

BILL ANALYSIS

C.S.H.B. 2063
By: Menendez
Urban Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Texas Department of Housing and Community Affairs (TDHCA) administers the annual 9% housing tax credit allocations for multi-family affordable housing projects across the state. The tax credits are assigned each year by the federal Internal Revenue Service and are allocated on a regional basis by the TDHCA based on a complex formula that has evolved based on department rule making authority. As a result of these allocation policies, several of the 13 service regions in the state have experienced erratic or declining allocations of tax credits at the same time that demand and need for low income, affordable housing has grown significantly in these areas.

Conversely, as a result of disparities in the formula, other regions have become saturated to the point where elected officials have called for temporary moratoriums to offset over building and poverty concentrations in certain districts.

The Regional Allocation Formula which the TDHCA develops each year has been the subject of the past two House Urban Affairs Interim Charges evaluations. A number of alternatives have been examined to address the disproportionate allocations resulting from the methodology developed by the department but have not been adopted by the department. Legislation is required to ensure the department considers only those factors that will ensure fair distribution of the tax credits throughout both the urban as well as rural areas of the state.

This Act would establish specific methodology and criteria to allow TDHCA to develop an equitable distribution of the tax credits for multifamily affordable housing projects.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Department of Housing and Community Affairs in SECTION 2 of this bill.

SECTION-BY-SECTION ANALYSIS

SECTION 1 amends Section 2306.111(c), Government Code to specify that exactly 95 percent of funds provided to the state under the Cranston-Gonzalez National Affordable Housing Act shall be expended for the benefit of those areas that do not qualify to receive those funds directly from the United States Department of Housing and Urban Development; and requires that the remaining five percent of those funds shall be expended in any area of the state for the benefit of persons with disabilities.

SECTION 2 amends Section 2306.111 (d), (d-1), (e), (f), and (g) and adds Subsections (d-2) and (d-3) as follows:

Sections 2306.111 (d) and (e) are amended by striking the formulary authority by which TDHCA is authorized to allocate tax credits and restoring it, with amendments, in SECTION 3; and amended by striking the area designation known as "urban/exurban" and substituting "urban."

Sections 2306.111(f) and (g) are also amended by striking the area designation known as "urban/exurban" and substituting "urban."

Section 2306.111(d-1) is amended by requiring the department to allocate the tax credit program's "at-risk" set aside before applying the regional allocation formula; and also amends by specifying that funds or credits allocated to primarily serve persons with disabilities, as well as the state's housing trust funds that are not otherwise required to be set aside and that do not exceed \$3 million during each application cycle, are not required to be allocated according to the regional allocation formula.

Section 2306.111(d-2) adds language to require the department to set aside five percent of the tax credit allocation in each application cycle for developments that receive assistance through the Texas Rural Development Office of the United States Department of Agriculture; also requires that any funds allocated under this subsection for developments that involve rehabilitation shall come from the at-risk set aside and any additional funds set aside for developments under Subsection (d-1); also specifies that this subsection does not apply to a development financed under Section 538 of the Housing Act of 1949 (rural rental housing guaranteed loans).

Section 2306.111(d-3) adds language to require the department to set aside 20 percent of the tax credit allocation in the application cycle for developments that are located in rural areas, with a minimum of \$500,000 of tax credits to be allocated in each uniform state service region for rural areas; also requires that tax credits set aside under this subsection that are not allocated in rural areas shall first be allocated in the urban area of the region where the rural allocation was set aside before the allocation is made available for allocation to developments in other urban areas.

SECTION 3 restores the formulary authority in (d) and (e) above in a separate section titled 2306.1115, and amends to require the department to develop a regional allocation formula that includes the need for housing assistance and the availability of housing resources as a factor in the formula, and not as the basis for the formula; also amended by striking the area designation known as "urban/exurban" and substituting "urban;" also adds language to allow the department to include other factors that are relevant to the equitable distribution of housing funds identified in subsection (d).

SECTION 4 amends Section 2306.127 by making a conforming amendment to reflect the placement of the formulary authority in Section 2306.1115 and by adding a specification that priority for certain communities, given in a manner consistent with the regional allocation formula, shall be contingent with the timing of complete applications that are submitted under a housing program in relation to those communities.

SECTION 5 provides that, in the event that amendments made to Chapter 2306 by any other bill are irreconcilable with the amendments made by this Act to Chapter 2306, this Act prevails.

SECTION 6 makes this Act prospective.

SECTION 7. The effective date of this act is September 1, 2007

EFFECTIVE DATE

The effective date of this Act would be September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute differs from the original in that the substitute (all sectional references are to the analysis above):

Adds SECTION 1.

In SECTION 2, the substitute amends subsections (d-1), and adds new subsections (d-2), and (d-3); and adds conforming changes in subsections (e), (f) and (g).

In SECTION 4, the substitute adds application timing contingency language.

Adds SECTION 5.

Adds SECTION 6. Provides that, in the event that amendments made to Chapter 2306 by any other bill are irreconcilable with the amendments made by this Act to Chapter 2306, this Act prevails.

Finally, instead of providing for immediate effect as in the original, the committee substitute simply takes effect September 1, 2007.