

## **BILL ANALYSIS**

Senate Research Center  
87R4791 JAM-D

S.B. 1565  
By: Lucio  
Local Government  
4/26/2021  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The non-competitive four percent and the competitive nine percent housing tax credit (HTC) programs are significant policy tools in Texas because they help drive private capital to the development of affordable rental housing for low-income households. These programs are entirely federally funded and administered by the Texas Department of Housing and Community Affairs (TDHCA).

Under current law, developers seeking to utilize the competitive nine percent HTC cannot build low-income housing on a census tract that already has an existing house tax credit development—inadvertently placing low-income housing developers in a bidding war for qualifying census tracts, driving market values up. Moreover, TDHCA scores applications for the competitive program in specific priority order, as required by statute. Agency discretion given to TDHCA allows it to consider varying regional needs, including during times of natural disasters and economic turndowns.

Applicants for the non-competitive four percent HTC are required to obtain a Resolution of No Objection (RONO) from a local government jurisdiction. Governor Abbott waived this requirement in the wake of the COVID-19 pandemic, and the only reported effect is that it increased the speed at which affordable housing units are developed for lower-income Texans—at no cost to the state.

For the competitive nine percent Housing Tax Credit Program, S.B. 1565 removes the census tract limitation and allows TDHCA to adjust the scoring rubric accordingly—without changing the existing scoring criteria.

For the non-competitive four percent Housing Tax Credit Program, S.B. 1565 replaces the RONO requirement with a certification process that mandates notices to local governing bodies but does not impact public hearings held by these bodies.

As proposed, S.B. 1565 amends current law relating to the allocation of low income housing tax credits.

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the Texas Department of Housing and Community Affairs is modified in SECTION 2 (Section Sections 2306.67071, Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends the heading to Section 2306.67071, Government Code, to read as follows:

Sec. 2306.67071. ADDITIONAL APPLICATION REQUIREMENT: NOTICE AND CERTIFICATION BY CERTAIN GOVERNING BODIES.

SECTION 2. Amends Sections 2306.67071(c) and (d), Government Code, as follows:

(c) Prohibits the governing board of the Texas Department of Housing and Community Affairs (board; TDHCA) from approving an application for housing tax credits for developments financed through the private activity bond program unless the applicant has submitted to TDHCA a certification made by each applicable governing body, rather than a certified copy of a resolution from each applicable governing body, described by Subsection (a) (relating to requiring an applicant, before submitting to TDHCA an application for housing tax credits for developments financed through the private activity bond program, including private activity bonds issued by TDHCA, the Texas State Affordable Housing Corporation, or a local issuer, to provide notice of the intent to file the application to a certain governing board) and stating that notice has been provided to each governing body as required by Subsection (a), and each governing body has had sufficient opportunity to obtain a response from the applicant regarding any questions or concerns about the proposed development. Deletes existing text requiring that the resolution certify each governing body has held a hearing under Subsection (b) (relating to requiring a county or municipality, as applicable, to hold a hearing at which public comment may be made on the application), and after due consideration of the information provided by the applicant and public comment, the governing body does not object to the proposed application. Makes nonsubstantive changes.

(d) Authorizes TDHCA by rule to provide for the time and manner of the submission to TDHCA of a certification required by, rather than a resolution required by, Subsection (c).

SECTION 3. Amends Section 2306.6710(b), Government Code, to require TDHCA, if an application satisfies the threshold criteria, to score and rank the application using a point system that considers, rather than a point system that prioritizes in descending order, certain criteria.

SECTION 4. Amends Section 2306.6725(b), Government Code, to delete existing text requiring TDHCA to provide appropriate incentives as determined through the qualified allocation plan to reward applicants who agree to locate the development in a census tract in which there are no other existing developments supported by housing tax credits. Makes nonsubstantive changes.

SECTION 5. Repealer: Section 2306.67071(b), Government Code.

SECTION 6. Provides that the change in law made by this Act applies only to an application for low income housing tax credits that is submitted to TDHCA during an application cycle that is based on the 2022 qualified allocation plan or a subsequent plan adopted by the governing board of TDHCA. Provides that an application that is submitted during an application cycle that is based on an earlier qualified allocation plan is governed by the law in effect on the date the application cycle began, and the former law is continued in effect for that purpose.

SECTION 7. Effective date: September 1, 2021.