

BILL ANALYSIS

C.S.S.B. 1341
By: Madla
Urban Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

While the Texas Department of Housing and Community Affairs (TDHCA) is funding affordable housing and assisting many communities, severe problems exist in TDHCA's ability to interpret the will of the legislature and in the department's ability to allocate resources to meet all of the state's most pressing housing needs.

C.S.S.B. 1341 provides clarification to the agency to allow it to focus on providing affordable housing and partnering with housing sponsors. C.S.S.B. 1341 also focuses on the allocation processes and the computation of the regional allocation formula to allow for the department to address housing needs across the state without overreaching its authority.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly delegated to the Texas Department of Housing and Community Affairs (TDHCA) in: SECTION 18; SECTION 43; SECTION 54; SECTION 59; AND SECTION 75 of this bill. Rulemaking to the Texas Department of Housing and Community Affairs and to the TDHCA Governing Board is amended in: SECTION 7; SECTION 16; SECTION 18; SECTION 34; SECTION 35; SECTION 74. SECTION 51 of the substitute allows the Texas Department of Housing and Community Affairs to adopt rules. In the substitute, SECTION 21 and SECTION 56 regulate the adoption of rules by the Texas Department of Housing and Community Affairs and TDHCA Governing Board.

ANALYSIS

General Provisions

C.S.S.B. 1341 directs the Board of the Texas Department of Housing and Community Affairs (TDHCA) to maintain meeting transcripts and transcript tapes in their entirety; maintain printed and electronic copies of the verbatim transcription of previous board meetings and make those copies available upon request to public; requires that material relevant to an award decision be made available not later than the seventh day before a board meeting; and requires that any other materials relevant to a matter proposed for discussion be made available to the public not later than the third day before the meeting (SECTION 6, Sec. 2306.032(b) and (d), Government Code). The bill adds that grounds exist for removal from the TDHCA board, a member who is indicted for a criminal felony offense related to their official duties or otherwise engages in criminal behavior (SECTION 9, Sec. 2306.033(a), Government Code). The bill transfers Sec. 2306.256, Government Code to Subchapter HH, Sec. 2306.8015 Government Code (SECTION 42, Sec. 2306.256, Government Code transferred to Subchapter HH, Sec. 2306.8015, Government Code). The bill grants the manufactured housing division director the power to remove staff and direct the work of the staff (SECTION 48, Sec. 2306.6015, Government Code). The bill directs the Office of Rural Community Affairs (ORCA) to enter into a memorandum of understanding with the TDHCA to permit the department to receive and administer the CDBG funds that are allocated specifically for the operation of the colonia self-help centers; requires the ORCA to continue to fund the border field offices and requires the TDHCA to exercise oversight and supervision over those field offices and staff (SECTION 83). The measure makes conforming changes to the Water Code to reflect the repeal of the Colonia Initiative Advisory Committee [SECTION 85, Sec. 6.060(d), Water Code].

Housing Policy

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C.S.S.B. 1341 directs and focuses the Texas Department of Housing and Community Affairs (TDHCA) to provide for housing services and housing needs for Texans with modest income by providing necessary financing for housing while acknowledging the importance of preserving the existing character of established neighborhoods. The bill clarifies that the purposes of the TDHCA include assisting in the preservation of government-assisted housing; assisting the governor and legislature in coordinating federal and state housing programs; informing state officials and the public of the housing needs of the state; and, specifying that the TDHCA will serve strictly as the lead agency in addressing problems of the homeless as they relate to housing; and, specifying that the TDHCA will serve as a source of information to the state regarding state affordable housing resources available to local communities (Sec. 2306.001, Government Code). The bill clarifies the position of the legislature that there is a shortage of affordable, sanitary, and safe housing in all regions of the state and that this condition exacerbates the difficulties of the poor. The bill also clarifies the position of the legislature that minimizing administrative costs and simplifying the financing system will maximize resources for affordable housing. C.S.S.B. 1341 enhances the self-sustaining nature of the housing trust fund by requiring the TDHCA to structure its award process to encourage loans instead of grants (SECTION 35, Sec. 2306.202-2306.203, Government Code). The bill provides that financial feasibility be the highest scoring criterion for the tax credit program [SECTION 59, Sec. 2306.6710(c), Government Code]. The measure also provides that, if the owner of the development is required by the first lien lender to prepare or obtain a physical needs assessment, the owner of the development shall provide a copy of the assessment when available to the department upon request. The measure also limits the TDHCA from imposing additional requirements regarding physical needs assessments or reserve accounts, if those items are already required by the first lien lender (SECTION 34, Sec. 2306.186).

Regional Allocation Formula

C.S.S.B. 1341 directs the Texas Department of Housing and Community Affairs (TDHCA) to alleviate under funding in service regions 9, 13, and 11, by allocating an additional \$2 million, \$1 million, and \$750,000, respectively, for calendar years 2006 and 2007 (SECTION 18, Sec. 2306.111(d-4), Government Code). The bill adds definition for “Historically underserved urban area” and accounts for the allocation to these areas in the regional allocation formula (SECTION 18, Sec. 2306.111, Government Code; SECTION 23, Sec. 2306.1116, Government Code). The measure requires the TDHCA, for purposes of formulating the availability of housing resources, to consider the dollar amount of multifamily tax exempt bonds, HOME funds used for multifamily housing development construction or rehabilitation, and financing provided by or through any governmental entity for construction or rehabilitation of multifamily housing developments that are restricted to individuals and families who earn 60 percent of area median income, excluding financing involved in the transfer of ownership of an existing development (SECTION 18, 2306.111(d), Government Code). The bill also adds to the Annual Low Income Housing Report a description of the amount of funds and tax credits allocated to urban and rural areas of each state service region in the preceding year for each federal or state housing or community service program, as well as strategies for meeting the housing needs of rural and historically underserved urban areas (SECTION 13, Sec. 2306.0721(c), Government Code).

Underwriting

C.S.S.B. 1341 requires that underwriting standards adopted by the Texas Department of Housing and Community Affairs (TDHCA) for loans made under its single family and multifamily programs be based on industry norms and standards (SECTION 27, Sec. 2306.148, Government Code). C.S.S.B. 1341 requires that the TDHCA, in considering the financial feasibility of a development, shall strictly consider the sources and uses of funds and the total financing planned for the development; any proceeds or receipts expected to be generated by reason of tax benefits; the percentage of the housing tax credit dollar amount used for development costs other than the cost of intermediaries; and the reasonableness of the developmental and operational costs of the development (SECTION 59, Sec. 2306.6710(jj), Government Code). The bill requires the TDHCA to implement a system of evaluating the financial aspects of housing tax credit developments that recognizes that those developments do not need, and are not subject to, the financial underwriting necessary for a mortgage loan transaction that is the same as when the TDHCA has a financial interest in the loan. The bill requires that, in evaluating housing tax

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credit developments, the TDHCA shall ensure only that the low income housing tax credit dollars allocated to a development do not exceed the amount necessary for the financial feasibility of the development and its viability throughout the first 15 years of operation (SECTION 59, Sec. 2306.6710(hh), Government Code). The measure also requires that any certification of costs must be accompanied by an unqualified audit of the actual housing development costs prepared by a certified public accountant in accordance with accepted standards; clarifies that housing development costs means the total of all reasonable and necessary costs incurred; and also clarifies that a housing development cost includes a developer fee (SECTION 46, Sec. 2306.271).

Fair Housing Act, Disability, and Compliance

C.S.S.B. 1341 requires the Texas Department of Housing and Community Affairs (TDHCA) to periodically monitor each project's compliance based upon the amount of direct financial risk related to either the applicable lienhold interest of the TDHCA, or the minimum level of any federally required compliance review, unless the TDHCA determines reasonable justification for a higher level of monitoring; and allowing that the cost of compliance monitoring for each project for 2006 may not exceed 25 dollars per each low income unit required by the land use restriction agreement, except for affordable housing disposition properties; and monitoring each project's construction phase through periodic review of the construction inspection reports submitted by the project architect (SECTION 15, Section 2306.081(a), Government Code). C.S.S.B. 1341 clarifies that the TDHCA may provide assistance through a housing program only to an applicant who certifies the applicant's compliance with any applicable state and federal fair housing law; requires the board to adopt rules that require the TDHCA to obtain annual information necessary to enable the TDHCA to comply with state and federal reporting requirements (SECTION 43, Sec. 2306.257, Government Code). The bill requires a tax credit development, through threshold, to provide certification of compliance with the appropriate accessibility standards required under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), and specified under 24 C.F.R. Part 8, Subpart C, to the same extent required for developments receiving federal financial assistance and the appropriate accessibility requirements adopted by the Texas Department of Licensing and Regulation under its Texas Accessibility Standards; adds a certification that the applicant has no final unresolved findings of state or federal fair housing law violations (SECTION 54, Sec. 2306.67042, Government Code); and extends the disbarment period for a minimum of five years from participation in the low income housing tax credit program for the failure to comply with any condition imposed by the TDHCA in connection with the program (SECTION 69, Sec. 2306.6721, Government Code).

Local Community Input

C.S.S.B. 1341 provides for a neighborhood voice in state housing policy by allowing for the consideration of at least one Texas Department of Housing and Community Affairs (TDHCA) Board member with experience as a member or leader of a neighborhood association (SECTION 5, Sec. 2306.027). The bill defines neighborhood associations as an organization of persons living near one another within the organization's defined boundaries and that has a primary purpose of working to maintain or improve the general welfare of the neighborhood. Neighborhood associations include a homeowners' association, tenants' association, including a residents' council, or a property owners' association. Neighborhood associations does not include a broader based community organization; an organization composed of only board members of the organization; a chamber of commerce; a community development corporation; a school related organization; the Lions, Rotary, Kiwanis, and similar organizations; Habitat for Humanity; Boys and Girls Clubs; charities; public housing authorities; or any governmental entity (SECTION 3, Sec. 2306.004(23-a), Government Code). The bill requires that written statements of support or opposition from neighborhood associations that encompass the same elementary school zone as the proposed development and that are on record with the TDHCA (or the municipality or county containing the development) be the second highest point award for scoring tax credit applications (SECTION 59, Sec. 2306.6710(e), Government Code).

Elected Official Input and Oversight

C.S.S.B. 1341 allows the Governor increased latitude to remove the director of the Texas Department of Housing and Community Affairs (TDHCA) and requires the board to employ a

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new director (SECTION 8, Sec. 2306.036(b), Government Code). C.S.S.B. 1341 requires that the TDHCA prepare a report, for inclusion in the legislative appropriations request, detailing the fees received, on a cash basis, for each activity administered by the TDHCA during each of the three preceding years and an explanation of any projected increase or decrease of three percent or more in fees estimated for the operating budget, as compared to the fees received in the most recent budget year (SECTION 11, Sec. 2306.270, Government Code). The substitute requires the TDHCA liaison to provide neutral periodic status reports to the members of the legislature who represent the community containing the development described in the application, requiring certain information be provided and providing that the liaison respond to questions from legislators within five days (SECTION 23, Sec. 2306.1115, Government Code). C.S.S.B. 1341 provides that written statements of support or opposition from state elected official be the sixth highest scoring criterion in the scoring of tax credit applications. The bill provides that the letters be received 30 days before the board first meets to consider allocations; that a single letter of support from a state representative or state senator count as 10 points and that letters of support from both state offices count as 14 points; that a single letter of opposition from either official count as a 10-point deduction and that letters of opposition from both state offices count as a 25-point deduction; and if both state offices are contacted but no letters either in support or opposition are received, the application will receive seven total points (SECTION 59, Sec. 2306.6710(n), Government Code).

Rural Development

C.S.S.B. 1341 defines “Rural area” as an area that is outside the boundaries of a primary metropolitan statistical area or a metropolitan statistical area; or within the boundaries of a primary metropolitan statistical area or a metropolitan statistical area, if the statistical area has a population of 25,000 or less and does not share a boundary with an urban area; or in an area that is eligible for funding by the Rural Housing Service of the United States Department of Agriculture (SECTION 3, Sec. 2306.004(28-a), Government Code). The bill requires the Texas Department of Housing and Community Affairs (TDHCA) to set aside five percent of the HOME funds, reserved for the benefit of small cities and rural areas, for disabled persons living in those areas, rather than in urban areas. The measure requires the TDHCA to annually use \$10 million of the HOME Funds, reserved for the benefit of small cities and rural areas, for multifamily housing construction or rehabilitation in a cycle open to both for-profit and non-profit providers of affordable housing; provides that these funds may be used outside of small city and rural areas if an insufficient number of financially feasible applications for housing for persons with a disability are received during the first 120 days (SECTION 18, Sec. 2306.111(c-3), Government Code). If it is determined that there is less than \$5 million in housing trust funds in a year to allocate, the bill allows the TDHCA to allocate the housing trust funds without dividing the funds between urban and rural, allowing that each region’s first award of funds go to the highest scoring rural application (SECTION 18, Sec. 2306.111(d-2), Government Code). The bill establishes a five-percent rural set aside, within each region, in the tax credit program for developments that are financed through the Texas Rural Development Office of the United States Department of Agriculture and that do not exceed 48 units for new construction, or any size if rehabilitation is involved (SECTION 18, Sec. 2306.111(d-6), Government Code). The bill requires that an application for housing tax credits from funds available for rural areas must be limited to the rehabilitation of a development of any size; or the development of a new construction development that contains not more than 76 units. The bill also requires that a new construction development that contains more than 76 units and is located in a rural area is eligible only for funds available for urban areas, including funds available for historically underserved urban areas, regardless of the development's location (SECTION 52, Sec. 2306.67035, Government Code).

Appeals and Alternative Dispute Resolution

C.S.S.B. 1341 requires the Texas Department of Housing and Community Affairs (TDHCA) board to adopt rules outlining a timely and meaningful formal appeals process, including the use of an alternative dispute resolution process (SECTION 7, Sec. 2306.0321(a), Government Code). The bill also requires the TDHCA to implement timely and practical alternative dispute resolution procedures for disputes that are under the TDHCA’s jurisdiction and are otherwise eligible for appeal. The measure requires that the procedures must be binding on the TDHCA for adverse decisions other than an allocation of tax credits, a development financed through the

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private activity bond program or tax credits, the community services block grant program, or an employee dispute (SECTION 16, Sec. 2306.082, Government Code). The bill prohibits the TDHCA from adopting rules that impose ex parte rules on, or otherwise restrict communications with, any person other than a TDHCA board member (SECTION 21, Section 2306.1113, Government Code). The bill allows an applicant to appeal a decision made by the TDHCA regarding threshold and scoring in the tax credit program. The bill allows for an applicant to request alternative dispute resolution if not satisfied with the appeal process; it allows the TDHCA to contract with the State Office of Administrative Hearings to provide alternative dispute resolution but not binding arbitration; and requires that alternative dispute resolution run concurrently with an appeal to the TDHCA board. If recommended by the alternative dispute resolution process, it allows the TDHCA board to examine information other than the application; requires the TDHCA board to consider the result of any alternative dispute resolution and any recommendations made to the TDHCA board as a result; clarifies that the decision of the TDHCA board is a final administrative decision subject to judicial review; and it requires the TDHCA to award the applicant an appropriate forward commitment of tax credits for the next application round if a decision of the board or department staff denying an application for tax credits is reversed on appeal and the application would have been recommended for an award on the basis of factors other than those rejected on appeal (SECTION 63, Sec. 2306.6715, Government Code).

Governing Board

C.S.S.B. 1341 prohibits from Texas Department of Housing and Community Affairs (TDHCA) board consideration anyone who owns any interest regulated by or receiving money from the TDHCA; requires TDHCA board members to publicly disclose any ownership interest or involvement in multifamily housing or tax credit developments in Texas or another state (SECTION 5, Sec. 2306.027, Government Code). The measure allows for TDHCA board members to receive both a TDHCA training program that includes training about the administration of the appeals and alternative dispute resolution processes under this chapter, and an industry training program (if the industry training program is available at no cost to the TDHCA); and stipulates that the industry training program must be presented by an organization that regularly conducts seminars or training in certain fields of interest (SECTION 5, Sec. 2306.028, Government Code). The substitute allows the Governor increased latitude to remove the director of the TDHCA and requires the board to employ a new director (SECTION 8, Sec. 2306.036(b), Government Code). The measure establishes, as grounds for removal from the TDHCA board, the contingency that a (TDHCA) board member is indicted for a criminal felony offense related to the member's official duties, or if a member otherwise engages in criminal behavior (SECTION 9, Sec. 2306.033(a), Government Code). The measure prohibits a member of the TDHCA board from engaging in any communication regarding a project application with respect to any approval of that application or the resulting award of financial assistance (SECTION 21, Sec. 2306.1113, Government Code).

Funding of Colonia Self-Help Centers

C.S.S.B. 1341 requires the Office of Rural Community Affairs to enter into a memorandum of understanding with the Texas Department of Housing and Community Affairs to receive and administer the money that is specifically allocated to fund the operation of the colonia self-help centers, including administrative funds (SECTION 83, Sec. 487.354, Water Code).

Repealers

C.S.S.B. 1341 eliminates unnecessary reporting, unmandated Texas Department of Housing And Community Affairs (TDHCA) functions, extraneous reporting, or statutes that exceed federal laws; The bill eliminates unfunded mandates, TDHCA committees that supercede TDHCA authority, laws that circumvent private property rights, hinder the rightful access to equity, or otherwise unnecessarily interfere with non-governmental providers of affordable housing by repealing definitions in Sections 2306.004(31)-2306.004(33), Government Code as conforming changes, the Fair Housing Sponsor Report in Sec. 2306.0724, Government Code, internet fair housing sponsor and disability reports in Sections 2306.077(d) and (e), Government Code, information regarding housing for persons with disabilities in Sec. 2306.078, Government Code, the regional development coordinator in Sec. 2306.079, Government Code, removing the

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database information specialist position in Sec. 2306.080, Government Code, the project compliance database in Sec. 2306.081(c), Government Code, the executive award and review advisory committee in Sec. 2306.1112, Government Code, the 12-month sale notification requirement in Sec. 2306.185(f), Government Code, the “department assistance” definition in Sec. 2306.186(a)(2), Government Code as a conforming change, the property repair by TDHCA provision in Sec. 2306.186(f), Government Code, the property ownership program in Sec. 2306.251, Government Code, the compliance certification process in Sections 2306.257(b)-(d), Government Code, the research and information program in Sec. 2306.259, Government Code, the regulation of retirement of capital investment or redemption of stock provisions in Sec. 2306.270, Government Code, the termination of tenancy provision in Sec. 2306.313(c), Government Code, the continued occupancy on payment of surcharge provision in Sec. 2306.314, Government Code, the colonia initiatives advisory committee in Sec. 3206.590, Government Code, the rural area definition in Sec. 2306.6702(a)(12), Government Code as a conforming change, the TDHCA determination of modification reasonableness in Sec. 2306.6712(e), Government Code, the coordination with rural development agency provision in 2306.6723(c), Government Code, the energy saving requirements and scoring criteria in Sections 2306.6725(b) and (d), Government Code, the sale of certain low income housing tax credit property provision in Sec. 2306.6726, Government Code, the purchase of low income housing tax credit property by TDHCA section in Sec. 2306.6727, Government Code, the TDHCA policy and procedures regarding recipients of certain federal housing assistance in Sections 2306.6728(b) and (c), Government Code, the accessibility requirements in Sec. 2306.6730, Government Code, the minority owned business provisions in Sec. 2306.6734, Government Code, the preservation provisions in Sections 2306.803(b)-(d), Government Code, the residents’ preference priority in Sec. 2306.804(c), Government Code, the preservation incentives in Sections 2306.805(c)-(e), Government Code, the requirement that the TDHCA must obtain the approval of the executive director of the Office of Rural Community Affairs to make certain loan guarantees that are authorized by the community development block grant program in Sec. 2306.806 Government Code, the multifamily preservation provisions in Subchapter II, Chapter 2306, Government Code, and the expired needs assessment provisions in Subchapter JJ, Chapter 2306, Government Code.

EFFECTIVE DATE

Section 72 of this bill takes effect September 1, 2005 or immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution.

This Act takes effect September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

SECTION 1. The substitute adds changes to Section 2306.001, Government Code, directing and focusing the Texas Department of Housing and Community Affairs (TDHCA) to provide for housing services and housing needs for Texans with modest income by providing necessary financing for housing while acknowledging the importance of preserving the existing character of established neighborhoods. The original version of the bill did not amend Section 2306.001, Government Code.

SECTION 2. The substitute adds changes to Section 2306.002, Government Code, clarifying that the legislature finds that there is a shortage of affordable, sanitary, and safe housing in all regions of the state and that this condition exacerbates the difficulties of the poor; and that minimizing administrative costs and simplifying the financing system will maximize resources for affordable housing. The original version of the bill did not amend Section 2306.002, Government Code.

SECTION 3. The substitute adds changes to 2306.004, Government Code, clarifying that the definition of “Department” means TDHCA or any successor agency TDHCA; adding a limited liability company or other form of business entity to the definition of a “Housing Sponsor” and striking from the same definition individuals and families whose income exceeds moderate income levels in areas where 90 percent of the mortgage revenue bond issue is for individuals

and families of low or moderate income; adding definitions for “Historically underserved urban area” and “Grant”; deleting the definition for “Rural county”; adding, as conforming changes, definitions for “Economic submarket”, “Forgivable loan”, and “Geographic submarket”; and adding definitions for “Neighborhood association”, “Person with a disability”, “Rural area”, “Rural development”, and “Urban area”. The original version of the bill did not amend Section 2306.004, Government Code.

SECTION 4. The substitute adds changes to Section 2306.008(b), Government Code, by directing the TDHCA to support the preservation of affordable housing under Chapter 2306, Government Code rather than that under Sec. 2306.008, Government Code. The original version of the bill did not amend Section 2306.004, Government Code.

SECTION 5. The substitute adds changes to Sections 2306.027 and 2306.028, Government Code, allowing for the consideration of at least one TDHCA governing board member with experience as a member or leader of a neighborhood association; prohibiting from TDHCA governing board consideration anyone who owns any interest regulated by or receiving money from the TDHCA; requiring TDHCA governing board members to publicly disclose any ownership interest or involvement in multifamily housing or tax credit developments in Texas or another state; allowing for both a TDHCA training program that includes training about the administration of the appeals and alternative dispute resolution processes under this chapter, and an industry training program (if the industry training program is available at no cost to the TDHCA); and stipulating that the industry training program must be presented by an organization that regularly conducts seminars or training in the fields as listed. The original version of the bill did not amend Sections 2306.027 and 2306.028, Government Code.

SECTION 6. The substitute amends Section 2306.032(b) and (d), Government Code, requiring the TDHCA governing board to maintain meeting transcripts and transcript tapes in their entirety, and to maintain printed and electronic copies of the verbatim transcription of previous TDHCA governing board meetings and to make those copies available to the public on request. The original version of the bill amended Section 2306.032(c) and (d) and add (d-1) in SECTION 1 of the bill, requiring the TDHCA governing board to post only information relevant to award decisions and allowing the TDHCA an exception to post relevant information in the event of an unforeseen situation.

SECTION 7. The substitute adds changes to Section 2306.0321(a), Government Code, requiring the TDHCA governing board to adopt rules outlining a formal appeals process, including the use of an alternative dispute resolution process, in a timely and meaningful manner. The original version of the bill did not amend Section 2306.0321(a), Government Code.

SECTION 8. The substitute adds changes to Section 2306.036(b), Government Code, allowing the Governor increased latitude to remove the director of the TDHCA and require the governing board of TDHCA to employ a new director. The original version of the bill did not amend Section 2306.036(b), Government Code.

SECTION 9. The changes to Section 2306.033, Government Code, in SECTION 2 of the original version of the bill are reflected in SECTION 9 of the substitute version of the bill.

SECTION 10. The substitute adds changes to Section 2306.039(b), Government Code, adding business financial information, including social security numbers, taxpayer identification numbers, or bank account numbers, to the information that is prohibited from disclosure under Chapters 551 and 552. The original version of the bill amended Section 2306.039(b), Government Code in SECTION 3 bill allowing the TDHCA governing board to meet in executive session in certain circumstances. Those changes are reflected in the substitute version of the bill as well.

SECTION 11. The substitute adds changes to Section 2306.070, Government Code, requiring that the TDHCA prepare a report, for inclusion in the legislative appropriations request, detailing the fees received, on a cash basis, for each activity administered by the TDHCA during each of the three preceding years and an explanation of any projected increase or decrease of three percent or more in fees estimated for the operating budget, as compared to the fees received

in the most recent budget year. The original version of the bill did not amend Section 2306.070, Government Code.

SECTION 12. The substitute adds changes to Section 2306.072(c), Government Code, restricting the items that are to be included in the Annual Low Income Housing Report to those that are required by state and federal law. The original version of the bill did not amend Section 2306.072(c), Government Code.

SECTION 13. The substitute adds changes to Section 2306.0721(c), Government Code, adding to the Annual Low Income Housing Report a description of the amount of funds and tax credits allocated to urban and rural areas of each state service region in the preceding year for each federal or state housing program, as well as strategies for meeting the housing needs of rural and historically underserved urban areas; and the regional allocation formula and the allocation targets established under the formula. The original version of the bill did not amend Section 2306.071(c), Government Code.

SECTION 14. The substitute adds changes to Section 2306.0722, Government Code, by removing the regional planning commissions created under Chapter 391, Local Government Code, from the list of groups that the TDHCA must meet with prior to preparing the annual low income housing report; requiring the director to set priorities to assist, rather than help, the neediest individuals; and evaluating the success of publicly financed, rather than publicly supported, housing programs. The original version of the bill did not amend Section 2306.0722, Government Code.

SECTION 15. The substitute adds changes to Sections 2306.081(a) and (b), Government Code, requiring the department to periodically monitor each project's compliance based upon the amount of direct financial risk related to either the applicable lienhold interest of the TDHCA, or the minimum level of any federally required compliance review, unless the TDHCA determines reasonable justification for a higher level of monitoring; and allowing that the cost of compliance monitoring for each project for 2006 may not exceed 25 dollars per each low income unit required by the land use restriction agreement, except for affordable housing disposition properties; and monitoring each project's construction phase through periodic review of the construction inspection reports submitted by the project architect. The original version of the bill did not amend Section 2306.081(a) and (b), Government Code.

SECTION 16. The substitute adds changes to Section 2306.082, Government Code, requiring the TDHCA to implement timely and practical alternative dispute resolution procedures; and requiring that, for adverse decisions - other than an allocation of tax credits, or developments financed through the private activity bond program or an allocation of tax credits, or the community services block grant program, or employee disputes - the procedures must be binding on the TDHCA. The original version of the bill did not amend Section 2306.082, Government Code.

SECTION 17. The substitute amends Section 2306.093, Government Code, specifying that the TDHCA is required to have a goal to apply a minimum of 25 percent of the TDHCA community affairs division's total housing related funds towards persons of very low income. The original version of the bill did not amend Section 2306.093, Government Code.

SECTION 18. The substitute adds changes to Section 2306.111, subsections (a), (b), (d), (e), and (f), and adds subsections (c-3) and (d-2)-(d-7), Government Code, clarifying that the TDHCA's housing finance division must adopt a goal to apply a minimum of 25 percent of that division's total housing funds toward persons of extremely low and very low income; requiring the TDHCA to set aside five percent of the HOME funds, reserved for the benefit of small cities and rural areas, for disabled persons living in those areas, rather than in urban areas; requiring the department to annually use \$10 million of the HOME Funds, reserved for the benefit of small cities and rural areas, for multifamily housing construction or rehabilitation in a cycle open to both for- and non-profit providers of affordable housing; stipulating that, should a sufficient number of financially feasible applications not be received during the first 120 days of the application cycle, the funds shall be made available for other purposes under the program; and to allocate HOME funds, Housing Trust Funds, and tax credits to urban areas and historically underserved urban areas, in addition to rural areas, under the regional allocation formula;

requiring the TDHCA, for purposes of formulating the availability of housing resources, to consider the dollar amount of multifamily tax exempt bonds, HOME funds used for multifamily housing development construction or rehabilitation, and financing provided by or through any governmental entity for construction or rehabilitation of multifamily housing developments that are restricted to individuals and families who earn 60 percent of area median income, excluding financing involved in the transfer of ownership of an existing development; stipulating that, should an insufficient number of eligible applications be submitted, the unused funds or credits allocated to that region shall be utilized in urban areas and historically underserved urban areas, in addition to rural areas, in other regions; stipulating that, should the TDHCA determine that there is less than \$5 million in housing trust funds, the department may allocate the funds among the state service regions without dividing the funds between urban and rural areas; stipulating that, for each service region, the department must make the first award of housing trust funds to the applicant with the highest scoring rural application; requiring that the TDHCA, in administering tax credits, shall further subdivide the urban allocation in any service region that contains a historically underserved urban area based on the ratio in population between the total number of historically underserved urban areas within an urban area and the population of the urban area as a whole; directing the TDHCA to alleviate under funding in prior years in service regions nine, 13, and 11, by allocating an additional \$2 million, \$1 million, and \$750,000, respectively, for calendar years 2006 and 2007; clarifying that the TDHCA may utilize forward commitments of housing tax credits, if needed to rectify the under funding issue; requiring the department to allocate, from the funds set aside for at-risk developments under Section 2306.6714, five percent of a region's total amount of tax credits to developments that either do not exceed 48 units or are any size if rehabilitation is involved, and are financed through the Texas Rural Development Office; and directing the TDHCA to include the allocation targets established under the formula, as well as the amounts of funds and credits allocated, for urban and historically underserved urban areas, in addition to rural areas, in its annual low income housing report. The original version of the bill did not amend Section 2306.111, Government Code.

SECTION 19. The substitute amends Section 2306.111(c), Government Code, requiring the TDHCA to expend 100 percent of the HOME funds, reserved for the benefit of small cities and rural areas, for the benefit of those areas or for preservation of existing affordable housing that receives funding from the United States Department of Agriculture. The original version of the bill did not amend Section 2306.111(c), Government Code.

SECTION 20. The substitute adds changes to Section 2306.1111, Government Code, clarifying that a uniform application and funding cycle for HOME funds, housing trust funds, and tax credits, excludes private activity bond allocations; requiring that the application acceptance periods must run concurrently; and requiring that applications requesting a grant of funds be considered after the first 120 days of an application and funding cycle. The original version of the bill did not amend Section 2306.1111, Government Code.

SECTION 21. The substitute adds changes to Section 2306.1113, Government Code, prohibiting a member of the TDHCA governing board from engaging in any communication regarding a project application; and prohibiting the TDHCA from adopting rules that impose ex parte rules on, or otherwise restrict communications with, any person other than a TDHCA governing board member. The original version of the bill did not amend Section 2306.1113, Government Code.

SECTION 22. The substitute adds changes to Section 2306.1114(a), Government Code, providing for notification by regular mail of the filing of an application with specific persons and organizations; providing that, for purposes of notification, neighborhood associations must be on record with the TDHCA, or the political subdivision containing the proposed site of the development, on December 1 of the preceding year; providing that the neighborhood association encompasses the same elementary school attendance zone, or a portion of the same zone. The original version of the bill did not amend Section 2306.1114(a), Government Code.

SECTION 23. The substitute adds new Section 2306.1115, Government Code and new Section 2306.1116, Government Code, requiring the TDHCA liaison to provide neutral periodic status reports to the members of the legislature who represent the community containing the development described in the application, requiring certain information be provided and providing that the liaison respond to questions from legislators within five days; and, identifying

historically underserved urban areas; and allowing for the future identification of these areas to be adjusted to conform to the definition or identification of metropolitan statistical areas. The original version of the bill did not add Section 2306.1115, Government Code and new Section 2306.1116, Government Code.

SECTION 24. The substitute adds changes to Section 2306.127, Government Code, stipulating that the TDHCA exclude the tax credit program, consistent with the regional allocation formula, from giving priority to certain areas of the state over other areas. The original version of the bill did not amend Section 2306.127, Government Code.

SECTION 25. The substitute adds changes to Section 2306.142(d), Government Code, designating rural areas, rather than rural counties, as the areas where the TDHCA will analyze certain factors affecting borrowers and establish a process for serving those areas. The original version of the bill did not amend Section 2306.142(d), Government Code.

SECTION 26. The substitute adds changes to Section 2306.147(a), Government Code, prohibiting the TDHCA from imposing greater fees on the tax credit program than the total cost of administering the program. The original version of the bill did not amend Section 2306.147(a), Government Code.

SECTION 27. The substitute adds changes to Section 2306.148, Government Code, requiring that the underwriting standards used by the TDHCA for loans made under its single family and multifamily programs be based on industry norms and standards. The original version of the bill did not amend Section 2306.148 Government Code.

SECTION 28. The substitute adds changes to Section 2306.150, Government Code, stipulating that the TDHCA will adopt property standards for developments financed or acquired with bond proceeds. The original version of the bill did not amend Section 2306.147(a), Government Code.

SECTION 29. The substitute adds changes to Section 2306.171, Government Code, directing that the TDHCA will develop policies to increase the number of extremely low income people who benefit from housing finance division programs by matching the available financial assistance with any rental assistance operating subsidies available from other governmental sources, rather than require the department to provide matching funds to certain entities. The original version of the bill did not amend Section 2306.171, Government Code.

SECTION 30. The substitute adds changes to Section 2306.174, Government Code, to conform with repeal of Section 2306.251; limiting the TDHCA to six month time period to sell a foreclosed property to an entity that will pay ad valorem taxes on the development; and limiting the department to two years time to sell a foreclosed property. The original version of the bill did not amend Section 2306.174, Government Code.

SECTION 31. The substitute adds changes to Section 2306.183, Government Code, adding Historically Underserved Urban Areas to the list of areas where the TDHCA may adopt a strategy to ensure adequate housing and credit needs are adequately served. The original version of the bill did not amend Section 2306.174, Government Code.

SECTION 32. The substitute adds changes to Section 2306.185(a)-(e), Government Code, directing the department to adopt policies and procedures that ensure that affordable developments maintain rents equal to or below the maximum allowable amount for the specific housing program; specifying that the department shall ensure the benefits of all affordable rate rents are accurately assessed and considered; limiting the department to requiring that an affordable development maintain affordability levels for the minimum affordability period under the respective federal or state program that provides the financing; limiting the enforceability of the affordability restrictions to the TDHCA; requires the land use restriction agreement providing for enforcement to include the right of the prevailing party to recover reasonable attorney's fees; and makes changes limiting the long-term affordability restrictions to developments where the TDHCA is providing assistance in the form of a loan amount greater than 33 percent of the market value or a housing tax credit that provides more than 33 percent of the total development

costs of the development, or a grant. The original version of the bill did not amend Section 2306.185, Government Code.

SECTION 33. The substitute adds changes to Section 2306.186, subsections (a)(1) and (a)(4), Government Code, stipulating that a bank is authorized to do business in Texas under the mandatory deposits section, rather than a bank trustee. The original version of the bill did not amend Section 2306.186, Government Code.

SECTION 34. The substitute adds changes to Section 2306.186, subsections (b), (c), (d), (e), (h), (i), (j), and (l), Government Code, stipulating that if the TDHCA has provided mortgage loan funds and is the first lien lender with respect to any multifamily rental housing development, each owner who receives a mortgage loan shall establish a reserve account; eliminating the 25 unit threshold; non-substantive changes to delete obsolete year reference; stipulating that deposits into a reserve account shall continue until any change in ownership, rather than strictly an involuntary change; prohibits the TDHCA from imposing any additional physical needs assessment or reserve account requirements, unless the department is the first lien lender; and, requires an owner who is already required to prepare a physical needs assessment to provide it to the department upon request; stipulates that the TDHCA must contract with a third-party physical needs assessment to determine conformity with local health, safety, and building codes during each five-year period beginning after the 11th year that the department awards a mortgage loan that results in the TDHCA becoming the first lien lender; stipulating that the obligations of the owner under this section cease on the earliest of the dates under Subsection (c) and that the first lien lender shall maintain the reserve account; and providing that, if the TDHCA has previously imposed a reserve requirement on a development that is already required to have a reserve under any other provision of law, the TDHCA shall prepare an amendment to the land use restriction agreement removing the requirement. The original version of the bill did not amend Section 2306.186, Government Code.

SECTION 35. The substitute adds changes to Sections 2306.202 and 2306.203, Government Code, including for-profit organizations in the list of organizations to be assisted by the trust fund and eliminating the preference for nonprofit organizations; restructures the trust fund to be self-sustaining by encouraging loans instead of grants; requiring the TDHCA to schedule one application period for loan applications that is open concurrently with the tax credit application period and one application for grant applications that is open only if there is available money not allocated in the loan application period; and opening trust fund assistance to all housing sponsors for the purpose of developing housing; requiring the board to distribute trust fund resources under a competitive application; requiring that the applications be ranked based on a descending priority order point system that evaluates how low and very low people are served, how non-governmental funding sources are used based on a calculation of 1.5 persons per bedroom, whether certain state elected officials support the application, whether the proposal is for a loan instead of a grant, and other criteria established by the TDHCA; and requiring that developments funded by the trust fund remain affordable for the term of the loan or, if a grant has been awarded, for at least 30 years. The original version of the bill did not amend Sections 2306.202 and 2306.203, Government Code.

SECTION 36. The substitute adds changes to Section 2306.205(f), Government Code, requiring the Texas State Affordable Housing Corporation to transfer the 501(c)(3) bond program fee amounts to the TDHCA so that the TDHCA can discharge its duties under this subsection. The original version of the bill did not amend Section 2306.205(f), Government Code.

SECTION 37. The substitute adds changes to Section 2306.227, Government Code, allowing a mortgage loan to be prepaid at any time before maturity. The original version of the bill did not amend Section 2306.227, Government Code.

SECTION 38. The substitute adds changes to Section 2306.229, Government Code, requiring the TDHCA to obtain a mortgagee's title policy in the amount of the loan for each loan made for the development of multifamily housing with HOME funds; prohibiting the TDHCA from designating a specific title insurance company to provide the mortgagee title policy or requiring the borrower to provide the policy from a specific title company; and requiring the borrower to select the title insurance company to close the loan and to provide the mortgagee title policy. The original version of the bill did not amend Section 2306.229, Government Code.

SECTION 39. The substitute adds changes to Section 2306.252, subsections (a), (b), and (c), Government Code, requiring that the TDHCA fund the housing resource center with funds received from private activity bond program fees; clarifying the housing resource center's duties to providing general educational material to the public and eliminating non-production oriented information; and including for-profit housing sponsors in the list of organizations that will be provided information. The original version of the bill did not amend Section 2306.252, Government Code.

SECTION 40. The substitute adds changes to Section 2306.253(d), Government Code, allowing the TDHCA to spend fees on the homebuyer education program that are charged to persons who attend the program. The original version of the bill did not amend Section 2306.253(d), Government Code.

SECTION 41. The substitute adds changes to Sections 2306.254(b) and (d), Government Code, allowing the TDHCA to encourage, rather than require, tenant services in any multifamily development that are coordinated with similar state workforce development services and services that are provided by third parties at no cost to the residents; and eliminating the coordinator reporting requirement. The original version of the bill did not amend Section 2306.254, Government Code.

SECTION 42. The changes to Section 2306.256, Government Code, in SECTION 10 in the original version of the bill are reflected in SECTION 42 of the substitute version of the bill.

SECTION 43. The substitute adds changes to Section 2306.257(a), Government Code, and adds Subsection (a-1), Government Code, clarifying that the TDHCA may provide assistance only to an applicant who certifies compliance with any applicable state and federal fair housing laws; and requiring the board to adopt rules to enable the TDHCA to explicitly comply with state and federal fair housing laws reporting requirements. The original version of the bill did not amend Section 2306.257, Government Code.

SECTION 44. The substitute adds changes to Section 2306.268, Government Code, making conforming changes to Chapter 2306 in order to correspond with the changes in the bill. The original version of the bill did not amend Section 2306.268, Government Code.

SECTION 45. The substitute adds changes to Section 2306.269, Government Code, making the tenant selection standards by the TDHCA permissive rather than mandatory and eliminating the department's role in the manager selection; clarifying that a development shall be prohibited by the department from excluding people from admission to the development solely because they participate in the Section 8 voucher program; and requiring the TDHCA to prohibit a development from requiring people to have a monthly income of more than three times, rather than 2 ½ times, their share of the total monthly rent payable. The original version of the bill did not amend Section 2306.269, Government Code.

SECTION 46. The substitute adds changes to Sections 2306.271(b) and (d), Government Code, requiring that any certification of costs must be accompanied by an unqualified audit of the actual housing development costs prepared by a certified public accountant in accordance with accepted standards; clarifying that housing development costs means the total of all reasonable and necessary costs incurred; and clarifying that a housing development cost includes a developer fee. The original version of the bill did not amend Section 2306.271, Government Code.

SECTION 47. The substitute adds changes to Sections 2306.313(a) and (b), Government Code, allowing the housing sponsor to terminate, without TDHCA approval, tenants whose income exceeds the income level allowed if retaining them would violate the income limitation for the applicable housing program. The original version of the bill did not amend Section 2306.313(a), Government Code.

SECTION 48. The changes to Section 2306.6015, Government Code, in SECTION 12 of the original version of the bill are reflected in SECTION 48 of the substitute version of the bill.

SECTION 49. The substitute adds changes to Section 2306.6701, Government Code, requiring the TDHCA shall administer the tax credit program to maintain the state's supply of affordable units; and requiring the department to encourage the participation of for-profit organizations. The original version of the bill did not amend Section 2306.6701, Government Code.

SECTION 50. The substitute adds Sections 2306.6702(a), Subdivisions (5), (10), and (15), Government Code, and adds Subdivision (4-a), adding definition for area median gross household income; clarifying that an at-risk development has received housing assistance payment under project-based assistance authority under Section 8, for at least 10 percent of the development units; clarifying that an at-risk development is within two years of expiring affordability or has expired but is able to be reinstated; clarifying that the tax credit program's qualified allocation plan provide threshold and scoring criteria that are consistent with this chapter; and making conforming changes. The original version of the bill did not amend Section 2306.6702(a), Government Code.

SECTION 51. The substitute adds changes to Section 2306.6703, Government Code, adding a former or current member of the TDHCA's awards committee to the application ineligibility list; clarifying that a new construction development located one linear mile or less from a development that serves the same type of household as the new proposal is ineligible from being considered; clarifying that a development located in a county that has more than twice the state average of units per capita is ineligible unless the applicant obtains approval from the appropriate governing body and provides a written statement of support at least 30 days before the date the board first meets to consider allocations of tax credits; prohibiting an applicant who has a familial or financial relationship with a board member or employee of the TDHCA; excepting from the "one-linear mile" and "twice the state average" rules developments that are funded by federal HOPE VI or other similar funds received to assist in the same-site reconstruction or rehabilitation of distressed federally assisted housing, or with funds provided under Section 515; and allowing the department to promulgate rules to identify additional factors that make an application ineligible. The original version of the bill did not amend Section 2306.6703, Government Code.

SECTION 52. The substitute adds new Section 2306.67035, Government Code, requiring that an application for tax credits for rural areas must be for developments with not greater than 76 units, or, rehabilitation developments of any size; and requiring that a new construction development containing more than 76 units in a rural area is eligible only for urban area funds, including historically underserved urban areas. The original version of the bill did not add Section 2306.67035, Government Code.

SECTION 53. The substitute adds changes to Section 2306.6704, subsections (b-1), (c), (d), and adding Subsection (e), Government Code, requiring in the pre-application process to notify neighborhood associations that are on record with the TDHCA, municipality, or county, and that encompass the same elementary school zone, or a portion of the same zone as the development; eliminating school district superintendent pre-app notification requirement; conforming change to reflect threshold criteria in Sec. 2306.67042; allowing permissive ness in electronic application submission; and requiring the TDHCA to specify a date, not later than February 1, for filing a pre-application. The original version of the bill did not amend Section 2306.6704, Government Code.

SECTION 54. The substitute adds new Section 2306.67042, Government Code, establishing threshold criteria for the tax credit program. The original version of the bill did not add Section 2306.67042, Government Code.

SECTION 55. The substitute adds changes to Section 2306.6705, Government Code, prohibiting the TDHCA from superceding the general application requirements of this chapter; eliminating a description of an annuity proposal; restructuring the procedures if an occupied development is proposed for rehabilitation; and requiring in the application process to notify neighborhood associations that are on record with the TDHCA, municipality, or county, and that encompass the same elementary school zone, or a portion of the same zone as the development. The original version of the bill did not amend Section 2306.6705, Government Code.

SECTION 56. The substitute adds new Section 2306.67053, Government Code, prohibiting the TDHCA from promulgating rules that mandate the unit mix or bedroom arrangement of any developments that are not reserved for seniors. The original version of the bill did not add Section 2306.67053, Government Code.

SECTION 57. The substitute adds changes to Section 2306.6706(b), Government Code, requiring a nonprofit organization to materially participate in the development and operation of the development throughout the compliance period in order to be eligible for the nonprofit set-aside. The original version of the bill did not amend Section 2306.6706(b), Government Code.

SECTION 58. The substitute adds changes to Section 2306.6709(b), Government Code, stipulating that the tax credit scoring of each development, in strict compliance with state and federal law, will be contained in the application log; making conforming changes. The original version of the bill did not amend Section 2306.6709(b), Government Code.

SECTION 59. The substitute adds changes to Section 2306.6710, Government Code, consolidating and establishing scoring criteria for the tax credit program. The original version of the bill did not amend Section 2306.6709(b), Government Code.

SECTION 60. The substitute adds changes to Sections 2306.6711(b) and (f), Government Code, and adds Subsection (g), Government Code, clarifies that the \$2 million cap applies to any person who is involved in the application or as a related party; providing exception to the cap on developments financed with tax exempt bonds; providing additional exceptions to the cap for a person who provides equity or qualified commercial financing for one or more developments, a development consultant who does not own an interest in the development and whose fee does not exceed \$150,000; allowing that credits may be allocated to more than one development in a single community in the same calendar year provided that the community is located in a county with a population of one million or less or the developments are for rehabilitation. Providing that the board may allocate to more than one new construction development in a single community located in a county with a population of more than one million only if the developments will be more than one linear mile apart or, allocated housing tax credits from credits available to the state for different calendar years. The original version of the bill did not amend Section 2306.6711, Government Code.

SECTION 61. The substitute adds changes to Sections 2306.6712(a)-(d), Government Code, adding that a proposed application modification subsequent to allocation by the board would have to adversely alter a development, in addition to materially alter, for there to be a formal written amendment to the application and for it to be evaluated; requiring that if the modification would not materially and adversely alter a development that the director shall approve the modification; requiring the board to approve an application amendment or to resolve the matter through alternative dispute resolution; adding to the list of material alterations a change in the income levels of the tenants served, and any modifications that would have affected the selection of the application; deleting from the list of material alterations a reduction of three percent or more in the square footage of the units or common areas and a modification of the residential density of a least five percent. The original version of the bill did not amend Section 2306.6712, Government Code.

SECTION 62. The substitute adds changes to Section 2306.6713(e), Government Code, prohibiting the director from refusing the transfer of a project that received HUB points to a development owner that is not a HUB, if the transfer occurs at least three years after the completion of the project. The original version of the bill did not amend Section 2306.6713(e), Government Code.

SECTION 63. The substitute adds changes to Section 2306.6715, subsections (a), (c), (d), and (e), Government Code, and adding Subsections (d-1), (d-2), and (f), Government Code, making conforming changes; allowing an applicant to request alternative dispute resolution in addition to making an appeal directly to the board; allowing the TDHCA to contract with the State Office of Administrative Hearings to provide alternative dispute resolution but not binding arbitration; requiring that alternative dispute resolution run concurrently with an appeal to the TDHCA governing board; if recommended by the alternative dispute resolution process, allowing the board to examine information other than the application; requiring the board to consider the

result of any alternative dispute resolution and any recommendations made to the TDHCA governing board as a result; clarifies that the decision of the governing board is a final administrative decision subject to judicial review; requires the TDHCA to award the applicant an appropriate forward commitment of tax credits for the next application round if the application would have been recommended for an award on the basis of factors other than those rejected. The original version of the bill did not amend Section 2306.6715, Government Code.

SECTION 64. The substitute adds changes to Section 2306.6716(a), Government Code, prohibits tax credit program fees from being excessive; requires the TDHCA to treat the total amount of all allocation or commitment fees as being earned and available for use in the year in which the fees were received. The original version of the bill did not amend Section 2306.6716(a), Government Code.

SECTION 65. The substitute adds changes to Section 2306.6717, subsections (a), (b), and (d), Government Code, making conforming changes; and requiring the TDHCA to treat financial statements as confidential and not to disclose them. The original version of the bill did not amend Section 2306.6717, Government Code.

SECTION 66. The substitute adds changes to Section 2306.6718(a), Government Code, and adds Subsection (e), specifying that the TDHCA, and not the applicant, shall provide written notice of a filing of an application to certain elected officials; and, requiring that the TDHCA notify members of the legislature at least seven days before the board considers action on an application. The original version of the bill did not amend Section 2306.6718, Government Code.

SECTION 67. The substitute adds changes to Section 2306.6719 (a), Government Code, and adds Subsection (c), Government Code, specifying that the TDHCA will monitor a development only if the development is not receiving federal assistance and is not already subject to monitoring by a federal agency; except for affordable housing disposition properties, prohibiting the cost of compliance monitoring for the year 2006 to not exceed \$25 for each low income unit required by the land use restriction agreement; allowing that, after the year 2006, the annual compliance fee may be increased to adjust for inflation. The original version of the bill did not amend Section 2306.6719, Government Code.

SECTION 68. The substitute adds changes to Section 2306.6720, Government Code, clarifying that each representation made by an applicant is enforceable only by the TDHCA, deleting the tenant enforcement provision. The original version of the bill did not amend Section 2306.6720, Government Code.

SECTION 69. The substitute adds changes to Section 2306.6721(d), Government Code, and adding Subsection (e), Government Code, extending the disbarment period for a minimum of five years and allowing for a person debarred to appeal using alternative dispute resolution. The original version of the bill did not amend Section 2306.6721, Government Code.

SECTION 70. The substitute adds changes to Section 2306.6722, Government Code, clarifying that tax credit developments must comply with development accessibility standards detailed in Section 504 to the same extent as required for developments receiving federal financial assistance. The original version of the bill did not amend Section 2306.6722, Government Code.

SECTION 71. The substitute adds changes to Section 2306.6723(a), Government Code, making conforming changes to other changes to Chapter 2306 made by this bill. The original version of the bill did not amend Section 2306.6723(a), Government Code.

SECTION 72. The substitute adds changes to Section 2306.6724, Government Code, adjusting the tax credit timeline and requiring specific actions if the governor rejects the qualified allocation plan. The original version of the bill did not amend Section 2306.6724, Government Code.

SECTION 73. The substitute adds changes to Sections 2306.6725(a) and (c), Government Code, clarifying that the tax credit scoring point system will be consistent with state and federal law. The original version of the bill did not amend Section 2306.6725, Government Code.

SECTION 74. The substitute adds changes to Section 2306.6728(a), Government Code, requiring that the TDHCA policy regarding Section 8 housing vouchers must provide admittance to the property for anyone whose Section 8 assistance is sufficient to allow that person to make the required rental payment and who meets other general criteria applicable to all tenants. The original version of the bill did not amend Section 2306.6728, Government Code.

SECTION 75. The substitute adds changes to Section 2306.6729, Government Code, requiring the TDHCA to implement by rule procedures that allow for the federal nonprofit set aside mandate to be satisfied if merit-based selection does not satisfy the federally mandated set aside. The original version of the bill did not amend Section 2306.6729, Government Code.

SECTION 76. The substitute adds changes to Section 2306.6731(a), Government Code, making conforming changes to changes made to Chapter 2306, Government Code in this bill. The original version of the bill did not amend Section 2306.6731, Government Code.

SECTION 77. The substitute adds changes to Section 2306.6733(a), Government Code, and adds Subsection (a-1), prohibiting a member of the TDHCA awards selection committee from representing any application before two years since the committee members' department services have ceased; prohibiting a member of the department awards selection committee from representing any application in which the committee member participated; prohibiting a member of the department awards selection committee from representing any application before a member of the legislature before two years since the committee members' department services have ceased; allowing for the revolving door provisions to be applied in the event that the department is restructured in any fashion. The original version of the bill did not amend Section 2306.6733, Government Code.

SECTION 78. The substitute adds new Section 2306.6735, Government Code, providing for the contingency that the federal law governing tax credits is changed or if any portion of state law is ruled to be, or becomes inconsistent with federal law. The original version of the bill did not add new Section 2306.6735, Government Code.

SECTION 79. The substitute adds changes to Section 2306.7581(a-1), Government Code, clarifying that the \$3 million owner-builder revolving loan fund is transferred solely from the housing trust fund. The original version of the bill did not amend Section 2306.7581, Government Code.

SECTION 80. The substitute adds changes to Section 2306.803, Government Code, by amending the heading of that section. The original version of the bill did not amend Section 2306.803, Government Code.

SECTION 81. The substitute adds changes to Section 2306.804(a) and (b), Government Code, making conforming changes; and, deleting loan guarantee loans as housing preservation incentive offered by the department. The original version of the bill did not amend Section 2306.804, Government Code.

SECTION 82. The substitute adds changes to Section 2306.805, Government Code, making conforming changes to changes made to Chapter 2306, Government Code in this bill. The changes made to Section 2306.805, Government Code in the original version of this bill reflected in SECTION 17 of that version are included in the substitute version of the bill.

SECTION 83. The changes to Section 487.354, Government Code, in SECTION 18 of the original version of the bill are reflected in SECTION 83 of the substitute version of the bill.

SECTION 84. The substitute adds changes to Section 1372.006(a), Government Code, making conforming changes to changes in Chapter 2306, Government Code, by this bill.

SECTION 85. The changes to Section 6.060(d), Water Code, in SECTION 19 of the original version of the bill are reflected in SECTION 85 of the substitute version of the bill.

SECTION 86. The substitute amends by repealing Sections 2306.004(31)-(33), 2306.0724, 2306.077(d) and (e), 2306.078, 2306.081(c), 2306.1112, 2306.185(f), 2306.186(a)(2), 2306.186(f), 2306.251, 2306.257(b)-(d), 2306.259, 2306.270, 2306.313(c), 2306.314, 2306.6702(a)(12), 2306.6712(e), 2306.6723(c), 2306.6725(b) and (d), 2306.6726, 2306.6727, 2306.6728(b) and (c), 2306.6730, 2306.6734, 2306.803(b)-(d), 2306.804(c), and 2306.805(c)-(e); and Subchapter II; and Subchapter JJ. The original version repealed Sections 2309.079, 2306.080, 2306.2561, 2306.590, 2306.6725, Subsection (c), Section 2306.805, and 2306.806, Government Code.

SECTION 87. The substitute adds an implementation clause providing for this act to prevail in the event that similar legislation cannot be harmonized. The clause was not in the original version of the bill.

SECTION 88. The substitute adds an implementation clause stipulating that the changes made by this Act apply only to applications submitted after the effective date of the act; and, providing that the department shall prepare and submit the qualified allocation plan for 2006 not later than September 2, 2005. The clause was not in the original version of the bill.

SECTION 89. The substitute adds an immediate effective date for SECTION 72 of this bill if the bill receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution, the Act taking effect September 1, 2005 if it does not receive the necessary vote.