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**TEXAS ASSOCIATION OF COMMUNITY DEVELOPMENT CORPORATIONS**

**TACDC'S 79<sup>TH</sup> TEXAS LEGISLATIVE SESSION  
DEBRIEFING REPORT**

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The 79<sup>th</sup> Texas Legislature ended on May 30<sup>th</sup> 2005. During the 140 days the Legislature met, 3,592 House bills and 1,892 Senate bills were filed. By the end of the session, only 1,411 of bills were sent to the Governor's desk, where 19 were vetoed.

The 79<sup>th</sup> Texas Legislature may be remembered as the session that got away for Republicans as the leadership in the party was not able to pass the major property tax and school finance reforms they focused on during the session. A Special Session of the 79<sup>th</sup> Legislature has been called to address these issues. For Democrats, the session did not lead to major victories or defeats. On a positive note, the session seemed to feature more bipartisan efforts to pass or stop legislation than the 78<sup>th</sup> Legislature.

For advocates of affordable housing and low-income families, the session turned out better than expected. Advocates rallied together to form an ad hoc coalition to defeat H.B. 1167 by Talton (R-Pasadena) that would have significantly changed housing policy in the state. At the same time, advocates were successful in passing legislation that protects low-income affordable housing consumers from contract for deed scams.

The following is a brief recap of how legislation passed in the 79<sup>th</sup> Legislature and how it will impact community development efforts in Texas.

## **I. Housing Production**

No legislation passed this year that will impact the way the Texas Department of Housing and Community Affairs (TDHCA) is required to administer the state's major housing production programs. This is a benefit for affordable housing developers using TDHCA programs as the program rules are not expected to change much between 2005 and 2006. However, legislation passed that will increase housing production through the creation of an urban land bank in Houston and at the state level through the Texas State Affordable Housing Corporation's "Homes for Heroes" program. Lastly, one bill passed that will prevent cities from mandating inclusionary zoning that may prove to limit a city's ability to provide affordable housing in high costs areas of the state.

### *Houston Land Bank*

Senate Bill 356 by Ellis (D-Houston) creates an urban land bank program in Houston. Land banks are a new concept to Texas with the first demonstration program being approved for Dallas by the 78th Texas Legislature in 2003. Land banks function by

allowing cities to create an entity that can gain title to tax delinquent property, place those properties back into service, and provide a community asset like affordable housing.

While the Houston land bank is modeled after the Dallas land bank program, the Houston program has significant differences. One of the main differences is the right of first refusal. In the legislation for the Houston land bank the right of first refusal goes to adjacent land owners and non profits get the right of second refusal.

The income targeting for the Houston land bank program includes deed restrictions that require all of the housing developed on land bank property to be sold or rented to low income families that earn 80% or below the area median family income (AMFI). At least 25% of the properties sold within any year must be sold to families earning below 60% of AMFI. Housing units may be rental if the development has one to eight units and the following conditions are met:

- Each tenant household meets the income eligibility (<80% AMFI)
- The housing is located in an area that is adjacent to the central business, has a homeownership rate of less than 25% of all units in the area, and the median income of households for the area is less than 50 percent of the median income of the municipality.

#### *Expansion of TSAHC Mortgage Program*

The pool of eligible participants in the Texas State Affordable Housing Corporation's (TSAHC) "Homes for Heroes" Program was expanded under House Bill 1007 by Ritter (D-Nederland). Participants in the lower cost home mortgage program now include fire fighters, corrections officers, county jailers, public security officers, and peace officers. Expanding the list of qualified participants in the program will give TSAHC greater latitude in administering the program and should lower the cost of homeownership for qualifying participants.

#### *Banning Inclusionary Zoning*

Affordable housing production may be curtailed in the future as House Bill 2266 by Baxter (R-Austin) prohibits cities from mandating inclusionary zoning practices across the state. Specifically, the bill prohibits cities from setting a maximum sales price for homes. The city, however, can provide incentives to housing developers that include affordable housing in their properties as long as the program is voluntary.

Banning inclusionary zoning will not have an immediate impact upon the state since no Texas cities have any type of inclusionary zoning ordinances in place. However, as the state grows and the need for affordable housing increases, the loss of inclusionary zoning as a community development tool will have a negative impact on the ability of cities to meet their affordable housing needs.

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## II. Housing Resources

Resources available for affordable housing developers and low-income families will not significantly change as a result of the 79<sup>th</sup> Texas Legislative Session. The Housing Trust Fund, the only general revenue that the state appropriates for affordable housing, should receive \$9.6 million in state appropriations and loan repayments for the 2006-2007 biennium. This is roughly \$3 million less compared to the 2004-05 biennium and represents a slight reduction in appropriations, but is more a result of expected lower bond fees and loan repayments being transferred into the Housing Trust Fund.

### *Bond Allocation Change*

The Texas Private Activity Bond Program was amended under House Bill 1901 by Smith (R-Baytown) to raise the ceiling per bond reservation from \$25 million to \$50 million under section 6 of the Private Activity Bond program. The amendment allows larger projects to be funded under the same bond reservation. The change will have no impact on affordable housing as the private activity bond allocation for affordable housing did not change. However, this change may be part of a larger long-term strategy to reduce private activity bond activity for some uses, including affordable housing and student loans, towards other uses including environmental and industrial uses.

### *State Surplus Property*

Non profit housing providers are now included on the list of organizations that are eligible to receive state agency surplus or salvage property. House Bill 22 by Brown (R-Bryan) allows non real estate property that would otherwise be destroyed to be given to affordable housing providers among other designated entities. This bill may enable affordable housing developers to lower the cost of construction and may lead to less construction/building waste.

### *Loss of Research Funds*

During the 78<sup>th</sup> Legislature, affordable housing developers agreed to increase the application fee for bond financing from \$500 to \$5000. The majority of the fee increase was to be set aside in a fund for housing research through TDHCA. However the original legislation required a budget rider to properly transfer the funds from the Bond Review Board, who collects the fee, to TDHCA. Affordable housing providers hoped to get the required budget rider as part of the appropriation bill this legislative session but were unsuccessful. More disappointing than not securing the funding for housing research is that because the funds are dedicated for affordable housing, the money cannot be used for any other purpose. So when the legislature did not secure the budget rider to transfer the funds to TDHCA for housing research, the funds are essentially used to help balance the state's budget.

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### III. Anti-Predatory Lending and Consumer Protection

Low-income families in Texas have long been preyed upon by predatory lenders who lend without regard for a family's ability to repay the loan. These practices often lead to lower credit scores and hinder people from building assets and working their way out of poverty. Two bills were passed during the 79<sup>th</sup> Legislature that will help protect consumers.

#### *Protections on Contracts-for-Deed*

House Bill 1823 by Representative Dutton (D-Houston) enables families who are in contract-for-deed and rent-to-own financing schemes to gain title to the property they are buying. The bill allows the homebuyers to convert their contracts-for-deed into traditional mortgages, thus giving them access to the land title. The bill also prohibits abuses such as late fees and is intended to prevent sellers from retracting the option to buy. These practices have kept low-income purchasers from building assets for years and hopefully this bill will address many of the major abuses of the contract-for-deed industry.

#### *Study on Texas' High Foreclosure Rate*

Representative Chavez (D-El Paso) filed House Bill 1582 to begin the process of addressing the home mortgage foreclosure rate in Texas, which is currently the highest in the nation. The bill calls on the establishment of a committee composed of representatives of the community and banking industries and will be led by a representative of the University of Texas' Housing and Research Consortium. The committee will study the foreclosure rate in Bexar, Cameron, Dallas, El Paso, Harris, and Travis County. The study will look specifically at:

- The extent to which the terms of mortgages are related to the foreclosure rate and whether the terms could be offered in a manner to reduce the likelihood of foreclosures,
- The socioeconomic and geographic elements characterizing foreclosures,
- The securitization of mortgages in the secondary market and its effect on foreclosures,
- Consumer education efforts to prevent foreclosures, and
- Recommendations to reduce foreclosures and the foreclosure rate across the state.

The committee will make recommendations to the legislature on how to address the foreclosure rate in the state.

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## IV. Colonias/Border Area/Rural Housing Issues

Several bills signed into legislation this session affect infrastructure and services for colonia residents, as well as tracking information concerning colonias to help the state better coordinate colonias projects.

### *Streetlights in Colonias*

House Bill 775, sponsored by Representative Veronica Gonzales (D-McAllen) requires the Office of Rural Community Affairs (ORCA) to distribute more money to colonias for the installation of street lighting. ORCA currently receives a Community Development Block Grant (CDBG) from the federal government to develop communities by providing decent housing and suitable living environments and expanding economic opportunities for persons of low and moderate income. H.B. 775 alters ORCA's rules regarding how CDBG money is used. This bill requires a political subdivision that receives CDBG funds to allocate between 5%-15% of the funds toward the installation of adequate street lighting in colonias where street lighting is absent or needed.

### *Colonia Project Coordination*

Another bill that improves services to colonia residents is Senate Bill 1202. This bill was sponsored by Representative Chavez (D-El Paso) and amends current legislation concerning colonias. The 76<sup>th</sup> Legislature passed S.B. 1421, which improved the coordination of colonia initiatives among state agencies addressing issues affecting colonias. This bill allowed the governor to designate the Office of the Secretary of State to act as the State's Colonia Initiatives Coordinator. S.B. 1202 amends S.B. 1421 in several other ways:

- *Expands List of Agencies:* The bill expands the list of state agencies involved with colonia initiatives and requires the coordinator to work with those agencies and local officials on colonia projects.
- *Participation of the Advisory Committee:* The bill directs the Colonia Initiatives Coordinator to consider the advice and recommendations of the Colonia Resident Advisory Committee to improve services delivered to colonia residents.
- *Addressing the Needs of Colonia Residents:* The bill calls on the Coordinator to define and develop a strategy to address the needs of colonia residents and to recommend appropriate programs, grants, and activities to the legislature. The coordinator must also submit a report to specific elected officials regarding a long-range plan and recommendations on addressing the needs of colonia residents.

### *Monitoring of Colonia Projects*

Senate Bill 827 by Senator Zaffirini (D-Laredo) ensures that certain services provided to colonias by state agencies are monitored and the progress of the state-funded projects is tracked. Currently, state agencies collect pertinent information concerning colonias, but a state-wide system to track the progress of state-funded projects does not exist. This bill requires the Secretary of State to submit a report to the legislature based on information provided by ORCA, the Texas Water Development Board (TWDB), the Transportation

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Commission, TDHCA, Department of State Health Services (DSHS), the colonia initiatives coordinator, and any other appropriate agency that has contributed to the tracking system. The Secretary of State shall also compile information on colonias that is received from the various colonia ombudsman appointed by the colonia initiatives coordinator. The Secretary's report must include a list of colonias with the highest health risk to colonia residents. In conjunction with the establishment of the tracking system, the Secretary is also required to establish and maintain a statewide system for identifying colonias.

### *Border and Rural Issues*

Representative Chavez (D-El Paso) sponsored House Bill 925 to encourage coordination among state agencies and offices that provide programs and services in border communities. House Bill 925 establishes an interagency group to focus on border issues and will work to improve coordination of programs and services administered in the border region.

The goal of H.B. 925 is to improve communication and coordination among agencies providing services to border communities by creating the Border Projects Website. The bill authorizes the TWDB to maintain and update an internet-based directory of border projects. This website will be known as the Border Activity Tracker. Each state agency involved in a project in the border region will submit to TWDB any information about its projects to be included in the website.

In addition, H.B. 925 establishes the Texas-Mexico Strategic Investment Commission to encourage a collaborative approach between Texas and neighboring Mexican states to address the needs of the border region. The commission will be composed of the border commerce coordinator and executives from the TWDB, the Railroad Commission, the DSHS, and the Commission on Environmental Quality. The commission will:

- Work with local governments, planning and community organizations, and comparable entities in Mexican states bordering certain TXDOT districts to address the planning and capacity needs of districts;
- Assist those governments and entities to develop initiatives to address those needs; and
- Work with industries and communities on both sides of the border to develop international industry cluster initiatives to capitalize on resources available in communities located adjacent to each other across the border.

### *Farmworker Housing Inspections*

House Bill 1099 by Chavez (D-El Paso) moves migrant housing facility inspection and regulation from DSHS to TDHCA. If a migrant labor housing facility fails to meet the minimum standards of construction, sanitation, equipment, and operation, TDHCA will give the license applicant the reasons why the facility does not meet those standards. The applicant may request TDHCA to reinspect the facility within 60 days of when the reasons are given. The facility must submit a new license application.

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## V. Anti-Gentrification/Homestead Preservation

House Bill 525, sponsored by Representative Rodriguez (D-Austin) permits the City of Austin to create a new kind of zone for the recovery of neighborhoods adjacent to central business districts. This bill provides three development/economic tools which may be utilized by the municipality in an effort to coordinate future development in conjunction with the needs of the existing population. These tools are:

- *Community Land Trust*: A nonprofit purchases and owns the land, and subsequently extends long term leases of the land for the purpose of building homes in which families may hold equity and ownership. This land is exempt from certain property taxes.
- *Community Land Bank*: An entity that can receive land where there are long term delinquent taxes owed and then resell the land to nonprofit CDCs or for-profit developers for the development of affordable housing.
- *Tax Increment Reinvestment Zone (TIRZ)*: A tool that local governments can use to publicly finance needed structural improvements within a defined area. The tax increment fund will be administered by the governing body of the municipality and all revenue from the fund must be dedicated to city-certified community housing development organizations or a city-created Homestead Land Trust for the development of affordable housing within the zone.

## VI. Small Business Development

Advocates for supporting the development of small businesses in Texas won the creation of a new program to boost entrepreneurship in rural areas of the state and small business lenders using the Texas Capital Access Program were successful in maintaining funding for the program for at least two more years.

### *Texas Entrepreneurship Network*

Sponsored by Keffer (R-Eastland) House Bill 1747 creates the Texas Entrepreneurship Network (TEN) and the TEN fund. Both the network and the fund will administered by the Texas Department of Agriculture. The TEN initiative is a statewide public/private collaboration designed to create jobs and local sustainable economies through the development of entrepreneurs. The TEN will train individuals as entrepreneurs, build a network of expert mentors and leaders, create a database of service providers and sources of financing, and assist entrepreneurs in accessing all of these key resources efficiently. The purpose of the TEN is not to create a separate organization to do economic development in Texas, but to bring together and unify all of the agencies and organizations currently doing so, in support of entrepreneurship throughout the state. In addition, this bill requires the TEN to work locally, regionally, and statewide with specific entities to assist entrepreneur participants. It also authorizes the TEN to establish

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local entrepreneurship centers in every county practicable, at which entrepreneur participants may access certain programs and resources.

*Capital Access Program*

The Texas CDFI Coalition was unsuccessful in promoting a statewide CDFI program for Texas this legislative session but was successful in helping secure an appropriations rider that guarantees \$430,000 per year for the Texas Capital Access Program. The Capital Access Program is a loan loss reserve fund whereby the state matches the contributions of participating lenders into a loan loss reserve fund that can be paid out in the event an enrolled loan goes into default. This risk mitigation tool encourages lenders to make loans to entrepreneurs who are not ready for traditional financing and provides access to capital in areas of the state where banks do not typically lend.

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