

Regular Session, 2009

HOUSE BILL NO. 697

BY REPRESENTATIVE BARROW

PARISH/EAST BATON ROUGE: Provides relative to the East Baton Rouge
Redevelopment Authority

1 AN ACT

2 Solely to reenact Sections 1, 2, and 3 of Act No. 891 of the 2008 Regular Session of the

3 Legislature as that Act was enacted by the legislature, which Act amended and

4 reenacted R.S. 33:4720.151(B)(6), (E), (G)(5), (9), and (12), (H)(4)(b), (I)(2), (J)(1),

5 (K), (L)(1), (3), and (4), (O)(introductory paragraph), (1), and (4), and (Q)(6), and

6 R.S. 44:4.1(B)(18), to enact R.S. 33:4720.151(H)(23), (Q)(7), and (S), and to repeal

7 R.S. 33:4720.151(G)(13), relative to the East Baton Rouge Redevelopment

8 Authority; which provided relative to the purposes and objects and powers and duties

9 of the authority; which provided relative to the members of the governing board of

10 the authority; which authorized the authority to initiate an expedited quiet title and

11 foreclosure action; which provided relative to the procedures for any such action;

12 which provided relative to the rights of property owners; which provided relative to

13 due process; and which provided for related matters.

14 Notice of intention to introduce this Act has been published

15 as provided by Article III, Section 13 of the Constitution of

16 Louisiana.

17 Be it enacted by the Legislature of Louisiana:

18 Section 1. Sections 1, 2, and 3 of Act No. 891 of the 2008 Regular Session of the

19 Legislature as that Act was enacted by the legislature are hereby reenacted to read as

20 follows:

1 Section 1. R.S. 33:4720.151(B)(6), (E), (G)(5), (9), and (12), (H)(4)(b),
2 (I)(2), (J)(1), (K), (L)(1), (3), and (4), (O)(introductory paragraph), (1), and (4), and
3 (Q)(6), and are hereby amended and reenacted and R.S. 33:4720.151(H)(23), (Q)(7),
4 and (S) are hereby enacted to read as follows:

5 §4720.151. East Baton Rouge Redevelopment Authority

6 * * *

7 B. It is hereby found and declared that:

8 * * *

9 (6) The object of this Chapter is to provide for the following:

10 (a) A unified and comprehensive response to the housing shortages and other
11 indirect effects of Hurricane Katrina and Hurricane Rita upon south central
12 Louisiana.

13 (b) The general and economic welfare of the parish through housing,
14 commercial, office, hospitality, recreation, education, infrastructure and utility
15 capacity, manufacturing, industrial, research, retail, or other activities which will
16 create or retain jobs, maintain or diversify industry, including new or emerging
17 technologies, or maintain or increase the tax base.

18 (c) The improvement of conditions of deteriorated physical development,
19 slow economic growth, and eroded financial health of the public and private sectors.

20 (d) The control, abatement, and prevention of pollution to protect public
21 health and safety, and the development and use of indigenous and renewable energy
22 resources.

23 (e) Assistance to nonprofit and governmental entities in support of health,
24 educational, charitable, community, cultural, agricultural, consumer, or other
25 services benefiting the citizens.

26 * * *

27 E. The authority, to the greatest extent it determines to be feasible in carrying
28 out the provisions of this Chapter, shall seek out cooperative endeavors, including
29 partnerships, joint ventures, and equity participation structures, with nonprofit

1 organizations and private enterprise. The authority shall give consideration to this
2 objective in exercising the powers granted pursuant to this Chapter.

3 * * *

4 G.

5 * * *

6 (5) Each board member shall serve for a term of five years, unless removed
7 for cause by the board, as provided in this Chapter, or removed for any reason by
8 authorized action of the appointing authority.

9 * * *

10 (9) The board shall elect yearly from its number a chairman, a vice chairman,
11 a secretary, and a treasurer and shall establish their duties as may be regulated by
12 rules adopted by the board. The offices of secretary and treasurer may be held by the
13 same person. The board may meet in regular session once each month and also shall
14 meet in special session as convened by the chairman or upon written notice signed
15 by three members. A majority of the members of the board, not including vacancies,
16 shall constitute a quorum for the conduct of business.

17 * * *

18 (12) The board shall cause minutes and a record to be kept of all its
19 proceedings Except as otherwise provided in this Paragraph, the authority shall be
20 subject to the Public Records Law (Chapter 1 of Title 44 of the Louisiana Revised
21 Statutes of 1950), the Open Meetings Law (R.S. 42:4.1 et seq.), and the Code of
22 Governmental Ethics (Chapter 15 of Title 42 of the Louisiana Revised Statutes of
23 1950). Notwithstanding the provisions of R.S. 42:5, until thirty days prior to the date
24 the board is scheduled to consummate a final sale or lease of any immovable
25 property owned by the authority, the board may meet in executive session to discuss
26 negotiations between the authority and any prospective seller, purchaser, lessor, or
27 lessee of that property. R.S. 44:31 through 35 shall not apply to any records related
28 to the negotiations of or to the terms of such a sale or lease until thirty days prior to
29 the date the board is scheduled to consummate a final sale or lease. The board shall

1 give written public notice of its intention to consummate a final sale or lease at least
2 thirty days prior to the date on which the board intends to take such action. This
3 notice shall comply with the procedural provisions of R.S. 42:7.

4 H. The authority, through the board, shall have all powers necessary or
5 convenient to carry out and effectuate the purposes and provisions of this Chapter,
6 including but not limited to the following:

7 * * *

8 (4)

9 * * *

10 (b) Prior to any sale, lease, conveyance, disposition, or transfer of property
11 pursuant to this Paragraph, the authority shall fix the price and terms of the sale,
12 lease, exchange, or other contract to be made with reference to the property. Such
13 sale, lease, conveyance, disposition, or transfer shall comply with the terms and
14 provisions of this Chapter.

15 * * *

16 (23) To purchase property at a sale conducted pursuant to enforcement of
17 judicial mortgages created in accordance with R.S. 13:2575(C) by tendering a bid
18 equal to or greater than the minimum bid advertised, which bid may be a credit bid
19 consisting of the obligation of the authority to satisfy the bid by payment to the
20 political subdivision holding the lien being enforced in accordance with
21 intergovernmental agreements between the authority and such political subdivision.
22 Such a bid shall be given priority over all other bids regardless of amount, except for
23 a higher bid submitted by a conventional mortgage holder holding a mortgage on the
24 subject property.

25 I.

26 * * *

27 (2) The authority may issue revenue bonds to finance the undertaking of a
28 redevelopment project under this Chapter, or otherwise to acquire, purchase, lease,
29 construct, or improve housing, residential development, subdivision development,

1 commercial, research, industrial, or other plant sites and buildings, or other capital
 2 improvements authorized in this Chapter, including energy and pollution abatement
 3 and control facilities and necessary property and appurtenances thereto; and may sell,
 4 lease, sublease, or otherwise dispose of by suitable and appropriate contract to any
 5 enterprise locating or existing within the jurisdiction of the authority such sites,
 6 buildings, or facilities and appurtenances thereto, all or severally. The funds derived
 7 from the sale of such bonds may be disbursed in whole or in part upon delivery of
 8 the bonds as shall be provided in the contract between ~~an~~ the authority and the
 9 residential, commercial, research, industrial, or other enterprise to be aided,
 10 encouraged, or benefited subject to the requirements of this Chapter.

11 * * *

12 J.(1) The exercise by the board of the powers conferred by virtue of this
 13 Chapter shall be deemed and held to be an essential governmental function of the
 14 state and parish. As the exercise of the powers granted by this Chapter will be in all
 15 respects for the benefit of the people of the state and parish, for the increase of their
 16 commerce and prosperity, and for the improvement of their health and living
 17 conditions, the authority shall not be required to pay any taxes, including but not
 18 limited to sales and use taxes, ad valorem, occupational licensing, income, or any
 19 other taxes of any kind or nature, or fees or assessments upon any property held,
 20 acquired, or used by the authority under the provisions of this Chapter, or upon the
 21 income therefrom. Any bonds, certificates, or other evidences of indebtedness issued
 22 by the authority and the income therefrom shall be exempt from taxation by the state
 23 and by any parish, municipality, or other political subdivision of the state. The
 24 authority shall not be deemed to be a public utility and shall not be subject in any
 25 respect to the authority, control, regulation, or supervision of the Louisiana Public
 26 Service Commission.

27 * * *

28 K.(1) The authority may purchase adjudicated properties within its territorial
 29 jurisdiction from any political subdivision of the state of Louisiana. No such

1 purchase shall be construed to, or otherwise have the effect of, extending or
2 suspending the period prescribed by law for the redemption of the property by the
3 tax debtor or any other person.

4 (2) In addition to the authority set forth in Subpart B of Part IV of Chapter
5 of Subtitle III of Title 47 of the Louisiana Revised Statutes of 1950, such purchases
6 by the authority may be in the manner provided for in Chapter 13-A of Title 33 of
7 the Louisiana Revised Statutes of 1950 or by a direct negotiated purchase and sale
8 agreement between the authority and a political subdivision without any other
9 requirement of a public sale prior to the transfer of such properties to the authority.
10 Such purchases by the authority shall not be considered the sale of surplus property
11 or of property owned by the political subdivision.

12 (3) Effective upon the recordation of the transfer of an adjudicated property
13 to the authority pursuant to a purchase and sale agreement, the rights of the authority
14 in and to such property shall be the rights of a purchaser at a tax sale as contemplated
15 by Chapter 5 of Subtitle III of Title 47 of the Louisiana Revised Statutes of 1950,
16 subject only to the rights of redemption of the property set forth in Article VII,
17 Section 25(B) of the Constitution of Louisiana, and the property shall no longer be
18 deemed to be adjudicated property as of such recordation. For purposes of the right
19 of redemption in Article VII, Section 25(B) of the Constitution of Louisiana, the
20 three-year period commences on the date of the recordation of the initial adjudication
21 to the political subdivision and not on the date of transfer to the authority.

22 (4) Any such purchase and sale agreement shall set forth the total
23 consideration to be paid by the authority and the method and timing of payment of
24 such consideration by the authority.

25 (5) The state and any political subdivision with liens on the property may,
26 pursuant to intergovernmental agreements with the authority, cancel such liens
27 contemporaneously with or subject to the transfer of the property to the authority.

28 (6)(a) The authority shall have the right, subject to the provisions of this
29 Section, to purchase properties at tax sales conducted in accordance with R.S.

1 47:2183, and any and all such purchases shall be a purchase pursuant to R.S. 47:2183
2 and not an adjudication to a political subdivision.

3 (b) Notwithstanding the provisions of Chapter 5 of Subtitle III of Title 47 of
4 the Louisiana Revised Statutes of 1950, the authority may tender a bid at a tax sale
5 which is a credit bid, consisting of the obligation of the authority to satisfy the
6 component parts of the bid by payments to the respective political subdivisions and
7 taxing entities in accordance with intergovernmental agreements between the
8 authority and such political subdivisions and taxing entities.

9 (c) A bid by the authority at a tax sale for the minimum amount shall take
10 priority over all other bids for the same quantity of property, except for a higher bid
11 submitted by a conventional mortgage holder holding a mortgage on the subject
12 property.

13 (7) The authority shall submit annual reports to the House Committee on
14 Municipal, Parochial and Cultural Affairs and the Senate Committee on Local and
15 Municipal Affairs and each member of the East Baton Rouge Parish legislative
16 delegation concerning property purchased by the authority. Such report shall be filed
17 by March first each year and shall cover the previous calendar year. Each report
18 shall include:

19 (a) The legal description or other indication of the location of each property
20 purchased.

21 (b) The amount paid for each property.

22 (c) The minimum bid that was set for the property and the appraised value
23 of the property.

24 (d) A general description of the authority's plans for the property and how
25 such plans advance the purposes for which the authority is created.

26 L.(1) The authority shall have the power to create and execute
27 redevelopment or development plans for specified areas within its territorial
28 jurisdiction. The implementation of all such plans shall not proceed until, to the
29 extent required by law, the authority has obtained the approval of the local planning

1 commission or zoning board. In the execution of such a redevelopment plan, the
2 authority shall have the powers provided in this Subsection. The fact that a certain
3 power is expressed or implied in this Paragraph as pertinent to the authority's
4 execution of a redevelopment plan shall not suggest or imply that such power is
5 otherwise denied to the authority.

6 * * *

7 (3) The authority may sell, lease, exchange, or otherwise transfer immovable
8 property or any interest therein acquired by it for residential, recreational,
9 commercial, industrial, or other uses or for public use, subject to such covenants,
10 conditions, and restrictions, including covenants running with the land, as it may
11 deem to be necessary or desirable to assist in carrying out the purposes of this
12 Chapter. The purchasers or lessees and their successors and assigns shall be
13 obligated to devote such immovable property only to the uses as the authority may
14 determine to be in the public interest, including the obligation to begin within a
15 reasonable time any improvements on such immovable property. Such immovable
16 property or interest shall be sold, leased, exchanged, or otherwise transferred at not
17 less than its fair value for uses in accordance with the redevelopment or development
18 plan. In determining the fair value of immovable property for uses in accordance
19 with the redevelopment or development plans, the authority shall take into account
20 and give consideration to the use provided in such plan; the restrictions upon and the
21 covenants, conditions, and obligations assumed by the purchaser or lessee; and the
22 objectives of such plan. The authority, in any instrument of conveyance to a private
23 purchaser or lessee, may provide that such purchaser or lessee shall be without power
24 to sell, lease, exchange, or otherwise transfer the immovable property without the
25 prior written consent of the authority until such purchaser or lessee has completed
26 the construction of any and all improvements which he has obligated himself to
27 construct thereon. Immovable property acquired in accordance with the provisions
28 of the plan shall be transferred as rapidly as feasible in the public interest, consistent
29 with the carrying out of the provisions of the project plan. Such plan and any

1 substantial modification of such plan shall be filed as a public record in the office of
2 the clerk of the parish, and any conveyances, encumbrances, or other contracts may
3 incorporate the provisions thereof by reference which shall afford notice thereof to
4 all parties.

5 (4) The authority may dispose of, sell, exchange, or lease immovable
6 property in a redevelopment area to any private person for the fair market value of
7 the property as determined by a certified and competent appraiser, or to any private
8 person pursuant to reasonable competitive bidding procedures as it shall prescribe
9 subject to the provisions set forth in this Paragraph. Such reasonable bidding
10 procedures must include public notice, by publication once each week for two
11 consecutive weeks in a newspaper having a general circulation in the community,
12 inviting proposals from and making available all pertinent information to private
13 redevelopers or any persons interested in undertaking to redevelop or rehabilitate a
14 redevelopment area or any part thereof. Such notice shall identify the area, or
15 portion thereof, and shall state that proposals shall be made by those in interest
16 within thirty days after publication of such notice, and that such further information
17 as is available may be obtained at such office as shall be designated in the notice.
18 The board shall consider all such redevelopment or rehabilitation proposals and the
19 financial and legal ability of the persons making such proposals to carry them out,
20 and may negotiate with any persons for proposals for the purchase, lease, or other
21 transfer of any immovable property acquired by the authority in the redevelopment
22 area. The board may accept such proposal as it deems to be in the public interest and
23 in furtherance of the purposes of this Chapter. Such notice, and all contracts to sell,
24 lease, exchange, or otherwise transfer immovable property under the provisions of
25 this Chapter, shall be a public record and shall include the name of the redeveloper
26 or purchaser, together with the names of its officers and principal members or
27 shareholders and investors and other interested parties, the redeveloper's estimate of
28 the cost of any residential development and rehabilitations, and the redeveloper's
29 estimate of rentals and sales prices of any proposed housing involved in such

1 redevelopment and rehabilitation. Thereafter, the board may execute such contract
2 in accordance with the provisions of this Chapter and deliver acts of sale, leases, and
3 other instruments and take all steps necessary to effectuate such contract.

4 * * *

5 O. For the purpose of aiding in the planning, undertaking, or carrying out of
6 a redevelopment or development project and related activities authorized by this
7 Chapter, any public body may, upon such terms, with or without consideration as it
8 may determine:

9 (1) Dedicate, sell, convey, or lease any of its interest in any property or grant
10 easements, licenses, or other rights or privileges therein to the authority.

11 * * *

12 (4) Lend, grant, or contribute funds to the authority in accordance with an
13 appropriate cooperative endeavor agreement and borrow money and apply for and
14 accept advances, loans, grants, contributions, and any other form of financial
15 assistance from the federal government, the state, parish, or other public body, or
16 from any other source.

17 * * *

18 Q. As used in this Chapter, the following terms shall have the meaning
19 herein ascribed to them.

20 * * *

21 (6) "Real property" or "immovable property" means any and all right, title,
22 and interest in a tract of land, including its component parts and liens by way of
23 judgment, mortgage, or otherwise.

24 (7) "Owners of a property interest" means anyone with a corporeal or
25 incorporeal interest in immovable property filed for record in the conveyance records
26 or mortgage records of the clerk of court and ex officio recorder of mortgages for the
27 parish where the property is located, including a naked owner, a usufructuary, a
28 mortgagee, a judgment creditor, or a holder of a personal or predial servitude.

29 * * *

1 S.(1) In addition to other powers granted to the authority pursuant to this
2 Chapter, the authority may initiate an expedited quiet title and foreclosure action
3 under this Subsection to quiet title to immovable property held by the authority,
4 interests in property purchased by the authority at tax sales, or in formerly
5 adjudicated properties acquired by the authority from a political subdivision, by
6 recording with the conveyance records of the clerk of court and ex officio recorder
7 of mortgages a notice of pending expedited quiet title and foreclosure action. The
8 notice shall include a legal description of the property; the street address of the
9 property if available; the name, address, and telephone number of the authority; a
10 statement that the property is subject to expedited quiet title proceedings and
11 foreclosure under this Subsection; and a statement that any legal interests in the
12 property may be extinguished by a district court order vesting title to the property in
13 the authority. The right of redemption from tax sales in Article VII, Section 25(B)
14 of the Constitution of Louisiana shall be terminated by these proceedings only if the
15 time period for expiration of the right of redemption has expired. If a notice is
16 recorded in error, the authority may correct the error by recording a certificate of
17 correction with the register of conveyances. A notice or certificate under this
18 Subsection need not be notarized and may be authenticated by a digital signature or
19 other electronic means. If the authority has reason to believe that a property subject
20 to an expedited quiet title and foreclosure action under this Subsection may be the
21 site of environmental contamination, the authority shall provide the Department of
22 Environmental Quality with any information in the possession of the authority that
23 suggests the property may be the site of environmental contamination.

24 (2) After recording the notice under Paragraph (1) of this Subsection, the
25 authority shall initiate a search of records identified in this Paragraph to identify the
26 owners of a property interest in the property who are entitled to notice of the quiet
27 title and foreclosure hearing under this Subsection. The authority may enter into a
28 contract with or may request from one or more authorized representatives a title
29 search or other title product to identify the owners of a property interest in the

1 property as required under this Paragraph or to perform the other functions set forth
2 in this Subsection required for the quieting of title to property. The owner of a
3 property interest is entitled to notice under this Section if that owner's interest was
4 identifiable by reference to any of the following sources before the date that the
5 authority records the notice under Paragraph (1) of this Subsection:

6 (a) Land title records in the office of the recorder of mortgages and the
7 register of conveyances.

8 (b) Tax records in the office of the assessor.

9 (3) The authority may file a single petition with the district court to expedite
10 foreclosure under this Subsection listing all property subject to expedited foreclosure
11 by the authority and for which the authority seeks to quiet title. If available to the
12 authority, the list of properties shall include a legal description of, a tax parcel
13 identification number for, and the street address of each parcel of property. The
14 petition shall seek a judgment in favor of the authority against each property listed
15 and shall include a date, within ninety days of filing, on which the authority requests
16 a hearing on the petition. The petition shall request that a judgment be entered
17 vesting absolute title in the authority, without right of redemption for each parcel of
18 property listed, as provided in this Paragraph. Prior to the entry of judgment under
19 this Paragraph, the authority may request the court to remove property erroneously
20 included in the petition or any tax delinquent properties redeemed prior to the
21 hearing.

22 (4) The district court in which a petition is filed under Paragraph (3) of this
23 Subsection shall immediately set the date, time, and place for a hearing on the
24 petition for foreclosure. The date shall be set by the court and shall not be more than
25 ten days after the date requested by the authority in the petition. In no event may the
26 court schedule the hearing later than ninety days after the filing of a petition by the
27 authority under Paragraph (3) of this Subsection.

28 (5) After completing the records search under Paragraph (2) of this
29 Subsection, the authority shall determine the address or addresses reasonably

1 calculated to inform those owners of a property interest in property subject to
2 expedited foreclosure under this Subsection of the pendency of the quiet title and
3 foreclosure hearing under Paragraph (11) of this Subsection. If, after conducting the
4 title search, the authority is unable to determine an address reasonably calculated to
5 inform persons with a property interest in property subject to expedited tax
6 foreclosure, or if the authority discovers a deficiency in notice under this Subsection,
7 the following shall be considered reasonable steps by the authority to ascertain the
8 addresses of persons with a property interest in the property subject to expedited
9 foreclosure or to ascertain an address necessary to correct a deficiency in notice
10 under this Subsection:

11 (a) For an individual, a search of records of the recorder of mortgages and
12 the register of conveyances.

13 (b) For a business entity, a search of business entity records filed with the
14 commercial division of the Department of State.

15 (c) For a state or federal chartered depository financial institution, a search
16 of entity records filed with the Louisiana Office of Financial Institutions or with the
17 Federal Deposit Insurance Corporation (FDIC).

18 (6) Not less than thirty days before the quiet title and foreclosure hearing
19 under Paragraph (11) of this Subsection, the authority shall send notice by certified
20 mail, return receipt requested, of the hearing to the persons identified under
21 Paragraph (2) of this Subsection who have a property interest in property subject to
22 expedited foreclosure. The authority shall also send a notice via regular mail
23 addressed to the "Occupant" for each property subject to expedited foreclosure if an
24 address for the property is ascertainable.

25 (7) Not less than thirty days before the quiet title and foreclosure hearing
26 under Paragraph (11) of this Subsection, the authority or its authorized representative
27 or authorized agent shall visit each parcel of property subject to expedited
28 foreclosure and post on the property conspicuous notice of the hearing. In addition
29 to the requirements of Paragraph (8) of this Subsection, the notice shall also include

1 the following statement: "This Property has been transferred to the East Baton Rouge
2 Redevelopment Authority and is subject to an expedited quiet title and foreclosure
3 action. Persons with information regarding the prior owner of the property are
4 requested to contact the East Baton Rouge Redevelopment Authority."

5 (8) The notices required under Paragraphs (6) and (7) of this Subsection shall
6 include:

7 (a) The date on which the authority recorded, under Paragraph (1) of this
8 Subsection, notice of the pending expedited quiet title and foreclosure action.

9 (b) A statement that a person with a property interest in the property may
10 lose his interest as a result of the quiet title and foreclosure hearing under Paragraph
11 (11) of this Subsection.

12 (c) A legal description, parcel number of the property, and the street address
13 of the property, if available.

14 (d) The person to whom the notice is addressed.

15 (e) The date and time of the hearing on the petition for foreclosure under
16 Paragraph (1) of this Subsection, and a statement that the judgment of the court may
17 result in title to the property vesting in the authority.

18 (f) An explanation of any rights of redemption and notice that the judgment
19 of the court may extinguish any ownership interest in or right to redeem the property.

20 (g) The name, address, and telephone number of the authority.

21 (h) A statement that persons with information regarding the owner or prior
22 owner of any of the properties are requested to contact the authority.

23 (9) If the authority is unable to ascertain the address reasonably calculated
24 to inform the owners of a property interest entitled to notice under this Section, or
25 is unable to provide notice under Paragraphs (6) and (7) of this Subsection, the
26 authority shall provide notice by publication. Prior to the hearing, a notice shall be
27 published for three successive weeks, once each week, in a newspaper published and
28 circulated in the parish. The published notice shall include all of the following:

1 (a) A legal description, parcel number of the property, and the street address
2 of the property, if available.

3 (b) The name of any person not notified under Paragraphs (6) and (7) of this
4 Subsection that the authority reasonably believes may be entitled to notice under this
5 Section of the quiet title and foreclosure hearing under Paragraph (11) of this
6 Subsection.

7 (c) A statement that a person with a property interest in the property may
8 lose his interest as a result of the foreclosure proceeding under Paragraph (11) of this
9 Subsection.

10 (d) The date and time of the hearing on the petition for foreclosure under
11 Paragraph (11) of this Subsection.

12 (e) A statement that the judgment of the court may result in title to the
13 property vesting in the authority.

14 (f) An explanation of any rights of redemption and notice that judgment of
15 the court may extinguish any ownership interest in or right to redeem the property.

16 (g) The name, address, and telephone number of the authority.

17 (h) A statement that persons with information regarding the owner or prior
18 owner of any of the properties are requested to contact the authority.

19 (10) If prior to the quiet title and foreclosure hearing under Paragraph (11)
20 of this Subsection, the authority discovers any deficiency in the provision of notice
21 under this Subsection, the authority shall take reasonable steps in good faith to
22 correct the deficiency before the hearing. The provisions of this Subsection relating
23 to notice of the quiet title and foreclosure hearing are exclusive and exhaustive.
24 Other requirements relating to notice and proof of service under other law, rule, or
25 other legal requirement are not applicable to notice or proof of service under this
26 Subsection.

27 (11) If a petition for expedited quiet title and foreclosure is filed under
28 Paragraph (3) of this Subsection, before the hearing, the authority shall file with the
29 clerk of the district court proof of notice by certified mail under Paragraph (6) of this

1 Subsection, proof of notice by posting on the property under Paragraph (7) of this
2 Subsection, and proof of notice by publication, if applicable. A person claiming an
3 interest in a parcel of property set forth in the petition for foreclosure, including a
4 current holder of a conventional mortgage, who desires to contest that petition shall
5 file written objections with the clerk of the district court and serve those objections
6 on the authority before the date of the hearing. A holder of a conventional mortgage
7 may object to the action and is entitled to a dismissal of the proceedings by the
8 district court upon a showing that it is the holder of a legally enforceable
9 conventional mortgage and upon payment of the outstanding amount of any liens,
10 taxes, and related costs. The district court may appoint and utilize as the court
11 considers necessary a curator for assistance with the resolution of any objections to
12 the foreclosure or questions regarding the title to property subject to foreclosure. If
13 the court withholds property from foreclosure, the authority's ability to include the
14 property in a subsequent petition for expedited quiet title and foreclosure is not
15 prejudiced. No injunction shall issue to stay an expedited quiet title and foreclosure
16 action under this Subsection. The district court shall enter judgment on a petition to
17 quiet title and foreclosure filed under Paragraph (3) of this Subsection not more than
18 ten days after the conclusion of the hearing or contested case, and the judgment shall
19 become effective ten days after the conclusion of the hearing or contested case. The
20 district court's judgment shall specify all of the following:

21 (a) The legal description and, if known, the street address of the property
22 foreclosed.

23 (b) That title to property foreclosed by the judgment is vested absolutely in
24 the authority, except as otherwise provided in Paragraphs (3) and (5) of this
25 Subsection, without any further rights of redemption.

26 (c) That all liens against the property, including any lien for unpaid taxes or
27 special assessments, are extinguished.

28 (d) That, except as otherwise provided in Subparagraph (e) of this Paragraph,
29 the authority has good and marketable title to the property.

1 (e) That all existing recorded and unrecorded interests in that property are
2 extinguished, except a visible or recorded easement or right-of-way or private deed
3 restrictions.

4 (f) A finding that all persons entitled to notice and an opportunity to be heard
5 have been provided that notice and opportunity. A person shall be deemed to have
6 been provided notice and an opportunity to be heard if the authority followed the
7 procedures for provision of notice by mail, by visits to property subject to expedited
8 quiet title and foreclosure, and by publication under this Subsection, or if one or
9 more of the following apply:

10 (i) The person had constructive notice of the hearing by acquiring an interest
11 in the property after the date of the recording, under Paragraph (1) of this Subsection,
12 of the notice of pending expedited quiet title and foreclosure action.

13 (ii) The person appeared at the hearing or submitted written objections to the
14 district court under this Subsection prior to the hearing.

15 (iii) Prior to the hearing under this Paragraph, the person had actual notice
16 of the hearing.

17 (12) Except as otherwise provided in Subparagraph (11)(e) of this
18 Subsection, title to property set forth in a petition for foreclosure filed under
19 Paragraph (3) of this Subsection shall vest absolutely in the authority upon the
20 effective date of the judgment by the district court, and the authority shall have
21 absolute title to the property. The authority's title shall not be subject to any
22 recorded or unrecorded lien, except as provided in Paragraph (11) of this Subsection,
23 and shall not be stayed or held invalid, except as provided in Paragraph (13) of this
24 Subsection. A judgment entered under this Subsection is a final order with respect
25 to the property affected by the judgment and shall not be modified, stayed, or held
26 invalid after the effective date of the judgment, except as provided in Paragraph (13)
27 of this Subsection.

28 (13) The authority or a person claiming to have a property interest under
29 Paragraph (2) of this Subsection in property foreclosed under this Subsection may,

1 within twenty-one days of the effective date of the judgment under Paragraph (11)
2 of this Subsection, appeal the district court's order or the district court's judgment
3 foreclosing property to the court of appeals. The appeal of the judgment shall be
4 entitled to preference and priority and shall be handled on an expedited basis by the
5 court of appeal and, if applicable, the Louisiana Supreme Court. In such cases, the
6 record shall be prepared and filed within fifteen days of the granting of the order of
7 appeal. The court of appeal shall hear the case within thirty days after the filing of
8 the appellee's brief. An appeal under this Paragraph is limited to the record of the
9 proceedings in the district court under this Subsection. The district court's judgment
10 foreclosing property shall be stayed until the court of appeals has reversed, modified,
11 or affirmed that judgment. If an appeal under this Paragraph stays the district court's
12 judgment foreclosing property, the district court's judgment is stayed only as to the
13 property that is the subject of that appeal, and the district court's judgment
14 foreclosing other property that is not the subject of that appeal is not stayed. To
15 appeal the district court's judgment foreclosing property, a person appealing the
16 judgment shall pay to the authority any taxes, interest, penalties, and fees due on the
17 property and provide notice of the appeal to the authority within twenty-one days
18 after the district court's judgment becomes effective. If the district court's judgment
19 foreclosing the property is affirmed on appeal, the amount determined to be due shall
20 be refunded to the person who appealed the judgment. If the district court's
21 judgment foreclosing the property is reversed or modified on appeal, the authority
22 shall refund the amount determined to be due to the person who appealed the
23 judgment, if any, and forward the balance to the appropriate taxing jurisdictions in
24 accordance with the order of the court of appeals.

25 (14) The authority shall record a notice of judgment for each parcel of
26 foreclosed property in the office of the register of conveyances. If the authority
27 records a notice of judgment in error, the authority may subsequently record a
28 certificate of correction. A notice or certificate under this Paragraph need not be
29 notarized and may be authenticated by a digital signature or other electronic means.

1 After the entry of a judgment foreclosing the property under this Subsection, if the
2 property has not been transferred by the authority, the authority may cancel the
3 foreclosure by recording with the register of conveyances a certificate of error, if the
4 authority discovers any of the following:

5 (a) The description of the property used in the expedited quiet title and
6 foreclosure proceeding was so indefinite or erroneous that the foreclosure of the
7 property was void.

8 (b) An owner of an interest in the property entitled to notice of the expedited
9 quiet title and proceedings against the property under this Subsection was not
10 provided notice sufficient to satisfy the minimum due process requirements of the
11 Constitution of Louisiana and the Constitution of the United States.

12 (c) A judgment of foreclosure was entered under this Subsection in violation
13 of an order issued by a United States bankruptcy court.

14 (15) If a judgment of foreclosure is entered under Paragraph (11) of this
15 Subsection, and all existing recorded and unrecorded interests in a parcel of property
16 are extinguished as provided in Paragraph (11) of this Subsection, the owner of any
17 extinguished recorded or unrecorded interest in that property who claims that he did
18 not receive notice of the expedited quiet title and foreclosure action shall not bring
19 an action for possession of the property against any subsequent owner but may only
20 bring an action to recover monetary damages from the authority as provided in this
21 Paragraph. The district court has original and exclusive jurisdiction in any action to
22 recover monetary damages under this Paragraph. An action to recover monetary
23 damages under this Paragraph shall not be brought more than two years after a
24 judgment for foreclosure is entered under Paragraph (11) of this Subsection. Any
25 monetary damages recoverable under this Paragraph shall be determined as of the
26 date a judgment for foreclosure is entered under Paragraph (11) of this Subsection
27 and shall not exceed the fair market value of the interest in the property held by the
28 person bringing the action under this Subsection on that date, less any taxes, interest,
29 penalties, and fees owed on the property as of that date. The right to sue for

1 monetary damages under this Paragraph shall not be transferable except by testate
2 or intestate succession.

3 (16) The owner of a property interest with notice of the quiet title and
4 foreclosure hearing under Paragraph (11) of this Subsection may not assert any of
5 the following:

6 (a) That notice to the owner was insufficient or inadequate in any way
7 because some other owner of a property interest in the property was not notified.

8 (b) That any right to redeem tax reverted property was extended in any way
9 because some other person was not notified.

10 (17) A person holding or formerly holding an interest in tax reverted
11 property subject to expedited foreclosure under this Subsection is barred from
12 questioning the validity of the expedited foreclosure under this Subsection.

13 (18) The failure of the authority to comply with any provision of this
14 Subsection shall not invalidate any proceeding under this Subsection if a person with
15 a property interest in property subject to foreclosure was accorded the minimum due
16 process required under the Constitution of Louisiana and the Constitution of the
17 United States.

18 (19) It is the intent of the legislature that the provisions of this Subsection
19 relating to the expedited quiet title and foreclosure of property by the authority
20 satisfy the minimum requirements of due process required under the Constitution of
21 Louisiana and the Constitution of the United States but that the provisions do not
22 create new rights beyond those required under the Constitution of Louisiana or the
23 Constitution of the United States. The failure of the authority to follow a
24 requirement of this Section relating to the expedited quiet title and foreclosure of
25 property held by the authority shall not be construed to create a claim or cause of
26 action against the authority unless the minimum requirements of due process
27 accorded under the Constitution of Louisiana or the Constitution of the United States
28 are violated.

1 (20) As used in this Subsection, "authorized representative" includes one or
2 more of the following:

3 (a) A title insurance company or agent licensed to conduct business in this
4 state.

5 (b) An attorney licensed to practice law in this state.

6 (c) A person accredited in land title search procedures by a nationally
7 recognized organization in the field of land title searching.

8 (d) A person with demonstrated experience in the field of searching land title
9 records, as determined by the authority.

10 (21) As used in this Subsection, "district court" shall mean the Nineteenth
11 Judicial District Court.

12 Section 2. R.S. 44:4.1(B)(18) is hereby amended and reenacted to read as
13 follows:

14 §4.1. Exceptions

15 * * *

16 B. The legislature further recognizes that there exist exceptions, exemptions,
17 and limitations to the laws pertaining to public records throughout the revised
18 statutes and codes of this state. Therefore, the following exceptions, exemptions, and
19 limitations are hereby continued in effect by incorporation into this Chapter by
20 citation:

21 * * *

22 (18) R.S. 33:1334, 2182, 2428, 4720.151, 9109, 9128

23 * * *

24 Section 3. R.S. 33:4720.151(G)(13) is hereby repealed in its entirety.

25 Section 2.(A) This Act is remedial and curative of clerical errors in the enrollment
26 of Act No. 891 of the 2008 Regular Session of the Legislature. As such, this Act shall have
27 retroactive effect, but only back to July 9, 2008. This Act shall have prospective effect
28 beginning on its effective date.

1 (B) The report required by R.S. 33:4720.151(K)(7) covering calendar year 2008
 2 shall be included with the report on calendar year 2009 and submitted by March first, 2010,
 3 as otherwise provided by R.S. 33:4720.151(K)(7).

4 Section 3. This Act shall become effective upon signature by the governor or, if not
 5 signed by the governor, upon expiration of the time for bills to become law without signature
 6 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 7 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 8 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Barrow

HB No. 697

Abstract: Reenacts an Act of the 2008 Regular Session to resolve a clerical error in the 2008 enactment. The 2008 Act provided relative to the East Baton Rouge Redevelopment Authority; it provided relative to the objects, purposes, powers, and duties of the authority.

HB _____ reenacts Act No. 891 of the 2008 R.S. due to a clerical error in that Act. HB _____ reenacts the Act exactly as it was passed by the legislature in 2008 to ensure its correct recitation in statutory compilations and to thwart any legal challenge to its constitutional soundness with respect to procedures for passage of laws.

Effective upon signature of governor or lapse of time for gubernatorial action. Has retroactive effect back to July 9, 2008. However, the report required by present law for the 2008 calendar year is due with the report for the 2009 calendar year on March 1, 2010.

The digest of Act No. 891 of the 2008 R.S. as it finally passed is as follows:

Present law creates and provides for the East Baton Rouge Redevelopment Authority to provide for the utilization of appropriate private and public resources to eliminate and prevent the development or spread of slum, blighted, and distressed areas. Provides that the authority is a special district and political subdivision of the state. Provides that the object of present law is to provide a unified and comprehensive response to the housing shortages and other indirect effects of Hurricanes Katrina and Rita upon south central La. Provides that the authority shall be comprised of the territory in the parish, including the territory comprising the municipalities of Baker, Baton Rouge, Central, and Zachary. Provides that the authority shall be activated and implemented by the parish governing authority recognizing and confirming the appointment of the initial five members of the board.

Proposed law provides that the authority shall have the following additional objects:

- (1) The general and economic welfare of the parish through housing, commercial, office, hospitality, recreation, education, infrastructure and utility capacity, manufacturing, industrial, research, retail, or other activities which will create or retain jobs,

- maintain or diversify industry, including new or emerging technologies, or maintain or increase the tax base.
- (2) The improvement of conditions of deteriorated physical development, slow economic growth, and eroded financial health of the public and private sectors.
 - (3) The control, abatement and prevention of pollution to protect public health and safety, and the development and use of indigenous and renewable energy resources.
 - (4) Assistance to nonprofit and governmental entities in support of health, educational, charitable, community, cultural, agricultural, consumer, or other services benefitting the citizens.

Present law authorizes the authority in carrying out the provisions of present law to seek out cooperative endeavors with nonprofit and private enterprise. Proposed law provides that such cooperative endeavors include partnerships, joint ventures, and equity participation structures.

Present law requires the board to meet in regular session once each month. Proposed law removes this requirement and instead permits the board to meet in regular sessions once each month.

Proposed law, notwithstanding present law requiring meetings be open to the public, authorizes the board to meet in executive session regarding certain property transactions. Provides that public records laws shall not apply to any records related to the negotiations for such property transactions until 30 days prior to the date the board is scheduled to consummate a final sale or lease. Requires the board to give public notice of its intention to consummate a final sale or lease.

Present law provides that the authority has all powers necessary or convenient to carry out its objectives and purposes, including certain specified powers. Proposed law adds to such specified powers the authority to purchase property at a sale conducted pursuant to enforcement of certain judicial mortgages by tendering a bid of at least the minimum bid, which bid may be a credit bid in accordance with intergovernmental agreements between the authority and the political subdivision. Provides that such a bid shall be given priority over all other bids regardless of amount except for a higher bid submitted by a conventional mortgage holder holding a mortgage on the subject property.

Present law provides that its provisions are for the benefit of the people of the state and parish, thus the authority shall not be required to pay any taxes or assessments upon any property or the income therefrom. Proposed law additionally provides that the authority shall not pay any fees on property or income therefrom.

Present law authorizes the authority to purchase adjudicated properties within its territorial jurisdiction from any political subdivision of the state. Proposed law provides with respect to such authority and procedures for such purchases. Specifically authorizes the state and any political subdivision with liens on the property to, pursuant to intergovernmental agreements, cancel such liens. Authorizes the authority to tender a bid at a tax sale of at least the minimum bid, which bid may be a credit bid in accordance with intergovernmental agreements between the authority and the political subdivision. Provides that such a bid shall be given priority over all other bids regardless of amount except for a higher bid submitted by a conventional mortgage holder holding a mortgage on the subject property.

Proposed law requires the authority to submit annual reports to the House Committee on Municipal, Parochial and Cultural Affairs and the Senate Committee on Local and Municipal Affairs and each member of the East Baton Rouge Parish legislative delegation concerning property purchased by the authority. Each report shall include: a legal description or other indication of the location of each property, the amount paid for each property, the minimum

bid that was set for the property and the appraised value of the property, and a general description of the authority's plans for the property and how such plans advance the purposes for which the authority is created.

Proposed law adds an expedited procedure to enable the authority to more efficiently quiet title and initiate a foreclosure action regarding immovable property acquired by the authority. Provides as follows with respect to such procedure:

- (1) Requires the authority to file a notice with the clerk of court regarding the property and the pending action. Provides relative to the content of such notice. Provides for additional procedures if there is a deficiency in the notice. Requires the authority, if it has reason to believe that a property is contaminated, to notify the Dept. of Environmental Quality.
- (2) Requires the authority to initiate a records search to determine owners with interest in the property. Requires notice of the pending action be given to identified owners.
- (3) Authorizes the authority to file a single petition with the district court which lists all of the property subject to expedited foreclosure. Provides relative to the content of the petition and sets time limits for legal actions and decisions. Provides relative to notification to interested parties regarding the hearing on the petition, including posting a notice on each property. Requires the authority, if it is unable to provide the appropriate notice, to provide notice through publication for three consecutive weeks prior to the hearing on the matter in a newspaper published and circulated in East Baton Rouge Parish. Requires filing proof of notice with the clerk of court. Requires any person who has an interest in a parcel of property to file written objections with the clerk and serve those objections on the authority prior to the hearing. Requires the district court to enter judgment on the petition not more than 10 days following the conclusion of the hearing or contested case.
- (4) Provides that except as otherwise provided in new law, title to property set forth in a petition for foreclosure shall vest absolutely in the authority upon the effective date of the judgment. Provides that the authority shall have absolute title to the property, and the title is not subject to any recorded or unrecorded lien, except as otherwise provided in new law and shall not be stayed or held invalid except as otherwise provided in new law. Provides that a judgment is a final order with respect to the property affected by the judgment and shall not be modified, stayed, or held invalid after the effective date of the judgment, except as otherwise provided in new law.
- (5) Authorizes a person with an interest in the foreclosed property to appeal the district court's order or judgment. Provides relative to such appeals including time limits and deadlines. Provides that an appeal is limited to the record of the proceedings in the district court. Provides that the district court's judgment foreclosing property shall be stayed until the court of appeals has reversed, modified, or affirmed that judgment, but the stay applies only to the property that is subject of the appeal. Requires a person appealing the judgment to pay to the authority any taxes, interest, penalties, and fees due on the property. Provides that such amounts or portions thereof shall be refunded if appropriate under the final determination.