

BILL ANALYSIS

H.B. 4275
By: Menendez
Urban Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The primary purpose of this bill is to allow prior year applications for low income housing tax credits to be eligible for a program passed by Congress in the American Recovery and Reinvestment Act of 2009, commonly called the “Stimulus” bill. Currently, the ability to market tax credits in exchange for cash is limited in most markets. This has impacted transactions awarded in 2008 and to some extent transactions awarded in 2007. As part of the Stimulus bill, Congress provided a mechanism for the Treasury, when requested by an issuing Housing Finance Agency (in this case the Texas Department of Housing and Community Affairs) to exchange the credits for cash from the U.S. Department of Treasury, the federal agency that runs the low income housing tax credit program. Because of specific statutory language governing what qualifies for the 2009 Application round found in Section 2306.6724 of the Government Code, the TDHCA has determined that they are unable to provide these credit exchanges to anyone from prior rounds. This bill would correct this by temporarily waiving the deadlines and letting the Governing Board determine the level at which they want to participate in the program with the Treasury Department for prior year awards. It would also waive provisions of the single application round requirements to allow for a subsequent application round for these awards.

This legislation is needed on an emergency basis to assist the department in providing safe decent affordable housing. Because of the complexity in completing this program and the requirement that awards take place quickly, the emergency status of this legislation would assist in making the awards in a timely manner and allowing new construction jobs to begin immediately. Without the exchange program, these jobs may not ever come to Texas. The changes will allow the department to function more efficiently and provide an economic engine to Texas.

RULEMAKING AUTHORITY

No new rulemaking is anticipated with this bill as TDHCA already provides rules for these programs..

ANALYSIS

Section 1. Creates a new section of the Government Code (§2306.6736) providing a limited waiver of the Uniform Application and Funding Cycles provision under §2306.1111 to allow for two application rounds in 2009. Also waives statutory deadlines in §2306.6724 associated with the allocation of tax credits that would allow the 2007 and 2008 applicants to be return credits and allow the board to make separate new awards. Includes a repeal clause in 2001 if not reauthorized

Section 2. Creates a new section of the Government Code (§2306.6737) allowing TDHCA, when financing all or a portion of the properties with federal Stimulus funds to own the property, if desired, for the entire period called for in the restrictive covenants as a beneficial or real property owner.

Section 3. Clarifies that any inconsistencies in this bill and other bills will be subject to the statutory interpretation under the code construction act reconciliation provisions.

Section 4. Limits the application of the act to applications filed after the effective date of the act.

EFFECTIVE DATE

If the bill receives a two-thirds vote, the bill will take effect immediately upon signing as provided by Section 39 Article III of the Texas Constitution. If not, the bill will take effect on September 1, 2009.