

SUBJECT: Providing for clear title to land in which ownership is unknown

COMMITTEE: Urban Affairs — favorable, without amendment

VOTE: 6 ayes — Carter, Burnam, Callegari, Ehrhardt, E. Jones, Najera
0 nays
1 present not voting — Hill
2 absent — Bailey, Edwards

WITNESSES: For — Gilson Westbrook, St. John Colony Neighborhood Association;
Registered but did not testify: Janee Briesemeister, Consumers Union; John Garvin, Texas Affiliation of Affordable Housing Providers; Sally Gaskin; John Henneberger, Texas Low Income Housing Information Service; David Mintz, Texas Apartment Association; Reymundo Ocañas, Texas Association of Community Development Corporations; Jeanne Talerico, Texas Association of Local Housing Finance Agencies
Against — None
On — Heather Way, Legal Aid of Central Texas;

BACKGROUND: Tax Code, sec. 34.015 allows cities to sell any land acquired by the city — through foreclosure or otherwise — to charitable organizations for use as low-income housing without public notice and public sale or bidding.

Property Code, ch. 29 allows an individual who receives real property as the result of another person’s death to petition a court to require another person with interest in the property to sell that interest if the person has paid the other owner’s share of ad valorem taxes imposed on the property and the other owner has not reimbursed the person for more than half of that amount. The petition must contain the name of each owner of the property and the interest held by each owner. In court, the owner must demonstrate that a demand was made to the other owner for reimbursement of the taxes prior to the filing of the petition.

DIGEST: HB 3349 would apply Property Code, ch. 29 to nonprofit organizations that owned property intended for low-income housing, allowing them to petition a court to force any other owners to sell their interest in the property if the nonprofit had paid the other owners' taxes and had not been reimbursed for a majority of those payments.

In the case of an unknown owner, the requirement that the owner demand reimbursement from the other owners for taxes paid prior to filing a petition could be met by publishing a notice demanding reimbursement in a newspaper in the county in which the property was located for four consecutive weeks.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2001.

SUPPORTERS SAY: HB 3349 would help provide housing for low-income Texans by making it easier for nonprofits to obtain clear title to property received or bought from a city to provide affordable housing. Over the past three sessions, the Legislature has enacted a series of laws allowing cities to transfer or sell land more easily to nonprofits for affordable housing purposes, but these laws have failed to address the problem of clear title. Without perfected title to the land, the nonprofits are prevented from using the land. This bill would create a mechanism for these nonprofits to obtain clear title to the land and provide affordable housing as intended by applying Property Code, ch. 29 to them.

Other owners of these properties are often unknown, impeding the administration of ch. 29, which requires a person to notify the owner and request payment for taxes paid by the individual. HB 3349 would create a mechanism for creating clear title on these properties by requiring the owner to post notice demanding payment for taxes for four consecutive weeks in a newspaper in the county. This notice provision would ensure that other property owners had an opportunity to contest the re-assignment of the property while still providing a method for obtaining clear title in these circumstances.

OPPONENTS
SAY:

HB 3349 would provide fewer protections for property owners. Posting a notice in a local paper is inadequate to ensure that a property owner, who may live in another county or state or who may be unaware of the inheritance of the property, had an opportunity to pay back taxes and reclaim the property. The state should take every possible precaution to ensure that it would not divest a person unfairly of that person's property rights.