

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1002
By: Deuell
Government Organization
4/23/2009
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Created in 1995, the Texas State Affordable Housing Corporation (TSAHC) is a self-sustaining nonprofit corporation that helps Texans to obtain affordable housing. To achieve its mission, TSAHC issues bonds to help teachers, firefighters, police officers, and low-income families purchase homes. It also issues bonds to finance multifamily rental properties, provides loans to affordable housing developers, and seeks private funds to help support affordable housing.

TSAHC is self-funded and receives no state-appropriated funding. In fiscal year 2008, TSAHC generated about \$3 million in revenues and expended about \$2 million on its operations. A five-member, governor-appointed board oversees TSAHC, which employs 15 people in Austin.

In 2008, TSAHC financed \$42.3 million in loans to help 400 families to purchase homes, with an average loan amount of \$113,000. TSAHC also awarded \$250,000 in grants to nonprofit housing organizations and plans to award an additional \$250,000 in 2009 to repair homes affected by Hurricanes Ike and Dolly.

TSAHC is subject to the Texas Sunset Act and will be abolished on September 1, 2009, unless continued by the legislature. The Sunset Advisory Commission recommends continuing TSAHC, as it has potential as a nonprofit to solicit funds and leverage private funding to support housing initiatives. However, TSAHC's inconsistent track record does not warrant continuation for a full 12 years.

C.S.S.B. 1002 amends current law relating to the continuation and functions of the Texas State Affordable Housing Corporation and providing penalties.

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 2306.5521, Government Code, as follows:

Sec. 2306.5521. SUNSET PROVISION. Provides that the Texas State Affordable Housing Corporation (TSAHC), unless continued in existence as provided by Chapter 325 (Texas Sunset Act), is abolished and this subchapter expires September 1, 2015, rather than 2009.

SECTION 2. Amends Sections 2306.554(a) and (b), Government Code, as follows:

(a) Provides that the board of directors of TSAHC consists of seven, rather than five, members appointed by the governor. Requires that one member represent the interests of individuals and families served by TSAHC single-family mortgage loan programs, one member represent nonprofit housing organizations, and the remaining five members represent one or more particular areas. Makes nonsubstantive changes.

(b) Requires the governor to designate a member of TSAHC's board of directors as the presiding officer of the board of directors to serve in that capacity at the pleasure of the

governor, rather than designating the presiding officer from the members. Makes a nonsubstantive change.

SECTION 3. Amends Section 2306.5541, Government Code, to provide that terms of two or three TSAHC members, rather than one or two members, expire on February 1 of each odd-numbered year.

SECTION 4. Amends Section 2306.5543(b), Government Code, as follows:

(b) Requires that the training program provide the person with information regarding the legislation that created TSAHC; the programs, functions, rules, and budget of TSAHC; the results of the most recent formal audit of TSAHC; the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of interest; and any applicable ethics policies adopted by TSAHC or the Texas Ethics Commission. Deletes text requiring that the training program provide the person with information regarding the legislation that created TSAHC and TSAHC's board of directors; the programs operated by TSAHC; the role and functions of TSAHC; the rules of TSAHC with an emphasis on the rules that relate to disciplinary and investigatory authority; the current budget for TSAHC; the requirement of the open meetings law, Chapter 551 (Open Meetings), public information law, Chapter 552 (Public Information), and the administrative procedure law, Chapter 2001 (Administrative Procedure), and other laws relating to public officials, including conflict of interest laws.

SECTION 5. Amends Section 2306.5545(b), Government Code, as follows:

(b) Prohibits a person from being a member of TSAHC's board of directors and from being a TSAHC employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), and its subsequent amendments, if the person is an officer employee, or paid consultant of a Texas trade association in the field of mortgage lending or if the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of mortgage lending.

SECTION 6. Amends Section 2306.559(d), Government Code, to require that the report include certain information including the number, amount, and purpose of private gifts, grants, donations, or other funds applied for and received; the number, amount, and purpose of loans provided to affordable housing developers, regardless of whether TSAHC provides those loans directly to the developers or administrators the loans from another source; the amount and source of funds deposited into any fund created by TSAHC for the purpose of providing grants and the number, amount, and purpose of any grants provided; and the total amount of annual revenue generated by TSAHC in excess of its expenditures.

SECTION 7. Amends Subchapter Y, Chapter 2306, Government Code, by adding Section 2306.5671, as follows:

Sec. 2306.5671. COMPLIANCE WITH TERMS OF CERTAIN CONTRACTS OR AGREEMENTS. Requires that a compliance contract or agreement between TSAHC and a housing sponsor that receives bond financing by or through TSAHC for the purpose of providing affordable multifamily housing contain a provision stating that if the housing sponsor fails to comply with the terms of the contract or agreement, TSAHC is authorized, as appropriate, to assess penalties, remove the manager of the affected property and select a new manager, withdraw reserve funds to make needed repairs and replacements to the property, or appoint TSAHC as a receiver to protect and operate the property.

SECTION 8. Amends Section 2306.568, Government Code, as follows:

Sec. 2306.568. RECORD OF COMPLAINTS. (a) Requires TSAHC to maintain a system to promptly and efficiently act on complaints filed with TSAHC. Requires TSAHC to maintain information about parties to the complaint, the subject matter of the

complaint, a summary of the results of the review or investigation of the complaint, and its disposition. Deletes text requiring TSAHC to maintain a file on each written complaint and requiring that the file include the name of the person who filed the complaint, the date the complaint is received by TSAHC, the name of each person contacted in relation to the complaint, a summary of the results of the review or investigation of the complaint, and an explanation of the reason the file was closed, if TSAHC closed the file without taking action other than to investigate the complaint.

(b) Requires TSAHC to make information available describing its procedures for complaint investigation and resolution. Deletes existing text requiring TSAHC to provide to the person filing the complaint and to each person who is a subject of the complaint a copy of TSAHC's policies and procedures relating complaint investigation and resolution.

(c) Requires TSAHC to periodically notify the complaint parties of the status of the complaint until final disposition. Deletes text requiring TSAHC, at least quarterly until final disposition of the complaint, to notify the person filing the complaint and each person who is a subject of the complaint of the status of the status of the investigation unless the notice would jeopardize an undercover investigation.

SECTION 9. Amends Section 2306.569, Government Code, as follows:

Sec. 2306.569. EFFECTIVE USE OF TECHNOLOGY. Requires TSAHC's board of directors to implement a policy requiring TSAHC to use appropriate technological solutions to improve TSAHC's ability to perform its functions. Requires that the policy ensure that the public is able to interact with TSAHC on the Internet. Deletes text requiring TSAHC's board of directors to develop and implement a policy requiring the president of TSAHC and corporation employees to research and propose appropriate technological solutions to improve TSAHC's ability to perform its functions. Deletes text requiring that the technological solutions ensure that the public is able to easily find the information about TSAHC on the Internet; ensure that persons who want to use TSAHC's services are able to interact with TSAHC through the Internet and access any service through the Internet; and be cost-effective and developed through TSAHC's planning processes.

SECTION 10. Amends Subchapter Y, Chapter 2306, Government Code, by adding Section 2306.5691, as follows:

Sec. 2306.5691. INFORMATIONAL WEBSITE. Requires TSAHC to develop and maintain a publicly accessible Internet website that:

(1) provides the public with information regarding terminology associated with mortgages and other home-secured loans, positive and negative aspects of different types of mortgage loans and other home-secured loans, and predatory lending practices; and

(2) allows a person who resides in this state to enter the person's specific financial information into the website and receive information relating to mortgage rates that the person is eligible to receive, and state and local home loan programs and other related resources that are available to the person.

SECTION 11. Provides that Section 2306.5671, Government Code, as added by this Act, does not affect the terms of a compliance contract or agreement entered into before the effective date of this Act, except that if the contract or agreement is renewed, modified, or extended on or after the effective date of this Act, Section 2306.5671 applies to the contract or agreement beginning on the date of renewal, modification, or extension.

SECTION 12. (a) Requires the governor, promptly after this Act takes effect, to appoint two additional members to the board of directors of TSAHC. Requires the governor, in appointing those members, to appoint one person to a term expiring February 1, 2011, and one to a term

expiring February 1, 2013. Requires that, as provided by Section 2306.554(a), Government Code, as amended by this Act, one member appointed under this subsection represent the interests of individuals and families served by TSAHC's single-family mortgage loan programs, unless the governor determines that a current member of the board of directors represents those persons; and one member appointed under this subsection to represent nonprofit housing organizations, unless the governor determines that a current member of the board of directors represents those organizations.

(b) Provides that until all appointees to the board of directors of TSAHC have taken office, a quorum of the board is a majority of the number of members who are qualified.

SECTION 13. Effective date: September 1, 2009.