

BILL ANALYSIS

Senate Research Center
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S.B. 1651
By: Parker
Local Government
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Department of Housing and Community Affairs manages the 4% Low Income Housing Tax Credit (LIHTC) program for multi-family housing. The financing for these properties, per federal requirements, must utilize at least 50% in private activity bonds (issued annually by the Bond Review Board).

S.B. 1651 seeks to create greater efficiency in the use of these bonds by placing a maximum limit on the bonds at 55%. This change would result in more housing projects being built with the same amount bonds allotted to Texas.

S.B. 1651 mandates that in a given year when demand for private activity bond projects exceeds the amount of available bonds, each approved LIHTC 4% bond project will cap the use of bonds at 55%. The Office of the Attorney General certifies that the legal entities submitting the documentation have certified the compliance of the 4% program. The onerous is on the legal counsel of the awarded developer. The attorney general's office will sign-off the 55% cap is not exceeded within their final review under Section 1202.0003, Government Code.

S.B. 1651 also provides that if a project has a change order impacting the 50% federal requirement, these projects will be given priority the following cycle to ensure the federal requirement of 50% is met.

As proposed, S.B. 1651 amends current law relating to the issuance of private activity bonds for qualified residential rental projects.

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 1202.003, Government Code, by adding Subsection (b-1), as follows:

(b-1) Requires the attorney general, notwithstanding Subsection (b) (relating to requiring the attorney general, if the attorney general finds that a public security has been authorized to be issued in conformity with law, to take certain actions) if Section 1372.037(b) applies with respect to the issuance of qualified residential rental project bonds in a program year, to certify the issuer's compliance with that subsection before approving the issuance of those bonds.

SECTION 2. Amends Section 1372.0231(f), Government Code, as follows:

(f) Requires the Texas Bond Review Board (BRB), in each area described by Subsection (d) (relating to requiring BRB to apportion the amount of the state ceiling set aside for housing finance corporations among the uniform state service regions according to certain percentages), rather than in each area described by Subsection (d) or (e) (relating to requiring BRB, for each of certain uniform state services regions, to reserve a certain

amount of the state ceiling set aside for the region for certain purposes), to grant reservations based on the priority levels of proposed projects as described by Section 1372.0321.

SECTION 3. Amends Section 1372.0321, Government Code, as follows:

Sec. 1372.0321. PRIORITIES FOR RESERVATIONS AMONG ISSUERS OF QUALIFIED RESIDENTIAL RENTAL PROJECT ISSUES. (a) Requires BRB, in granting reservations to issuers of qualified residential rental project issues, to give first priority to projects that:

(1) during the three-year period preceding the date of the application, have closed on a previous reservation of bonds in accordance with Section 1372.042 (Deadline for Closing on Bonds by Issuer), as determined based on the date of allocation of those bonds; and

(2) require a subsequent issuance of bonds to maintain compliance with the percentage requirement described by Subsection (e).

(b) Requires BRB, in granting reservations to issuers of qualified residential rental project issues, to give second priority to certain projects.

(c) Requires BRB, in granting reservations to issuers of qualified residential rental project issues, to give third priority, rather than second priority, to certain projects.

(d) Requires BRB, in granting reservations to issuers of qualified residential rental project issues, to give fourth priority, rather than third priority, to any other qualified residential rental project.

(e) Prohibits BRB from reserving a portion of the state ceiling for a first, second, or third priority project described by this section unless BRB receives certain evidence. Makes nonsubstantive changes.

SECTION 4. Amends Section 1372.037, Government Code, by adding Subsection (b), as follows:

(b) Provides that this subsection applies only to projects that are granted a reservation of a portion of the available state ceiling for a program year under Subsection (a)(5) (relating to prohibiting BRB, before August 15, from granting for any single project a reservation for that year that is greater than, if the issuer is an issuer of qualified residential rental project bonds, the greater of certain amounts). Prohibits the amount of bonds used to finance each project and requested in an application for a reservation from exceeding 55 percent of the reasonably expected aggregate basis of the project and the land on which the project is or will be located if for a program year the total amount of qualified residential rental project bonds for which reservations are sought exceeds, as of October 31, 55.75 percent of the portion of state ceiling available for that year exclusively for reservations by issuers of qualified residential rental project bonds under Section 1372.0231(f).

SECTION 5. Amends Section 1372.042(d), Government Code, as follows:

(d) Requires the issuer, not later than the fifth business day after the date on which the bonds are closed, to submit to BRB certain documents, including, if the project is a project entitled to first, second, or third priority under Section 1372.0321, evidence from the Texas Department of Housing and Community Affairs that an award of low-income housing tax credits has been approved for the project. Makes nonsubstantive changes.

SECTION 6. Provides that the change in law made by this Act in adding Section 1202.003(b-1), Government Code, and in amending Chapter 1372 (Private Activity Bonds and Certain Other

Bonds), Government Code, applies to the allocation of the available state ceiling under Chapter 1372 beginning with the 2024 program year.

SECTION 7. Effective date: upon passage or September 1, 2023.