

- SUBJECT:** Creation of homestead preservation district in Austin
- COMMITTEE:** Urban Affairs — committee substitute recommended
- VOTE:** 5 ayes — Wong, A. Allen, Bailey, Blake, Rodriguez  
1 nay — Talton  
1 absent — Menendez
- WITNESSES:** For — Hugh Brady, City of Austin; John Henneberger, Texas Low Income Housing Information Service; Heather Way  
Against — None
- BACKGROUND:** Under the Tax Increment Financing Act, Tax Code, ch. 311, a city may create a tax increment reinvestment zone for a specified period to upgrade an area and increase its taxable value. Taxes paid on property in the zone above the amount of property taxes paid in the year the zone was created are called the "tax increment," and this increment is deposited into a tax increment fund. This fund pays for the costs of new or upgraded infrastructure and other public improvements in the zone.  
  
In 2003, the 78th Legislature enacted HB 2801 by Giddings, which allowed the city of Dallas to create an urban land bank demonstration program.
- DIGEST:** CSHB 525 would authorize the creation of a homestead preservation district in Austin. Within the district, the city could create homestead preservation land trusts, a homestead preservation reinvestment zone, and a homestead land bank. The city would be able to provide tax-exempt bond financing, density bonuses, and other incentives in the district.  
  
To be eligible for designation as a homestead preservation district, an area would have to:
- be a spatially compact area of census tracts contiguous to a geographical area of a municipality in which at least 90 percent of the land is used or zoned for commercial purposes;

- have fewer than 25,000 residents;
- have fewer than 8,000 households of which 50 percent or less are owner-occupied;
- have at least 55 percent of the homes in the area built at least 45 years ago;
- have an unemployment rate greater than 10 percent;
- have a poverty rate at least two times that of the city; and
- have a median family income less than 60 percent of that of the city.

Once designated as a homestead preservation district, the area would not have to continue to meet the eligibility criteria.

### **Homestead land trust**

The city of Austin would be authorized to create one or more non-profit homestead land trusts to operate in an area that included the homestead development district. A governmental entity could transfer land to the trust without competitive bidding and could forgive outstanding taxes and fees on the land if otherwise allowed by law. Property owned by the trust would be exempt from property taxation by the state or a political subdivision, except taxation by school districts. A city or county also could choose to exempt trusts created under other statutes or common law from property taxes.

Housing units owned by the trust could be sold or leased only to families meeting specific low-income eligibility criteria. To transfer title on land owned by the trust would require a unanimous vote of the trust's board and a four-fifths vote of approval by the city and county governing bodies. The trust would have to provide notice to all persons who owned or rented housing units located on land owned by the trust.

The trust would be governed by a seven-member board of directors, appointed by the city's governing board, and would include four members of the city's governing body and three district residents. If the trust held land providing at least 100 housing units, at least one-third of the board members would have to reside in those units.

### **Homestead preservation reinvestment zone**

The city of Austin could create a homestead preservation reinvestment zone in an unproductive, underdeveloped, or blighted area within the homestead preservation district. Chapter 311 of the Tax Code would not apply to this zone.

The zone would be administered by the governing body of the city. Before creating the zone, the city would prepare a preliminary zone financing plan and hold a public hearing on the plan. The city also would have to prepare an annual report on the revenue, expenditures, and outcomes of the zone.

Taxes paid on property in the zone above the amount of property taxes paid in the year the zone was created would be deposited into a tax increment fund. This provision would apply only to taxes collected by the city unless the city entered into agreements with other taxing units. Revenue in the fund could be used only for the development and preservation of affordable housing in the zone by community housing development corporations, a homestead land trust, or a land bank.

The city's governing body would have to develop an annual plan for use of money in the fund and hold a public hearing on the plan. All money expended would have to benefit families that met certain low-income eligibility criteria. At least 80 percent of the funds spent each year would have to be used for the purchase of real property or the construction or rehabilitation of affordable housing. No more than 10 percent of the funds could go toward administrative costs, and no more than 10 percent could be used for the administrative costs of land banks and community housing development organizations for their housing-related activities in the zone. All housing created or rehabilitated with revenue from the fund would have to remain affordable for at least 30 years.

### **Homestead land bank program**

A city with a homestead development district could create a homestead land bank program to acquire, hold, transfer, and sell unimproved real property to create affordable housing. Land that had been ordered sold pursuant to foreclosure of a tax lien could be sold to the land bank without first offering it for public sale if the taxes had been delinquent for at least five years, the market value of the land was less than the amount due

under the judgment, and the implicated taxing authorities agreed. The property owner would have the right to object to the sale of the property to the land bank, in which case the property would be sold under the Tax Code. If the owner did not object to the sale to the land bank, the owner would not receive any proceeds from the sale but also would not have any personal liability for a deficiency of the judgment.

Property held by the land bank for resale would be exempt from ad valorem taxation. The land bank would have to sell the property within three years to a qualified developer or community housing organization. Community housing organizations would be given a right of first refusal to purchase the property, and if the property was sold to a community housing organization, it could remain exempt from ad valorem taxation for the three years after the date the property was acquired by the land bank. If more than one community housing organization expressed interest in the property, the organization covering the smallest geographical area would have priority. Property not sold within three years would be transferred back to the taxing units who were parties to the original judgment.

A portion of the housing created and all of the rental units built on land sold by the bank would have to be reserved for families meeting certain low-income eligibility criteria. Rental housing would have to remain affordable for at least 20 years, and rental housing owners would be required to file an annual occupancy report with the city and could not deny housing to families with federal section 8 housing vouchers solely for that reason.

To be eligible for participation in the program, a developer would have to have developed three or more housing units in the past 10 years, have a city approved development plan for the property, and meet any other requirements adopted by the city. A developer would not be able to acquire more than three times the average residential production completed by the developer during the past two years. If the developer did not apply for a construction permit and close on financing within two years, the property would revert back to the land bank.

To be eligible, a qualified community housing organization would have to have developed or rehabilitated at least three single family homes or duplexes or one multifamily dwelling of four or more units in the past 10 years, and developed or rehabilitated housing units within a two-mile radius of the property in the past three years.

The land bank would be administered by the city's governing body. The city would have to create an annual plan for the program and hold a public hearing on that plan, and would have to file audited financial statements and submit an annual performance report. The land bank would be subject to open records and open meetings laws. The city and primary county in which the district is located would be required to prepare an annual inventory of all land owned in the district by the city or county, the current and projected uses of that land, and a list of land on which delinquent taxes have been owed for two or more years.

The bill would take effect September 1, 1005.

**SUPPORTERS  
SAY:**

CSHB 525 would help the city of Austin increase home ownership, provide affordable housing, and prevent the involuntary loss of homesteads by existing low-income and moderate-income homeowners living in neighborhoods experiencing economic pressures.

In certain older, low-income Austin neighborhoods located near downtown, low- and middle-income families face considerable financial stress from spiraling property taxes and rents. Unable to pay these taxes or afford the higher rents, many families are forced to move to other, more affordable neighborhoods. In many cases, developers then snap up these properties and construct expensive, high-density housing, affecting the character of the neighborhood and exacerbating the affordability problem. CSHB 525 would provide the city of Austin with three new entities to help shape development in these neighborhoods and ensure the continued existence of affordable housing.

While the specific income eligibility requirements imposed on housing created or rehabilitated by these new entities is the most obvious means by which the bill would promote affordable housing and home ownership, each entity created under the bill also would provide a unique tool to realize these goals. The homestead preservation reinvestment zone would provide a means to raise money for the acquisition of land and for the development and rehabilitation of affordable housing. The homestead land trusts significantly would reduce the taxes on homes and rental properties on land owned by the trust, since this land would not subject to taxation, thereby lowering the cost to owners and enabling owners of rental properties to pass those savings along to residents as lower rents. The homestead land bank program would allow vacant and unproductive lots to be "banked" for future development. Reducing the number of these

lots would put property back on the tax rolls and could stabilize neighborhoods, increase the sense of community, and increase property values. Owners of these tax delinquent properties would continue to be protected by existing notice and due process provisions and could opt out of the program.

CSHB 525 would provide a balanced approach to promoting economic growth, neighborhood integrity, and affordable housing. The bill would not block business and commercial development because the land bank would have only a first right to certain foreclosed properties, and then only if the city's governing body determined in a public meeting that offering that land to the bank was in the city's and the district's best interest. While economic growth is important, the city has a role to play in balancing that growth with the other needs of its residents.

Limiting the bill to Austin would provide an opportunity to examine the effectiveness and appropriateness of these tools in a mid-size city with a compact, affected area in order to determine whether they could and ought to be extended to other cities. Expanding the land bank program from Dallas to Austin is a sensible way to continue examining the benefits of this program. Although the bill does not specifically address accessibility of housing for disabled persons, Austin has an accessibility and visitability ordinance more stringent than federal and state laws, which would ensure that all housing created under the bill's provisions would meet accessibility standards. The reinvestment zones and land banks would be covered by open records and open meetings laws because they would be administered by the city's governing body, which is subject to these laws. Although land trusts would not explicitly be covered, the public hearing requirements would ensure that these trusts were open and accountable.

**OPPONENTS  
SAY:**

CSHB 525 could be used to stop business and commercial development in the city of Austin. By giving the city a means to designate land for housing without first offering that land in a public sale, the bill could divert a significant percentage of the land that becomes available in a neighborhood due to tax foreclosures away from potential business and commercial use. These new entities could purchase other properties through money from the reinvestment zone or other funds and financial incentives provided by the city. While affordable housing is important, economic growth is equally vital to a city's health, and the city should not be given new tools to block this growth.

By allowing the trust fund permanently to hold title to land, the bill could remove property from the tax rolls and reduce revenue that could be used for other priorities.

Last session, the Legislature approved a demonstration land bank program in Dallas. That land bank program has yet to undertake any projects. The program should be given more time to prove its effectiveness before land banks are expanded to other cities.

OTHER  
OPPONENTS  
SAY:

It is not clear that a non-profit homestead land trust would be covered by open records and open meetings laws. Because this trust would be created for a public purpose and could receive land from the city, it should be subject to these laws.

The bill does not contain any provision to ensure that housing created or rehabilitated by these new entities would contain at least some units accessible to disabled persons. Although Austin may have stringent accessibility standards, the bill should make minimum standards explicit to ensure that if the provisions that this bill would place in statute later were expanded to all cities, these cities also would have to develop accessible housing.

Many cities in Texas are experiencing the problems that this bill would address for Austin. The bill should be expanded to include these cities.

NOTES:

The committee substitute:

- bracketed the bill to Austin;
- added additional criteria for designation as a homestead preservation district;
- added language allowing the city to use additional financial incentives in the district;
- specified the composition of the board of a land trust and set criteria for transferring title of land owned by the trust;
- set more specific criteria on the affordability requirements of housing created under the chapter;
- specified that chapter 311 of the Tax Code would not apply to a homestead preservation reinvestment zone;
- set criteria for creating a homestead preservation reinvestment zone;

- exempted land held by land banks from ad valorem taxes;
- added reporting requirements;
- added several definitions;
- changed developer eligibility requirements;
- changed the effective date; and
- made several nonsubstantive and technical clarifications and corrections.