

BILL ANALYSIS

Senate Research Center

S.B. 1804
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Finance
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DIGEST AND PURPOSE

Currently, the Veterans Land Board finances land loans for veterans using the “contract for deed” method. Title to the land using this method remains in the Veterans Land Board, until completion of the contract, and the purchaser cannot obtain a mortgage loan for construction. As proposed, S.B. 1804 allows the Veterans Land Board to finance veterans’ land loans through lending institutions using the “deed of trust” method.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Veterans' Land Board in SECTION 2 (Chapter 161K, Natural Resources Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 161.171(a), Natural Resources Code, to require the veterans' land fund to include proceeds derived from the sale or other disposition of the board's interest in contracts for the sale of land or rights in land or a loan made under Subchapter K; interest and penalties received from the sale or resale of land purchased under this chapter or from rights in the land, bonuses, income, rents, royalties, and any other pecuniary benefit received by the board from land purchased under this chapter or loans made under Subchapter K; any interest of the board in a loan made under Subchapter K using money in the fund, including any title insurance related to the loan or land purchased with the loan; and any equitable interest in property encumbered under Subchapter K and attributable to the fund.

SECTION 2. Amends Chapter 161, Natural Resources Code, by adding Subchapter K as follows:
SUBCHAPTER K. LAND LOANS

Sec. 161.501. PURPOSE OF SUBCHAPTER; CONSTRUCTION. Sets forth the purpose and construction of this subchapter.

Sec. 161.502. DEFINITIONS. Defines “lending institution” and “loan.”

Sec. 161.503. LOANS. (a) Requires the Veterans' Land Board (board), in addition to purchasing land under Subchapters F and G, to make or acquire loans with money from the fund to finance land purchases by eligible persons in accordance with this subchapter and rules adopted by the board.

(b) Authorizes the board to enter into contracts with lending institutions to assist in processing, originating, servicing, or administering loans under this subchapter.

(c) Requires the board to obtain insurance covering at least 50 percent of all losses anticipated in connection with payment defaults on loans secured by first or second mortgages, based on the advice of one or more qualified consultants to the board as to potential losses that may be reasonably expected on the loans as determined by analysis

that includes actual experience in the residential mortgage lending industry on similar types of mortgage loans or that insures repayment of at least 50 percent of the outstanding principal amount of all loans made under this subchapter if the loans are not repaid by the recipients.

(d) Requires the board to adopt rules as necessary to implement this subchapter.

Sec. 161.504. ELIGIBILITY FOR LOAN. (a) Requires a person, to qualify for a loan under this subchapter, to be a veteran at the time the person applies for the loan. Provides that if an eligible veteran dies after filing an application for a loan, the veteran's surviving spouse may complete the transaction.

(b) Authorizes the board by rule to determine the number of loans that a person may receive under this subchapter.

Sec. 161.505. SECURITY FOR LOAN. Prohibits a disbursement of money on a loan from being made unless the loan is secured by a mortgage, deed of trust, or other lien on the land purchased with the proceeds of the loan. Provides that a mortgage, deed of trust, or other lien may be a participation in a lien securing any other loan for the purchase of the property, including a lien securing a home loan under Chapter 162.

Sec. 161.506. INITIAL PAYMENT OR EQUITY. Authorizes the board to require an initial payment on a loan or require an investment in the land by the loan recipient in an amount set by the board by rule.

Sec. 161.507. LOAN PAYMENTS. (a) Requires that the final principal payment on a loan to be made not later than the 40th anniversary of the date of the loan.

(b) Requires the board to determine the maximum principal amount of loans to the same eligible person that may be outstanding at any time.

(c) Requires payments on the loan to be made at times determined by the board.

Sec. 161.508. FEES; INTEREST. (a) Requires all fees to be charged to a person who receives a loan to be approved by the board.

(b) Provides that any fees or expenses incurred in connection with a loan, including the cost of insurance, may be charged to the loan recipient and included in the principal amount of the loan.

(c) Requires that a loan to bear a fixed, variable, floating, or other rate or rates of interest determined by the board. Authorizes the board to set the interest rate or rates to provide a margin over the rate paid by the board on bonds issued by the board under this chapter.

(d) Authorizes the difference between the cost of the money to the board and the interest rate or rates charged to a loan recipient to be used in whole or in part to defray the expense of administering the program.

(e) Requires the board, to ensure the maximum benefit of the program to the loan recipient, to adopt rules relating to the fees, charges, and interest rates that may be charged by a lending institution in connection with financing the purchase of land with money that does not come from the fund and limiting to the maximum extent practical the fees, charges, and interest rates to the fees, charges, and interest rates that would be collected by the lending institution in the normal course of the institution's mortgage

lending business.

Sec. 161.509. INTEREST RATE ON DELINQUENT PRINCIPAL AND INTEREST. Provides that principal and interest that become delinquent bear interest at a rate determined by the board.

Sec. 161.510. COMBINATION WITH HOME LOAN. Authorizes the board to permit a person to combine a loan made under this subchapter with a home loan made under Chapter 162 if the portion of the loan made under this subchapter is funded from amounts on deposit in the fund and the portion of the loan made under Chapter 162 is not funded from amounts in the fund and to prescribe the amounts of and forms for a combined loan under this section.

Sec. 161.511. TIME LIMIT ON TRANSFER OF LAND. (a) Provides that except as provided by Subsection (c), a recipient of a loan may not lease, sell, or otherwise transfer in whole or part land or any interest in land against which there is a mortgage, deed of trust, or any other lien securing the loan before the third anniversary of the date the recipient purchases the land and unless the recipient has complied with any other terms and conditions provided by this subchapter and the rules of the board.

(b) Provides that after the three-year period prescribed by Subsection (a), land may be sold or otherwise transferred, subject to any lien securing a loan, if all interest, principal, and taxes that are due have been paid, the terms and conditions of this subchapter and rules of the board have been met and the board approves the sale or other transfer.

(c) Authorizes the board to waive the three-year period prescribed by Subsection (a), in a case of death, bankruptcy, financial incapacity, or divorce of the loan recipient; if a loan recipient is forced to move because of a change in employment or because the recipient's home is condemned through no fault of the recipient; or at any other time the board considers a waiver to be in the best interest of the program.

Sec. 161.512. INCREASE IN INTEREST RATE; ACCELERATED REPAYMENT. Authorizes the board, if a recipient of a loan does not comply with the requirements of Section 161.511(a) and the board does not waive the three-year period prescribed by that section, by rule to provide for an increase in the interest rate on the loan; the acceleration of repayment of the principal of and interest on the loan; or any other remedy the board considers appropriate.

Sec. 161.513. FORECLOSURE AND RESALE. Requires the board to adopt rules providing procedures governing foreclosure of a lien securing a loan.

SECTION 3. Effective date: upon passage or September 1, 2001.