

By: Gervin-Hawkins

H.B. No. 4858

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the allocation of low income housing tax credits.

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

4 SECTION 1. Sections [2306.6710\(b\)](#), (f), and (g), Government  
5 Code, are amended to read as follows:

6 (b) If an application satisfies the threshold criteria, the  
7 department shall score and rank the application using a point  
8 system that:

9 (1) prioritizes in descending order criteria  
10 regarding:

11 (A) financial feasibility of the development  
12 based on the supporting financial data required in the application  
13 that will include a project underwriting pro forma from the  
14 permanent or construction lender;

15 (B) quantifiable community participation with  
16 respect to the development, evaluated on the basis of a resolution  
17 concerning the development that is voted on and adopted by the  
18 following, as applicable:

19 (i) the governing body of a municipality in  
20 which the proposed development site is to be located;

21 (ii) subject to Subparagraph (iii), the  
22 commissioners court of a county in which the proposed development  
23 site is to be located, if the proposed site is to be located in an  
24 area of a county that is not part of a municipality; or

1 (iii) the commissioners court of a county  
2 in which the proposed development site is to be located and the  
3 governing body of the applicable municipality, if the proposed site  
4 is to be located in the extraterritorial jurisdiction of a  
5 municipality;

6 (C) the income levels of tenants of the  
7 development;

8 (D) the size and quality of the units;

9 (E) the rent levels of the units;

10 (F) ~~[the cost of the development by square foot;~~

11 ~~[(G)]~~ the services to be provided to tenants of  
12 the development;

13 (G) ~~[(H)]~~ whether, at the time the complete  
14 application is submitted or at any time within the two-year period  
15 preceding the date of submission, the proposed development site is  
16 located in an area declared to be a disaster under Section 418.014;

17 (H) ~~[(I)]~~ quantifiable community participation  
18 with respect to the development, evaluated on the basis of written  
19 statements from any neighborhood organizations on record with the  
20 state or county in which the development is to be located and whose  
21 boundaries contain the proposed development site; and

22 (I) ~~[(J)]~~ the level of community support for the  
23 application, evaluated on the basis of a written statement from the  
24 state representative who represents the district containing the  
25 proposed development site;

26 (2) uses criteria imposing penalties on applicants or  
27 affiliates who have requested extensions of department deadlines

1 relating to developments supported by housing tax credit  
2 allocations made in the application round preceding the current  
3 round or a developer or principal of the applicant that has been  
4 removed by the lender, equity provider, or limited partners for its  
5 failure to perform its obligations under the loan documents or  
6 limited partnership agreement;

7 (3) encourages applicants to provide free notary  
8 public service to the residents of the developments for which the  
9 allocation of housing tax credits is requested; and

10 (4) for an application concerning a development that  
11 is or will be located in a county with a population of 1 million or  
12 more but less than 4 million and that is or will be located not more  
13 than two miles from a veterans hospital, veterans affairs medical  
14 center, or veterans affairs health care center, encourages  
15 applicants to provide a preference for leasing units in the  
16 development to low income veterans.

17 (f) In evaluating the level of community support for an  
18 application under Subsection (b)(1)(I) [~~(b)(1)(J)~~], the department  
19 shall award:

20 (1) positive points for positive written statements  
21 received;

22 (2) negative points for negative written statements  
23 received; and

24 (3) zero points for neutral statements received.

25 (g) If no written statement is received for an application  
26 under Subsection (b)(1)(I) [~~(b)(1)(J)~~], the department shall use  
27 the maximum number of points that could have been awarded under that

1 paragraph to increase the maximum number of points that may be  
2 awarded for that application under Subsection (b)(1)(B). If  
3 awarding points under Subsection (b)(1)(B)(iii), the department  
4 shall reallocate the points from the scoring category provided by  
5 Subsection (b)(1)(I) [~~(b)(1)(J)~~] equally between the political  
6 subdivisions described by Subsection (b)(1)(B)(iii). In awarding  
7 points transferred under this subsection from the scoring category  
8 provided by Subsection (b)(1)(I) [~~(b)(1)(J)~~] to the scoring  
9 category provided by Subsection (b)(1)(B), the department shall  
10 award:

- 11 (1) positive points for positive resolutions adopted;
- 12 (2) negative points for negative resolutions adopted;
- 13 and
- 14 (3) zero points for neutral resolutions adopted.

15 SECTION 2. Section 2306.6711(b), Government Code, is  
16 amended to read as follows:

17 (b) Not later than the deadline specified in the qualified  
18 allocation plan, the board shall issue commitments for available  
19 housing tax credits based on the application evaluation process  
20 provided by Section 2306.6710. The board may not allocate to an  
21 applicant housing tax credits in any unnecessary amount, as  
22 determined by the department's underwriting policy and by federal  
23 law, and in any event may not allocate to the applicant housing tax  
24 credits in an amount greater than \$4 [~~\$3~~] million in a single  
25 application round or to an individual development more than \$2  
26 million in a single application round.

27 SECTION 3. Section 2306.6725(b), Government Code, is

1 amended to read as follows:

2 (b) The department shall provide appropriate incentives as  
3 determined through the qualified allocation plan to reward  
4 applicants who agree to:

5 (1) equip the development that is the basis of the  
6 application with energy saving devices that meet the standards  
7 established by the state energy conservation office; or

8 (2) provide to a qualified entity, in a land use  
9 restriction agreement in accordance with Section 2306.6726, a right  
10 of first refusal to purchase the development at the minimum price  
11 provided in, and in accordance with the requirements of, Section  
12 42(i)(7), Internal Revenue Code of 1986 (26 U.S.C. Section  
13 42(i)(7)) [~~and~~

14 [~~(2) locate the development in a census tract in which~~  
15 ~~there are no other existing developments supported by housing tax~~  
16 ~~credits]~~.

17 SECTION 4. The change in law made by this Act applies only  
18 to an application for low income housing tax credits that is  
19 submitted to the Texas Department of Housing and Community Affairs  
20 during an application cycle that is based on the 2024 qualified  
21 allocation plan or a subsequent plan adopted by the governing board  
22 of the department. An application that is submitted during an  
23 application cycle that is based on an earlier qualified allocation  
24 plan is governed by the law in effect on the date the application  
25 cycle began, and the former law is continued in effect for that  
26 purpose.

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