

By: Darby

H.B. No. 1766

A BILL TO BE ENTITLED

AN ACT

relating to the issuance of private activity bonds for qualified residential rental projects.

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

SECTION 1. Section 1202.003, Government Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) Notwithstanding Subsection (b), if Section 1372.037(b) applies with respect to the issuance of qualified residential rental project bonds in a program year, the attorney general must certify the issuer's compliance with that subsection before approving the issuance of those bonds. A certification made under this subsection may be based solely on a written verification provided by the issuer on request of the attorney general.

SECTION 2. Section 1372.0231(f), Government Code, is amended to read as follows:

(f) In each area described by Subsection (d) [~~or (e)~~], the board shall grant reservations based on the priority levels of proposed projects as described by Section 1372.0321.

SECTION 3. Section 1372.0321, Government Code, is amended to read as follows:

Sec. 1372.0321. PRIORITIES FOR RESERVATIONS AMONG ISSUERS OF QUALIFIED RESIDENTIAL RENTAL PROJECT ISSUES. (a) In granting reservations to issuers of qualified residential rental project issues, the board shall give first priority to projects that:

1           (1) during the four-year period preceding the date of  
2 the application, have:

3                   (A) filed an application for a low-income housing  
4 tax credit with the Texas Department of Housing and Community  
5 Affairs; and

6                   (B) closed on a previous reservation of bonds in  
7 accordance with Section 1372.042, as determined based on the date  
8 of allocation of those bonds;

9           (2) require a subsequent issuance of bonds to maintain  
10 compliance with the percentage requirement described by Subsection  
11 (e); and

12           (3) have not previously applied for a subsequent  
13 issuance of bonds under this subsection.

14           (b) In granting reservations to issuers of qualified  
15 residential rental project issues, the board shall give second  
16 priority to:

17                   (1) projects in which:

18                           (A) 50 percent of the residential units in the  
19 project are:

20                                   (i) under the restriction that the maximum  
21 allowable rents are an amount equal to 30 percent of 50 percent of  
22 the area median family income minus an allowance for utility costs  
23 authorized under the federal low-income housing tax credit program;  
24 and

25                                   (ii) reserved for families and individuals  
26 earning not more than 50 percent of the area median income; and

27                           (B) the remaining 50 percent of the residential

1 units in the project are:

2 (i) under the restriction that the maximum  
3 allowable rents are an amount equal to 30 percent of 60 percent of  
4 the area median family income minus an allowance for utility costs  
5 authorized under the federal low-income housing tax credit program;  
6 and

7 (ii) reserved for families and individuals  
8 earning not more than 60 percent of the area median income;

9 (2) projects in which:

10 (A) 15 percent of the residential units in the  
11 project are:

12 (i) under the restriction that the maximum  
13 allowable rents are an amount equal to 30 percent of 30 percent of  
14 the area median family income minus an allowance for utility costs  
15 authorized under the federal low-income housing tax credit program;  
16 and

17 (ii) reserved for families and individuals  
18 earning not more than 30 percent of the area median income; and

19 (B) the remaining 85 percent of the residential  
20 units in the project are:

21 (i) under the restriction that the maximum  
22 allowable rents are an amount equal to 30 percent of 60 percent of  
23 the area median family income minus an allowance for utility costs  
24 authorized under the federal low-income housing tax credit program;  
25 and

26 (ii) reserved for families and individuals  
27 earning not more than 60 percent of the area median income;

1 (3) projects:

2 (A) in which 100 percent of the residential units  
3 in the project are:

4 (i) under the restriction that the maximum  
5 allowable rents are an amount equal to 30 percent of 60 percent of  
6 the area median family income minus an allowance for utility costs  
7 authorized under the federal low-income housing tax credit program;  
8 and

9 (ii) reserved for families and individuals  
10 earning not more than 60 percent of the area median income; and

11 (B) which are located in a census tract in which  
12 the median income, based on the most recent information published  
13 by the United States Bureau of the Census, is higher than the median  
14 income for the county, metropolitan statistical area, or primary  
15 metropolitan statistical area in which the census tract is located  
16 as established by the United States Department of Housing and Urban  
17 Development; or

18 (4) on or after June 1, projects that are located in  
19 counties, metropolitan statistical areas, or primary metropolitan  
20 statistical areas with area median family incomes at or below the  
21 statewide median family income established by the United States  
22 Department of Housing and Urban Development.

23 (c) [~~(a-1)~~] In granting reservations to issuers of  
24 qualified residential rental project issues, the board shall give  
25 third [~~second~~] priority to projects in which 80 percent or more of  
26 the residential units in the project are:

27 (1) under the restriction that the maximum allowable

1 rents are an amount equal to 30 percent of 60 percent of the area  
2 median family income minus an allowance for utility costs  
3 authorized under the federal low-income housing tax credit program;  
4 and

5 (2) reserved for families and individuals earning not  
6 more than 60 percent of the area median income.

7 (d) [~~(a-2)~~] In granting reservations to issuers of  
8 qualified residential rental project issues, the board shall give  
9 fourth [~~third~~] priority to any other qualified residential rental  
10 project.

11 (e) [~~(b)~~] The board may not reserve a portion of the state  
12 ceiling for a first, [~~or~~] second, or third priority project  
13 described by this section unless the board receives evidence that  
14 an application has been filed with the Texas Department of Housing  
15 and Community Affairs for the low-income housing tax credit that is  
16 available for multifamily transactions that are at least 51 percent  
17 financed by tax-exempt private activity bonds.

18 SECTION 4. Section [1372.037](#), Government Code, is amended by  
19 adding Subsection (b) to read as follows:

20 (b) This subsection applies only to projects that are  
21 granted a reservation of a portion of the available state ceiling  
22 for a program year under Subsection (a)(5). If for a program year  
23 the total amount of qualified residential rental project bonds for  
24 which reservations are sought exceeds, as of October 20 of the  
25 preceding year, 55.75 percent of the state ceiling, the amount of  
26 bonds issued to each project may not exceed 55 percent of the  
27 reasonably expected aggregate basis of the project and the land on

1 which the project is or will be located.

2 SECTION 5. Section 1372.042(d), Government Code, is amended  
3 to read as follows:

4 (d) Not later than the fifth business day after the date on  
5 which the bonds are closed, the issuer shall submit to the board:

6 (1) a written notice stating the delivery date of the  
7 bonds and the principal amount of the bonds issued;

8 (2) if the project is a project entitled to first, ~~or~~  
9 second, or third priority under Section 1372.0321, evidence from  
10 the Texas Department of Housing and Community Affairs that an award  
11 of low-income housing tax credits has been approved for the  
12 project; and

13 (3) a certified copy of the document authorizing the  
14 bonds and any other document relating to the issuance of the bonds,  
15 including a statement of the bonds':

16 (A) principal amount;

17 (B) interest rate or formula by which the  
18 interest rate is computed;

19 (C) maturity schedule; and

20 (D) purchaser or purchasers.

21 SECTION 6. The change in law made by this Act in adding  
22 Section 1202.003(b-1), Government Code, and in amending Chapter  
23 1372, Government Code, applies to the allocation of the available  
24 state ceiling under Chapter 1372 beginning with the 2024 program  
25 year.

26 SECTION 7. This Act takes effect immediately if it receives  
27 a vote of two-thirds of all the members elected to each house, as

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1 provided by Section 39, Article III, Texas Constitution. If this  
2 Act does not receive the vote necessary for immediate effect, this  
3 Act takes effect September 1, 2023.