

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.

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) during the three-year period preceding the date of the application, have closed on a previous reservation of bonds in

1 accordance with Section 1372.042, as determined based on the date  
2 of allocation of those bonds; and

3 (2) require a subsequent issuance of bonds to maintain  
4 compliance with the percentage requirement described by Subsection  
5 (e).

6 (b) In granting reservations to issuers of qualified  
7 residential rental project issues, the board shall give second  
8 priority to:

9 (1) projects in which:

10 (A) 50 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 50 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 50 percent of the area median income; and

19 (B) the remaining 50 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           (2) projects in which:

2                   (A) 15 percent of the residential units in the  
3 project are:

4                           (i) under the restriction that the maximum  
5 allowable rents are an amount equal to 30 percent of 30 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 30 percent of the area median income; and

11                   (B) the remaining 85 percent of the residential  
12 units in the project are:

13                           (i) under the restriction that the maximum  
14 allowable rents are an amount equal to 30 percent of 60 percent of  
15 the area median family income minus an allowance for utility costs  
16 authorized under the federal low-income housing tax credit program;  
17 and

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

20           (3) projects:

21                   (A) in which 100 percent of the residential units  
22 in the project are:

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

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

3 (B) which are located in a census tract in which  
4 the median income, based on the most recent information published  
5 by the United States Bureau of the Census, is higher than the median  
6 income for the county, metropolitan statistical area, or primary  
7 metropolitan statistical area in which the census tract is located  
8 as established by the United States Department of Housing and Urban  
9 Development; or

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

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

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

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

26 (d) [~~(a-2)~~] In granting reservations to issuers of  
27 qualified residential rental project issues, the board shall give

1 fourth [~~third~~] priority to any other qualified residential rental  
2 project.

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

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

12 (b) This subsection applies only to projects that are  
13 granted a reservation of a portion of the available state ceiling  
14 for a program year under Subsection (a)(5). If for a program year  
15 the total amount of qualified residential rental project bonds for  
16 which reservations are sought exceeds, as of October 31, 55.75  
17 percent of the portion of state ceiling available for that year  
18 exclusively for reservations by issuers of qualified residential  
19 rental project bonds under Section [1372.0231](#)(f), the amount of  
20 bonds used to finance each project and requested in an application  
21 for a reservation may not exceed 55 percent of the reasonably  
22 expected aggregate basis of the project and the land on which the  
23 project is or will be located.

24 SECTION 5. Section [1372.042](#)(d), Government Code, is amended  
25 to read as follows:

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

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

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

8           (3) a certified copy of the document authorizing the  
9 bonds and any other document relating to the issuance of the bonds,  
10 including a statement of the bonds':

11                   (A) principal amount;

12                   (B) interest rate or formula by which the  
13 interest rate is computed;

14                   (C) maturity schedule; and

15                   (D) purchaser or purchasers.

16           SECTION 6. The change in law made by this Act in adding  
17 Section 1202.003(b-1), Government Code, and in amending Chapter  
18 1372, Government Code, applies to the allocation of the available  
19 state ceiling under Chapter 1372 beginning with the 2024 program  
20 year.

21           SECTION 7. This Act takes effect immediately if it receives  
22 a vote of two-thirds of all the members elected to each house, as  
23 provided by Section 39, Article III, Texas Constitution. If this  
24 Act does not receive the vote necessary for immediate effect, this  
25 Act takes effect September 1, 2023.