

By: Mowery

H.B. No. 2617

A BILL TO BE ENTITLED

AN ACT

relating to tax credits and tax exemptions awarded to certain entities providing affordable housing.

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

SECTION 1. Subchapter DD, Chapter 2306, Government Code, is amended by adding Section 2306.67023 to read as follows:

Sec. 2306.67023. THRESHOLD CRITERIA: APPROVAL BY POLITICAL SUBDIVISION. The threshold criteria in the qualified allocation plan must include a requirement that the applicant obtain approval of the development from the governing body of a municipality containing the development or, if the development is not located in a municipality, the governing body of a county containing the development.

SECTION 2. Section 2306.6705, Government Code, is amended to read as follows:

Sec. 2306.6705. GENERAL APPLICATION REQUIREMENTS. An application must contain at a minimum the following written, detailed information in a form prescribed by the board:

(1) a description of:

(A) the financing plan for the development, including any nontraditional financing arrangements;

(B) the use of funds with respect to the development;

(C) the funding sources for the development,

1 including:

2 (i) construction, permanent, and bridge
3 loans; and

4 (ii) rents, operating subsidies, and
5 replacement reserves; and

6 (D) the commitment status of the funding sources
7 for the development;

8 (2) if syndication costs are included in the eligible
9 basis, a justification of the syndication costs for each cost
10 category by an attorney or accountant specializing in tax matters;

11 (3) from a syndicator or a financial consultant of the
12 applicant, an estimate of the amount of equity dollars expected to
13 be raised for the development in conjunction with the amount of
14 housing tax credits requested for allocation to the applicant,
15 including:

16 (A) pay-in schedules; and

17 (B) syndicator consulting fees and other
18 syndication costs;

19 (4) if rental assistance, an operating subsidy, or an
20 annuity is proposed for the development, any related contract or
21 other agreement securing those funds and an identification of:

22 (A) the source and annual amount of the funds;

23 (B) the number of units receiving the funds; and

24 (C) the term and expiration date of the contract
25 or other agreement;

26 (5) if the development is located within the
27 boundaries of a political subdivision with a zoning ordinance,

1 evidence in the form of a letter from the presiding officer of the
2 governing body [~~chief executive officer~~] of the political
3 subdivision or from another local official with jurisdiction over
4 zoning matters that states that:

5 (A) the development is permitted under the
6 provisions of the ordinance that apply to the location of the
7 development; or

8 (B) the applicant is in the process of seeking
9 the appropriate zoning and has signed and provided to the political
10 subdivision a release agreeing to hold the political subdivision
11 and all other parties harmless in the event that the appropriate
12 zoning is denied;

13 (6) if an occupied development is proposed for
14 rehabilitation:

15 (A) an explanation of the process used to notify
16 and consult with the tenants in preparing the application;

17 (B) a relocation plan outlining:

18 (i) relocation requirements; and

19 (ii) a budget with an identified funding
20 source; and

21 (C) if applicable, evidence that the relocation
22 plan has been submitted to the appropriate local agency and to the
23 presiding officer of the governing body of each political
24 subdivision in which the development is located;

25 (7) evidence in the form of a written statement that
26 the application has been approved by the governing body of each
27 political subdivision in which the development is located;

1 (8) evidence, in the form of a copy of the published
2 notice for the meeting, that the applicant has held a community
3 meeting in the community in which the development is located;

4 (9) a certification of the applicant's compliance with
5 appropriate state and federal laws, as required by other state law
6 or by the board; and

7 (10) [~~(8)~~] any other information required by the board
8 in the qualified allocation plan.

9 SECTION 3. Section 2306.6710(b), Government Code, is
10 amended to read as follows:

11 (b) If an application satisfies the threshold criteria, the
12 department shall score and rank the application using a point
13 system based on criteria that are adapted to regional market
14 conditions and adopted by the department, including criteria:

15 (1) regarding:

16 (A) the income levels of tenants of the
17 development;

18 (B) the rent levels of the units;

19 (C) the period of guaranteed affordability for
20 low income tenants;

21 (D) the cost by square foot of the development;

22 (E) the size, quality, and amenities of the
23 units;

24 (F) the services to be provided to tenants of the
25 development;

26 (G) the commitment of development funding by
27 local political subdivisions that enables additional units for

1 individuals and families of very low income; ~~and~~

2 (H) the level of community support for, and the
3 level of community opposition to, the application, as evaluated on
4 the basis of written statements ~~[of support]~~ from local and state
5 elected officials representing constituents in areas that include
6 the location of the development; ~~and~~

7 (I) the level of support for the application from
8 the chief administrative officer of each political subdivision in
9 which the development is located; and

10 (J) the existing density of multifamily housing
11 in the area in which the development is located; and

12 (2) imposing penalties on applicants or affiliates who
13 have requested extensions of department deadlines relating to
14 developments supported by housing tax credit allocations made in
15 the application round preceding the current round.

16 SECTION 4. Section 2306.6717(b), Government Code, is
17 amended to read as follows:

18 (b) The department shall provide information regarding the
19 low income housing tax credit program, including notice regarding
20 public hearings, board meetings, and the opening and closing dates
21 for applications, to:

22 (1) local housing departments;

23 (2) newspapers;

24 (3) nonprofit organizations;

25 (4) on-site property managers of occupied
26 developments that are the subject of applications; ~~and~~

27 (5) chief administrative officers and governing

1 bodies of political subdivisions; and

2 (6) any other interested persons, including community
3 groups, who request the information.

4 SECTION 5. Section 2306.6718(a), Government Code, is
5 amended to read as follows:

6 (a) The department shall provide written notice of the
7 filing of an application to the following elected officials:

8 (1) members of the legislature who represent the
9 community containing the development described in the application;
10 ~~[and]~~

11 (2) the presiding ~~[chief executive]~~ officer of the
12 governing body of each ~~[the]~~ political subdivision containing the
13 development described in the application; and

14 (3) each member of the governing body of each
15 political subdivision who represents an area containing the
16 development described in the application.

17 SECTION 6. Section 2306.6724(e), Government Code, is
18 amended to read as follows:

19 (e) The board shall review the recommendations of
20 department staff regarding applications and shall issue a list of
21 approved applications each year in accordance with the qualified
22 allocation plan not later than June 30. The department, not later
23 than June 30, shall mail the list of approved applications to the
24 chief administrative officer, governing body, and local housing
25 department of each political subdivision that contains a
26 development for which an application has been approved.

27 SECTION 7. Section 2306.6725(a), Government Code, is

1 amended to read as follows:

2 (a) In allocating low income housing tax credits, the
3 department shall score each application using a point system based
4 on criteria adopted by the department that are consistent with the
5 department's housing goals, including criteria addressing the
6 ability of the proposed project to:

7 (1) provide quality social support services to
8 residents;

9 (2) demonstrate community and neighborhood support as
10 defined by the qualified allocation plan;

11 (3) consistent with sound underwriting practices and
12 when economically feasible, serve individuals and families of
13 extremely low income by leveraging private and state and federal
14 resources, including federal HOPE VI grants received through the
15 United States Department of Housing and Urban Development;

16 (4) serve traditionally underserved areas;

17 (5) remain affordable to qualified tenants for an
18 extended, economically feasible period; ~~and~~

19 (6) comply with the accessibility standards that are
20 required under Section 504, Rehabilitation Act of 1973 (29 U.S.C.
21 Section 794), and specified under 24 C.F.R. Part 8, Subpart C; and

22 (7) fill a need for multifamily housing in the area in
23 which the project is located.

24 SECTION 8. Section 2306.6732, Government Code, is amended
25 to read as follows:

26 Sec. 2306.6732. PUBLIC INFORMATION. The department shall
27 provide information regarding the low income housing tax credit

1 program, including notices of public hearings, meetings, and
2 opening and closing dates for applications for a low income housing
3 tax credit, to local housing departments, any appropriate
4 newspapers of general or limited circulation that serve the
5 community in which the proposed project is to be located, nonprofit
6 organizations, on-site property managers of occupied projects that
7 are the subject of tax credit applications for posting in prominent
8 locations at those projects, chief administrative officers and
9 governing bodies of political subdivisions, and any other
10 interested persons and community groups who request the
11 information. The department shall also publish the information on
12 the department's website.

13 SECTION 9. Section 11.182, Tax Code, is amended by adding
14 Subsections (j)-(n) to read as follows:

15 (j) Notwithstanding the other provisions of this section,
16 the governing body of a taxing unit by official action of the
17 governing body adopted in the manner required by law for official
18 action may provide for taxation of property exempted under
19 Subsection (b) or Subsection (f), as added by Chapter 1191, Acts of
20 the 77th Legislature, Regular Session, 2001, unless the property
21 qualifies for an exemption under the criteria adopted by the
22 governing body.

23 (k) If a taxing unit provides under Subsection (j) for
24 taxation of property exempted under Subsection (b) or Subsection
25 (f), as added by Chapter 1191, Acts of the 77th Legislature, Regular
26 Session, 2001, the exemptions prescribed by Subsections (b) and (f)
27 do not apply to the taxing unit except as to property that qualifies

1 for an exemption under the criteria adopted by the governing body of
2 the taxing unit.

3 (l) To receive an exemption under Subsection (b) or
4 Subsection (f), as added by Chapter 1191, Acts of the 77th
5 Legislature, Regular Session, 2001, from taxation by a taxing unit
6 described by Subsection (j), an organization must submit a written
7 request to the taxing unit for a determination of whether the
8 property qualifies for an exemption under the criteria adopted by
9 the governing body of the taxing unit. The request must include
10 information that permits the taxing unit to determine whether the
11 property qualifies for the exemption.

12 (m) Following submission of a written request under
13 Subsection (l), the taxing unit shall determine whether the
14 property qualifies for an exemption under the criteria adopted by
15 the governing body of the taxing unit. The taxing unit shall issue
16 a letter to the organization stating the taxing unit's
17 determination of whether the property qualifies for the exemption.
18 The taxing unit shall send a copy of the letter by regular mail to
19 the chief appraiser of the appraisal district that appraises the
20 property for the taxing unit. The taxing unit may charge the
21 organization a fee not to exceed the taxing unit's administrative
22 costs for processing the information submitted by the organization,
23 making the determination, and issuing the letter required by this
24 subsection.

25 (n) An organization seeking an exemption from taxation by a
26 taxing unit described by Subsection (j) shall provide to the chief
27 appraiser a copy of the letter issued by the taxing unit under

1 Subsection (m) stating the taxing unit's determination that the
2 property qualifies for an exemption under the criteria adopted by
3 the governing body of the taxing unit. The chief appraiser shall
4 accept the determination of the taxing unit as conclusive evidence
5 that the property qualifies for an exemption under the criteria
6 adopted by the governing body.

7 SECTION 10. (a) This Act takes effect September 1, 2003.

8 (b) The changes in law made by this Act relating to
9 increased public participation in decisions regarding applications
10 for low income housing tax credits apply only to an application for
11 low income housing tax credits submitted to the Texas Department of
12 Housing and Community Affairs during an application cycle that
13 begins on or after the effective date of this Act. An application
14 submitted during an application cycle that began before the
15 effective date of this Act is governed by the law in effect at the
16 time the application cycle began, and the former law is continued in
17 effect for that purpose.

18 (c) The changes in law made by this Act relating to the
19 eligibility of property for an exemption from ad valorem taxation
20 under Section 11.182, Tax Code, apply only to a tax year beginning
21 on or after the effective date of this Act. The eligibility of
22 property for an exemption from ad valorem taxation under Section
23 11.182, Tax Code, for a tax year beginning before the effective date
24 of this Act is governed by the law as it existed immediately before
25 the effective date of this Act, and that law is continued in effect
26 for that purpose.