

## **BILL ANALYSIS**

C.S.H.B. 563  
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Urban Affairs  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

There is concern that current Texas law does not adequately take into account the neighborhood organizations on record with the municipality that contain the proposal, with regards to notification or scoring of housing tax credit developments. There is additional concern that, due to the statutory prohibition against redeeming Private Activity Bonds within the 15-year affordability period established under the tax credit program, the development community would not be able to use this needed housing resource at all, because the federal "50 percent test" requires that the bonds cover at least 50 percent of the aggregate basis (land plus depreciable costs). A scenario that falling bond redemption values are making increasingly unlikely.

The current Texas prohibition against using private activity bonds as construction-period bond finance was originally enacted when bond prices were much more healthy (when redeeming them early was not necessary in order to attain financial feasibility), and it was also seen as a way to help stretch the private activity bond cap.

C.S.H.B. 563 modifies conditions relating to the eligibility of an application for consideration under the low income housing tax program, includes a neighborhood organization on record with the municipality in which the development described in an application is to be located and whose boundaries contain the proposed development site in provisions relating to notification requirements for an application for the low income housing tax credit program; and modifies provisions relating to a one linear mile limitation on developments for purposes of allocating housing tax credits.

### **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**

C.S.H.B. 563 amends the Government Code to specify that, with respect to processes governing an application or preapplication filed under the low income housing tax credit program or other affordable housing program administered by the Texas Department of Housing and Community Affairs (TDHCA), the requirement to provide written notice of the filing to any neighborhood organization on record with the state or county in which the development described in the application is to be located and whose boundaries contain the proposed development site is also for any neighborhood organization on record with the municipality in which the development described in the application is to be located and whose boundaries contain the proposed development site.

C.S.H.B. 563 provides additional exceptions to the provision making an application ineligible for consideration under the low income housing tax credit program if the applicant proposes to replace in less than 15 years any private activity bond financing of the development described by the application. The bill establishes an exception to the provision if the proceeds of the private

activity bond financing will only be redeemed in an amount consistent with their proportionate amortization or the proceeds of the private activity bond financing will only be redeemed in an amount necessary to ensure the financial feasibility of the proposal described by the application and according to underwriting criteria established by TDHCA and provided that such redemption to the extent that it reduces the bond amount to less than 50 percent of the cost of the land plus depreciable basis in the first five years of operation is allowed only if the Bond Review Board has determined that there remain sufficient funds to fund all other multifamily applications for such bonds that do not call for such a reduction.

C.S.H.B. 563 specifies that an application proposing to develop a new construction development that is located one linear mile or less from a development that serves the same type of household as the new development is ineligible for consideration under the low income housing tax credit program unless the applicant obtains approval of the development from the governing body of the appropriate municipality or county containing the development. The bill removes language specifying that the provision establishing ineligibility applies even if both developments serve families, elderly individuals, or another type of household.

C.S.H.B. 563 establishes that the written statement of support from the governing body of the appropriate municipality or county that has more than twice the state average of units per capita supported by a housing tax credit or private activity bonds, in which a development is proposed, must be provided not later than the 30th day before the date the board of TDHCA first meets to consider applications for an allocation of housing tax credits in order for the application to be eligible for consideration under the low income housing tax credit program. The bill removes language requiring the statement to be included in the application.

C.S.H.B. 563 makes the three provisions described above, rather than only the provision relating to developments that will be located one linear mile or less from each other, inapplicable to a development that is using federal HOPE VI funds or other similar funds received through the United States Department of Housing and Urban Development to assist in the preservation, through same-site reconstruction or rehabilitation, of distressed federally assisted housing. The bill removes language making the provisions inapplicable to a development that is located outside of a metropolitan area or to a development that a local government where the project is to be located has by vote specifically allowed the construction of a new development located within one linear mile or less from another development.

C.S.H.B. 563 authorizes the board to allocate housing tax credits to developments in a single community that are or will be located one linear mile or less from each other in the same calendar year if the community is located in a county with a population of one million or less; one or more of the allocations involves the rehabilitation of existing developments and not more than one of the allocations involves new construction; or the developments each serve a different type of household from the other. The bill removes existing language authorizing the board to allocate housing tax credits to more than one development in a single community in the same calendar year only if the developments are or will be located more than one linear mile apart, and the communities are contained within counties with populations exceeding one million.

#### **EFFECTIVE DATE**

September 1, 2009.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 563 removes provisions in the original requiring, with respect to processes governing an application or preapplication filed under the low income housing tax credit program or other affordable housing program administered by the Texas Department of Housing and Community Affairs, notice of the filing to be provided to a neighborhood organization whose boundaries encompass the same public elementary school attendance zone, or a portion thereof, as the

proposed development site, if the boundary of the organization is located not more than one linear mile from the site. The substitute removes a provision in the original requiring such a notice to be provided to a public housing authority resident's council with one or more members who reside or who the applicant knows are likely to reside at the development described in the application.

C.S.H.B. 563 adds provisions not in the original to make exceptions to and revise provisions relating to ineligibility for consideration under the low income housing tax credit program with respect to private activity bond financing that will be replaced in less than 15 years, developments that will be located one linear mile or less from each other, and developments in a municipality or county that has more than twice the state average of units per capita supported by housing tax credits or private activity bonds.

C.S.H.B. 563 removes provisions in the original relating to the scoring and ranking of applications under the low income housing tax credit program using a point system. The substitute adds a provision not in the original to authorize housing tax credits to be allocated to developments in a single community that are or will be located one linear mile or less from each other if the community is located in a county with a population of one million or less and certain other conditions are met.