

By: Moody

H.B. No. 2402

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the eligibility of certain at-risk developments to  
3 receive low income housing tax credits.

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

5 SECTION 1. Section 2306.6702(a)(5), Government Code, is  
6 amended to read as follows:

7 (5) "At-risk development" means:

8 (A) a development that:

9 (i) has received the benefit of a subsidy in  
10 the form of a below-market interest rate loan, interest rate  
11 reduction, rental subsidy, Section 8 housing assistance payment,  
12 rental supplement payment, rental assistance payment, or equity  
13 incentive under the following federal laws, as applicable:

14 (a) Sections 221(d)(3) and (5),  
15 National Housing Act (12 U.S.C. Section 1715l);

16 (b) Section 236, National Housing Act  
17 (12 U.S.C. Section 1715z-1);

18 (c) Section 202, Housing Act of 1959  
19 (12 U.S.C. Section 1701q);

20 (d) Section 101, Housing and Urban  
21 Development Act of 1965 (12 U.S.C. Section 1701s);

22 (e) the Section 8 Additional  
23 Assistance Program for housing developments with HUD-Insured and  
24 HUD-Held Mortgages administered by the United States Department of

1 Housing and Urban Development as specified by 24 C.F.R. Part 886,  
2 Subpart A;

3 (f) the Section 8 Housing Assistance  
4 Program for the Disposition of HUD-Owned Projects administered by  
5 the United States Department of Housing and Urban Development as  
6 specified by 24 C.F.R. Part 886, Subpart C;

7 (g) the Section 8 Housing Assistance  
8 Payments Program for New Construction administered by the United  
9 States Department of Housing and Urban Development as specified by  
10 24 C.F.R. Part 880;

11 (h) the Section 8 Housing Assistance  
12 Payments Program for Substantial Rehabilitation administered by  
13 the United States Department of Housing and Urban Development as  
14 specified by 24 C.F.R. Part 881;

15 (i) Sections 514, 515, and 516,  
16 Housing Act of 1949 (42 U.S.C. Sections 1484, 1485, and 1486); or

17 (j) [~~(h)~~] Section 42, Internal  
18 Revenue Code of 1986; and

19 (ii) is subject to the following  
20 conditions:

21 (a) the stipulation to maintain  
22 affordability in the contract granting the subsidy is nearing  
23 expiration; or

24 (b) the HUD-insured or HUD-held  
25 mortgage on the development is eligible for prepayment or is  
26 nearing the end of its term; or

27 (B) a development that proposes to rehabilitate

1 or reconstruct housing units that:

2 (i) receive assistance under Section 9,  
3 United States Housing Act of 1937 (42 U.S.C. Section 1437g) and are  
4 owned by:

5 (a) a public housing authority; or

6 (b) a public facility corporation  
7 created by a public housing authority under Chapter 303, Local  
8 Government Code;

9 (ii) received assistance under Section 9,  
10 United States Housing Act of 1937 (42 U.S.C. Section 1437g) and:

11 (a) are proposed to be disposed of or  
12 demolished by a public housing authority or a public facility  
13 corporation created by a public housing authority under Chapter  
14 303, Local Government Code; or

15 (b) have been disposed of or  
16 demolished by a public housing authority or a public facility  
17 corporation created by a public housing authority under Chapter  
18 303, Local Government Code, in the two-year period preceding the  
19 application for housing tax credits; or

20 (iii) receive assistance or will receive  
21 assistance through the Rental Assistance Demonstration program  
22 administered by the United States Department of Housing and Urban  
23 Development as specified by the Consolidated and Further Continuing  
24 Appropriations Act, 2012 (Pub. L. No. 112-55) and its subsequent  
25 amendments, if the application for assistance through the Rental  
26 Assistance Demonstration program is included in the applicable  
27 public housing plan that was most recently approved by the United

1 States Department of Housing and Urban Development as specified by  
2 24 C.F.R. Section 903.23.

3 SECTION 2. Section 2306.6702, Government Code, is amended  
4 by adding Subsection (c) to read as follows:

5 (c) For purposes of Subsection (a)(5), a development  
6 described by that subdivision is considered an at-risk development  
7 under this subchapter regardless of whether:

8 (1) the development proposes to newly construct  
9 housing units or rehabilitate or reconstruct housing units at the  
10 same location of any of the original development sites; or

11 (2) the development proposes to wholly construct or  
12 reconstruct housing units at a location other than the location of  
13 any of the original development sites and the development:

14 (A) qualifies for points on the opportunity index  
15 under department rule; or

16 (B) is supported by the applicable governing body  
17 of the municipality or county in which the development is located,  
18 as evidenced by a resolution adopted by the governing body.

19 SECTION 3. The change in law made by this Act applies only  
20 to an application for low income housing tax credits that is  
21 submitted to the Texas Department of Housing and Community Affairs  
22 during an application cycle that is based on the 2024 qualified  
23 allocation plan or a subsequent plan adopted by the governing board  
24 of the department under Section 2306.67022, Government Code. An  
25 application that is submitted during an application cycle that is  
26 based on an earlier qualified allocation plan is governed by the law  
27 in effect on the date the application cycle began, and the former

1 law is continued in effect for that purpose.

2 SECTION 4. This Act takes effect September 1, 2023.