

BILL ANALYSIS

C.S.S.B. 2288

By: Lucio

Border & Intergovernmental Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The U.S. Department of Housing and Urban Development provides Texas, through the Texas Department of Housing and Community Affairs (TDHCA), funding to address the housing needs of small communities and rural areas of the state, which comprises the bulk of funding for housing programs available to these communities and areas. The affordable housing needs and the programs designed to meet those needs in small communities and rural areas are different from those found in large metropolitan areas of Texas. The Senate Committee on International Relations and Trade conducted an interim study and issued recommendations designed to help Texas, through TDHCA and the Office of Rural Community Affairs, to more effectively and efficiently work in conjunction with local elected officials in rural Texas to meet their specialized housing needs.

C.S.S.B. 2288 creates the nonborder colonia fund, the office of rural community and small municipality housing initiatives, the rural housing land assemblage program, and the Texas secure loan pilot program.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Office of Rural Community Affairs in SECTIONS 1 and 2 of this bill

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 2, 5, 15, and 21 of this bill

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Department of Housing and Community Affairs in SECTIONS 6, 8, 9, and 18 of this bill.

ANALYSIS

C.S.S.B. 2288 amends the Government Code to establish the nonborder colonia fund as an account in the general revenue fund and, in each state fiscal year, requires the Office of Rural Community Affairs (ORCA) to set aside and transfer to the account a portion from amounts allocated to Texas under the federal community development block grant nonentitlement program authorized by the federal Housing and Community Development Act of 1974, not to exceed \$7.5 million each year, that exceeds the amount provided to the state under that program for the state fiscal year ending August 31, 2008. The bill authorizes amounts deposited to the account to be appropriated to ORCA only for the benefit of counties and municipalities identified by ORCA rule as eligible to receive community development block grant money for housing initiatives for nonborder colonias located in those counties and municipalities, including infrastructure associated with new construction, rehabilitation, or improvements, and the improvement of the housing conditions in those colonias. The bill prohibits amounts deposited to the account from being appropriated to ORCA for financial assistance to political subdivisions for the construction, acquisition, or improvement of water supply and sewer services. The bill

establishes that provisions relating to the use of dedicated revenue and the disposition of interest on investments do not apply to the account. The bill defines "nonborder colonia" for the purposes of the nonborder colonia fund.

C.S.S.B. 2288 requires ORCA to work with the Texas Department of Housing and Community Affairs to identify available sources of funding for housing initiatives in a county or municipality that is eligible, as identified by office rule, to receive financial assistance from the nonborder colonia fund, coordinate housing initiatives that receive funds, and make available on or before August 1 of each year a plan that addresses the housing and infrastructure needs for the following state fiscal year for at least one colonia. The bill requires the governing board of the department by rule to establish field offices in rural areas of each uniform state service region to assist political subdivisions and nonprofit entities in developing or administering affordable housing programs in those areas, and to specify the duties for each field office. The bill sets forth the duties for each field office these rules are required to include.

C.S.S.B. 2288 includes donations in the composition of the housing trust fund and authorizes the department to accept gifts, grants, or donations for the fund. The bill requires all funds received for the housing trust fund to be deposited or transferred into the Texas Treasury Safekeeping Trust Company. The bill specifies that the determination of available funds in the housing trust fund in excess of the first \$2.6 million that is required to be made available to nonprofit organizations for the purpose of acquiring, rehabilitating, and developing decent, safe, and sanitary housing be made on September 1 of each state fiscal year, and requires the remaining portion of the fund to be distributed to, rather than competed for by, nonprofit organizations, for-profit organizations, and other eligible entities. The bill specifies that the rules regarding the administration of the housing trust fund adopted by the department's governing board include provisions for the distribution of fund resources in accordance with a plan that is developed and approved by the board, rather than under a request for a proposal process developed and approved by the board, and be included in the department's annual report regarding the fund as described in the General Appropriations Act. The bill further specifies that the rules include a provision that the criteria used to evaluate a proposed activity, rather than rank proposals, include the leveraging of resources, rather than the leveraging of federal resources.

C.S.S.B. 2288 requires the department to establish an office to support rural community and small municipality housing initiatives, establishes the meaning of the term "office" for these purposes, requires the department by rule to define a rural community and a small municipality for these purposes, authorizes the department by rule to establish not more than seven field offices, and sets forth general duties of the Office of Rural Community and Small Municipality Housing Initiatives. The bill requires the office to establish regional nonprofit housing development organizations, and authorizes the department to use any money available to the department for the purpose of implementing these organizations. The bill requires the office annually to provide at an appropriate location and online a training course to elected officials, community organizations, nonprofit organizations, and private developers relating to housing programs and techniques to increase housing opportunities in municipalities and counties under the program, and requires the department to periodically provide elected officials a training course regarding housing programs and funding sources for these programs. The bill requires the office, on request of the governing body of a municipality or county, to assign an employee or independent contractor to assist the municipality or county in developing comprehensive housing plans for rural communities and small municipalities in that county, supporting housing development initiatives in those communities and municipalities, and identifying financial resources available for those plans and initiatives. The bill sets forth provisions authorizing the department to establish pilot projects to test and develop new approaches to providing housing in rural communities and small municipalities for individuals and families of low and very low income, requiring the office to fund housing initiatives that serve agricultural workers and their families, and requiring the department to create a statewide community development corporation charged with developing, acquiring, and rehabilitating housing facilities in appropriate areas in the state for agricultural workers and their families. The bill defines "agricultural worker" and

"community development corporation" for these purposes. The bill requires the department to create the required community development corporations as soon as practicable after the effective date of this bill, but not later than October 1, 2009, and to adopt the required rules relating to the office not later than October 1, 2009.

C.S.S.B. 2288 enacts the Rural Housing Land Assemblage Program Act requiring the department, in consultation with ORCA, to establish the rural housing land assemblage program. The bill authorizes the governing bodies of one or more rural municipalities or counties to agree to establish a rural housing land assemblage entity and for that purpose apply to participate in the program. The bill sets forth the requirements of the department and ORCA regarding the selection procedure and the requirements of a municipality or county selected to participate in the program. The bill authorizes a rural housing land assemblage entity to acquire, hold, and transfer certain real property for the purpose of providing affordable housing for low-income households, authorizes certain private real property foreclosed on a tax lien to be sold to the entity if certain conditions are met, and sets forth provisions for such a sale. The bill establishes an exemption from property taxes for a period not to exceed three years from the date of acquisition for property sold to and held by a rural housing land assemblage entity for subsequent resale and sets forth provisions for an additional three-year exemption period. The bill requires the department and ORCA to conduct regional workshops for rural housing land assemblage entities, sets forth the information that must be included in the workshops and, if necessary, requires the department and ORCA to contract for technical assistance in conducting the workshops.

C.S.S.B. 2288 sets forth temporary provisions, set to expire September 1, 2013, requiring the department to allocate \$1 million from funds allocated to the department under the federal HOME Investment Partnerships program and for ORCA to allocate \$1 million from funds allocated to ORCA under the federal community development block grant nonentitlement program to the rural housing land assemblage program, and requiring the department and ORCA to jointly submit a report to the legislature on the establishment and implementation of the rural housing land assemblage program not later than December 1, 2012.

C.S.S.B. 2288 establishes a rural housing land assemblage entity as subject to statutory open meetings and public information requirements, and sets forth general record keeping and audit provisions. The bill defines "affordable," "low-income household," "office," "rural county," "rural housing land assemblage entity," "rural housing land assemblage program," and "rural municipality" for the purposes of the Rural Housing Land Assemblage Program Act. The bill requires the department and ORCA to allocate the required funds to the rural housing land assemblage program not later than January 1, 2010.

C.S.S.B. 2288 specifies that as a precondition to eligibility for a loan under the owner-builder loan program an owner-builder must agree to provide through personal labor at least 65 percent, rather than 60 percent, of the labor necessary to build or rehabilitate the proposed housing by working through a state-certified owner-builder housing program or to provide an equivalent amount of personal labor in connection with building or rehabilitating housing for others through such a program. The bill includes as alternatives to these eligibility preconditions the provision through the 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 the provision through the noncontract labor of friends, family or volunteers at 65 percent of the labor necessary, if due to documented disability or other limiting circumstance as defined by department rule the owner-builder cannot provide the amount of personal labor otherwise required.

C.S.S.B. 2288 increases from \$30,000 to \$45,000 the cap on a loan made by the department under the owner-builder loan program and specifies that if it is not possible for an owner-builder to purchase necessary real property and build or rehabilitate adequate housing under the cap, the owner-builder must obtain the amount necessary that exceeds the cap from other sources of

funds, rather than from one or more local governmental entities, nonprofit organizations, or private lenders. The bill increases from \$60,000 to \$90,000 the cap on the total amount of amortized, repayable loans made by the department and other entities to an owner-builder under the program and requires, rather than authorizes, a loan to be secured by a first lien by the department 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 department rule, if the loan is not the largest loan. The bill makes conforming changes to reflect the inclusion of housing rehabilitation under the program. The bill specifies the department is prohibited from using more than 10 percent of its available revenue from the owner-builder program for enhancing the number, in addition to the ability, of tax-exempt organizations that are able to implement department-related purposes and requires the department to use the available revenue to provide financial assistance, technical training, and management support for this purpose. The bill extends from August 31, 2010 to August 31, 2020 the expiration date of a provision requiring the department to transfer at least \$3 million to the owner-builder revolving fund each state fiscal year from money received under the federal HOME Investments Partnership program, from money in the housing trust fund, or from money appropriated by the legislature to the department.

C.S.S.B. 2288 requires the department to establish the Texas secure loan pilot program to provide to individuals and families of certain low-income mortgage loans that allow modifications to the terms of the loans to assist in avoiding foreclosure of those loans. The bill authorizes the program to include the provision of down payment and closing cost assistance and authorizes the department to work with mortgage brokers, lenders, and nonprofit organizations to design mortgage loan products available under the program. The bill requires the department to administer the program and requires the governing board of the department to adopt rules governing certain aspects of the program. The bill establishes the eligibility requirements for a home buyer for a mortgage loan issued by the department under the program and authorizes the department to enter into memoranda of understanding with other state agencies or to contract with private entities to process, service, or administer all or a portion of the loans. The bill requires the board of directors of the department to adopt the required rules for the program not later than October 1, 2009, and requires the department to begin issuing loans under the program not later than January 1, 2010. The bill defines "program" for these purposes.

C.S.S.B. 2288 establishes that it does not make an appropriation, and that a provision in the bill that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.S.B. 2288 adds provision not in the original including donations in the composition of the housing trust fund, authorizing the Texas Department of Housing and Community Affairs to accept gifts, grants, or donations for the fund, and requiring all funds received for the housing trust fund to be deposited or transferred into the Texas Treasury Safekeeping Trust Company. The substitute adds provisions not in the original specifying that the determination of the availability of certain additional funds from the housing trust fund to non-profit organizations is determined on September 1 of each state fiscal year and requiring the remaining portion of the fund following the prescribed allotment to be distributed to, rather than competed for by, nonprofit organizations, for-profit organizations, and other eligible entities. The substitute adds provisions not in the original specifying that the rules regarding the administration of the housing trust fund adopted by the department's governing board include provisions for the distribution of fund resources in accordance with a plan that is developed and approved by the board and be

included in the department's annual report regarding the fund as described in the General Appropriations Act and specifying that the rules include a provision that the criteria used to evaluate a proposed activity, rather than rank proposals, include the leveraging of resources, rather than federal resources.

C.S.S.B. 2288 adds provisions not in the original specifying that as a precondition to eligibility for a loan under the owner-builder loan program an owner-builder must agree to provide through personal labor at least 65 percent, rather than 60 percent, of the labor necessary to build or rehabilitate the proposed housing by working through a state-certified owner-builder housing program or to provide an equivalent amount of personal labor in connection with building or rehabilitating housing for others through a state-certified owner-builder housing program and including as alternatives to such preconditions the provision through the 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 the provision through the noncontract labor of friends, family or volunteers at 65 percent of the labor necessary, if due to a limiting circumstance as defined by department rule the owner-builder cannot provide the amount of personal labor otherwise required.

C.S.S.B. 2288 adds provisions not in the original increasing the cap on a loan made by the department under the owner-builder loan program and specifying that if it is not possible for an owner-builder to purchase necessary real property and build or rehabilitate adequate housing under the cap, the owner-builder must obtain the amount necessary that exceeds the cap from other sources of funds, rather than from one or more local governmental entities, nonprofit organizations, or private lenders. The substitute adds provisions not in the original increasing the cap on the total amount of amortized, repayable loans made by the department and other entities to an owner-builder under the program and requiring a loan to be secured by a first lien by the department 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 department rule if the loan is not the largest loan.

C.S.S.B. 2288 adds a provision not in the original making conforming changes to reflect the inclusion of housing rehabilitation under the owner-builder loan program. The substitute adds provisions not in the original specifying the department is prohibited from using more than 10 percent of its available revenue from the owner-builder program for enhancing the number, as well as the ability, of tax-exempt organizations that are able to implement department-related purposes, requiring the department to use the available revenue to provide financial assistance, technical training, and management support for these purposes, and extending by 10 years the expiration date of a provision requiring the department to transfer at least \$3 million to the owner-builder revolving fund each state fiscal year from money received under the federal HOME Investments Partnership program, from money in the housing trust fund, or from money appropriated by the legislature to the department.

C.S.S.B. 2288 adds provisions not in the original making provisions relating to the use of the housing trust fund, rules regarding administration of the fund, and funding of the owner-builder loan program applicable beginning with the state fiscal year that begins September 1, 2009, and establishing a standard savings clause for provisions relating to owner-builder eligibility and the amount of a loan under the program.