BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1989
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Due to volatility in the financial markets and changing economic environments, there is a need to provide consistency/certainty in the underwriting guidelines used in housing tax credit transactions at the time of completion and cost certification within the Texas affordable housing framework.

These transactions, made feasible by significant levels of private equity investment dollars, have limited margins due to the affordable nature of the rent structure. Consistency in the underwriting at the time of the transaction will help secure the long term viability of the transactions and ensure continued interest from the investment community.

C.S.S.B. 1989 seeks to stabilize this issue by setting basic guidelines for underwriting at time of cost certification. Furthermore, the bill provides that, should economic conditions change going forward, the agency may increase the maximum debt coverage ratio (DCR) to be used by adoption of rule and certain types of transactions may be excepted from these criteria if adopted by rule.

C.S.S.B. 1989 amends current law relating to underwriting standards for evaluating applications for low income housing tax credits.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to Texas Department of Housing and Community Affairs in SECTION 2 (Section 2306.185, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2306.148, Government Code, as follows:

> Section 2306.148. UNDERWRITING STANDARDS. (a) Creates this subsection from existing text. Requires the governing board of the Texas Department of Housing and Community Affairs (TDHCA) to have the specific duty and power to adopt underwriting standards for:
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> > (1) loans made or financed by the housing finance division; and
> >
> > (2) housing tax credits allocated by TDHCA.
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> (b) Requires that underwriting standards adopted under Subsection (a)(2) and used to determine the feasibility of a proposed development be consistent with criteria established under Section 2306.185 (Long-term Affordability and Safety of Multifamily Rental Housing Developments).

SECTION 2. Amends Section 2306.185, Government Code, by adding Subsections (d-1), (d-2), (d-3), and (d-4) and amending Subsection (e), as follows:

> (d-1) Requires TDHCA, for developments receiving housing tax credits, to determine the feasibility of the development at the time of cost certification using:

(1) actual net operating income, adjusted for stabilization of rents and extraordinary lease-up expenses; and

(2) a maximum debt coverage ratio of 1.50 or higher as adopted by TDHCA rule.

(d-2) Prohibits a feasibility determination made under Subsection (d-1) from including a maximum operating expense-to-income ratio.

(d-3) Requires TDHCA, in determining net operating income and making the appropriate adjustments under Subsection (d-1)(1), to consider the permanent lender and equity partner stabilization requirements documented in the loan and in the partnership or entity agreements.

(d-4) Authorizes TDHCA to adopt rules providing for exceptions to the maximum debt coverage ratio requirement of Subsection (d-1)(2) with respect to specific types of projects.

(e) Provides that Subsections (c) (requiring a recipient of funding to maintain certain affordability standards), (d) (relating to certain restrictions enforceable by TDHCA), (d-1), (d-2), (d-3), and (d-4), and Section 2306.269 (Tenant and Manager Selection) are subsections that apply only to multifamily rental housing developments to which TDHCA is providing one or more of certain forms of assistance as set forth.

SECTION 3. Provides that the change in law made by this Act applies only to an application for low income housing tax credits that is submitted to TDHCA during an application cycle that begins on or after the effective date of this Act. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2015.