

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 10, 2005

TO: Honorable Robert Talton, Chair, House Committee on Urban Affairs

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: HB1167 by Talton (Relating to the Texas Department of Housing and Community Affairs.),
Committee Report 1st House, Substituted

No significant fiscal implication to the State is anticipated.

The bill would amend the Texas Department of Housing and Community Affairs' (TDHCA) enabling statute in the Government Code and change the agency's Sunset Act date from September 1, 2011, to September 1, 2009.

The bill would amend Section 2306.002 to include as one of TDHCA's purposes, that the minimization of administrative costs and the simplification of the financing system would maximize the available resources for affordable housing. The bill would prohibit TDHCA from adopting rules that exceed or deviate from federal guidelines or impose compliance requirements or costs on local governments or applicants that are not expressly required by federal or state laws.

The bill would require TDHCA to use an alternative dispute resolution (ADR) process for the appeal of TDHCA board and agency decisions. The bill would require binding arbitration for adverse decisions for all programs other than the low-income housing tax credit program. The bill would authorize TDHCA to contract with the State Office of Administrative Hearings to provide ADR services. The bill would provide that if a denial of tax credits is reversed on appeal, TDHCA would be required to award the applicant a forward commitment for the next application round.

The bill would allow TDHCA to monitor projects periodically for compliance and only monitor construction through the review of inspection reports submitted by the project architects. The bill would require the level of monitoring for each project to be based on the amount of financial risk related to the applicable lien hold interest of TDHCA in the property or the minimum level of any federally required compliance review, unless TDHCA determines based on good cause that there is justification for higher level of monitoring. The bill would provide that, except for Affordable Housing Disposition Program properties subject to the Memorandum of Understanding with the Federal Deposit Insurance Corporation, the cost of compliance monitoring for a project may not exceed \$25 per unit each year, adjusted for inflation after 2006. The bill would authorize TDHCA to contract for monitoring services only if the construction of a development is not monitored by a federal agency that would provide TDHCA with construction inspection reports.

The bill would amend Section 2306.6710 to remove underwriting from the evaluation of applications and establish a point system for scoring development financial feasibility.

The bill would allow TDHCA's executive director to approve amendments to housing tax credit applications that are not materially adverse. The bill would require amendments involving material change to be submitted to the board for approval and allow the board to send the matter through the ADR process.

The bill would change the timeline for the preparation and submittal of the qualified allocation plan (QAP) and the date by which the Governor is required to take action on the QAP. The bill would

require TDHCA's board to adopt and submit immediately a modified QAP if the Governor rejects the original plan.

The bill would remove the requirement for TDHCA and the Office of Rural Community Affairs to implement jointly rural outreach, training, and capacity building efforts.

Based on the analysis by TDHCA, it is assumed the costs and duties associated with implementing the provisions of the bill could be absorbed within the agency's existing resources.

The bill, with the exception of SECTION 70, would take effect on September 1, 2005. SECTION 70 of the bill would take effect immediately upon the bill receiving a vote of two-thirds of all members elected to each house.

Local Government Impact

The local housing agencies in uniform state service regions 9, 11, and 13 would see an additional allocation of funds in fiscal years 2006 and 2007 to alleviate underfunding in previous years. Additionally, public housing authorities would have more competition for available funds in the Housing Trust Fund program.

Source Agencies: 332 Department of Housing and Community Affairs, 357 Office of Rural Community Affairs

LBB Staff: JOB, DLBa, TG, KJG