

BILL ANALYSIS

C.S.H.B. 3872
By: Menendez
Urban Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Texas Department of Housing and Community Affairs administer the Low Income Housing Tax Credit (LIHTC) program for multifamily development of new construction, rehabilitation and reconstruction of projects throughout the state. In the 78th Legislature's Regular Session in 2003, legislation was enacted imposing restrictions on what is commonly referred to as the "one mile rule".

This policy restricted applications for LIHTC projects from being considered if the development was located within one linear mile of another LIHTC property that had been awarded within a year's time.

While existing policy allows for a potential exemption from this through the waiver, by resolution, of the local municipality governing body or the county commissioners court, this has also excluded applications for rehabilitation of existing deteriorating properties or the addition of a special needs or senior project within the linear mile radius.

This Act would allow for exemption of rehabilitation applications or projects that are for seniors or persons with special needs exclusively as otherwise provided for by TDHCA policy.

RULEMAKING AUTHORITY

It is the opinion of the committee 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 2306.6703, Government Code, by amending subsections (a)(3), (a)(4), and (b), as follows:

(a)(3) Provides an exception to the ineligibility of a new construction tax credit application that is located one linear mile or less from a development that serves the same type of household as the new development, by making it allowable if the applicant obtains approval from the appropriate municipality or county containing the development.

(a)(4) Provides an exception for an applicant who obtains approval from a city or county for a development located in an area with more than twice the state average of units per capita supported by tax credits or private activity bonds, to provide a written statement of support from the city or county not less than 30 days before the date the board first meets to consider an allocation of housing tax credits.

(b) Provides that subsections (a)(2), (a)(3), and (a)(4) do not apply to a development that is using HOPE IV, or other similar funds received through the United States Department of Housing and Urban Development, that are used to assist in the preservation, through same-site reconstruction or rehabilitation, of distressed federally assisted housing. Deletes the following exceptions to the ineligibility provisions: that the application is located outside a metropolitan statistical area, or that a local government has by a vote specifically allowed construction of a new development located within one linear mile or less from a development under Subsection (a).

SECTION 2. Amends Section 2306.6711(f), Government Code, as follows:

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(f) Allows the board of directors to allocate tax credits to developments in a single community that are less than one linear mile apart only if the community is located in a county with a population of one million or less; or if at least one allocation involves the rehabilitation of existing developments, with not more than one new construction allocation; or if the developments each serve a different type of household from the other.

SECTION 3. Provides that this Act shall prevail over another bill that amends Section 2306 if they prove to be irreconcilable.

SECTION 4. Provides that the changes in law made by this Act relating to the evaluation of applications for financial assistance administered by the Texas Department of Housing and Community Affairs apply only to an application submitted on or after the effective date of this Act. An application submitted before the effective date of this Act is governed by the law in effect when the application was submitted, and the former law is continued in effect for that purpose.

EFFECTIVE DATE

This Act would take effect on September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

This substitute makes no substantive changes to the original bill other than to provide a Texas Legislative Council draft for the proposal. The original bill was not drafted by the Legislative Council.