

By: Lucio

S.B. No. 264

Substitute the following for S.B. No. 264:

By: Talton

C.S.S.B. No. 264

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the continuation and functions of the Texas Department
3 of Housing and Community Affairs.

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

5 SECTION 1. Section 2306.001, Government Code, is amended to
6 read as follows:

7 Sec. 2306.001. PURPOSES. The purposes of the department
8 are to:

9 (1) assist local governments in:

10 (A) providing essential public services for
11 their residents; and

12 (B) overcoming financial, social, and
13 environmental problems;

14 (2) provide for the housing needs of individuals and
15 families of low, very low, and extremely low income and families of
16 moderate income;

17 (3) contribute to the preservation, development, and
18 redevelopment of neighborhoods and communities, including
19 cooperation in the preservation of government-assisted housing
20 occupied by individuals and families of very low and extremely low
21 income;

22 (4) assist the governor and the legislature in
23 coordinating federal and state programs affecting local
24 government;

1 (5) inform state officials and the public of the needs
2 of local government; ~~and~~

3 (6) serve as the lead agency for:

4 (A) addressing at the state level the problem of
5 homelessness in this state;

6 (B) coordinating interagency efforts to address
7 homelessness; and

8 (C) addressing at the state level and
9 coordinating interagency efforts to address any problem associated
10 with homelessness, including hunger; and ~~and~~

11 (7) ~~(6)~~ serve as a source of information to the
12 public regarding all affordable housing resources and community
13 support services in the state.

14 SECTION 2. Section 2306.004(14), Government Code, is
15 amended to read as follows:

16 (14) "Housing sponsor" means:

17 (A) an individual, including an individual or
18 family of low and very low income or family of moderate income,
19 joint venture, partnership, limited partnership, trust, firm,
20 corporation, or cooperative that is approved by the department as
21 qualified to own, construct, acquire, rehabilitate, operate,
22 manage, or maintain a housing development, subject to the
23 regulatory powers of the department and other terms and conditions
24 in this chapter; ~~or~~

25 (B) in an economically depressed or blighted
26 area, or in a federally assisted new community located within a
27 home-rule municipality, the term may include an individual or

1 family whose income exceeds the moderate income level if at least 90
2 percent of the total mortgage amount available under a mortgage
3 revenue bond issue is designated for individuals and families of
4 low income or families of moderate income; or

5 (C) a public housing authority.

6 SECTION 3. Section 2306.021(b), Government Code, is amended
7 to read as follows:

8 (b) The department is composed of:

9 (1) the community affairs division;

10 (2) the housing finance division;

11 (3) the manufactured housing division; and

12 (4) ~~[the community development division; and~~

13 ~~[(5)]~~ any other division created by the director as
14 permitted by ~~[under]~~ Section 2306.0521.

15 SECTION 4. Section 2306.022, Government Code, is amended to
16 read as follows:

17 Sec. 2306.022. APPLICATION OF SUNSET ACT. The Texas
18 Department of Housing and Community Affairs is subject to Chapter
19 325 (Texas Sunset Act). Unless continued in existence as provided
20 by that chapter, the department is abolished and this chapter
21 expires September 1, 2007 ~~[2003]~~.

22 SECTION 5. Section 2306.0661, Government Code, is amended
23 by adding Subsection (f) to read as follows:

24 (f) The board shall adopt rules governing the topics that
25 may be considered at a public hearing. The rules must require the
26 department to consider the following topics in relation to a
27 proposed housing development:

- 1 (1) the developer market study;
- 2 (2) the location;
- 3 (3) the compliance history of the developer;
- 4 (4) the financial feasibility;
- 5 (5) the appropriateness of the development's size and
6 configuration in relation to the housing needs of the community in
7 which the development is located;
- 8 (6) the development's proximity to other low income
9 housing developments;
- 10 (7) the availability of adequate public facilities and
11 services;
- 12 (8) the anticipated impact on local school districts;
- 13 (9) zoning and other land use considerations; and
- 14 (10) any other topics that the board by rule
15 determines to be appropriate.

16 SECTION 6. Section 2306.0721(c), Government Code, is
17 amended to read as follows:

18 (c) The plan must include:

19 (1) an estimate and analysis of the housing needs of
20 the following populations in each uniform state service region:

21 (A) individuals and families of moderate, low,
22 very low, and extremely low income;

23 (B) individuals with special needs; and

24 (C) homeless individuals;

25 (2) a proposal to use all available housing resources
26 to address the housing needs of the populations described by
27 Subdivision (1) by establishing funding levels for all

1 housing-related programs;

2 (3) an estimate of the number of federally assisted
3 housing units available for individuals and families of low and
4 very low income and individuals with special needs in each uniform
5 state service region;

6 (4) a description of state programs that govern the
7 use of all available housing resources;

8 (5) a resource allocation plan that targets all
9 available housing resources to individuals and families of low and
10 very low income and individuals with special needs in each uniform
11 state service region;

12 (6) a description of the department's efforts to
13 monitor and analyze the unused or underused federal resources of
14 other state agencies for housing-related services and services for
15 homeless individuals and the department's recommendations to
16 ensure the full use by the state of all available federal resources
17 for those services in each uniform state service region;

18 (7) strategies to provide housing for individuals and
19 families with special needs in each uniform state service region;

20 (8) a description of the department's efforts to
21 encourage in each uniform state service region the construction of
22 housing units that incorporate energy efficient construction and
23 appliances;

24 (9) an estimate and analysis of the housing supply in
25 each uniform state service region;

26 (10) an inventory of all publicly and, where possible,
27 privately funded housing resources, including public housing

1 authorities, housing finance corporations, community housing
2 development organizations, and community action agencies;

3 (11) strategies for meeting rural housing needs;

4 (12) a biennial action plan for colonias that:

5 (A) addresses current policy goals for colonia
6 programs, strategies to meet the policy goals, and the projected
7 outcomes with respect to the policy goals; and

8 (B) includes information on the demand for
9 contract-for-deed conversions, services from self-help centers,
10 consumer education, and other colonia resident services in counties
11 some part of which is within 150 miles of the international border
12 of this state;

13 (13) a summary of public comments received at a
14 hearing under this chapter or from another source that concern the
15 demand for colonia resident services described by Subdivision (12);
16 and

17 (14) any other housing-related information that the
18 state is required to include in the one-year action plan of the
19 consolidated plan submitted annually to the United States
20 Department of Housing and Urban Development.

21 SECTION 7. Section 2306.0722(a), Government Code, is
22 amended to read as follows:

23 (a) Before preparing the annual low income housing report
24 under Section 2306.072 and the state low income housing plan under
25 Section 2306.0721, the department shall meet with regional planning
26 commissions created under Chapter 391, Local Government Code,
27 representatives of groups with an interest in low income housing,

1 nonprofit housing organizations, managers, owners, and developers
2 of affordable housing, local government officials, [~~and~~] residents
3 of low income housing, and members of the Colonia Resident Advisory
4 Committee. The department shall obtain the comments and
5 suggestions of the representatives, officials, [~~and~~] residents,
6 and members about the prioritization and allocation of the
7 department's resources in regard to housing.

8 SECTION 8. Subchapter D, Chapter 2306, Government Code, is
9 amended by adding Section 2306.082 to read as follows:

10 Sec. 2306.082. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE
11 RESOLUTION. (a) The department shall develop and implement a
12 policy to encourage the use of:

13 (1) negotiated rulemaking procedures under Chapter
14 2008 for the adoption of department rules; and

15 (2) appropriate alternative dispute resolution
16 procedures under Chapter 2009 to assist in the resolution of
17 internal and external disputes under the department's
18 jurisdiction.

19 (b) The department's procedures relating to alternative
20 dispute resolution must conform, to the extent possible, to any
21 model guidelines issued by the State Office of Administrative
22 Hearings for the use of alternative dispute resolution by state
23 agencies.

24 (c) The department shall designate a trained person to:

25 (1) coordinate the implementation of the policy
26 adopted under Subsection (a);

27 (2) serve as a resource for any training needed to

1 implement the procedures for negotiated rulemaking or alternative
2 dispute resolution; and

3 (3) collect data concerning the effectiveness of those
4 procedures, as implemented by the department.

5 SECTION 9. Section 2306.111, Government Code, is amended by
6 adding Subsections (c-1), (c-2), (d-1), and (i) to read as follows:

7 (c-1) The following entities are eligible to apply for
8 set-aside funds under Subsection (c):

9 (1) nonprofit providers of affordable housing,
10 including community housing development organizations; and

11 (2) for-profit providers of affordable housing.

12 (c-2) In allocating set-aside funds under Subsection (c),
13 the department may not give preference to nonprofit providers of
14 affordable housing, except as required by federal law.

15 (d-1) Funds or credits are not required to be allocated
16 according to the regional allocation formula under Subsection (d)
17 if:

18 (1) the funds or credits are reserved for
19 contract-for-deed conversions or for set-asides mandated by state
20 or federal law; and

21 (2) each contract-for-deed allocation or set-aside
22 allocation equals not more than 10 percent of the total allocation
23 of funds or credits for the applicable program.

24 (i) The director shall designate an employee of the
25 department to act as the information officer and as a liaison with
26 the public regarding each application seeking an allocation of
27 housing funds described by this section.

1 SECTION 10. Sections 2306.111(d)-(g), Government Code, are
2 amended to read as follows:

3 (d) The department shall allocate housing funds provided to
4 the state under the Cranston-Gonzalez National Affordable Housing
5 Act (42 U.S.C. Section 12701 et seq.), housing trust funds
6 administered by the department under Sections 2306.201-2306.206,
7 and commitments issued under the federal low income housing tax
8 credit program administered by the department under Subchapter DD
9 to all urban, exurban, and rural areas of each uniform state service
10 region based on a formula developed by the department that is based
11 on the need for housing assistance and the availability of housing
12 resources in those urban, exurban, and rural areas, provided that
13 the allocations are consistent with applicable federal and state
14 requirements and limitations. The department shall use the
15 information contained in its annual state low income housing plan
16 and shall use other appropriate data to develop the formula. If the
17 department determines under the formula that an insufficient number
18 of eligible applications for assistance out of funds or credits
19 allocable under this subsection are submitted to the department
20 from a particular uniform state service region, the department
21 shall use the unused funds or credits allocated to that region for
22 all urban, exurban, and rural areas in other uniform state service
23 regions based on identified need and financial feasibility.

24 (e) The department shall include in its annual low income
25 housing plan under Section 2306.0721:

26 (1) the formula developed by the department under
27 Subsection (d); and

1 (2) the allocation targets established under the
2 formula for the urban, exurban, and rural areas of each uniform
3 state service region.

4 (f) The department shall include in its annual low income
5 housing report under Section 2306.072 the amounts of funds and
6 credits allocated to the urban, exurban, and rural areas of each
7 uniform state service region in the preceding year for each federal
8 and state program affected by the requirements of Subsection (d).

9 (g) For all urban, exurban, and rural areas of each uniform
10 state service region, the department shall establish funding
11 priorities to ensure that:

12 (1) funds are awarded to project applicants who are
13 best able to meet recognized needs for affordable housing, as
14 determined by [~~the~~] department rule;

15 (2) when practicable and when authorized under Section
16 42, Internal Revenue Code of 1986 (26 U.S.C. Section 42), the least
17 restrictive funding sources are used to serve the lowest income
18 residents; and

19 (3) funds are awarded based on a project applicant's
20 ability, when consistent with Section 42, Internal Revenue Code of
21 1986 (26 U.S.C. Section 42), practicable, and economically
22 feasible, to:

23 (A) provide the greatest number of quality
24 residential units;

25 (B) serve persons with the lowest percent area
26 median family income;

27 (C) extend the duration of the project to serve a

1 continuing public need;

2 (D) use other local funding sources to minimize
3 the amount of state subsidy needed to complete the project; and

4 (E) provide integrated, affordable housing for
5 individuals and families with different levels of income.

6 SECTION 11. Section 2306.1113, Government Code, is amended
7 to read as follows:

8 Sec. 2306.1113. EX PARTE COMMUNICATIONS. (a) During the
9 period beginning on the date a project application is filed and
10 ending on the date the board makes a final decision with respect to
11 any approval of that application, a member of the board [~~or a member~~
12 ~~of the advisory committee established under Section 2306.1112~~] may
13 not communicate with the following persons:

14 (1) the applicant or a related party, as defined by
15 state law, including board rules, and federal law; and

16 (2) any person who is:

17 (A) active in the construction, rehabilitation,
18 ownership, or control of the proposed project, including:

19 (i) a general partner or contractor; and

20 (ii) a principal or affiliate of a general
21 partner or contractor; or

22 (B) employed as a lobbyist by the applicant or a
23 related party.

24 (a-1) Subject to Subsection (a-2), during the period
25 beginning on the date a project application is filed and ending on
26 the date the board makes a final decision with respect to any
27 approval of that application, an employee of the department may

1 communicate about the application with the following persons:

2 (1) the applicant or a related party, as defined by
3 state law, including board rules, and federal law; and

4 (2) any person who is:

5 (A) active in the construction, rehabilitation,
6 ownership, or control of the proposed project, including:

7 (i) a general partner or contractor; and

8 (ii) a principal or affiliate of a general
9 partner or contractor; or

10 (B) employed as a lobbyist by the applicant or a
11 related party.

12 (a-2) A communication under Subsection (a-1) may be oral or
13 in any written form, including electronic communication through the
14 Internet, and must satisfy the following conditions:

15 (1) the communication must be restricted to technical
16 or administrative matters directly affecting the application;

17 (2) the communication must occur or be received on the
18 premises of the department during established business hours; and

19 (3) a record of the communication must be maintained
20 and included with the application for purposes of board review and
21 must contain the following information:

22 (A) the date, time, and means of communication;

23 (B) the names and position titles of the persons
24 involved in the communication and, if applicable, the person's
25 relationship to the applicant;

26 (C) the subject matter of the communication; and

27 (D) a summary of any action taken as a result of

1 the communication.

2 (b) Notwithstanding Subsection (a) or (a-1), a board member
3 or department employee [~~advisory committee member~~] may communicate
4 without restriction with a person listed in Subsection (a) or (a-1)
5 [~~described by that subsection~~] at any board meeting or public
6 hearing held with respect to the application.

7 SECTION 12. Subchapter F, Chapter 2306, Government Code, is
8 amended by adding Section 2306.1114 to read as follows:

9 Sec. 2306.1114. NOTICE OF RECEIPT OF APPLICATION OR
10 PROPOSED APPLICATION. (a) Not later than the 14th day after the
11 date an application or a proposed application for housing funds
12 described by Section 2306.111 has been filed, the department shall
13 provide written notice of the filing of the application or proposed
14 application to the following persons:

15 (1) the United States representative who represents
16 the community containing the development described in the
17 application;

18 (2) members of the legislature who represent the
19 community containing the development described in the application;

20 (3) the presiding officer of the governing body of the
21 political subdivision containing the development described in the
22 application;

23 (4) any member of the governing body of a political
24 subdivision who represents the area containing the development
25 described in the application;

26 (5) the superintendent and the presiding officer of
27 the board of trustees of the school district containing the

1 development described in the application; and

2 (6) any neighborhood organizations on record with the
3 state or county in which the development described in the
4 application is to be located and whose boundaries contain the
5 proposed development site.

6 (b) The notice provided under Subsection (a) must include
7 the following information:

8 (1) the relevant dates affecting the application,
9 including:

10 (A) the date on which the application was filed;

11 (B) the date or dates on which any hearings on the
12 application will be held; and

13 (C) the date by which a decision on the
14 application will be made;

15 (2) a summary of relevant facts associated with the
16 development;

17 (3) a summary of any public benefits provided as a
18 result of the development, including rent subsidies and tenant
19 services; and

20 (4) the name and contact information of the employee
21 of the department designated by the director to act as the
22 information officer and liaison with the public regarding the
23 application.

24 SECTION 13. Section 2306.185, Government Code, is amended
25 by amending Subsections (a) and (e) and adding Subsection (h) to
26 read as follows:

27 (a) The department shall adopt policies and procedures to

1 ensure that, for a multifamily rental housing development funded
2 through loans, grants, or tax credits under this chapter, the owner
3 of the development:

4 (1) keeps the rents affordable for low income tenants
5 for the longest period that is economically feasible; and

6 (2) provides regular maintenance to keep the
7 development sanitary, decent, and safe and otherwise complies with
8 the requirements of Section 2306.186.

9 (e) Subsections (c) and (d) and Section 2306.269 apply only
10 to multifamily rental housing developments to which the department
11 is providing one or more of the following forms of assistance:

12 (1) a loan or grant in an amount greater than 33
13 percent of the market value of the development on the date the
14 recipient completed the construction [~~took legal possession~~] of the
15 development;

16 (2) a loan guarantee for a loan in an amount greater
17 than 33 percent of the market value of the development on the date
18 the recipient took legal title to the development; or

19 (3) a low income housing tax credit.

20 (h) The department shall monitor a development owner's
21 compliance with this section.

22 SECTION 14. Subchapter H, Chapter 2306, Government Code, is
23 amended by adding Section 2306.186 to read as follows:

24 Sec. 2306.186. MANDATORY DEPOSITS TO FUND NECESSARY
25 REPAIRS. (a) In this section:

26 (1) "Bank trustee" means a bank authorized to do
27 business in this state, with the power to act as trustee.

1 (2) "Department assistance" means any state or federal
2 assistance administered by or through the department, including low
3 income housing tax credits.

4 (3) "First lien lender" means a lender whose lien has
5 first priority.

6 (4) "Reserve account" means an individual account:

7 (A) created to fund any necessary repairs for a
8 multifamily rental housing development; and

9 (B) maintained by a first lien lender or bank
10 trustee.

11 (b) If the department is the first lien lender with respect
12 to the development, each owner who receives department assistance
13 for a multifamily rental housing development that contains 25 or
14 more rental units shall deposit annually into a reserve account:

15 (1) for the year 2004:

16 (A) not less than \$150 per unit per year for units
17 one to five years old; and

18 (B) not less than \$200 per unit per year for units
19 six or more years old; and

20 (2) for each year following the year 2004, the amounts
21 per unit per year as described by Subdivision (1).

22 (c) A land use restriction agreement or restrictive
23 covenant between the owner and the department must require the
24 owner to begin making annual deposits to the reserve account on the
25 date that occupancy of the multifamily rental housing development
26 stabilizes or the date that permanent financing for the development
27 is completely in place, whichever occurs later, and shall continue

1 making deposits until the earliest of the following dates:

2 (1) the date of any involuntary change in ownership of
3 the development;

4 (2) the date on which the owner suffers a total
5 casualty loss with respect to the development or the date on which
6 the development becomes functionally obsolete, if the development
7 cannot be or is not restored;

8 (3) the date on which the development is demolished;

9 (4) the date on which the development ceases to be used
10 as multifamily rental property; or

11 (5) the end of the affordability period specified by
12 the land use restriction agreement or restrictive covenant.

13 (d) With respect to multifamily rental developments, if the
14 establishment of a reserve fund for repairs has not been required by
15 the first lien lender, the development owner shall set aside the
16 repair reserve amount as a reserve for capital improvements. The
17 reserve must be established for each unit in the development,
18 regardless of the amount of rent charged for the unit.

19 (e) Beginning with the 11th year after the awarding of any
20 financial assistance for the development by the department, the
21 owner of a multifamily rental housing development shall contract
22 for a third-party physical needs assessment at appropriate
23 intervals that are consistent with lender requirements with respect
24 to the development. If the first lien lender does not require a
25 third-party physical needs assessment or if the department is the
26 first lien lender, the owner shall contract with a third party to
27 conduct a physical needs assessment at least once during each

1 five-year period beginning with the 11th year after the awarding of
2 any financial assistance for the development by the department.
3 The owner of the development shall submit to the department copies
4 of the most recent third-party physical needs assessment conducted
5 on the development, any response by the owner to the assessment, any
6 repairs made in response to the assessment, and information on any
7 necessary changes to the required reserve based on the assessment.

8 (f) The department may complete necessary repairs if the
9 owner fails to complete the repairs as required by Subsection (e).
10 Payment for those repairs must be made directly by the owner of the
11 development or through a reserve account established for the
12 development under this section.

13 (g) If notified of the development owner's failure to comply
14 with a local health, safety, or building code, the department may
15 enter on the property and complete any repairs necessary to correct
16 a violation of that code, as identified in the applicable violation
17 report, and may pay for those repairs through a reserve account
18 established for the development under this section.

19 (h) The duties of the owner of a multifamily rental housing
20 development under this section cease on the date of a voluntary
21 change in ownership of the development, but the subsequent owner of
22 the development is subject to the deposit, inspection, and
23 notification requirements of Subsections (b), (c), (d), and (e).

24 (i) The first lien lender shall maintain the reserve
25 account. In the event there is no longer a first lien lender, then
26 Subsections (b) and (d) no longer apply.

27 (j) The department shall adopt rules that:

- 1 (1) establish requirements and standards regarding:
2 (A) for first lien lenders and bank trustees:
3 (i) maintenance of reserve accounts and
4 reasonable costs of that maintenance;
5 (ii) asset management;
6 (iii) transfer of money in reserve accounts
7 to the department to fund necessary repairs; and
8 (iv) oversight of reserve accounts and the
9 provision of financial data and other information to the
10 department; and
11 (B) for owners, inspections of the multifamily
12 rental housing developments and identification of necessary
13 repairs, including requirements and standards regarding
14 construction, rehabilitation, and occupancy that may enable
15 quicker identification of those repairs;
16 (2) identify circumstances in which money in the
17 reserve accounts may:
18 (A) be used for expenses other than necessary
19 repairs, including property taxes or insurance; and
20 (B) fall below mandatory deposit levels without
21 resulting in department action;
22 (3) define the scope of department oversight of
23 reserve accounts and the repair process;
24 (4) provide the consequences of any failure to make a
25 required deposit, including a definition of good cause, if any, for
26 a failure to make a required deposit;
27 (5) specify or create processes and standards to be

1 used by the department to obtain repairs for developments;

2 (6) define for purposes of Subsection (c) the date on
3 which occupancy of a development is considered to have stabilized
4 and the date on which permanent financing is considered to be
5 completely in place; and

6 (7) provide for appointment of a bank trustee as
7 necessary under this section.

8 (k) The department shall assess an administrative penalty
9 on development owners who fail to contract for the third-party
10 physical needs assessment and make the identified repairs as
11 required by this section. The department may assess the
12 administrative penalty in the same manner as an administrative
13 penalty assessed under Section 2306.6023. The penalty is computed
14 by multiplying \$200 by the number of dwelling units in the
15 development and must be paid to the department. The office of the
16 attorney general shall assist the department in the collection of
17 the penalty and the enforcement of this subsection.

18 (l) This section does not apply to a development for which
19 an owner is required to maintain a reserve account under any other
20 provision of federal or state law.

21 SECTION 15. Section 2306.252(b), Government Code, is
22 amended to read as follows:

23 (b) The department, through the center, shall:

24 (1) provide educational material prepared in plain
25 language to housing advocates, housing sponsors, borrowers, and
26 tenants;

27 (2) provide technical assistance to nonprofit housing

1 sponsors;

2 (3) assist in the development of housing policy,
3 including the annual state low income housing plan and report and
4 the consolidated plan; and

5 ~~(4) [maintain communication with local governments~~
6 ~~and act as an advocate for local governments at the state and~~
7 ~~federal levels;~~

8 ~~[(5) assist local governments with advisory and~~
9 ~~technical services;~~

10 ~~[(6) provide financial aid to local governments and~~
11 ~~combinations of local governments for programs that are authorized~~
12 ~~to receive assistance;~~

13 ~~[(7) provide information about and referrals for state~~
14 ~~and federal programs and services that affect local governments;~~

15 ~~[(8) administer, conduct, or jointly sponsor~~
16 ~~educational and training programs for local government officials;~~

17 ~~[(9) conduct research on problems of general concern~~
18 ~~to local governments;~~

19 ~~[(10) collect, publish, and distribute information~~
20 ~~useful to local governments, including information on:~~

21 ~~[(A) local government finances and employment;~~

22 ~~[(B) housing;~~

23 ~~[(C) population characteristics; and~~

24 ~~[(D) land-use patterns;~~

25 ~~[(11) encourage cooperation among local governments~~
26 ~~as appropriate;~~

27 ~~[(12) advise and inform the governor and the~~

1 ~~legislature about the affairs of local governments and recommend~~
2 ~~necessary action;~~

3 ~~[(13) assist the governor in coordinating federal and~~
4 ~~state activities affecting local governments;~~

5 ~~[(14) provide appropriate information regarding:~~

6 ~~[(A) state responsibilities for programs created~~
7 ~~under the federal Economic Opportunity Act of 1964 (42 U.S.C.~~
8 ~~Section 2701 et seq.);~~

9 ~~[(B) programs assigned to the department under~~
10 ~~the Omnibus Budget Reconciliation Act of 1981 (Pub. L. No. 97-35);~~
11 ~~and~~

12 ~~[(C) other federal acts creating economic~~
13 ~~opportunity programs assigned to the department;~~

14 ~~[(15) develop a consumer education program to educate~~
15 ~~consumers on executory contract transactions for the conveyance of~~
16 ~~real property used or to be used as the consumer's residence;~~

17 ~~[(16) adopt rules that are necessary and proper to~~
18 ~~carry out programs and responsibilities assigned by the legislature~~
19 ~~or the governor;~~

20 ~~[(17)]~~ provide, in cooperation with the state energy
21 conservation office, the Texas ~~[Natural Resource Conservation]~~
22 Commission on Environmental Quality, and other governmental
23 entities, information on the use of sustainable and energy
24 efficient housing construction products and assist local
25 governments and nonprofits in identifying information on
26 sustainable and energy efficient housing construction and energy
27 efficient resources and techniques~~;~~ and

1 ~~[(18) perform other duties relating to local~~
2 ~~governments that are assigned by the legislature or the governor].~~

3 SECTION 16. Subchapter P, Chapter 2306, Government Code, is
4 amended by adding Section 2306.359 to read as follows:

5 Sec. 2306.359. ISSUANCE OF PRIVATE ACTIVITY BONDS. (a) In
6 evaluating an application for an issuance of private activity
7 bonds, the department shall score and rank the application using a
8 point system based on criteria that are adopted by the department,
9 including criteria:

10 (1) regarding:

11 (A) the income levels of tenants of the
12 development, consistent with the funding priorities provided by
13 Section 1372.0321;

14 (B) the rent levels of the units;

15 (C) the level of community support for the
16 application;

17 (D) the period of guaranteed affordability for
18 low income tenants;

19 (E) the cost per unit of the development;

20 (F) the size, quality, and amenities of the
21 units;

22 (G) the services to be provided to tenants of the
23 development;

24 (H) the commitment of development funding by
25 local political subdivisions that enables additional units for
26 individuals and families of very low income; and

27 (I) other criteria as developed by the board; and

1 (2) imposing penalties on applicants who have
2 requested extensions of department deadlines relating to
3 developments supported by an issuance of private activity bonds
4 made in the application round preceding the current round.

5 (b) The department shall make available on its website
6 details of the scoring system used by the department to score
7 applications.

8 (c) The department shall underwrite the applications by
9 determining:

10 (1) that the general contractor's profit, overhead,
11 and general requirements are within the maximum limit published by
12 the department;

13 (2) that the developer fee for the proposed project
14 does not exceed the maximum amount allowed by the department; and

15 (3) if applicable, the amount of tax credits available
16 to the proposed development.

17 (d) In adopting criteria for underwriting applications
18 under this section, the department shall attach additional weight
19 to criteria that will determine the maximum amount that can be
20 awarded that will:

21 (1) result in an issuance of private activity bonds
22 for developments serving the lowest income tenants; and

23 (2) produce the greatest number of high-quality units
24 committed to remaining affordable to qualified tenants for extended
25 periods.

26 SECTION 17. Section 2306.589(c), Government Code, is
27 amended to read as follows:

1 (c) The department may use money in the colonia set-aside
2 fund for specific activities that assist colonias, including:

3 (1) the operation and activities of the self-help
4 centers established under this subchapter;

5 (2) reimbursement of colonia resident advisory
6 committee members [~~and colonia initiatives advisory committee~~
7 ~~members~~] for their reasonable expenses in the manner provided by
8 Chapter 2110 or the General Appropriations Act; and

9 (3) funding for the provision of water and sewer
10 service connections in accordance with Subsection (b).

11 SECTION 18. Sections 2306.6702(a)(5), (10), and (16),
12 Government Code, are amended to read as follows:

13 (5) "At-risk development" means a development that:

14 (A) has received [~~receives~~] the benefit of a
15 subsidy in the form of a below-market interest rate loan, interest
16 rate reduction, rental subsidy, Section 8 housing assistance
17 payment, rental supplement payment, [~~or~~] rental assistance
18 payment, or equity incentive under the following federal laws, as
19 applicable:

20 (i) Sections 221(d)(3) and (5), National
21 Housing Act (12 U.S.C. Section 1715l);

22 (ii) Section 236, National Housing Act (12
23 U.S.C. Section 1715z-1);

24 (iii) Section 202, Housing Act of 1959 (12
25 U.S.C. Section 1701q);

26 (iv) Section 101, Housing and Urban
27 Development Act of 1965 (12 U.S.C. Section 1701s);

1 (v) the Section 8 Additional Assistance
2 Program for housing developments with HUD-Insured and HUD-Held
3 Mortgages administered by the United States Department of Housing
4 and Urban Development;

5 (vi) the Section 8 Housing Assistance
6 Program for the Disposition of HUD-Owned Projects administered by
7 the United States Department of Housing and Urban Development; ~~or~~

8 (vii) Sections 514, 515, and 516, Housing
9 Act of 1949 (42 U.S.C. Sections 1484, 1485, and 1486); or

10 (viii) Section 42, Internal Revenue Code of
11 1986 (26 U.S.C. Section 42); and

12 (B) is subject to the following conditions:

13 (i) the stipulation to maintain
14 affordability in the contract granting the subsidy is nearing
15 expiration; or

16 (ii) the federally insured mortgage on the
17 development is eligible for prepayment or is nearing the end of its
18 term.

19 (10) "Qualified allocation plan" means a plan adopted
20 by the board under this subchapter that:

21 (A) provides the threshold, scoring, and
22 underwriting criteria based on housing priorities of the department
23 that are appropriate to local conditions;

24 (B) consistent with Section 2306.6710(e), gives
25 preference in housing tax credit allocations to developments that,
26 as compared to the other developments:

27 (i) when practicable and feasible based on

1 documented, committed, and available third-party funding sources,
2 serve the lowest income tenants per housing tax credit; and

3 (ii) produce [~~are affordable to qualified~~
4 ~~tenants~~] for the longest economically feasible period the greatest
5 number of high quality units committed to remaining affordable to
6 any tenants who are income-eligible under the low income housing
7 tax credit program; and

8 (C) provides a procedure for the department, the
9 department's agent, or another private contractor of the department
10 to use in monitoring compliance with the qualified allocation plan
11 and this subchapter.

12 (16) "Unit" means any residential rental unit in a
13 development consisting of an accommodation, including a single room
14 used as an accommodation on a non-transient basis, that contains
15 [~~separate and~~] complete physical facilities and fixtures for
16 living, sleeping, eating, cooking, and sanitation.

17 SECTION 19. Section 2306.6703, Government Code, is amended
18 to read as follows:

19 Sec. 2306.6703. INELIGIBILITY FOR CONSIDERATION. (a) An
20 application is ineligible for consideration under the low income
21 housing tax credit program if:

22 (1) at the time of application or at any time during
23 the two-year period preceding the date the application round
24 begins, the applicant or a related party is or has been:

25 (A) a member of the board; or

26 (B) the director, a deputy director, the director
27 of housing programs, the director of compliance, the director of

1 underwriting, or the low income housing tax credit program manager
2 employed by the department; ~~or~~

3 (2) the applicant proposes to replace in less than 15
4 years any private activity bond financing of the development
5 described by the application, unless:

6 (A) the applicant proposes to maintain for a
7 period of 30 years or more 100 percent of the development units
8 supported by ~~low income~~ housing tax credits as rent-restricted
9 and exclusively for occupancy by individuals and families earning
10 not more than 50 percent of the area median income, adjusted for
11 family size; and

12 (B) at least one-third of all the units in the
13 development are public housing units or Section 8 project-based
14 units;

15 (3) the applicant proposes to construct a new
16 development that is located one linear mile or less from a
17 development that:

18 (A) serves the same type of household as the new
19 development, regardless of whether the developments serve
20 families, elderly individuals, or another type of household;

21 (B) has received an allocation of housing tax
22 credits for new construction at any time during the three-year
23 period preceding the date the application round begins; and

24 (C) has not been withdrawn or terminated from the
25 low income housing tax credit program; or

26 (4) the development is located in a municipality or,
27 if located outside a municipality, a county that has more than twice

1 the state average of units per capita supported by housing tax
2 credits or private activity bonds, unless the applicant:

3 (A) has obtained prior approval of the
4 development from the governing body of the appropriate municipality
5 or county containing the development; and

6 (B) has included in the application a written
7 statement of support from that governing body referencing this
8 section and authorizing an allocation of housing tax credits for
9 the development.

10 (b) Subsection (a)(3) does not apply to a development:

11 (1) that is using:

12 (A) federal HOPE VI funds received through the
13 United States Department of Housing and Urban Development; or

14 (B) locally approved funds received from a public
15 improvement district or a tax increment financing district; or

16 (2) that is located in a county with a population of
17 less than one million.

18 SECTION 20. Section 2306.6704, Government Code, is amended
19 by adding Subsection (b-1) to read as follows:

20 (b-1) The preapplication process must require the applicant
21 to provide the department with evidence that the applicant has
22 notified the following entities with respect to the filing of the
23 application:

24 (1) any neighborhood organizations on record with the
25 state or county in which the development is to be located and whose
26 boundaries contain the proposed development site;

27 (2) the superintendent and the presiding officer of

1 the board of trustees of the school district containing the
2 development;

3 (3) the presiding officer of the governing body of any
4 municipality containing the development and all elected members of
5 that body;

6 (4) the presiding officer of the governing body of the
7 county containing the development and all elected members of that
8 body; and

9 (5) the state senator and state representative of the
10 district containing the development.

11 SECTION 21. Section 2306.6705, Government Code, is amended
12 to read as follows:

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

16 (1) a description of:

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

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

21 (C) the funding sources for the development,
22 including:

23 (i) construction, permanent, and bridge
24 loans; and

25 (ii) rents, operating subsidies, and
26 replacement reserves; and

27 (D) the commitment status of the funding sources

1 for the development;

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

5 (3) from a syndicator or a financial consultant of the
6 applicant, an estimate of the amount of equity dollars expected to
7 be raised for the development in conjunction with the amount of
8 housing tax credits requested for allocation to the applicant,
9 including:

10 (A) pay-in schedules; and

11 (B) syndicator consulting fees and other
12 syndication costs;

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

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

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

18 (C) the term and expiration date of the contract
19 or other agreement;

20 (5) if the development is located within the
21 boundaries of a political subdivision with a zoning ordinance,
22 evidence in the form of a letter from the chief executive officer of
23 the political subdivision or from another local official with
24 jurisdiction over zoning matters that states that:

25 (A) the development is permitted under the
26 provisions of the ordinance that apply to the location of the
27 development; or

1 (B) the applicant is in the process of seeking
2 the appropriate zoning and has signed and provided to the political
3 subdivision a release agreeing to hold the political subdivision
4 and all other parties harmless in the event that the appropriate
5 zoning is denied;

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

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

10 (B) a relocation plan outlining:

11 (i) relocation requirements; and

12 (ii) a budget with an identified funding
13 source; and

14 (C) if applicable, evidence that the relocation
15 plan has been submitted to the appropriate local agency;

16 (7) a certification of the applicant's compliance with
17 appropriate state and federal laws, as required by other state law
18 or by the board; ~~and~~

19 (8) any other information required by the board in the
20 qualified allocation plan; and

21 (9) evidence that the applicant has notified the
22 following entities with respect to the filing of the application:

23 (A) any neighborhood organizations on record
24 with the state or county in which the development is to be located
25 and whose boundaries contain the proposed development site;

26 (B) the superintendent and the presiding officer
27 of the board of trustees of the school district containing the

1 development;

2 (C) the presiding officer of the governing body
3 of any municipality containing the development and all elected
4 members of that body;

5 (D) the presiding officer of the governing body
6 of the county containing the development and all elected members of
7 that body; and

8 (E) the state senator and state representative of
9 the district containing the development.

10 SECTION 22. Subchapter DD, Chapter 2306, Government Code,
11 is amended by adding Section 2306.67055 to read as follows:

12 Sec. 2306.67055. MARKET ANALYSIS. (a) A market analysis
13 submitted in conjunction with an application for housing tax
14 credits must:

15 (1) be prepared by a market analyst approved by the
16 department; and

17 (2) include an assessment of other developments that
18 are supported by housing tax credits within the market area.

19 (b) The department, through the qualified allocation plan,
20 shall develop:

21 (1) a process for approving market analysts; and

22 (2) a methodology for determining the market area to
23 be examined in a market analysis.

24 SECTION 23. Section 2306.6710, Government Code, is amended
25 by amending Subsections (b), (d), and (e) and adding Subsections
26 (f) and (g) to read as follows:

27 (b) If an application satisfies the threshold criteria, the

1 department shall score and rank the application using a point
2 system that:

3 (1) prioritizes in descending order criteria [~~based on~~
4 ~~criteria that are adapted to regional market conditions and adopted~~
5 ~~by the department, including criteria:~~

6 ~~[(1)]~~ regarding:

7 (A) financial feasibility of [~~the income levels~~
8 ~~of tenants of]~~ the development based on the supporting financial
9 data required in the application that will include a project
10 underwriting pro forma from the permanent or construction lender;

11 (B) quantifiable community participation with
12 respect to the development, evaluated on the basis of written
13 statements from:

14 (i) any neighborhood organizations on
15 record with the state or county in which the development is to be
16 located and whose boundaries contain the proposed development site;
17 and

18 (ii) the superintendent or the presiding
19 officer of the board of trustees of the school district containing
20 the development [~~the rent levels of the units~~];

21 (C) the income levels of tenants of the
22 development [~~period of guaranteed affordability for low income~~
23 ~~tenants~~];

24 (D) the size and quality of the units [~~cost by~~
25 ~~square foot of the development~~];

26 (E) the commitment of development funding by
27 local political subdivisions [~~size, quality, and amenities of the~~

1 units];

2 (F) the level of community support for the
3 application, evaluated on the basis of written statements from
4 state elected officials [~~the services to be provided to tenants of~~
5 ~~the development~~];

6 (G) the rent levels of the units [~~commitment of~~
7 ~~development funding by local political subdivisions that enables~~
8 ~~additional units for individuals and families of very low income~~];
9 [and]

10 (H) the cost of the development by square foot
11 [~~level of community support for the application, evaluated on the~~
12 ~~basis of written statements of support from local and state elected~~
13 ~~officials representing constituents in areas that include the~~
14 ~~location of the development~~]; and

15 (I) the services to be provided to tenants of the
16 development; and

17 (2) uses criteria imposing penalties on applicants or
18 affiliates who have requested extensions of department deadlines
19 relating to developments supported by housing tax credit
20 allocations made in the application round preceding the current
21 round or a developer or principal of the applicant that has been
22 removed by the lender, equity provider, or limited partners for its
23 failure to perform its obligations under the loan documents or
24 limited partnership agreement.

25 (d) The department shall underwrite the applications ranked
26 under Subsection (b) beginning with the applications with the
27 highest scores in each region described by Section 2306.111(d) and

1 in each set-aside category described in the qualified allocation
2 plan. Based on application rankings, the department shall continue
3 to underwrite applications until the department has processed
4 enough applications satisfying the department's underwriting
5 criteria to enable the allocation of all available housing tax
6 credits according to regional allocation goals and set-aside
7 categories. To enable the board to establish an applications
8 waiting list under Section 2306.6711, the department shall
9 underwrite as many additional applications as the board considers
10 necessary to ensure that all available housing tax credits are
11 allocated within the period required by law. The department shall
12 underwrite an application solely to determine an appropriate level
13 of housing tax credits. In determining an appropriate level of
14 housing tax credits, the department shall determine that the cost
15 of the development does not exceed acceptable cost parameters as
16 established by historical final cost certifications of all previous
17 housing tax credit allocations.

18 (e) In [~~adopting criteria for~~] scoring [~~and underwriting~~]
19 applications for purposes of housing tax credit allocations, the
20 department shall award [~~attach~~], consistent with Section 42,
21 Internal Revenue Code of 1986 (26 U.S.C. Section 42), preference
22 points to a development that [~~the most weight to criteria that~~]
23 will:

24 (1) when practicable and feasible based on documented,
25 committed, and available third-party funding sources, serve
26 [~~result in an allocation of housing tax credits for developments~~
27 ~~servicing~~] the lowest income tenants per housing tax credit, if the

1 development is to be located outside a qualified census tract; and

2 (2) produce for the longest economically feasible
3 period the greatest number of high quality units committed to
4 remaining affordable to any [~~qualified~~] tenants who are
5 income-eligible under the low income housing tax credit program
6 [~~for extended periods~~].

7 (f) In evaluating the level of community support for an
8 application under Subsection (b)(1)(F), the department shall
9 award:

10 (1) positive points for positive written statements
11 received;

12 (2) negative points for negative written statements
13 received; and

14 (3) zero points for neutral statements received.

15 (g) In awarding points under Subsection (f), the department
16 shall give equal weight to each written statement received.

17 SECTION 24. Section 2306.6711, Government Code, is amended
18 by amending Subsection (b) and adding Subsection (f) to read as
19 follows:

20 (b) Not later than the deadline specified in the qualified
21 allocation plan, the board shall issue commitments for available
22 housing tax credits based on the application evaluation process
23 provided by Section 2306.6710. The board may not allocate to an
24 applicant housing tax credits in any unnecessary amount, as
25 determined by the department's underwriting policy and by federal
26 law, and in any event may not allocate to the applicant housing tax
27 credits in an amount greater than \$2 [~~\$1.6~~] million in a single

1 application round.

2 (f) The board may allocate housing tax credits to more than
3 one development in a single community, as defined by department
4 rule, in the same calendar year only if the developments are or will
5 be located more than one linear mile apart.

6 SECTION 25. Section 2306.6716(b), Government Code, is
7 amended to read as follows:

8 (b) The department shall publish [~~not later than July 1 of~~]
9 each year an updated [a] schedule of application fees that
10 specifies the amount to be charged at each stage of the application
11 process.

12 SECTION 26. Section 2306.6717(b), Government Code, is
13 amended to read as follows:

14 (b) The department shall make available on the department's
15 website [~~provide~~] information regarding the low income housing tax
16 credit program, including notice regarding public hearings,
17 [~~board~~] meetings, [~~and~~] the opening and closing dates for
18 applications, submitted applications, and applications approved
19 for underwriting and recommended to the board, and shall provide
20 that information to:

- 21 (1) locally affected community groups;
22 (2) local and state elected officials;
23 (3) local housing departments;
24 (4) any appropriate [~~(2)~~] newspapers of general or
25 limited circulation that serve the community in which the
26 development is to be located;
27 (5) [~~(3)~~] nonprofit and for-profit organizations;

1 (6) [~~(4)~~] on-site property managers of occupied
2 developments that are the subject of applications for posting in
3 prominent locations in those developments; and

4 (7) [~~(5)~~] any other interested persons and [~~7~~
5 ~~including~~] community groups that [~~7~~ ~~who~~] request the information.

6 SECTION 27. Section 2306.6725(b), Government Code, is
7 amended to read as follows:

8 (b) The department shall provide appropriate incentives as
9 determined through the qualified allocation plan to reward
10 applicants who agree to:

11 (1) equip the property that is the basis of the
12 application with energy saving devices that meet the standards
13 established by the state energy conservation office or to provide
14 to a qualified nonprofit organization or tenant organization a
15 right of first refusal to purchase the property at the minimum price
16 provided in, and in accordance with the requirements of, Section
17 42(i)(7), Internal Revenue Code of 1986 (26 U.S.C. Section
18 42(i)(7)); and

19 (2) locate the development in a census tract in which
20 there are no other existing developments supported by housing tax
21 credits.

22 SECTION 28. Section 1372.0231, Government Code, is amended
23 by amending Subsection (b) and adding Subsection (h) to read as
24 follows:

25 (b) With respect to the amount of the state ceiling set
26 aside under Subsection (a)(1), the board shall grant reservations
27 at the direction of the Texas Department of Housing and Community

1 Affairs as provided by Section 2306.359 and [+

2 ~~[(1) in the order determined by the board by lot, and~~

3 ~~[(2)]~~ in a manner that ensures that:

4 (1) [(A)] the set-aside amount is used for proposed
5 projects that are located throughout the state; and

6 (2) [(B)] not more than 50 percent of the set-aside
7 amount is used for proposed projects that are located in qualified
8 census tracts as defined by Section 143(j), Internal Revenue Code
9 of 1986.

10 (h) Allocations by the board at the direction of the Texas
11 Department of Housing and Community Affairs under Subsection (b)
12 are subject to review and approval by the board as provided by
13 Section 1231.041.

14 SECTION 29. Section 1372.0321, Government Code, as added by
15 Chapters 1367 and 1420, Acts of the 77th Legislature, Regular
16 Session, 2001, is reenacted and amended to read as follows:

17 Sec. 1372.0321. PRIORITIES FOR RESERVATIONS AMONG ISSUERS
18 OF QUALIFIED RESIDENTIAL RENTAL PROJECT ISSUES. (a) In granting
19 reservations to issuers of qualified residential rental project
20 issues, the board shall[+]

21 ~~[(1)]~~ give first priority to:

22 (1) [(A)] projects in which:

23 (A) 50 [100] percent of the residential units
24 in the project [~~projects~~] are:

25 (i) under the restriction that the maximum
26 allowable rents are an amount equal to 30 percent of 50 percent of
27 the area median family income minus an allowance for utility costs

1 authorized under the federal low-income housing tax credit program;
2 and

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

5 (B) the remaining 50 percent of the residential
6 units in the project are:

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

12 (ii) reserved for families and individuals
13 earning not more than 60 percent of the area median income;

14 (2) projects in which:

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

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

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

24 (B) the remaining 85 percent of the residential
25 units in the project are:

26 (i) under the restriction that the maximum
27 allowable rents are an amount equal to 30 percent of 60 percent of

1 the area median family income minus an allowance for utility costs
2 authorized under the federal low-income housing tax credit program;
3 and

4 (ii) reserved for families and individuals
5 earning not more than 60 percent of the area median income;

6 (3) projects:

7 (A) in which 100 percent of the residential units
8 in the project are:

9 (i) under the restriction that the maximum
10 allowable rents are an amount equal to 30 percent of 60 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 60 percent of the area median income; and

16 (B) which are located in a census tract in which
17 the median income, based on the most recent information published
18 by the Bureau of the Census, is higher than the median income for
19 the county, metropolitan statistical area, or primary metropolitan
20 statistical area in which the census tract is located as
21 established by the United States Department of Housing and Urban
22 Development; or

23 (4) [~~(B)~~] on or after June 1, projects that are
24 located in counties, metropolitan statistical areas, or primary
25 metropolitan statistical areas with area median family incomes at
26 or below the statewide median family income established by the
27 United States Department of Housing and Urban Development.

1 (a-1) In granting reservations to issuers of qualified
2 residential rental project issues, the board shall [~~+~~

3 [~~2~~] give second priority to projects in which 100
4 percent of the residential units in the project [~~projects~~] are:

5 (1) under the restriction that the maximum allowable
6 rents are an amount equal to 30 percent of 60 percent of the area
7 median family income minus an allowance for utility costs
8 authorized under the federal low-income housing tax credit program;
9 and

10 (2) reserved for families and individuals earning not
11 more than 60 percent of the area median income.

12 (a-2) In granting reservations to issuers of qualified
13 residential rental project issues, the board shall [~~+~~ ~~and~~

14 [~~3~~] give third priority to any other qualified
15 residential rental project.

16 (b) The board may not reserve a portion of the state ceiling
17 for a first or second priority project described by this section
18 [~~Subsection (a)~~] unless the board receives evidence that an
19 application has been filed with the Texas Department of Housing and
20 Community Affairs for the low-income housing tax credit that is
21 available for multifamily transactions that are at least 51 percent
22 financed by tax-exempt private activity bonds.

23 SECTION 30. (a) Except as otherwise provided by this
24 section, the changes in law made by this Act relating to the
25 awarding of financial assistance administered by the Texas
26 Department of Housing and Community Affairs apply only to an
27 application for that assistance submitted on or after the effective

1 date of this Act.

2 (b) The Texas Department of Housing and Community Affairs
3 shall adopt the rules required by Section 2306.186, Government
4 Code, as added by this Act, not later than December 1, 2003.

5 (c) The change in law made by Section 2306.186, Government
6 Code, as added by this Act, applies only to multifamily rental
7 housing developments that receive assistance from the Texas
8 Department of Housing and Community Affairs on or after January 1,
9 2004.

10 (d) The change in law made by this Act in amending Chapter
11 1372, Government Code, applies only to an application for an amount
12 of the state ceiling set aside for issuers of qualified residential
13 rental project bonds in a year beginning on or after January 1,
14 2004. An application for an amount of the state ceiling set aside
15 for issuers of qualified residential rental project bonds in 2003
16 is governed by the law in effect immediately before the effective
17 date of this Act, and the former law is continued in effect for that
18 purpose.

19 SECTION 31. The following provisions of the Government Code
20 are repealed:

- 21 (1) Sections 2306.072(d) and 2306.185(g);
22 (2) Section 2306.590, as added by Chapter 1367, Acts
23 of the 77th Legislature, Regular Session, 2001; and
24 (3) Sections 2306.591 and 2306.6732.

25 SECTION 32. This Act takes effect September 1, 2003.