified participating developers requiring the development and sale or rental of the property to low income households.

(b) Requires at least 25 percent of the land bank properties sold during any given fiscal year to be developed for sale to be deed restricted for sale to households with gross household incomes not greater than 60 percent of the area median family income, adjusted for household size, for the metropolitan statistical area in which the municipality is located, as determined annually by the United States Department of Housing and Urban Development.

(c) Requires the deed restrictions, if property is developed for rental housing, to be for a period of not less than 15 years and to adhere to certain requirements.

(d) Requires the deed restrictions under Subsection (c) to require the owner to file an annual occupancy report with the municipality on a reporting form provided by the municipality. Requires the deed restrictions to 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 housing choice voucher program under Section 8, United States Housing Act of 1937 (42 U.S.C. Section 1437f), as amended.

(e) Requires the deed restrictions to renew automatically, if the deed restrictions imposed under this section are for a term of years, except as otherwise provided by this section.

(f) Authorizes the land bank or the governing body of the municipality to modify or add to the deed restrictions imposed under this section. Requires any modifications or additions made by the governing body of the municipality to be adopted by the municipality as part of its plan and to comply with the restrictions set forth in Subsections (b), (c), and (d).

Sec. 379D.011. RIGHT OF FIRST REFUSAL. (a) Defines "qualified organization."

(b) Requires the land bank to first offer a property for sale to qualified organizations.

(c) Requires the notice to be provided to the qualified organizations by certified mail, return receipt requested.

(d) Requires the municipality to specify in its plan the period during which the right of first refusal provided by this section may be exercised by a qualified organization. Requires the period to be at least nine months but no more than 26 months from the date of the deed of conveyance of the property to the land bank.

(e) Prohibits the land bank, during the specified period, from selling the property to a qualified participating developer other than a qualified organization. Authorizes the land bank to sell the property to any other qualified participating developer at the same price that the land bank offered the property to the qualified organizations, if all qualified organizations notify the 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.

(f) Requires the municipality, in its plan, to establish the amount of additional time, if any, that a property may be held in the land bank once an offer has been received and accepted from a qualified organization or other qualified participating developer.

(g) Requires the organization that has designated the most geographically compact area encompassing a portion of the property to be given priority, if more than one qualified organization expresses an interest in exercising its right of first refusal.

(h) Authorizes the municipality, in its plan, to provide for other rights of first refusal for any other nonprofit corporation exempted from federal income tax under Section 501(c)(3), Internal Revenue Code of 1986, as amended, provided that the preeminent right of first refusal is provided to qualified organizations.

(i) Provides that the land bank is not required to provide a right of first refusal to qualified organizations if the land bank is selling property that reverted to the land bank under Section 379D.009(d).

Sec. 379D.012. OPEN RECORDS AND MEETINGS. Requires the land bank to comply with the requirements of Chapters 551 (Open Meetings) and 552 (Public Information), Government Code.

Sec. 379D.013. RECORDS; AUDIT; REPORT. (a) Requires the land bank to keep accurate minutes of its meetings and to keep accurate records and books of account that

conform with generally accepted principles of accounting and that clearly reflect the income and expenses of the land bank and all transactions in relation to its property.

(b) Requires the land bank to file with the municipality no later than the 90th day after the close of the fiscal year annual audited financial statements prepared by a certified public accountant. Provides that the financial transactions of the land bank are subject to audit by the municipality.

(c) Requires the land bank, for the purposes of evaluating the effectiveness of the program, to submit an annual performance report to the municipality no later than November 1 of each year in which the land bank acquires or sells property under this chapter. Requires the report to include certain information.

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

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

(f) Requires the land bank and the municipality to maintain copies of the performance report available for public review.

SECTION 2. Effective date: September 1, 2005.