

BILL ANALYSIS

Senate Research Center
86R25501 JAM-D

C.S.S.B. 1117
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Intergovernmental Relations
4/12/2019
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Overall, the committee substitute for S.B. 1117 updates the existing Subchapter E, Chapter 379, Local Government Code by incorporating best practices into the existing land banking authority, rather than establishing a new and different Subchapter F. The substitute allows land banking of tax foreclosed properties with structures and buildings; however, it does so by strengthening taxpayer protections by preventing the acquisition of legally occupied homes by a land bank. C.S.S.B. 1117 more fully allows a municipality to address their affordability of housing needs by extending the required affordability period from 20 to 30 years, aligning the affordability period to the best practices of Texas' Tax Credit Program. C.S.S.B. 1117 includes updated income targeting for homeowner and rental housing developed on land bank property.

C.S.S.B. 1117 amends current law relating to functions of certain urban land bank programs.

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 379E.003, Local Government Code, by amending Subdivision (3) and adding Subdivision (4-a) to redefine "land bank" and define "moderate income household."

SECTION 2. Amends Section 379E.004(b), Local Government Code, as follows:

(b) Requires the governing body of a municipality that adopts an urban land bank program to establish or approve a land bank to exercise the powers of acquiring, holding, developing, and transferring real property under this chapter (Urban Land Bank Program), rather than for the purpose of acquiring, holding, and transferring unimproved real property under this chapter.

SECTION 3. Amends Section 379E.005, Local Government Code, as follows:

Sec. 379E.005. QUALIFIED PARTICIPATING DEVELOPER. Requires a developer other than the land bank to meet certain requirements to qualify to participate in a land bank program.

SECTION 4. Amends Section 379E.006(c), Local Government Code, to require the municipality, in developing the urban land bank plan, to consider any other housing plans adopted by the municipality including any fair housing plans and policies adopted or agreed to by the municipality, rather than requiring the municipality, in developing the urban land bank 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 (HUD) and all fair housing plans and policies adopted or agreed to by the municipality.

SECTION 5. Amends Section 379E.008(a), Local Government Code, 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 an alternative sale procedure on request of the property owner), 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:

(1) makes no changes to this subdivision;

(2) the property is not improved with a habitable building or buildings or an uninhabitable building or buildings that are occupied as a residence by the owner or tenant who is legally entitled to occupied to occupy the building or buildings; and

(3)–(4) makes no changes to these subdivisions.

SECTION 6. Amends Section 379E.009, Local Government Code, as follows:

Sec. 379E.009. New heading: SUBSEQUENT RESALE OR DEVELOPMENT BY LAND BANK. (a) Deletes existing text of Subsection (b), deletes the designation of Subsection (b), creates Subdivision (1) from existing text, and requires a land bank, within the five-year period following the date of acquisition of a property by the land bank, rather than requiring each subsequent resale of property acquired by a land bank under this chapter to comply with the conditions of this section, to:

(1) sell the property to a qualified participating developer for the purpose of construction or rehabilitation of affordable housing for sale or rent to low or moderate income households, rather than sell property to a qualified participating developer for the purpose of construction of affordable housing for sale or rent to low income households; or

(2) develop the property for the purposes described by Subdivision (1).

(b) Creates this subsection from existing text. Requires the property, if after five years a qualified participating developer has not purchased the property or the land bank has not developed the property, rather than requiring the property, if after three years a qualified participating developer has not purchased 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.

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

(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 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 development by the land bank, rather than to the land bank, subsequent resale to another qualified participating developer, or conveyance to the taxing units who were parties for the judgment for disposition as otherwise allowed under the law.

(e) Requires each subsequent resale that a land bank makes to a qualified participating developer with respect to a property acquired by the land bank under this chapter to comply with the conditions of this section.

SECTION 7. Amends Sections 379E.010(a), (b), (c), and (d), Local Government Code, as follows:

(a) Requires the land bank to impose deed restrictions on property developed by the land bank or sold to qualified participating developers requiring the development and subsequent sale or rental of the property to low or moderate income households, rather than requiring 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) Deletes existing text requiring 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 household size for the metropolitan statistical area in which the municipality is located as determined by HUD. Provides that, for land bank properties developed by the land bank for sale and for land bank properties sold to a qualified participating developer for development for sale in any given fiscal year:

(1) at least 45 percent of the properties are required to be deed restricted for sale to households with a household income of not more than 80 percent of the area median family income, based on gross household income, adjusted for household size, for the metropolitan statistical area in which the properties are located, as determined annually by HUD;

(2) at least 25 percent of the properties are required to be deed restricted for sale to households with a household income of not more than 60 percent of the area median family income, based on gross household income, adjusted for household size, for the metropolitan statistical area in which the properties are located, as determined annually by HUD; and

(3) the remaining properties are required to be deed restricted for sale to households with a household income or not more than 120 percent of the area median family income, based on gross household income, adjusted for household size, for the metropolitan statistical area in which the properties are located, as determined annually by HUD.

(c) Requires the deed restrictions, if property is developed and used for rental housing, to be for a period of not less than 30 years, rather than if property is developed for rental housing, to be for a period of not less than 20 years, and to require that at least 100 percent of the units are occupied by and affordable to households with incomes not greater than 80 percent of area median family income, based on gross household income, adjusted for household size, for the metropolitan statistical area in which the units are located, as determined annually by HUD, and also to require that of those units:

(1) at least 40 percent are occupied by and affordable to households with incomes not greater than 60 percent of area median family income, based on gross household income, adjusted for household size, for the metropolitan statistical area in which the units are located, as determined annually by HUD, rather than 100 percent of the rental units be occupied by and affordable to households with incomes not greater than 60 percent of area median family income, based on gross household income, adjusted for household size, for the metropolitan statistical area in which the municipality is located, as determined annually by HUD; and

(2) at least 20 percent are occupied by and affordable to households with incomes not greater than 50 percent of area median family income, based on gross household income, adjusted for household size, for the metropolitan statistical area in which the units are located, as determined annually by HUD, rather than 40 percent of the units be occupied by and affordable to households with incomes not greater than 50 percent of area median family income, based on gross

household income, adjusted for household size, for the metropolitan statistical area in which the municipality is located, as determined annually by HUD.

Removes Subdivision (3) relating to a certain specified percentage of units to be occupied by and affordable to certain households.

(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 or acceptable to the municipality, rather than provided by the municipality.

SECTION 8. Amends Sections 379E.013(c) and (d), Local Government Code, as follows:

(c) Requires the land bank, for purposes of evaluating the effectiveness of the program, to submit an annual performance report to the municipality not later than November 1 of each year in which the land bank acquires, develops, or sells, rather than acquires or sells, property under this chapter. Requires the performance report to include:

(1) makes no changes to this subdivision;

(2) for each property acquired by the land bank during the preceding fiscal year:

(A)-(C) makes no changes to these paragraphs;

(D) the name and mailing address of the property owner of record at the time of the foreclosure; and

(E)-(F) makes no changes to these paragraphs;

(3) for each property sold by the land bank during the preceding fiscal year to a qualified participating developer:

(A)-(B) makes no changes to these paragraphs;

(C) the name and mailing address of the purchaser, rather than the developer;

(D) the price paid by the purchaser, rather than the purchase price paid by the developer; and

(E)-(F) makes no changes to these paragraphs;

(4) for each property sold by the land bank or a qualified participating developer, rather than sold by a qualified participating developer, during the preceding fiscal year, the buyer's household income and a description of all use and sale restrictions; and

(5) for each property developed for rental housing with an active deed restriction, a copy of the most recent annual report for the property, rather than the most recent annual report filed by the owner with the land bank.

(d) Requires the land bank to maintain in its records for inspection a copy of the sale settlement statement for each property sold by the land bank or a qualified participating developer, rather than 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.

SECTION 9. Amends Section 11.18(d), Tax Code, to include acquiring, holding, developing, and transferring real property rather than unimproved property, under an urban land bank program established under Chapter 379E, Local Government Code, as or on behalf of a land

bank, among the charitable functions a charitable organization is required to be engaged exclusively in performing.

SECTION 10. Makes application of Chapter 379E, Local Government Code, as amended by this Act, prospective.

SECTION 11. Makes application of Section 11.18, Tax Code, as amended by this Act, prospective.

SECTION 12. Effective date: September 1, 2019.