

SUBJECT: Builder incentive program for low-income housing

COMMITTEE: Urban Affairs — committee substitute recommended

VOTE: 8 ayes — Carter, Bailey, Burnam, Clark, Ehrhardt, Hill, Hodge, Najera
0 nays
1 absent — Edwards

WITNESSES: For — None
Against — None
On — John Garvin, Texas Department of Housing and Community Affairs;
Scott Hendrix, Office of the Comptroller of Public Accounts

BACKGROUND: The Texas Department of Housing and Community Affairs (TDHCA) administers the Home Investments Partnership Program (HOME). This federal program is aimed at expanding the supply of affordable housing for households with incomes at or below 80 percent of the average median family income (AMFI) in their region. TDHCA distributes HOME funds through statewide or regional competitions or by direct award.

DIGEST: CSHB 2281 would require TDHCA to develop and maintain a builder incentive partnership program to encourage development of affordable housing projects in geographic areas that TDHCA determined to be in need of affordable housing.

The program, which could not be funded with state money, would require TDHCA to negotiate cooperative purchasing agreements with housing assistance agencies or nonprofit organizations to guarantee builders a share of the purchase price of a certain number of homes. The cost of a house built under the program could not exceed \$70,000. Builders in the project could require a profit for each home built, as long as the partnership agreement between TDHCA and the builder provided for a reasonable profit. Builders could market the homes directly to buyers.

Builder incentive partnership program. TDHCA would have to enter into partnership agreements with eligible builders and developers and with housing assistance agencies or nonprofit entities that assist households with incomes up to 80 percent of the AMFI to help these families buy homes built under the program.

The department would have to establish standards for homes built under the program, some of which the bill would specify, including a requirement that the cost of a home not exceed \$70,000.

Funding. Neither TDHCA nor the Texas State Affordable Housing Corp. could spend state money to fund guaranteed purchase agreements required by this bill. TDHCA and the corporation would have to cooperate to identify sources of funds that were appropriate for the program.

TDHCA and the corporation would have to cooperate to identify private lenders to provide market-rate mortgages for low- and very low-income families who would buy homes under the program and to identify housing assistance programs for families who would not qualify for private market-rate mortgages.

Cooperative purchase agreement. TDHCA would have to negotiate a cooperative purchase agreement with a housing assistance agency or nonprofit entity for each project. The housing agency or nonprofit entity would have to agree to use the funds to guarantee a certain portion of the purchase price of a certain number of houses to be built under the project. At the option of the builder, the housing assistance agency or nonprofit entity would have to buy homes built under the project at cost if there were no qualified purchaser within 30 days of the date the construction was completed.

Builder partnership agreement. Under a partnership for a specific project, TDHCA and a builder would have to agree on the cooperative purchase agreement, the kind and number of homes to be built, and the types of housing assistance to be applied for eligible home buyers who bought homes built under the program. To enter into an agreement, the builder would have to issue standard warranties for materials and labor to the first owner-occupant of a home bought under the program.

The builder would have to market project homes to those who qualified for assistance in the same manner in which private housing developments are marketed to the general public.

Cost-plus profit structure. Builders in a builder partnership agreement could require home buyers to buy homes under a cost-plus profit structure. If the builder required this type of structure, TDHCA would have to agree in the partnership agreement to a reasonable profit for the builder. The profit would be part of the purchase price of the home.

Sustainable building. To encourage the use of sustainable products and techniques in the construction of affordable housing, TDHCA and the Texas State Affordable Housing Corp., in cooperation with governmental entities and nonprofit organizations, would have to help builders identify information on sustainable building resources and techniques.

This bill would take effect September 1, 1999.

SUPPORTERS
SAY:

CSHB 2281 would encourage builders to build \$30,000 to \$50,000 homes for low-income families and individuals who have a hard time finding homes they can afford. The builder incentive program was recommended in *Challenging the Status Quo*, a report by the comptroller's Texas Performance Review in March 1999.

Current state programs do little to increase the supply of low-cost homes. CSHB 2281 would require TDHCA, in partnership with the private sector, to promote construction of low-cost housing. The state's healthy economy and growing population ensure that builders can find plenty of business in more profitable price ranges, and they must receive incentives to participate in building lower-cost housing.

Since builder profits are figured as a percentage of the cost of construction, most builders have a hard time profitably producing houses that cost less than \$60,000. Yet even a \$60,000 house is too expensive for at least one of every seven Texas workers. CSHB 2281 would give builders incentives to devote some of their resources to building homes that would not otherwise be their first choice of projects.

The bill would encourage builders to build affordable housing because they would be guaranteed a certain percentage of the purchase price, which would minimize their risk. The cost-plus arrangement would offer builders a flat fee for each completed home rather than a percentage-based profit based on the home's sale price. Most buyers in the program could secure financing through traditional lending.

OPPONENTS
SAY:

It would be inappropriate for the state to guarantee a private builder's profits at a time when TDHCA can meet less than 1 percent of the state's affordable housing needs. Requiring TDHCA and a housing assistance agency to buy homes priced at less than \$70,000 from a builder if the homes could not be sold could saddle the state and tie up housing funds in an investment that might have been unwise in the first place. If a new house under \$70,000 does not sell, it probably was either built in the wrong place or built badly.

TDHCA already works with many for-profit developers who benefit from TDHCA programs and funds. In the past two to three years, at least \$15 million has gone to for-profit developers for building more than 2,500 units of affordable housing.

CSHB 2281 would require TDHCA to assist low-income homebuyers as necessary if they could not qualify for private market-rate mortgages. Since the bill would prohibit TDHCA from using state funds, any guarantees or required purchases under the program would have to be financed by HOME funds, because no other funds would be available to TDHCA.

HOME funds already are oversubscribed at a ratio of four to one, and adding an untested program would reduce funding for other proven strategies. In addition, federal requirements provide that HOME funds may not be used to guarantee more than 20 percent of a loan, and under TDHCA's federally approved one-year action plan, only 4 percent of HOME funds could be used for this sort of activity.

NOTES:

The companion bill, SB 866 by Lucio, was referred to the Senate Intergovernmental Relations Committee on March 8.