

GREEN SHEET REDIGEST

HB 769

2015 Regular Session

Burrell

(KEYWORD, SUMMARY, AND DIGEST as amended by Senate committee amendments)

DISTRICTS/REDEVELOPMENT. Creates the Shreveport Implementation and Redevelopment Authority

DIGEST

Proposed law creates and provides for the Shreveport Implementation and 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 authority shall be comprised of all of the territory located within the corporate limits of the city of Shreveport. Provides that the authority shall be activated and implemented by the city governing authority recognizing and confirming the appointment of the initial seven members of the board.

Proposed law provides that the Shreveport Implementation and Redevelopment Authority shall be governed by a seven-member board of commissioners, referred to as the "board" in proposed law, three of whom shall be appointed as follows:

- (1) One member from a list of three nominees submitted to the mayor by the governing authority of the parish of Caddo.
- (2) One member from a list of three nominees submitted to the mayor by the city of Shreveport's community development department. Requires that such person be dedicated to providing housing in the city of Shreveport as determined by the department.
- (3) One member from a list of eight nominees, with one nominee submitted to the mayor by each of the following persons: the Louisiana state senators who represent Senate Districts 37, 38, and 39 and the Louisiana state representatives who represent House District 2, 3, 4, 5, and 6.

Proposed law requires that each board member be a citizen of the U.S., a domiciliary of and a qualified voter in the city of Shreveport for at least one year preceding the date of appointment and shall remain a domiciliary of and a qualified voter of such jurisdiction during the entirety of the term of office. Additionally requires that each board member be of good character and possess some skill, knowledge, or experience that will prove useful in the accomplishment of the goals of the authority.

Proposed law requires members of the board to serve without compensation, but authorizes the board to reimburse any member for expenses actually incurred in the performance of duties on behalf of the authority.

Proposed law provides that all actions of the board shall be approved by the affirmative vote of a majority of the members present and voting. Provides however, that no action of the board shall be authorized on the following matters unless approved by a majority of the total board membership:

- (1) Adoption of bylaws and other rules and regulations for conduct of the authority's business.
- (2) Hiring or firing of any employee or contractor of the authority. Provides that this function may by majority vote be delegated by the board to a specified officer or

committee of the authority, under such terms and conditions, and to the extent, that the board may specify.

- (3) Adoption or amendment of the annual budget.
- (4) Sale, lease, encumbrance, or alienation of property, improvements, or personal property with an assessed value of more than \$50,000.

Proposed law provides that the authority, through the board, shall have all powers necessary or convenient to carry out its objectives and purposes, including but not limited to the following:

- (1) To sue and be sued and as such to stand in judgment.
- (2) To adopt, use, and alter at will a corporate seal.
- (3) To acquire, hold, and use any property.
- (4) To convey to the U.S., the state, or to any political subdivision of the state any property or other thing of value for use by the governmental entity to accomplish the objectives and purposes of the authority, pursuant to the terms of any appropriate cooperative endeavor agreement.
- (5) To make and collect reasonable charges for the use of property of the authority and for services rendered by the authority and to regulate fees or rentals charged for use of privately owned facilities located on property owned or sold by the authority when such facilities are offered for use by the public or by a private industrial, commercial, research, or other economic development entity or activity.
- (6) To require and issue licenses.
- (7) To borrow money and to pledge or grant a security device affecting all or part of its revenues, leases, rents, and other advantages as security for such loans.
- (8) To appoint officers, agents, and employees, prescribe their duties, and fix their compensation.

Proposed law provides that the authority shall not be deemed to be an instrumentality of the state for purposes of the state civil service provisions of the state constitution.

Proposed law provides that the authority shall not be required to pay any taxes. Provides that any bonds, certificates, or other evidences of indebtedness issued by the authority and the income therefrom shall be exempt from taxation by the state and by any parish, municipality, or other political subdivision of the state.

Proposed law authorizes the authority to purchase adjudicated properties within its jurisdiction from any political subdivision of the state. Provides that no such purchase shall be construed to, or otherwise have the effect of, extending or suspending the period prescribed by law for the redemption of the property by the tax debtor or any other person.

Proposed law provides that the authority shall have the power to create and execute redevelopment or development plans for specified areas within its jurisdiction. Provides that the implementation of all such plans shall not proceed until, to the extent required by law, the authority has obtained the approval of the local planning commission or zoning board. Provides that a redevelopment plan shall include a definition of the redevelopment area. Provides that the area, or any part thereof, may be further designated as a subdistrict of the authority.

Proposed law authorizes the authority to sell, lease, or otherwise transfer immovable property or any interest therein acquired by it in redevelopment areas for residential, recreational, commercial, industrial, or other uses or for public use, in accordance with the redevelopment

plan, subject to such covenants, conditions, and restrictions, including covenants running with the land, as it may deem to be necessary or desirable to assist in preventing the development or spread of future slums or blighted areas or to provide for the elimination thereof or to otherwise carry out the purposes of proposed law.

Proposed law authorizes the authority to dispose of, sell, or lease immovable property in a redevelopment area to any private person for the fair market value of the property as determined by a certified and competent appraiser, or to any private person pursuant to reasonable competitive bidding procedures as it shall prescribe subject to the provisions of proposed law. Requires public notice of such bidding procedures.

Proposed law authorizes the authority to temporarily operate, maintain, or lease property acquired by it in a redevelopment area for or in connection with a redevelopment project pending disposition of the property for such uses and purposes as may be deemed desirable even though not in connection with the redevelopment plan.

Proposed law provides that any property within a redevelopment area may be disposed of without regard to the provisions of proposed law. Provides that property acquired in accordance with a redevelopment plan may be disposed of to a public body for public reuse without regard to the provisions of proposed law.

Proposed law provides that where an area in the city is designated as a redevelopment area under the Federal Area Redevelopment Act (Public Law 87-27), or any act supplementary thereto, land in a redevelopment project area designated under the redevelopment plan for industrial or commercial uses may be disposed of to any public body or nonprofit corporation for subsequent disposition as promptly as practical by the public body or corporation for redevelopment in accordance with the redevelopment plan.

Proposed law authorizes the authority to, in the implementation of a redevelopment plan, create a subdistrict(s) to conduct, oversee, or assist in the implementation of such redevelopment plan. Provides that the boundaries of such a subdistrict may include all or part of the redevelopment area and provides that such a subdistrict shall have and exercise such powers and responsibilities as the authority shall specify in the enabling resolution. Provides that unless otherwise specified in the resolution or other formal act creating the subdistrict, the board members of the authority shall constitute the governing authority of the subdistrict.

Proposed law provides that the creation of a subdistrict shall in no instance result in the detachment, severance, or loss of any power or responsibility granted to the authority by and within the confines of any subdistrict the authority shall have full jurisdiction, concurrent with that of the subdistrict, to exercise said powers and responsibilities. Provides that the board members of the authority shall be the governing authority of the subdistrict.

Proposed law provides that all banks, trust companies, bankers, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking or investment business; all insurance companies, insurance associations, and other persons carrying on an insurance business; and all executors, administrators, curators, trustees, and other fiduciaries may legally invest any sinking funds, monies, or other funds belonging to them or within their control in any bonds or other obligations issued by the authority.

Proposed law provides that bonds and other obligations shall be authorized security for all public deposits. Provides that it is the purpose of proposed law to authorize any public or private persons, political subdivisions, and officers, public or private, to use any funds owned or controlled by them for the purchase of any bonds or other obligations. Provides that nothing contained in proposed law with regard to legal investments shall be construed as relieving any persons of any duty of exercising reasonable care in selecting securities.

Proposed law provides that any instrument executed, in proper form and with proper certification of authority, by an authority purporting to convey any right, title, or interest in any property pursuant to proposed law shall be conclusively presumed to have been executed

in compliance with provisions of proposed law insofar as title or other interest of any bona fide purchasers, lessees, or transferees of the property is concerned.

Proposed law provides that insofar as the provisions of proposed law are inconsistent with the provisions of any other law, the provisions of proposed law shall be controlling. Provides however, that the authority shall be subject to the provisions of the Local Government Fair Competition Act, R.S. 45:844.41 et seq. Additionally provides that the authority conferred by proposed law shall be in addition and supplemental to the powers conferred by any other law.

Proposed law further provides for an expedited procedure to enable the authority to more efficiently quiet title and initiate a foreclosure action regarding immovable property acquired by the authority.

Proposed law requires the authority to file a notice with the clerk of court regarding the property it is attempting to seize. Requires that the notice include the legal description of the property, the street address of the property (if any), the name, address, and telephone number of the authority, a statement that the property is subject to expedited quiet title proceeding and foreclosure, and a statement that any legal interests in the property may be extinguished by a district court order vesting title to the property in the authority. Provides for additional procedures if there is a deficiency in the notice.

Proposed law requires the authority, if it has reason to believe that a property subject to an expedited quiet title proceeding and foreclosure may be the site of environmental contamination, to provide the Dept. of Environmental Quality with any information in the possession of the authority that suggests such is the case.

Proposed law requires the authority, after recording the notice, to initiate a records search in order to determine the owners who have any interest in the property subject to the expedited procedure. Authorizes the authority to enter into a contract with or request from one or more authorized representatives a title search or other title product to identify the owners of a property interest. Provides that the owner of a property interest is entitled to notice under proposed law if that owner's interest was identifiable by reference to any of the following sources before the date that the authority records the notice:

- (1) Land title records in the office of the recorder of mortgages and the register of conveyances.
- (2) Tax records in the office of the assessor.

Proposed law authorizes the authority to file a single petition with the district court which lists all of the property subject to expedited foreclosure. Requires the authority to request a hearing on the petition within 90 days seeking a judgment in favor of the authority against each property. Requires the clerk of the district court to immediately set the date, time, and place for the hearing not more than 10 days after the date requested by the authority in the petition.

Proposed law requires the authority to send notice of the hearing, not less than 30 days prior, by certified mail to any person identified as having an interest in the property subject to the expedited foreclosure proceeding. Requires the authority to also send notice via regular mail addressed to "Occupant" to each property subject to expedited foreclosure.

Proposed law further requires the authority, or its authorized representative, to post a written notice on each property at least 30 days prior to the expedited foreclosure hearing. Requires that each notice include specified information.

Proposed law 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 the jurisdiction of the authority.

Proposed law requires the authority to file proof of the notice required by proposed law, proof of notice by posting on the property, if applicable, and proof of notice by publication, if applicable, with the clerk of the district court prior to the hearing. Requires any person who has an interest in the property subject to the expedited foreclosure to file written objections with the clerk and serve those objections on the authority prior to the hearing.

Proposed law requires the district court to enter judgment on the petition not more than 10 days following the conclusion of the hearing or contested case. Requires the judgment to specify certain information.

Proposed law provides that except as otherwise provided in proposed law, title to property set forth in a petition for foreclosure shall vest absolutely in the authority upon the effective date of the judgment by the district court. 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 proposed law and shall not be stayed or held invalid except as otherwise provided in proposed 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 proposed law.

Proposed law provides that any person with an interest in the foreclosed property may appeal the district court's order or district court's judgment within 21 days following the effective date of the judgment. Provides that the appeal of the judgment shall be entitled to preference and priority and handled on an expedited basis by the court of appeal and, if applicable, the La. Supreme Court. Provides that in such cases, the record shall be prepared and filed within 15 days of the granting of the order of appeal. Requires the court of appeal to hear the case within 30 days after the filing of the appellee's brief. Further 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.

Proposed law provides that if an appeal stays the district court's judgment foreclosing property, the district court's judgment is stayed only as to the property that is the subject of that appeal. Provides that the district court's judgment foreclosing other property that is not the subject of that appeal is not stayed. Requires a person appealing the judgment to pay to the authority any taxes, interest, penalties, and fees due on the property and to provide notice of the appeal to the authority within 21 days after the district court's judgment is effective. Provides that if the district court's judgment foreclosing the property is affirmed on appeal, the amount determined to be due shall be refunded to the person who appealed the judgment. Provides that if the district court's judgment foreclosing the property is reversed or modified on appeal, the authority shall refund the amount determined to be due to the person who appealed the judgment, if any, and forward the balance to the appropriate taxing jurisdictions in accordance with the order of the court of appeals.

Proposed law provides that it is the intent of the legislature that the provisions of proposed law relating to the expedited quiet title and foreclosure of property by the authority satisfy the minimum requirements of due process required under the state constitution and the U.S. Constitution. Provides that the provisions do not create new rights beyond those required under the state constitution or the U.S. Constitution. Provides that the failure of the authority to follow a requirement of proposed law shall not be construed to create a claim or cause of action against the authority unless the minimum requirements of due process accorded under the state constitution or the U.S. Constitution are violated.

(Adds R.S. 33:4720.301)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Municipal, Parochial and Cultural Affairs to the original bill:

1. Remove authority for the authority to acquire property by expropriation or any means other than gift, grant, purchase, or lease.

The House Floor Amendments to the engrossed bill:

1. Remove authority for the authority to levy sales and use and ad valorem taxes.
2. Remove provisions relative to the authority for the authority to issue bonds.
3. Remove provision that the authority's bid on property at a tax sale took priority over all other bids except those of a conventional mortgage holder.
4. Relative to quiet title and foreclosure actions, remove requirement that the authority's petition for title be a request for title without right of redemption.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Local and Municipal Affairs to the reengrossed bill

1. Make technical corrections.