LOCAL GOVERNMENT CODE

TITLE 12. PLANNING AND DEVELOPMENT

SUBTITLE A. MUNICIPAL PLANNING AND DEVELOPMENT

CHAPTER 373A. HOMESTEAD PRESERVATION DISTRICTS AND REINVESTMENT ZONES

SUBCHAPTER A. GENERAL PROVISIONS

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

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

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

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

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

Sec. 373A.002. DEFINITIONS. In this chapter:

(1) "Affordable housing" means housing that is located in a district and is affordable to households earning 70 percent or less of the area median family income, adjusted for household size, as determined annually by the United States Department of Housing and Urban Development.

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

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

(2-a) "County" means the county containing all or the greatest portion of a homestead preservation reinvestment zone. For purposes of applying other law to a district or program created under this chapter, including Chapter 311, Tax Code, a reference in the other law to a "county" has the meaning assigned by this subdivision.

(3) "District" means a homestead preservation district designated under Subchapter B.

(3-a) "Project costs" has the meaning assigned by Section 311.002(1), Tax Code.

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

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

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

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1175 (H.B. 470), Sec. 1, eff. September 1, 2007.

Sec. 373A.003. APPLICABILITY OF CHAPTER. (a) This chapter applies to a municipality with a population of more than 950,000 that is located in a uniform state service region with fewer than 940,000 occupied housing units as determined by the most recent United States decennial census.

(b) Subchapters A, B, C, and D apply to any municipality with a population of 1.18 million or more which is located predominantly in a county that has a total area of less than 1,000 square miles and has adopted an urban land bank demonstration program under Chapter 379C, Local Government Code.

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1034 (H.B. 1742), Sec. 3, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 96, eff. September 1, 2011.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 187, eff. September 1, 2023.

SUBCHAPTER B. GENERAL POWERS AND DUTIES

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

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

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 711 (H.B. 3350), Sec. 1, eff. September 1, 2013.

Sec. 373A.052. ELIGIBILITY FOR DESIGNATION.

(a) To be designated as a district within a municipality described by Section 373A.003(a) under this subchapter, an area must be composed of census tracts forming a spatially compact area with:

(1) fewer than 75,000 residents;

(2) an overall poverty rate that is at least two times the poverty rate for the entire municipality; and

(3) in each census tract within the area, a median family income that is less than 80 percent of the median family income for the entire municipality.

(b) To be designated as a district within a municipality described by Section 373A.003(b) under this subchapter, an area must be composed of census tracts forming a spatially compact area

contiguous to a central business district and with:

(1) fewer than 75,000 residents;

(2) a median family income that is less than $30,000 according to the last decennial census; and

(3) an overall poverty rate that is at least two times the poverty rate for the entire municipality.

(c) An area that is designated as a district under this subchapter may 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 must meet all eligibility criteria to be considered for subsequent redesignation as a district.

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1034 (H.B. 1742), Sec. 4, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1175 (H.B. 470), Sec. 3, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.008, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 711 (H.B. 3350), Sec. 2, eff. September 1, 2013.

Sec. 373A.0521. DISSOLUTION. (a) The governing body of a municipality in which a district is located may adopt an ordinance dissolving the district.

(b) On the adoption of the ordinance, the district is dissolved and the municipality succeeds to the property and assets of the district and assumes all bonds, debts, obligations, and liabilities of the district.

(c) This section does not prohibit the municipality from continuing to operate programs established by the municipality, including programs established under Subchapter C, D, or E, in the area previously included in the district that are owned and operated by the municipality on the date the district is dissolved.

Added by Acts 2007, 80th Leg., R.S., Ch. 1175 (H.B. 470), Sec. 4, eff. September 1, 2007.

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

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

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

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

Sec. 373A.054. ADDITIONAL METHODS OF INCREASING THE SUPPLY OF AFFORDABLE HOUSING. A municipality that designates a district under Section 373A.051 may 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.

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

SUBCHAPTER C. HOMESTEAD LAND TRUST

Sec. 373A.101. CREATION. The governing body of a political subdivision by ordinance or order may create or designate under this subchapter one or more homestead land trusts, including a housing finance corporation established under Chapter 394 or a land trust operated by a community housing development organization certified by the municipality, to operate in an area that includes a district designated under Subchapter B.

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1175 (H.B. 470), Sec. 5, eff. September 1, 2007.

Sec. 373A.102. NATURE OF NONPUBLIC TRUST. A trust that is not created by the governing body of a political subdivision must be a nonprofit organization that is:

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

(2) 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.

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1175 (H.B. 470), Sec. 6, eff. September 1, 2007.

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

(1) control local land use and reduce absentee ownership;

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

(3) promote resident ownership and control of housing;

(4) keep housing affordable for future residents; and

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

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

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

(b) If a trust holds land that provides at least 100 housing units, at least one-third of the board members must reside in

housing units located on land held by the trust.

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1175 (H.B. 470), Sec. 7, eff. September 1, 2007.

Sec. 373A.105. TITLE TO LAND. (a) A trust may retain title to land it acquires and may 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) A trust may not transfer title to any land owned by the trust without obtaining:

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

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

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

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

Sec. 373A.106. SALE OR LEASE OF HOUSING UNITS. (a) A trust shall 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) At least 40 percent of the housing units sold or leased by the trust must 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) At least 10 percent of the housing units sold or leased by the trust must 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.

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

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

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

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

Sec. 373A.109. RELATION TO OTHER LAW. 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.

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

Sec. 373A.110. APPLICABILITY OF SUBCHAPTER TO TRUST OPERATED BY HOUSING FINANCE CORPORATION. Sections 373A.102, 373A.104, 373A.105(b), and 373A.106 do not apply to a trust operated in the district by a housing finance corporation established under Chapter 394.

Added by Acts 2007, 80th Leg., R.S., Ch. 1175 (H.B. 470), Sec. 8, eff. September 1, 2007.

SUBCHAPTER D. HOMESTEAD PRESERVATION REINVESTMENT ZONE

Sec. 373A.151. APPLICABILITY OF OTHER LAW. (a) Except as provided by this subchapter, Chapter 311, Tax Code, applies to a homestead preservation reinvestment zone created under this subchapter. To the extent of any conflict between this subchapter and Chapter 311, Tax Code, this subchapter prevails.

(b) In addition to other provisions of this subchapter that

modify or supersede the application of Chapter 311, Tax Code, to a zone established under this subchapter, Sections 311.005 and 311.006, Tax Code, do not apply to a zone established under this subchapter.

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1175 (H.B. 470), Sec. 9, eff. September 1, 2007.

Sec. 373A.152. GENERAL AUTHORITY TO CREATE HOMESTEAD PRESERVATION REINVESTMENT ZONE. (a) A municipality by ordinance may designate a contiguous geographical area contained entirely within the boundaries of the district as a homestead preservation reinvestment zone to develop or redevelop affordable housing if the municipality determines the zone is necessary to accomplish the purposes of this chapter.

(b) A county may participate in a homestead preservation reinvestment zone established by a municipality under Subsection (a) by adopting a final order:

(1) agreeing to the creation of the zone, the zone boundaries, and the zone termination date specified by the municipality under Section 373A.1521(1); and

(2) specifying an amount of tax increment to be deposited by the county into the tax increment fund that is equal to the amount of the tax increment specified by the municipality under Section 373A.1521(3).

(c) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1175, Sec. 17(1), eff. September 1, 2007.

(d) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1175, Sec. 17(1), eff. September 1, 2007.

(e) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1175, Sec. 17(1), eff. September 1, 2007.

(f) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1175, Sec. 17(1), eff. September 1, 2007.

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1175 (H.B. 470), Sec. 10, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1175 (H.B. 470), Sec. 17(1), eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 711 (H.B. 3350), Sec. 3, eff. September 1, 2013.

Sec. 373A.1521. CONTENTS OF REINVESTMENT ZONE ORDINANCE. The ordinance designating the homestead preservation zone must:

(1) contain the information required under Sections 311.004(a)(1), (4), and (6), Tax Code;

(2) assign a name to the zone for identification, with the first zone designated as "(Name of municipality) Homestead Preservation Reinvestment Zone Number One," and subsequently created zones assigned names in the same form numbered consecutively in the order of their designation;

(3) specify the amount of tax increment to be deposited by the municipality into the tax increment fund; and

(4) contain findings that the area is unproductive, underdeveloped, or blighted as provided by Section 1-g(b), Article VIII, Texas Constitution.

Added by Acts 2007, 80th Leg., R.S., Ch. 1175 (H.B. 470), Sec. 11, eff. September 1, 2007.

Sec. 373A.1522. EFFECTIVE DATE OF ZONE. The zone designated by the ordinance adopted under Section 373A.1521 takes effect on the date designated by the municipality in the ordinance adopted under Section 373A.1521.

Added by Acts 2007, 80th Leg., R.S., Ch. 1175 (H.B. 470), Sec. 11, eff. September 1, 2007.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 711 (H.B. 3350), Sec. 4, eff. September 1, 2013.

Sec. 373A.1541. TAX INCREMENT FINANCING AND ABATEMENT. Designation of an area as a homestead preservation reinvestment

zone is also designation of the area as a reinvestment zone for tax increment financing under Chapter 311, Tax Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 1175 (H.B. 470), Sec. 12, eff. September 1, 2007.

Sec. 373A.155. COLLECTION AND DEPOSIT OF TAX INCREMENTS. (a) The municipality designating the zone and the county shall provide for the collection of its taxes on real property located in the zone as for any other property taxed by the municipality and the county.

(a-1) The municipality shall pay into the tax increment fund an amount specified in the ordinance designating the zone.

(b) If a county elects to participate in a homestead preservation reinvestment zone, the county shall pay into the tax increment fund for the zone an amount equal to the tax increment paid by the municipality as specified in the order adopted under Section 373A.152.

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1175 (H.B. 470), Sec. 13, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 711 (H.B. 3350), Sec. 5, eff. September 1, 2013.

Sec. 373A.157. ADMINISTRATION AND USE OF TAX INCREMENT FUND. (a) The tax increment fund is administered by the governing body of the municipality in accordance with the project and reinvestment zone financing plans. Revenue from the tax increment fund must be dedicated as provided by this section to the development, construction, and preservation of affordable housing in the zone by a political subdivision, a community housing development organization certified by the municipality, a trust created or designated by a political subdivision, or another entity as provided by this section.

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

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

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

(e) The municipality must spend at least 80 percent of the revenue expended annually from the tax increment fund for project costs, including the purchase of real property, the construction or rehabilitation of affordable housing in the zone, and infrastructure improvements directly related to supporting the construction or rehabilitation of affordable housing in the zone. The municipality may spend not more than 10 percent of the revenue expended annually from the tax increment fund for administration of the zone.

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

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

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1175 (H.B. 470), Sec. 14, eff. September 1, 2007.

Sec. 373A.158. ANNUAL REPORT. (a) If a county elects to participate in a homestead preservation reinvestment zone, the county is the only taxing unit entitled to receive the annual report prepared under Section 311.016(a), Tax Code.

(b) The report must include:

(1) the amount and source of revenue in the tax

increment fund established for the zone;

(2) the amount and purpose of expenditures from the fund and the income levels of the persons who benefited from the expenditures;

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

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

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

(6) any additional information necessary to demonstrate good faith compliance with the provisions of this subchapter.

(c) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1175, Sec. 17(2), eff. September 1, 2007.

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

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1175 (H.B. 470), Sec. 15, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1175 (H.B. 470), Sec. 17(2), eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 711 (H.B. 3350), Sec. 6, eff. September 1, 2013.

SUBCHAPTER E. HOMESTEAD LAND BANK PROGRAM

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

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

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

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

Sec. 373A.203. DEFINITIONS. In this subchapter:

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

(2) "Community housing development organization" or "organization" means an organization that:

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

(B) is certified by the municipality as a community housing development organization;

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

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

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

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

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

(6) "Low income household" means a household with a gross income of not greater than 80 percent of the area median family income, adjusted for household size, for the metropolitan

statistical area in which the municipality is located, as determined annually by the United States Department of Housing and Urban Development.

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

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

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

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

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

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

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

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

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

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

Sec. 373A.206. HOMESTEAD LAND BANK PLAN. (a) A municipality that adopts a homestead land bank program shall

operate the program in conformance with a homestead land bank plan.

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

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

(d) The plan must include the following:

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

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

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

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

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

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

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

(c) The city manager or the city manager's designee shall make copies of the proposed plan available to the public not later

than the 60th day before the date of the public hearing.

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

Sec. 373A.208. PRIVATE SALE TO LAND BANK. (a) Notwithstanding any other law and except as provided by Subsection (f), property that is ordered sold pursuant to foreclosure of a tax lien may 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, if:

(1) the market value of the property as appraised by the local appraisal district and as specified in the judgment of foreclosure is less than the total amount due under the judgment, including 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;

(2) the property is not improved with a building or buildings;

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

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

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

(c) 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, Tax Code.

(d) For any sale of property under this subchapter, each person who was a defendant to the judgment, or that person's attorney, shall 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. Notice shall be given in the manner prescribed by Rule 21a, Texas Rules of Civil Procedure.

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

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

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

(h) Notwithstanding any other law, if consent is given by the taxing units that are a party to the judgment, property may 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.

(i) 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) 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. Property is eligible for an exemption under this subsection only during the period the property is held by the land bank.

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

Sec. 373A.209. SUBSEQUENT RESALE BY LAND BANK. (a) Each subsequent resale of property acquired by a land bank under this

subchapter must comply with the conditions of this section.

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

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

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

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

Sec. 373A.210. RESTRICTIONS ON OCCUPANCY AND USE OF PROPERTY. (a) The land bank shall 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) At least 25 percent of the land bank properties sold during any given fiscal year to be developed for sale shall be deed

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

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

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

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

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

(d) The deed restrictions under Subsection (c) must require the owner to file an annual occupancy report with the municipality on a reporting form provided by the municipality. The deed restrictions must 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) Except as otherwise provided by this section, if the deed restrictions imposed under this section are for a term of years, the deed restrictions shall renew automatically.

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

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

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

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

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

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

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

(c) Notice must 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) The municipality shall specify in its plan the period during which the right of first refusal provided by this section may be exercised by a qualified organization. That period must be at least 90 days in duration and begin at least three months but not more than 26 months following the date of the deed of conveyance of the property to the land bank.

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

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

(g) In its plan, the municipality shall 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) If more than one qualified organization expresses an interest in exercising its right of first refusal, the organization that has designated the most geographically compact area encompassing a portion of the property shall be given priority.

(i) In its plan, the municipality may 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) 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).

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

Sec. 373A.212. OPEN RECORDS AND MEETINGS. The land bank shall comply with the requirements of Chapters 551 and 552,

Government Code.

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

Sec. 373A.213. RECORDS; AUDIT; REPORT. (a) The land bank shall keep accurate minutes of its meetings and shall 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) The land bank shall file with the municipality not later than the 90th day after the close of the fiscal year annual audited financial statements prepared by a certified public accountant. The financial transactions of the land bank are subject to audit by the municipality.

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

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

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

(A) the street address of the property;

(B) the legal description of the property;

(C) the date the land bank took title to the property;

(D) the name and address of the property owner of record at the time of the foreclosure;

(E) the amount of taxes and other costs owed at the time of the foreclosure; and

(F) the assessed value of the property on the tax roll at the time of the foreclosure;

(3) for each property sold by the land bank during the preceding fiscal year to a qualified participating developer:

(A) the street address of the property;

(B) the legal description of the property;

(C) the name and mailing address of the developer;

(D) the purchase price paid by the developer;

(E) the maximum incomes allowed for the households by the terms of the sale; and

(F) the source and amount of any public subsidy provided by the municipality to facilitate the sale or rental of the property to a household within the targeted income levels;

(4) for each property sold by a qualified participating developer during the preceding fiscal year, the buyer's household income and a description of all use and sale restrictions; and

(5) for each property developed for rental housing with an active deed restriction, a copy of the most recent annual report filed by the owner with the land bank.

(d) The land bank shall maintain in its records for inspection 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.

(e) The land bank shall provide copies of the performance report to the taxing units who were parties to the judgment of foreclosure and shall 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) The land bank and the municipality shall maintain copies of the performance report available for public review.

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.