

BILL ANALYSIS

Senate Research Center
81R4241 ACP-D

S.B. 2288
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International Relations & Trade
4/7/2009
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The United States Department of Housing and Urban Development provides the State of 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 comprise the bulk of funding for housing programs available to these communities and areas.

The affordable housing needs and the programs designed to meet housing needs in small communities and rural areas are different from those found in the large metropolitan areas of the state. The Senate Committee on International Relations and Trade conducted an interim study and issued recommendations designed to help the State of Texas, through TDHCA and the Office of Rural Community Affairs (ORCA), to more effectively and efficiently work in conjunction with local elected officials in rural Texas to meet their specialized housing needs.

As proposed, S.B. 2288 provides for coordination of services and cooperation between TDHCA and ORCA to ensure that programs operated by both agencies have the maximum impact upon the communities they are designed to serve.

The bill requires the agencies responsible for providing housing assistance to rural areas and small communities to undertake enhanced efforts to work with local elected officials to develop solutions to housing needs within their communities. The bill includes smaller communities and rural areas in the programs currently only available in urban areas.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Department of Housing and Community Affairs in SECTION 5 (Sections 2306.302 and 2306.309, Government Code) and SECTION 9 (Section 394A.007, Local Government Code) and to the board of the Office of Rural Community Affairs in SECTION 8 (Section 2306.1083, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter I, Chapter 487, Government Code, by adding Sections 487.355 and 487.356, as follows:

Sec. 487.355. SMALL MUNICIPALITY AND RURAL AREA HOUSING DEVELOPMENT FUND. (a) Defines "colonia."

(b) Provides that the small municipality and rural area housing development fund (fund) is an account in the general revenue fund.

(c) Requires the Office of Rural Community Affairs (ORCA), in each state fiscal year, to set aside for the purposes of this section an amount of money, not to exceed \$7.5 million each year, that is equal to any amount provided to the community development block grant colonia fund under this subchapter that exceeds the amount provided to that colonia fund for the state fiscal year ending August 31, 2008.

(d) Authorizes amounts deposited to the account, except as provided by Subsection (e), to be appropriated to ORCA only for housing initiatives in eligible

counties and municipalities under ORCA rules or the improvement of the housing conditions in a colonia.

(e) 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, as described by Section 17.922 (Financial Assistance), Water Code.

(f) Provides that Sections 403.095 (Use of Dedicated Revenue) and 404.071 (Disposition of Interest on Investments) do not apply to the account.

Sec. 487.356. COORDINATION WITH TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS. Requires ORCA to work with the Texas Department of Housing and Community Affairs (TDHCA) to identify available sources of funding for housing initiatives in a county or municipality that is eligible, as identified by ORCA rule, to receive financial assistance from the fund under this subchapter.

SECTION 2. Amends Section 2306.0521(b), Government Code, to provide that this section does not apply to the division for rural community and small municipality housing initiatives established by Section 2306.302.

SECTION 3. Amends Subchapter E, Chapter 2306, Government Code, by adding Section 2306.098, as follows:

Sec. 2306.098. COORDINATION WITH OFFICE OF RURAL COMMUNITY AFFAIRS. Requires TDHCA to work with ORCA to identify available sources of funding for housing initiatives in eligible counties and municipalities, as described by Section 487.356.

SECTION 4. Amends Section 2306.253, Government Code, by adding Subsections (a-1) and (a-2), as follows:

(a-1) Requires TDHCA, in addition to the education program implemented under Subsection (a) (relating to a required TDHCA program to assist homebuyers), to develop and implement a homebuyer education program designed to provide information and counseling to individuals and families of low income in rural communities and small municipalities. Requires the education program to address topics relating to the home buying process, financial literacy, foreclosure remediation, and other programs determined by TDHCA as necessary to increase home ownership by individuals and families of low income.

(a-2) Authorizes TDHCA to require any person who receives mortgage-based financial assistance from TDHCA to complete the homebuyer education program established by Subsection (a-1).

SECTION 5. Amends Chapter 2306, Government Code, by adding Subchapter N, as follows:

SUBCHAPTER N. RURAL COMMUNITY AND SMALL MUNICIPALITY HOUSING INITIATIVES

Sec. 2306.301. DEFINITION. Defines "division."

Sec. 2306.302. ESTABLISHMENT OF DIVISION. (a) Requires TDHCA to establish a division to support rural community and small municipality housing initiatives.

(b) Requires TDHCA by rule to define a small municipality and a rural community.

Sec. 2306.303. REGIONAL HOUSING DEVELOPMENT ORGANIZATIONS. (a) Requires the division to establish regional nonprofit housing development organizations

that serve rural communities and small municipalities in accordance with the purpose of this subchapter.

(b) Authorizes TDHCA, to implement this section, to use any money available to TDHCA for the purpose, including legislative appropriations and gifts, grants, and donations.

(c) Authorizes the division to use the services of the Texas State Affordable Housing Corporation (TSAHC) when necessary to accomplish the purposes of this section.

Sec. 2306.304. TRAINING. Requires the division to annually provide to elected officials, community organizations, nonprofit organizations, and private developers a training course that addresses housing programs and techniques that increase housing opportunities in rural communities and small municipalities. Requires the division to provide the course at an appropriate location selected by the division and to make the course available online in real time.

Sec. 2306.305. RURAL GRANTS ADMINISTRATOR. (a) Requires the executive director of TDHCA (director) to designate a rural grants administrator within the division established by Section 2306.302.

(b) Requires the rural grants administrator to oversee and coordinate TDHCA initiatives that are directed toward certain rural communities or small municipalities; and provide information to the director and the governing board of TDHCA (board) regarding the impact of proposed TDHCA programs, rules, and initiatives on housing opportunities in rural communities and small municipalities.

Sec. 2306.306. HOUSING DEVELOPMENT PLANNING ASSISTANCE. Requires the division, on the request of the governing body of a municipality or county, to assign a TDHCA 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.

Sec. 2306.307. RURAL COMMUNITY AND SMALL MUNICIPALITY HOUSING DEVELOPMENT PILOT PROJECTS. Authorizes TDHCA, notwithstanding other program rules and procedures of TDHCA, 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 income, individuals and families of very low income, or agricultural workers.

Sec. 2306.308. AGRICULTURAL WORKER HOUSING INITIATIVE. (a) Requires the division to fund housing initiatives that serve agricultural workers, including new housing initiatives, housing rehabilitation initiatives, or tenant-based rental assistance.

(b) Authorizes the division to designate a housing initiative for agricultural workers as a pilot project authorized under Section 2306.307.

(c) Requires the division to coordinate with other appropriate divisions of TDHCA to document agricultural worker housing needs, determine whether a housing need documented by TDHCA is critical, and develop initiatives to address those housing needs.

(d) Authorizes TDHCA to use any available funds to implement this section, including legislative appropriations and gifts, grants, and donations.

Sec. 2306.309. RURAL LAND BANK DEMONSTRATION PROGRAM. (a) Authorizes TDHCA to adopt a rural land bank demonstration program, or to enter into a memorandum of understanding requiring TSAHC to adopt a rural land bank

demonstration program, in which the officer charged with selling real property ordered sold pursuant to foreclosure of a tax lien is authorized to sell certain eligible real property by private sale for purposes of affordable housing development as provided by TDHCA rule.

(b) Authorizes TDHCA to adopt any rules necessary for the purposes of the program, including a rule to establish or approve a land bank for the purpose of acquiring, holding, and transferring unimproved real property under this section.

SECTION 6. Amends Section 2306.67022, Government Code, as follows:

Sec. 2306.67022. QUALIFIED ALLOCATION PLAN; MANUAL. (a) Creates this subsection from existing text.

(b) Requires the board to adopt any provisions in the qualified allocation plan that the board considers necessary to facilitate the efficient delivery of multifamily housing to rural areas in this state.

SECTION 7. Amends Section 2306.6723(b), Government Code, to require that the threshold, scoring, and underwriting criteria developed and approved under this section, to the extent permitted by federal law and notwithstanding any funding priorities otherwise provided by state law, ensure that applications for allocations of housing tax credits to small-scale developments located in rural areas are not placed, based solely on the size of the proposed developments, at a competitive disadvantage with applications for allocations of housing tax credits to other developments located in those areas. Defines "small-scale development."

SECTION 8. Amends Chapter 2306, Government Code, by adding Subchapter NN, as follows:

SUBCHAPTER NN. TEXAS SECURE LOAN PILOT PROGRAM

Sec. 2306.1081. DEFINITION. Defines "program."

Sec. 2306.1082. TEXAS SECURE LOAN PILOT PROGRAM. (a) Requires TDHCA to establish the Texas secure loan pilot program to provide first lien and second lien single-family mortgage loans to individuals and families of low income.

(b) Authorizes the program to include the provision of down payment and closing cost assistance.

Sec. 2306.1083. ADMINISTRATION OF PROGRAM; RULES. (a) Requires TDHCA to administer the program.

(b) Requires the board to adopt rules governing:

(1) the administration of the program, including the origination of loans under the program;

(2) the criteria for approving another entity to service loans originated under the program;

(3) the use of insurance on the loans and the homes financed under the program, as considered appropriate by the board to provide additional security for the loans;

(4) the verification of occupancy of the home by the homebuyer as the homebuyer's principal residence;

(5) the terms of any memorandum of understanding or contract with another entity for processing, servicing, or administering the loans; and

(6) criteria for authorizing the modification of loan terms for homebuyers whose income is adversely affected by circumstances such as

unemployment, a reduction of wages or hours of employment, illness, or the death of a spouse or other person contributing to the income of a homebuyer.

Sec. 2306.1084. ELIGIBILITY. (a) Requires a homebuyer, to be eligible for a mortgage loan issued by TDHCA under this subchapter, to earn an income, adjusted for family size, of not more than 80 percent of the area median income if the homebuyer lives in a rural area or 60 percent of the area median income if the homebuyer lives in an urban area; intend to occupy, as the homebuyer's principal residence, the home for which the mortgage loan is issued; and meet any additional eligibility requirements or limitations prescribed by TDHCA.

(b) Authorizes TDHCA to enter into memoranda of understanding with other agencies of the state or to contract with private entities to process, service, or administer all or a portion of the loans issued under this subchapter.

Sec. 2306.1085. ALLOCATION OF LOANS. Requires TDHCA to issue at least 50 percent of all loans under this subchapter to homebuyers whose incomes do not exceed 60 percent of area median family income, adjusted for family size.

Sec. 2306.1086. LOAN TERMS; RECOVERY OF PRINCIPAL. (a) Requires TDHCA to establish reasonable interest rates for first lien and second lien mortgage loans under this subchapter to allow full repayment of those loans by low-income homebuyers.

(b) Requires TDHCA to recover the full amount of the principal of a loan issued under this subchapter.

Sec. 2306.1087. MODIFICATION OF LOAN TERMS. Authorizes TDHCA or other servicer of the loan, if a homebuyer meets the criteria adopted by TDHCA under Section 2306.1083(b)(6), to modify the terms of the loan by suspending payments for a specific period, extending the term of the loan to reduce the amount of the payments, or lowering the interest rate to reduce the amount of the payments.

Sec. 2306.1088. INITIATION OF MODIFIED LOAN TERMS. (a) Authorizes the modification of loan terms under Section 2306.1087, regardless of whether a loan payment is missed, to be requested by the homebuyer or initiated by TDHCA or other servicer of the loan.

(b) Requires TDHCA or other servicer of the loan, if a homebuyer misses a scheduled payment for a loan under this subchapter, to contact the homebuyer and determine the reason for the missed payment. Authorizes TDHCA or the servicer, if the payment was missed for a reason meeting the criteria adopted by the board under Section 2306.1083(b)(6), to modify the terms of the loan under Section 2306.1087.

Sec. 2306.1089. EDUCATION SERVICES FOR HOMEBUYERS. Requires TDHCA to provide homebuyer and homeowner education and counseling services to persons receiving loans under this subchapter.

Sec. 2306.1090. FUNDING. (a) Requires TDHCA to ensure that a loan issued under this subchapter is structured in a way that complies with any requirements associated with the source of the funds used for the loan.

(b) Authorizes TDHCA, in addition to funds set aside for the program under Section 1372.023 and other available funds, including legislative appropriations, to solicit and accept gifts and grants for the purposes of this subchapter.

(c) Authorizes TDHCA to package, securitize, and sell loans issued under this subchapter and use the proceeds of the sale to issue additional loans.

SECTION 9. Amends Subtitle C, Title 12, Local Government Code, by adding Chapter 394A, as follows:

CHAPTER 394A. RURAL HOUSING LAND ASSEMBLAGE PROGRAM

Sec. 394A.001. SHORT TITLE. Authorizes this chapter to be cited as the Rural Housing Land Assemblage Program Act.

Sec. 394A.002. DEFINITIONS. Defines "affordable," "department," "low-income household," "rural county," "rural housing land assemblage entity," "rural housing land assemblage program," and "rural municipality."

Sec. 394A.003. RURAL HOUSING LAND ASSEMBLAGE PROGRAM. Authorizes the governing bodies of one or more rural municipalities or rural counties to participate in a rural housing land assemblage program. Requires a participating municipality or county, as part of the program, to enter into interlocal agreements with any other participating municipalities or counties governing the scope and operation of the program, subject to the provisions of this chapter, and establish or designate an entity to serve as the rural housing land assemblage entity (assemblage entity) in charge of implementing and operating the program.

Sec. 394A.004. RURAL HOUSING LAND ASSEMBLAGE ENTITY. Authorizes an assemblage entity to acquire, hold, and transfer, for the purpose of providing affordable housing for low-income households, real property that is not improved with a habitable building or buildings and is otherwise unoccupied.

Sec. 394A.005. PRIVATE SALE TO LAND ASSEMBLAGE ENTITY. (a) Authorizes real property that is ordered sold pursuant to foreclosure of a tax lien, notwithstanding any other law and except as provided by Subsection (f), to be sold in a private sale to an assemblage entity by the officer charged with the sale of the property, without first offering the property for sale as otherwise provided by Section 34.01 (Sale of Property), Tax Code, if:

(1) the property is used for the purpose of providing affordable housing as described by Section 394A.004;

(2) the market value of the property as appraised by the local appraisal district and as specified in the judgment of foreclosure is less than the total amount due under the judgment, including all taxes, penalties, and interest, plus the value of nontax liens held by a taxing unit and awarded by the judgment, court costs, and the cost of the sale;

(3) the property is not improved with a habitable building or buildings and is otherwise unoccupied;

(4) there are delinquent taxes on the property for a total of at least five years; and

(5) each municipality or county that participates in the rural housing land assemblage program has executed with the other taxing units that are parties to the tax suit an interlocal agreement that enables those units to agree to participate in the program while retaining the right to withhold consent to the sale of certain properties to the assemblage entity.

(b) Provides that a sale of property for use in connection with the rural housing land assemblage program is a sale for a public purpose.

(c) Provides that if the person being sued in a suit for foreclosure of a tax lien does not contest the market value of the property in the suit, the person waives the right to challenge the amount of the market value determined by the court for

purposes of the sale of the property under Section 33.50 (Adjudged Value), Tax Code.

(d) Requires that each person who was a defendant to the judgment, or that person's attorney, for any sale of property under this section, be given, not later than 60th day before the date of sale, written notice of the proposed method of sale of the property by the officer charged with the sale of the property. Requires that notice be given in the same manner prescribed by Rule 21a (Methods of Service), Texas Rules of Civil Procedure.

(e) Authorizes the owner of the property subject to sale, after receipt of the notice required by Subsection (d) and before the date of the proposed sale, to file with the officer charged with the sale a written request that the property not be sold in the manner provided by this section.

(f) Requires the officer charged with the sale, if the officer receives a written request as provided by Subsection (e), to sell the property as otherwise provided in Section 34.01, Tax Code.

(g) Prohibits the owner of the property subject to sale from receiving any proceeds of a sale under this section. Provides that the owner, however, does not have any personal liability for a deficiency of the judgment as a result of a sale under this section.

(h) Authorizes property, notwithstanding any other law, if consent is given by the taxing units that are party to the judgment, to be sold to the assemblage entity for less than the market value of the property as specified in the judgment or less than the total of all taxes, penalties, and interest, plus the value of nontax liens held by a taxing unit and awarded by the judgment, court costs, and the cost of the sale.

(i) Provides that the deed of conveyance of the property sold to an assemblage entity under this section conveys to the entity the right, title, and interest acquired or held by each taxing unit that was a party to the judgment, subject to the right of redemption.

Sec. 394A.006. EXEMPTION FROM AD VALOREM TAXATION. Entitles property sold to and held by an assemblage entity for subsequent resale to an exemption from ad valorem taxation for a period not to exceed three years from the date of acquisition. Authorizes the exemption to be renewed for a property for an additional period, not to exceed three years, on approval of the governing body of each participating municipality or county and any other taxing unit in which the property is located. Entitles property to an exemption under this section only during the period the property is held by the assemblage entity.

Sec. 394A.007. DEPARTMENT RULEMAKING AUTHORITY. Requires TDHCA to develop and adopt additional guidelines and rules governing the operation of a rural housing land assemblage program, including reporting and audit requirements for assemblage entities, affordability terms, additional income targeting, and the imposition of deed and resale restrictions on real property sold under the program to achieve the purpose of providing affordable housing for low-income households.

Sec. 394A.008. OPEN RECORDS AND MEETINGS. Provides that an assemblage entity is subject to Chapters 551 (Open Meetings) and 552 (Public Information), Government Code.

Sec. 394A.009. RECORDS; AUDIT. (a) Requires an assemblage entity to keep accurate minutes of its meetings and to keep accurate records and books of account that conform with generally accepted principles of accounting and that clearly reflect the income and expenses of the assemblage entity and all transactions in relation to its property.

(b) Requires an assemblage entity to file with each participating municipality or county not later than the 90th day after the close of the entity's fiscal year annual audited financial statements prepared by a certified public accountant. Provides that the financial transactions of the assemblage entity are subject to audit by a participating municipality or county and by TDHCA.

SECTION 10. (a) Requires TDHCA, not later than December 1, 2009, to implement the homebuyer education program required by Section 2306.253(a-1), Government Code, as added by this Act.

(b) Requires TDHCA, not later than October 1, 2009, to adopt the rules required by Subchapter N, Chapter 2306, Government Code, as added by this Act.

SECTION 11. Makes application of Subchapter DD, Chapter 2306, Government Code, as added by this Act, prospective.

SECTION 12. Requires the TDHCA to adopt the rules required by Subchapter NN, Chapter 2306, Government Code, as added by this Act, not later than October 1, 2009, and to begin issuing loans under the Texas secure loan pilot program not later than January 1, 2010.

SECTION 13. Effective date: September 1, 2009.