

House Bill 1818
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Section 2306.5521, Government Code, is amended to read as follows:

Sec. 2306.5521. SUNSET PROVISION. The Texas State Affordable Housing Corporation is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the corporation is abolished and this subchapter expires September 1, 2023 [~~2014~~].

SECTION 2. Sections 2306.554(a) and (b), Government Code, are amended to read as follows:

(a) The board of directors of the corporation consists of five members appointed by the governor. One member must represent the interests of individuals and families served by the corporation's single-family mortgage loan programs, one member must represent nonprofit housing organizations, and the remaining three members must [~~who~~] represent one or more [~~any~~] of the following areas:

- (1) state or federal savings banks or savings and loan associations;
- (2) community banks with assets of \$200 million or less;
- (3) large metropolitan banks with assets of more than \$1 billion;
- (4) asset management companies;
- (5) mortgage servicing companies;
- (6) builders;
- (7) real estate developers;
- (8) real estate brokers;
- (9) community or economic development organizations;
- (10) private mortgage companies;
- (11) nonprofit housing development companies;
- (12) attorneys;
- (13) investment bankers;

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SECTION 1. Same as House version.

SECTION 2. Same as House version.

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- (14) underwriters;
 - (15) private mortgage insurance companies;
 - (16) appraisers;
 - (17) property management companies;
 - (18) financial advisors;
 - (19) nonprofit foundations;
 - (20) financial advisors; or
 - (21) any other area of expertise that the governor finds necessary for the successful operation of the corporation.
- (b) The governor shall designate a member of the corporation's board of directors as the presiding officer of the ~~corporation's~~ board of directors to serve in that capacity at the pleasure of the governor ~~[from the members]~~.

SECTION 3. Section 2306.5543(b), Government Code, is amended to read as follows:

- (b) The training program must provide the person with information regarding:
- (1) the legislation that created the corporation ~~[and the corporation's board of directors]~~;
 - (2) the programs, functions, rules, and budget of ~~[operated by]~~ the corporation;
 - (3) ~~[the role and functions of the corporation;~~
 - ~~[(4) the rules of the corporation with an emphasis on the rules that relate to disciplinary and investigatory authority;~~
 - ~~[(5) the current budget for the corporation;~~
 - ~~[(6) the results of the most recent formal audit of the corporation;~~
 - (4) [(7) the requirements of laws relating to:]
 - ~~[(A) the] open meetings, [law, Chapter 551;~~
 - ~~[(B) the] public information, [law, Chapter 552;~~
 - ~~[(C) the] administrative procedure, and conflicts of interest~~

SECTION 3. Same as House version.

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~~[law, Chapter 2001; and
(D) other laws relating to public officials, including conflict-of-interest laws]; and
(5) [(8)]~~ any applicable ethics policies adopted by the corporation or the Texas Ethics Commission.

SECTION 4. Section 2306.5545(b), Government Code, is amended to read as follows:

(b) A person may not be a member of the corporation's board of directors and may not be a corporation employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), and its subsequent amendments, if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of banking, mortgage lending, real estate, housing development, or housing construction; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of banking, mortgage lending, real estate, housing development, or housing construction.

SECTION 5. Subchapter Y, Chapter 2306, Government Code, is amended by adding Section 2306.5549 to read as follows:

Sec. 2306.5549. **BOARD MEETINGS.**

(a) The board may hold meetings when called by the presiding officer, the director, or three of the members.

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SECTION 4. Same as House version.

SECTION 5. Subchapter Y, Chapter 2306, Government Code, is amended by adding Section 2306.5549 to read as follows:

Sec. 2306.5549. **MEETINGS OF THE CORPORATION'S BOARD.**

(a) The corporation's board may hold meetings when called by the presiding officer, the president, or three of the

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(b) The board shall keep minutes and complete transcripts of board meetings. The department shall post the transcripts on its website and shall otherwise maintain all accounts, minutes, and other records related to the meetings.

(c) All materials provided to the board that are relevant to a matter proposed for discussion at a board meeting must be posted on the department's website not later than the third day before the date of the meeting.

(d) Any materials made available to the board by the department at a board meeting must be made available in hard-copy format to the members of the public in attendance at the meeting.

(e) The board shall conduct its meetings in accordance with Chapter 551, except as otherwise required by this chapter.

(f) For each item on the board's agenda at the meeting, the board shall provide for public comment after the presentation made by department staff and the motions made by the board on that topic.

(g) The board shall adopt rules that give the public a reasonable amount of time for testimony at meetings.

SECTION 6. Subchapter Y, Chapter 2306, Government Code, is amended by adding Section 2306.5553 to read as follows:

Sec. 2306.5553. HISTORICALLY UNDERUTILIZED BUSINESSES. (a) The corporation shall make a good faith effort to provide contracting opportunities for, and to increase contract awards to, historically underutilized businesses for all

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members.

(b) The corporation's board shall keep minutes and complete transcripts of its meetings. The corporation shall post the transcripts on its Internet website and shall otherwise maintain all accounts, minutes, and other records related to the meetings.

(c) All materials provided to the corporation's board that are relevant to a matter proposed for discussion at a meeting of that board must be posted on the corporation's Internet website not later than the third day before the date of the meeting.

(d) Any materials made available to the corporation's board by the corporation at a meeting of that board must be made available in hard-copy format to the members of the public in attendance at the meeting.

(e) The corporation's board shall conduct its meetings in accordance with Chapter 551, except as otherwise required by this chapter.

(f) For each item on the agenda at a meeting of the corporation's board, the corporation's board shall provide for public comment after the presentation made by corporation staff and the motions made by the corporation's board on that topic.

(g) The corporation's board shall adopt rules that give the public a reasonable amount of time for testimony at meetings.

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services that may be required by the corporation, including professional and consulting services and commodities purchases.

(b) In accordance with Subchapter B, Chapter 20, Title 34, Texas Administrative Code, a good faith effort under Subsection (a) must include awarding historically underutilized businesses at least a portion of the total contract value of all contracts the corporation expects to award in a state fiscal year.

(c) The corporation may achieve annual procurement goals under this section by contracting directly with historically underutilized businesses or by contracting indirectly with those businesses through the provision of subcontracting opportunities.

SECTION 7. Section 2306.559(d), Government Code, is amended to read as follows:

(d) The report must include:

- (1) a statement of support, revenue, and expenses and change in fund balances;
- (2) a statement of functional expenses; ~~and~~
- (3) balance sheets for all funds;
- (4) the number, amount, and purpose of private gifts, grants, donations, or other funds applied for and received;
- (5) the number, amount, and purpose of loans provided to affordable housing developers, regardless of whether the corporation provides those loans directly to the developers or administers the loans from another source;
- (6) the amount and source of funds deposited into any fund created by the corporation for the purpose of providing grants and the number, amount, and purpose of any grants provided;
and

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(7) the total amount of annual revenue generated by the corporation in excess of its expenditures.

SECTION 8. Subchapter Y, Chapter 2306, Government Code, is amended by adding Section 2306.5671 to read as follows:

Sec. 2306.5671. COMPLIANCE WITH TERMS OF CERTAIN CONTRACTS OR AGREEMENTS. A compliance contract or agreement between the corporation and a housing sponsor that receives bond financing by or through the corporation for the purpose of providing affordable multifamily housing must contain a provision stating that if the housing sponsor fails to comply with the terms of the contract or agreement, the corporation may, at a minimum and as appropriate:

- (1) assess penalties;
- (2) remove the manager of the affected property and select a new manager;
- (3) withdraw reserve funds to make needed repairs and replacements to the property; or
- (4) appoint the corporation as a receiver to protect and operate the property.

SECTION 9. Section 2306.568, Government Code, is amended to read as follows:

Sec. 2306.568. RECORD OF COMPLAINTS. (a) The corporation shall maintain a system to promptly and efficiently act on complaints ~~[file on each written complaint]~~ filed with the corporation. The corporation shall maintain information about parties to the complaint. ~~[file must include: (1) the name of the person who filed the complaint;~~

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~~[(2) the date the complaint is received by the corporation;~~
~~[(3) the subject matter of the complaint;~~
~~[(4) the name of each person contacted in relation to the complaint;~~
~~[(5) a summary of the results of the review or investigation of the complaint, and its disposition]; and~~
~~[(6) an explanation of the reason the file was closed, if the corporation closed the file without taking action other than to investigate the complaint].~~
(b) The corporation shall make information available describing its ~~[provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the corporation's policies and]~~ procedures for ~~[relating to]~~ complaint investigation and resolution.
(c) The corporation~~[, at least quarterly until final disposition of the complaint,]~~ shall periodically notify the ~~[person filing the]~~ complaint parties ~~[and each person who is a subject of the complaint]~~ of the status of the complaint until final disposition ~~[investigation unless the notice would jeopardize an undercover investigation].~~

SECTION 10. Section 392.0331, Local Government Code, is amended by amending Subsections (b) and (f) and adding Subsections (b-1) and (f-1) to read as follows:

(b) Except as provided by Subsection (b-1), in ~~[in]~~ appointing commissioners under Section 392.031, a municipality with a municipal housing authority composed of five commissioners shall appoint at least one commissioner to the authority who is a tenant of a public housing project over which the authority has jurisdiction. In appointing commissioners under Section 392.031, a municipality with a municipal housing authority composed of seven or more commissioners shall appoint at

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SECTION __. Section 392.0331, Local Government Code, is amended by amending Subsections (b) and (f) and adding Subsections (b-1) and (f-1) to read as follows:

(b) Except as provided by Subsection (b-1), in ~~[in]~~ appointing commissioners under Section 392.031, a municipality with a municipal housing authority composed of five commissioners shall appoint at least one commissioner to the authority who is a tenant of a public housing project over which the authority has jurisdiction. In appointing commissioners under Section 392.031, a municipality with a municipal housing authority composed of seven or more commissioners shall appoint at

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least two commissioners to the authority who are tenants of a public housing project over which the authority has jurisdiction.

(b-1) The presiding officer of the governing body of a municipality that has a municipal housing authority in which the total number of units is 300 or fewer is not required to appoint a tenant to the position of commissioner as otherwise required by Subsection (b) if the presiding officer has provided timely notice of a vacancy in the position to all eligible tenants and is unable to fill the position with an eligible tenant before the 60th day after the date the position becomes vacant.

(f) Except as provided by Subsection (f-1), a [A] commissioner appointed under this section may not serve more than two consecutive two-year terms.

(f-1) Subsection (f) does not apply to a municipality that has a municipal housing authority in which the total number of units is 300 or fewer.

SECTION 11. Section 2306.5671, Government Code, as added by this Act, does not affect the terms of a compliance contract or agreement entered into before the effective date of this Act, except that if the contract or agreement is renewed, modified, or extended on or after the effective date of this Act, Section 2306.5671 applies to the contract or agreement beginning on the date of renewal, modification, or extension.

SECTION 12. The change in law made by this Act relating to the qualifications for membership on the board of directors of the Texas State Affordable Housing Corporation does not affect the eligibility of a member of the board serving

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least two commissioners to the authority who are tenants of a public housing project over which the authority has jurisdiction.

(b-1) The presiding officer of the governing body of a municipality that has a municipal housing authority in which the total number of units is 150 or fewer is not required to appoint a tenant to the position of commissioner as otherwise required by Subsection (b) if the presiding officer has provided timely notice of a vacancy in the position to all eligible tenants and is unable to fill the position with an eligible tenant before the 60th day after the date the position becomes vacant.

(f) Except as provided by Subsection (f-1), a [A] commissioner appointed under this section may not serve more than two consecutive two-year terms.

(f-1) Subsection (f) does not apply to a municipality that has a municipal housing authority in which the total number of units is 150 or fewer. [FA1]

SECTION 10. Same as House version.

SECTION 11. Same as House version.

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immediately before the effective date of this Act to continue to serve on the board for the term to which the member was appointed. Not later than February 1, 2015, the governor shall appoint members of the board as necessary to ensure that the composition of the board complies with Section 2306.554(a), Government Code, as amended by this Act.

SECTION 13. This Act takes effect September 1, 2011.

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SECTION 12. Same as House version.

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