

BILL ANALYSIS

C.S.H.B. 2954
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Urban Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that, in rural Texas, a person with moderate to low income often faces difficulty finding adequate funds for a down payment on a home and would benefit from a program that would give a rural Texan the opportunity to purchase a home. C.S.H.B. 2954 seeks to establish a new program to provide a small amount of assistance in rural areas to purchasers of manufactured homes for use as primary residences.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Manufactured Housing Board within the Texas Department of Housing and Community Affairs in SECTIONS 1 and 2 of this bill.

ANALYSIS

C.S.H.B. 2954 amends the Occupations Code to require the Texas Department of Housing and Community Affairs (TDHCA) to establish a program providing down payment assistance to eligible persons for the purchase of manufactured homes from a retailer licensed under the Texas Manufactured Housing Standards Act or manufactured homes that have been converted to and are being sold as real property. The bill sets out eligibility requirements for financial assistance under the program and caps the amount of assistance for each manufactured home purchased at the lesser of \$2,000, 50 percent of any down payment required by the primary lender, or five percent of the total purchase price of the manufactured home and the real property on which a manufactured home has been installed, if a real property election has been perfected.

C.S.H.B. 2954 requires the financial assistance to be provided in connection with a primary loan that is from a lender licensed to make consumer loans in Texas or a federally insured depository institution, if the loan does not involve the use of real property as security, or a primary loan that complies with the applicable requirements of state and federal law, if the loan involves the use of real property as security. The bill requires the Manufactured Housing Board, not later than December 1, 2013, to adopt rules governing the administration of the program; the issuance of financial assistance under the program; creditworthiness, purchase price, and other eligibility standards; exceptions to certain eligibility requirements; contractual enforcement of the residency requirement; and the structure of the financial assistance, which may include secured or unsecured deferred forgivable loans.

C.S.H.B. 2954 authorizes the TDHCA to fund the program with money appropriated to the TDHCA for that purpose and money from the housing trust fund that is made available to the TDHCA for that purpose. The bill caps the amount the TDHCA is authorized to reserve for payment of administrative expenses at five percent of money received for the program.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2954 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 1201.058(b), Occupations Code, is amended to read as follows:

(b) Ten dollars of the fee for each purchase, exchange, or lease-purchase of a manufactured home shall be deposited to the credit of the trust fund and used for the [protection] programs described by Subchapter I.

SECTION 2. Section 1201.402(c), Occupations Code, is amended to read as follows:

(c) The trust fund, fees collected for the trust fund, and income earned from investment of the trust fund may be used only for:

(1) the protection programs prescribed by this subchapter; or

(2) the program authorized under Section 1201.411.

SECTION 3. Section 1201.403, Occupations Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) Subject to Subsection (c), in any state fiscal year the money available in the [One million dollars shall be reserved in the] trust fund may not be reduced by more than one and one-half times the amount of the unreimbursed claims in the previous fiscal year [for payment of valid consumer claims].

(c) Any money in the trust fund in excess of \$3 million shall be transferred from the trust fund and credited to the general revenue fund.

SECTION 4. Section 1201.404(a), Occupations Code, is amended to read as follows:

(a) Except as otherwise provided by

HOUSE COMMITTEE SUBSTITUTE

No equivalent provision.

No equivalent provision.

No equivalent provision.

No equivalent provision.

Section 1201.411 or Subchapter C, the trust fund shall be paid directly to a consumer or, at the director's option, to a third party on behalf of a consumer to compensate a consumer who sustains actual damages resulting from an unsatisfied claim against a licensed manufacturer, retailer, broker, or installer if the unsatisfied claim results from a violation of:

- (1) this chapter;
- (2) a rule adopted by the director;
- (3) the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.);
- (4) a rule or regulation of the United States Department of Housing and Urban Development; or
- (5) Subchapter E, Chapter 17, Business & Commerce Code.

SECTION 5. Section 1201.409(a), Occupations Code, is amended to read as follows:

- (a) Except as otherwise provided by Section 1201.411 or Subchapter C, the trust fund shall be reimbursed by the surety on a bond or from other security filed under Subchapter C for the amount of a claim that is paid out of the trust fund by the director to a consumer in accordance with this subchapter.

SECTION 6. Subchapter I, Chapter 1201, Occupations Code, is amended by adding Section 1201.411 to read as follows:

Sec. 1201.411. DOWN PAYMENT ASSISTANCE PROGRAM.

(a) In this section:

(1) "Energy producing area" means a county in which oil and gas exploration and production or energy generation is an industry of significance, as determined by the department.

(2) "Program" means the down payment assistance program established under this section.

(3) "Rural area" means an energy producing area that is located:

(A) outside the boundaries of a primary metropolitan statistical area or a metropolitan statistical area;

(B) within the boundaries of a primary

No equivalent provision.

SECTION 1. Subchapter B, Chapter 1201, Occupations Code, is amended by adding Section 1201.063 to read as follows:

Sec. 1201.063. DOWN PAYMENT ASSISTANCE PROGRAM.

No equivalent provision.

metropolitan statistical area or a metropolitan statistical area, if the statistical area has a population of 25,000 or less and does not share a boundary with an urban area; or

(C) in an area that is eligible for funding by the Texas Rural Development Office of the United States Department of Agriculture, other than an area that is located in a municipality with a population of more than 50,000.

(b) The department shall establish a program providing to eligible persons down payment assistance, in the form of deferred forgivable second lien loans, for the purchase of manufactured homes in rural areas.

Loans provided under this section:

(1) may not exceed \$2,000 per person; and
(2) must be forgiven at the rate of one-fifth of the outstanding balance of the loan for each year after the issuance of the loan that the person resides in the home.

(c) To be eligible for down payment assistance under this section, a person must:

(1) be an individual or family earning not more than 80 percent of the area median income or applicable federal poverty line as determined under Section 2306.123 or 2306.1231, Government Code;

(2) meet any creditworthiness or purchase price standards established by department rule;

(3) occupy the purchased manufactured home as the person's primary residence; and

(4) purchase a manufactured home in a rural area.

(a) The department shall establish a program providing down payment assistance to eligible persons for the purchase of manufactured homes:

(1) from a retailer licensed under this chapter; or

(2) that have been converted to and are being sold as real property.

(See Subsection (b) below.)

(c) For each manufactured home purchased with financial assistance under this section, the assistance may not exceed the lesser of:

(1) \$2,000;

(2) 50 percent of any down payment required by the primary lender; or

(3) five percent of the total purchase price of the manufactured home and the real property on which a manufactured home has been installed, if a real property election has been perfected under Section 1201.222(a).

(b) To be eligible for financial assistance under this section, a person must:

(1) be an individual or family earning not more than 80 percent of the area median income or applicable federal poverty line as determined under Section 2306.123 or 2306.1231, Government Code; and

(2) except as provided by board rule, continuously occupy the purchased manufactured home as the person's primary residence for at least the two-year period following the date of purchase of the home.

(d) A person who receives down payment assistance through a second lien loan under this section shall repay the outstanding balance of the loan if the person ceases to occupy the manufactured home as the person's primary residence.

No equivalent provision.

(e) The department shall adopt rules governing:

- (1) the administration of the program;
- (2) the issuance of down payment assistance under the program;
- (3) creditworthiness and purchase price standards; and
- (4) the verification of occupancy of the manufactured home as the person's primary residence.

(f) The department shall award down payment assistance under the program on a first-come, first-served basis. The department may publish on its Internet website notice that the department is accepting applications for the program.

(g) The department shall fund the program with:

- (1) subject to Subsection (h), fees deposited to the trust fund under Section 1201.058;
- (2) money appropriated to the department for that purpose; or
- (3) other sources authorized under Subsection (i).

No equivalent provision.

(d) Financial assistance provided under this section must be provided in connection with a primary loan that:

- (1) is from a lender licensed to make consumer loans in this state or a federally insured depository institution if the loan does not involve the use of real property as security; or
- (2) complies with the applicable requirements of state and federal law if the loan involves the use of real property as security.

(e) The board shall adopt rules governing:

- (1) the administration of the program;
- (2) the issuance of financial assistance under the program;
- (3) creditworthiness, purchase price, and other eligibility standards;
- (4) exceptions to the residency requirement under Subsection (b)(2), including death, loss of employment, or other exigent circumstances;
- (5) contractual enforcement of the residency requirement under Subsection (b)(2); and
- (6) the structure of the financial assistance provided under this section, which may include secured or unsecured deferred forgivable loans.

No equivalent provision.

(f) The department may fund the program with:

- (1) money appropriated to the department for that purpose; and
- (2) money from the housing trust fund established under Section 2306.201, Government Code, that is made available to

No equivalent provision.

(h) The department may not provide assistance for the program under Subsection (g)(1) until the fund has a total balance that is not less than \$100,000 more than an amount equal to one and one-half times the amount of the unreimbursed claims in the preceding state fiscal year.

(i) The department may solicit and accept funding for the program from the following sources:

(1) gifts and grants for the purposes of this section;

(2) any state or federal programs that provide money that may be used for the purposes of this section; and

(3) amounts received by the department in any repayments of loans made under this section.

SECTION 7. The Texas Department of Housing and Community Affairs shall adopt the rules required by Section 1201.411(e), Government Code, as added by this Act, not later than December 1, 2013.

SECTION 8. This Act takes effect September 1, 2013.

the department for that purpose.

(g) The department may reserve for payment of administrative expenses not more than five percent of money received for the program under this section.

No equivalent provision.

SECTION 2. Substantially same as introduced version.

SECTION 3. Same as introduced version.