

BILL ANALYSIS

C.S.H.B. 2296
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Urban Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

C.S.H.B. 2296 is a statutory cleanup measure, developed in conjunction with the Texas Department of Housing and Community Affairs, that makes changes relating to the housing trust fund and the owner-builder program, to modernize them and improve their efficiency as well as effectiveness. The bill conforms current law with adopted agency rules and practices so as to allow those who are helped by established state certified self-help organizations, such as Habitat for Humanity, to be able to participate in the program. The bill updates loan and funding amounts under the owner-builder program because of the increase in costs of construction and materials since the program was first established in 1999.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the governing board of the Texas Department of Housing and Community Affairs in SECTIONS 3 and 4 of this bill.

ANALYSIS

C.S.H.B. 2296 amends the Government Code to clarify the list of funding that constitutes the housing trust fund and to add express authorization for the Texas Department of Housing and Community Affairs (TDHCA) to accept gifts, grants, or donations for that fund. The bill requires all funds received for the housing trust fund to be deposited or transferred into the Texas Treasury Safekeeping Trust Company.

C.S.H.B. 2296 amends provisions relating to the administration and use of the fund. The bill specifies that the date for determining the availability of additional funds for for-profit and nonprofit organizations is September 1 of each state fiscal year and that the remainder of the housing trust fund, in excess of the first \$2.6 million and after 45 percent of that excess has been made available to nonprofit organizations, are to be distributed to, rather than be competed for by, nonprofit and for-profit organizations and other eligible entities. The bill requires the governing board of TDHCA, in its adoption of rules providing for a process to set priorities for use of the housing trust fund, to include the distribution of fund resources in accordance with a plan that is developed and approved by the board and is included in TDHCA's annual report regarding the housing trust fund as described in the General Appropriations Act, rather than including the distribution of fund resources under a request for proposal process as provided by existing law. The bill establishes that, under board rules, proposals will be evaluated, rather than ranked, and the criteria for evaluation will include the leveraging of resources generally, rather than of federal resources specifically, and revises such criteria to refer to proposed activity, rather than proposed developments. The bill makes the changes relating to the administration and use of the housing trust fund applicable beginning with the state fiscal year that begins September 1, 2009.

C.S.H.B. 2296 amends provisions relating to owner-builder eligibility for loans under the owner-builder loan program. The bill, revising provisions of existing law that establish alternative conditions to which a prospective loan recipient is required to consent, increases from 60 to 65 percent the amount of necessary labor on the proposed housing that the owner-builder, if electing either of those alternatives, must agree to provide by working through a state-certified owner-builder housing program; requires that labor to be personal labor; adds the rehabilitation of proposed housing to the loan eligibility criteria, and removes the requirement that the state-certified owner-builder housing program through which the labor is to be provided be a nonprofit program. The bill adds two more alternatives, the first giving an owner-builder the option to agree to provide through noncontract labor of friends, family, or volunteers and through personal labor at least 65 percent of the labor necessary to build or rehabilitate the proposed housing by working through a state-certified owner-builder housing program; or, second, if the owner-builder cannot provide the amount of personal labor required because of a documented disability or other limiting circumstances as defined by TDHCA rule, giving the owner-builder the option of providing the required labor through only noncontract labor of friends, family, or volunteers.

C.S.H.B. 2296 prohibits a loan under the owner-builder loan program made by TDHCA from exceeding \$45,000, rather than \$30,000 as under existing law. The bill removes the specification of local governmental entities, nonprofit organizations, and private lenders from the list of potential sources from among which an owner-builder must obtain amounts in excess of that maximum, if it is not possible for the owner-builder to purchase necessary real property and build adequate housing within that dollar limitation, and provides only that the amount must be obtained from other sources of funds. The bill increases from \$60,000 to \$90,000 the cap on the total amount of loans made by TDHCA and other entities to an owner-builder under the program, and specifies that the cap applies to amortized, repayable loans. The bill requires, rather than allows, a loan made by TDHCA to be secured by a first lien by TDHCA on the real property if the loan is the largest amortized, repayable loan secured by the real property, or a co-first lien or subordinate lien as determined by TDHCA rule, if the loan is not the largest amortized, repayable loan secured by the real property. The bill, in so doing, replaces provisions of existing law that authorize a loan made by TDHCA to be secured by a subordinate lien that is greater than the TDHCA lien.

C.S.H.B. 2296 amends provisions that authorize TDHCA to use not more than 10 percent of the revenue available for the owner-builder loan program in a state fiscal year to enhance the ability of tax-exempt organizations to implement the program's purposes, to authorize such use, within that 10 percent limitation, to also include enhancing the number of such tax-exempt organizations. The bill requires TDHCA to use that available revenue to provide financial assistance, technical training, and management support.

C.S.H.B. 2296 postpones the expiration date for provisions requiring the transfer of at least \$3 million from certain sources to the owner-builder revolving fund each state fiscal year, from August 31, 2010, to August 31, 2020. The bill provides that the changes relating to the use of the housing trust fund and revenue available for the owner-builder program apply beginning with the state fiscal year that begins September 1, 2009.

C.S.H.B. 2296 amends several provisions relating to the owner-builder loan program that refer to the building of housing by owner-builders to include the rehabilitation of such housing in the applicability of those provisions.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2296 makes several technical corrections not in the original relating to provisions for the owner-builder loan program, making those provisions apply to the rehabilitation, as well as building, of housing.

C.S.H.B. 2296 differs from the original by making a conforming change removing the requirement that the state-certified owner-builder housing program through which the labor is to be provided be a nonprofit program.

C.S.H.B. 2296 adds provisions not in the original requiring an owner-builder who chooses to provide the required 65 percent of labor necessary to build or rehabilitate housing through the noncontract labor of friends, family, or volunteers, also to contribute personal labor, unless the owner-builder is unable to provide such personal labor because of a documented disability or other limiting circumstance as defined by Texas Department of Housing and Community Affairs (TDHCA) rule. The substitute removes a provision in the original requiring TDHCA approval for the option to provide the required labor through noncontract labor of friends, family, or volunteers.

C.S.H.B. 2296 removes a provision in the original requiring that at least two-thirds of the dollar amount of loans made under this subchapter in each fiscal year be made to borrowers whose property is located in a county that is in a census tract with a median household income not greater than 75 percent of the median state household income and striking a statutory provision specifying eligibility to receive financial assistance under certain provisions of the Water Code.

C.S.H.B. 2296 differs from the original by removing the specification of local governmental entities, nonprofit organizations, and private lenders as potential sources from among which an owner-builder must obtain the amount needed in excess of the \$45,000 limit, if the owner-builder cannot purchase necessary real property and build adequate housing within that dollar limitation, and provides only that the amount must be obtained from other sources of funds.

C.S.H.B. 2296 differs from the original by requiring a loan made by TDHCA to be secured by a first lien by TDHCA on the real property if the loan is the largest amortized, repayable loan secured by the real property, or a co-first lien or by subordinate lien as determined by TDHCA rule, if the loan is not the largest loan, whereas the original requires such a loan to be secured by a first lien by TDHCA, regardless of whether another lien is greater than, equal to, or less than the TDHCA lien.

C.S.H.B. 2296 removes a provision in the original requiring TDHCA to transfer from money received under certain programs, funds, or appropriations to the owner-builder revolving fund the greater of \$6 million or an amount of funds based on the annual volume of demand for the owner-builder loan program, as determined using the total amount of loan originations made under the program in the preceding state fiscal year.