

## **BILL ANALYSIS**

C.S.H.B. 3874  
By: Menendez  
State Affairs  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

In the Fall of 2006, the House Urban Affairs Committee appointed a task-force comprised of representatives from the Texas Department of Housing and Community Affairs, the Texas State Affordable Housing Corporation, the Texas Bond Review Board, local bond issuers, developers, rural counties, and affordable housing advocates, to address problems related to utilization, especially in rural areas, of private activity bond financing for the development of affordable housing.

C.S.H.B. 3874 is the product of this stakeholder task-force's work. It reforms the current private activity bond financing system for affordable housing by removing obstacles to efficient utilization of this valuable resource, especially those obstacles faced by rural communities in utilizing private activity bonds to develop adequate affordable housing at little to no cost to the state.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

SECTION 1 of the bill amends Section 1372.002, Government Code, to allow for scattered site development of affordable housing with private activity bonds, including rehabilitation or new construction of qualified residential rental units, where 51 percent or more of the units are located in a county with a population less than 75,000 or a county with an area median income (AMI) less than the state AMI, provided that the units are outside an metropolitan statistical area (MSA) containing one or more projects proposed to be financed with bonds. SECTION 1 also allows the number of sites to be reduced as needed in the application process, provided that the final application for reservation of private activity bonds contains at least two sites.

SECTION 2 of the bill amends Section 1372.006(a), Government Code, by directing that the portion of the reservation application fee not retained by the Bond Review Board (BRB) be directly paid by the applicant to the Texas Department of Housing and Community Affairs (TDHCA) to be used for low-income housing marketing, research, or educational awareness programs, rather than transferred through interagency agreement.

SECTION 3 of the bill amends Section 1372.022, Government Code, to move the August 15 collapse to August 1, and reserves reservations made from August 1 to September 1 exclusively for issuers of qualified residential rental project bonds, provided that these reservations are made in addition to any other specific set-aside in Chapter 1272.

SECTION 4 of the bill amends Section 1372.023, Government Code, to make conforming changes related to the date shift in SECTION 3 and SECTION 5 of the bill.

SECTION 5 of the bill amends Sections 1372.0231(a), (e), (f), and (i), Government Code, to make conforming changes related to the date shift in SECTION 3 of the bill. SECTION 5 also shifts the May 15 collapse to March 1, removes the uniform state service region containing Austin from the reservation period prior to the new March 1 collapse, and removes the requirement that reservations granted during this period be based on the priority levels set forth in Section 1372.0321, Government Code. SECTION 5 also moves the deadline from March 1 to

February 1 for submitting an application for a reservation to be considered in the 70 percent set-aside reserved for local housing finance corporations prior to June 1 of each year.

SECTION 6 of the bill amends Section 1372.0231(b), Government Code (as amended by Section 4, Chapter 1329, Acts of the 78<sup>th</sup> Legislature, Regular Session, 2003), to make conforming changes related to the date shift in SECTION 3 and SECTION 5 of the bill.

SECTION 7 of the bill amends Section 1372.026(a), Government Code, to make conforming changes related to the date shift in SECTION 3 and SECTION 5 of the bill.

SECTION 8 of the bill amends Section 1372.0321, Government Code, to require the BRB in granting reservations to qualified residential rental project issuers to give first priority to scattered site projects described in SECTION 1 of the bill, a project located in a county with populations of less than 75,000, or projects not located in a MSA or primary MSA in counties in which the AMI is less than the state AMI; second priority to projects in which 15 percent or more of the units are rent restricted to 30 percent of 30 percent of area median family income (AMFI), minus utility allowances, income restricted to families or individuals with incomes not exceeding 30 percent of the county AMI, 83 percent or more of the units are rent restricted to 30 percent of 60 percent of AMFI, minus utility allowances, and income restricted to families or individuals with incomes not exceeding 60 percent of the county AMI, and 2 percent or less of the units are market rate; third priority to projects in which 49 percent or more of the units are rent restricted to 30 percent of 50 percent of AMFI, minus utility allowances, income restricted to families or individuals with incomes not exceeding 50 percent of AMI, 49 percent or more of the units are rent restricted to 30 percent of 60 percent of AMFI, minus utility allowances, income restricted to families or individuals with incomes not exceeding 60 percent of AMI, and 2 percent or less of the units are market rate; fourth priority to projects located in a census tract in which the AMI is higher than the county AMI, 98 percent or more of the units are rent restricted to 30 percent of 60 percent of AMFI, minus utility allowances, income restricted to families or individuals with incomes not exceeding 60 percent of the county AMI, and 2 percent or less of the units are market rate; fifth priority to projects in which 98 percent or more of the units are rent restricted to 30 percent of 60 percent of AMFI, minus utility allowances, and income restricted to families or individuals with incomes not exceeding 60 percent of the county AMI, and 2 percent or less of the units are market rate; and sixth priority to any other qualified residential rental project. Additionally, SECTION 8 requires reservations for first through fifth priority projects to be limited to projects applying for tax credits with TDHCA. Specifies that applicants qualifying under Section 1372.0231(b-1) or (e) are not eligible for first priority under this section, and that the AMI must be based on the most recent information published by the United States Census Bureau.

SECTION 9 of the bill amends Section 1372.037(a), Government Code, to specify that prior to September 1, and except as provided by subsection (b) of that Section, the BRB is prohibited from granting a reservation for a single site residential rental project that is greater than the lesser of \$20 million or 15 percent of the amount set aside for qualified residential rental project issuers, or a scattered site residential rental project that is greater than the lesser of \$25 million or 15 percent of the total amount set aside for qualified residential rental project issuers.

SECTION 10 of the bill amends Section 1372.042, Government Code, to require qualified residential rental project bond issuers to close single site applications no later than 150 days after the reservation date (with the full closing fee to be paid if the application is not withdrawn before the 120<sup>th</sup> day), and scattered site applications no later than 180 days after the reservation date (with the full closing fee to be paid if the application is not withdrawn before the 150<sup>th</sup> day). SECTION 10 also adds language authorizing for three extensions upon payment of a fee by the issuer to the Housing Trust Fund according to the following schedule: one 30 day extension for a fee of \$20,000; an additional 30 day extension for an additional fee of \$40,000; and a final 30 day extension for an additional fee of \$60,000, with each of these fees and extensions independent, and not able to be aggregated for the purpose of making a single request for multiple 30 day extensions. Makes conforming changes.

SECTION 11 of the bill amends Section 1372.043, Government Code, to cancel reservations for qualified residential rental project bond issuers failing to close within the periods specified in SECTION 10 of the bill, and prohibit issuers from applying for a reservation for the same project

from the period beginning on the reservation date through the last allowable date, including any qualified extensions, with the issuer only eligible for a carryforward as provided in Subchapter C, Chapter 1372, Government Code.

SECTION 12 of the bill repeals Sections 1372.0321(a-1), Government Code as added by Section 28, Chapter 330, Acts of the 78th Legislature, Regular Session, 2003; and Sections 1372.0321(a-1) and (a-2), as added by Section 10, Chapter 1329, Acts of the 78th Legislature, Regular Session, 2003.

SECTION 13 of the bill provides that the Act applies beginning with reservations granted on or after January 1, 2008.

SECTION 14 of the bill provides the effective date.

#### **EFFECTIVE DATE**

September 1, 2007.

#### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

SECTION 1 of the substitute modifies the original language allowing multiple sites as an eligible project to only affect multifamily residential projects. In addition, the substitute defines eligible projects to allow for either new construction or rehabilitation

SECTION 11 of the substitute modifies the original by removing language limiting the cancellation of reservations to mortgage revenue bonds for failure to timely close and existing statutory language is retained.

SECTION 12 of the substitute modifies the original's first repealer affecting Sections 1372.0321(a-1) and (a-2), Section 28, Chapter 330, Acts of the 78th Legislature, Regular Session, 2003, by only repealing Section 1372.0321(a-1), since there is no Section 1372.0321(a-2), Section 28, Chapter 330, Acts of the 78th Legislature, Regular Session, 2003, in existing statute.