

BILL ANALYSIS

Senate Research Center

S.B. 1365
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DIGEST

Currently, Chapter 2306.551, Government Code, contains provisions governing the Texas Housing Corporation. The corporation is required to carry out the public purposes of Chapter 2306 and to engage insurable functions. The members of the board of the Texas Department of Housing and Community Affairs (department) serve as the board of the corporation. The corporation is subject to the limitations provided for the department under Chapter 2306 and has the rights and powers of a nonprofit corporation incorporated under the Texas Non-Profit Corporation Act.

S.B. 1365 expands the purposes of the corporation; describes the qualification requirements for the director of the corporation; requires the corporation to file additional reports; requests an annual audit; sets forth provisions regarding the obligations of the corporation; and sets forth provisions regarding the liability of the directors, officers, and employees of the corporation.

PURPOSE

As proposed, S.B. 1365 expands the purposes and powers of the Texas Housing Corporation.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 2306Y, Government Code, as follows:

SUBCHAPTER Y. New heading: TEXAS STATE AFFORDABLE HOUSING
CORPORATION

Sec. 2306.551. DEFINITION. Defines "corporation."

Sec. 2306.552. CREATION. Provides that the existence of the Texas State Affordable Housing Corporation (corporation), or any similarly named corporation, begins on the date that the secretary of state issues the certificate of incorporation. Requires the charter of the corporation to establish the corporation as nonprofit and specifically dedicate the corporation's activities to public purposes authorized by this subchapter, rather than to the benefit of the Texas Department of Housing and Community Affairs (department).

Sec. 2306.553. PURPOSES. Sets forth the public purpose of the corporation and sets forth related provisions. Deletes text requiring the corporation to carry out the public purposes of this chapter on behalf of the state. Deletes existing Subsection (b) regarding charitable functions. Sets forth the corporation's primary purpose and sets forth related provisions. Requires the corporation to utilize, to the extent reasonably practicable, the services of certain banks and other financial institutions and lenders for the origination of all loans contemplated by this subchapter, and assist such lenders in the facilitation of the provision of credit to individuals and families of low and very low income, and families of moderate income.

Sec. 2306. New heading: BOARD OF DIRECTORS AND OFFICERS. Provides that the members of the governing board of the department serve as the board of directors of the

corporation (board). Provides that except as described in Subsection (b), members of the board and the president serve without compensation but are entitled to reimbursement for actual expenses incurred in attending meetings of the board and in performing their respective duties as directors and president. Requires the director to serve ex-officio as the president of the corporation only under certain conditions. Authorizes the corporation to purchase, with corporation funds, liability insurance for each of the board's directors and the officers and other employees of the corporation in a certain amount.

Sec. 2306.555. **POWERS.** Provides that the corporation has the powers provided for the department under this chapter, rather than providing that the corporation has the powers and is subject to the limitations provided for the department under this chapter. Deletes an exception. Provides that, in addition to the powers granted in Subsection (a), the corporation has all rights and powers necessary to accomplish its public purposes, including, without limitation, certain powers. Authorizes the corporation to contract with the department and with bond counsel, financial advisors, underwriters, or other providers of professional or consulting services related to its activities. Requires all expenses of the corporation to be paid from any and all funds available to the corporation without resort to general revenues of the state, except as are otherwise specifically appropriated.

Sec. 2306.556. New heading: **EXEMPT FROM TAXATION AND REGISTRATION.** Provides that the bonds and other obligations issued by the corporation are exempt securities under Article 581-1 et seq., V.T.C.S. (The Securities Act), and unless specifically provided otherwise, under any subsequently enacted securities act. Sets forth provisions regarding any contract, guaranty, or other document executed in connection with the issuance of such bonds and other obligations.

Sec. 2306.557. **DISTRIBUTION OF EARNINGS.** Prohibits any part of earnings remaining after payment of expenses and the establishment of reserves as determined by the corporation's board of directors from inuring to any person except that the corporation shall deposit these excess earnings with the department to the credit of the housing trust, rather than general revenue, fund established in Section 2306.201, rather than fund for the benefit of the department, if the board determines that sufficient provision has been made for the full payment of the expenses, bonds, and other obligations of the corporation and the establishment of sufficient reserves, if any, for such purposes.

Sec. 2306.558. **ALTERATION AND TERMINATION.** Requires the board to dissolve the corporation if the board by resolution determines that all bonds and other obligations issued by the corporation and all guaranties and insurance and other contractual obligations have been fully paid or provided for.

Sec. 2306.559. New heading: **REPORTING REQUIREMENTS.** Requires the corporation to file an annual report of the financial activity of the corporation with the department. Requires the board, not later than 30 days after the board receives the report, to submit the report to the governor, the lieutenant governor, the speaker of the house of representatives, and the comptroller of public accounts. Requires the corporation to file quarterly performance reports of its activities with the department. Requires the corporation to file a certain report with the Texas Bond Review Board and sets forth provisions regarding the report.

Sec. 2306.560. **AUDIT.** Requires the corporation to hire an independent certified public accountant to audit the corporation's books and accounts for each of the corporation's fiscal years. Requires the corporation to file a copy of the audit with the department. Requires the board, not later than 30 days after the review board receives the audit, to submit the audit to the governor, the lieutenant governor, the speaker of the house of representatives, the comptroller of public accounts and the Texas Bond Review Board.

Sec. 2306.561. **LIABILITY.** Prohibits the directors, officers, and employees of the corporation from being personally liable for bonds or other obligations issued or contracts, guaranties, and insurance executed by the corporation, or for certain other actions. Requires

the directors and officers of the corporation to be immune from civil liability to the same extent that a volunteer who is serving an officer, director, or trustee of a charitable organization is immune from civil liability pursuant to Chapter 84, Civil Practice and Remedies Code, V.T.C.S. (Charitable Immunity and Liability Act of 1987). Sets forth provisions regarding the civil liability of employees of the corporation. Provides that the limitations on liability contained in this section shall not limit or impair the limitations on liability otherwise available to the corporation's directors, officers, and employees.

SECTION 2. Emergency clause.

Effective date: upon passage.