

By: González of Dallas

H.B. No. 738

A BILL TO BE ENTITLED

1 AN ACT

2 relating to a right of first refusal applicable to the sale of  
3 housing developments that have received certain financial  
4 assistance administered by the Texas Department of Housing and  
5 Community Affairs.

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

7 SECTION 1. Section 2306.6710, Government Code, is amended  
8 by adding Subsection (h) to read as follows:

9 (h) In scoring applications for purposes of housing tax  
10 credit allocations, the department shall award preference points to  
11 a development that agrees to provide to a qualified entity, in a  
12 land use restriction agreement in accordance with Section  
13 2306.6726, a right of first refusal to purchase the development at  
14 the minimum price provided in, and in accordance with the  
15 requirements of, Section 42(i)(7), Internal Revenue Code of 1986.

16 SECTION 2. Section 2306.6725(b), Government Code, is  
17 amended to read as follows:

18 (b) The department shall provide appropriate incentives as  
19 determined through the qualified allocation plan to reward  
20 applicants who agree to:

21 (1) equip the development that is the basis of the  
22 application with energy saving devices that meet the standards  
23 established by the state energy conservation office [~~or provide to~~  
24 ~~a qualified entity, in a land use restriction agreement in~~

1 ~~accordance with Section 2306.6726, a right of first refusal to~~  
2 ~~purchase the development at the minimum price provided in, and in~~  
3 ~~accordance with the requirements of, Section 42(i)(7), Internal~~  
4 ~~Revenue Code of 1986 (26 U.S.C. Section 42(i)(7))]; and~~

5 (2) locate the development in a census tract in which  
6 there are no other existing developments supported by housing tax  
7 credits.

8 SECTION 3. Section 2306.6726, Government Code, is amended  
9 by amending Subsections (a), (b), and (c) and adding Subsection  
10 (c-3) to read as follows:

11 (a) An owner of a development subject to a right of first  
12 refusal described by [~~under~~] Section 2306.6710(h) [~~2306.6725~~] who  
13 intends to sell the development at any time after the expiration of  
14 the compliance period shall notify the department and the tenants  
15 of the development of the owner's intent to sell and, if applicable,  
16 shall specifically identify to the department any qualified entity  
17 that is the owner's intended recipient of the right of first refusal  
18 in the land use restriction agreement.

19 (b) The owner of a development subject to a right of first  
20 refusal described by [~~under~~] Section 2306.6710(h) [~~2306.6725~~] may:

21 (1) during the first 120-day [~~60-day~~] period after  
22 notice is provided under Subsection (a-1), negotiate or enter into  
23 a purchase agreement only with a qualified entity that is:

24 (A) a community housing development organization  
25 as defined by the federal HOME investment partnership program;

26 (B) if the authority or the corporation owns the  
27 fee title to the development owner's leasehold estate:

1 (i) a public housing authority; or  
2 (ii) a public facility corporation created  
3 by a public housing authority under Chapter 303, Local Government  
4 Code; or

5 (C) controlled by an entity described by  
6 Paragraph (A) or (B);

7 (2) during the second 120-day [~~60-day~~] period after  
8 notice is provided under Subsection (a-1), negotiate or enter into  
9 a purchase agreement with a qualified entity that:

10 (A) is described by Section 2306.6706;

11 (B) is controlled by an entity described by  
12 Paragraph (A); or

13 (C) is a tenant organization; and

14 (3) during the last 120-day [~~60-day~~] period after  
15 notice is provided under Subsection (a-1), negotiate or enter into  
16 a purchase agreement with any other qualified entity.

17 (c) Beginning on the 361st [~~181st~~] day after the date the  
18 department posts notice under Subsection (a-1), an owner of a  
19 development subject to a right of first refusal described by  
20 [~~under~~] Section 2306.6710(h) [~~2306.6725~~] may sell to any purchaser  
21 a development to which the right of first refusal applies only if a  
22 qualified entity does not offer to purchase the development for the  
23 minimum price provided in, and in accordance with the requirements  
24 of, Section 42(i)(7), Internal Revenue Code of 1986 [~~a price that~~  
25 ~~the department determines to be reasonable~~].

26 (c-3) A development subject to a right of first refusal  
27 described by Section 2306.6710(h) may only be offered for sale at

1 the minimum price provided in, and in accordance with the  
2 requirements of, Section 42(i)(7), Internal Revenue Code of 1986.

3         SECTION 4. The change in law made by this Act applies only  
4 to an application for low income housing tax credits that is  
5 submitted to the Texas Department of Housing and Community Affairs  
6 during an application cycle that is based on the 2024 qualified  
7 allocation plan or a subsequent plan adopted by the governing board  
8 of the department. An application that is submitted during an  
9 application cycle that is based on an earlier qualified allocation  
10 plan is governed by the law in effect on the date the application  
11 cycle began, and the former law is continued in effect for that  
12 purpose.

13         SECTION 5. This Act takes effect September 1, 2023.