

BILL ANALYSIS

Senate Research Center
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S.B. 659
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Department of Housing and Community Affairs (TDHCA) is responsible for annually distributing hundreds of millions of dollars in federal and state funds to construct affordable single and multi-family housing for low-income Texans. In 2001, the legislature recognized the potential for misuse of these funds and granted TDHCA the authority to prohibit bad actors from participating in certain programs. Currently, TDHCA is authorized to debar, or prohibit, applicants who violated state and federal rules from application to, or participation in, future awards through the Low-Income Housing Tax Credit program. However, this program only involves a fraction of the funds allocated by TDHCA.

The Sunset Advisory Commission noted this deficiency in its recent review of TDHCA. The November 2012 report stated that TDHCA "continues to lack appropriate sanction authority to ensure bad actors are prohibited from future participation in Department programs." This is due to the fact that existing statute does not authorize TDHCA to use debarment as an enforcement action. Without statutory backing, the use of this tool would likely result in legal challenges.

S.B. 659 remedies this by clearly authorizing the TDHCA board to adopt rules to debar violators for failure to comply with TDHCA policies across programs. This will give TDHCA the ability to protect taxpayer-supported programs and ensure the best use of existing state and federal housing resources. In order to provide due process, the statute also provides that debarments may be appealed to the board.

As proposed, S.B. 659 amends current law relating to debarment of certain persons from participating in programs administered by the Texas Department of Housing and Community Affairs.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the governing board of the Texas Department of Housing and Community Affairs (TDHCA) is modified in SECTION 1 (Section 2306.0504, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Transfers Section 2306.6721, Government Code, to Subchapter B, Chapter 2306, Government Code, redesignates it as Section 2306.0504, Government Code, and amends it as follows:

Sec. 2306.0504. DEBARMENT FROM PROGRAM PARTICIPATION. (a) Requires the governing board of the Texas Department of Housing and Community Affairs (board) (TDHCA) by rule to adopt a policy providing for the debarment of a person from participation in programs administered by TDHCA, rather than the low income housing tax credit program (program) as described by this section.

(b) Authorizes TDHCA to debar a person from participation in a TDHCA program on the basis of the person's past failure to comply with any condition imposed by TDHCA in the administration of its programs. Deletes existing text authorizing TDHCA to debar a person from participation in the program on the

basis of the person's past failure to comply with any condition imposed by TDHCA in connection with the allocation of housing tax credits.

(c) Requires TDHCA to debar a person from participation in a TDHCA program if the person materially or repeatedly violates any condition imposed by TDHCA in connection with the administration of a TDHCA program, including a material or repeated violation of a land use restriction agreement regarding a development supported with a housing tax credit allocation. Deletes existing text requiring TDHCA to debar a person from participation in the program if the person materially violates any condition imposed by TDHCA in connection with the allocation of housing tax credits. Deletes existing text requiring TDHCA to debar a person from participation in the program if the person is in material noncompliance with or has repeatedly violated a land use restriction agreement regarding development supported with a housing tax credit allocation.

(d) Authorizes a person debarred by TDHCA from participation in a TDHCA program, rather than the program, to appeal the person's debarment to the board.

SECTION 2. Amends Section 2306.6717(a), Government Code, to make a conforming change.

SECTION 3. Effective date: September 1, 2013.