

1-1 By: Rodriguez, et al. (Senate Sponsor - Barrientos) H.B. No. 525
1-2 (In the Senate - Received from the House May 2, 2005;
1-3 May 3, 2005, read first time and referred to Committee on
1-4 Intergovernmental Relations; May 12, 2005, reported favorably by
1-5 the following vote: Yeas 5, Nays 0; May 12, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the creation of homestead preservation districts,
1-9 reinvestment zones, and other programs to increase home ownership
1-10 and provide affordable housing.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Subtitle A, Title 12, Local Government Code, is
1-13 amended by adding Chapter 373A to read as follows:

1-14 CHAPTER 373A. HOMESTEAD PRESERVATION DISTRICTS AND REINVESTMENT
1-15 ZONES

1-16 SUBCHAPTER A. GENERAL PROVISIONS

1-17 Sec. 373A.001. PURPOSE. The purpose of this chapter is to:

1-18 (1) promote the ability of municipalities to increase
1-19 home ownership, provide affordable housing, and prevent the
1-20 involuntary loss of homesteads by existing low-income and
1-21 moderate-income homeowners living in disadvantaged neighborhoods;

1-22 (2) protect a municipality's interest in improving
1-23 economic and social conditions within disadvantaged communities by
1-24 enhancing the viability of home ownership among low-income and
1-25 moderate-income residents in areas experiencing economic
1-26 pressures; and

1-27 (3) provide municipalities with a means to expand and
1-28 protect the homestead interests of low-income and moderate-income
1-29 families.

1-30 Sec. 373A.002. DEFINITIONS. In this chapter:

1-31 (1) "Central business district" means a compact and
1-32 contiguous geographical area of a municipality in which at least 90
1-33 percent of the land is used or zoned for commercial purposes and
1-34 that has historically been the primary location in the municipality
1-35 where business has been transacted.

1-36 (2) "Community housing development organization" has
1-37 the meaning assigned by 42 U.S.C. Section 12704.

1-38 (3) "District" means a homestead preservation
1-39 district designated under Subchapter B.

1-40 (4) "Taxing unit" has the meaning assigned by Section
1-41 1.04, Tax Code.

1-42 (5) "Trust" means a homestead land trust created or
1-43 designated under Subchapter C.

1-44 (6) "Zone" means a homestead preservation
1-45 reinvestment zone created under Subchapter D.

1-46 Sec. 373A.003. APPLICABILITY OF CHAPTER. This chapter
1-47 applies only to a municipality with a population of more than
1-48 650,000 that is located in a uniform state service region with fewer
1-49 than 550,000 occupied housing units as determined by the most
1-50 recent United States decennial census.

1-51 [Sections 373A.004-373A.050 reserved for expansion]

1-52 SUBCHAPTER B. GENERAL POWERS AND DUTIES

1-53 Sec. 373A.051. MUNICIPAL POWER TO DESIGNATE DISTRICT.

1-54 (a) To promote and expand the ownership of affordable housing and
1-55 to prevent the involuntary loss of homesteads by existing
1-56 homeowners living in the area, the governing body of a municipality
1-57 by ordinance may designate as a homestead preservation district an
1-58 area in the municipality that is eligible under Section 373A.052.

1-59 (b) The ordinance must describe the boundaries of the
1-60 district and designate the powers that apply to the district under
1-61 this chapter.

1-62 Sec. 373A.052. ELIGIBILITY FOR DESIGNATION. (a) To be
1-63 designated as a district under this subchapter, an area must be
1-64 composed of census tracts forming a spatially compact area

- 2-1 contiguous to a central business district and with:
 2-2 (1) fewer than 25,000 residents;
 2-3 (2) fewer than 8,000 households;
 2-4 (3) a number of owner-occupied households that does
 2-5 not exceed 50 percent of the total households in the area;
 2-6 (4) housing stock at least 55 percent of which was
 2-7 built at least 45 years ago;
 2-8 (5) an unemployment rate that is greater than 10
 2-9 percent;
 2-10 (6) an overall poverty rate that is at least two times
 2-11 the poverty rate for the entire municipality; and
 2-12 (7) in each census tract within the area, a median
 2-13 family income that is less than 60 percent of the median family
 2-14 income for the entire municipality.

2-15 (b) An area that is designated as a district under this
 2-16 subchapter may retain its designation as a district regardless of
 2-17 whether the area continues to meet the eligibility criteria
 2-18 provided by this section, except that an area that does not elect to
 2-19 retain its designation as permitted by this subsection must meet
 2-20 all eligibility criteria to be considered for subsequent
 2-21 redesignation as a district.

2-22 Sec. 373A.053. INVENTORY OF PROPERTIES. (a) The
 2-23 municipality and any county containing all or the greatest portion
 2-24 of the district shall each prepare on an annual basis an inventory
 2-25 of all land owned by the municipality or county, as appropriate, in
 2-26 the district and the current and projected uses of the land.

2-27 (b) The municipality and the county shall prepare on an
 2-28 annual basis a list of parcels of land for which delinquent taxes
 2-29 have been owed for a period of two or more years.

2-30 (c) The municipality and the county shall make the
 2-31 inventories prepared under Subsection (a) available to the public
 2-32 on request.

2-33 Sec. 373A.054. ADDITIONAL METHODS OF INCREASING THE SUPPLY
 2-34 OF AFFORDABLE HOUSING. A municipality that designates a district
 2-35 under Section 373A.051 may provide tax-exempt bond financing, offer
 2-36 density bonuses, or provide other incentives to increase the supply
 2-37 of affordable housing and maintain the affordability of existing
 2-38 housing for low-income and moderate-income families.

2-39 [Sections 373A.055-373A.100 reserved for expansion]

2-40 SUBCHAPTER C. HOMESTEAD LAND TRUST

2-41 Sec. 373A.101. CREATION. The governing body of a
 2-42 municipality by ordinance may create or designate under this
 2-43 subchapter one or more homestead land trusts, including a land
 2-44 trust operated by a community housing development organization
 2-45 certified by the municipality, to operate in an area that includes a
 2-46 district designated by the municipality.

2-47 Sec. 373A.102. NATURE OF TRUST. A trust must be a nonprofit
 2-48 organization that is:

2-49 (1) created to acquire and hold land for the benefit of
 2-50 developing and preserving long-term affordable housing in the
 2-51 district; and

2-52 (2) exempt from federal income taxation under Section
 2-53 501(a), Internal Revenue Code of 1986, by being certified as an
 2-54 exempt organization under Section 501(c)(3), Internal Revenue Code
 2-55 of 1986.

2-56 Sec. 373A.103. PURPOSE OF TRUST. The purpose of a trust is
 2-57 to:

2-58 (1) control local land use and reduce absentee
 2-59 ownership;

2-60 (2) provide affordable housing for low-income and
 2-61 moderate-income residents in the community;

2-62 (3) promote resident ownership and control of housing;

2-63 (4) keep housing affordable for future residents; and

2-64 (5) capture the value of public investment for
 2-65 long-term community benefit.

2-66 Sec. 373A.104. BOARD OF DIRECTORS. (a) A trust shall be
 2-67 governed by a board of directors.

2-68 (b) The governing body of the municipality shall appoint the
 2-69 directors of a trust created by the municipality.

3-1 (c) The initial board of a trust created by the municipality
 3-2 must be composed of four members of the governing body of the
 3-3 municipality and three residents of the district.

3-4 (d) If a trust holds land that provides at least 100 housing
 3-5 units, at least one-third of the board members must reside in
 3-6 housing units located on land held by the trust.

3-7 Sec. 373A.105. TITLE TO LAND. (a) A trust may retain title
 3-8 to land it acquires and may lease housing units located on the land
 3-9 or sell housing units located on the land under long-term ground
 3-10 leases, as provided by Section 373A.106.

3-11 (b) A trust may not transfer title to any land owned by the
 3-12 trust without obtaining:

3-13 (1) a unanimous vote of the board members of the trust;

3-14 (2) approval by the municipality and county in which
 3-15 the land is located, as provided through a resolution of the
 3-16 governing bodies of the municipality and county adopted with the
 3-17 affirmative vote of four-fifths of the members following a public
 3-18 hearing; and

3-19 (3) the provision by the board of the trust of advance
 3-20 notice to all persons who own or rent housing units located on land
 3-21 owned by the trust.

3-22 Sec. 373A.106. SALE OR LEASE OF HOUSING UNITS. (a) A trust
 3-23 shall sell or lease all housing units only to families with a yearly
 3-24 income at the time of purchase or lease of the housing unit at or
 3-25 below 70 percent of the area median family income, adjusted for
 3-26 family size.

3-27 (b) At least 40 percent of the housing units sold or leased
 3-28 by the trust must be sold or leased to families with a yearly income
 3-29 at the time of purchase or lease at or below 50 percent of the area
 3-30 median family income, adjusted for family size.

3-31 (c) At least 10 percent of the housing units sold or leased
 3-32 by the trust must be sold or leased to families with a yearly income
 3-33 at the time of purchase or lease at or below 30 percent of the area
 3-34 median family income, adjusted for family size.

3-35 Sec. 373A.107. TRANSFER FROM GOVERNMENTAL ENTITIES;
 3-36 FORGIVING OUTSTANDING TAXES. (a) A governmental entity may
 3-37 transfer land to a trust without competitive bidding.

3-38 (b) A taxing unit may forgive outstanding taxes and fees on
 3-39 property transferred under this section if otherwise allowed by
 3-40 law.

3-41 Sec. 373A.108. TAX EXEMPTIONS. (a) A trust's real
 3-42 property is exempt from property taxation by this state or a
 3-43 political subdivision of this state, other than a school district.

3-44 (b) Subject to approval by the governing body of the
 3-45 municipality or county, as appropriate, in which the district is
 3-46 located, the real property of any land trust operating in the
 3-47 district under other law is exempt from property taxation by the
 3-48 municipality or county if the land trust is exempt from federal
 3-49 income taxation under Section 501(a), Internal Revenue Code of
 3-50 1986, by being certified as an exempt organization under Section
 3-51 501(c)(3), Internal Revenue Code of 1986.

3-52 Sec. 373A.109. RELATION TO OTHER LAW. This subchapter does
 3-53 not preclude the creation of a land trust by a nonprofit
 3-54 organization, including a community housing development
 3-55 organization, under other statutory or common law or the operation
 3-56 of that land trust inside or outside the district.

3-57 [Sections 373A.110-373A.150 reserved for expansion]

3-58 SUBCHAPTER D. HOMESTEAD PRESERVATION REINVESTMENT ZONE

3-59 Sec. 373A.151. NONAPPLICABILITY OF OTHER LAW. Chapter 311,
 3-60 Tax Code, does not apply to a homestead preservation reinvestment
 3-61 zone created under this subchapter.

3-62 Sec. 373A.152. GENERAL AUTHORITY TO CREATE HOMESTEAD
 3-63 PRESERVATION REINVESTMENT ZONE. (a) A municipality by ordinance
 3-64 may create a homestead preservation reinvestment zone as provided
 3-65 by this section if the municipality finds that the area to be
 3-66 included in the zone is unproductive, underdeveloped, or blighted
 3-67 as provided by Section 1-g(b), Article VIII, Texas Constitution.
 3-68 The governing body of the municipality shall administer the zone.

3-69 (b) The boundaries of a zone must be contained entirely

4-1 within the boundaries of a district.

4-2 (c) Before adopting an ordinance creating a zone, the
4-3 governing body of the municipality must prepare a preliminary zone
4-4 financing plan. As soon as the plan is completed, a copy of the plan
4-5 must be sent to the governing body of the county that will contain
4-6 all or the greatest portion of the zone.

4-7 (d) Before adopting an ordinance creating a zone, the
4-8 municipality must hold a public hearing on the creation of the zone
4-9 and its benefits to the municipality and to property in the proposed
4-10 zone. At the hearing an interested person may speak for or against
4-11 the creation of the zone, its boundaries, or the concept of tax
4-12 increment financing. Not later than the seventh day before the date
4-13 of the hearing, notice of the hearing must be published in a
4-14 newspaper having general circulation in the municipality.

4-15 (e) Not later than the 60th day before the date of the public
4-16 hearing required by Subsection (d), the governing body of the
4-17 municipality must notify in writing the governing body of the
4-18 county described by Subsection (c) that it intends to establish the
4-19 zone. The notice must contain a description of the proposed
4-20 boundaries of the zone, the tentative plans for the development or
4-21 redevelopment of the zone, and an estimate of the general impact of
4-22 the proposed zone on property values and tax revenues. The notice
4-23 may be given later than the 60th day before the date of the public
4-24 hearing if the governing body of the county agrees to waive the
4-25 requirement.

4-26 (f) On review of the information provided under Subsection
4-27 (e), the governing body of the county shall notify the municipality
4-28 regarding whether the county intends to participate in the zone. If
4-29 the governing body of the county decides to participate in the zone,
4-30 the governing body of the county on an annual basis may reconsider
4-31 its decision to participate.

4-32 Sec. 373A.153. DETERMINATION OF AMOUNT OF TAX INCREMENT.

4-33 (a) The amount of a taxing unit's tax increment for a year is the
4-34 amount of property taxes imposed by the unit for that year on the
4-35 captured appraised value of real property taxable by the unit and
4-36 located in a zone.

4-37 (b) The captured appraised value of real property taxable by
4-38 a taxing unit for a year is the total appraised value of all real
4-39 property taxable by the unit and located in a zone for that year
4-40 less the tax increment base of the unit.

4-41 (c) The tax increment base of a taxing unit is the total
4-42 appraised value of all real property taxable by the unit and located
4-43 in a zone for the year in which the zone was created under this
4-44 subchapter.

4-45 Sec. 373A.154. TAX INCREMENT FUND. The governing body of
4-46 the municipality shall establish a tax increment fund for the zone.

4-47 Sec. 373A.155. COLLECTION AND DEPOSIT OF TAX INCREMENTS.

4-48 (a) Each taxing unit that taxes real property located in a zone
4-49 shall provide for the collection of its taxes in the zone as for any
4-50 other property taxed by the unit.

4-51 (b) Except as provided by Subsection (d), each taxing unit
4-52 shall pay into the tax increment fund for the zone an amount equal
4-53 to the tax increment produced by the unit.

4-54 (c) A taxing unit shall make a payment required by
4-55 Subsection (b) not later than the 90th day after the delinquency
4-56 date for the unit's property taxes. A delinquent payment incurs a
4-57 penalty of five percent of the amount delinquent and accrues
4-58 interest at an annual rate of 10 percent.

4-59 (d) A taxing unit other than the municipality is not
4-60 required to pay into the tax increment fund any of its tax increment
4-61 produced from property located in a zone unless the taxing unit
4-62 enters into an agreement to do so with the governing body of the
4-63 municipality that created the zone. A taxing unit may enter into an
4-64 agreement under this subsection at any time before or after the zone
4-65 is created. The agreement may include conditions for payment of
4-66 that tax increment into the fund and must specify the portion of the
4-67 tax increment to be paid into the fund and the years for which that
4-68 tax increment is to be paid into the fund. The agreement and the
4-69 conditions in the agreement are binding on the taxing unit and the

5-1 municipality.

5-2 Sec. 373A.156. ANNUAL PLAN. (a) The governing body of the
 5-3 municipality shall develop an annual plan that details the amount
 5-4 of money in the tax increment fund and the proposed uses for the
 5-5 money.

5-6 (b) The municipality must hold a public hearing on the
 5-7 annual plan.

5-8 Sec. 373A.157. ADMINISTRATION AND USE OF TAX INCREMENT
 5-9 FUND. (a) The tax increment fund is administered by the governing
 5-10 body of the municipality in accordance with the annual plan
 5-11 developed by the municipality under Section 373A.156. Revenue from
 5-12 the tax increment fund must be dedicated as provided by this section
 5-13 to the development and preservation of affordable housing in the
 5-14 zone by a community housing development organization certified by
 5-15 the municipality, a trust created or designated by the
 5-16 municipality, or another entity as provided by this section.

5-17 (b) All revenue from the tax increment fund must be expended
 5-18 to benefit families that have a yearly income at or below 70 percent
 5-19 of the area median family income, adjusted for family size.

5-20 (c) At least 50 percent of the revenue from the tax
 5-21 increment fund expended annually must benefit families that have a
 5-22 yearly income at or below 50 percent of the area median family
 5-23 income, adjusted for family size.

5-24 (d) At least 25 percent of the revenue from the tax
 5-25 increment fund expended annually must benefit families that have a
 5-26 yearly income at or below 30 percent of the area median family
 5-27 income, adjusted for family size.

5-28 (e) The municipality must spend at least 80 percent of the
 5-29 revenue expended annually from the tax increment fund for the
 5-30 purchase of real property and the construction or rehabilitation of
 5-31 affordable housing in the zone. The municipality may spend not more
 5-32 than 10 percent of the revenue expended annually from the tax
 5-33 increment fund for administration of the zone.

5-34 (f) The municipality may provide not more than 10 percent of
 5-35 the revenue expended annually from the tax increment fund to
 5-36 designated land banks and community housing development
 5-37 organizations for the administration of housing-related activities
 5-38 in the zone.

5-39 (g) All housing created or rehabilitated with revenue from
 5-40 the tax increment fund must have at least a 30-year affordability
 5-41 period.

5-42 Sec. 373A.158. ANNUAL REPORT. (a) On or before the 90th
 5-43 day following the end of the fiscal year of the municipality, the
 5-44 governing body of the municipality shall submit to the chief
 5-45 executive officer of each taxing unit that imposes property taxes
 5-46 on real property in a zone created by the municipality under this
 5-47 subchapter a detailed report on the status of the zone.

5-48 (b) The report must include:

5-49 (1) the amount and source of revenue in the tax
 5-50 increment fund established for the zone;

5-51 (2) the amount and purpose of expenditures from the
 5-52 fund and the income levels of the persons who benefited from the
 5-53 expenditures;

5-54 (3) the number of parcels of property purchased,
 5-55 housing units rehabilitated, and housing units constructed and the
 5-56 income levels of the persons residing in the housing units;

5-57 (4) the tax increment base and current captured
 5-58 appraised value retained by the zone;

5-59 (5) the total amount of tax increments received; and

5-60 (6) any additional information necessary to
 5-61 demonstrate strict compliance with the provisions of this
 5-62 subchapter.

5-63 (c) The municipality shall send a copy of a report made
 5-64 under this section to:

5-65 (1) the attorney general;

5-66 (2) the comptroller;

5-67 (3) the Texas Department of Housing and Community
 5-68 Affairs; and

5-69 (4) a participating county, if any.

6-1 (d) The municipality shall make the report available to the
 6-2 public on the municipality's official website.

6-3 [Sections 373A.159-373A.200 reserved for expansion]

6-4 SUBCHAPTER E. HOMESTEAD LAND BANK PROGRAM

6-5 Sec. 373A.201. SHORT TITLE. This subchapter may be cited as
 6-6 the Homestead Land Bank Program Act.

6-7 Sec. 373A.202. APPLICABILITY. This subchapter applies only
 6-8 to a municipality that has designated a district under Section
 6-9 373A.051.

6-10 Sec. 373A.203. DEFINITIONS. In this subchapter:

6-11 (1) "Affordable" means that the monthly mortgage
 6-12 payment or contract rent does not exceed 30 percent of the
 6-13 applicable median family income for that unit size, in accordance
 6-14 with the income and rent limit rules adopted by the Texas Department
 6-15 of Housing and Community Affairs.

6-16 (2) "Community housing development organization" or
 6-17 "organization" means an organization that:

6-18 (A) meets the definition of a community housing
 6-19 development organization in 24 C.F.R. Section 92.2;

6-20 (B) is certified by the municipality as a
 6-21 community housing development organization;

6-22 (C) is governed exclusively by a board of at
 6-23 least five members unrelated by blood, marriage, or business
 6-24 interest; and

6-25 (D) is not controlled, directly or indirectly, by
 6-26 any other party through any contract, arrangement, understanding,
 6-27 relationship, voting power, affiliation, trust, proxy, power of
 6-28 attorney, pooling arrangement, security, warrant, partnership,
 6-29 option, discretionary account, joint venture, interlocking
 6-30 directors, or other device, as evidenced by a notarized affidavit
 6-31 signed by each board member.

6-32 (3) "Homestead land bank plan" or "plan" means a plan
 6-33 adopted by the governing body of a municipality as provided by
 6-34 Section 373A.206.

6-35 (4) "Homestead land bank program" or "program" means a
 6-36 program adopted under Section 373A.204.

6-37 (5) "Land bank" means an entity established or
 6-38 approved by the governing body of a municipality for the purpose of
 6-39 acquiring, holding, and transferring unimproved real property
 6-40 under this subchapter.

6-41 (6) "Low income household" means a household with a
 6-42 gross income of not greater than 80 percent of the area median
 6-43 family income, adjusted for household size, for the metropolitan
 6-44 statistical area in which the municipality is located, as
 6-45 determined annually by the United States Department of Housing and
 6-46 Urban Development.

6-47 (7) "Qualified participating developer" means a
 6-48 developer who meets the requirements of Section 373A.205 and
 6-49 includes a qualified organization under Section 373A.211.

6-50 Sec. 373A.204. HOMESTEAD LAND BANK PROGRAM. (a) The
 6-51 governing body of a municipality may adopt a homestead land bank
 6-52 program in which the officer charged with selling real property
 6-53 ordered sold pursuant to foreclosure of a tax lien may sell certain
 6-54 eligible real property by private sale for purposes of affordable
 6-55 housing development as provided by this subchapter.

6-56 (b) The governing body of a municipality that adopts a
 6-57 homestead land bank program shall establish or approve a land bank
 6-58 for the purpose of acquiring, holding, and transferring unimproved
 6-59 real property under this subchapter.

6-60 Sec. 373A.205. QUALIFIED PARTICIPATING DEVELOPER. To
 6-61 qualify to participate in a homestead land bank program, a
 6-62 developer must:

6-63 (1) have developed three or more housing units within
 6-64 the 10-year period preceding the submission of a proposal to the
 6-65 land bank seeking to acquire real property from the land bank;

6-66 (2) have a development plan approved by the
 6-67 municipality for the land bank property; and

6-68 (3) meet any other requirements adopted by the
 6-69 municipality in the homestead land bank plan.

7-1 Sec. 373A.206. HOMESTEAD LAND BANK PLAN. (a) A
 7-2 municipality that adopts a homestead land bank program shall
 7-3 operate the program in conformance with a homestead land bank plan.

7-4 (b) The governing body of a municipality that adopts a
 7-5 homestead land bank program shall adopt a plan annually. The plan
 7-6 may be amended from time to time.

7-7 (c) In developing the plan, the municipality shall consider
 7-8 other housing plans adopted by the municipality, including the
 7-9 comprehensive plan submitted to the United States Department of
 7-10 Housing and Urban Development and all fair housing plans and
 7-11 policies adopted or agreed to by the municipality.

7-12 (d) The plan must include the following:

7-13 (1) a list of community housing development
 7-14 organizations eligible to participate in the right of first refusal
 7-15 provided by Section 373A.211;

7-16 (2) a list of the parcels of real property that may
 7-17 become eligible for sale to the land bank during the upcoming year;

7-18 (3) the municipality's plan for affordable housing
 7-19 development on those parcels of real property; and

7-20 (4) the sources and amounts of funding anticipated to
 7-21 be available from the municipality for subsidies for development of
 7-22 affordable housing in the municipality, including any money
 7-23 specifically available for housing developed under the program, as
 7-24 approved by the governing body of the municipality at the time the
 7-25 plan is adopted.

7-26 Sec. 373A.207. PUBLIC HEARING ON PROPOSED PLAN.
 7-27 (a) Before adopting a plan, a municipality shall hold a public
 7-28 hearing on the proposed plan.

7-29 (b) The city manager or the city manager's designee shall
 7-30 provide notice of the hearing to all community housing development
 7-31 organizations and to neighborhood associations identified by the
 7-32 municipality as serving the neighborhoods in which properties
 7-33 anticipated to be available for sale to the land bank under this
 7-34 subchapter are located.

7-35 (c) The city manager or the city manager's designee shall
 7-36 make copies of the proposed plan available to the public not later
 7-37 than the 60th day before the date of the public hearing.

7-38 Sec. 373A.208. PRIVATE SALE TO LAND BANK.

7-39 (a) Notwithstanding any other law and except as provided by
 7-40 Subsection (f), property that is ordered sold pursuant to
 7-41 foreclosure of a tax lien may be sold in a private sale to a land
 7-42 bank by the officer charged with the sale of the property without
 7-43 first offering the property for sale as otherwise provided by
 7-44 Section 34.01, Tax Code, if:

7-45 (1) the market value of the property as appraised by
 7-46 the local appraisal district and as specified in the judgment of
 7-47 foreclosure is less than the total amount due under the judgment,
 7-48 including all taxes, penalties, and interest, plus the value of
 7-49 nontax liens held by a taxing unit and awarded by the judgment,
 7-50 court costs, and the cost of the sale;

7-51 (2) the property is not improved with a building or
 7-52 buildings;

7-53 (3) there are delinquent taxes on the property for a
 7-54 total of at least five years; and

7-55 (4) the municipality has executed with the other
 7-56 taxing units that are parties to the tax suit an interlocal
 7-57 agreement that enables those units to agree to participate in the
 7-58 program while retaining the right to withhold consent to the sale of
 7-59 specific properties to the land bank.

7-60 (b) A sale of property for use in connection with the
 7-61 program is a sale for a public purpose.

7-62 (c) If the person being sued in a suit for foreclosure of a
 7-63 tax lien does not contest the market value of the property in the
 7-64 suit, the person waives the right to challenge the amount of the
 7-65 market value determined by the court for purposes of the sale of the
 7-66 property under Section 33.50, Tax Code.

7-67 (d) For any sale of property under this subchapter, each
 7-68 person who was a defendant to the judgment, or that person's
 7-69 attorney, shall be given, not later than the 60th day before the

8-1 date of sale, written notice of the proposed method of sale of the
 8-2 property by the officer charged with the sale of the property.
 8-3 Notice shall be given in the manner prescribed by Rule 21a, Texas
 8-4 Rules of Civil Procedure.

8-5 (e) After receipt of the notice required by Subsection (d)
 8-6 and before the date of the proposed sale, the owner of the property
 8-7 subject to sale may file with the officer charged with the sale a
 8-8 written request that the property not be sold in the manner provided
 8-9 by this subchapter.

8-10 (f) If the officer charged with the sale receives a written
 8-11 request as provided by Subsection (e), the officer shall sell the
 8-12 property as otherwise provided in Section 34.01, Tax Code.

8-13 (g) The owner of the property subject to sale may not
 8-14 receive any proceeds of a sale under this subchapter. However, the
 8-15 owner does not have any personal liability for a deficiency of the
 8-16 judgment as a result of a sale under this subchapter.

8-17 (h) Notwithstanding any other law, if consent is given by
 8-18 the taxing units that are a party to the judgment, property may be
 8-19 sold to the land bank for less than the market value of the property
 8-20 as specified in the judgment or less than the total of all taxes,
 8-21 penalties, and interest, plus the value of nontax liens held by a
 8-22 taxing unit and awarded by the judgment, court costs, and the cost
 8-23 of the sale.

8-24 (i) The deed of conveyance of the property sold to a land
 8-25 bank under this section conveys to the land bank the right, title,
 8-26 and interest acquired or held by each taxing unit that was a party
 8-27 to the judgment, subject to the right of redemption.

8-28 (j) Property sold to and held by the land bank for
 8-29 subsequent resale is eligible for an exemption from ad valorem
 8-30 taxation for a period not to exceed three years from the date of
 8-31 acquisition. Property is eligible for an exemption under this
 8-32 subsection only during the period the property is held by the land
 8-33 bank.

8-34 Sec. 373A.209. SUBSEQUENT RESALE BY LAND BANK. (a) Each
 8-35 subsequent resale of property acquired by a land bank under this
 8-36 subchapter must comply with the conditions of this section.

8-37 (b) The land bank must sell a property to a qualified
 8-38 participating developer within the three-year period following the
 8-39 date of acquisition for the purpose of construction of affordable
 8-40 housing for sale or rent to low income households. If after three
 8-41 years a qualified participating developer has not purchased the
 8-42 property, the property shall be transferred from the land bank to
 8-43 the taxing units who were parties to the judgment for disposition as
 8-44 otherwise allowed under the law.

8-45 (c) Unless the municipality increases the amount in its
 8-46 plan, the number of properties acquired by a qualified
 8-47 participating developer under this section on which development has
 8-48 not been completed may not at any given time exceed three times the
 8-49 annual average residential production completed by the qualified
 8-50 participating developer during the preceding two-year period as
 8-51 determined by the municipality.

8-52 (d) The deed conveying a property sold by the land bank must
 8-53 include a right of reverter so that if the qualified participating
 8-54 developer does not apply for a construction permit and close on any
 8-55 construction financing within the two-year period following the
 8-56 later of the date of the conveyance of the property from the land
 8-57 bank to the qualified participating developer or the expiration of
 8-58 the period specified by the municipality under Section 373A.211(d),
 8-59 the property will revert to the land bank for subsequent resale to
 8-60 another qualified participating developer or conveyance to the
 8-61 taxing units who were parties to the judgment for disposition as
 8-62 otherwise allowed under the law.

8-63 Sec. 373A.210. RESTRICTIONS ON OCCUPANCY AND USE OF
 8-64 PROPERTY. (a) The land bank shall impose deed restrictions on
 8-65 property sold to qualified participating developers requiring the
 8-66 development and sale or rental of the property to low income
 8-67 households.

8-68 (b) At least 25 percent of the land bank properties sold
 8-69 during any given fiscal year to be developed for sale shall be deed

9-1 restricted for sale to households with gross household incomes not
 9-2 greater than 60 percent of the area median family income, adjusted
 9-3 for household size, for the metropolitan statistical area in which
 9-4 the municipality is located, as determined annually by the United
 9-5 States Department of Housing and Urban Development.

9-6 (c) If property is developed for rental housing, the deed
 9-7 restrictions must be for a period of not less than 20 years and must
 9-8 require that:

9-9 (1) 100 percent of the rental units be occupied by and
 9-10 affordable to households with incomes not greater than 60 percent
 9-11 of area median family income, based on gross household income,
 9-12 adjusted for household size, for the metropolitan statistical area
 9-13 in which the municipality is located, as determined annually by the
 9-14 United States Department of Housing and Urban Development;

9-15 (2) 40 percent of the units be occupied by and
 9-16 affordable to households with incomes not greater than 50 percent
 9-17 of area median family income, based on gross household income,
 9-18 adjusted for household size, for the metropolitan statistical area
 9-19 in which the municipality is located, as determined annually by the
 9-20 United States Department of Housing and Urban Development; or

9-21 (3) 20 percent of the units be occupied by and
 9-22 affordable to households with incomes not greater than 30 percent
 9-23 of area median family income, based on gross household income,
 9-24 adjusted for household size, for the metropolitan statistical area
 9-25 in which the municipality is located, as determined annually by the
 9-26 United States Department of Housing and Urban Development.

9-27 (d) The deed restrictions under Subsection (c) must require
 9-28 the owner to file an annual occupancy report with the municipality
 9-29 on a reporting form provided by the municipality. The deed
 9-30 restrictions must also prohibit any exclusion of an individual or
 9-31 family from admission to the development based solely on the
 9-32 participation of the individual or family in the housing choice
 9-33 voucher program under Section 8, United States Housing Act of 1937
 9-34 (42 U.S.C. Section 1437f).

9-35 (e) Except as otherwise provided by this section, if the
 9-36 deed restrictions imposed under this section are for a term of
 9-37 years, the deed restrictions shall renew automatically.

9-38 (f) The land bank or the governing body of the municipality
 9-39 may modify or add to the deed restrictions imposed under this
 9-40 section. Any modifications or additions made by the governing body
 9-41 of the municipality must be adopted by the municipality as part of
 9-42 its plan and must comply with the restrictions set forth in
 9-43 Subsections (b), (c), and (d).

9-44 Sec. 373A.211. RIGHT OF FIRST REFUSAL. (a) In this
 9-45 section, "qualified organization" means a community housing
 9-46 development organization that:

9-47 (1) contains within its designated geographical
 9-48 boundaries of operation, as set forth in its application for
 9-49 certification filed with and approved by the municipality, a
 9-50 portion of the property that the land bank is offering for sale;

9-51 (2) has developed or rehabilitated at least three
 9-52 single-family homes or duplexes or one multifamily residential
 9-53 dwelling of four or more units in compliance with all applicable
 9-54 building codes within the preceding 10-year period and within the
 9-55 organization's designated geographical boundaries of operation;
 9-56 and

9-57 (3) within the preceding three-year period has
 9-58 developed or rehabilitated housing units within a two-mile radius
 9-59 of the property that the land bank is offering for sale.

9-60 (b) The land bank shall first offer a property for sale to
 9-61 qualified organizations.

9-62 (c) Notice must be provided to the qualified organizations
 9-63 by certified mail, return receipt requested, not later than the
 9-64 60th day before the beginning of the period in which a right of
 9-65 first refusal may be exercised.

9-66 (d) The municipality shall specify in its plan the period
 9-67 during which the right of first refusal provided by this section may
 9-68 be exercised by a qualified organization. That period must be at
 9-69 least 90 days in duration and begin at least three months but not

10-1 more than 26 months following the date of the deed of conveyance of
 10-2 the property to the land bank.

10-3 (e) If the land bank conveys the property to a qualified
 10-4 organization before the expiration of the period specified by the
 10-5 municipality under Subsection (d), the interlocal agreement
 10-6 executed under Section 373A.208(a)(4) may provide tax abatement for
 10-7 the property until the expiration of that period.

10-8 (f) During the specified period, the land bank may not sell
 10-9 the property to a qualified participating developer other than a
 10-10 qualified organization. If all qualified organizations notify the
 10-11 land bank that they are declining to exercise their right of first
 10-12 refusal during the specified period, or if an offer to purchase the
 10-13 property is not received from a qualified organization during that
 10-14 period, the land bank may sell the property to any other qualified
 10-15 participating developer at the same price that the land bank
 10-16 offered the property to the qualified organizations.

10-17 (g) In its plan, the municipality shall establish the amount
 10-18 of additional time, if any, that a property may be held in the land
 10-19 bank once an offer has been received and accepted from a qualified
 10-20 organization or other qualified participating developer.

10-21 (h) If more than one qualified organization expresses an
 10-22 interest in exercising its right of first refusal, the organization
 10-23 that has designated the most geographically compact area
 10-24 encompassing a portion of the property shall be given priority.

10-25 (i) In its plan, the municipality may provide for other
 10-26 rights of first refusal for any other nonprofit corporation
 10-27 exempted from federal income tax under Section 501(c)(3), Internal
 10-28 Revenue Code of 1986, provided that the preeminent right of first
 10-29 refusal is provided to qualified organizations as provided by this
 10-30 section.

10-31 (j) The land bank is not required to provide a right of first
 10-32 refusal to qualified organizations under this section if the land
 10-33 bank is selling property that reverted to the land bank under
 10-34 Section 373A.209(d).

10-35 Sec. 373A.212. OPEN RECORDS AND MEETINGS. The land bank
 10-36 shall comply with the requirements of Chapters 551 and 552,
 10-37 Government Code.

10-38 Sec. 373A.213. RECORDS; AUDIT; REPORT. (a) The land bank
 10-39 shall keep accurate minutes of its meetings and shall keep accurate
 10-40 records and books of account that conform with generally accepted
 10-41 principles of accounting and that clearly reflect the income and
 10-42 expenses of the land bank and all transactions in relation to its
 10-43 property.

10-44 (b) The land bank shall file with the municipality not later
 10-45 than the 90th day after the close of the fiscal year annual audited
 10-46 financial statements prepared by a certified public accountant.
 10-47 The financial transactions of the land bank are subject to audit by
 10-48 the municipality.

10-49 (c) For purposes of evaluating the effectiveness of the
 10-50 program, the land bank shall submit an annual performance report to
 10-51 the municipality not later than November 1 of each year in which the
 10-52 land bank acquires or sells property under this subchapter. The
 10-53 performance report must include:

10-54 (1) a complete and detailed written accounting of all
 10-55 money and properties received and disbursed by the land bank during
 10-56 the preceding fiscal year;

10-57 (2) for each property acquired by the land bank during
 10-58 the preceding fiscal year:

10-59 (A) the street address of the property;
 10-60 (B) the legal description of the property;
 10-61 (C) the date the land bank took title to the
 10-62 property;

10-63 (D) the name and address of the property owner of
 10-64 record at the time of the foreclosure;

10-65 (E) the amount of taxes and other costs owed at
 10-66 the time of the foreclosure; and

10-67 (F) the assessed value of the property on the tax
 10-68 roll at the time of the foreclosure;

10-69 (3) for each property sold by the land bank during the

11-1 preceding fiscal year to a qualified participating developer:
 11-2 (A) the street address of the property;
 11-3 (B) the legal description of the property;
 11-4 (C) the name and mailing address of the
 11-5 developer;
 11-6 (D) the purchase price paid by the developer;
 11-7 (E) the maximum incomes allowed for the
 11-8 households by the terms of the sale; and
 11-9 (F) the source and amount of any public subsidy
 11-10 provided by the municipality to facilitate the sale or rental of the
 11-11 property to a household within the targeted income levels;
 11-12 (4) for each property sold by a qualified
 11-13 participating developer during the preceding fiscal year, the
 11-14 buyer's household income and a description of all use and sale
 11-15 restrictions; and
 11-16 (5) for each property developed for rental housing
 11-17 with an active deed restriction, a copy of the most recent annual
 11-18 report filed by the owner with the land bank.
 11-19 (d) The land bank shall maintain in its records for
 11-20 inspection a complete copy of the sale settlement statement for
 11-21 each property sold by a qualified participating developer and a
 11-22 copy of the first page of the mortgage note with the interest rate
 11-23 and indicating the volume and page number of the instrument as filed
 11-24 with the county clerk.
 11-25 (e) The land bank shall provide copies of the performance
 11-26 report to the taxing units who were parties to the judgment of
 11-27 foreclosure and shall provide notice of the availability of the
 11-28 performance report for review to the organizations and neighborhood
 11-29 associations identified by the municipality as serving the
 11-30 neighborhoods in which properties sold to the land bank under this
 11-31 subchapter are located.
 11-32 (f) The land bank and the municipality shall maintain copies
 11-33 of the performance report available for public review.

11-34 SECTION 2. This Act takes effect September 1, 2005.

11-35 * * * * *