

By: Dunnam

H.B. No. 2204

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the continuation and functions of the Texas State
3 Affordable Housing Corporation.

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

5 SECTION 1. Section 2306.057, Government Code, is amended by
6 adding Subsection (d) to read as follows:

7 (d) In assessing the compliance of the project, applicant,
8 or affiliate, the board shall consider any relevant compliance
9 information in the department's database created under Section
10 2306.081, including compliance information provided to the
11 department by the Texas State Affordable Housing Corporation.

12 SECTION 2. Section 2306.0721, Government Code, is amended
13 by adding Subsections (g) and (h) to read as follows:

14 (g) The department shall include the plan developed by the
15 Texas State Affordable Housing Corporation under Section 2306.565
16 in the department's resource allocation plan under Subsection
17 (c)(5).

18 (h) The department shall consider and incorporate the
19 specific results of the programs of the Texas State Affordable
20 Housing Corporation in the department's estimate and analysis of
21 the housing supply in each uniform state service region under
22 Subsection (c)(9).

23 SECTION 3. Section 2306.0722(b), Government Code, is
24 amended to read as follows:

1 (b) In preparing the annual report under Section 2306.072
2 and the state low income housing plan under Section 2306.0721, the
3 director shall:

4 (1) coordinate local, state, and federal housing
5 resources, including tax exempt housing bond financing and low
6 income housing tax credits;

7 (2) set priorities for the available housing resources
8 to help the neediest individuals;

9 (3) evaluate the success of publicly supported housing
10 programs;

11 (4) survey and identify the unmet housing needs of
12 individuals the department is required to assist;

13 (5) ensure that housing programs benefit an individual
14 without regard to the individual's race, ethnicity, sex, or
15 national origin;

16 (6) develop housing opportunities for individuals and
17 families of low and very low income and individuals with special
18 housing needs;

19 (7) develop housing programs through an open, fair,
20 and public process;

21 (8) set priorities for assistance in a manner that is
22 appropriate and consistent with the housing needs of the
23 populations described by Section 2306.0721(c)(1);

24 (9) incorporate recommendations that are consistent
25 with the consolidated plan submitted annually by the state to the
26 United States Department of Housing and Urban Development;

27 (10) identify the organizations and individuals

1 consulted by the department in preparing the annual report and
2 state low income housing plan and summarize and incorporate
3 comments and suggestions provided under Subsection (a) as the board
4 determines to be appropriate;

5 (11) develop a plan to respond to changes in federal
6 funding and programs for the provision of affordable housing;

7 (12) use the following standardized categories to
8 describe the income of program applicants and beneficiaries:

9 (A) 0 to 30 percent of area median income
10 adjusted for family size;

11 (B) more than 30 to 60 percent of area median
12 income adjusted for family size;

13 (C) more than 60 to 80 percent of area median
14 income adjusted for family size;

15 (D) more than 80 to 115 percent of area median
16 income adjusted for family size; or

17 (E) more than 115 percent of area median income
18 adjusted for family size; ~~and~~

19 (13) use the most recent census data combined with
20 existing data from local housing and community service providers in
21 the state, including public housing authorities, housing finance
22 corporations, community housing development organizations, and
23 community action agencies; and

24 (14) provide the needs assessment information
25 compiled for the report and plan to the Texas State Affordable
26 Housing Corporation.

27 SECTION 4. Section 2306.081, Government Code, is amended by

1 amending Subsection (d) and adding Subsection (e) to read as
2 follows:

3 (d) The department shall create an easily accessible
4 database that contains all project compliance information
5 developed under this chapter, including project compliance
6 information provided to the department by the Texas State
7 Affordable Housing Corporation.

8 (e) The department shall allow the Texas State Affordable
9 Housing Corporation timely access to the information in the
10 database.

11 SECTION 5. Section 2306.5521, Government Code, is amended
12 to read as follows:

13 Sec. 2306.5521. SUNSET PROVISION. The Texas State
14 Affordable Housing Corporation is subject to Chapter 325 (Texas
15 Sunset Act). Unless continued in existence as provided by that
16 chapter, the corporation is abolished and this subchapter expires
17 September 1, 2009 [~~2003~~].

18 SECTION 6. Section 2306.554, Government Code, is amended by
19 amending Subsection (c) and adding Subsection (f) to read as
20 follows:

21 (c) A member of the corporation's board of directors is not
22 entitled to compensation, but is entitled to reimbursement of
23 travel expenses incurred by the member while conducting the
24 business of the board to the same extent [~~as~~] provided by the
25 General Appropriations Act for a member of a state board.

26 (f) Appointments to the board of directors of the
27 corporation shall be made without regard to the race, color,

1 disability, sex, religion, age, or national origin of the
2 appointees.

3 SECTION 7. Subchapter Y, Chapter 2306, Government Code, is
4 amended by adding Sections 2306.5541, 2306.5542, and 2306.5543 to
5 read as follows:

6 Sec. 2306.5541. TERMS OF MEMBERS. The members of the board
7 of directors of the corporation serve staggered six-year terms,
8 with the terms of one or two members expiring on February 1 of each
9 odd-numbered year.

10 Sec. 2306.5542. REMOVAL OF MEMBERS. (a) It is a ground for
11 removal from the board of directors of the corporation that a
12 member:

13 (1) does not have at the time of taking office the
14 qualifications required by Section 2306.554;

15 (2) does not maintain during service on the board of
16 directors of the corporation the qualifications required by Section
17 2306.554;

18 (3) is ineligible for membership under Sections
19 2306.554 and 2306.5545;

20 (4) cannot, because of illness or disability,
21 discharge the member's duties for a substantial part of the member's
22 term; or

23 (5) is absent from more than half of the regularly
24 scheduled board meetings that the member is eligible to attend
25 during a calendar year without an excuse approved by a majority vote
26 of the board of directors.

27 (b) The validity of an action of the board of directors of

1 the corporation is not affected by the fact that it is taken when a
2 ground for removal of a board member exists.

3 (c) If the president of the corporation has knowledge that a
4 potential ground for removal exists, the president shall notify the
5 presiding officer of the board of directors of the potential
6 ground. The presiding officer shall then notify the governor and
7 the attorney general that a potential ground for removal exists. If
8 the potential ground for removal involves the presiding officer,
9 the president shall notify the next highest ranking officer of the
10 board of directors, who shall then notify the governor and the
11 attorney general that a potential ground for removal exists.

12 Sec. 2306.5543. TRAINING. (a) A person who is appointed to
13 and qualifies for office as a member of the corporation's board of
14 directors may not vote, deliberate, or be counted as a member in
15 attendance at a meeting of the board until the person completes a
16 training program that complies with this section.

17 (b) The training program must provide the person with
18 information regarding:

19 (1) the legislation that created the corporation and
20 the corporation's board of directors;

21 (2) the programs operated by the corporation;

22 (3) the role and functions of the corporation;

23 (4) the rules of the corporation with an emphasis on
24 the rules that relate to disciplinary and investigatory authority;

25 (5) the current budget for the corporation;

26 (6) the results of the most recent formal audit of the
27 corporation;

1 (7) the requirements of:

2 (A) the open meetings law, Chapter 551;

3 (B) the public information law, Chapter 552;

4 (C) the administrative procedure law, Chapter
5 2001; and

6 (D) other laws relating to public officials,
7 including conflict-of-interest laws; and

8 (8) any applicable ethics policies adopted by the
9 corporation or the Texas Ethics Commission.

10 (c) A person appointed to the corporation's board of
11 directors is entitled to reimbursement, to the same extent provided
12 by the General Appropriations Act for a member of a state board, for
13 the travel expenses incurred in attending the training program
14 regardless of whether the attendance at the program occurs before
15 or after the person qualifies for office.

16 SECTION 8. Section 2306.5545, Government Code, is amended
17 to read as follows:

18 Sec. 2306.5545. CONFLICT OF INTEREST POLICIES. (a) The
19 board of directors of the corporation shall develop and implement
20 policies relating to employee conflicts of interest that are
21 substantially similar to comparable policies that govern state
22 employees.

23 (b) A person may not be a member of the corporation's board
24 of directors and may not be a corporation employee employed in a
25 "bona fide executive, administrative, or professional capacity,"
26 as that phrase is used for purposes of establishing an exemption to
27 the overtime provisions of the federal Fair Labor Standards Act of

1 1938 (29 U.S.C. Section 201 et seq.), and its subsequent
2 amendments, if:

3 (1) the person is an officer, employee, or paid
4 consultant of a Texas trade association in the field of banking,
5 real estate, housing development, or housing construction; or

6 (2) the person's spouse is an officer, manager, or paid
7 consultant of a Texas trade association in the field of banking,
8 real estate, housing development, or housing construction.

9 (c) A person may not be a member of the corporation's board
10 of directors or act as the general counsel to the board of directors
11 or the corporation if the person is required to register as a
12 lobbyist under Chapter 305, Government Code, because of the
13 person's activities for compensation on behalf of a profession
14 related to the operation of the corporation.

15 (d) In this section, "Texas trade association" means a
16 cooperative and voluntarily joined statewide association of
17 business or professional competitors in this state designed to
18 assist its members and its industry or profession in dealing with
19 mutual business or professional problems and in promoting their
20 common interest.

21 SECTION 9. Subchapter Y, Chapter 2306, Government Code, is
22 amended by adding Sections 2306.5546, 2306.5547, and 2306.5548 to
23 read as follows:

24 Sec. 2306.5546. STANDARDS OF CONDUCT. The president of the
25 corporation or the president's designee shall provide to members of
26 the board of directors of the corporation and to corporation
27 employees, as often as necessary, information regarding the

1 requirements for office or employment under this subchapter,
2 including information regarding a person's responsibilities under
3 applicable laws relating to standards of conduct for state officers
4 or employees.

5 Sec. 2306.5547. DIVISION OF RESPONSIBILITY. The board of
6 directors of the corporation shall develop and implement policies
7 that clearly separate the policymaking responsibilities of the
8 board of directors and the management responsibilities of the
9 president and the staff of the corporation.

10 Sec. 2306.5548. EQUAL EMPLOYMENT OPPORTUNITY POLICY. (a)
11 The president of the corporation or the president's designee shall
12 prepare and maintain a written policy statement that implements a
13 program of equal employment opportunity to ensure that all
14 personnel decisions are made without regard to race, color,
15 disability, sex, religion, age, or national origin.

16 (b) The policy statement must include:

17 (1) personnel policies, including policies relating
18 to recruitment, evaluation, selection, training, and promotion of
19 personnel, that show the intent of the corporation to avoid the
20 unlawful employment practices described by Chapter 21, Labor Code;
21 and

22 (2) an analysis of the extent to which the composition
23 of the corporation's personnel is in accordance with state and
24 federal law and a description of reasonable methods to achieve
25 compliance with state and federal law.

26 (c) The policy statement must be:

27 (1) updated annually; and

1 (2) filed with the governor's office.

2 SECTION 10. Subchapter Y, Chapter 2306, Government Code, is
3 amended by adding Sections 2306.563-2306.568 to read as follows:

4 Sec. 2306.563. PUBLIC BENEFIT REQUIREMENT. (a) The
5 corporation shall implement a requirement that a community housing
6 development organization that receives an issuance of qualified
7 501(c)(3) bonds from the corporation to develop property must
8 invest at least one dollar in projects and services that benefit
9 income-eligible persons for each dollar of taxes that is not
10 imposed on the property as a result of a property tax exemption
11 received under Section 11.182, Tax Code.

12 (b) The projects and services must benefit income-eligible
13 persons in the county in which the property supported with the tax
14 exemption is located.

15 (c) The projects and services must consist of:

16 (1) rent reduction;

17 (2) capital improvement projects; or

18 (3) social, educational, or economic development
19 services.

20 (d) The corporation and the organization may determine on a
21 case-by-case basis the specific projects and services in which the
22 organization must invest under this section.

23 (e) The dollar-for-dollar public benefit requirement
24 imposed by this section shall be reduced by an amount equal to each
25 dollar that, in lieu of taxes, a community housing development
26 organization pays to a taxing unit for which the property receives
27 an exemption under Section 11.182, Tax Code.

1 (f) In implementing the public benefit requirement, the
2 corporation shall adopt guidelines for reasonable rent reductions,
3 capital improvement projects, and social, educational, and
4 economic development services.

5 Sec. 2306.564. REVIEW OF BOND ISSUANCE POLICIES. (a) The
6 corporation shall review annually its qualified 501(c)(3) bond
7 issuance policies, including the public benefit requirement
8 implemented under Section 2306.563.

9 (b) The corporation shall give to the secretary of state for
10 publication in the Texas Register any proposed policy revisions and
11 allow a reasonable period for public comment.

12 (c) The board of directors of the corporation must approve
13 any change to the bond issuance policies.

14 Sec. 2306.565. COORDINATION REGARDING STATE LOW INCOME
15 HOUSING PLAN. (a) The corporation shall review the needs
16 assessment information provided to the corporation by the
17 department under Section 2306.0722(b).

18 (b) The corporation shall develop a plan to meet the state's
19 most pressing housing needs identified in the needs assessment
20 information and provide the plan to the department for
21 incorporation into the state low income housing plan.

22 (c) The corporation's plan must include specific proposals
23 to:

24 (1) help serve rural and other underserved areas of
25 the state; and

26 (2) provide affordable housing through methods that do
27 not duplicate those of the department or local housing

1 organizations, including public housing authorities, housing
2 finance corporations, community housing development organizations,
3 and community action agencies.

4 Sec. 2306.566. COMPLIANCE INFORMATION. (a) The
5 corporation shall provide to the department electronic copies of
6 all compliance information compiled by the corporation.

7 (b) Before approving an application regarding a housing
8 development, the corporation shall consider any relevant
9 compliance information in the department's database created under
10 Section 2306.081.

11 Sec. 2306.567. RECORD OF COMPLAINTS. (a) The corporation
12 shall maintain a file on each written complaint filed with the
13 corporation. The file must include:

14 (1) the name of the person who filed the complaint;

15 (2) the date the complaint is received by the
16 corporation;

17 (3) the subject matter of the complaint;

18 (4) the name of each person contacted in relation to
19 the complaint;

20 (5) a summary of the results of the review or
21 investigation of the complaint; and

22 (6) an explanation of the reason the file was closed,
23 if the corporation closed the file without taking action other than
24 to investigate the complaint.

25 (b) The corporation shall provide to the person filing the
26 complaint and to each person who is a subject of the complaint a
27 copy of the corporation's policies and procedures relating to

1 complaint investigation and resolution.

2 (c) The corporation, at least quarterly until final
3 disposition of the complaint, shall notify the person filing the
4 complaint and each person who is a subject of the complaint of the
5 status of the investigation unless the notice would jeopardize an
6 undercover investigation.

7 Sec. 2306.568. EFFECTIVE USE OF TECHNOLOGY. The
8 corporation's board of directors shall develop and implement a
9 policy requiring the president of the corporation and corporation
10 employees to research and propose appropriate technological
11 solutions to improve the corporation's ability to perform its
12 functions. The technological solutions must:

13 (1) ensure that the public is able to easily find
14 information about the corporation on the Internet;

15 (2) ensure that persons who want to use the
16 corporation's services are able to:

17 (A) interact with the corporation through the
18 Internet; and

19 (B) access any service that can be provided
20 effectively through the Internet; and

21 (3) be cost effective and developed through the
22 corporation's planning processes.

23 SECTION 11. (a) The offices of the board of directors of
24 the Texas State Affordable Housing Corporation serving immediately
25 before the effective date of this Act are abolished at the time
26 three or more of the newly appointed directors under Subsection (b)
27 of this section qualify for office. The changes in law made by this

1 Act to the qualifications of or prohibitions on members of the board
2 of directors do not affect the entitlement of a member serving
3 immediately before the effective date of this Act to continue to
4 serve as provided by this subsection.

5 (b) The governor shall make five appointments to the board
6 of directors of the Texas State Affordable Housing Corporation in
7 accordance with Section 2306.554, Government Code, as amended by
8 this Act, as soon as possible on or after the effective date of this
9 Act. In making appointments under this subsection, the governor
10 shall designate:

- 11 (1) one member for a term expiring February 1, 2005;
12 (2) two members for terms expiring February 1, 2007;
13 and
14 (3) two members for terms expiring February 1, 2009.

15 (c) A member of the board of directors of the Texas State
16 Affordable Housing Corporation appointed under Subsection (b) of
17 this section is not required to comply with the training
18 requirement prescribed by Section 2306.5543, Government Code, as
19 added by this Act, until September 1, 2004.

20 (d) This Act does not prohibit a person who is a member of
21 the board of directors of the Texas State Affordable Housing
22 Corporation immediately before the effective date of this Act from
23 being appointed as a member of the board of directors on or after
24 the effective date of this Act if the person has the qualifications
25 required for the position under Subchapter Y, Chapter 2306,
26 Government Code, as amended by this Act.

27 SECTION 12. Section 2306.567, Government Code, as added by

1 this Act, applies only to a complaint filed with the board of
2 directors of the Texas State Affordable Housing Corporation on or
3 after the effective date of this Act, regardless of whether the
4 conduct or act that is the subject of the complaint occurred or was
5 committed before, on, or after the effective date of this Act.

6 SECTION 13. This Act takes effect on September 1, 2003.