HOUSE RESEARCH ORGANIZATION bill analysis | 5/1/2001 | HB 3294 Wise, et al. (CSHB 3294 by Bailey)

SUBJECT: Housing assistance for colonias and underserved areas

COMMITTEE: Urban Affairs — committee substitute recommended

VOTE: 7 ayes — Carter, Bailey, Burnam, Callegari, Ehrhardt, Hill, Najera

0 nays

2 absent — Edwards, E. Jones

WITNESSES: For — John Henneberger, Border Low Income Housing Coalition, Texas Low Income Housing Information Service; Reymundo Ocañas, Texas Association of Community Development Corporations; Andrew Ramirez Robertson, Border Waterworks; *Registered but did not testify:* Janee Briesemeister, Consumers Union; Amy Johnson; Rebecca Lightsey, Community Resource Group; Jeanne Talerico, Texas Association of Local Housing Finance Agencies; Yolanda Vasquez; Laura Zapata; Marco Zapata

Against — None

On — Homero Cabello, Jr., Pam Morris, and Elena Peinado, Texas Department of Housing and Community Affairs; Scott Storment, Secretary of State; *Registered but did not testify:* Byron Johnson, Texas Department of Housing and Community Affairs

BACKGROUND: Government Code, ch. 2306 sets forth provisions for the Texas Department of Housing and Community Affairs (TDHCA).

Bonds issued by TDHCA. TDHCA issues three types of bonds: multi-family mortgage revenue bonds, single-family mortgage revenue bonds, and 501(c)(3) tax-exempt bonds. The amount of single-family mortgage revenue bonds that may be issued by the department in any one year is set by the Legislature. Last year, TDHCA issued about $108.6 million in single-family bonds.

Colonia self-help centers and advisory committee. In 1995, the 74th Legislature enacted SB 1509 by Zaffirini, et al. to create colonia self-help centers in five border counties (Cameron, El Paso, Hidalgo, Starr, and Webb). Through contracts with local nonprofit agencies and housing authorities, TDHCA operates these centers to help meet the housing, utility, and other community improvement needs of colonia residents. The bill also created a colonia advisory committee to the department composed of border and colonia residents to advise TDHCA on the needs of colonia residents.

The owner-builder loan program. TDHCA operates an owner-builder loan program, also called the "bootstrap" program, to help property owners build or improve housing on the land they own or intend to purchase. The department provides these loans through nonprofit owner-builder programs that certify the eligibility of a loan applicant, including income and residency requirements. A loan from the department may not exceed $25,000, and the total amount of a loan, if other sources are used, may not exceed $60,000. The loan term may not exceed 30 years. The program will expire on September 1, 2005.

DIGEST:

HB 3294 would create statutory guidelines for TDHCA's single-family mortgage revenue bond program, create and specify funding for a revolving loan fund for the owner-builder program, create a colonia model subdivision program and revolving loan fund, and make several changes in the administration of the self-help colonia centers and the owner-builder loan program.

New regulations of the single-family mortgage bond program. TDHCA would have to conduct a market study to determine the home mortgage needs of extremely low, very low, low, and moderate income individuals in underserved economic and geographic areas of the state, including rural counties, census tracts in which the median family income is less than 80 percent of the median family income for the county in which the tract is located, and the border region.

The market study would analyze, at a minimum:

- home ownership rates;
- loan volume;
- loan approval rates;
- loan interest rates;

- loan terms;
- loan availability;
- type and number of dwelling units; and
- use of subprime mortgage loan products.

Based on the market study and related analysis, TDHCA would have to propose a bond program to provide loan services to these areas in a manner proportionate to their credit needs and could propose specific set-asides of mortgage loans for underserved areas of the state. The department would have to conduct a public hearing on the market study results and proposed bond program and submit the market study results and proposed bond program, if approved by the TDHCA board, to the Bond Review Board.

Allocation of bond program funds. TDHCA would have to allocate at least 40 percent of the total single-family revenue bond loan volume to meet the credit needs of borrowers in underserved regions of the state. The department could appeal to the Bond Review Board for a modification or waiver of the required allocation levels if TDHCA determined that the bonds that were to be issued for the purposes of the bill would be unfeasible or would damage the financial condition of the department. Proposed bond issuances under the program would be required to undergo review by the Bond Review Board. TDHCA would have to structure all single-family mortgage revenue bond issuances in a manner designed to recover the full costs associated with conducting the program.

The department also could use any source of funds or subsidy available to the department to provide credit enhancement, down payment assistance, homebuyer counseling, interest rate reduction, and payment of incentive lender points. The highest priority in the allocation of these funds would be given to underserved areas of the state. If sufficient funds were available after fully meeting the credit needs of borrowers in underserved areas of the state, TDHCA could provide assistance to other borrowers.

Loan originators, including colonia self-help centers. Loan originators selected by TDHCA would make the loans financed by the bond program on behalf of the department. In addition to any other loan originators selected, TDHCA would have to authorize colonia self-help centers and any other non-profit institutions considered appropriate by the TDHCA board to originate loans. Non-financial institutions that acted as loan originators would have to undergo adequate training, and the department could require lenders to participate in on-going training and underwriting compliance audits to participate in the bond program.

The owner-builder loan program. The bill would repeal Government Code, sec. 2306.760, which required the owner-builder loan program to expire on September 1, 2005.

The bill would create an owner-builder revolving loan fund into which TDHCA would have to transfer at least $3 million each fiscal year from any available source of revenue. Money received in repayment of a loan would be returned to the fund. No more than 10 percent of the money for the owner-builder loan program could be used by nonprofit organizations to implement the program.

The bill would specify that a nonprofit owner-builder housing program must be operated by a 501(c)(3) tax-exempt organization and would direct TDHCA to adopt procedures for the certification of nonprofit owner-builder housing programs.

The bill would allow an organization that operated a nonprofit owner-builder program to originate or service, rather than just administer, loans made under the owner-builder program.

The maximum loan that could be made to an owner-builder would be raised from $25,000 to $30,000. The bill also would remove the requirement that an owner-builder must reside with at least two other related persons in order to be eligible for loans made available by TDHCA.

Colonia model subdivision program. TDHCA would have to establish a colonia model subdivision program to promote the development of new, high-quality, residential subdivisions that provided affordable housing options to very low and extremely low income individuals and families who would otherwise move into substandard colonias. TDHCA would have to create a colonia model subdivision revolving loan fund and could provide up to $2 million in loans each fiscal year to colonia self-help centers or community housing development corporations from the federal community development block grant (CDBG) program in order to create affordable housing subdivisions that complied with all state and local laws. A loan made by the department could not bear interest nor last longer than 36 months, although each borrower would be eligible for one loan renewal. Money received in repayment of a loan would be returned to the fund. The authority to transfer CDBG money into the fund would expire August 31, 2010.

TDHCA would be directed to adopt rules regulating subdivision standards, loan application procedures, program guidelines, contract award procedures, and affordability of housing funded by the program. A charitable organization developing a model colonia subdivision with loans provided by TDHCA under this program would be entitled to certain property tax exemptions for five years after the acquisition of the property. The bill would impose penalties on an organization that sold the property to an individual other than those allowed by the bill in an amount equal to the amount of taxes that would have been imposed in each year the property was exempted from taxation, plus 12 percent interest.

If the CDBG program were to be transferred from TDHCA, the new administering agency would have to permit TDHCA to receive and administer the portion of CDBG funds allocated to TDHCA under the General Appropriations Act to fund the operation of self-help owner-builder housing programs. The new administering agency also would be required to continue funding TDHCA's border field offices through the CDBG program.

Colonia self-help centers. TDHCA would have to enter into four-year contracts for the operation of self-help centers directly with the local nonprofit organization or housing authority that would operate the center. The bill would give TDHCA sole responsibility for contract oversight and monitoring of the self-help centers.

The bill also would:

- authorize TDHCA to contribute any available source of revenue the department considered appropriate to the colonia set-aside fund;
- direct TDHCA to consult with the colonia advisory committee and the appropriate colonia self-help center when designating five colonias in

each center service area to receive concentrated attention from that center; and

- direct TDHCA to identify subprime lenders if the U.S. Department of Housing and Urban Development ceased to prepare or make public a subprime lender list.

The bill would take effect September 1, 2001.

SUPPORTERS SAY:

HB 3294 would improve the affordable housing options for extremely low and very low Texas residents by creating and modifying several programs at TDHCA to better address their needs.

Single-family mortgage revenue bond program. HB 3294 would ensure that the state's limited single-family mortgage revenue bond loan funds went toward helping the state's neediest citizens obtain affordable housing. TDHCA has been using these funds inappropriately to provide loans that banks typically would be willing to make without government aid. These funds should be targeted toward helping people who would not be able to receive a loan without government assistance.

TDHCA also would be required to distribute these funds across the state in a manner proportionate to each region's needs, as determined by a market study, in order to ensure that the housing needs of all areas were met. An analysis of all the loans made between 1995 and 1999 went into the largest metropolitan areas, with very few loans going to small cities, rural areas, or the border. Despite having the greatest loan assistance needs, more than half of all loan applications made to banks in these areas were rejected.

The bill also would make it easier for colonia residents to access these loans by requiring that the colonia self-help centers be authorized by TDHCA to originate loans.

The bill would not impose any additional financial obligations on the state since TDHCA would have to structure all bond issuances to meet program costs. The department also would have to give the individuals receiving these loans priority in receiving the department's current down payment assistance funds, which would negate the need for additional down payment funding. Moreover, TDHCA could apply to the Bond Review Board for a waiver or reduction of the requirement if meeting the requirement were unfeasible or would fiscally damage the department.

The owner-builder loan program. The bill would strengthen the owner-builder loan program by creating a revolving loan fund to ensure the program permanent funding. This would allow the program to recapture the money it provided in loans in order to offer future loans. The bill also would direct TDHCA to transfer through 2010 at least $3 million into the fund, a very modest increase of $200,000 over the current $2.8 million that TDHCA was required to allocate toward the program in order to create a base amount in the fund. The bill also would provide more flexibility to TDHCA by removing the requirement that the money it provided for the program must come from the Housing Trust Fund or HOME program.

The bill also would make it easier for people to build or improve their homes by raising the maximum loan amount from $25,000 to $30,000. These higher loans amounts are needed not only to build or improve the residences, but also to make securing additional loan money easier for these projects.

Colonia model subdivision program. Although enactment of HB 1001 by Cuellar in 1995 effectively stopped the proliferation of colonias, continued population growth in the border region has put an enormous strain on the area's housing, and the need for more affordable housing remains extremely high. By creating a model program and a source of funding, the colonia model subdivision program would promote the development of high-quality, affordable housing options in the border region. This program not only would help house the region's growing population, but also could provide a means for moving colonias residents out of their substandard housing and into quality homes, an option that in many cases would be more economical than attempting to hook the colonias into sewer and water lines.

OPPONENTS SAY:

Single-family mortgage bond program. Requiring TDHCA to allocate at least 40 percent of its single-family loan volume to underserved groups would impose a greater financial burden on the department and the state. The bill would require TDHCA to target these loans to people who generally do not meet underwriting criteria, which makes the loans less attractive to investors who buy the loans from TDHCA. This would require the department to keep greater reserves on hand as a guarantee to investors that they would recoup their investment if the loans failed. The fiscal note estimates that even if TDHCA structured an issue that covered most of this reserve requirement, the department still would need an additional $1.8 million per year of general revenue. TDHCA also would need an additional $4.3 million per year for down payment assistance to make the loans feasible.

Colonia model subdivision program. The provisions in the bill relating to this program conflict with federal law. The bill would authorize TDHCA to make up to $2 million in loans with CDBG funds for the program, but federal regulations only allow the department to make grants, not loans. Additionally, federal regulations only permit these grants to be made to units of local government, while the bill would authorize the department to make loans through political subdivisions, which may not be the same thing. Additional language in the bill would restrict making these loans to anyone other than colonia self-help centers or community housing development corporations, which are not authorized to receive these funds through the department under federal law.

Colonia self-help centers. By requiring TDHCA to contract directly with local nonprofits, the bill would prevent the department from using its current funding source for their operation, resulting in the need for an increased appropriation of $2 million. TDHCA currently funds the colonia self-help centers through CDBG funds, which under federal regulations must go to units of local government. In order to use these funds, TDHCA grants the money to the counties in which the centers are located, who then provide the funds to the centers. By requiring TDHCA to directly contract with the local nonprofits that operate the centers, the bill would remove this option and require a new funding source.

NOTES: The committee substitute added Section 2, relating to the creation of and guidelines for a single-family mortgage bond program. The substitute reduced from $6 million to $3 million the amount to be transferred by TDHCA into the owner-builder revolving loan fund and specified that not more than 10 percent of the funds used for loans under the owner-builder program could be used by local non-profits for implementation. The substitute removed a requirement that limited the operation of the colonia model subdivision program to counties eligible as economically-distressed areas to receive financial assistance for water supply and sewer service projects under the Water Code. The substitute removed the requirement that TDHCA transfer $2 million to the colonia model subdivision fund each year and authorized it to use up to $2 million in CDBG funds to provide loans. The substitute also added a provision stating that if the CDBG program were moved from TDHCA to another agency, the new administering agency must transfer funds to TDHCA for the owner-builder housing program and must continue to fund TDHCA's border field offices through the CDBG program.

The companion, SB 1500 by Lucio, was referred to the Senate Business and Commerce Committee.