

BILL ANALYSIS

C.S.H.B. 3779
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Urban Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties have raised concerns regarding the application process for certain affordable housing tax credit programs, specifically the level of input, approval, and oversight from the community and the Texas Department of Housing and Community Affairs, as applicable. C.S.H.B. 3779 seeks to address these concerns by revising certain provisions relating to certain tax credit programs.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3779 amends the Government Code to require an applicant for financial assistance for the construction or rehabilitation of affordable rental housing, not later than the 60th day before the date the application is submitted to the Texas Department of Housing and Community Affairs, to provide notice of intent to file the application to the municipality in which any part of the proposed development is to be located, the county in which any part of the proposed development is to be located if that part will not be located in a municipality, and the municipality and county in which the proposed development is to be located if any part of the development is to be located in the extraterritorial jurisdiction of a municipality. The bill requires a county or municipality, as applicable, not later than the 30th day after the date of receipt of such notice, to provide for public comment on the proposed application at a hearing held in compliance with the state's open meetings law. The bill requires the application for financial assistance to be accompanied by a certified copy of a resolution from each governing body that received the required notice and sets out the information the resolution must certify. The bill specifies that a preapplication for the low income housing tax credit program is not considered an application for purposes of these provisions.

C.S.H.B. 3779 amends the Tax Code to specify that money received by a school district from certain payments by a community housing development organization in lieu of taxes is subject to the same limitations and restrictions as property tax revenue received by the district.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3779 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

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Chapter 1231, Government Code, is amended by adding Subchapter C-1 to read as follows:

No equivalent provision.

SUBCHAPTER C-1. BOARD APPROVAL OF ISSUANCE OF CERTAIN LOCAL SECURITIES

Sec. 1231.051. APPROVAL OF ISSUANCE. The board shall approve the issuance of a security issued under Subchapter E, Chapter 394, Local Government Code, if, after examining the application and documents or items of information required by the board, the board determines that the issuance is advisable.

SECTION 2. Section 2306.67021, Government Code, is amended to read as follows:

No equivalent provision.

Sec. 2306.67021. APPLICABILITY OF SUBCHAPTER. To the extent permitted by federal law, this ~~[Except as provided by Section 2306.6703, this]~~ subchapter applies ~~[does not apply]~~ to the allocation of housing tax credits to developments financed through the private activity bond program in the same way this subchapter applies to the allocation of housing tax credits to developments not financed through the private activity bond program.

SECTION 3. Section 2306.6710, Government Code, is amended by amending Subsection (d) and adding Subsection (d-1) to read as follows:

No equivalent provision.

(d) Subject to Subsection (d-1), the ~~[The]~~ department shall underwrite the applications ranked under Subsection (b) beginning with the applications with the highest scores in each region described by Section 2306.111(d) and in each set-aside category described in the qualified allocation plan. Based on application rankings, the department shall continue to underwrite applications until the department has processed enough applications satisfying the department's underwriting criteria to enable the allocation of all available housing tax credits according to regional allocation goals and set-aside categories. To enable the board to establish an applications waiting list under Section 2306.6711, the department shall underwrite as many additional applications as the board

considers necessary to ensure that all available housing tax credits are allocated within the period required by law. The department shall underwrite an application to determine the financial feasibility of the development and an appropriate level of housing tax credits. In determining an appropriate level of housing tax credits, the department shall evaluate the cost of the development based on acceptable cost parameters as adjusted for inflation and as established by historical final cost certifications of all previous housing tax credit allocations for:

- (1) the county in which the development is to be located;
- (2) if certifications are unavailable under Subdivision (1), the metropolitan statistical area in which the development is to be located; or
- (3) if certifications are unavailable under Subdivisions (1) and (2), the uniform state service region in which the development is to be located.

(d-1) A development to be financed through the private activity bond program is eligible for housing tax credits only if, with respect to other applications received in the subregion:

- (1) for new construction, the application received a score equal to or greater than the highest score awarded to any application for housing tax credits for a development that will not be supported through the bond program; or
- (2) for rehabilitation or reconstruction, the application received a score not lower than the lowest score awarded to any application for housing tax credits for a development that will not be supported through the bond program.

SECTION 4. Subchapter E, Chapter 394, Local Government Code, is amended by adding Sections 394.058 and 394.059 to read as follows:

Sec. 394.058. APPROVAL OF BONDS BY BOND REVIEW BOARD. Notwithstanding any other law, a bond may not be issued under this chapter unless approved by the Bond Review Board.

Sec. 394.059. APPROVAL OF BONDS BY LOCAL GOVERNMENT. (a) Notwithstanding Chapter 1372, Government Code, or any other law, a private activity

No equivalent provision.

bond used to finance all or part of a residential development under this chapter may not be issued unless the issuance is approved by all local governments whose boundaries contain the development.

(b) A local government whose boundaries contain a proposed residential development with respect to which the issuance of a private activity bond is sought:

(1) must consider any public comment made at a hearing held required by the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA); and

(2) following the hearing, may refuse to approve the issuance of a private activity bond for purposes of financing the development.

No equivalent provision.

SECTION 1. Subchapter F, Chapter 2306, Government Code, is amended by adding Section 2306.1116 to read as follows:

Sec. 2306.1116. NOTICE TO LOCAL GOVERNMENTS REQUIRED FOR CERTAIN APPLICATIONS FOR FINANCIAL ASSISTANCE; HEARING AND CERTIFICATION REQUIRED. (a) Not later than the 60th day before the date an application for financial assistance for the construction or rehabilitation of affordable rental housing is submitted to the department, the applicant must provide notice of intent to file the application to:

(1) the municipality in which any part of the proposed development is to be located;

(2) the county in which any part of the proposed development is to be located if that part will not be located in a municipality; and

(3) the municipality and county in which the proposed development is to be located if any part of the development is to be located in the extraterritorial jurisdiction of a municipality.

(b) Not later than the 30th day after the date of receipt of notice under Subsection (a), a county or municipality, as applicable, shall provide for public comment on the proposed application at a hearing held in compliance with Chapter 551.

(c) An application for financial assistance from the department for the construction or rehabilitation of affordable rental housing must be accompanied by a certified copy of a resolution from each governing body that received notice under Subsection (a). The

resolution must certify that:

(1) notice has been provided to the governing body as required by Subsection (a);

(2) the governing body has had sufficient opportunity to obtain a response from the applicant regarding any questions or concerns about the proposed development;

(3) the governing body has held a hearing under Subsection (b); and

(4) after due consideration of the information provided by the applicant and public comment, the governing body does not object to the filing of the proposed application.

(d) A preapplication submitted under Section 2306.6704 is not considered an application for purposes of this section.

SECTION 5. Section 11.182, Tax Code, is amended.

SECTION 6. Section 394.9025(b), Local Government Code, is repealed.

SECTION 7. The change in law made by this Act in amending Sections 2306.67021 and 2306.6710, Government Code, applies only to an application for low income housing tax credits that is submitted to the Texas Department of Housing and Community Affairs during an application cycle that begins on or after the effective date of this Act. An application that is submitted during an application cycle that began before the effective date of this Act is governed by the law in effect at the time the application cycle began, and the former law is continued in effect for that purpose.

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

SECTION 2. Same as introduced version.

No equivalent provision.

SECTION 3. The change in law made by this Act in adding Section 2306.1116, Government Code, applies only to an application for financial assistance that is submitted to the Texas Department of Housing and Community Affairs during an application cycle that begins on or after the effective date of this Act. An application for financial assistance that is submitted during an application cycle that began before the effective date of this Act is governed by the law in effect at the time the application cycle began, and the former law is continued in effect for that purpose.

SECTION 4. Same as introduced version.