

BILL ANALYSIS

Senate Research Center
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H.B. 2344
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Intergovernmental Relations
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 2003, the Texas Legislature authorized home-rule municipalities that have a population of 1.18 million or more and that are located predominantly in a county that has a total area of less than 1,000 square miles 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. The original legislation required 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.

H.B. 2344 amends current law relating to the urban land bank demonstration program in certain municipalities.

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 Section 379C.008, Local Government Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Authorizes property that is ordered sold pursuant to foreclosure of a tax lien, notwithstanding any other law and except as provided by Subsection (f) (relating to requiring an officer to sell property under certain circumstances), 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, under certain conditions, including if the property is not improved with a habitable building or buildings or uninhabitable building or buildings that are occupied or claimed as a residence by an owner or tenant who is legally entitled to occupy the building or buildings.

(a-1) Authorizes the property to be sold to a land bank, regardless of current zoning, and on development to be zoned for more than one use that is required to include residential housing in accordance with this chapter, provided that the requirements of Subsection (a) are satisfied.

SECTION 2. Amends Section 379C.009, Local Government Code, by amending Subsections (a), (b), and (d) and adding Subsection (a-1), as follows:

(a) Creates an exception under Subsection (a-1).

(a-1) Provides that notwithstanding any other law, this section does not apply to property sold to an eligible adjacent property owner under Section 379C.0106.

(b) Requires the land bank to sell a property to a qualified participating developer within the four-year, rather than 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, if after four, rather than three, years a qualified participating

developer has not purchased the property, be transferred from the land bank to the taxing units who were parties to the judgment for disposition as otherwise allowed under the law.

(d) Requires that the deed conveying a property sold by the land bank 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 three-year, rather than 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 in accordance with this chapter, rather than 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. Provides that if the property is replatted under Section 379C.0107, the right of reverter applies to the entire property as replatted.

SECTION 3. Amends Section 379C.010(a), Local Government Code, to require the land bank to impose deed restrictions on property sold to qualified participating developers requiring the development and sale, rental, or lease-purchase of the property to low income households.

SECTION 4. Amends Chapter 379C, Local Government Code, by adding Section 379C.0105, as follows:

Sec. 379.0105. LOT EXCHANGE PERMITTED. Authorizes the land bank, notwithstanding Section 379C.010, to permit a qualified participating developer to exchange a property purchased from the land bank with any other property owned by the developer if the developer agrees to construct on the other property affordable housing for low income households as provided by this chapter and the other property will be located in a planned development incorporating the property originally purchased from the land bank or another location as approved by the land bank.

(b) Requires the land bank to adjust the deed restrictions under Section 379.010 for each of the properties exchanged by the developer under this section.

SECTION 5. Amends Chapter 379C, Local Government Code, by adding Section 379C.0106, as follows:

Sec. 379C.0106. PROPERTY DETERMINED TO BE INAPPROPRIATE FOR RESIDENTIAL DEVELOPMENT: RIGHT OF FIRST REFUSAL. (a) Defines "eligible adjacent property owner."

(b) Requires the land bank first, notwithstanding any other right of first refusal granted under this chapter, if the land bank determines that a property owned by the land bank is not appropriate for residential development, to offer the property for sale to an eligible adjacent property owner according to terms and conditions developed by the land bank that are consistent with this chapter.

(c) Requires the land bank to sell the property to an eligible adjacent property owner, at whichever value is lower: the fair market value for the property as determined by the appraisal district in which the property is located, or the sales price recorded in the annual plan.

(d) Prohibits an adjacent property owner that purchases property under this section, except as provided by Subsection (e), from leasing, selling, or transferring that property to another person before the third anniversary of the date the adjacent property owner purchased that property from the land bank.

(e) Provides that Subsection (d) does not apply to the transfer of property purchased under this section if the transfer is made according to a policy adopted by the land bank and is made to a family member of the eligible adjacent property owner or occurs as the result of a death of an eligible adjacent property owner.

SECTION 6. Amends Chapter 379C, Local Government Code, by adding Section 379C.0107, as follows:

Sec. 379C.0107. REPLATTING BY QUALIFIED PARTICIPATING DEVELOPER. Authorizes the land bank to sell two adjacent properties that are owned by the land bank to a qualified participating developer if at least one of the properties is appropriate for residential development, and the developer agrees to replat the two adjacent properties as one property that is appropriate for residential development.

SECTION 7. Amends the heading to Section 379C.011, Local Government Code, to read as follows:

Sec. 379C.011. RIGHT OF FIRST REFUSAL IN QUALIFIED ORGANIZATIONS.

SECTION 8. Amends Section 379C.011(b), Local Government Code, to create an exception under Section 379C.0106.

SECTION 9. Amends Section 379C.013(c), Local Government Code, to require that the performance report include certain information, including for each property sold by the land bank during the preceding fiscal year to a qualified participating developer or eligible adjacent property owner the name and mailing address of the purchaser, rather than developer; the purchase price paid, rather than purchase price paid by the developer; if sold to a qualified participating developer certain other information. Makes nonsubstantive changes.

SECTION 10. Provides that the changes in law made by this Act apply to property purchased from a land bank by a qualified participating developer or an eligible adjacent property owner without regard to whether the purchase was made before, on, or after the effective date of this Act.

SECTION 11. Effective date: upon passage or September 1, 2009.