

SUBJECT: Tax credits and exemptions for affordable housing organizations

COMMITTEE: Urban Affairs — favorable, with amendment

VOTE: 6 ayes — Talton, Van Arsdale, Bailey, Edwards, Hunter, Wong
0 nays
1 absent — Menendez

WITNESSES: For — Brandon Agamalian, City of Fort Worth

Against — Stephan Fairfield, Houston Association of Community Development Corporations; John Garvin, Texas Affiliation of Affordable Housing Providers; Reymundo Ocanas, Texas Association of CDCs; Robert Parker

BACKGROUND: Government Code, ch. 2306, subchapter DD governs the Texas Department of Housing and Community Affairs’ (TDHCA) Low Income Housing Tax Credit Program (LIHTCP). Under sec. 2306.6702(a)(15), TDHCA uses “threshold criteria” in a qualified allocation plan to determine whether a proposed low-income housing project is acceptable under the LIHTCP. Sec. 2306.6710 requires TDHCA to score and rank applicants that meet the department’s threshold criteria on the basis of other criteria, including tenants’ income levels, rent levels, quality of the units, and the level of community support for the development.

Subchapter DD governs an application by a proposed project under LIHTCP and requires an applicant to provide certain notices to the public and to local elected officials. The subchapter also establishes deadlines for allocation of tax credits under the LIHTCP. Sec. 2306.6725 lists criteria consistent with TDHCA’s goals that are used to score an application, including provision of quality services to residents, demonstrable community support, service to underserved areas, and affordability.

Tax Code, sec. 11.182 entitles a community housing development corporation (CHDO) engaged in a low- or moderate-income housing project to exemption from property tax if it meets state criteria for charitable organizations.

DIGEST:

HB 2617, as amended, would increase the level of public notification and participation required for approval of a low-income housing project. It also would allow the governing body of a political subdivision to determine a CHDO's eligibility for a property-tax exemption.

Public participation and approval. TDHCA's threshold criteria would have to include a requirement that the applicant for the tax credit obtain approval of the development from the governing body of the project's municipality and county. The housing project's application for the tax credit would have to include evidence that the application had been approved by the relevant governing bodies as well as evidence of a community meeting held in the community where the project was planned. If the project was a rehabilitation of an occupied property, the applicant would have to include evidence that the relocation plan had been submitted to the presiding officer of each relevant political subdivision.

In its method for scoring and ranking a development that has met the department's threshold criteria, TDHCA would have to include the level of community opposition to a development, the level of support from the chief administrative officer of each relevant political subdivision, and the density of multifamily housing in the area where the development was planned. TDHCA also would have to provide notice about public hearings, board meetings, application dates, and other information about the LIHTCP to the chief administrative officers and governing bodies of political subdivisions.

TDHCA would have to provide notice of the filing of an application to each member of a political subdivision's governing body who represented the area containing the development, in addition to the presiding officer of each political subdivision. The department also would have to mail a list of approved project applications to the chief administrative officer, governing body, and local housing department of each political subdivision containing an approved project.

HB 2617 would add the requirement that there be a need for a housing project in the planned location to the list of scoring criteria that are consistent with TDHCA's goals.

Local determination of tax-exempt status. HB 2617 would allow a taxing unit to tax an otherwise tax-exempt CHDO unless the CHDO qualified for an exemption under criteria adopted by that taxing unit's governing body. To receive an exemption, a CHDO would have to submit a written request to the taxing unit's governing body. The request would have to include information allowing the unit to determine if the CHDO qualified for an exemption. After determining whether the CHDO was exempt according to the taxing unit's criteria, the unit would have to send a letter of its determination to the CHDO and to the chief appraiser for the taxing unit. The taxing unit could charge the organization a fee for administrative costs resulting from this process. A CHDO seeking the exemption also would have to send a copy of the letter it received from the taxing unit to the chief appraiser, and the appraiser would have to accept the unit's determination about tax exemption.

The bill would take effect September 1, 2003.

**SUPPORTERS
SAY:**

HB 2617 would reestablish local control for cities that are attempting to balance affordable housing, community needs, and fiscal pressures. It would preserve the existing application and approval process for an affordable housing project while allowing city councils, county commissioners courts, and neighborhoods to provide input on new developments. The bill also would allow a city or county to determine if it could afford a tax exemption for a CHDO project. Given the controversy that affordable housing has caused across the state, the Legislature should give local communities a greater say in decisions on housing project approval and tax exemptions.

Current law does not provide enough safeguards to ensure that a local community wants or even needs a housing project. HB 2617 would require that an applicant to TDHCA's tax credit program hold a community hearing on the project, publicize a proposed housing project to the city council or commissioners court, and obtain approval of the project from local elected officials. The bill would allow decisions about affordable housing to be made in the communities where those developments would be located, rather than by state officials in Austin.

Citizens have the right to know if a housing project is planned for their neighborhood, and community opposition to a housing project should be one of the criteria used to evaluate a housing application. Also, TDHCA should have to consider whether a need exists for a project in an area, since tax credits cause a significant loss of revenue for taxing units.

HB 2617 would give local taxing units a say about the millions of dollars in tax revenue forfeited to CHDO tax exemptions each year. Local communities must provide all residents with public schools, streets, utilities, and other services, even while many housing developments that attract new residents are tax-exempt. It is unfair for the state to require tax exemptions for these properties without allowing communities to decide whether new tax-exempt developments are wanted or needed.

**OPPONENTS
SAY:**

HB 2617 would make the financing of new affordable housing units very difficult, if not impossible. Nonprofit housing organizations operate with limited resources, and the public housing industry could not survive without public support. Allowing communities to abandon tax exemptions for CHDOs would eliminate their feasibility in many cases. Texas has chosen to support affordable housing through tax policy rather than direct appropriation, and providing communities with blanket authority to eliminate aid for CHDOs would be a significant step backward for affordable housing in the state.

The extensive public notice and consent requirements in HB 2617 would make new housing developments in many communities impossible. Although affordable housing provides many benefits for the communities where it is located, these projects often suffer from unjustified public stigmatization and opposition. The bill's approval requirements are excessive, since local elected officials generally would be very hesitant to support a housing project that citizens vocally opposed. The Legislature should not enact a bill that would help confine affordable housing to poor, inner-city areas that often are miles from good schools and abundant job opportunities.

NOTES:

The committee amendment would specify that an applicant would have to obtain approval of a development from the governing bodies of both the municipality and the county containing the development.

A related bill, HB 3546 by Hamric, et al., which would establish a new framework for granting tax exemptions to eligible low-income housing development projects, passed the House on May 10.