

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION**

**March 14, 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 provision of housing in Texas and the continuation and functions of the Texas Department of Housing and Community Affairs and to other matters relating to housing or community development.), **As Introduced**

**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.

SECTION 1.12 of the bill would amend Section 2306.082, Government Code, to require binding arbitration and to require, rather than encourage, negotiated rulemaking.

SECTION 1.26 of the bill would amend Section 2306.186 to clarify that the section's requirements apply only to mortgage loans received from TDHCA for which TDHCA is the first lien lender on multifamily rental developments that contain 100, rather than 25, or more rental units and to which reserve account requirements do not apply if the owner is required to maintain a reserve account under other federal or state law. The bill would require TDHCA to amend any of its previously executed land use restriction agreements that impose such a requirement.

SECTION 2.12 of the bill would amend Section 2306.6710 to remove underwriting from the evaluation of applications for tax credits and to establish a point system for scoring development financial feasibility. The bill would add subsection (d) to Section 2306.6710 to require the implementation of a financial evaluation system that recognizes that such developments do not need, and shall not be subject to, the financial underwriting necessary for a mortgage loan transaction where the department has a financial interest in the loan.

SECTION 2.14 of the bill would amend Section 2306.6712 to allow TDHCA's executive director to approve amendments to housing tax credit applications that are not materially adverse. The bill would require those amendments that involve material change to be submitted to the board for approval and allow the board to send the matter to binding arbitration.

SECTION 2.16 of the bill would amend Section 2306.6715 to authorize binding arbitration in addition to appeals and to allow an applicant to appeal the disposition of an application filed by another applicant if it is demonstrated that TDHCA inconsistently evaluated similar applications.

SECTION 2.24 of the bill would amend Section 2306.6723 to remove the requirement for Office of Rural Community Affairs (ORCA) and TDHCA to implement jointly rural outreach, training, capacity building efforts.

SECTION 2.25 of the bill would amend Section 2306.6724 to change the schedule for the allocation of tax credits. Under the provisions of the bill, the qualified allocation plan (QAP) would be required to be submitted to TDHCA's board by August 1, rather than September 30 of each year; the board would be required to submit the QAP to the Governor by September 1, rather than November 15; the Governor would be required to take action on the QAP by October 1, rather than December 1;

tax credit applications would have to be submitted by March 15, rather than March 1; the board would be required to issue a list of approved applications by May 30, rather than June 30; and the board would be required to issue the final commitments by June 30, rather than July 31.

SECTION 3 of the bill would repeal Sections 2306.072, 2306.0724, 2306.077, 2306.078, and 2306.079.

Based on the analysis of 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.

SECTION 2.25 of the bill would take effect immediately upon the bill receiving a vote of two-thirds of all members elected to each house or otherwise on September 1, 2005. The remainder of the bill's provisions would take effect on September 1, 2005.

### **Local Government Impact**

Public housing authorities would have more competition for available funds in the Housing Trust Fund program.

**Source Agencies:** 116 Sunset Advisory Commission, 332 Department of Housing and Community Affairs, 357 Office of Rural Community Affairs

**LBB Staff:** JOB, DLBa, MW, TG, KJG