

By: Watson

S.B. No. 545

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the evaluation of applications for certain financial  
3 assistance administered by the Texas Department of Housing and  
4 Community Affairs.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 2306.1114(a), Government Code, is  
7 amended to read as follows:

8 (a) Not later than the 14th day after the date an  
9 application or a proposed application for housing funds described  
10 by Section 2306.111 has been filed, the department shall provide  
11 written notice of the filing of the application or proposed  
12 application to the following persons:

13 (1) the United States representative who represents  
14 the community containing the development described in the  
15 application;

16 (2) members of the legislature who represent the  
17 community containing the development described in the application;

18 (3) the presiding officer of the governing body of the  
19 political subdivision containing the development described in the  
20 application;

21 (4) any member of the governing body of a political  
22 subdivision who represents the area containing the development  
23 described in the application;

24 (5) the superintendent and the presiding officer of

1 the board of trustees of the school district containing the  
2 development described in the application; and

3 (6) any neighborhood organization [~~organizations~~] on  
4 record and in good standing with the secretary of state or, if  
5 applicable and verifiable, the county or municipality in which the  
6 development described in the application is to be located and whose  
7 boundaries contain the proposed development site.

8 SECTION 2. Section 2306.6704(b-1), Government Code, is  
9 amended to read as follows:

10 (b-1) The preapplication process must require the applicant  
11 to provide the department with evidence that the applicant has  
12 notified the following entities with respect to the filing of the  
13 application:

14 (1) any neighborhood organization [~~organizations~~] on  
15 record and in good standing with the secretary of state or, if  
16 applicable and verifiable, the county or municipality in which the  
17 development is to be located and whose boundaries contain the  
18 proposed development site;

19 (2) the superintendent and the presiding officer of  
20 the board of trustees of the school district containing the  
21 development;

22 (3) the presiding officer of the governing body of any  
23 municipality containing the development and all elected members of  
24 that body;

25 (4) the presiding officer of the governing body of the  
26 county containing the development and all elected members of that  
27 body; and

1           (5) the state senator and state representative of the  
2 district containing the development.

3           SECTION 3. Section [2306.6705](#), Government Code, is amended  
4 to read as follows:

5           Sec. 2306.6705. GENERAL APPLICATION REQUIREMENTS. An  
6 application must contain at a minimum the following written,  
7 detailed information in a form prescribed by the board:

8           (1) a description of:

9                   (A) the financing plan for the development,  
10 including any nontraditional financing arrangements;

11                   (B) the use of funds with respect to the  
12 development;

13                   (C) the funding sources for the development,  
14 including:

15                           (i) construction, permanent, and bridge  
16 loans; and

17                           (ii) rents, operating subsidies, and  
18 replacement reserves; and

19                   (D) the commitment status of the funding sources  
20 for the development;

21           (2) if syndication costs are included in the eligible  
22 basis, a justification of the syndication costs for each cost  
23 category by an attorney or accountant specializing in tax matters;

24           (3) from a syndicator or a financial consultant of the  
25 applicant, an estimate of the amount of equity dollars expected to  
26 be raised for the development in conjunction with the amount of  
27 housing tax credits requested for allocation to the applicant,

1 including:

2 (A) pay-in schedules; and

3 (B) syndicator consulting fees and other  
4 syndication costs;

5 (4) if rental assistance, an operating subsidy, or an  
6 annuity is proposed for the development, any related contract or  
7 other agreement securing those funds and an identification of:

8 (A) the source and annual amount of the funds;

9 (B) the number of units receiving the funds; and

10 (C) the term and expiration date of the contract  
11 or other agreement;

12 (5) if the development is located within the  
13 boundaries of a political subdivision with a zoning ordinance,  
14 evidence in the form of a letter from the chief executive officer of  
15 the political subdivision or from another local official with  
16 jurisdiction over zoning matters that states that:

17 (A) the development is permitted under the  
18 provisions of the ordinance that apply to the location of the  
19 development; or

20 (B) the applicant is in the process of seeking  
21 the appropriate zoning and has signed and provided to the political  
22 subdivision a release agreeing to hold the political subdivision  
23 and all other parties harmless in the event that the appropriate  
24 zoning is denied;

25 (6) if an occupied development is proposed for  
26 rehabilitation:

27 (A) an explanation of the process used to notify

1 and consult with the tenants in preparing the application;

2 (B) a relocation plan outlining:

3 (i) relocation requirements; and

4 (ii) a budget with an identified funding  
5 source; and

6 (C) if applicable, evidence that the relocation  
7 plan has been submitted to the appropriate local agency;

8 (7) a certification of the applicant's compliance with  
9 appropriate state and federal laws, as required by other state law  
10 or by the board;

11 (8) any other information required by the board in the  
12 qualified allocation plan; and

13 (9) evidence that the applicant has notified the  
14 following entities with respect to the filing of the application:

15 (A) any neighborhood organization  
16 [~~organizations~~] on record and in good standing with the secretary  
17 of state or, if applicable and verifiable, the county or  
18 municipality in which the development is to be located and whose  
19 boundaries contain the proposed development site;

20 (B) the superintendent and the presiding officer  
21 of the board of trustees of the school district containing the  
22 development;

23 (C) the presiding officer of the governing body  
24 of any municipality containing the development and all elected  
25 members of that body;

26 (D) the presiding officer of the governing body  
27 of the county containing the development and all elected members of

1 that body; and

2 (E) the state senator and state representative of  
3 the district containing the development.

4 SECTION 4. Section 2306.6710(b), Government Code, is  
5 amended to read as follows:

6 (b) If an application satisfies the threshold criteria, the  
7 department shall score and rank the application using a point  
8 system that:

9 (1) prioritizes in descending order criteria  
10 regarding:

11 (A) financial feasibility of the development  
12 based on the supporting financial data required in the application  
13 that will include a project underwriting pro forma from the  
14 permanent or construction lender;

15 (B) quantifiable community participation with  
16 respect to the development, evaluated on the basis of a resolution  
17 concerning the development that is voted on and adopted by the  
18 following, as applicable:

19 (i) the governing body of a municipality in  
20 which the proposed development site is to be located;

21 (ii) subject to Subparagraph (iii), the  
22 commissioners court of a county in which the proposed development  
23 site is to be located, if the proposed site is to be located in an  
24 area of a county that is not part of a municipality; or

25 (iii) the commissioners court of a county  
26 in which the proposed development site is to be located and the  
27 governing body of the applicable municipality, if the proposed site

1 is to be located in the extraterritorial jurisdiction of a  
2 municipality;

3 (C) the income levels of tenants of the  
4 development;

5 (D) the size and quality of the units;

6 (E) the rent levels of the units;

7 (F) the cost of the development by square foot;

8 (G) the services to be provided to tenants of the  
9 development;

10 (H) whether, at the time the complete application  
11 is submitted or at any time within the two-year period preceding the  
12 date of submission, the proposed development site is located in an  
13 area declared to be a disaster under Section 418.014;

14 (I) quantifiable community participation with  
15 respect to the development, evaluated on the basis of written  
16 statements from any neighborhood organization [~~organizations~~] on  
17 record and in good standing with the secretary of state or, if  
18 applicable and verifiable, the county or municipality in which the  
19 development is to be located and whose boundaries contain the  
20 proposed development site; and

21 (J) the level of community support for the  
22 application, evaluated on the basis of a written statement from the  
23 state representative who represents the district containing the  
24 proposed development site;

25 (2) uses criteria imposing penalties on applicants or  
26 affiliates who have requested extensions of department deadlines  
27 relating to developments supported by housing tax credit

1 allocations made in the application round preceding the current  
2 round or a developer or principal of the applicant that has been  
3 removed by the lender, equity provider, or limited partners for its  
4 failure to perform its obligations under the loan documents or  
5 limited partnership agreement; and

6 (3) encourages applicants to provide free notary  
7 public service to the residents of the developments for which the  
8 allocation of housing tax credits is requested.

9 SECTION 5. The change in law made by this Act applies only  
10 to an application for low income housing tax credits that is  
11 submitted to the Texas Department of Housing and Community Affairs  
12 during an application cycle that is based on the 2020 qualified  
13 allocation plan or a subsequent plan adopted by the governing board  
14 of the department under Section [2306.67022](#), Government Code. An  
15 application that is submitted during an application cycle that is  
16 based on an earlier qualified allocation plan is governed by the law  
17 in effect on the date the application cycle began, and the former  
18 law is continued in effect for that purpose.

19 SECTION 6. This Act takes effect September 1, 2019.