

BILL ANALYSIS

Senate Research Center

S.B. 2549
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Local Government
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Department of Housing and Community Affairs (TDHCA) awards the state's tax credit allotment. Under the low-income housing tax credit program, due to the competitive process, new affordable housing developments get more points in the competitive application process than remodel or rehabilitation developments. S.B. 2549 seeks to remedy these disparities, ensuring affordable housing developments in need of remodeling or rehabilitation are able to better compete for tax credits.

Originally designed to prevent the over-concentration of affordable housing, the Two-Mile Rule limits housing tax credit (HTC) allocations to multiple projects in the same community, in the same calendar year, within two miles of each other in counties with populations over one million. While this policy's intent is to spread affordable housing across a wider area, it overlooks the core purpose of rehabilitation and remodeling projects, which focus on preserving and revitalizing existing housing, rather than building new developments. As a result, the rule unfairly places rehabilitation and remodeling efforts at a disadvantage.

The issue with this process lies in its reliance on the HTC scoring system, which heavily prioritizes site location. New developments can strategically select locations near job centers and amenities to maximize their overall application points. In contrast, rehabilitation and remodeling projects are tied to their existing locations, typically resulting in a lower score. Given the competitive nature of the HTC program, even a small point difference can determine whether a project moves forward in the allocation cycle.

As a result, rehabilitation and remodeling projects often face disqualification in the competitive allocation process, even if they rank high within the at-risk set-aside, simply due to competing against higher-scoring new construction projects. Exempting rehabilitation and remodeling projects from the Two-Mile Rule would help eliminate this scoring disparity and allow these projects to compete on equal footing with new construction.

The impact of the Two-Mile Rule on rehabilitation and remodeling projects in Texas has been significant. In the past four years, several essential rehabilitation and remodeling projects have been blocked from receiving HTCs due to this rule. According to the Texas Affiliation of Affordable Housing Providers, a total of 183 units across three rehabilitation projects were unable to proceed because of this restriction (Houston, San Antonio, Austin). The average age of the properties involved in these denied projects is 29 years, with some dating back as far as 1984.

S.B. 2549 ensures the Two-Mile Rule does not apply to developments that involve remodel or rehabilitation of existing affordable, rent-restricted developments. S.B. 2549 is a critical step in leveling the playing field for rehabilitation or remodeling projects by exempting them from the restrictive Two-Mile Rule, allowing them to compete fairly alongside new construction developments.

As proposed, S.B. 2549 amends current law relating to the allocation of housing tax credits to developments within proximate geographical areas.

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 Sections 2306.6711(f) and (f-1), Government Code, as follows:

(f) Provides that Section 2306.6711 (Allocation of Housing Tax Credits) does not apply to developments that involve the rehabilitation of existing affordable, rent-restricted developments.

(f-1) Authorizes the board of the Texas Department of Housing and Community Affairs (board; TDHCA) to allocate housing tax credits to more than one development in a single community only if the community is located in a municipality with a population of 750,000 or more, and the governing body of the municipality containing the development has by vote specifically authorized the allocation of housing tax credits for the development.

Deletes existing text authorizing the board to allocate housing tax credits to more than one development in a single community only if the community is located in a municipality with a population of two million or more and an area that is a federally declared disaster area, and the governing body of the municipality containing the development is authorized to administer disaster recovery funds as a subgrant recipient. Makes nonsubstantive changes.

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 to TDHCA during an application cycle that is based on the 2026 qualified allocation plan or a subsequent plan adopted by the board. 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 3. Effective date: September 1, 2025.