

- SUBJECT: Foreclosure on certain property and resale as affordable housing
- COMMITTEE: Urban Affairs — committee substitute recommended
- VOTE: 7 ayes — Y. Davis, Alvarado, Gutierrez, Kent, Miklos, Pierson, C. Turner  
1 nay — Fletcher  
3 absent — C. Howard, Mallory Caraway, Walle
- WITNESSES: For — Elvia Lopez, City of Weslaco  
Against — None
- DIGEST: CSHB 3240 would allow a municipality to adopt an ordinance establishing a program that would allow the municipality to foreclose on certain properties, improve them, and resell them as affordable housing. Any ordinance adopted under the bill would be required to:
- provide criteria for determining the kind of properties that would be eligible for foreclosure and resale, including a requirement that a property be located in the municipality's corporate boundaries;
  - require the municipality to sell a property under the program to a state- or federally-recognized affordable housing program, unless it was unable to do so after making a reasonable effort;
  - require the municipality to make a reasonable effort to maximize the property's sales price;
  - allow the municipality to negotiate with another taxing entity to establish an amount to be paid for back taxes owed to the other entity on the property;
  - allow the municipality to retain proceeds from the resale after payment of taxes owed to the other taxing entities and;
  - allow the municipality to retain an amount from the resale equal any increase in property value resulting from the municipality's improvement of the property, as long as the property was sold to an affordable housing agency.

A municipality that foreclosed, improved, and resold a property would be required to pay the negotiated amount of taxes owed to other taxing

entities, but would not be required to pay any interest or penalties if the improvement and sale of the property provided a public benefit to taxpayers.

If a municipality was unable to sell a property foreclosed on to a state- or federally-recognized affordable housing program, it would be able to sell the property to another purchaser, but could not retain proceeds from the resale and would have to pay penalties or interest to the other taxing entities in addition to the negotiated amount of taxes owed on the property. If the proceeds from a sale not to an affordable housing program were less than the taxes owed to other taxing entities, a municipality would be required to make payments to those entities on a proportional basis.

The bill would give a municipality the sole authority to improve and sell any property it foreclosed on under this program, and would make the municipality a trustee of the property on behalf of the other taxing entities. Any interlocal agreement that a municipality had entered into with other taxing entities regarding the foreclosure, improvement, and sale as affordable housing would be given priority over any program established under this bill.

The bill would take effect September 1, 2009.

**SUPPORTERS  
SAY:**

CSHB 3240 would give cities an important tool in rehabilitating abandoned or blighted property within its jurisdiction and would increase the level of available affordable housing. Property that has been abandoned or has not been sold after a long period of time often becomes a location for gangs or vagrants to inhabit, decreasing surrounding property values. The bill would allow cities to take over those properties, clean them up, and then resell them in order to place them back on the city's tax rolls.

The purpose of CSHB 3240 is not to grant cities additional foreclosure authority, but instead to improve blighted areas and to provide residents with affordable housing. Because the properties would have to be resold to affordable housing programs, they would have to be single-family residences. Any decrease in tax, interest, or penalty amounts paid to taxing entities would be less than not receiving taxes at all due to the property being abandoned. The provision that a municipality repay a taxing entity for taxes owed on a proportional basis if the property sold for less than the

amount of taxes owed would make municipalities consider carefully the properties foreclosed.

OPPONENTS  
SAY:

This bill would not provide adequate protections for property owners. Allowing cities to determine what kinds of properties could be foreclosed on could lead to foreclosure of property that was not blighted or dilapidated, but had merely gone unsold for a lengthy period of time. As written, CSHB 3240 also could allow municipalities to foreclose on property zoned for commercial and other purposes and turn it into residential property.

OTHER  
OPPONENTS  
SAY:

CSHB 3240 could result in lost revenue for cities and other taxing entities. The current housing market is too volatile to assume that cities would be able to sell a foreclosed property at a value higher than the amount of taxes owed on it. Taxing entities such as emergency services districts and other tax zones could be compensated for lost revenue at an amount lower than what was owed and could lose out on any penalties or interest associated with those taxes.

NOTES:

The substitute differs from the bill as filed by requiring any ordinance enacted by a municipality to allow the municipality to negotiate with other taxing entities to establish an amount to be paid for back taxes owed on the property, by prohibiting a municipality from retaining any resale proceeds related to improvement of a property if the property was sold to a purchaser other than an affordable housing program, and by requiring a municipality to make proportional payments to another taxing entity if the proceeds from a sale of property to a purchaser that was not an affordable housing program were not sufficient to cover the payment of any taxes owed to those entities.