

By: Menendez, Talton, et al.

H.B. No. 2714

Substitute the following for H.B. No. 2714:

By: Talton

C.S.H.B. No. 2714

A BILL TO BE ENTITLED

AN ACT

relating to the operation and functions of the Texas Department of
Housing and Community Affairs.

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

SECTION 1. Section 2306.004, Government Code, is amended by
adding Subdivisions (12-a), (23-a), (28-a), and (35) to read as
follows:

(12-a) "Historically underserved urban area" means an
urban area described by Section 2306.1116.

(23-a) "Person with a disability" means a person,
other than a person with a current condition of addiction to
alcohol, a drug, an illegal substance, or a federally controlled
substance, who:

(A) is able to participate in substantial gainful
activity only with the use of auxiliary apparatus, by reason of a
medically determinable physical or mental impairment:

(i) that has lasted or can be expected to
last for a continuous period of not less than 12 months or that can
be expected to result in death;

(ii) that substantially impedes the
person's ability to live independently; and

(iii) that is of such a nature that the
impairment could be improved by more suitable housing conditions;

or

1 (B) has a severe, chronic disability that:

2 (i) is attributable to a medically
3 determinable mental or physical impairment or a combination of
4 those types of impairments;

5 (ii) is manifested before the person
6 attains age 22;

7 (iii) is likely to continue indefinitely;
8 and

9 (iv) results in substantial functional
10 limitations in three or more of the following areas of major life
11 activity:

12 (a) self-care;

13 (b) receptive and expressive
14 language;

15 (c) learning;

16 (d) mobility;

17 (e) self-direction;

18 (f) capacity for independent living;

19 or

20 (g) economic self-sufficiency.

21 (28-a) "Rural area" means an area that is located:

22 (A) outside the boundaries of a primary
23 metropolitan statistical area or a metropolitan statistical area;

24 (B) within the boundaries of a primary
25 metropolitan statistical area or a metropolitan statistical area,
26 if the statistical area has a population of 25,000 or less and does
27 not share a boundary with an urban area; or

1 (C) in an area that is eligible for funding by the
2 Texas Rural Development Office of the United States Department of
3 Agriculture.

4 (35) "Urban area" means the area that is located
5 within the boundaries of a primary metropolitan statistical area or
6 a metropolitan statistical area other than an area described by
7 Subdivision (28-a)(B) or (C).

8 SECTION 2. Section 2306.093, Government Code, is amended to
9 read as follows:

10 Sec. 2306.093. HOUSING ASSISTANCE GOAL. In administering
11 the programs under this subchapter, the department [~~By action of~~
12 ~~the board the community affairs division~~] shall have a goal to apply
13 a minimum of 25 percent of the community affairs division's total
14 housing-related funds toward housing assistance for individuals
15 and families of very low income.

16 SECTION 3. Section 2306.111, Government Code, is amended by
17 amending Subsections (b), (c-2), (d), (e), (f), and (i) and adding
18 Subsections (c-3) and (d-2) to read as follows:

19 (b) The department [~~housing finance division~~] shall adopt a
20 goal to apply an aggregate minimum of 25 percent of the housing
21 finance division's total housing funds toward housing assistance
22 for individuals and families of extremely low and very low income if
23 it is possible to obtain from other governmental sources the rental
24 assistance operating subsidies that are necessary to meet that
25 goal.

26 (c-2) In allocating set-aside funds under Subsection (c),
27 the department may not give preference to nonprofit providers of

1 affordable housing, except as expressly required by federal law.

2 (c-3) The department by rule shall set aside five percent of
3 the funds available under Subsection (c) for the benefit of persons
4 with a disability who live in non-participating rural areas that do
5 not qualify to receive funds under the Cranston-Gonzalez National
6 Affordable Housing Act (42 U.S.C. Section 12701 et seq.) directly
7 from the United States Department of Housing and Urban Development.
8 The department shall annually use \$10 million of the funds
9 available under Subsection (c) for multifamily housing development
10 construction or rehabilitation in an application cycle that is open
11 to all eligible applicants under Section 2306.202. If the
12 department does not receive a sufficient number of financially
13 feasible applications for housing for persons with a disability or
14 for multifamily housing development construction or rehabilitation
15 during the first 120 days of the application cycle, the funds shall
16 be made available for other purposes authorized under the
17 Cranston-Gonzalez National Affordable Housing Act (42 U.S.C.
18 Section 12701 et seq.).

19 (d) The department shall allocate housing funds provided to
20 the state under the Cranston-Gonzalez National Affordable Housing
21 Act (42 U.S.C. Section 12701 et seq.), housing trust funds
22 administered by the department under Sections 2306.201-2306.206,
23 and commitments issued under the federal low income housing tax
24 credit program administered by the department under Subchapter DD
25 to all urban areas, historically underserved urban [~~urban/exurban~~]
26 areas, and rural areas of each uniform state service region based on
27 a formula developed by the department that is based on the need for

1 housing assistance and the availability of housing resources in
2 those urban areas, historically underserved urban [~~urban/exurban~~]
3 areas, if applicable, and rural areas, provided that the
4 allocations are consistent with applicable federal and state
5 requirements and limitations. The department shall use the
6 information contained in its annual state low income housing plan
7 and shall use other appropriate data to develop the formula. For
8 purposes of the formula, in determining the availability of housing
9 resources with respect to the department's multifamily housing
10 development construction or rehabilitation programs, the
11 department shall consider the dollar amount of multifamily tax
12 exempt bonds, HOME funds used for multifamily housing development
13 construction or rehabilitation, and financing provided by or
14 through a local government for construction or rehabilitation of
15 multifamily housing developments that are restricted to
16 individuals and families who earn 60 percent or less of the area
17 median income as adjusted for family size. The department may not
18 consider financing involved in the transfer of ownership of an
19 existing development. If the department determines under the
20 formula that an insufficient number of eligible applications for
21 assistance out of funds or credits allocable under this subsection
22 are submitted to the department from a particular uniform state
23 service region, the department shall use the unused funds or
24 credits allocated to that region for all urban areas, historically
25 underserved urban [~~urban/exurban~~] areas, if applicable, and rural
26 areas in other uniform state service regions based on identified
27 need and financial feasibility.

1 (d-2) Notwithstanding Subsection (d), if the department
2 determines that there is less than \$5 million in housing trust funds
3 available in a calendar year to allocate according to Sections
4 2306.201-2306.206, the department shall allocate the housing trust
5 funds among the uniform state service regions without dividing the
6 funds between urban and rural areas. For each uniform state service
7 region, the department must make the first award of funds under this
8 subsection to the applicant with the highest scoring rural
9 application.

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

12 (1) the formula developed by the department under
13 Subsection (d); and

14 (2) the allocation targets established under the
15 formula for the urban areas, historically underserved urban
16 [urban/exurban] areas, if applicable, and rural areas of each
17 uniform state service region.

18 (f) The department shall include in its annual low income
19 housing report under Section 2306.072 the amounts of funds and
20 credits allocated to the urban areas, historically underserved
21 urban [urban/exurban] areas, if applicable, and rural areas of each
22 uniform state service region in the preceding year for each federal
23 and state program affected by the requirements of Subsection (d).

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. The department liaison

1 shall provide written notice to the state senator and state
2 representative of the district containing the development that is
3 the subject of the application. The liaison shall provide to the
4 elected state officials during the application process periodic
5 status reports containing information relating to department or
6 board actions on the application.

7 SECTION 4. Section 2306.1111(a), Government Code, is
8 amended to read as follows:

9 (a) Notwithstanding any other state law and to the extent
10 consistent with federal law, the department shall establish a
11 uniform application and funding cycle for all single-family and
12 multifamily housing programs administered by the department under
13 this chapter, including a uniform application and funding cycle for
14 housing sponsors of multifamily housing developments applying for
15 funding under the housing funds provided to the state under the
16 Cranston-Gonzalez National Affordable Housing Act (42 U.S.C.
17 Section 12701 et seq.), housing trust funds administered by the
18 department under Sections 2306.201-2306.206, and commitments
19 issued under the federal low income housing tax credit program
20 administered by the department under Subchapter DD. If the
21 department does not receive during the uniform application and
22 funding cycle a sufficient number of financially feasible
23 applications for housing funds provided to the state under the
24 Cranston-Gonzalez National Affordable Housing Act (42 U.S.C.
25 Section 12701 et seq.) or housing trust funds administered by the
26 department under Sections 2306.201-2306.206, the department shall
27 consider additional applications. During the first 120 days of an

1 application and funding cycle for housing funds provided to the
2 state under the Cranston-Gonzalez National Affordable Housing Act
3 (42 U.S.C. Section 12701 et seq.) or housing trust funds
4 administered by the department under Sections 2306.201-2306.206,
5 the department may not consider applications requesting a grant of
6 funds.

7 SECTION 5. Subchapter F, Chapter 2306, Government Code, is
8 amended by adding Section 2306.1116 to read as follows:

9 Sec. 2306.1116. HISTORICALLY UNDERSERVED URBAN AREAS. (a)
10 In this subchapter, a historically underserved urban area is a
11 community that:

12 (1) in uniform state service region three:

13 (A) is located in Collin, Dallas, Denton, Ellis,
14 Hood, Hunt, Kaufman, Johnson, Parker, Rockwall, or Tarrant County;

15 (B) is not located within the municipal
16 boundaries of Arlington, Dallas, or Fort Worth; and

17 (C) does not meet the definition of a rural area;

18 (2) in uniform state service region six:

19 (A) is located in Chambers, Fort Bend, Harris,
20 Liberty, Montgomery, or Waller County;

21 (B) is not located within the municipal
22 boundaries of Houston; and

23 (C) does not meet the definition of a rural area;

24 (3) in uniform state service region seven:

25 (A) is located in Bastrop, Caldwell, Hays,
26 Travis, or Williamson County;

27 (B) is not located within the municipal

1 boundaries of Austin; and

2 (C) does not meet the definition of a rural area;

3 or

4 (4) in uniform state service region nine:

5 (A) is located in Atascosa, Bexar, Comal,
6 Guadalupe, or Wilson County;

7 (B) is not located within the municipal
8 boundaries of San Antonio; and

9 (C) does not meet the definition of a rural area.

10 (b) The identification of the counties described by
11 Subsection (a) shall be periodically adjusted as necessary to
12 conform with the definition or identification of metropolitan
13 statistical areas for uniform state service regions three, six,
14 seven, and nine.

15 (c) In administering the federal low income housing tax
16 credit program, the department shall further subdivide the urban
17 allocation in any uniform state service region containing a
18 historically underserved urban area, based on the ratio in
19 population between the total number of historically underserved
20 urban areas within an urban area and the population of the urban
21 area as a whole.

22 (d) Notwithstanding this section and Section 2306.111,
23 before the application of the regional allocation formula for
24 calendar years 2006 and 2007, the department shall allocate an
25 additional \$2 million per year to uniform state service region
26 nine, an additional \$1 million per year to uniform state service
27 region 13, and an additional \$750,000 per year to uniform state

1 service region 11 to alleviate the underfunding for those uniform
2 state service regions in prior years.

3 (e) The department shall use forward financial commitments
4 in 2005 or 2006 to satisfy the provisions of Subsection (d).

5 (f) In allocating federal low income housing tax credit
6 commitments under Subchapter DD, the department shall use five
7 percent of each uniform state service region's allocation to
8 developments financed through the Texas Rural Development Office of
9 the United States Department of Agriculture that:

10 (1) do not exceed 48 units if the development requires
11 new construction; or

12 (2) are any size if rehabilitation is involved.

13 (g) Any funds allocated to developments that satisfy the
14 requirements of this section and that involve rehabilitation must
15 come from the funds set aside for at-risk developments under
16 Section 2306.6714.

17 SECTION 6. Section 2306.111(g), Government Code, is
18 repealed.

19 SECTION 7. The changes in law made by this Act relating to
20 the evaluation of applications for financial assistance
21 administered by the Texas Department of Housing and Community
22 Affairs apply only to an application submitted on or after the
23 effective date of this Act. An application submitted before the
24 effective date of this Act is governed by the law in effect when the
25 application was submitted, and the former law is continued in
26 effect for that purpose.

27 SECTION 8. This Act takes effect immediately if it receives

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1 a vote of two-thirds of all the members elected to each house, as
2 provided by Section 39, Article III, Texas Constitution. If this
3 Act does not receive the vote necessary for immediate effect, this
4 Act takes effect September 1, 2005.