

By: Menendez

H.B. No. 2541

A BILL TO BE ENTITLED

AN ACT

relating to a program to meet the need for affordable housing in this state.

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

SECTION 1. Chapter 2306, Government Code, is amended by adding Subchapter LL to read as follows:

SUBCHAPTER LL. TEXAS AFFORDABLE HOUSING PARTNERSHIP PROGRAM

Sec. 2306.951. DEFINITIONS. (a) In this subchapter:

(1) "Affordable housing advisory committee" means the committee appointed by the commissioners court of a county or the governing body of an eligible municipality for the purpose of recommending specific initiatives to encourage or facilitate affordable housing.

(2) "Award" means a loan, grant, or subsidy funded wholly or partially by a local housing assistance trust fund.

(3) "Eligible municipality" means:

(A) a municipality that is eligible for federal community development block grant entitlement funds as an entitlement community under that program; or

(B) a nonentitlement municipality that is receiving a local housing distribution under an interlocal agreement described by this subchapter.

(4) "Eligible person" or "eligible household" means one or more individuals or a family determined by a county or

1 eligible municipality to be of very low income, low income, or  
2 moderate income according to the income limits published annually  
3 by the United States Department of Housing and Urban Development,  
4 adjusted for family size and based on the annual gross income of the  
5 household.

6 (5) "Eligible sponsor" means a person or private or  
7 public for-profit or nonprofit entity that applies for an award  
8 under a local housing assistance plan to provide housing for  
9 eligible persons.

10 (6) "Grant" means an award that:

11 (A) is made from a local housing assistance trust  
12 fund to an eligible sponsor or eligible person to:

13 (i) assist in the construction,  
14 rehabilitation, or financing of eligible housing; or

15 (ii) assist with the costs of meeting  
16 tenant or ownership qualifications; and

17 (B) does not require repayment if the conditions  
18 of the award are met.

19 (7) "Loan" means an award that:

20 (A) is made from a local housing assistance trust  
21 fund to an eligible sponsor or eligible person to assist in  
22 financing the acquisition, construction, or rehabilitation of  
23 housing; and

24 (B) requires repayment or, if the conditions of  
25 the award are met, allows for forgiveness of repayment.

26 (8) "Local housing assistance plan" means a  
27 description of local housing assistance programs and local housing

1 incentive programs adopted by a commissioners court or a governing  
2 body of an eligible municipality with an explanation of the way in  
3 which the programs meet the requirements of this subchapter.

4 (9) "Local housing assistance program" means a housing  
5 construction, rehabilitation, repair, or finance program  
6 implemented by a county or eligible municipality with a local  
7 housing distribution or other funds deposited into a local housing  
8 assistance trust fund.

9 (10) "Local housing incentive program" means a local  
10 regulatory scheme or incentive program that:

11 (A) is designed to encourage or facilitate  
12 affordable housing production, including an ongoing process for  
13 pre-adoption review of local policies, ordinances, regulations,  
14 and plan provisions that increase housing costs; and

15 (B) includes a schedule for implementing the  
16 incentive program.

17 (11) "Local housing partnership" means the  
18 implementation of the local housing assistance plan in a manner  
19 that involves the applicable county or eligible municipal lending  
20 institutions, housing builders and developers, real estate  
21 professionals, advocates for low-income persons, and providers of  
22 professional services related to affordable housing.

23 (12) "Plan amendment" means any addition to or  
24 deletion of a local housing assistance program or local housing  
25 incentive program that is consistent with program requirements and  
26 is reviewed by the department.

27 (13) "Population" means the latest official state

1 estimate of population certified by the Texas State Data Center  
2 before the beginning of the state fiscal year.

3 (14) "Program" means the Texas Affordable Housing  
4 Partnership Program established under this subchapter.

5 (15) "Program income" means:

6 (A) proceeds derived from interest earned on or  
7 investment of a local housing distribution and other funds  
8 deposited into a local housing assistance trust fund;

9 (B) proceeds from loan payments;

10 (C) recycled funds; and

11 (D) all other income derived from use of funds  
12 deposited in a local housing assistance trust fund.

13 (b) Deferred participation by an eligible municipality in  
14 the federal community development block grant program does not  
15 affect the eligibility of the municipality to participate in the  
16 program established under this subchapter.

17 Sec. 2306.952. PROGRAM PURPOSES. The purposes of the  
18 program are to:

19 (1) provide funds to counties and eligible  
20 municipalities as an incentive for the creation of local housing  
21 partnerships;

22 (2) expand production and preservation of affordable  
23 housing;

24 (3) further any component of a local government  
25 comprehensive plan relating to affordable housing;

26 (4) increase housing-related employment; and

27 (5) encourage local governments to combine available

1 resources by encouraging active partnerships between government  
2 lenders, builders and developers, real estate professionals,  
3 advocates for persons of very low, low, and medium income, and  
4 community groups to produce affordable housing and provide related  
5 services.

6 Sec. 2306.953. PROGRAM ADMINISTRATION. (a) The program is  
7 under the direction of the commissioners court of a county or the  
8 governing body of an eligible municipality, as applicable.

9 (b) The commissioners court or the governing body of an  
10 eligible municipality may appoint by resolution a local affordable  
11 housing advisory committee to recommend monetary and nonmonetary  
12 incentives for affordable housing. The resolution must provide for  
13 the appointment and terms of nine advisory committee members  
14 consisting of the following:

15 (1) one member who is actively engaged in the  
16 residential home building industry in connection with affordable  
17 housing;

18 (2) one member who is actively engaged in the banking  
19 or mortgage banking industry in connection with affordable housing;

20 (3) one member who is a representative of building  
21 contractors and subcontractors actively engaged in home building in  
22 connection with affordable housing;

23 (4) one member who is actively engaged as an advocate  
24 for low-income persons in connection with affordable housing;

25 (5) one member who is actively engaged as a for-profit  
26 provider of affordable housing;

27 (6) one member who is actively engaged as a nonprofit

1 provider of affordable housing;

2 (7) one member who is actively engaged as a real estate  
3 professional in connection with affordable housing;

4 (8) one member who actively serves on the local  
5 planning agency; and

6 (9) one member who resides within the jurisdiction of  
7 the commissioners court or governing body making the appointments.

8 (c) All meetings conducted for purposes of county or  
9 municipal participation in the program are public, and all records  
10 maintained in connection with the program are public information.

11 (d) A commissioners court, the governing body of an eligible  
12 municipality, or, if applicable, an affordable housing advisory  
13 committee shall:

14 (1) review the established policies and procedures,  
15 ordinances, real property development regulations, and adopted  
16 local government comprehensive plan; and

17 (2) recommend specific initiatives to encourage or  
18 facilitate affordable housing while protecting the ability of the  
19 property to appreciate in value.

20 (e) Recommendations under Subsection (d)(2) may include:

21 (1) modification or repeal of existing policies,  
22 procedures, ordinances, regulations, or plan provisions;

23 (2) creation of exceptions applicable to affordable  
24 housing; and

25 (3) adoption of new policies, procedures, ordinances,  
26 regulations, or plan provisions.

27 (f) To receive program funds, a commissioners court, the

1 governing body of an eligible municipality, or, if applicable, an  
2 affordable housing advisory committee must submit to the department  
3 a plan describing local housing assistance programs.

4 (g) Not later than the first anniversary of the date of  
5 adoption of the local housing assistance plan, the commissioners  
6 court or governing body of an eligible municipality must amend its  
7 plan to incorporate its local housing incentive programs. An  
8 affordable housing advisory committee may make recommendations to  
9 the commissioners court or governing body of an eligible  
10 municipality relating to the housing programs enumerated in the  
11 plan.

12 (h) Not later than the first anniversary of the date of  
13 adoption of the local housing assistance plan, the commissioners  
14 court or governing body must amend its real property development  
15 regulations or establish local policies and procedures as necessary  
16 to implement its local housing incentive programs. The  
17 commissioners court or governing body of an eligible municipality  
18 may receive recommendations from an affordable housing advisory  
19 committee to accomplish the required amendment.

20 (i) To receive its share of local housing distributions, a  
21 commissioners court or governing body of an eligible municipality  
22 must adopt an order or ordinance containing the following  
23 provisions:

24 (1) the creation of a local housing assistance trust  
25 fund;

26 (2) the adoption by resolution of a local housing  
27 assistance plan to be implemented through a local housing

1 partnership;

2 (3) the designation of the responsibility for the  
3 administration of the local housing assistance plan; and

4 (4) if applicable, the appointment by resolution of an  
5 affordable housing advisory committee.

6 (j) The order or ordinance may also provide for the  
7 contracting of all or part of the administrative or other functions  
8 of the program to a third party.

9 (k) The commissioners court or governing body of an eligible  
10 municipality shall submit to the department one copy of its local  
11 housing assistance plan.

12 (l) The transmittal of the local housing assistance plan  
13 must include a copy of the order or ordinance, the resolution  
14 adopting the plan, and any other information required by the  
15 department that does not place an undue burden on the county or  
16 eligible municipality. Not later than the 30th day after the date  
17 of receipt of the plan, the department shall review the plan and  
18 either certify the plan or identify inconsistencies with the  
19 requirements of the program. The department shall assist the local  
20 government in revising the plan if it initially proves to be  
21 inconsistent with program requirements.

22 (m) The approval of local housing assistance plans shall be  
23 expedited to ensure that the production of needed housing occurs as  
24 quickly as possible. After being approved for funding, the  
25 commissioners court or governing body of an eligible municipality  
26 may amend by resolution its local housing assistance plan if the  
27 plan as amended complies with program requirements. A local



1 government must submit its amended plan for review according to the  
2 process established under this subchapter.

3 Sec. 2306.954. TEXAS AFFORDABLE HOUSING ASSISTANCE TRUST  
4 FUND. (a) The Texas affordable housing assistance trust fund is a  
5 state trust fund with the comptroller for the purpose of making  
6 distributions under this subchapter. All money collected under  
7 this subchapter shall be deposited to the credit of the state trust  
8 fund.

9 (b) The comptroller annually shall distribute the money in  
10 the state trust fund as follows:

11 (1) 80 percent to local housing assistance trust  
12 funds, to be disbursed as follows:

13 (A) 75 percent or \$15,000, whichever is greater,  
14 shall be transferred to counties with a population that is less than  
15 150,001 or with an average median income of less than \$52,100, as  
16 determined annually by the secretary of the United States  
17 Department of Housing and Urban Development; and

18 (B) the remaining amount of the money shall be  
19 transferred to counties with a population that is equal to or  
20 greater than 150,001 or with an average median income of \$52,100 or  
21 more, as determined annually by the secretary of the United States  
22 Department of Housing and Urban Development; and

23 (2) 20 percent to the housing trust fund established  
24 under Section 2306.201 for use in accordance with the purposes of  
25 that fund.

26 Sec. 2306.955. LOCAL HOUSING DISTRIBUTIONS. (a) The  
27 comptroller shall make a local housing distribution from the Texas

1 affordable housing assistance trust fund to a local housing  
2 assistance trust fund annually beginning the first day of the state  
3 fiscal year following the date the program is approved.

4 (b) The portion for each county is computed by multiplying  
5 the total funds for the group of counties described by Section  
6 2306.954(b)(1)(A) or (B) by a fraction, the numerator of which is  
7 the population of the county and the denominator of which is the  
8 total population of the group of counties described by Section  
9 2306.954(b)(1)(A) or (B).

10 (c) The portion for each eligible municipality is computed  
11 by multiplying the total funds for a county by a fraction, the  
12 numerator of which is the population of the eligible municipality  
13 and the denominator of which is the population of the county. The  
14 remaining revenues shall be distributed to the appropriate  
15 commissioners court.

16 (d) A local housing distribution must be administered in  
17 compliance with an interlocal agreement providing for a joint local  
18 housing assistance plan.

19 (e) Distributions from a local government trust fund must be  
20 made according to an interlocal agreement between a commissioners  
21 court and the governing body of an eligible municipality.

22 (f) If a county or eligible municipality enters into an  
23 interlocal agreement with a municipality that becomes eligible as a  
24 result of entering into that interlocal agreement, the county or  
25 eligible municipality that has agreed to transfer the control of  
26 funds to a municipality that was not originally eligible must  
27 ensure through its local housing assistance plan and through the

1 interlocal agreement that all program funds are used in a manner  
2 consistent with the program.

3 (g) The funds that otherwise would be distributed under this  
4 subchapter to a local government that does not meet the program's  
5 requirements for receipt of the distributions must remain in the  
6 Texas affordable housing assistance trust fund for a period of 18  
7 months. If the local government does not achieve compliance with  
8 the program within that 18-month period, the funds will be  
9 distributed to the housing trust fund established under Section  
10 2306.201 for use in accordance with the purposes of that fund.

11 (h) A county or eligible municipality may expend its portion  
12 of local housing distributions only to implement a local housing  
13 assistance plan. Except as otherwise provided by this subsection,  
14 the county or eligible municipality may not expend its portion of  
15 local housing distributions to provide rent subsidies, and funds  
16 distributed under this subchapter may not be pledged to pay the debt  
17 service on any bonds. This subsection does not prohibit the use of  
18 funds for security and utility deposit assistance.

19 Sec. 2306.956. LOCAL HOUSING ASSISTANCE PLAN:  
20 PARTNERSHIPS. (a) Each county or eligible municipality  
21 participating in the program shall develop and implement a local  
22 housing assistance plan created to make affordable residential  
23 units available to persons of medium, low, and very low income and  
24 to persons who have special housing needs, including homeless  
25 persons, the elderly, and migrant farmworkers.

26 (b) The plan must seek to increase the availability of  
27 affordable residential units by:

1           (1) combining local resources and cost-saving  
2 measures into a local housing partnership; and

3           (2) using private and public funds to reduce housing  
4 costs.

5           (c) A local housing assistance plan may allocate funds to:

6           (1) implement local housing assistance programs for  
7 the provision of affordable housing;

8           (2) supplement funds available to the department to  
9 provide enhanced funding of state housing programs in the county or  
10 the eligible municipality;

11           (3) provide the local matching share of federal  
12 affordable housing grants or programs;

13           (4) fund emergency repairs, including repairs  
14 performed by existing service providers under weatherization  
15 assistance programs;

16           (5) further an affordable housing component of a local  
17 government comprehensive plan;

18           (6) fund program operation costs and overhead at the  
19 local level in an amount not to exceed five percent of funds  
20 distributed into the local government trust fund, or not to exceed  
21 10 percent if the actual cost can be justified in an approved plan;  
22 and

23           (7) fund single-family home buyer assistance programs  
24 and finance, acquire, rehabilitate, and construct safe, decent,  
25 affordable housing.

26           (d) Each county and each eligible municipality  
27 participating in the program shall encourage the involvement of

1 appropriate public sector and private sector entities as partners  
2 in order to combine resources to reduce housing costs for the  
3 targeted population. The partnership process must involve:

4 (1) lending institutions;

5 (2) housing builders and developers;

6 (3) nonprofit and other community-based housing and  
7 service organizations;

8 (4) providers of professional services relating to  
9 affordable housing;

10 (5) advocates for low-income persons;

11 (6) real estate professionals; and

12 (7) other persons or entities that can assist in  
13 providing housing or related support services.

14 (e) A county or eligible municipality participating in the  
15 program shall:

16 (1) develop a qualification system and selection  
17 criteria for applications for awards by eligible sponsors;

18 (2) adopt criteria for the selection of eligible  
19 persons; and

20 (3) adopt a maximum award schedule or system of  
21 amounts consistent with the intent and budget of its local housing  
22 assistance plan.

23 (f) A county or eligible municipality shall advertise the  
24 notice of funding availability in a newspaper of general  
25 circulation and periodicals serving ethnic and diverse  
26 neighborhoods not later than the 30th day before the date the  
27 application period begins. If funding is not available because of a

1 waiting list, notice of funding availability is not required.

2 (g) A county or eligible municipality may not discriminate  
3 on the basis of race, creed, religion, color, age, sex, marital  
4 status, familial status, national origin, or disability in the  
5 award application process for eligible housing.

6 (h) As a condition of receipt of an award under the program,  
7 an eligible sponsor or eligible person must contractually agree to  
8 comply with the affordable housing criteria applicable to the  
9 affordable housing objective of the award. The criteria must  
10 encourage single-family mortgages, down payment assistance, and  
11 other forms of payment assistance.

12 (i) The department shall provide technical assistance to  
13 counties and eligible municipalities regarding:

14 (1) the creation of partnerships;

15 (2) the design of local housing assistance programs;

16 (3) the implementation of local housing incentive  
17 programs; and

18 (4) the provision of support services.

19 Sec. 2306.957. REPORT SUBMITTED TO DEPARTMENT. (a) The  
20 department shall monitor the activities of counties and eligible  
21 municipalities to determine compliance with program requirements  
22 and shall collect data on the operation and achievements of housing  
23 partnerships.

24 (b) A county or eligible municipality shall submit to the  
25 department not later than April 30 of each year a report of its  
26 affordable housing programs and related accomplishments through  
27 December 31 of the preceding year. The report must be certified as

1 accurate and complete by the local government's chief elected  
2 official or that official's designee. Transmittal of the report  
3 certifies that the local housing incentive programs and, if  
4 applicable, the local housing incentive plan have been implemented  
5 or are in the process of being implemented in accordance with the  
6 adopted schedule for implementation.

7 (c) The report must include:

8 (1) the number of households served by income  
9 category, age, family size, and race;

10 (2) data regarding any special needs populations,  
11 including farmworkers, homeless persons, and the elderly;

12 (3) the number of units and the average cost of  
13 producing units under each local housing assistance program;

14 (4) the average sales price or value of a  
15 single-family unit and the amount of rent charged for a rental unit  
16 based on unit size;

17 (5) by income category, the number of mortgages made,  
18 the average mortgage amount, and the rate of default;

19 (6) a description of the status of implementation of  
20 each local housing incentive program and, if applicable, the local  
21 housing incentive plan contained in the local government's adopted  
22 schedule for implementation;

23 (7) a concise description of the support services that  
24 are available to the residents of affordable housing provided by  
25 local programs;

26 (8) sales price or value of housing produced under the  
27 program and an account of what percentage was refinanced by a local

1 housing distribution, other public funds, and private resources;  
2 and

3 (9) any other data or affordable housing  
4 accomplishments considered significant by the reporting county or  
5 eligible municipality.

6 (d) A county or eligible municipality shall make the report  
7 available for public inspection and comment before certifying the  
8 report and transmitting it to the department.

9 (e) If the department reviews the annual report and  
10 determines that a county or eligible municipality has failed to  
11 implement a local housing incentive program or, if applicable, a  
12 local housing incentive plan, the department shall send a notice of  
13 termination of the county's or eligible municipality's share of  
14 local housing distributions by certified mail to the comptroller  
15 and the affected county or eligible municipality.

16 SECTION 2. This Act takes effect September 1, 2003.