

## **BILL ANALYSIS**

C.S.H.B. 3393  
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Urban Affairs  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Due to volatility in financial markets and changing economic environments, interested parties claim that there is a need to provide consistency and certainty in the underwriting guidelines used in certain housing tax credit transactions at the time of completion and cost certification. The parties further explain that 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.H.B. 3393 seeks to address these issues.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Department of Housing and Community Affairs in SECTION 2 of this bill.

### **ANALYSIS**

C.S.H.B. 3393 amends the Government Code to require 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 housing tax credits allocated by TDHCA. The bill requires underwriting standards for such tax credits used to determine feasibility of a proposed development to be consistent with the criteria established under statutory provisions and bill provisions relating to the long-term affordability and safety of multifamily rental housing developments.

C.S.H.B. 3393 requires TDHCA, for developments receiving housing tax credits, to determine the feasibility of the development at the time of cost certification using actual net operating income, adjusted for stabilization of rents and extraordinary lease-up expenses, and a maximum debt coverage ratio of 1.50 or higher as adopted by TDHCA rule. The bill prohibits such a feasibility determination from including a maximum operating expense-to-income ratio. The bill requires TDHCA, in determining net operating income and making the appropriate adjustments, to consider the permanent lender and equity partner stabilization requirements documented in the loan and in the partnership or entity agreements. The bill authorizes TDHCA to adopt rules providing for exceptions to the maximum debt coverage ratio requirement with respect to specific types of projects. The bill limits the applicability of these provisions to multifamily rental housing developments to which TDHCA is providing one or more of the following forms of assistance: a loan or grant in an amount greater than 33 percent of the market value of the development on the date the recipient completed the construction of the development; a loan guarantee for a loan in an amount greater than 33 percent of the market value of the development on the date the recipient took legal title to the development; or a low income housing tax credit.

**EFFECTIVE DATE**

September 1, 2015.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 3393 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

**INTRODUCED**

**HOUSE COMMITTEE SUBSTITUTE**

SECTION 1. Section 2306.148, Government Code, is amended to read as follows:

SECTION 1. Section 2306.148, Government Code, is amended to read as follows:

Section 2306.148. Underwriting Standards. The board shall have the specific duty and power to adopt underwriting standards for loans made or financed by the housing finance division and tax credits allocated by the department. Underwriting standards adopted under this section and used to determine feasibility of a proposed development shall meet the criteria set forth in Section 2306.185 of this Chapter.

Sec. 2306.148. UNDERWRITING STANDARDS. (a) The board shall have the specific duty and power to adopt underwriting standards for:

(1) loans made or financed by the housing finance division; and

(2) housing tax credits allocated by the department.

(b) Underwriting standards adopted under Subsection (a)(2) and used to determine the feasibility of a proposed development must be consistent with criteria established under Section 2306.185.

SECTION 2. Section 2306.185, Government Code, is amended by adding subsection (d-1) and amending subsection (e) to read as follows:

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

(d-1) For Housing Tax Credit Developments at cost certification, the department shall:

(d-1) For developments receiving housing tax credits, the department shall

(1) determine feasibility using

determine the feasibility of the development at the time of cost certification using:

the actual net operating income as adjusted for stabilization of rents and extraordinary lease-up expenses.

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

The permanent lender and equity partner stabilization requirements document in the loan and partnership or entity agreements will be considered when determining the appropriate adjustments and the net operating income used by the department's underwriter.

(2) use a maximum debt coverage ratio of 1.50

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

(3) require that no year in the first 15 years of the long term compliance reflect (i) negative cash flow or (ii) a stabilized debt coverage ratio below 1.15;

(4) determinations of feasibility at time of

(d-2) A feasibility determination made under

cost certification shall not include a maximum operating expense to income ratio.

No equivalent provision.

No equivalent provision.

(e) Subsections (c), (d) and (d-1) and Section 2306.269 apply only to multifamily rental housing developments to which the department is providing one or more of the following forms of assistance:

- (1) a loan or grant in an amount greater than 33 percent of the market value of the development on the date the recipient completed the construction of the development;
- (2) a loan guarantee for a loan in an amount greater than 33 percent of the market value of the development on the date the recipient took legal title to the development; or
- (3) a low income housing tax credit.

SECTION 3. The changes in law made by this Act apply only to an application for financial assistance submitted to the Texas Department of housing and Community Affairs during an application cycle that begins on or after the effective date of this Act. An application submitted during an application cycle that began before the effective date of this Act is governed by the law in effect on the date the application cycle began, and the former law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 2015.

Subsection (d-1) may not include a maximum operating expense-to-income ratio.

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

(d-4) The department may 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) Subsections (c), [~~and~~] (d), (d-1), (d-2), (d-3), and (d-4) and Section 2306.269 apply only to multifamily rental housing developments to which the department is providing one or more of the following forms of assistance:

- (1) a loan or grant in an amount greater than 33 percent of the market value of the development on the date the recipient completed the construction of the development;
- (2) a loan guarantee for a loan in an amount greater than 33 percent of the market value of the development on the date the recipient took legal title to the development; or
- (3) a low income housing tax credit.

SECTION 3. The change in law made by this Act applies only to an application for low income housing tax credits that is submitted to the Texas Department of Housing and Community Affairs during an application cycle that begins on or after the effective date of this Act. An application that is submitted during an application cycle that began before the effective date of this Act is governed by the law in effect at the time the application cycle began, and the former law is continued in effect for that purpose.

SECTION 4. Same as introduced version.