

BILL ANALYSIS

Senate Research Center
82R1409 JAM-D

H.B. 2197
By: Rodriguez, Eddie (Watson)
Intergovernmental Relations
5/14/2011
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

This local bill tweaks the land-bank portion of the chapter in the Local Government Code (which applies to Dallas and Austin) setting out homestead preservation zones, essentially clarifying what land can be acquired by a land bank.

Currently, the law allows land to be sold directly to a land bank (without first offering the land for public sale) when it is subject to a tax foreclosure. But this can be done only if the market value of the land is less than the total amount due under the judgment, and if it is not improved with a building or buildings.

This bill states that to be sold to a land bank without a public sale, a property would not need to have a market value less than the total amount due under the foreclosure judgment. This bill also clarifies that a property would be eligible for the sale as long as it does not have a habitable building or an uninhabitable building that is occupied as a residence by a person who is legally entitled to do so. Also, the property owner would not be able to receive any sales proceeds unless the proceeds exceed the total amount due under the tax judgment. Taxing units would be prohibited from consenting to the sale of a property if the market value of the property (as appraised by the appraisal district and specified in the foreclosure judgment) exceeds the total amount due under the judgment.

H.B. 2197 amends current law relating to the purchase of property as part of a homestead land bank program.

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 373A.208, Local Government Code, by amending Subsections (a), (g), and (h) and adding Subsection (g-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 the property if the officer charged with the sale receives a written request), 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 with an uninhabitable building that is occupied as a residence by an owner or tenant who is legally entitled to occupy the building or buildings. Deletes existing text authorizing property that is ordered sold pursuant to foreclosure of a tax lien, notwithstanding any other law and except as provided by Subsection (f), 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, Tax Code, if the market value of the property as appraised by the local appraisal district and 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.

(g) Provides that the owner of the property subject to sale under this subchapter does not have any personal liability for a deficiency of the judgment as a result of the sale. Deletes existing text prohibiting the owner of the property subject to sale from receiving any proceeds of a sale under this subchapter.

(g-1) Prohibits the owner from receiving any proceeds of a sale under this subchapter unless the amount of sale proceeds exceeds 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, in which event the excess proceeds are required to be distributed in the manner provided for excess proceeds of a sale under Chapter 34 (Tax Sales and Redemption), Tax Code, pursuant to the foreclosure of a tax lien.

(h) Prohibits the taxing units from consenting to a sale for a reduced amount as authorized by this subsection if the market value of the property as appraised by the local appraisal district and as specified in the judgment of foreclosure exceeds 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.

SECTION 2. Amends Section 373A.211(e), Local Government Code, to make a conforming change.

SECTION 3. Repealer: Section 373A.208(c) (relating to a person waiving the right to challenge the amount of the market value determined by the court for purposes of the sale of the property), Local Government Code.

SECTION 4. Effective date: September 1, 2011.