

SUBJECT: Selling foreclosed properties to nonprofit housing organizations

COMMITTEE: Urban Affairs — committee substitute recommended

VOTE: 9 ayes — Hill, Bailey, Burnam, Clark, Ehrhardt, Garcia, Hodge, Shields, Wohlgemuth
0 nays

WITNESSES: (On HB 110, 111 and 112):
For — Daniel A. Johnson, City of Richardson; Tristan “Tris” Castaneda, Jr., City of San Antonio; Larry Casto, City of Dallas; Susan Horton, Texas Municipal League; Joe Paniagua, Fort Worth City Council; David Mintz, Texas Apartment Association; Hector Rivera, Texas Association of Realtors; Stephan Fairfield, Fifth Ward Community Redevelopment Corporation; Janee Briesemeister, Consumers Union, Southwest Regional Office; G. K. Sprinkle, Texas Association of Community Development Corporations; John Hrcir, City of Austin; Monique Allen
Against — None

BACKGROUND : The 74th Legislature in 1995 enacted HB 740 by Farrar, allowing cities to sell foreclosed property without public notice and public sale or bidding to charitable organization holding that property to improve it for low-income housing. The bill created Tax Code sec. 34.015, which applies to municipalities with a population of 1.5 million or more — the city of Houston. Charitable organizations are defined by the section as entities exempt from property tax under Tax Code sec. 11.181.

DIGEST: CSHB 110 would delete the population bracket in Tax Code 34.015, applying it to any city. It also would delete the reference to Tax Code sec. 11.181 and define the entities eligible to purchase foreclosed properties.
Eligible entities would include: (1) a nonprofit organization that develops housing for low income individuals and families as a primary activity to promote community-based revitalization of the municipality, or (2) a nonprofit 501(c)(3) corporation that has been incorporated in Texas for at least one year, has a corporate purpose to develop affordable housing that is

stated in its articles of incorporation, bylaws or charter, has at least one-fourth of its board of directors residing in the municipality, and engages primarily in the building, repair, rental or sale of housing for low income individuals and families.

The bill would authorize a municipality selling foreclosed property to nonprofit housing organizations to determine by ordinance the individuals and families who would qualify as low income. In adopting an ordinance, the municipality would be required to consider the median incomes of individuals and families in the area.

Owners of property sold to a nonprofit group because of delinquent taxes would have to exercise their rights of redemption within four months after the date on which the purchaser's deed was filed for record.

Municipalities could recover without court order the costs of upkeep, maintenance and environmental clean-up from the proceeds received from the resale of foreclosed land.

CSHB 110 also would amend the Civil Practice and Remedies Code to exempt all municipalities from liability under the Texas Tort Claims Act for conditions that existed or actions that occurred prior to 60 days after the land was acquired by foreclosure.

CSHB 110 would take immediate effect if finally approved by a two-thirds record vote of the membership in each house.

**SUPPORTERS
SAY:**

CSHB 110 would help provide desperately needed housing for low-income Texans while also helping Texas cities dispose of unmarketable foreclosed properties. Many cities besides Houston are holding properties that have been foreclosed on because of delinquent taxes. Many of these properties are unmarketable for various reasons, making it almost impossible for the city to receive at a tax sale a bid that is high enough to pay the delinquent taxes. Furthermore, a tax sale on such foreclosed property requires the city to go to the time and expense of providing public notice and complying with other standard bid procedures. Allowing cities an alternative, no-bid procedure for selling such properties to nonprofit housing groups would free

them from unnecessary expense and help restore improved properties to their tax rolls and revitalize neighborhoods.

Cities could recover from the sales price the costs of upkeep, maintenance and environmental clean-up. Furthermore, they would be exempt from some liability under the Texas Tort Claims Act. Such is exemption is necessary in the first 60 days after a city has acquired a foreclosed property because it needs a chance to evaluate the condition of the land and make necessary improvements.

Under CSHB 110, nonprofit housing organizations could start improving and building on foreclosed properties almost immediately since the period of redemption allowed a delinquent taxpayer in these circumstances would be reduced to four months. Currently, nonprofit housing organizations must wait for a longer redemption period to expire before building or risk losing their investment to a delinquent taxpayer who may wait until improvements make the property desirable and worth paying the tax penalties. The foreclosure process is lengthy and complicated, so by the time a property is sold, the owner has had ample opportunity to pay any delinquent taxes. Limiting the redemption period for foreclosed properties sold to nonprofit groups would not infringe on any property rights. Furthermore, it would speed up the process of moving new owners into the homes quickly and returning the properties to the tax roll.

**OPPONENTS
SAY:**

The bill would treat delinquent taxpayers unfairly by reducing the period of time during which they could pay off the delinquent taxes and redeem the property. In addition, the four-month period of redemption is constitutionally questionable. Art. 8, sec. 13 of the Texas Constitution states that the former owner of a residence homestead or of land designated for agricultural use that is sold for unpaid taxes has a right of redemption for two years from the date of the purchaser's deed is filed for record. The former owner of other types of real property sold for unpaid taxes has a right of redemption for six months from the filing date.

**OTHER
OPPONENTS
SAY:**

Cities should not be exempted from liability under the Texas Tort Claims Act for conditions of the land they caused or for actions they took during the first 60 days after they have acquired foreclosed property. Cities should

only be exempt from liability for those conditions or actions over which they had no control.

NOTES:

The committee substitute combined provisions of the introduced versions of HB 110, HB 111, and HB 112, all by Giddings. The original version of HB 110 would have removed the population brackets as to which cities were allowed to use alternate methods of selling foreclosed property.