

By: Darby

H.B. No. 1766

Substitute the following for H.B. No. 1766:

By: Capriglione

C.S.H.B. No. 1766

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the issuance of private activity bonds for qualified
3 residential rental projects.

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

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

7 (b-1) Notwithstanding Subsection (b), if Section
8 1372.037(b) applies with respect to the issuance of qualified
9 residential rental project bonds in a program year, the attorney
10 general must certify the issuer's compliance with that subsection
11 before approving the issuance of those bonds. A certification made
12 under this subsection may be based solely on a written verification
13 provided by the issuer on request of the attorney general.

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

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

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

21 Sec. 1372.0321. PRIORITIES FOR RESERVATIONS AMONG ISSUERS
22 OF QUALIFIED RESIDENTIAL RENTAL PROJECT ISSUES. (a) In granting
23 reservations to issuers of qualified residential rental project
24 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.