

SUBJECT: Authorizing Houston to create an urban land bank

COMMITTEE: Urban Affairs — favorable, without amendment

VOTE: 7 ayes — Cortez, Holland, Bernal, Campos, Jarvis Johnson, Minjarez, Morales Shaw

2 nays — Gates, Slaton

SENATE VOTE: On final passage, April 23 — 31-0, on Local and Uncontested Calendar

WITNESSES: No public hearing.

BACKGROUND: Concerns have been raised that the Houston Land Bank is not clearly outlined in state law and does not have the necessary authority to fulfill its function of reintegrating abandoned, vacant, dilapidated, and otherwise tax-delinquent properties into the market.

DIGEST: SB 1679 would authorize a municipality with a population of 2 million or more (Houston) to create a land bank for the purpose of acquiring, managing, and disposing of vacant properties not producing tax or other revenue in order to convert such properties to productive uses, including the development of housing to address local needs. The land bank would be created by the governing body of the municipality adopting of an ordinance approving the land bank's certificate of formation and bylaws. The certificate and bylaws could not be changed without a municipal ordinance.

Board of directors. The size, membership, composition, and officers of the land bank's board, and the methods of appointment to the board, would have to be established by the land bank's certificate of formation and bylaws. A majority of the board would constitute a quorum, and the board would be required to establish rules for meeting attendance and participation.

General board actions would have to be approved by a quorum of the

board, and approval by a majority of total board membership would be required for the:

- adoption of bylaws or rules for land bank business;
- hiring or firing of any employee or contractor;
- incurring of debt;
- adoption or amendment of the annual budget; and
- sale, lease, encumbrance, or alienation of or improvements to real or personal property with a value of more than \$50,000.

The board by majority vote could delegate hiring and firing to a land bank officer or committee. Board members could not vote by proxy, and could request a recorded vote on any action or resolution. A board member, land bank employee, or relative of such within the first degree of consanguinity could not acquire any interest in land bank real property or contract for materials or services. Board members would not be compensated but could be reimbursed for land bank expenses.

Powers and duties. The land bank would have all powers necessary to carry out its purposes, including specified powers to engage in legal proceedings, borrow and invest money, enter into various contracts and agreements, collect rents and fees, and develop, demolish, finance, and hold title to real property.

The land bank could not exercise the power of eminent domain or acquire real property outside the municipality that created the bank except by interlocal contract with certain other municipalities.

The land bank would be subject to audit by the municipality and would have to:

- keep accurate meeting minutes, records, and financial accounts;
- maintain and make publicly available an inventory of all real property held and copies of settlement statements for each real property sale or transfer;
- annually file an audited financial statement with the municipality;

and

- submit an annual performance report to the municipality.

The land bank would be required to create one or more advisory committees drawn from relevant community groups to advise the bank on neighborhood priorities related to properties causing the greatest harm to neighborhoods and communities.

The land bank could be dissolved by an affirmative vote of two-thirds of the board that was confirmed by a resolution of the municipality that created the land bank. Upon dissolution all land bank property, assets, and obligations would be transferred to the municipality.

Acquisition of property. The land bank's real property, income, and operations would be public property that was exempt from all license and recording fees and taxes imposed by the state or its political subdivisions.

The land bank would be authorized to file an action to quiet title for any real property in which it had an interest. Before filing an action, the land bank would have to conduct an examination of title to identify parties with an interest in the property, and serve the complaint to quiet title to those parties by specified means. The bill would provide for the filing of an affidavit and court hearing on such an action.

The bill would provide for the land bank's acquisition of property from municipalities, counties, governmental entities, and the federal government, and for the acquisition of foreclosed or seized property. The land bank would be able to request that a taxing unit begin foreclosure for delinquent taxes on real property that was not legally owned and occupied. The land bank could request foreclosure for legally occupied residential property only if the property was at least five years delinquent.

For a tax sale, if there was no private third party bid higher than the land bank's bid, the property would have to be sold to the land bank. A municipality or taxing unit levying property taxes within the municipality's jurisdiction could convey foreclosed property to a land

bank on terms determined between the transferor and the land bank. The bill would provide for an owner's redemption of real property sold to the land bank.

Disposition of property. The land bank would be authorized to convey, sell, transfer, lease, or otherwise dispose of any interest in, on, or to its real property. For property to which the bank held fee simple title, the land bank would have to dispose of the fee simple interest by the end of the fifth consecutive year during which the land bank continuously held the title, unless the property was:

- subject to a long-term lease with certain specified entities;
- required by the municipality to be held longer for certain program or funding goals related to housing or economic development;
- intended by the land bank to be used for flood control or storm water retention or drainage and had not yet been transferred to an appropriate public entity; or
- the subject of an active legal proceeding or conflicting court order.

A municipality could require that a particular form of disposition of land bank property be subject to specified voting and approval requirements of the board. The board would have to determine and state in the land bank's policies and procedures the general terms for consideration to be received by the land bank for the transfer of its real property.

The municipality could recommend that the land bank, and the land bank could in its policies and procedures, establish a hierarchical ranking of the priorities for the use of real property conveyed by the land bank. The land bank could adopt a policy requiring that a percentage of residential units constructed on property conveyed by the land bank be deed restricted for affordable housing.

Financing. The bill would provide for the general financing of land bank operations through grants, loans, payments for services, rents, investment income and other permitted assets and activities.

No more than 75 percent of the property taxes collected by the municipality on property conveyed by the land bank could be remitted to the land bank. Property taxes imposed on land bank property by other taxing units could be allocated to the land bank under an interlocal agreement. The percentage of those taxes to be remitted would have to be established by ordinance, resolution, or interlocal agreement.

Interim committee. SB 1679 would create a joint interim committee to study land banks. The lieutenant governor, House speaker, and governor each would appoint four members to the committee, taking into consideration certain qualifications specified by the bill. Members would have to be appointed by 60 days after the bill's effective date.

The committee would study land bank powers, funding, legislation, and impacts on housing, flood and storm water management, and tax base. By January 15, 2023, the committee would have to submit to the appointing authorities a written report summarizing the results of the study, including any legislative recommendations for statute governing a land bank created under this bill. The committee would be abolished September 1, 2023.

Other provisions. The bill would repeal the Urban Land Bank Program Act for a Municipality with a Population of 1.9 Million or More.

An urban land bank established under the bill's provisions that held fee simple title to real property before the bill's effective date would not be required to dispose of such real property until the end of the fifth consecutive year during which the urban land bank held the title on or after that date.

The bill would establish that the Houston Land Bank was a land bank under the bill's provisions and would continue to possess its original statutory authorization under the Transportation Code. All actions of the Houston Land Bank's boards and employees, and all contracts agreements, services, and real property acquisitions and dispositions taken before the bill's effective date would be unaffected by an ordinance adopted under the bill's provisions.

The bill would take effect September 1, 2021.

NOTES:

The House companion bill, HB 4065 by Jarvis Johnson, was considered by the House Urban Affairs committee in a public hearing on April 14, reported favorably as substituted on April 21, and sent to the Calendars Committee.