

By: Gervin-Hawkins

H.B. No. 5169

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 Internal
5 Revenue Code Section 42(h)(4)(B).

6 (b) In granting reservations to issuers of qualified
7 residential rental project issues, the board shall give second
8 priority to projects for which an application was filed on or before
9 October 20 of the program year 2 years preceding the current program
10 year and which:

11 (1) meet one of the requirements of Section
12 1372.0321(c), and

13 (2) was not withdrawn and did not receive a bond
14 reservation, and

15 (3) for which:

16 (A) a binding contract to incur significant
17 expenditures for construction, reconstruction, or rehabilitation
18 was entered into before submission of the application;

19 (B) significant expenditures for construction,
20 reconstruction, or rehabilitation were readily identifiable with
21 and necessary to carry out a binding contract for the supply of
22 property or services or the sale of output; or

23 (C) significant expenditures were paid or
24 incurred before submission of the application.

25 (4) In this section, "significant expenditures" means
26 expenditures that are greater than the lesser of:

27 (A) \$500,000; or

1 (B) 10 percent of the reasonably anticipated cost
2 of the project

3 (c) In granting reservation to issuers of qualified
4 residential rental project issues, the board shall give third
5 priority to

6 (1) projects in which:

7 (A) 50 percent of the residential units in the
8 project are:

9 (i) under the restriction that the maximum
10 allowable rents are an amount equal to 30 percent of 50 percent of
11 the area median family income minus an allowance for utility costs
12 authorized under the federal low-income housing tax credit program;
13 and

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

16 (B) the remaining 50 percent of the residential
17 units in the project are:

18 (i) under the restriction that the maximum
19 allowable rents are an amount equal to 30 percent of ~~60~~80 percent of
20 the area median family income minus an allowance for utility costs
21 authorized under the federal low-income housing tax credit program;
22 and

23 (ii) reserved for families and individuals
24 earning not more than ~~60~~80 percent of the area median income;

25 (2) projects in which:

26 (A) 15 percent of the residential units in the
27 project are:

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

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

8 (B) the remaining 85 percent of the residential
9 units in the project are:

10 (i) under the restriction that the maximum
11 allowable rents are an amount equal to 30 percent of ~~60~~80 percent of
12 the area median family income minus an allowance for utility costs
13 authorized under the federal low-income housing tax credit program;
14 and

15 (ii) reserved for families and individuals
16 earning not more than ~~60~~80 percent of the area median income;

17 (3) projects:

18 (A) in which 100 percent of the residential units
19 in the project are on average:

20 (i) under the restriction that the maximum
21 allowable rents are an amount equal to 30 percent of 60 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 on average, not more than 60 percent of the area median
27 income; and

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

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

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

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

22 (2) reserved for families and individuals earning, on
23 average, not more than 60 percent of the area median income.

24 (e) [~~(a-2)~~] In granting reservations to issuers of
25 qualified residential rental project issues, the board shall give
26 fifth [~~third~~] priority to any other qualified residential rental
27 project.

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

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

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

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

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

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

27 (2) if the project is a project entitled to first, ~~or~~

1 second, third or fourth priority under Section 1372.0321, evidence
2 from the Texas Department of Housing and Community Affairs that an
3 award of low-income housing tax credits has been approved for the
4 project; and

5 (3) a certified copy of the document authorizing the
6 bonds and any other document relating to the issuance of the bonds,
7 including a statement of the bonds':

8 (A) principal amount;

9 (B) interest rate or formula by which the
10 interest rate is computed;

11 (C) maturity schedule; and

12 (D) purchaser or purchasers.

13 SECTION 6. The change in law made by this Act in adding
14 Section 1202.003(b-1), Government Code, and in amending Chapter
15 1372, Government Code, applies to the allocation of the available
16 state ceiling under Chapter 1372 beginning with the 2024 program
17 year.

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