

SUBJECT: Amending provisions regulating the Houston land bank program

COMMITTEE: Urban Affairs — favorable, without amendment

VOTE: 4 ayes — Bailey, Menendez, Latham, Mallory Caraway

0 nays

3 absent — Murphy, Cohen, Martinez Fischer

SENATE VOTE: On final passage, May 1— 31-0, on Local and Uncontested Calendar

WITNESSES: *(On companion bill, HB 3671 by Thompson:)*

For — *(Registered, but did not testify: Leah Stolar and Stephen Tinnenmon, city of Houston)*

Against — None

BACKGROUND: Local Government Code, ch. 379D establishes a land bank program for municipalities with a population greater than 1.9 million (Houston). The chapter provides that a governing body of a municipality may adopt an urban land bank program in which certain eligible real property acquired through foreclosure proceedings for delinquent taxes can be resold by private sale for purposes of affordable housing development. The governing body of a municipality adopting such a program has to establish or approve the land bank for the purposes of acquiring, holding, and transferring real property in accord with statutory provisions.

Property acquired through foreclosing on a tax lien may be sold to a land bank without going through public sale proceedings if:

- the market value of the property as specified in the judgment of foreclosure is less than the total amount owed by the owner;
- the property is not improved with a habitable building, as described by the municipality's health and safety code;
- there are delinquent taxes on the property for each of the preceding six years; and
- the municipality has reached an acceptable participation agreement with other taxing units implicated by the sale.

A property that is not improved with a habitable building may not be sold to a land bank if it is currently occupied by a person who has resided on the property for at least a year.

Property acquired by the land bank primarily must be offered for sale to eligible adjacent property owners under terms and conditions developed by the land bank consistent with relevant statutory provisions. Land must secondarily be offered for sale to qualified community housing development organizations and then to a qualified participating developer within the five-year period following the date the property was acquired. Land not purchased by a qualified developer within five years of the original acquisition reverts to the taxing units that were parties to the original disposition of the land. The land bank must impose deed restrictions with appropriate terms and conditions on property sold to eligible developers and adjacent property owners that require the development and sale or rental of the property to low income households.

The chapter contains additional provisions regulating the development of land bank program land, adoption of a land bank plan, the sale and subsequent resale of land bank land, restrictions on the occupancy and use of land bank land, and auditing of the program's records.

Existing statutory provisions governing the Houston land bank program do not define the specific status of a title to property acquired through the program. Title insurance companies are hesitant to provide insurance for a title that later could be subject to legal challenges on grounds that it was not legitimately transferred. Current law also does not contain specific language regulating the potential for development and resale of land bank land that was sold to an adjacent property owner. Under current statutory provisions, an adjacent property owner could develop a more intensive land use and resell the land for a profit soon thereafter. Current law provides no explicit injunction requiring sales of land bank land to adjacent property owners at fair market value.

DIGEST:

SB 1757 would revise statutory provisions regulating the land bank program established by ch. 379D. The bill would modify conditions under which a cause of legal action respecting a land bank transaction could be filed. The bill would provide that after one year following the sale of property to the land bank, a third party who was not involved in the original transaction would not be able to bring a cause of legal action challenging the sale of the property against a qualified buyer or any

subsequent purchasers of the property. A qualified developer or eligible adjacent property owner who purchased property from the land bank would have full title to the property, with the exception of any recorded restrictive covenants, applicable rights of foreclosed property owners to redeem their property through payment of delinquent taxes, legal actions based on a claim of fraud, and other claims subsequent to sale arising under laws not covered by the land bank program. Full title also would be subject to the requirement of a developer to file a building permit and complete financing for construction within two years of purchasing the property. A sale of property to the land bank made in conformity with relevant statutory provisions would be assumed valid.

The bill would allow deed restrictions on land bank land sold to eligible adjacent property owners to limit the use of the property to uses that were consistent and compatible with the residential character of the neighborhood and other applicable standards. Land bank land would be sold to eligible adjacent property owners at fair market value as determined by the appraisal district in which the property was located.

Under SB 1757, an eligible adjacent property owner would have to meet any additional requirements adopted by the land bank to be eligible to exercise a primary right to purchase property. Eligible adjacent property owners who purchased land bank property could not lease, sell, or otherwise transfer the property to another party within 10 years of having purchased the property. The transfer restriction would not apply to a family member of the property owner or in the case of the owner's death.

The bill would take effect September 1, 2007.

NOTES:

The identical companion bill, HB 3671 by Thompson, was reported favorably, as substituted, by the Urban Affairs Committee on April 18, and died in the House Calendars Committee.