

BILL ANALYSIS

Senate Research Center

S.B. 1595
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Finance
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AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Tax-exempt financing of "private activities" has been limited by federal law since the passage of the Tax Reform Act of 1986 (Tax Act). Private activity bonds are bonds which have met any or all of the following tests: (1) private business use test — more than 10 percent of the proceeds are to be used for any private business use; (2) private security or payment test — payment on principal or interest of more than 10 percent of the proceeds is directly or indirectly secured by, or payments are derived from, a private business use; and (3) private loan financing test — proceeds will be used to make or finance loans to persons other than governmental units.

Additionally, the Tax Act imposes a volume ceiling on the aggregate principal amount of tax-exempt private activity bonds that may be issued within each state during any calendar year. The ceiling, imposed by the Tax Act, is the greater of \$80 per capita or \$228.6 million for program year 2004.

Texas Revised Civil Statutes, as amended, and Chapter 1372, Government Code, mandate the allocation process for the State of Texas. The Private Activity Bond Allocation Program, administered by the Texas Bond Review Board, allocates the volume ceiling and monitors the amount of demand for and the use of private activity bonds each year.

In an effort to address high demand for most types of private activity bond financing, Texas has devised a system that ensures an opportunity for some allocation for each eligible project type. Because of the limited state ceiling, it is impossible to meet all the demands.

S.B. 1595 amends Chapter 1372, Government Code, to amend the timeline associated with the Private Activity Bond Allocation Program to improve the efficiency of the program, especially in the area of housing.

The amendments to Chapter 1372 will encourage the rehabilitation and preservation of older multi-family properties in the regions including Austin, Dallas, and Houston. It will allow smaller, scattered site multi-family developments and encourage additional regional multi-family developments.

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 Section 1372.006(d), Government Code, to provide that of each fee required by Subsection (b) or (c), one-third is required to be submitted not later than the 45th, rather than 35th, day after the reservation date for the issue.

SECTION 2. Amends Section 1372.022, Government Code, as follows:

- (a) Provides that certain percentages are available for specific purposes, if the state ceiling is computed on the basis of \$75 per capita or a greater amount, before July 1, rather than August 15, of each year.

(b) Provides that on or after July 1, rather than August 15, but before July 15, rather than September 1, that portion of the state ceiling available for reservations becomes available for all applications for reservations in the order determined by the Bond Review Board (board) by lot, subject to Section 1372.0321. Makes a conforming change.

SECTION 3. Amends Section 1372.0221, Government Code, to require that \$25 million, until June 25, rather than August 1, out of that portion of the state ceiling that is available exclusively for reservations by issuers of qualified mortgage bonds under Section 1372.022, be allotted each year and made available exclusively to the Texas State Affordable Housing Corporation for the purpose of issuing qualified mortgage bonds in connection with the professional educators home loan program established under Section 2306.562.

SECTION 4. Amends Section 1372.0222, Government Code, to require that \$25 million, until June 25, rather than August 1, out of that portion of the state ceiling that is available exclusively for reservations by issuers of qualified mortgage bonds under Section 1372.022, be allotted each year and made available exclusively to the Texas State Affordable Housing Corporation for the purpose of issuing qualified mortgage bonds in connection with the fire fighter and police officer home loan program established under Section 2306.562.

SECTION 5. Amends Section 1372.023(a) and (b), as follows:

(a) Provides that until July 1, rather than August 15, of that portion of the state ceiling that is available exclusively for reservations by issuers of qualified mortgage bonds, one-third is available exclusively to the Texas Department of Housing and Community Affairs (TDHCA).

(b) Provides that until July 1, rather than August 15, of that portion of the state ceiling that is available exclusively for reservations by issuers of qualified residential rental project bonds, one-fifth is available exclusively to TDHCA in the manner described by Section 1372.0231.

SECTION 6. Amends Section 1372.0231(a), (b) and (e), Government Code, as amended by Chapter 1329, Acts of the 78th Legislature, Regular Session, as follows:

(a) Makes a conforming change.

(b) Makes a conforming change.

(e) Requires the board, until March 1, rather than May 15, of each year, for each of the uniform state service regions containing Austin, Dallas, or Houston, to reserve \$15 million of the state ceiling set aside for the region under Subsection (d) for the areas in the region that are located outside of a metropolitan statistical area, or for any rehabilitation transactions that are located inside or outside of a metropolitan area statistical area.

SECTION 7. Amends Section 1372.028(c), Government Code, to require the application to state the project or, for qualified residential rental project issues, projects, or, with respect to an eligible facility, a functional description of the project to be financed by the proceeds, including the identification of the user of the proceeds or project.

SECTION 8. Amends Section 1372.031, Government Code, to require the board, subject to Sections 1372.0321, 1372.0231, and 1372.035, if, on or before October 20, more than one issuer in a category described by Section 1372.022(a)(2), (3), (4), or (6) applies for a reservation of the state ceiling for the next program year, to grant reservations in that category in the order determined by the board by lot.

SECTION 9. Amends Section 1372.0321(a-1), Government Code, as amended by Chapter 330, Acts of the 78th Legislature, Regular Session, 2003, to require the board, in granting reservations to issuers of qualified residential rental project issues, to give second priority to projects in which at least 80, rather than 100, percent of the residential units in the project meet certain requirements.

SECTION 10. Amends Section 1372.035, Government Code, by adding Subsection (c), as follows:

(c) Requires the board, for an issuer that receives a carryforward allocation with respect to an application, upon the earlier of (1) receipt of notice from the issuer that the application is being withdrawn, or (2) the expiration of the period specified in Section 1372.042(a-1) for state ceiling designated as carryforward with respect to an application under Section 1372.061(b), to immediately grant a reservation to that issuer's next available application.

SECTION 11. Amends Sections 1372.036(a) and (b), as follows:

(a) Requires the board, if , before June 1, any portion of the state ceiling in a category described by Section 1372.022(a) from which issuers were granted reservations become available in that category, to grant reservations from that category on or after May 1, rather than on June 1.

(b) Authorizes partial reservations, beginning May 1, rather than June 1, to be offered once to each applicant in each category described by Section 1372.022(a) until an applicant in the category accepts the partial reservation or until additional volume is returned and sufficient to grant a full reservation.

SECTION 12. Amends Sections 1372.039(a) and (d), Government Code, to provide that not later than the 45th, rather than 35th, day after an insurer's reservation date, the issuer is required to submit certain information to the board. Makes a conforming change.

SECTION 13. Amends Section 1372.070, Government Code, to delete existing text requiring an application for a carryforward designation to be signed by certain officials.

SECTION 14. Makes application of this Act prospective.

SECTION 15. Effective date: September 1, 2005.