

By: Averitt, Lindsay S.B. No. 1664  
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COMMITTEE SUBSTITUTE FOR S.B. No. 1664 By: Averitt

A BILL TO BE ENTITLED  
AN ACT

relating to private activity bonds.

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

SECTION 1. Section 1372.001, Government Code, is amended by adding Subdivision (18) to read as follows:

(18) "Water development issue" means a bond issued as part of an issue, 95 percent or more of the net proceeds of which are to be used to provide facilities for the furnishing, conserving, developing, or making available of water.

SECTION 2. Subsections (a) and (b), Section 1372.006, Government Code, are amended to read as follows:

(a) An application for a reservation under Subchapter B or a carryforward designation under Subchapter C must be accompanied by a nonrefundable fee in the amount of \$500, except that for issuers of qualified residential rental project bonds the application must be accompanied by a nonrefundable fee of \$5,000, of which \$1,000 shall be retained by the board to offset program and administration costs and \$4,000 shall be transferred, through an interagency agreement, to the Texas Department of Housing and Community Affairs for use in an affordable housing research and information program as provided in Section 2306.6732(b).

(b) An issuer, other than an issuer under Section 1372.022(a)(2), shall submit to the board a closing fee in an amount that is equal to the greater of:

(1) \$1,000; or  
(2) 0.025 percent of the principal amount of the bonds certified as provided by Section 1372.039(a)(1)(A) [1372.039(a)(1)].

SECTION 3. Section 1372.022, Government Code, as amended by Chapters 1367, 1420, and 1468, Acts of the 77th Legislature, Regular Session, 2001, is reenacted and amended to read as follows:

Sec. 1372.022. AVAILABILITY OF STATE CEILING TO ISSUERS.  
(a) ~~[Prior to August 15 of each year through September 1, 2003:~~

~~[(1) 25 percent of the state ceiling is available exclusively for reservations by issuers of qualified mortgage bonds,~~

~~[(2) 11 percent of the state ceiling is available exclusively for reservations by issuers of state-voted issues,~~

~~[(3) 7.5 percent of the state ceiling is available exclusively for reservations by issuers of qualified small issue bonds and enterprise zone facility bonds,~~

~~[(4) 16.5 percent of the state ceiling is available exclusively for reservations by issuers of qualified residential rental projects bonds,~~

~~[(5) 10.5 percent of the state ceiling is available exclusively for reservations by issuers of qualified student loan bonds authorized by Section 53.47, Education Code, and~~

~~[(6) 29.5 percent of the state ceiling is available exclusively for reservations by any other issuer of bonds that require an allocation. The board shall issue 2 percent of the allocation based on a priority level for projects for the development of new drinking water sources.~~

~~[(b)]~~ If the state ceiling is computed on the basis of \$75 per capita or a greater amount, before August 15 of each year:

(1) 28.0 ~~[29.6]~~ percent of the state ceiling is available exclusively for reservations by issuers of qualified

mortgage bonds;

(2) 8 percent of the state ceiling is available exclusively for reservations by issuers of state-voted issues;

(3) 2.0 ~~[4.6]~~ percent of the state ceiling is available exclusively for reservations by issuers of qualified small issue bonds and enterprise zone facility bonds;

(4) 22.0 ~~[23]~~ percent of the state ceiling is available exclusively for reservations by issuers of qualified residential rental project bonds;

(5) 10.5 ~~[8.8]~~ percent of the state ceiling is available exclusively for reservations by issuers of qualified student loan bonds authorized by Section 53.47, Education Code; and

(6) 29.5 ~~[26]~~ percent of the state ceiling is available exclusively for reservations by any other issuer of bonds that require an allocation.

(b) On and after August 15 but before September 1, that portion of the state ceiling available for reservations becomes available for all applications for reservations in the order determined by the board by lot, subject to Section 1372.0321 ~~[qualified residential rental project issues in the manner described by Section 1372.0321]~~. On and after September 1, that portion of the state ceiling available for reservations becomes available to any issuer for any bonds that require an allocation, subject to the provisions of this subchapter.

~~[(c) This section expires September 1, 2003.]~~

SECTION 4. Section 1372.0231, Government Code, is amended by amending Subsections (b), (d), and (e) and adding Subsection (h) to read as follows:

(b) With respect to the amount of the state ceiling set aside under Subsection (a)(1), subject to Sections 1372.0321(a) and (b), the board shall grant reservations:

(1) in the order determined by the board by lot; and

(2) in a manner that ensures that:

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

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

(d) Before June 1, or March 1 for regions in which no applications for state ceiling were received, the board shall apportion the amount of the state ceiling set aside under Subsection (a)(2) among the uniform state service regions according to the percentage of the state's population that resides in each of those regions.

(e) Until May 15 of each year for each of ~~[For]~~ the uniform state service regions containing Austin, Dallas, or ~~[and]~~ Houston, the board shall reserve for areas in the region that are located outside ~~[additionally apportion the amount of the state ceiling set aside for each of those regions under Subsection (d) within the region according to the percentage of the region's population that resides in]~~ a metropolitan statistical area \$15 million of the state ceiling set aside for the region under Subsection (d) ~~[and the percentage of the region's population that resides outside of a metropolitan statistical area]~~.

(h) An application by an issuer of qualified residential rental project bonds that is submitted after the deadline for eligibility to participate in the lottery has a priority lower than that of every application submitted before that date.

SECTION 5. Subsection (b), Section 1372.024, Government Code, is amended to read as follows:

(b) The amount removed under Subsection (a) may not exceed 8.0 ~~[4.5]~~ percent of the state ceiling.

SECTION 6. Section 1372.028, Government Code, is amended by adding Subsection (e) to read as follows:

(e) If an issuer applied the previous year for a reservation for qualified mortgage bonds and has not received the reservation at the time of application for the lottery, the issuer, instead of filing a complete application under Subsection (c), may file a

statement stating whether or not there are changes from the application filed the previous year, and if there are changes, stating the changes. An issuer filing a statement under this subsection must pay the same application fee required of a complete application.

SECTION 7. Subchapter B, Chapter 1372, Government Code, is amended by adding Section 1372.0281 to read as follows:

Sec. 1372.0281. INFORMATION REQUIRED OF ISSUERS OF CERTAIN QUALIFIED STUDENT LOAN BONDS. (a) An issuer of qualified student loan bonds authorized by Section 53.47, Education Code, shall provide to the board together with its application for a reservation information required by board rule.

(b) The board may require an issuer described by Subsection (a) to provide information with its application, or to supplement the application with information, that includes:

- (1) financial statements;
- (2) portfolio amounts;
- (3) default rates;
- (4) descriptions of how student loans are being used or spent; and
- (5) information about the issuer's client agencies.

SECTION 8. Subsection (a), Section 1372.0321, Government Code, as added by Chapters 1367 and 1420, Acts of the 77th Legislature, Regular Session, 2001, is amended to read as follows:

(a) In granting reservations to issuers of qualified residential rental project issues, the board shall:

- (1) give first priority to:
  - (A) projects in which 50 ~~100~~ percent of the residential units in the projects are under the restriction that the maximum allowable rents are an amount equal to 30 percent of 50 percent of the area median family income minus an allowance for utility costs and reserved for families and individuals earning less than or equal to 50 percent of the area median income as authorized under the federal low-income housing tax credit program with the remaining 50 percent of the residential units under the restriction that the maximum allowable rents are an amount equal to 30 percent of 60 percent of the area median family income minus an allowance for utility costs and reserved for families and individuals earning less than or equal to 60 percent of the area median income as authorized under the federal low-income housing tax credit program;

(B) projects in which 15 percent of the residential units in the projects are under the restriction that the maximum allowable rents are an amount equal to 30 percent of 30 percent of the area median family income minus an allowance for utility costs and reserved for families and individuals earning less than or equal to 30 percent of the area median income as calculated in a manner consistent with the federal low-income housing tax credit program with the remaining 85 percent of the residential units under the restriction that the maximum allowable rents are an amount equal to 30 percent of 60 percent of the area median family income minus an allowance for utility costs and reserved for families and individuals earning less than or equal to 60 percent of the area median income as authorized under the federal low-income housing tax credit program;

(C) projects in which 100 percent of the residential units in the projects are under the restriction that the maximum allowable rents are an amount equal to 30 percent of 60 percent of the area median family income minus an allowance for utility costs and reserved for families and individuals earning less than or equal to 60 percent of the area median income as authorized under the federal low-income housing tax credit program and which are located in a census tract in which the median income, based on the most current available information as published by the Bureau of the Census as of October 1 of the year preceding the applicable program year, is higher than the median income for the county, metropolitan statistical area, or primary metropolitan statistical area in which the census tract is located as established by the United States Department of Housing and Urban

Development on the same date; and

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

(2) give second priority to projects in which 100 percent of the residential units in the projects are under the restriction that the maximum allowable rents are an amount equal to 30 percent of 60 percent of the area median family income minus an allowance for utility costs authorized under the federal low-income housing tax credit program; and

(3) give third priority to any other qualified residential rental project.

SECTION 9. Section 1372.037, Government Code, is amended to read as follows:

Sec. 1372.037. LIMITATIONS ON GRANTING OF RESERVATIONS FOR INDIVIDUAL PROJECTS. (a) Except as provided by Subsection (b), before [Before] September 1[, for any one project,] the board may not grant for any single project a reservation for that year that is greater than:

(1) \$25 million, if the issuer is an issuer of qualified mortgage bonds, other than the Texas Department of Housing and Community Affairs;

(2) \$50 million, if the issuer is an issuer of a state-voted issue, other than the Texas Higher Education Coordinating Board, or \$75 million, if the issuer is the Texas Higher Education Coordinating Board;

(3) the amount to which the Internal Revenue Code limits issuers of qualified small issue bonds and enterprise zone facility bonds, if the issuer is an issuer of those bonds;

(4) the lesser of \$15 million or 15 percent of the amount set aside for reservation by issuers of qualified residential rental project bonds, if the issuer is an issuer of those bonds;

(5) \$35 million, if the issuer is an issuer authorized by Section 53.47, Education Code, to issue qualified student loan bonds; or

(6) \$25 million, if the issuer is any other issuer of bonds that require an allocation.

(b) The board may grant to the Texas Water Development Board a reservation for not more than \$150 million of the available state ceiling as an issuer of state-voted issues if at least \$100 million of the proceeds are for a water development issue.

SECTION 10. Subsection (a), Section 1372.039, Government Code, is amended to read as follows:

(a)(1) Not later than the 35th day after an issuer's reservation date, the issuer shall submit to the board:

(A) ~~[(1)]~~ a certificate signed by an authorized representative of the issuer that certifies the principal amount of the bonds to be issued; and

(B) ~~[(2)]~~ a list of finance team members and their addresses and telephone numbers.

(2) If an issuer does not submit the documents as required by Subdivision (1), the issuer may submit the documents not later than the third day after the end of the 35-day period accompanied by evidence of extenuating circumstances that prevented a timely filing. The board shall review the late filing and, based on the extenuating circumstances, may permit the late filing.

SECTION 11. Section 1372.042, Government Code, is amended by amending Subsections (a), (b), and (c) and adding Subsection (a-1) to read as follows:

(a) An issuer other than an issuer of qualified residential rental project bonds, an issuer of state-voted issues, or an issuer of qualified mortgage bonds shall close on the bonds for which the reservation was granted not later than the 120th day after the reservation date.

(a-1) An issuer of qualified residential rental project

bonds shall close on the bonds for which the reservation was granted not later than the 150th day after the reservation date. If an issuer of qualified residential rental project bonds fails to close on the bonds for which a reservation was granted, the issuer shall pay the full closing fee provided under Section 1372.006(b) if the application is not withdrawn before the 120th day after the reservation date.

(b) An issuer of state-voted issues or an issuer of qualified mortgage revenue bonds shall close on the bonds for which the reservation was granted not later than the 180th day after the reservation date.

(c) Notwithstanding Subsections (a), (a-1), and (b), if the 120-day period, the 150-day period, or the 180-day period, as applicable, expires on or after December 24 of the year in which the reservation was granted, the issuer shall close on the bonds before December 24, except that if the applicable period expires after December 31 of that year, the issuer may notify the board in writing before December 24 of the issuer's election to carry forward the reservation and of the issuer's expected bond closing date. In compliance with the requirements of Section 146(f), Internal Revenue Code of 1986, the board shall file in a timely manner a carryforward election with respect to any bonds expected to close after December 31 to permit the bonds to close by the expected date, except that the board may not file the carryforward election after February 15 of the year following the year in which the reservation was granted. The grant of the reservation for the balance of the 120-day period, the 150-day period, or the 180-day period, as applicable, is automatically and immediately reinstated on the board's filing of a carryforward election with respect to the reservation.

SECTION 12. Section 2306.6732, Government Code, is amended to read as follows:

Sec. 2306.6732. PUBLIC INFORMATION. (a) The department shall provide information regarding the low income housing tax credit program, including notices of public hearings, meetings, and opening and closing dates for applications for a low income housing tax credit, to local housing departments, any appropriate newspapers of general or limited circulation that serve the community in which the proposed project is to be located, nonprofit organizations, on-site property managers of occupied projects that are the subject of tax credit applications for posting in prominent locations at those projects, and any other interested persons and community groups who request the information. The department shall also publish the information on the department's website.

(b) With funds available under Section 1372.006(a), the department shall establish an affordable housing research and information program to contract for:

(1) periodic market studies to determine the need for housing for families of extremely low, very low, and low income within census tracts throughout the state;

(2) research from qualified professionals to determine the effect of affordable housing developments on property values, social conditions, and quality of life in surrounding neighborhoods;

(3) independent research in affordable housing design and development approaches that enhance community acceptance of affordable housing and improve the quality of life for the residents of the housing; and

(4) public education and outreach efforts to assist the public in understanding the nature and purpose of affordable housing and the process for public participation in the administration of affordable housing programs.

SECTION 13. This Act takes effect September 1, 2003. The changes in law made by this Act apply only in relation to a reservation of the state ceiling that will be granted on or after January 1, 2004.

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