

## **BILL ANALYSIS**

Senate Research Center  
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C.S.S.B. 2288  
By: Lucio  
International Relations & Trade  
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Committee Report (Substituted)

### **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.

C.S.S.B. 2288 amends current law relating to the provision of affordable housing in this state.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Department of Housing and Community Affairs in SECTION 3 (Section 2306.302, Government Code) of this bill.

Rulemaking authority is expressly granted to the board of directors of the Texas Department of Housing and Community Affairs in SECTION 2 (Section and 2306.099, Government Code) and SECTION 5 (Section 2306.1083, Government Code) of this bill.

Rulemaking authority is expressly granted to the board of the Office of Rural Community Affairs in SECTION 1 (Sections 487.355 and 487.356, Government Code) and SECTION 2 (Section 2306.098) 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 the benefit of counties and municipalities identified by ORCA rule as eligible to receive community development block grant money under this subchapter for housing initiatives for

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.

(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; coordinate housing initiatives that receive funds under Section 487.355(d); 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, as defined by Section 2306.083 (Report to Secretary of State).

SECTION 2. Amends Subchapter E, Chapter 2306, Government Code, by adding Sections 2306.098 and 2306.099, 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 a county or municipality that is eligible, as identified by ORCA rule, to receive financial assistance from the community development block grant colonia fund under Subchapter I (Community Development Block Grant Nonentitlement Program), Chapter 487 (Office of Rural Community Affairs); coordinate housing initiatives that receive funds under Section 487.355(d); 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, as defined by Section 2306.083.

Sec. 2306.099. RURAL HOUSING FIELD OFFICES. (a) Requires the board of directors of TDHCA 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 specify the duties for each field office.

(b) Requires that the rules under Subsection (a) include the following duties for each field office:

- (1) identifying affordable housing needs for rural areas of the uniform state service region in which the field office is located;
- (2) identifying state and federal programs that may address the needs identified under Subdivision (1);
- (3) facilitating the development of relationships that will assist in building local capacity to address the needs identified under Subdivision (1); and
- (4) providing information regarding state programs to assist in the development of affordable housing for rural areas of the uniform state service region in which the field office is located.

SECTION 3. Amends Chapter 2306, Government Code, by adding Subchapter N, as follows:

**SUBCHAPTER N. OFFICE OF RURAL COMMUNITY AND SMALL MUNICIPALITY  
HOUSING INITIATIVES**

Sec. 2306.301. DEFINITION. Defines "office."

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

(b) Requires TDHCA by rule to define for purposes of this subchapter a rural community and a small municipality.

(c) Authorizes TDHCA, subject to available funding, by rule to establish not more than seven field offices as part of the office.

(d) Requires the office to work with each regional council of government to match housing sponsors to the housing needs of rural communities and small municipalities, and identify available sources of funds for those housing needs.

(e) Requires the office to use funds available from the housing trust fund established under Section 2306.201 (Housing Trust Fund) to administer capacity building programs for rural communities and small municipalities.

(f) Requires the office to coordinate a meeting at least two times each year between TDHCA program directors and representatives of rural communities and small municipalities to discuss best practices for rural community and small municipality housing initiatives.

(g) Requires the office to establish an online clearinghouse of information relating to best practices for rural community and small municipality housing initiatives.

(h) Authorizes the director to assign additional duties to the office.

Sec. 2306.303. REGIONAL HOUSING DEVELOPMENT ORGANIZATIONS. (a) Requires the office to establish regional nonprofit housing development organizations that serve rural communities and small municipalities in accordance with the purposes of this subchapter.

(b) Authorizes TDHCA, to implement this section, to use any money available to TDHCA for the purpose, including gifts, grants, and donations and funds allocated to the state under the federal HOME Investment Partnerships program established under Title II of the Cranston-Gonzales National Affordable Housing Act (42 U.S.C. Section 12701 et seq.).

Sec. 2306.304. TRAINING. (a) Requires the office 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 office to provide the course at an appropriate location selected by the office and to make the course available online in real time.

(b) Requires TDHCA to periodically also provide to elected officials a training course regarding housing programs and sources of funding for these programs.

Sec. 2306.305. HOUSING DEVELOPMENT PLANNING ASSISTANCE. Requires the office, on the 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.

Sec. 2306.306. 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 and individuals and families of very low income.

Sec. 2306.307. AGRICULTURAL WORKER HOUSING INITIATIVE. (a) Requires the office to fund housing initiatives that serve agricultural workers, including new housing initiatives, housing rehabilitation initiatives, or tenant-based rental assistance.

(b) Authorizes the office to designate a housing initiative for agricultural workers as a pilot project.

(c) Requires the office 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 gifts, grants, and donations and funds allocated to TDHCA under the federal HOME Investment Partnerships program established under Title II of the Cranston-Gonzales National Affordable Housing Act (42 U.S.C. Section 12701 et seq.).

Sec. 2306.308. COMMUNITY DEVELOPMENT CORPORATION FOR AGRICULTURAL WORKER HOUSING FACILITIES. (a) Defines "community development corporation."

(b) Requires TDHCA, using existing resources, to create a statewide community development corporation charged with developing, acquiring, and rehabilitating agricultural worker housing facilities in appropriate areas in the state.

(c) Requires TDHCA to work with the community development corporation to implement the findings and recommendations of TDHCA in the report submitted under Section 2(f), Chapter 60 (H.B. 1099), Acts of the 79th Legislature, Regular Session, 2005.

(d) Authorizes TDHCA to use any available funds to implement this section, including gifts, grants, and donations and funds allocated to TDHCA under the federal HOME Investment Partnerships program established under Title II of the Cranston-Gonzales National Affordable Housing Act (42 U.S.C. Section 12701 et seq.).

SECTION 4. Amends Chapter 2306, Government Code, by adding Subchapter EE, as follows:

#### SUBCHAPTER EE. RURAL HOUSING LAND ASSEMBLAGE PROGRAM

Sec. 2306.701. SHORT TITLE. Authorizes this subchapter to be cited as the Rural Housing Land Assemblage Program Act.

Sec. 2306.702. DEFINITIONS. Defines "affordable," "low-income household," "office," "rural county," "rural housing land assemblage entity," "rural housing land assemblage program," and "rural municipality."

Sec. 2306.703. RURAL HOUSING LAND ASSEMBLAGE PROGRAM. (a) Requires TDHCA, in consultation with ORCA, to establish the rural housing land assemblage program.

(b) Authorizes the governing bodies of one or more rural municipalities or rural counties to agree to establish a rural housing land assemblage entity and for that purpose to apply to participate in the rural housing land assemblage program.

(c) Requires TDHCA and ORCA to jointly select not more than five applications for participation in the program, and enter into a memorandum of understanding to establish a selection procedure and address performance of other duties imposed on TDHCA and ORCA under this subchapter.

(d) Requires a municipality or county, if selected to participate in the program, to enter into interlocal agreements with any other municipalities or counties selected to participate in the program with that municipality or county, subject to the provisions of this subchapter, and establish or designate a rural housing land assemblage entity to exercise powers as described by this subchapter.

Sec. 2306.704. RURAL HOUSING LAND ASSEMBLAGE ENTITY. Authorizes a rural housing land assemblage entity, for the purpose of providing affordable housing for low-income households, to acquire, hold, and transfer real property that is not improved with a habitable building or buildings and is otherwise unoccupied.

Sec. 2306.705. 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 a rural housing land 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 the property is used for the purpose of providing affordable housing as described by Section 2306.704; 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; the property is not improved with a habitable building or buildings and is otherwise unoccupied; there are delinquent taxes on the property for a total of at least five years; and each municipality or county that established or designated the rural housing land assemblage entity has executed with the other taxing units that are parties to the tax suit an interlocal agreement that enables those units to retain the right to withhold consent to the sale of specific properties to the rural housing land 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 for any sale of property under this section, each person who was a defendant to the judgment, or that person's attorney, be given, not later than the 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 manner prescribed by Rule 21a, Texas Rules of Civil Procedure.

(e) Authorizes the owner of the property subject to 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 after receipt of the notice required by Subsection (d).

(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 does not have any

personal liability for a deficiency of the judgment as a result of a sale under this section.

(h) Authorizes the property, notwithstanding any other law, if consent is given by the taxing units that are a party to the judgment, to be sold to the rural housing land 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 a rural housing land 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. 2306.706. EXEMPTION FROM AD VALOREM TAXATION. Entitles property sold and held by a rural housing land 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 period 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 rural housing land assemblage entity.

Sec. 2306.707. REGIONAL WORKSHOPS. (a) Requires TDHCA and ORCA to conduct regional workshops for rural housing land assemblage entities. Requires that a workshop include information regarding the operation of the rural housing land assemblage program, such as reporting and audit requirements for rural housing land 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.

(b) Requires TDHCA and ORCA to contract for technical assistance in conducting the workshops, if necessary.

Sec. 2306.708. FUNDING; REPORT. (a) Requires TDHCA to allocate \$1 million to the rural housing land assemblage program from funds allocated to TDHCA under the federal HOME Investment Partnerships program established under Title II of the Cranston-Gonzales National Affordable Housing Act (42 U.S.C. Section 12701 et seq.).

(b) Requires ORCA to allocate \$1 million to the rural housing land assemblage program from funds allocated to ORCA under the federal community development block grant nonentitlement program authorized by Title I of the Housing and Community Development Act of 1974 (42 U.S.C. Section 5301 et seq.).

(c) Requires TDHCA and ORCA, not later than December 1, 2012, to jointly submit a report to the legislature on the establishment and implementation of the rural housing land assemblage program.

(d) Provides that this section expires September 1, 2013.

Sec. 2306.709. OPEN RECORDS AND MEETINGS. Provides that a rural housing land assemblage entity is subject to Chapters 551 (Open Meetings) and 552 (Public Information).

Sec. 2306.710. RECORDS; AUDIT. (a) Requires a rural housing land assemblage entity to keep accurate minutes of its meetings and 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 rural housing land assemblage entity and all transactions in relation to its property.

(b) Requires a rural housing land entity to file with TDHCA and each participating municipality or county, not later than the 120th 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 rural housing land assemblage entity are subject to audit by a participating municipality or county and by TDHCA.

SECTION 5. 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 to individuals and families of low income mortgage loans that allow modifications to the terms of the loans, such as adjustments to the period of loans and to interest rates, to assist program participants in avoiding foreclosure of those loans.

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

(c) Authorizes TDHCA to work with mortgage brokers, lenders, and nonprofit organizations to design mortgage loan products available under the program.

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

(b) Requires the board of directors of TDHCA 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;

(6) the types of loan modifications that would assist a homebuyer in avoiding foreclosure of a loan under this subchapter; and

(7) criteria for authorizing loan modifications 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.

SECTION 6. Requires TDHCA to create the community development corporations required by Section 2306.308, Government Code, as added by this Act, as soon as practicable after the effective date of this Act, but not later than October 1, 2009.

SECTION 7. 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 8. Requires TDHCA and ORCA, not later than January 1, 2010, to allocate the funds required by Section 2306.708, Government Code, as added by this Act, to the rural housing land assemblage program established under Subchapter EE, Chapter 2306, Government Code, as added by this Act.

SECTION 9. Requires the board of directors of 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 requires TDHCA to begin issuing loans under the Texas secure loan pilot program not later than January 1, 2010.

SECTION 10. Effective date: September 1, 2009.