

**SUBJECT:** Creating urban land bank programs for municipalities

**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 House companion bill, HB 2175 by Deshotel:*)  
  
For — Kristin Carlisle, Texas Low Income Housing Information Service;  
Matt Hull, Texas Association of Community Development Corporations  
  
Against — None

**BACKGROUND:** Local Government Code, chs. 379C and ch. 379D establish land bank programs for certain municipalities (Dallas and Houston). The chapters provide that the governing bodies of affected municipalities may adopt urban land bank programs 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.

**DIGEST:** SB 986 would create the Urban Land Bank Program Act to allow a governing body that had not previously adopted a land bank program to adopt a program in which certain eligible property acquired through foreclosure proceedings for delinquent taxes could be resold by private sale for purposes of affordable housing development. The governing body of a municipality adopting such a program would have to establish or approve the land bank for the purposes of acquiring, holding, and transferring real property in accord with statutory provisions.

**Land bank program requirements.** Municipalities adopting a land bank program would have to operate the program in accordance with a land bank plan to be adopted annually. A land bank plan would have to account for other existing municipal housing plans, including federal plans, and would have to list community housing development organizations eligible to participate in the program. A plan would also contain a list of parcels that could become eligible for sale to the land bank during the next year, the municipality's plan for affordable housing development on those parcels, and a fiscal account of revenue estimated to be available for the development of affordable housing. A land bank plan would be subject to a public hearing.

Land bank meetings would be subject to statutes governing accessibility of public meetings and information and land bank records would be subject to audit. The land bank would have to file audited financial statements with the municipality annually and would have to submit an annual performance report to include:

- complete, written accounting of all money from properties received and disbursed by the land bank during the preceding year;
- basic information for each property the land bank acquired and owners who were subjected to foreclosure proceedings;
- the amount of taxes and other costs owed at the time of the foreclosure;
- basic information for each property sold by the land bank during the preceding year, including the purchase price and any public subsidies the municipality provided; and
- income information and sale restrictions for property sold by qualified developers, or rental reports for leased property.

Land banks would have to provide copies of the performance report to the taxing units that were party to the original foreclosure judgment and would be kept available for public review.

**Property sold to a land bank.** Property acquired through foreclosing on a tax lien could 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 was less than the total amount owed by the owner;
- the property was not improved with one or more buildings;

- there were delinquent taxes on the property for at least five years; and
- the municipality had reached an acceptable participation agreement with other taxing units implicated by the sale.

A person involved in a suit for foreclosure on the land could challenge the market value of the property only if such a contestation were part of the suit. Each defendant to a foreclosure judgment would be provided written notice of the proposed method of sale of the property by the selling officers. A property could be sold in a public process at an owner's request. Property could also be sold to the land bank at less than market value with the consent of the implicated taxing units.

Property acquired by the land bank primarily would be offered for sale to a qualified developer for building affordable housing for sale or rent to low-income households. Land not purchased by a qualified developer within three years of the original acquisition would revert to the taxing units that were parties to the original disposition of the land. A qualified developer could assume at a given time land bank development projects numbering no more than three times the average yearly production for the preceding two-year period. Property sold to a qualified developer would revert to the land bank if the developer did not apply for a construction permit and close on financing for the property within two years after acquisition.

**Land bank property sales.** The land bank would impose deed restrictions with appropriate terms and conditions on property sold to eligible developers that required the development and sale or rental of the property to low-income households. At least 25 percent of land bank properties sold during a fiscal year would have to be sold to households with incomes less than or equal to 60 percent of the area median family income (AMFI). Property developed for rental housing would be restricted for 20 years to ensure that:

- 100 percent of the rental units were occupied by households with incomes less than or equal to 60 percent of AMFI;
- 40 percent of rental units would have to be occupied by households with incomes no greater than 50 percent of AMFI; and
- 20 percent of units would be occupied by households with incomes less than or equal to 30 percent of AMFI.

Deed restrictions would require an owner of rental housing to file annual occupancy reports with the municipality. The governing body of a municipality could modify or add to deed restrictions on resold land bank land as part of the annual adoption of the land bank plan.

Developers qualified to participate in a land bank program would have to:

- demonstrate that they developed at least three housing units within three years preceding the submission of a proposal to acquire the property;
- gain approval for a development plan for the property by the municipality; and
- meet any other requirement adopted by the municipality for the property.

Land sold by a land bank primarily would be available to a certified community housing development organization that had built at least three single-family homes or duplexes or one multifamily dwelling and had developed or rehabilitated housing units within two miles of the subject property. Qualified organizations would have between nine and 26 months to purchase the property, depending on municipal rules, before the party could be sold to other qualified participating developers. The municipality could extend a primary right to purchase to other nonprofit organizations and could adjust other aspects of resale procedures and periods in the form of annual revisions to the land bank plan.

The bill would take effect September 1, 2007.

NOTES:

The companion bill, HB 2175 by Deshotel, was reported favorably as substituted from the Urban Affairs Committee on March 21.