

BILL ANALYSIS

Senate Research Center
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S.B. 2046
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Local Government
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, the Texas Department of Housing and Community Affairs (TDHCA) monitors low income housing tax credits developments for compliance with agency rules and regulations. Developments that are in noncompliance receive demerits if they fail to address an issue within a specified time. Frequently, public housing authorities (PHA) contract with multiple private companies to assist in managing various properties. The issue arises with PHAs having little to no control over compliance issues, even when they are not at fault.

In a situation where a development is noncompliant, the PHA could receive demerits from TDHCA, even if they are not the managing authority. When PHAs get these demerits, it jeopardizes future TDHCA applications. Current law does not give PHAs the opportunity or authority to address the deficiencies. The TDHCA has helped address this issue through agency rule by allowing, for application scoring purposes, to not have a demerit show up on a portfolio of an applicant if they do not control the development. This rule change has allowed PHAs to continue to apply for housing applications without having demerits out of their control.

S.B. 2046 codifies current TDHCA practice by correctly allocating deficiency demerits to responsible parties, and removing significant time constraints. This codification will continue to provide greater certainty for PHAs for planning and future application purposes.

As proposed, S.B. 2046 amends current law relating to a compliance history assessment made for purposes of allocating certain financial assistance administered by the Texas Department of Housing and Community Affairs.

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 2306.057, Government Code, by amending Subsection (c) and adding Subsection (e), as follows:

(c) Requires the governing board of the Texas Department of Housing and Community Affairs (TDHCA) to fully document and disclose any instances in which the board approves a project application despite any noncompliance associated with the project, applicant, or affiliate that is reported by TDHCA under Subsection (a)(2) (relating to requiring TDHCA to provide the board a written report regarding the results of certain assessments).

(e) Prohibits TDHCA, for a project application seeking financial assistance administered through TDHCA's multifamily housing programs, from including in the report provided under Subsection (a)(2) any instance of noncompliance associated with a project of the applicant or affiliate of the applicant if the applicant or affiliate has submitted documentation, in a format acceptable to TDHCA, demonstrating that the responsibility for project compliance was delegated to another participant in the project, including, if applicable, a related party as defined by Section 2306.6702 (Definitions).

SECTION 2. Makes application of Section 2306.057, Government Code, as amended by this Act, prospective to January 1, 2022.

SECTION 3. Effective date: September 1, 2021.