

## **BILL ANALYSIS**

Senate Research Center

H.B. 525  
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Engrossed

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

Currently, the oldest urban neighborhoods in Texas are often adjacent to central business districts and suffer a variety of negative consequences as a result. Among them is the economic burden of property tax assessments that are inflated by the speculative value of their strategic location. The consequences include: pressure on low-income families to sell at prices which reflect only the value of their land (without consideration of replacement cost), spiraling rents due to commercial appraisals which are not eligible for the 10 percent cap on appraisals, high density commercial development that is inconsistent with neighborhood aesthetics, and no alternatives in new development for the provision of housing to low-income families.

H.B. 525 creates a new kind of zone for the reclamation of neighborhoods adjacent to central business districts which may be permissively established by the City of Austin. It provides three development/economic tools which may be utilized by the municipality in an effort to coordinate future development in concert with the needs of the existing population.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subtitle A, Title 12, Local Government Code, by adding Chapter 373A, as follows:

#### **CHAPTER 373A. HOMESTEAD PRESERVATION DISTRICTS AND REINVESTMENT ZONES**

##### **SUBCHAPTER A. GENERAL PROVISIONS**

Sec. 373A.001. PURPOSE. Sets forth the purpose of this chapter relating to the improvement of municipalities.

Sec. 373A.002. DEFINITIONS. Defines "central business district," "community housing development organization," "district," "taxing unit," "trust," and "zone."

Sec. 373A.003. APPLICABILITY OF CHAPTER. Provides that this chapter applies only to specific municipalities.

[Reserves Sections 373A.004-373A.050 for expansion.]

##### **SUBCHAPTER B. GENERAL POWERS AND DUTIES**

Sec. 373A.051. MUNICIPAL POWER TO DESIGNATE DISTRICT. (a) Authorizes the governing body of a municipality, by ordinance, to designate as a homestead preservation district (district) an area in the municipality that is eligible under Section 373A.052, to promote and expand the ownership of affordable housing and to prevent the involuntary loss of homesteads by existing homeowners living in the area.

(b) Requires the ordinance to describe the boundaries of the district and designate the powers that apply to the district under this chapter.

Sec. 373A.052. ELIGIBILITY FOR DESIGNATION. (a) Requires an area to be composed of census tracts forming a spatially compact area contiguous to a central business district and with certain specifications in order to be designated as a district under this subchapter.

(b) Authorizes an area that is designated as a district under this subchapter to retain its designation as a district regardless of whether the area continues to meet the eligibility criteria provided by this section, except that an area that does not elect to retain its designation as permitted by this subsection is required to meet all eligibility criteria to be considered for subsequent redesignation as a district.

Sec. 373A.053. INVENTORY OF PROPERTIES. Sets forth requirements for the municipality and county for preparing certain annual inventories.

Sec. 373A.054. ADDITIONAL METHODS OF INCREASING THE SUPPLY OF AFFORDABLE HOUSING. Authorizes a municipality that designates a district under Section 373A.051 to provide tax-exempt bond financing, offer density bonuses, or provide other incentives to increase the supply of affordable housing and maintain the affordability of existing housing for low-income and moderate-income families.

[Reserves Sections 373A.055-373A.100 for expansion.]

#### SUBCHAPTER C. HOMESTEAD LAND TRUST

Sec. 373A.101. CREATION. Authorizes the governing body of a municipality, by ordinance, to create or designate one or more homestead land trusts, including a land trust operated by a community housing development organization certified by the municipality, to operate in an area that includes a district designated by the municipality under this subchapter.

Sec. 373A.102. NATURE OF TRUST. Sets forth requirements for a trust to be a nonprofit organization.

Sec. 373A.103. PURPOSE OF TRUST. Sets forth the purpose of a trust.

Sec. 373A.104. BOARD OF DIRECTORS. Sets forth requirements for the creation of a board of directors for a trust.

Sec. 373A.105. TITLE TO LAND. (a) Authorizes a trust to retain title to land it acquires and to lease housing units located on the land or sell housing units located on the land under long-term ground leases, as provided by Section 373A.106.

(b) Prohibits a trust from transferring title to any land owned by the trust without obtaining specific votes and approval.

Sec. 373A.106. SALE OR LEASE OF HOUSING UNITS. (a) Requires a trust to sell or lease all housing units only to families with a yearly income at the time of purchase or lease of the housing unit at or below 70 percent of the area median family income, adjusted for family size.

(b) Requires at least 40 percent of the housing units sold or leased by the trust to be sold or leased to families with a yearly income at the time of purchase or lease at or below 50 percent of the area median family income, adjusted for family size.

(c) Requires at least 10 percent of the housing units sold or leased by the trust to be sold or leased to families with a yearly income at the time of purchase or lease at or below 30 percent of the area median family income, adjusted for family size.

Sec. 373A.107. TRANSFER FROM GOVERNMENTAL ENTITIES; FORGIVING OUTSTANDING TAXES. Authorizes a governmental entity to transfer land to a trust without competitive bidding. Authorizes a taxing unit to forgive outstanding taxes and fees on property transferred under this section if otherwise allowed by law.

Sec. 373A.108. TAX EXEMPTIONS. (a) Provides that a trust's real property is exempt from property taxation by this state or a political subdivision of this state, other than a school district.

(b) Provides that subject to approval by the governing body of the municipality or county, as appropriate, in which the district is located, the real property of any land trust operating in the district under other law is exempt from property taxation by the municipality or county if the land trust is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, by being certified as an exempt organization under Section 501(c)(3), Internal Revenue Code of 1986.

Sec. 373A.109. RELATION TO OTHER LAW. Provides that this subchapter does not preclude the creation of a land trust by a nonprofit organization, including a community housing development organization, under other statutory or common law or the operation of that land trust inside or outside the district.

[Reserves Sections 373A.110-373A.150 for expansion.]

#### SUBCHAPTER D. HOMESTEAD PRESERVATION REINVESTMENT ZONE

Sec. 373A.151. NONAPPLICABILITY OF OTHER LAW. Provides that Chapter 311 (Tax Increment Financing Act), Tax Code, does not apply to a homestead preservation reinvestment zone created under this subchapter.

Sec. 373A.152. GENERAL AUTHORITY TO CREATE HOMESTEAD PRESERVATION REINVESTMENT ZONE. (a) Authorizes a municipality, by ordinance, to create a homestead preservation reinvestment zone as provided by this section if the municipality finds that the area to be included in the zone is unproductive, underdeveloped, or blighted as provided by Section 1-g(b), Article VIII, Texas Constitution. Requires the governing body of the municipality to administer the zone.

(b) Requires the boundaries of a zone to be contained entirely within the boundaries of a district.

(c) Requires the governing body of the municipality to prepare a preliminary zone financing plan before adopting an ordinance creating a zone. Requires a copy of the plan to be sent to the governing body of the county that will contain all or the greatest portion of the zone as soon as the plan is completed.

(d) Requires the municipality to hold a public hearing on the creation of the zone and its benefits to the municipality and to property in the proposed zone before adopting an ordinance creating a zone. Authorizes an interested person to speak for or against the creation of the zone, its boundaries, or the concept of tax increment financing at the hearing. Requires notice of the hearing to be published in a newspaper having general circulation in the municipality not later than the seventh day before the date of the hearing.

(e) Sets forth requirements for the notice.

(f) Requires the governing body of the county to notify the municipality regarding whether the county intends to participate in the zone upon reviewing the information provided under Subsection (e). Authorizes the governing body of the county, on an annual basis, to reconsider its decision to participate, if the governing body of the county decides to participate in the zone.

Sec. 373A.153. DETERMINATION OF AMOUNT OF TAX INCREMENT. Sets forth the amount of a taxing unit's yearly increment, the captured appraised value of real property, and the tax increment base of a taxing unit.

Sec. 373A.154. TAX INCREMENT FUND. Requires the governing body of the municipality to establish a tax increment fund for the zone.

Sec. 373A.155. COLLECTION AND DEPOSIT OF TAX INCREMENTS. (a) Requires each taxing unit that taxes real property located in a zone to provide for the collection of its taxes in the zone as for any other property taxed by the unit.

(b) Requires each taxing unit to pay into the tax increment fund for the zone an amount equal to the tax increment produced by the unit, except as provided by Subsection (d).

(c) Requires a taxing unit to make a payment required by Subsection (b) not later than the 90th day after the delinquency date for the unit's property taxes. Sets forth penalties for delinquent payments.

(d) Provides that a taxing unit other than the municipality is not required to pay into the tax increment fund any of its tax increment produced from property located in a zone unless the taxing unit enters into an agreement to do so with the governing body of the municipality that created the zone. Authorizes a taxing unit to enter into an agreement under this subsection at any time before or after the zone is created. Authorizes the agreement to include specific conditions and provides that such conditions are binding on the taxing unit and the municipality.

Sec. 373A.156. ANNUAL PLAN. Requires the governing body of the municipality to develop an annual plan that details the amount of money in the tax increment fund and the proposed uses for the money. Requires the municipality to hold a public hearing on the annual plan.

Sec. 373A.157. ADMINISTRATION AND USE OF TAX INCREMENT FUND. Sets forth guidelines for the tax increment fund administered by the governing body of the municipality in accordance with the annual plan developed under Section 373A.156.

Sec. 373A.158. ANNUAL REPORT. Sets forth content and distribution requirements for the annual report to be submitted by the governing body of the municipality to the chief executive officer of each taxing unit that imposes property taxes by a specific date. Requires the municipality's governing body, on or before the 90th day following the end of the municipality fiscal year, to submit to the chief executive officer of each taxing unit that imposes property taxes on real property in a zone created by the municipality under this subchapter a detailed report on the status of the zone.

[Reserves Sections 373A.159-373A.200 for expansion.]

#### SUBCHAPTER E. HOMESTEAD LAND BANK PROGRAM

Sec. 373A.201. SHORT TITLE. Authorizes this subchapter to be cited as the Homestead Land Bank Program Act.

Sec. 373A.202. APPLICABILITY. Provides that this subchapter applies only to a municipality that has designated a district under Section 373A.051.

Sec. 373A.203. DEFINITIONS. Defines "affordable," "community housing development organization" or "organization," "homestead land bank plan" or "plan," "homestead land bank program" or "program," "land bank," "low income household," and "qualified participating developer."

Sec. 373A.204. HOMESTEAD LAND BANK PROGRAM. (a) Authorizes the governing body of a municipality to adopt a homestead land bank program (program) in

which the officer charged with selling real property ordered sold pursuant to foreclosure of a tax lien is authorized to sell certain eligible real property by private sale for purposes of affordable housing development as provided by this subchapter.

(b) Requires the governing body of a municipality that adopts a program to establish or approve a land bank for the purpose of acquiring, holding, and transferring unimproved real property under this subchapter.

Sec. 373A.205. QUALIFIED PARTICIPATING DEVELOPER. Sets forth requirements for a developer to qualify to participate in a homestead land bank program.

Sec. 373A.206. HOMESTEAD LAND BANK PLAN. Requires a municipality that adopts a program to operate the program in conformance with a homestead land bank plan (plan). Requires the plan to be adopted annually and authorizes such plan to be amended. Sets forth requirements for the municipality to consider in developing the plan. Sets forth requirements for the plan.

Sec. 373A.207. PUBLIC HEARING ON PROPOSED PLAN. Sets forth requirements for the public hearing on the proposed plan.

Sec. 373A.208. PRIVATE SALE TO LAND BANK. (a) Authorizes property that is ordered sold pursuant to foreclosure of a tax lien to be sold in a private sale to a land bank by the officer charged with the sale of the property without first offering the property for sale as otherwise provided by Section 34.01, Tax Code, notwithstanding any other law and except as provided by Subsection (f), if certain requirements are met.

(b) Provides that a sale of property for use in connection with the program is a sale for a public purpose.

(c) Provides that if the person being sued in a suit for foreclosure of a tax lien does not contest the market value of the property in the suit, the person waives the right to challenge the amount of the market value determined by the court for purposes of the sale of the property under Section 33.50 (Adjudged Value), Tax Code.

(d) Requires each person who was a defendant to the judgment, or that person's attorney, to be given, not later than the 60th day before the date of sale, written notice of the proposed method of sale of the property by the officer charged with the sale of the property for any sale of property under this subchapter. Requires notice to be given in the manner prescribed by Rule 21a, Texas Rules of Civil Procedure.

(e) Authorizes the owner of property subject to sale to file with the officer charged with the sale a written request that the property not be sold in the manner provided by this subchapter, with the officer charged with the sale, after receipt of the notice required by Subsection (d) and before the date of the proposed sale.

(f) Requires the officer to sell the property as otherwise provided in Section 34.01, Tax Code, if the officer charged with the sale receives a written request as provided by Subsection (e).

(g) Prohibits the owner of the property subject to sale from receiving any proceeds of a sale under this subchapter. Provides that, the owner does not, however, have any personal liability for a deficiency of the judgment as a result of a sale under this subchapter.

(h) Authorizes property to be sold to the land bank for less than the market value of the property as specified in the judgment or less than the total of all taxes, penalties, and interest, plus the value of nontax liens held by a taxing unit and awarded by the judgment, court costs, and the cost of the sale, notwithstanding

any other law, if consent is given by the taxing units that are a party to the judgment.

(i) Provides that the deed of conveyance of the property sold to a land bank under this section conveys to the land bank the right, title, and interest acquired or held by each taxing unit that was a party to the judgment, subject to the right of redemption.

(j) Provides that property sold to and held by the land bank for subsequent resale is eligible for an exemption from ad valorem taxation for a period not to exceed three years from the date of acquisition. Provides that property is eligible for an exemption under this subsection only during the period the property is held by the land bank.

Sec. 373A.209. SUBSEQUENT RESALE BY LAND BANK. Requires each subsequent resale of property acquired by a land bank under this subchapter to comply with specific conditions of this section.

Sec. 373A.210. RESTRICTIONS ON OCCUPANCY AND USE OF PROPERTY. (a) Requires the land bank to impose deed restrictions on property sold to qualified participating developers requiring the development and sale or rental of the property to low income households.

(b) Requires a certain percentage of land bank properties sold during any fiscal year to be developed for sale to be deed restricted for sale to specific household incomes.

(c) Sets forth requirements for deed restrictions if the property is developed for rental housing.

(d) Requires the deed restrictions under Subsection (c) to require the owner to file an annual occupancy report with the municipality on a reporting form provided by the municipality. Requires the deed restrictions to also prohibit any exclusion of an individual or family from admission to the development based solely on the participation of the individual or family in the housing choice voucher program under Section 8, United States Housing Act of 1937 (42 U.S.C. Section 1437f).

(e) Requires the deed restrictions to renew automatically if the deed restrictions imposed under this section are for a term of years, except as otherwise provided by this section.

(f) Authorizes the land bank or the governing body of the municipality to modify or add to the deed restrictions imposed under this section. Requires any modifications or additions made by the governing body of the municipality to be adopted by the municipality as part of its plan and to comply with the restrictions set forth in Subsections (b), (c), and (d).

Sec. 373A.211. RIGHT OF FIRST REFUSAL. Defines "qualified organization."

(b) Requires the land bank to first offer a property for sale to qualified organizations.

(c) Requires notice to be provided to the qualified organizations by certified mail, return receipt requested, not later than the 60th day before the beginning of the period in which a right of first refusal may be exercised.

(d) Requires the municipality to specify the period during which the right of first refusal provided by this section may be exercised by a qualified organization in its plan. Sets forth the required timeline for such period.

(e) Authorizes the interlocal agreement executed under Section 373A.208(a)(4) to provide tax abatement for the property until the expiration of that period, if the land bank conveys the property to a qualified organization before the expiration of the period specified by the municipality under Subsection (d).

(f) Prohibits the land bank from selling the property to a qualified participating developer other than a qualified organization during the specified period. Authorizes the land bank to sell the property under certain conditions.

(g) Requires the municipality, in its plan, to establish the amount of additional time, if any, that a property may be held in the land bank once an offer has been received and accepted from a qualified organization or other qualified participating developer.

(h) Requires the organization that has designated the most geographically compact area encompassing a portion of the property to be given priority if more than one qualified organization expresses an interest in exercising its right of first refusal.

(i) Authorizes the municipality, in its plan, to provide for other rights of first refusal for any other nonprofit corporation exempted from federal income tax under Section 501(c)(3), Internal Revenue Code of 1986, provided that the preeminent right of first refusal is provided to qualified organizations as provided by this section.

(j) Provides that the land bank is not required to provide a right of first refusal to qualified organizations under this section if the land bank is selling property that reverted to the land bank under Section 373A.209(d).

Sec. 373A.212. OPEN RECORDS AND MEETINGS. Requires the land bank to comply with the requirements of Chapters 551 (Open Meetings) and 552 (Public Information), Government Code.

Sec. 373A.213. RECORDS; AUDIT; REPORT. (a) Requires the land bank to keep accurate minutes of its meetings and keep accurate records and books of account that conform with generally accepted principles of accounting and that clearly reflect the income and expenses of the land bank and all transactions in relation to its property.

(b) Requires the land bank to file an annual audited financial statement prepared by a certified public accountant with the municipality not later than the 90th day after the close of the fiscal year. Provides that the financial transactions of the land bank are subject to audit by the municipality.

(c) Requires the land bank to submit an annual performance report with specific information to the municipality not later than November 1 of each year in which the land bank acquires or sells property under this subchapter, for purposes of evaluating the effectiveness of the program.

(d) Requires the land bank to maintain a complete copy of the sale settlement statement for each property sold by a qualified participating developer and a copy of the first page of the mortgage note with the interest rate and indicating the volume and page number of the instrument as filed with the county clerk in its records for inspection.

(e) Requires the land bank to provide copies of the performance report to the taxing units who were parties to the judgment of foreclosure and to provide notice of the availability of the performance report for review to the organizations and neighborhood associations identified by the municipality as serving the neighborhoods in which properties sold to the land bank under this subchapter are located.

(f) Requires the land bank and the municipality to maintain copies of the performance report available for public review.

SECTION 2. Effective date: September 1, 2005.