

SUBJECT: Prohibiting local source-of-income housing ordinances

COMMITTEE: Urban Affairs — favorable, without amendment

VOTE: 4 ayes — R. Anderson, Elkins, Schaefer, M. White

2 nays — Alvarado, Bernal

1 absent — Hunter

SENATE VOTE: On final passage, April 7 — 20-11 (Ellis, Garcia, Hinojosa, Lucio, Menendez, Rodriguez, Uresti, Watson, West, Whitmire, Zaffirini)

WITNESSES: (*On House companion bill, HB 2909*)

For — Stacy Hunt, Greystar Real Estate Partners; Howard Bookstaff and David Mintz, Texas Apartment Association; Michael Garcia; Gregory Johnson; Marc Ross; Bob Thompson; (*Registered, but did not testify*: Giovanna Frazza, Justin Cislo, and Shandy Kellams, Alliance Residential Company; Monica Kamka, and Eric Torres, Atlantic Pacific Management; LaShawn Bailey, Ruben Barraza, Michelle Forbes, Maria Apodaca, Kristan Arrona, Keri Mohler, Sharon Mooney, Rhonda Navarro, David Osmeyer, Stephani Park, William Roland, and Christy Sanchez, Austin Apartment Association; Raymundo Raybel, Demetria Acevedo, Eloy Guerrero, and DeAnne Garza, Capstone Real Estate Services; Katie Lytle, Stonegate Apartments, Alliance Residential Company; Daniel Gonzalez, Texas Association of Realtors; Ned Munoz, Texas Association of Builders; Wade Long, Texas Manufactured Housing; Adriana Diaz; Stephanie Saez)

Against — Isabelle Headrick, Accessible Housing Austin; Kimberly Hale and Heiwa Salovitz, ADAPT of Texas; Elizabeth Spencer and Kathy Tovo, City of Austin; Tanya Lavelle, Easter Seals Central Texas; Ann Howard, Ending Community Homelessness Coalition; Charlie Duncan and Karen Paup, Texans for Housing Choice; Madison Sloan, Texas Appleseed; Ken Martin, Texas Homeless Network; John Henneberger, Texas Low Income Housing Information Service; Linda Litziner;

*(Registered, but did not testify: Freddie Gonzalez, Jennifer McPhail, and Renee Lopez, ADAPT of Texas; Jo Kathryn Quinn, Caritas of Austin, Texas Homeless Network; Katharine Ligon, Center for Public Policy Priorities; Anna Holmes, City of Dallas; Sherry Johnston, Grade; Carl Richie, Housing Authority of the City of Austin; Gyl Switzer, Mental Health America of Texas; Greg Hansch, National Alliance on Mental Illness-Texas; Kelly Rodgers, SafePlace; Eileen Garcia, Texans Care for Children; Jeff Patterson, Texas Catholic Conference of Bishops; Jess Heck, Texas Family Council; Laura Mueller, Texas Municipal League; Jennifer Allmon, The Texas Catholic Conference of Bishops; and 10 individuals)*

On — *(Registered, but did not testify: Betsy Spencer, City of Austin)*

**BACKGROUND:** The federal Housing and Community Development Act of 1974 established Section 8 rental housing assistance programs to help low-income families, the disabled, and the elderly find decent housing. Section 8 housing vouchers also are known as the Housing Choice Voucher Program.

To be eligible, participants may not have incomes that exceed 50 percent of the area median income. Voucher participants may choose any housing if the owner agrees to rent under the voucher program and the rent does not exceed established payment standards based on U.S. Department of Housing and Urban Development fair market rents. Funding for the voucher program is administered by a local public housing authority (PHA). By law, a PHA must provide 75 percent of its available vouchers to applicants whose incomes do not exceed 30 percent of the area median income. The PHA is required to reexamine the voucher user's income annually and inspect the rental unit annually.

**DIGEST:** SB 267 would prohibit any municipality or county from adopting or enforcing an ordinance or regulation that would prevent an owner or other person with the right to lease, sublease or rent a housing accommodation from refusing to lease or rent a housing accommodation to a person because of the person's lawful source of income to pay rent, including a

federal housing choice voucher.

The bill would not apply to an ordinance or regulation adopted before January 1, 2015.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

**SUPPORTERS  
SAY:**

SB 267 would permit landlords and property owners to continue to freely rent their property. A source-of-income ordinance essentially requires landlords to participate in the federal Section 8 housing program. Participation in this voucher program is meant to be strictly voluntary for both renters and property owners. An ordinance by a city or county could force property owners into a federal contract by requiring a landlord to rent to a voucher user if the individual passed the background check. Landlords should retain the right to choose their tenants.

Entering into the federal housing voucher program can lead to delays of payment and involve complicated legal guidelines, which can create financial risk and uncertainty for landlords. Property owners and landlords who rent to Section 8 tenants are required to sign a U.S. Department of Housing and Urban Development (HUD) lease addendum inconsistent with the leases utilized by the vast majority of property owners and are placed under numerous other restrictions and conditions that can add substantial costs to their normal course of business. Landlords and property owners should not be required by a local ordinance to enter into such an arrangement if they did not wish.

If a landlord fails to conform to the HUD-approved rent level, tenancy can be jeopardized. Additionally, because public housing authorities must inspect a rental unit annually, the inspection process can increase the amount of time required for a landlord to rent out a property. Voucher users also cannot be evicted if their federal sponsor fails to pay the rent, can leave their leases for various reasons, and can only be evicted for cause, which puts an unfair burden on landlords.

OPPONENTS  
SAY:

SB 267 is unnecessary because local source-of-income ordinances do not force private rental owners to participate in the housing choice voucher program. Landlords may continue to screen and apply rental criteria for potential renters, and if the potential renter does not satisfy the landlord's expectations, the landlord may refuse the rental. The landlord retains the right to eviction, can seek legal remedy for missed payments for which the renter is responsible, and may initiate a new yearly lease. Source-of-income ordinances merely prohibit the landlord from making the renter's lawful source of income the reason to reject the potential renter.

Currently, no city or county in Texas is mandated to adopt a source-of-income ordinance or regulation. It should be the local choice of residents in a city or county whether to allow or prohibit such an ordinance. The Legislature should be wary of enacting legislation that takes such control away from people at the local level.

Many families who use housing vouchers have difficulty finding suitable housing. Prior to Austin's adoption of a source-of-income ordinance, a very small number of rental properties accepted housing vouchers. The lack of choice for voucher users meant low-income families and individuals often were pushed to certain parts of the city considered low-opportunity areas. Source-of-income ordinances are used to protect individuals, including people with disabilities and veterans, who use housing vouchers and may have few choices for affordable housing in safe locations.

Housing vouchers cover a large portion of a voucher user's rent, and this portion is automatically received by the landlord every month once payments start. Landlords who participate in the housing voucher program enjoy rent security for the portion that is paid by the public housing authority.

NOTES:

A House companion bill, HB 2909 by Springer, was placed for second-reading consideration on the General State Calendar for May 12 but was not considered.