

1-1 By: Lucio S.B. No. 284
1-2 (In the Senate - Filed March 11, 2003; March 17, 2003, read
1-3 first time and referred to Committee on Government Organization;
1-4 March 31, 2003, reported favorably by the following vote: Yeas 6,
1-5 Nays 0; March 31, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the continuation and functions of the Texas State
1-9 Affordable Housing Corporation.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 2306.057, Government Code, is amended by
1-12 adding Subsection (d) to read as follows:

1-13 (d) In assessing the compliance of the project, applicant,
1-14 or affiliate, the board shall consider any relevant compliance
1-15 information in the department's database created under Section
1-16 2306.081, including compliance information provided to the
1-17 department by the Texas State Affordable Housing Corporation.

1-18 SECTION 2. Section 2306.0721, Government Code, is amended
1-19 by adding Subsections (g) and (h) to read as follows:

1-20 (g) The department shall include the plan developed by the
1-21 Texas State Affordable Housing Corporation under Section 2306.565
1-22 in the department's resource allocation plan under Subsection
1-23 (c)(5).

1-24 (h) The department shall consider and incorporate the
1-25 specific results of the programs of the Texas State Affordable
1-26 Housing Corporation in the department's estimate and analysis of
1-27 the housing supply in each uniform state service region under
1-28 Subsection (c)(9).

1-29 SECTION 3. Subsection (b), Section 2306.0722, Government
1-30 Code, is amended to read as follows:

1-31 (b) In preparing the annual report under Section 2306.072
1-32 and the state low income housing plan under Section 2306.0721, the
1-33 director shall:

1-34 (1) coordinate local, state, and federal housing
1-35 resources, including tax exempt housing bond financing and low
1-36 income housing tax credits;

1-37 (2) set priorities for the available housing resources
1-38 to help the neediest individuals;

1-39 (3) evaluate the success of publicly supported housing
1-40 programs;

1-41 (4) survey and identify the unmet housing needs of
1-42 individuals the department is required to assist;

1-43 (5) ensure that housing programs benefit an individual
1-44 without regard to the individual's race, ethnicity, sex, or
1-45 national origin;

1-46 (6) develop housing opportunities for individuals and
1-47 families of low and very low income and individuals with special
1-48 housing needs;

1-49 (7) develop housing programs through an open, fair,
1-50 and public process;

1-51 (8) set priorities for assistance in a manner that is
1-52 appropriate and consistent with the housing needs of the
1-53 populations described by Section 2306.0721(c)(1);

1-54 (9) incorporate recommendations that are consistent
1-55 with the consolidated plan submitted annually by the state to the
1-56 United States Department of Housing and Urban Development;

1-57 (10) identify the organizations and individuals
1-58 consulted by the department in preparing the annual report and
1-59 state low income housing plan and summarize and incorporate
1-60 comments and suggestions provided under Subsection (a) as the board
1-61 determines to be appropriate;

1-62 (11) develop a plan to respond to changes in federal
1-63 funding and programs for the provision of affordable housing;

1-64 (12) use the following standardized categories to

2-1 describe the income of program applicants and beneficiaries:

2-2 (A) 0 to 30 percent of area median income
2-3 adjusted for family size;

2-4 (B) more than 30 to 60 percent of area median
2-5 income adjusted for family size;

2-6 (C) more than 60 to 80 percent of area median
2-7 income adjusted for family size;

2-8 (D) more than 80 to 115 percent of area median
2-9 income adjusted for family size; or

2-10 (E) more than 115 percent of area median income
2-11 adjusted for family size; ~~and~~

2-12 (13) use the most recent census data combined with
2-13 existing data from local housing and community service providers in
2-14 the state, including public housing authorities, housing finance
2-15 corporations, community housing development organizations, and
2-16 community action agencies; and

2-17 (14) provide the needs assessment information
2-18 compiled for the report and plan to the Texas State Affordable
2-19 Housing Corporation.

2-20 SECTION 4. Section 2306.081, Government Code, is amended by
2-21 amending Subsection (d) and adding Subsection (e) to read as
2-22 follows:

2-23 (d) The department shall create an easily accessible
2-24 database that contains all project compliance information
2-25 developed under this chapter, including project compliance
2-26 information provided to the department by the Texas State
2-27 Affordable Housing Corporation.

2-28 (e) The department shall allow the Texas State Affordable
2-29 Housing Corporation timely access to the information in the
2-30 database.

2-31 SECTION 5. Section 2306.5521, Government Code, is amended
2-32 to read as follows:

2-33 Sec. 2306.5521. SUNSET PROVISION. The Texas State
2-34 Affordable Housing Corporation is subject to Chapter 325 (Texas
2-35 Sunset Act). Unless continued in existence as provided by that
2-36 chapter, the corporation is abolished and this subchapter expires
2-37 September 1, 2009 [~~2003~~].

2-38 SECTION 6. Section 2306.554, Government Code, is amended by
2-39 amending Subsection (c) and adding Subsection (f) to read as
2-40 follows:

2-41 (c) A member of the corporation's board of directors is not
2-42 entitled to compensation, but is entitled to reimbursement of
2-43 travel expenses incurred by the member while conducting the
2-44 business of the board to the same extent [~~as~~] provided by the
2-45 General Appropriations Act for a member of a state board.

2-46 (f) Appointments to the board of directors of the
2-47 corporation shall be made without regard to the race, color,
2-48 disability, sex, religion, age, or national origin of the
2-49 appointees.

2-50 SECTION 7. Subchapter Y, Chapter 2306, Government Code, is
2-51 amended by adding Sections 2306.5541, 2306.5542, and 2306.5543 to
2-52 read as follows:

2-53 Sec. 2306.5541. TERMS OF MEMBERS. The members of the board
2-54 of directors of the corporation serve staggered six-year terms,
2-55 with the terms of one or two members expiring on February 1 of each
2-56 odd-numbered year.

2-57 Sec. 2306.5542. REMOVAL OF MEMBERS. (a) It is a ground for
2-58 removal from the board of directors of the corporation that a
2-59 member:

2-60 (1) does not have at the time of taking office the
2-61 qualifications required by Section 2306.554;

2-62 (2) does not maintain during service on the board of
2-63 directors of the corporation the qualifications required by Section
2-64 2306.554;

2-65 (3) is ineligible for membership under Sections
2-66 2306.554 and 2306.5545;

2-67 (4) cannot, because of illness or disability,
2-68 discharge the member's duties for a substantial part of the member's
2-69 term; or

3-1 (5) is absent from more than half of the regularly
 3-2 scheduled board meetings that the member is eligible to attend
 3-3 during a calendar year without an excuse approved by a majority vote
 3-4 of the board of directors.

3-5 (b) The validity of an action of the board of directors of
 3-6 the corporation is not affected by the fact that it is taken when a
 3-7 ground for removal of a board member exists.

3-8 (c) If the president of the corporation has knowledge that a
 3-9 potential ground for removal exists, the president shall notify the
 3-10 presiding officer of the board of directors of the potential
 3-11 ground. The presiding officer shall then notify the governor and
 3-12 the attorney general that a potential ground for removal exists. If
 3-13 the potential ground for removal involves the presiding officer,
 3-14 the president shall notify the next highest ranking officer of the
 3-15 board of directors, who shall then notify the governor and the
 3-16 attorney general that a potential ground for removal exists.

3-17 Sec. 2306.5543. TRAINING. (a) A person who is appointed
 3-18 to and qualifies for office as a member of the corporation's board
 3-19 of directors may not vote, deliberate, or be counted as a member in
 3-20 attendance at a meeting of the board until the person completes a
 3-21 training program that complies with this section.

3-22 (b) The training program must provide the person with
 3-23 information regarding:

3-24 (1) the legislation that created the corporation and
 3-25 the corporation's board of directors;

3-26 (2) the programs operated by the corporation;

3-27 (3) the role and functions of the corporation;

3-28 (4) the rules of the corporation with an emphasis on
 3-29 the rules that relate to disciplinary and investigatory authority;

3-30 (5) the current budget for the corporation;

3-31 (6) the results of the most recent formal audit of the
 3-32 corporation;

3-33 (7) the requirements of:

3-34 (A) the open meetings law, Chapter 551;

3-35 (B) the public information law, Chapter 552;

3-36 (C) the administrative procedure law, Chapter
 3-37 2001; and

3-38 (D) other laws relating to public officials,
 3-39 including conflict-of-interest laws; and

3-40 (8) any applicable ethics policies adopted by the
 3-41 corporation or the Texas Ethics Commission.

3-42 (c) A person appointed to the corporation's board of
 3-43 directors is entitled to reimbursement, to the same extent provided
 3-44 by the General Appropriations Act for a member of a state board, for
 3-45 the travel expenses incurred in attending the training program
 3-46 regardless of whether the attendance at the program occurs before
 3-47 or after the person qualifies for office.

3-48 SECTION 8. Section 2306.5545, Government Code, is amended
 3-49 to read as follows:

3-50 Sec. 2306.5545. CONFLICT OF INTEREST POLICIES. (a) The
 3-51 board of directors of the corporation shall develop and implement
 3-52 policies relating to employee conflicts of interest that are
 3-53 substantially similar to comparable policies that govern state
 3-54 employees.

3-55 (b) A person may not be a member of the corporation's board
 3-56 of directors and may not be a corporation employee employed in a
 3-57 "bona fide executive, administrative, or professional capacity,"
 3-58 as that phrase is used for purposes of establishing an exemption to
 3-59 the overtime provisions of the federal Fair Labor Standards Act of
 3-60 1938 (29 U.S.C. Section 201 et seq.), and its subsequent
 3-61 amendments, if:

3-62 (1) the person is an officer, employee, or paid
 3-63 consultant of a Texas trade association in the field of banking,
 3-64 real estate, housing development, or housing construction; or

3-65 (2) the person's spouse is an officer, manager, or paid
 3-66 consultant of a Texas trade association in the field of banking,
 3-67 real estate, housing development, or housing construction.

3-68 (c) A person may not be a member of the corporation's board
 3-69 of directors or act as the general counsel to the board of directors

4-1 or the corporation if the person is required to register as a
 4-2 lobbyist under Chapter 305 because of the person's activities for
 4-3 compensation on behalf of a profession related to the operation of
 4-4 the corporation.

4-5 (d) In this section, "Texas trade association" means a
 4-6 cooperative and voluntarily joined statewide association of
 4-7 business or professional competitors in this state designed to
 4-8 assist its members and its industry or profession in dealing with
 4-9 mutual business or professional problems and in promoting their
 4-10 common interest.

4-11 SECTION 9. Subchapter Y, Chapter 2306, Government Code, is
 4-12 amended by adding Sections 2306.5546, 2306.5547, and 2306.5548 to
 4-13 read as follows:

4-14 Sec. 2306.5546. STANDARDS OF CONDUCT. The president of the
 4-15 corporation or the president's designee shall provide to members of
 4-16 the board of directors of the corporation and to corporation
 4-17 employees, as often as necessary, information regarding the
 4-18 requirements for office or employment under this subchapter,
 4-19 including information regarding a person's responsibilities under
 4-20 applicable laws relating to standards of conduct for state officers
 4-21 or employees.

4-22 Sec. 2306.5547. DIVISION OF RESPONSIBILITY. The board of
 4-23 directors of the corporation shall develop and implement policies
 4-24 that clearly separate the policymaking responsibilities of the
 4-25 board of directors and the management responsibilities of the
 4-26 president and the staff of the corporation.

4-27 Sec. 2306.5548. EQUAL EMPLOYMENT OPPORTUNITY POLICY.
 4-28 (a) The president of the corporation or the president's designee
 4-29 shall prepare and maintain a written policy statement that
 4-30 implements a program of equal employment opportunity to ensure that
 4-31 all personnel decisions are made without regard to race, color,
 4-32 disability, sex, religion, age, or national origin.

4-33 (b) The policy statement must include:

4-34 (1) personnel policies, including policies relating
 4-35 to recruitment, evaluation, selection, training, and promotion of
 4-36 personnel, that show the intent of the corporation to avoid the
 4-37 unlawful employment practices described by Chapter 21, Labor Code;
 4-38 and

4-39 (2) an analysis of the extent to which the composition
 4-40 of the corporation's personnel is in accordance with state and
 4-41 federal law and a description of reasonable methods to achieve
 4-42 compliance with state and federal law.

4-43 (c) The policy statement must be:

4-44 (1) updated annually; and

4-45 (2) filed with the governor's office.

4-46 SECTION 10. Subchapter Y, Chapter 2306, Government Code, is
 4-47 amended by adding Sections 2306.563 through 2306.568 to read as
 4-48 follows:

4-49 Sec. 2306.563. PUBLIC BENEFIT REQUIREMENT. (a) The
 4-50 corporation shall implement a requirement that a community housing
 4-51 development organization that receives an issuance of qualified
 4-52 501(c)(3) bonds from the corporation to develop property must
 4-53 invest at least one dollar in projects and services that benefit
 4-54 income-eligible persons for each dollar of taxes that is not
 4-55 imposed on the property as a result of a property tax exemption
 4-56 received under Section 11.182, Tax Code.

4-57 (b) The projects and services must benefit income-eligible
 4-58 persons in the county in which the property supported with the tax
 4-59 exemption is located.

4-60 (c) The projects and services must consist of:

4-61 (1) rent reduction;

4-62 (2) capital improvement projects; or

4-63 (3) social, educational, or economic development
 4-64 services.

4-65 (d) The corporation and the organization may determine on a
 4-66 case-by-case basis the specific projects and services in which the
 4-67 organization must invest under this section.

4-68 (e) The dollar-for-dollar public benefit requirement
 4-69 imposed by this section shall be reduced by an amount equal to each

dollar that, in lieu of taxes, a community housing development organization pays to a taxing unit for which the property receives an exemption under Section 11.182, Tax Code.

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

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

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

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

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

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

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

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

(2) provide affordable housing through methods that do not duplicate those of the department or local housing organizations, including public housing authorities, housing finance corporations, community housing development organizations, and community action agencies.

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

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

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

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

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

(3) the subject matter of the complaint;

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

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

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

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

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

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

6-1 (1) ensure that the public is able to easily find
6-2 information about the corporation on the Internet;

6-3 (2) ensure that persons who want to use the
6-4 corporation's services are able to:

6-5 (A) interact with the corporation through the
6-6 Internet; and

6-7 (B) access any service that can be provided
6-8 effectively through the Internet; and

6-9 (3) be cost-effective and developed through the
6-10 corporation's planning processes.

6-11 SECTION 11. (a) The offices of the board of directors of
6-12 the Texas State Affordable Housing Corporation serving immediately
6-13 before the effective date of this Act are abolished at the time
6-14 three or more of the newly appointed directors under Subsection (b)
6-15 of this section qualify for office. The changes in law made by this
6-16 Act to the qualifications of or prohibitions on members of the board
6-17 of directors do not affect the entitlement of a member serving
6-18 immediately before the effective date of this Act to continue to
6-19 serve as provided by this subsection.

6-20 (b) The governor shall make five appointments to the board
6-21 of directors of the Texas State Affordable Housing Corporation in
6-22 accordance with Section 2306.554, Government Code, as amended by
6-23 this Act, as soon as possible on or after the effective date of this
6-24 Act. In making appointments under this subsection, the governor
6-25 shall designate:

6-26 (1) one member for a term expiring February 1, 2005;

6-27 (2) two members for terms expiring February 1, 2007;

6-28 and

6-29 (3) two members for terms expiring February 1, 2009.

6-30 (c) A member of the board of directors of the Texas State
6-31 Affordable Housing Corporation appointed under Subsection (b) of
6-32 this section is not required to comply with the training
6-33 requirement prescribed by Section 2306.5543, Government Code, as
6-34 added by this Act, until September 1, 2004.

6-35 (d) This Act does not prohibit a person who is a member of
6-36 the board of directors of the Texas State Affordable Housing
6-37 Corporation immediately before the effective date of this Act from
6-38 being appointed as a member of the board of directors on or after
6-39 the effective date of this Act if the person has the qualifications
6-40 required for the position under Subchapter Y, Chapter 2306,
6-41 Government Code, as amended by this Act.

6-42 SECTION 12. Section 2306.567, Government Code, as added by
6-43 this Act, applies only to a complaint filed with the board of
6-44 directors of the Texas State Affordable Housing Corporation on or
6-45 after the effective date of this Act, regardless of whether the
6-46 conduct or act that is the subject of the complaint occurred or was
6-47 committed before, on, or after the effective date of this Act.

6-48 SECTION 13. This Act takes effect September 1, 2003.

6-49 * * * * *