BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1804
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

There are over 400 public housing agencies (PHAs) in Texas that manage nearly 60,000 public housing units. These units have rents based on the resident's ability to pay and typically serve Texans who earn less than 30 percent of the area median income (AMI). These units are often 30 to 70 years old and in need of major renovation, and in many areas, public housing communities are the only affordable housing resource for families, seniors, and persons with disabilities, who are earning less than 30 percent AMI.

Refurbishing units such as these can be difficult because PHAs generally have limited access to financial resources to fund capital improvements for public housing residences. This is partly because operating subsidies and tenant rents cannot be used to service the debt needed to rehabilitate existing buildings. As a result, there is a very real probability that these properties will continue to degrade and ultimately face closure due to physical deterioration.

Nationally, the affordable housing industry calculates that $30 billion is needed to address the nation's capital improvement needs for public housing units, but the United States (U.S.) Department of Housing and Urban Development (HUD) only provides approximately $2 billion annually.

The Housing Tax Credit (HTC) Program is a federal program administered by the Texas Department of Housing and Community Affairs (TDHCA). Current federal law weights certain kinds of investments in affordable housing units for the purpose of allocating housing tax credits. These tax credits are competitively awarded by TDHCA.

Within the HTC program are certain statutorily mandated "set-asides," which TDHCA is required to allocate. These are differing types of developments, and, for example, include set-asides for nonprofit housing developers, housing developments that are funded by the U.S. Department of Agriculture, and investment in housing units that are "at-risk" of being removed from the housing pool.

The 83rd Texas Legislature enacted H.B.1888, which allowed public housing authority properties to be included in the definition of an "At-Risk Development" and be eligible for the "at-risk set-aside" of tax credits. This means that additional resources will be made available to rehabilitate or replace public housing units that are "at-risk" for demolition or disposition in the near term. H.B. 1888 passed the House 147-0 and passed the Senate 31-0.

However, H.B. 1888 referenced two relevant sections of federal code, but failed to include a third that is critically important to public housing reinvestment in Texas. S.B. 1804 is a technical correction to capture this third provision in federal law, to allow PHAs doing what is known as "RAD conversions" to participate in the at-risk set aside of TDHCA tax credits.

The Rental Assistance Demonstration (RAD) is a new, voluntary HUD program that preserves public housing by providing PHAs with access to more stable funding to make needed improvements to properties. RAD provides PHAs a way to rehabilitate, or repair, units without depending on additional money from Congress.

RAD allows PHAs to manage a property using specific HUD funding contracts, which utilize more stable funding resources. This shift will make it easier for PHAs to borrow money and use low income housing tax credits (LIHTCs) as well as other forms of financing. These private sources of additional money will enable PHAs to make improvements essential for preserving public housing.

As a voluntary, limited demonstration program, less than 60,000 public housing units can be selected for RAD. Most residents will see no increases in their rent as a result of the rad conversion. For those that do, most will see very little increase – less than $25 per month. Any rent increase will be phased in over time. (Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 1804 amends current law relating to low income housing tax credits awarded for at-risk developments.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2306.6702(a)(5), Government Code, to redefine "at-risk development" to include a development that proposes to rehabilitate or reconstruct housing units that receive assistance or will receive assistance through the Rental Assistance Demonstration program administered by the United States Department of Housing and Urban Development (HUD) as specified by the Consolidated and Further Continuing Appropriations Act of 2012 (Pub. L. No. 112-55) and its subsequent amendments, if the application for assistance through the Rental Assistance Demonstration program is included in the applicable public housing authority's annual plan that was most recently approved by HUD as specified by 24 C.F.R. Section 903.23, and the applicant certifies in writing that the application for assistance through the Rental Assistance Demonstration program is consistent with that authority's obligation to affirmatively further fair housing.

SECTION 2. Provides that the change in law made by this Act applies only to an application for low income housing tax credits that is submitted on or after the effective date of this Act. Provides that an application for low income housing tax credits that is submitted before the effective date of this Act is governed by the law in effect when the application was submitted, and the former law is continued in effect for that purpose.

SECTION 3. Effective date: September 1, 2015.