

BILL ANALYSIS

C.S.S.B. 284
By: Lucio
Urban Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In 1995, the 74th Texas Legislature established the Texas State Affordable Housing Corporation (TSAHC) as a self-sustaining non-profit entity to facilitate the provision of affordable housing for low income Texans. Since April 2001, the Corporation has issued \$487 million in tax-exempt mortgage revenue bonds to finance more than 7,700 multifamily affordable housing units. The bonds are payable solely from the rental income of the property, without any obligation on behalf of the State to repay the bonds. In addition, the Corporation offers grants for down payment and closing cost assistance to eligible Texas educators.

TSAHC underwent a Sunset review in 2001. The 77th Legislature continued TSAHC for two years, rather than the standard 12 years, and required the Sunset Commission to evaluate TSAHC's new business focus. As proposed, S.B. 284 continues TSAHC until September 1, 2009, extends the Teacher's Home Loan Program to apply to all professional educators, gives a portion of the state ceiling to TSHAC for the issuance of qualified residential rental project bonds, and requires TSAHC to adopt a minimum dollar-for-dollar public benefit requirement for recipients of 501(c)(3) bonds.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

SECTION BY SECTION ANALYSIS

- SECTION 1. Amends Section 1372.0221, Government Code, to expand the scope of the teacher's home loan program ("the program") to all professional educators, as defined in the bill. In addition, this section adds language specifying that the portion of the ceiling reserved for the program is reserved until August 1 of each year.
- SECTION 2. Amends Section 1372.023(b), Government Code, to change the reservation date of the portion of the state ceiling reserved for the program from August 15 to August 1 of each year. In addition, this section changes the amount of the ceiling reserved for the program from one-fourth to one-fifth of the state ceiling.
- SECTION 3. Amends Section 1372.0231, Government Code, to change the reservation date of the portion of the state ceiling reserved for allocations to issuers of qualified residential rental project bonds from August 15 to August 1 of each year. In addition, this section reduces by five percent each, allocations to the Texas Department of Housing and Community Affairs ("the Department") and housing finance corporations to dedicate ten percent to the Texas State Affordable Housing Corporation ("the Corporation") for qualified residential rental project bonds and for allocations at the direction of the Corporation board, subject to review and approval by the Corporation board.
- SECTION 4. Amends Section 2306.057, Government Code, to add a requirement that the Department board consider relevant compliance information in the department's database created in Government Code, Section 2306.081, including information provided by the Corporation.

- SECTION 5. Amends Section 2306.0721, Government Code, to add a requirement that the Department include the Corporation's plan (created under the new Government Code, Section 2306.565, below) to meet the state's most pressing housing needs in the Department's resource allocation plan portion of the State Low Income Housing Plan ("SLIHP"). It also adds a requirement that the Department include the Corporation's projects in the estimate and analysis of the housing supply in each uniform state service region under the SLIHP.
- SECTION 6. Amends Section 2306.0722(b), Government Code, to add a requirement that the Department to share the latest needs assessment information with the Corporation.
- SECTION 7. Amends Section 2306.081, Government Code, to require the Department to include project compliance information provided by the Corporation in its project compliance database, and to allow the Corporation to access database information.
- SECTION 8. Amends Section 2306.5521, Government Code, to extend the Corporation until September 1, 2009. Sunset provision.
- SECTION 9. Amends Sections 2306.553(a) and (b), Government Code, to make conforming changes to the name of the program, extend the primary purpose of the Corporation to include issuing qualified 501(c)(3) bonds and qualified residential rental project bonds.
- SECTION 10. Amends Government Code, Section 2306.554 to allow for Corporation board member reimbursement of travel expenses to the same extent provided by the General Appropriations Act for a member of a state board. Also requires that appointment to the Corporation's board of directors be made without regard to the appointee's race, color, disability, sex, religion, age, or national origin.
- SECTION 11. Amends Subchapter Y, Chapter 2306, Government Code, by adding Sections 2306.5541, 2306.5542, and 2306.5543.
Section 2306.5541 establishes staggered six-year terms for Corporation board members, with the terms of one or two members expiring on February 1 of each odd-numbered year.
Section 2306.5542 specifies grounds for removal of Corporation board members. Provides that validity of a board action is not affected by the fact that it is taken when a ground for removal of a board member exists. In addition, it provides a procedure for notification of the governor and attorney general when a potential ground for removal exists.
Section 2306.5543 requires a Corporation board member to complete a specified training program before taking office as a board member, and provides for reimbursement of travel expenses for such program.
- SECTION 12. Amends Section 2306.5545, Government Code, to add a conflict of interest provision. Provides that a person may not be a member of the Corporation's board of directors, nor serve as a Corporation executive, administrative or professional employee if they or their spouse are an officer, employee, or paid consultant of a Texas trade association in the field of banking, real estate, housing development, or housing construction. Defines the phrase "Texas trade association."
- SECTION 13. Amends Subchapter Y, Chapter 2306, Government Code, by adding Sections 2306.5546, 2306.5547, and 2306.5548.
Section 2306.5546 requires that information on standards of conduct be provided by the Corporation president or designee to members of the board and Corporation's employees.
Section 2306.5547 requires the Corporation's board to develop and implement policies that clearly separate the functions of the board and Corporation staff.
Section 2306.5548 requires the Corporation president or designee to develop and

maintain an equal employment opportunity policy including, at a minimum, personnel policies and an analysis of the extent to which the Corporation's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance. Provides that the statement must be updated annually and filed with the governor's office.

SECTION 14. Amends the heading to Section 2606.562, Government Code, to conform with the changed name of the program.

SECTION 15. Amends Section 2306.562(a)-(d) and (f), Government Code, to define "professional educator," makes conforming changes to the name of the program, deletes the definition of "teacher," deletes the residence and term of employment requirements for program eligibility, and adds a requirement that the professional educator applicant be employed by a school district on the application date.

SECTION 16. Amends Subchapter Y, Chapter 2306, Government Code, by adding Sections 2306.563, 2306.564, 2306.565, 2306.566, 2306.567, 2306.568, and 2306.569 as follows:

Section 2306.563 requires the Corporation to implement a minimum dollar-for-dollar public benefit requirement for recipients of 501(c)(3) bonds. This requires borrowers to invest at least one dollar in rent reduction, capital improvement projects, or social, educational, or economic development services benefitting income-eligible persons for every dollar of abated property tax revenue that they receive. These investments must be made in the county in which the property is located, and the Corporation and the organization may determine on a case-by-case basis specific projects to be invested in. Provides that Payments In Lieu Of Taxes (PILOTs) reduce dollar-for-dollar the public benefit requirement. Requires the Corporation to adopt guidelines for public benefit projects and services.

Section 2306.564 requires the Corporation to annually review 501(c)(3) bond issuance policies, including the public benefit requirement in Section 2306.563 above. Provides for publication and comment in the Texas Register of proposed revisions, as well as board approval of changes.

Section 2306.565 requires the Corporation to direct the Bond Review Board on the issuance of the portion of the state ceiling set aside for the Corporation. The Corporation's board is required to adopt guidelines for identifying target areas for the allocation of qualified residential project bond funds. This section requires the Corporation to research the state's strategic housing needs by coordinating with the Department and using information from local and regional housing organizations. The Corporation's board is required to adopt criteria governing the method of solicitation of proposals for housing developments in targeted areas, which shall be included in requests for proposals, which must comply with federal requirements. It requires the board to develop scoring criteria for applications; specific criteria to be included are specified. Requires public hearings on housing developments identified under the scoring criteria, with Corporation staff to prepare final evaluations and recommendations to the board following the hearings and incorporating public comments received at the hearings. The board must consider the staff recommendation and make a final decision on an application, at which time they shall inform the Bond Review Board of their decision. Requires the Corporation to pay the Department a reasonable fee for underwriting an application for low income tax credits. Provides that the Corporation's decisions under this section are not subject to Section 1372.0321, Government Code.

Section 2306.566 requires coordination between the Department and the Corporation in the development of the SLIHP. The Corporation is required to review needs

assessment information provided by the Department, develop a plan to meet the state's most pressing housing needs, and provide this plan to the Department for incorporation into the SLIHP. This plan must specifically address rural and underserved areas. Section 2306.567 requires the Corporation to provide to the Department electronic copies of all compliance information it compiles, as well as consider any relevant compliance information in the Department's compliance database created under Section 2306.081 above.

Section 2306.568 requires the Corporation to maintain a file on any written complaint filed with it and specifies the content of the file. It requires the Corporation to provide parties to a complaint with a copy of the Corporation's complaint investigation and resolution policies and procedures. Additionally, it requires the Corporation to notify parties to a complaint quarterly until final disposition, the status of the investigation unless notice would jeopardize an undercover investigation.

Section 2306.569 requires the Corporation's board to develop and implement a technology policy which ensures easy public access to Corporation information and services as well as interaction with the Corporation on the Internet. It requires the policy to be cost effective and developed through the corporation's planning processes.

SECTION 17. Amends Section 6, Chapter 1194, Acts of the 77th Legislature, Regular Session, 2001, to delete language giving priority to teachers residing or teaching in an area with a teacher shortage. Makes a conforming name change to the program.

SECTION 18. Sets forth that changes made by the bill to qualified mortgage bond ceiling set asides and qualified residential rental project bonds apply only in a year beginning on or after January 1, 2004. Requires the governor to make five appointments to the Corporation's board of directors as soon as possible on or after September 1, 2003. One of these appointments will have a term expiring February 1, 2005; two appointments will have terms expiring February 1, 2007; and two appointment will have terms expiring February 1, 2009. Abolishes, at the time that three or more of the new directors qualify for office, all of the offices of the board of directors of the Corporation serving on September 1, 2003. Gives the newly appointed directors until September 1, 2004 to comply with the training requirement added by the bill.

SECTION 19. Specifies that Government Code, Section 2306.567, Record of Complaints, added by this bill, applies only to a complaint filed with the Corporation's board of directors on or after September 1, 2003.

SECTION 20. Effective date.

EFFECTIVE DATE: September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute modifies the original by extending the scope of and renames the teacher's home loan program to all professional educators, as defined in SECTION 15. It also changes the reservation date for the portion of the state ceiling reserved to the Corporation from August 15, to August 1, changes the amount of the reservation from one-fourth to one fifth of the state ceiling, and adjusts the allocations of the ceiling between the Department and the Corporation. The substitute also extends the primary purpose of the Corporation to include issuing qualified 501(c)(3) bonds and qualified residential rental project bonds, adds a definition of professional educator, deletes the residency and term of employment requirements for program eligibility, and adds a requirement that an applicant be employed by a school district on the date of application for participation in the program. The substitute adds a Section detailing Corporation powers and responsibilities in regard to the issuance of qualified residential rental project bonds and the allocation of bond funds. It deletes the original's requirement that Corporation projects and programs not duplicate those performed by other housing organizations.

The substitute deletes language giving priority to teachers residing or teaching in an area with a teacher shortage, and sets forth that changes made by the bill to qualified mortgage bond ceiling set asides and qualified residential rental project bonds apply only in a year beginning on or after January 1, 2004.