

By: Madla

S.B. No. 1341

Substitute the following for S.B. No. 1341:

By: Blake

C.S.S.B. No. 1341

A BILL TO BE ENTITLED

AN ACT

relating to the Texas Department of Housing and Community Affairs.

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

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

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

(1) assist ~~[local governments]~~ in:

(A) providing essential housing ~~[public]~~ services for Texans of modest income ~~[their residents]~~; and

(B) overcoming financial, social, and environmental problems as they relate to community housing needs;

(2) assist Texans in achieving an improved quality of life through the development of better communities by providing the financing necessary for housing for ~~[provide for the housing needs of]~~ individuals and families of modest income while acknowledging the importance of preserving the existing character of established neighborhoods ~~[low, very low, and extremely low income and families of moderate income]~~;

(3) contribute to the preservation, development, and redevelopment of neighborhoods and communities, including assisting ~~[cooperation]~~ in the preservation of government-assisted housing ~~[occupied by individuals and families of very low and extremely low income]~~;

1 (4) assist the governor and the legislature in  
2 coordinating federal and state housing programs [~~affecting local~~  
3 ~~government~~];

4 (5) inform state officials and the public of the  
5 housing needs of the state [~~local government~~];

6 (6) serve as the lead agency for:

7 (A) addressing at the state level the problem of  
8 homelessness in this state;

9 (B) coordinating interagency efforts to address  
10 homelessness; and

11 (C) addressing at the state level and  
12 coordinating interagency efforts to address any problem associated  
13 with homelessness [~~, including hunger~~]; and

14 (7) serve as a source of information to the public  
15 regarding state [~~all~~] affordable housing resources available to  
16 local communities [~~and community support services in the state~~].

17 SECTION 2. Section 2306.002, Government Code, is amended to  
18 read as follows:

19 Sec. 2306.002. POLICY. (a) The legislature finds that:

20 (1) every resident of this state should have a decent,  
21 safe, and affordable living environment;

22 (2) government at all levels should be involved in  
23 assisting individuals and families of low income in obtaining a  
24 decent, safe, and affordable living environment; [~~and~~]

25 (3) the development and diversification of the  
26 economy, the elimination of unemployment or underemployment, and  
27 the development or expansion of commerce in this state should be

1 encouraged;

2 (4) there exists within all regions of this state a  
3 shortage of sanitary and safe residential housing at sale or rental  
4 prices that individuals and families of low income and families of  
5 moderate income can afford;

6 (5) the shortage described by Subdivision (4) has  
7 contributed to and will contribute to the creation and persistence  
8 of substandard living conditions that are inimical to the health,  
9 welfare, and prosperity of the communities of all regions of this  
10 state and the residents of those communities; and

11 (6) the minimization of administrative costs and  
12 requirements and the simplification of the financing system will  
13 maximize the available resources for affordable housing.

14 (b) The highest priority of the department is to provide  
15 assistance to enable individuals and families of low and very low  
16 income to to ~~[who are not assisted by private enterprise or other~~  
17 ~~governmental programs so that they may]~~ obtain affordable housing  
18 or other services and programs offered by the department.

19 SECTION 3. Section 2306.004, Government Code, is amended by  
20 amending Subdivisions (4) and (14) and adding Subdivisions (6-a),  
21 (12-a), (12-b), (12-c), (12-d), (23-a), (23-b), (28-a), (28-b), and  
22 (35) to read as follows:

23 (4) "Department" means the Texas Department of Housing  
24 and Community Affairs or any successor agency.

25 (6-a) "Economic submarket" means a group of borrowers  
26 who have common home mortgage loan market eligibility  
27 characteristics, including income level, credit history or credit

1 score, and employment characteristics, that are similar to Standard  
2 and Poor's credit underwriting criteria.

3 (12-a) "Forgivable loan" means a loan that a housing  
4 sponsor is not required to repay if certain conditions are met that  
5 the housing sponsor and the lender agreed on at the time of loan  
6 origination.

7 (12-b) "Geographic submarket" means a geographic  
8 region in the state, including a county, census tract, or  
9 municipality, that shares similar levels of access to home mortgage  
10 credit from the private home mortgage lending industry, as  
11 determined by the department based on home mortgage lending data  
12 published by federal and state banking regulatory agencies.

13 (12-c) "Grant" means an award of financial assistance  
14 that is in the form of money from the department to a housing  
15 sponsor for a specific purpose and that is not required to be  
16 repaid. For purposes of this chapter, a grant does not include a  
17 forgivable loan or other loan or an allocation of low income housing  
18 tax credits.

19 (12-d) "Historically underserved urban area" means an  
20 urban area described by Section 2306.1116.

21 (14) "Housing sponsor" means[+  
22 [~~(A)~~] an individual, [~~including an individual or~~  
23 ~~family of low and very low income or family of moderate income,~~]  
24 joint venture, partnership, limited partnership, trust, firm,  
25 corporation, limited liability company, other form of business  
26 organization, or cooperative that is approved by the department as  
27 qualified to own, construct, acquire, rehabilitate, operate,

1 manage, or maintain a housing development, subject to the  
2 regulatory powers of the department and other terms and conditions  
3 in this chapter [~~or~~

4 [~~(B) in an economically depressed or blighted~~  
5 ~~area, or in a federally assisted new community located within a~~  
6 ~~home-rule municipality, the term may include an individual or~~  
7 ~~family whose income exceeds the moderate income level if at least 90~~  
8 ~~percent of the total mortgage amount available under a mortgage~~  
9 ~~revenue bond issue is designated for individuals and families of~~  
10 ~~low income or families of moderate income].~~

11 (23-a) "Neighborhood association" means an  
12 organization that is composed of persons living near one another  
13 within the organization's defined boundaries for the neighborhood  
14 and that has a primary purpose of working to maintain or improve the  
15 general welfare of the neighborhood. A neighborhood association  
16 includes a homeowners' association, a tenants' association,  
17 including a residents' council, or a property owners' association.  
18 A neighborhood association does not include:

19 (A) a broader based community organization;  
20 (B) an organization composed of only board  
21 members of the organization;

22 (C) a chamber of commerce;  
23 (D) a community development corporation;  
24 (E) a school-related organization;  
25 (F) the Lions, Rotary, and Kiwanis Clubs and  
26 similar civic organizations;

27 (G) Habitat for Humanity;

1 (H) Boys and Girls Clubs;

2 (I) charities;

3 (J) public housing authorities; or

4 (K) any governmental entity.

5 (23-b) "Person with a disability" means:

6 (A) a person who has a physical, mental, or  
7 emotional impairment that:

8 (i) is expected to be of long, continued,  
9 and indefinite duration;

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

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

14 (B) a person who has a developmental disability,  
15 as defined by the Developmental Disabilities Assistance and Bill of  
16 Rights Act of 2000 (42 U.S.C. Section 15001 et seq.); or

17 (C) a person with disabilities, as defined by 24  
18 C.F.R. Section 5.403.

19 (28-a) "Rural area" means an area that is located:

20 (A) outside the boundaries of a primary  
21 metropolitan statistical area or a metropolitan statistical area;

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

26 (C) in an area that is eligible for funding by the  
27 Texas Rural Development Office of the United States Department of

1 Agriculture.

2 (28-b) "Rural development" means a development or  
3 proposed development that is located in a rural area.

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 4. Section 2306.008(b), Government Code, is amended  
9 to read as follows:

10 (b) The department shall support the preservation of  
11 affordable housing under this chapter [~~section~~] by:

12 (1) making low interest financing and grants available  
13 to private for-profit and nonprofit buyers who seek to acquire,  
14 preserve, and rehabilitate affordable housing; and

15 (2) prioritizing available funding and financing  
16 resources for affordable housing preservation activities.

17 SECTION 5. Sections 2306.027 and 2306.028, Government Code,  
18 are amended to read as follows:

19 Sec. 2306.027. ELIGIBILITY. (a) The governor shall  
20 appoint to the board public members who have a demonstrated  
21 interest in issues related to housing and community support  
22 services. A person appointed to the board must be a registered  
23 voter in the state and may not hold another public office. The  
24 governor shall endeavor to appoint to the board at least one person  
25 with experience as a member or leader of a neighborhood  
26 association.

27 (b) Appointments to the board shall be made without regard

1 to the race, color, disability, sex, religion, age, or national  
2 origin of the appointees and shall be made in a manner that produces  
3 representation on the board of the different geographical regions  
4 of this state. The governor shall endeavor to appoint  
5 ~~[Appointments]~~ to the board persons who ~~[must broadly]~~ reflect the  
6 geographic, economic, cultural, and social diversity of the state,  
7 including ethnic minorities, persons with disabilities, and women.

8 (c) A person may not be a member of the board if the person  
9 or the person's spouse:

10 (1) is employed by or participates in the management  
11 of a business entity or other organization regulated by or  
12 receiving money from the department;

13 (2) owns or controls, directly or indirectly, any  
14 ~~[more than a 10 percent]~~ interest in a business entity or other  
15 organization regulated by or receiving money from the department;  
16 or

17 (3) uses or receives any ~~[a substantial]~~ amount of  
18 tangible goods, services, or money from the department other than  
19 compensation or reimbursement authorized by law for board  
20 membership, attendance, or expenses.

21 (d) Each board member shall publicly disclose, and  
22 periodically update, any ownership or other interest or involvement  
23 with a multifamily development or low income housing tax credit  
24 development, regardless of whether the development is located in  
25 this state or in another state.

26 Sec. 2306.028. TRAINING. (a) A person who is appointed to  
27 and qualifies for office as a member of the board may not vote,



1 deliberate, or be counted as a member in attendance at a meeting of  
2 the board until the person completes a department training program  
3 and an industry training program, if one is available at no cost to  
4 the department, that each comply [~~complies~~] with this section.

5 (b) The department training program must provide the person  
6 with information regarding:

7 (1) the legislation that created the department and  
8 the board;

9 (2) the programs operated by the department;

10 (3) the role and functions of the department and the  
11 board, including the role and functions of the department and the  
12 board with respect to the administration of the appeals and  
13 alternative dispute resolution processes under this chapter;

14 (4) the rules of the department, with an emphasis on  
15 the rules that relate to disciplinary and investigatory authority;

16 (5) the current budget for the department;

17 (6) the results of the most recent formal audit of the  
18 department;

19 (7) the requirements of:

20 (A) the open meetings law, Chapter 551;

21 (B) the public information law, Chapter 552;

22 (C) the administrative procedure law, Chapter  
23 2001; and

24 (D) other laws relating to public officials,  
25 including conflict-of-interest laws;

26 (8) the requirements of:

27 (A) state and federal fair housing laws,

1 including Chapter 301, Property Code, Title VIII of the Civil  
2 Rights Act of 1968 (42 U.S.C. Section 3601 et seq.), and the Fair  
3 Housing Amendments Act of 1988 (42 U.S.C. Section 3601 et seq.);

4 (B) the Civil Rights Act of 1964 (42 U.S.C.  
5 Section 2000a et seq.);

6 (C) the Americans with Disabilities Act of 1990  
7 (42 U.S.C. Section 12101 et seq.); and

8 (D) the Rehabilitation Act of 1973 (29 U.S.C.  
9 Section 701 et seq.); and

10 (9) any applicable ethics policies adopted by the  
11 department or the Texas Ethics Commission.

12 (b-1) The industry training program must be presented by an  
13 organization that regularly conducts seminars or training in the  
14 field of banking, real estate, housing development, or housing  
15 construction and must provide information regarding the single  
16 family and multifamily bond programs and the federal housing  
17 programs administered by the department. If the department is  
18 unable to provide an industry training program to a specific person  
19 at no cost to the department, the industry training program  
20 requirement is deferred for that person only until a program is  
21 available at no cost to the department.

22 (c) A person appointed to the board is entitled to  
23 reimbursement, as provided by the General Appropriations Act, for  
24 the travel expenses incurred in attending a ~~the~~ training program  
25 regardless of whether the attendance at the program occurs before  
26 or after the person qualifies for office.

27 SECTION 6. Sections 2306.032(b) and (d), Government Code,

1 are amended to read as follows:

2 (b) The board shall keep complete minutes of board meetings.  
3 The accounts, minutes, and other records, including meeting  
4 transcripts and transcript tapes, shall be maintained in their  
5 entirety by the department. The board shall maintain printed and  
6 electronic copies of the verbatim transcription of previous board  
7 meetings and make those copies available to the public on request.

8 (d) The materials described by Subsection (c), if relevant  
9 to an award decision, must be made available to the public as  
10 required by Subsection (c) not later than the seventh day before the  
11 date of the meeting. Any other materials described by Subsection  
12 (c) must be made available to the public as required by Subsection  
13 (c) not later than the third day before the date of the meeting. The  
14 board may not consider at the meeting any material that is not made  
15 available to the public by the date required by this subsection.

16 SECTION 7. Section 2306.0321(a), Government Code, is  
17 amended to read as follows:

18 (a) The board shall adopt rules outlining a formal process  
19 for appealing in a timely and meaningful manner board and  
20 department decisions, including, in accordance with Section  
21 2306.082, the use of an alternative dispute resolution process.

22 SECTION 8. Section 2306.036(b), Government Code, is amended  
23 to read as follows:

24 (b) The [~~After the election of a governor who did not~~  
25 ~~approve the director's employment under Subsection (a), that]~~  
26 governor may remove the director and require the board to employ a  
27 new director in accordance with Subsection (a). [~~The governor must~~

1 ~~act under this subsection before the 90th day after the date the~~  
2 ~~governor takes office.]~~

3 SECTION 9. Section 2306.033(a), Government Code, is amended  
4 to read as follows:

5 (a) It is a ground for removal from the board that a member:

6 (1) does not have at the time of taking office the  
7 qualifications required by Section 2306.027;

8 (2) does not maintain during service on the board the  
9 qualifications required by Section 2306.027;

10 (3) is ineligible for membership under Section  
11 2306.027(c), 2306.034, or 2306.035;

12 (4) cannot, because of illness or disability,  
13 discharge the member's duties for a substantial part of the member's  
14 term;

15 (5) is absent from more than half of the regularly  
16 scheduled board meetings that the member is eligible to attend  
17 during a calendar year without an excuse approved by a majority vote  
18 of the board; ~~[or]~~

19 (6) engages in misconduct or unethical ~~[or criminal]~~  
20 behavior; or

21 (7) is indicted for a criminal offense related to the  
22 member's official duties and punishable as a felony or otherwise  
23 engages in criminal behavior.

24 SECTION 10. Section 2306.039, Government Code, is amended  
25 to read as follows:

26 Sec. 2306.039. OPEN MEETINGS AND OPEN RECORDS. (a) Except  
27 as provided by Subsections ~~[Subsection]~~ (b) and (c), the department

1 and the Texas State Affordable Housing Corporation are subject to  
2 Chapters 551 and 552.

3 (b) Chapters 551 and 552 do [~~This section does~~] not apply to  
4 the personal or business financial information, including social  
5 security numbers, taxpayer identification numbers, or bank account  
6 numbers, submitted by an individual or family for a loan, grant, or  
7 other housing assistance under a program administered by the  
8 department or the Texas State Affordable Housing Corporation or  
9 from bonds issued by the department, except that the department and  
10 the corporation are permitted to disclose information about any  
11 applicant in a form that does not reveal the identity of the  
12 individual or family for purposes of determining eligibility for  
13 programs and in preparing reports required under this chapter.

14 (c) The board may meet in executive session with the  
15 department's internal auditor, fraud prevention coordinator, or  
16 ethics advisor to discuss issues related to fraud, waste, or abuse.

17 SECTION 11. Section 2306.070, Government Code, is amended  
18 to read as follows:

19 Sec. 2306.070. BUDGET. (a) In preparing the department's  
20 legislative appropriations request, the department shall also  
21 prepare:

22 (1) a report detailing the fees received, on a cash  
23 basis, for each activity administered by the department during each  
24 of the three preceding years;

25 (2) an operating budget for the housing finance  
26 division; and

27 (3) an explanation of any projected increase or

1 decrease of three percent or more in fees estimated for the  
2 operating budget as compared to the fees received in the most recent  
3 budget year.

4 (b) The department shall submit the report, operating  
5 budget, and explanation to the Legislative Budget Board, the Senate  
6 Finance Committee, and the House Appropriations Committee.

7 SECTION 12. Section 2306.072(c), Government Code, is  
8 amended to read as follows:

9 (c) The report must include:

10 (1) a complete operating and financial statement of  
11 the department;

12 (2) a comprehensive statement of the activities of the  
13 department during the preceding year to address the needs  
14 identified in the state low income housing plan prepared as  
15 required by Section 2306.0721~~[, including:~~

16 [~~(A) a statistical and narrative analysis of the~~  
17 ~~department's performance in addressing the housing needs of~~  
18 ~~individuals and families of low and very low income;~~

19 [~~(B) the ethnic and racial composition of~~  
20 ~~individuals and families applying for and receiving assistance from~~  
21 ~~each housing-related program operated by the department; and~~

22 [~~(C) the department's progress in meeting the~~  
23 ~~goals established in the previous housing plan;~~

24 [~~(3) an explanation of the efforts made by the~~  
25 ~~department to ensure the participation of individuals of low income~~  
26 ~~and their community-based institutions in department programs that~~  
27 ~~affect them;~~

1           ~~[(4) a statement of the evidence that the department~~  
2 ~~has made an affirmative effort to ensure the involvement of~~  
3 ~~individuals of low income and their community-based institutions in~~  
4 ~~the allocation of funds and the planning process;~~

5           ~~[(5) a statistical analysis, delineated according to~~  
6 ~~each ethnic and racial group served by the department, that~~  
7 ~~indicates the progress made by the department in implementing the~~  
8 ~~state low income housing plan in each of the uniform state service~~  
9 ~~regions;~~

10           ~~[(6) an analysis, based on information provided by the~~  
11 ~~fair housing sponsor reports required under Section 2306.0724 and~~  
12 ~~other available data, of fair housing opportunities in each housing~~  
13 ~~development that receives financial assistance from the department~~  
14 ~~that includes the following information for each housing~~  
15 ~~development that contains 20 or more living units:~~

16                   ~~[(A) the street address and municipality or~~  
17 ~~county in which the property is located;~~

18                   ~~[(B) the telephone number of the property~~  
19 ~~management or leasing agent;~~

20                   ~~[(C) the total number of units, reported by~~  
21 ~~bedroom size;~~

22                   ~~[(D) the total number of units, reported by~~  
23 ~~bedroom size, designed for individuals who are physically~~  
24 ~~challenged or who have special needs and the number of these~~  
25 ~~individuals served annually;~~

26                   ~~[(E) the rent for each type of rental unit,~~  
27 ~~reported by bedroom size;~~

1           ~~[(F) the race or ethnic makeup of each project,~~

2           ~~[(C) the number of units occupied by individuals~~  
3 ~~receiving government-supported housing assistance and the type of~~  
4 ~~assistance received,~~

5           ~~[(H) the number of units occupied by individuals~~  
6 ~~and families of extremely low income, very low income, low income,~~  
7 ~~moderate income, and other levels of income,~~

8           ~~[(I) a statement as to whether the department has~~  
9 ~~been notified of a violation of the fair housing law that has been~~  
10 ~~filed with the United States Department of Housing and Urban~~  
11 ~~Development, the Commission on Human Rights, or the United States~~  
12 ~~Department of Justice, and~~

13           ~~[(J) a statement as to whether the development~~  
14 ~~has any instances of material noncompliance with bond indentures or~~  
15 ~~deed restrictions discovered through the normal monitoring~~  
16 ~~activities and procedures that include meeting occupancy~~  
17 ~~requirements or rent restrictions imposed by deed restriction or~~  
18 ~~financing agreements]; and~~

19           (3) ~~[(7)]~~ a report on the geographic distribution of  
20 low income housing tax credits, the amount of unused low income  
21 housing tax credits, and the amount of low income housing tax  
22 credits received from the federal pool of unused funds from other  
23 states~~, and~~

24           ~~[(8) a statistical analysis, based on information~~  
25 ~~provided by the fair housing sponsor reports required by Section~~  
26 ~~2306.0724 and other available data, of average rents reported by~~  
27 ~~county].~~



1 SECTION 13. Section 2306.0721(c), Government Code, is  
2 amended to read as follows:

3 (c) The plan must include:

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

6 (A) individuals and families of moderate, low,  
7 very low, and extremely low income;

8 (B) individuals with special needs; and

9 (C) homeless individuals;

10 (2) a proposal to use all available housing resources  
11 to address the housing needs of the populations described by  
12 Subdivision (1) by establishing funding levels for all  
13 housing-related programs;

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

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

20 (5) a resource allocation plan that targets all  
21 available housing resources to individuals and families of low and  
22 very low income and individuals with special needs in each uniform  
23 state service region;

24 (6) a description of the department's efforts to  
25 monitor and analyze the unused or underused federal resources of  
26 other state agencies for housing-related services and services for  
27 homeless individuals and the department's recommendations to

1 ensure the full use by the state of all available federal resources  
2 for those services in each uniform state service region;

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

5 (8) a description of the amount of funds and low income  
6 housing tax credits allocated to the urban and rural areas of each  
7 uniform state service region in the preceding year for each federal  
8 or state housing or community service program [~~department's efforts~~  
9 ~~to encourage in each uniform state service region the construction~~  
10 ~~of housing units that incorporate energy efficient construction and~~  
11 ~~appliances~~];

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

14 (10) an inventory of all publicly and, where possible,  
15 privately funded housing resources, including public housing  
16 authorities, housing finance corporations, community housing  
17 development organizations, and community action agencies;

18 (11) strategies for meeting the [rural] housing needs  
19 of rural and historically underserved urban areas;

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

21 (A) addresses current policy goals for colonia  
22 programs, strategies to meet the policy goals, and the projected  
23 outcomes with respect to the policy goals; and

24 (B) includes information on the demand for  
25 contract-for-deed conversions, services from self-help centers,  
26 consumer education, and other colonia resident services in counties  
27 some part of which is within 150 miles of the international border

1 of this state;

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

5 (14) the formula for allocating housing resources  
6 described by Section 2306.111 and the allocation targets  
7 established under the formula; and

8 (15) [(14)] any other housing-related information  
9 that the state is required to include in the one-year action plan of  
10 the consolidated plan submitted annually to the United States  
11 Department of Housing and Urban Development.

12 SECTION 14. Section 2306.0722, Government Code, is amended  
13 to read as follows:

14 Sec. 2306.0722. PREPARATION OF PLAN AND REPORT. (a) Before  
15 preparing the annual low income housing report under Section  
16 2306.072 and the state low income housing plan under Section  
17 2306.0721, the department shall meet with [~~regional planning~~  
18 ~~commissions created under Chapter 391, Local Government Code,~~]  
19 representatives of groups with an interest in low income housing,  
20 nonprofit housing organizations, managers, owners, and developers  
21 of affordable housing, local government officials, residents of low  
22 income housing, and members of the Colonia Resident Advisory  
23 Committee. The department shall obtain the comments and  
24 suggestions of the representatives, officials, residents, and  
25 members about the prioritization and allocation of the department's  
26 resources in regard to housing.

27 (b) In preparing the annual report under Section 2306.072

1 and the state low income housing plan under Section 2306.0721, the  
2 director shall:

3 (1) coordinate local, state, and federal housing  
4 resources, including tax exempt housing bond financing and low  
5 income housing tax credits;

6 (2) set priorities for the available housing resources  
7 to assist [~~help~~] the neediest individuals consistent with the  
8 requirements of this chapter;

9 (3) evaluate the success of publicly financed  
10 [~~supported~~] housing programs;

11 (4) survey and identify the unmet housing needs of  
12 individuals the department is required to assist;

13 (5) ensure that housing programs benefit an individual  
14 without regard to the individual's race, ethnicity, sex, or  
15 national origin;

16 (6) develop housing opportunities for individuals and  
17 families of low and very low income and individuals with special  
18 housing needs;

19 (7) develop housing programs through an open, fair,  
20 and public process;

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

24 (9) incorporate recommendations that are consistent  
25 with the consolidated plan submitted annually by the state to the  
26 United States Department of Housing and Urban Development;

27 (10) identify the organizations and individuals

1 consulted by the department in preparing the annual report and  
2 state low income housing plan and summarize and incorporate  
3 comments and suggestions provided under Subsection (a) as the board  
4 determines to be appropriate;

5 (11) develop a plan to respond to changes in federal  
6 funding and programs for the provision of affordable housing;

7 (12) use the following standardized categories to  
8 describe the income of program applicants and beneficiaries:

9 (A) 0 to 30 percent of area median income  
10 adjusted for family size;

11 (B) more than 30 to 60 percent of area median  
12 income adjusted for family size;

13 (C) more than 60 to 80 percent of area median  
14 income adjusted for family size;

15 (D) more than 80 to 115 percent of area median  
16 income adjusted for family size; or

17 (E) more than 115 percent of area median income  
18 adjusted for family size;

19 (13) use the most recent census data combined with  
20 existing data from local housing and community service providers in  
21 the state, including public housing authorities, housing finance  
22 corporations, community housing development organizations, and  
23 community action agencies; and

24 (14) provide the needs assessment information  
25 compiled for the report and plan to the Texas State Affordable  
26 Housing Corporation.

27 SECTION 15. Sections 2306.081(a) and (b), Government Code,

1 are amended to read as follows:

2 (a) The department, through the division with  
3 responsibility for compliance matters, shall periodically monitor  
4 each project for compliance with all applicable requirements [~~the~~  
5 ~~entire construction phase associated with any project~~] under this  
6 chapter. The monitoring level for each project must be based on the  
7 amount of financial risk directly related to the applicable  
8 lienhold interest of the department in [~~associated with~~] the  
9 project or the minimum level of any federally required compliance  
10 review, unless the department determines based on good cause that  
11 there is a reasonable justification for a higher level of  
12 monitoring for the project. Except for the affordable housing  
13 disposition properties monitored under the memorandum of  
14 understanding between the department and the Federal Deposit  
15 Insurance Corporation, the cost of compliance monitoring for each  
16 project for 2006 may not exceed \$25 for each low income unit  
17 required by the land use restriction agreement. For years after  
18 2006, the annual compliance fee may be increased, as necessary to  
19 adjust for inflation as determined by the consumer price index  
20 published by the United States Department of Labor, to more than \$25  
21 for each low income unit required by the land use restriction  
22 agreement.

23 (b) Unless the department determines based on good cause  
24 that there is a reasonable justification for a higher level of  
25 monitoring for the project, during [~~After completion of~~] a  
26 project's construction phase, the department shall monitor the  
27 construction [~~periodically review the performance~~] of the project

1 only through the periodic review of the construction inspection  
2 reports submitted by the project architect. The department shall  
3 accept the certificate of substantial completion from the project  
4 architect as confirmation of the project's [~~to confirm the accuracy~~  
5 ~~of the department's initial~~] compliance [~~evaluation~~] during the  
6 construction phase.

7 SECTION 16. Section 2306.082, Government Code, is amended  
8 to read as follows:

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

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

14 (2) appropriate alternative dispute resolution  
15 procedures under Chapter 2009 to assist in the timely and practical  
16 resolution of only the internal and external disputes that are  
17 under the department's jurisdiction and are otherwise eligible for  
18 appeal.

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. The department's procedures must require that any  
24 adverse decision be binding on the department, other than a  
25 decision relating to:

26 (1) an allocation of low income housing tax credits  
27 under Subchapter DD;

1           (2) a development financed through the private  
2 activity bond program or an allocation of low income housing tax  
3 credits to that development;

4           (3) the community services block grant program (42  
5 U.S.C. Section 9901 et seq.); or

6           (4) a dispute between the department and a department  
7 employee.

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

9           (1) coordinate the implementation of the procedures  
10 [policy adopted] under Subsection (a);

11           (2) serve as a resource for any training needed to  
12 implement those ~~[the]~~ procedures ~~[for negotiated rulemaking or~~  
13 ~~alternative dispute resolution]~~; and

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

16           SECTION 17. Section 2306.093, Government Code, is amended  
17 to read as follows:

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

24           SECTION 18. Section 2306.111, Government Code, is amended  
25 by amending Subsections (a), (b), (d), (e), and (f) and adding  
26 Subsections (c-3) and (d-2)-(d-7) to read as follows:

27           (a) The department ~~[, through the housing finance division,]~~



1 shall administer all federal housing funds provided to the state  
2 under the Cranston-Gonzalez National Affordable Housing Act (42  
3 U.S.C. Section 12704 et seq.) or any other affordable housing  
4 program.

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

12 (c-3) The department by rule shall set aside five percent of  
13 the funds available under Subsection (c) for the benefit of persons  
14 with a disability who live in non-participating rural areas that do  
15 not qualify to receive funds under the Cranston-Gonzalez National  
16 Affordable Housing Act (42 U.S.C. Section 12701 et seq.) directly  
17 from the United States Department of Housing and Urban Development.  
18 Subject to Subsection (c-2), the department shall annually use \$10  
19 million of the funds available under Subsection (c) for multifamily  
20 housing development construction or rehabilitation in an  
21 application cycle that is open to all applicants eligible under  
22 Subsection (c-1). If the department does not receive a sufficient  
23 number of financially feasible applications for housing for persons  
24 with a disability or for multifamily housing development  
25 construction or rehabilitation during the first 120 days of the  
26 application cycle, the funds shall be made available for other  
27 purposes authorized under the Cranston-Gonzalez National

1 Affordable Housing Act (42 U.S.C. Section 12701 et seq.).

2 (d) The department shall allocate housing funds provided to  
3 the state under the Cranston-Gonzalez National Affordable Housing  
4 Act (42 U.S.C. Section 12701 et seq.), housing trust funds  
5 administered by the department under Sections 2306.201-2306.206,  
6 and commitments issued under the federal low income housing tax  
7 credit program administered by the department under Subchapter DD  
8 to all urban areas, historically underserved urban [~~urban/exurban~~]  
9 areas, and rural areas of each uniform state service region based on  
10 a formula developed by the department that is based on the need for  
11 housing assistance and the availability of housing resources in  
12 those urban areas, historically underserved urban [~~urban/exurban~~]  
13 areas, if applicable, and rural areas, provided that the  
14 allocations are consistent with applicable federal and state  
15 requirements and limitations. The department shall use the  
16 information contained in its annual state low income housing plan  
17 and shall use other appropriate data to develop the formula. For  
18 purposes of the formula, in determining the availability of housing  
19 resources with respect to the department's multifamily housing  
20 development construction or rehabilitation programs, the  
21 department shall consider the dollar amount of multifamily tax  
22 exempt bonds, HOME funds used for multifamily housing development  
23 construction or rehabilitation, and financing provided by or  
24 through any governmental entity for construction or rehabilitation  
25 of multifamily housing developments that are restricted to  
26 individuals and families who earn 60 percent or less of the area  
27 median income as adjusted for family size. The department may not

1 consider financing involved in the transfer of ownership of an  
2 existing development. If the department determines under the  
3 formula that an insufficient number of eligible applications for  
4 assistance out of funds or credits allocable under this subsection  
5 are submitted to the department from a particular uniform state  
6 service region, the department shall use the unused funds or  
7 credits allocated to that region for all urban areas, historically  
8 underserved urban [~~urban/exurban~~] areas, if applicable, and rural  
9 areas in other uniform state service regions based on identified  
10 need and financial feasibility.

11 (d-2) Notwithstanding Subsection (d), if the department  
12 determines that there is less than \$5 million in housing trust funds  
13 available in a calendar year to allocate according to Sections  
14 2306.201-2306.206, the department may allocate the housing trust  
15 funds among the uniform state service regions without dividing the  
16 funds between urban and rural areas. For each uniform state service  
17 region, the department must make the first award of funds under this  
18 subsection to the applicant with the highest scoring rural  
19 application.

20 (d-3) In administering the federal low income housing tax  
21 credit program under Subchapter DD, the department shall further  
22 subdivide the urban allocation in any uniform state service region  
23 containing a historically underserved urban area based on the ratio  
24 in population between the total number of historically underserved  
25 urban areas within an urban area and the population of the urban  
26 area as a whole.

27 (d-4) Before the application of the regional allocation

1 formula for calendar years 2006 and 2007, the department shall  
2 allocate an additional \$2 million per year to uniform state service  
3 region nine, an additional \$1 million per year to uniform state  
4 service region 13, and an additional \$750,000 per year to uniform  
5 state service region 11 to alleviate the underfunding for those  
6 uniform state service regions in prior years.

7 (d-5) The department may use forward commitments of low  
8 income housing tax credits in 2005 or 2006 to satisfy the provisions  
9 of Subsection (d-4).

10 (d-6) In allocating low income housing tax credit  
11 commitments under Subchapter DD to developments within a uniform  
12 state service region, the department shall allocate five percent of  
13 the total amount of housing tax credits for developments in that  
14 region to developments in that region that are financed through the  
15 Texas Rural Development Office of the United States Department of  
16 Agriculture and that:

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

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

20 (d-7) Any funds allocated to developments that satisfy the  
21 requirements of Subsections (d-3)-(d-6) and that involve  
22 rehabilitation must come from the funds set aside for at-risk  
23 developments under Section 2306.6714. For purposes of this  
24 subsection, a development that is financed through the Texas Rural  
25 Development Office of the United States Department of Agriculture  
26 is not required to meet all of the criteria for an at-risk  
27 development under Section 2306.6702(a)(5).

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

3 (1) the formula developed by the department under  
4 Subsection (d); and

5 (2) the allocation targets established under the  
6 formula for the urban areas, historically underserved urban  
7 ~~[urban/exurban]~~ areas, if applicable, and rural areas of each  
8 uniform state service region.

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

15 SECTION 19. Section 2306.111(c), Government Code, as  
16 amended by Chapters 1367 and 1448, Acts of the 77th Legislature,  
17 Regular Session, 2001, is reenacted and amended to read as follows:

18 (c) Except as provided by Subsection (c-3), in [In]  
19 administering federal housing funds provided to the state under the  
20 Cranston-Gonzalez National Affordable Housing Act (42 U.S.C.  
21 Section 12701 et seq.), the department shall expend 100 ~~[at least~~  
22 ~~95]~~ percent of these funds for:

23 (1) the benefit of non-participating small cities and  
24 rural areas that do not qualify to receive funds under the  
25 Cranston-Gonzalez National Affordable Housing Act directly from  
26 the United States Department of Housing and Urban Development; or

27 (2) the preservation of existing affordable housing

1 that receives financing from the United States Department of  
2 Agriculture. [~~All funds not set aside under this subsection shall~~  
3 ~~be used for the benefit of persons with disabilities who live in~~  
4 ~~areas other than small cities and rural areas.~~]

5 SECTION 20. Section 2306.1111, Government Code, is amended  
6 by amending Subsection (a) and adding Subsections (a-1) and (a-2)  
7 to read as follows:

8 (a) Notwithstanding any other state law and to the extent  
9 consistent with federal law, the department shall establish a  
10 uniform application and funding cycle for all single-family and  
11 multifamily housing programs administered by the department under  
12 this chapter, excluding any program described by Chapter 1372 and  
13 including a uniform application and funding cycle for housing  
14 sponsors of multifamily housing developments applying for:

15 (1) housing funds provided to the state under the  
16 Cranston-Gonzalez National Affordable Housing Act (42 U.S.C.  
17 Section 12701 et seq.);

18 (2) housing trust funds administered by the department  
19 under Sections 2306.201-2306.206; and

20 (3) commitments issued under the federal low income  
21 housing tax credit program administered by the department under  
22 Subchapter DD.

23 (a-1) The application acceptance periods for the programs  
24 described by Subsections (a)(1)-(3) must run concurrently.

25 (a-2) If the department does not receive during the uniform  
26 application and funding cycle under Subsection (a) a sufficient  
27 number of financially feasible applications for housing funds

1 provided to the state under the Cranston-Gonzalez National  
2 Affordable Housing Act (42 U.S.C. Section 12701 et seq.) or housing  
3 trust funds administered by the department under Sections  
4 2306.201-2306.206, the department may consider additional  
5 applications. During the first 120 days of an application and  
6 funding cycle for housing funds provided to the state under the  
7 Cranston-Gonzalez National Affordable Housing Act (42 U.S.C.  
8 Section 12701 et seq.) or housing trust funds administered by the  
9 department under Sections 2306.201-2306.206, the department may  
10 not consider applications requesting a grant of funds.

11 SECTION 21. Section 2306.1113, Government Code, is amended  
12 by amending Subsection (a) and adding Subsection (c) to read as  
13 follows:

14 (a) During the period beginning on the date a project  
15 application is filed and ending on the date the board makes a final  
16 decision with respect to any approval of that application or the  
17 resulting award of financial assistance, a member of the board may  
18 not engage in any communication regarding a project application  
19 [communicate] with the following persons:

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

22 (2) any person who is:

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

25 (i) a general partner or contractor; and

26 (ii) a principal or affiliate of a general  
27 partner or contractor; or

1 (B) employed as a lobbyist by the applicant or a  
2 related party.

3 (c) The department may not adopt rules that:

4 (1) impose the prohibition described by Subsection (a)  
5 on any person other than a board member; or

6 (2) otherwise restrict communications with any person  
7 in the department, except as described by this section.

8 SECTION 22. Section 2306.1114(a), Government Code, is  
9 amended to read as follows:

10 (a) Not later than the 14th day after the date an  
11 application or a proposed application for housing funds described  
12 by Section 2306.111 has been filed, the department shall provide by  
13 regular mail written notice of the filing of the application or  
14 proposed 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 associations that, on December 1  
3 of the year immediately preceding the year of the relevant  
4 application deadline, are [~~organizations~~] on record with the  
5 department or the political subdivision containing the proposed  
6 site of the development described in the application, if the [~~state~~  
7 ~~or county in which the development described in the application is~~  
8 ~~to be located and whose~~] boundaries of the neighborhood association  
9 encompass the same elementary school attendance zone, or a portion  
10 of the same zone, as [~~contain~~] the proposed development site.

11 SECTION 23. Subchapter F, Chapter 2306, Government Code, is  
12 amended by adding Sections 2306.1115 and 2306.1116 to read as  
13 follows:

14 Sec. 2306.1115. ROLE OF LIAISON. (a) The liaison  
15 designated under Section 2306.111(i) shall provide during the  
16 application process for housing funds described by Section 2306.111  
17 periodic status reports to the members of the legislature who  
18 represent the community containing the development described in an  
19 application. The status reports must be in writing and must include  
20 the following information:

21 (1) notice of any preapplication or application filed;

22 (2) the compliance record of the applicant, as  
23 determined by the department;

24 (3) notice of receipt by the department of any letters  
25 in support or opposition of the application from a neighborhood  
26 association;

27 (4) notice of any hearing scheduled on the

1 application; and

2 (5) notice of the date by which a letter by a member of  
3 the legislature written in support or opposition of the application  
4 must be received by the department.

5 (b) Notice under Subsection (a)(3) must be provided not  
6 later than the fifth business day after the date a letter described  
7 by that subdivision is received by the department.

8 (c) Notice under Subsection (a)(4) must be provided not  
9 later than the seventh day before the date of the hearing. Whenever  
10 practicable, the liaison shall provide notice not later than the  
11 30th day before the date of the hearing.

12 (d) Notice under Subsection (a)(5) must be provided not  
13 earlier than the 30th day nor later than the 15th day before the  
14 date a letter in support or opposition must be received by the  
15 department to be considered under Section 2306.6710(n).

16 (e) The liaison shall respond to a question from a member of  
17 the legislature about an application not later than the fifth  
18 business day after the date the liaison receives the question.

19 (f) The liaison may not serve as a proponent for or against  
20 an application.

21 Sec. 2306.1116. HISTORICALLY UNDERSERVED URBAN AREAS. (a)  
22 A historically underserved urban area is a community that:

23 (1) in uniform state service region three:

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

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

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

2           (2) in uniform state service region six:

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

5           (B) is not located within the municipal  
6 boundaries of Houston; and

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

8           (3) in uniform state service region seven:

9           (A) is located in Bastrop, Caldwell, Hays,  
10 Travis, or Williamson County;

11           (B) is not located within the municipal  
12 boundaries of Austin; and

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

14 or

15           (4) in uniform state service region nine:

16           (A) is located in Atascosa, Bexar, Comal,  
17 Guadalupe, or Wilson County;

18           (B) is not located within the municipal  
19 boundaries of San Antonio; and

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

21           (b) The identification of the counties described by  
22 Subsection (a) shall be periodically adjusted as necessary to  
23 conform with the definition or identification of metropolitan  
24 statistical areas for uniform state service regions three, six,  
25 seven, and nine.

26           SECTION 24. Section 2306.127, Government Code, is amended  
27 to read as follows:

1           Sec. 2306.127. PRIORITY FOR CERTAIN COMMUNITIES. In a  
2 manner consistent with the regional allocation formula described  
3 under Section 2306.111(d) for programs other than the low income  
4 housing tax credit program administered under Subchapter DD, the  
5 department shall give priority through its housing program scoring  
6 criteria to communities that are located wholly or partly in:

7           (1) a federally designated urban enterprise  
8 community;

9           (2) an urban enhanced enterprise community; or

10          (3) an economically distressed area or colonia.

11          SECTION 25. Section 2306.142(d), Government Code, is  
12 amended to read as follows:

13          (d) The department or its designee shall analyze the  
14 potential market demand, loan availability, and private sector home  
15 mortgage lending rates available to extremely low, very low, low,  
16 and moderate income borrowers in [~~the~~] rural areas [~~counties of the~~  
17 ~~state~~], in census tracts in which the median family income is less  
18 than 80 percent of the median family income for the county in which  
19 the census tract is located, and in the region of the state adjacent  
20 to the international border of the state. The department or its  
21 designee shall establish a process for serving those rural areas  
22 [~~counties~~], census tracts, and regions through the single-family  
23 mortgage revenue bond program in a manner proportionate to the  
24 credit needs of those areas as determined through the department's  
25 market study.

26          SECTION 26. Section 2306.147(a), Government Code, is  
27 amended to read as follows:

1 (a) The board shall have the specific duty and power to  
2 establish a schedule of fees and penalties relating to the  
3 operation of the housing finance division and authorized by this  
4 chapter, including application, processing, loan commitment,  
5 origination, servicing, and administrative fees. The total amount  
6 of fees imposed in an application round in connection with the low  
7 income housing tax credit program administered by the department  
8 under Subchapter DD may not exceed the department's total costs in  
9 administering the program for that round.

10 SECTION 27. Section 2306.148, Government Code, is amended  
11 to read as follows:

12 Sec. 2306.148. UNDERWRITING STANDARDS. The board shall  
13 have the specific duty and power to adopt underwriting standards  
14 based on industry norms and standards for loans made or financed by  
15 the housing finance division under its single family and  
16 multifamily programs.

17 SECTION 28. Section 2306.150, Government Code, is amended  
18 to read as follows:

19 Sec. 2306.150. PROPERTY STANDARDS. The board shall have  
20 the specific duty and power to adopt minimum property standards for  
21 housing developments financed or acquired with bond proceeds under  
22 this chapter.

23 SECTION 29. Section 2306.171, Government Code, is amended  
24 to read as follows:

25 Sec. 2306.171. GENERAL DUTIES OF DEPARTMENT RELATING TO  
26 PURPOSES OF HOUSING FINANCE DIVISION. The department shall:

27 (1) develop policies and programs designed to increase

1 the number of individuals and families of [~~extremely low,~~] very  
2 low[~~r~~] and low income and families of moderate income who [~~that~~]  
3 participate in the housing finance division's programs;

4 (2) work with municipalities, counties, public  
5 agencies, housing sponsors, and nonprofit and for profit  
6 corporations to provide:

7 (A) information on division programs; and

8 (B) technical assistance to municipalities,  
9 counties, and nonprofit corporations;

10 (3) encourage private for profit and nonprofit  
11 corporations and state organizations to match the division's funds  
12 to assist in providing affordable housing to individuals and  
13 families of low and very low income and families of moderate income;

14 (4) develop policies and procedures to increase the  
15 number of individuals and families of extremely low income who  
16 benefit from the housing finance division's programs by attempting  
17 to match the financial assistance available through the division  
18 with any rental assistance operating subsidies that may be  
19 available from other governmental sources [~~provide matching funds~~  
20 ~~to municipalities, counties, public agencies, housing sponsors,~~  
21 ~~and nonprofit developers who qualify under the division's~~  
22 ~~programs~~]; and

23 (5) administer the state's allocation of federal funds  
24 provided under the rental rehabilitation grant program authorized  
25 by Section 17, Title I, of the United States Housing Act of 1937 (42  
26 U.S.C. Section 1437o).

27 SECTION 30. Section 2306.174, Government Code, is amended

1 to read as follows:

2 Sec. 2306.174. ACQUISITION AND DISPOSITION OF PROPERTY.

3 The department may:

4 (1) acquire, own, rent, lease, accept, hold, or  
5 dispose of any real, personal, or mixed property, or any interest in  
6 property, including a right or easement, in performing its duties  
7 and exercising its powers under this chapter, by purchase,  
8 exchange, gift, assignment, transfer, foreclosure, sale, lease, or  
9 otherwise;

10 (2) hold, manage, operate, or improve real, personal,  
11 or mixed property, except that:

12 (A) the department is restricted in acquiring  
13 property [~~under Section 2306.251~~] unless it is required to  
14 foreclose on a delinquent loan and elects to acquire the property at  
15 foreclosure;

16 (B) the department shall make a diligent effort  
17 for a period not to exceed six months to sell a housing development  
18 acquired through foreclosure to a purchaser who will be required to  
19 pay ad valorem taxes on the housing development or, if such a  
20 purchaser cannot be found, to another purchaser; and

21 (C) the department shall sell a housing  
22 development acquired through foreclosure not later than the second  
23 [~~third~~] anniversary of the date of acquisition unless the board  
24 adopts a resolution stating that a purchaser cannot be found after  
25 diligent search by the housing finance division, in which case the  
26 department shall continue to try to find a purchaser and shall sell  
27 the housing development when a purchaser is found; and

1           (3) lease or rent land or a dwelling, house,  
2 accommodation, building, structure, or facility from a private  
3 party to carry out the housing finance division's purposes.

4           SECTION 31. Section 2306.183, Government Code, is amended  
5 to read as follows:

6           Sec. 2306.183. NEEDS OF QUALIFYING INDIVIDUALS AND FAMILIES  
7 IN RURAL AREAS, HISTORICALLY UNDERSERVED URBAN AREAS, AND SMALL  
8 MUNICIPALITIES. The department may adopt a target strategy to  
9 ensure that the credit and housing needs of qualifying individuals  
10 and families who reside in rural areas, historically underserved  
11 urban areas, and small municipalities are equitably served by the  
12 housing finance division.

13           SECTION 32. Sections 2306.185(a)-(e), Government Code, are  
14 amended to read as follows:

15           (a) The department shall adopt policies and procedures to  
16 ensure that, for a multifamily rental housing development funded  
17 through loans, grants, or tax credits under this chapter, the owner  
18 of the development:

19           (1) maintains rents equal to or below the maximum  
20 allowable amount for the specific housing program [~~keeps the rents~~  
21 ~~affordable for low income tenants for the longest period that is~~  
22 ~~economically feasible~~]; and

23           (2) provides regular maintenance to keep the  
24 development sanitary, decent, and safe and otherwise complies, if  
25 applicable, with the requirements of Section 2306.186.

26           (b) In implementing Subsection (a)(1) [~~and in developing~~  
27 ~~underwriting standards and application scoring criteria for the~~



1 ~~award of loans, grants, or tax credits to multifamily~~  
2 ~~developments~~], the department shall ensure that the economic  
3 benefits of [~~longer affordability terms and~~] below market rate  
4 rents are accurately assessed and considered.

5 (c) The department shall require that a recipient of funding  
6 maintain [~~maintains~~] the affordability of the multifamily housing  
7 development for the targeted income levels for the greater of:

8 (1) the minimum affordability period under the  
9 respective federal or state program through which the financing is  
10 provided; or

11 (2) [households of extremely low, very low, low, and  
12 ~~moderate incomes for the greater of a 30-year period from the date~~  
13 ~~the recipient takes legal possession of the housing or]~~ the  
14 remaining term of any [~~the~~] existing [~~federal~~] government  
15 assistance. [~~In addition, the agreement between the department and~~  
16 ~~the recipient shall require the renewal of rental subsidies if~~  
17 ~~available and if the subsidies are sufficient to maintain the~~  
18 ~~economic viability of the multifamily development.]~~

19 (d) The development restrictions provided by Subsection (a)  
20 and Section 2306.269 are enforceable by the department [~~, by tenants~~  
21 ~~of the development, or by private parties]~~ against the initial  
22 owner or any subsequent owner. The department shall require a land  
23 use restriction agreement providing for enforcement of the  
24 restrictions by the department [~~, a tenant, or a private party]~~ that  
25 includes the right of the prevailing party to recover reasonable  
26 attorney's fees [~~if the party seeking enforcement of the~~  
27 ~~restriction is successful]~~.

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

4 (1) a loan [~~or grant~~] in an amount greater than 33  
5 percent of the market value of the development on the date the  
6 recipient completed the construction of the development;

7 (2) a loan guarantee for a loan in an amount greater  
8 than 33 percent of the market value of the development on the date  
9 the recipient took legal title to the development; [~~or~~]

10 (3) a low income housing tax credit that provides more  
11 than 33 percent of the total development costs of the development;  
12 or

13 (4) a grant.

14 SECTION 33. Sections 2306.186(a)(1) and (4), Government  
15 Code, are amended to read as follows:

16 (1) "Bank [~~trustee~~]" means a bank authorized to do  
17 business in this state[, ~~with the power to act as trustee~~].

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

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

21 (B) maintained by a first lien lender or bank  
22 [~~trustee~~].

23 SECTION 34. Sections 2306.186(b), (c), (d), (e), (h), (i),  
24 (j), and (l), Government Code, are amended to read as follows:

25 (b) If the department has provided mortgage loan funds and  
26 is the first lien lender with respect to the multifamily rental  
27 housing development, each owner who receives a mortgage loan from

1 the department [~~assistance~~] for a multifamily rental housing  
2 development [~~that contains 25 or more rental units~~] shall deposit  
3 annually into a reserve account:

4 (1) [~~for the year 2004: (A)~~] not less than \$150 per  
5 unit per year for units one to five years old; and

6 (2) [~~(B)~~] not less than \$200 per unit per year for  
7 units six or more years old[~~, and~~

8 [~~(2) for each year following the year 2004, the~~  
9 ~~amounts per unit per year as described by Subdivision (1)~~].

10 (c) A land use restriction agreement or restrictive  
11 covenant between the owner and the department must require the  
12 owner to begin making annual deposits to the reserve account on the  
13 date that occupancy of the multifamily rental housing development  
14 stabilizes or the date that permanent financing for the development  
15 is completely in place, whichever occurs later, and shall continue  
16 making deposits until the earliest of the following dates:

17 (1) the date of any [~~involuntary~~] change in ownership  
18 of the development;

19 (2) the date on which the owner suffers a total  
20 casualty loss with respect to the development or the date on which  
21 the development becomes functionally obsolete, if the development  
22 cannot be or is not restored;

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

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

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

1           (d) If with respect to a multifamily rental housing  
2 development the first lien lender, other than the department,  
3 requires either a physical needs assessment or the establishment of  
4 a reserve account for repairs:

5                 (1) the department may not impose on the owner of that  
6 development any department requirements relating to:

7                         (A) the preparation of a physical needs  
8 assessment; or

9                         (B) the creation, maintenance, or funding of a  
10 reserve account; and

11                 (2) the owner of that development must provide a copy  
12 of any physical needs assessment to the department on request.

13 ~~[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 year in which the  
20 department awards a mortgage loan ~~[awarding of any financial~~  
21 ~~assistance]~~ for the development that results in ~~[by]~~ the department  
22 becoming the first lien lender with respect to the development, the  
23 owner of a multifamily rental housing development shall contract  
24 for a third-party physical needs assessment to determine the  
25 conformity of the development to local health, safety, and building  
26 codes ~~[at appropriate intervals that are consistent with lender~~  
27 ~~requirements with respect to the development].~~ The ~~[If the first~~

1 ~~lien lender does not require a third-party physical needs~~  
2 ~~assessment or if the department is the first lien lender, the] owner~~  
3 shall contract with a third party to conduct a physical needs  
4 assessment at least once during each five-year period beginning  
5 with the 11th year after the year in which the department awards a  
6 mortgage loan for the development that results in the department  
7 becoming the first lien lender with respect to the development  
8 ~~[awarding of any financial assistance for the development by the~~  
9 ~~department].~~ The owner of the development shall submit to the  
10 department copies of the most recent third-party physical needs  
11 assessment conducted on the development, any response by the owner  
12 to the assessment, any repairs made in response to the assessment,  
13 and information on any necessary changes to the required reserve  
14 based on the assessment.

15 (h) The duties of the owner of a multifamily rental housing  
16 development under this section cease on the earliest of the dates  
17 described by Subsection (c) ~~[date of a voluntary change in~~  
18 ~~ownership of the development]~~, but the subsequent owner of the  
19 development is subject to the deposit, inspection, and notification  
20 requirements of Subsections (b), (c), (d), and (e).

21 (i) The first lien lender shall maintain the reserve  
22 account. ~~[In the event there is no longer a first lien lender, then~~  
23 ~~Subsections (b) and (d) no longer apply.]~~

24 (j) The department shall adopt rules that:

25 (1) establish requirements and standards regarding:

26 (A) for first lien lenders and banks ~~[bank~~  
27 ~~trustees]:~~

1 (i) maintenance of reserve accounts and  
2 reasonable costs of that maintenance;

3 (ii) asset management;

4 (iii) transfer of money in reserve accounts  
5 to the department to fund necessary repairs; and

6 (iv) oversight of reserve accounts and the  
7 provision of financial data and other information to the  
8 department; and

9 (B) for owners, inspections of the multifamily  
10 rental housing developments and identification of necessary  
11 repairs, including requirements and standards regarding  
12 construction, rehabilitation, and occupancy that may enable  
13 quicker identification of those repairs;

14 (2) identify circumstances in which money in the  
15 reserve accounts may:

16 (A) be used for expenses other than necessary  
17 repairs, including property taxes or insurance; and

18 (B) fall below mandatory deposit levels without  
19 resulting in department action;

20 (3) define the scope of department oversight of  
21 reserve accounts and the repair process;

22 (4) provide the consequences of any failure to make a  
23 required deposit, including a definition of good cause, if any, for  
24 a failure to make a required deposit;

25 (5) specify or create processes and standards to be  
26 used by the department to obtain repairs for developments;

27 (6) define for purposes of Subsection (c) the date on

1 which occupancy of a development is considered to have stabilized  
2 and the date on which permanent financing is considered to be  
3 completely in place; and

4 (7) provide for appointment of a bank [~~trustee~~] as  
5 necessary under this section.

6 (1) The provisions of this [This] section requiring reserve  
7 accounts or physical needs assessments do [does] not apply to a  
8 development for which an owner is required to maintain a reserve  
9 account under any other provision of federal or state law. If the  
10 department has previously imposed under this section a requirement  
11 relating to a reserve account or a physical needs assessment on a  
12 development that is required to maintain a reserve account under  
13 any other provision of federal or state law, the department shall  
14 prepare an amendment to the land use restriction agreement or  
15 restrictive covenant removing the requirement.

16 SECTION 35. Sections 2306.202 and 2306.203, Government  
17 Code, are amended to read as follows:

18 Sec. 2306.202. USE OF HOUSING TRUST FUND. (a) The  
19 department, through the housing finance division, shall use the  
20 housing trust fund to provide loans, grants, or other comparable  
21 forms of assistance to local units of government, public housing  
22 authorities, for-profit organizations, nonprofit organizations,  
23 and income-eligible individuals, families, and households to  
24 finance, acquire, rehabilitate, and develop decent, safe, and  
25 sanitary housing. To enhance the self-sustaining nature of the  
26 housing trust fund, the department shall structure its award  
27 process to encourage applications for loans instead of grants by

1 scheduling two application periods as follows:

2 (1) a loan application period that is open  
3 concurrently with the low income housing tax credit application  
4 filing period provided by Subchapter DD; and

5 (2) a grant application period that is open only if  
6 there is available money not already allocated for loans in the  
7 application period described by Subdivision (1). [In each biennium  
8 the first \$2.6 million available through the housing trust fund for  
9 loans, grants, or other comparable forms of assistance shall be set  
10 aside and made available exclusively for local units of government,  
11 public housing authorities, and nonprofit organizations. Any  
12 additional funds may also be made available to for-profit  
13 organizations so long as at least 45 percent of available funds in  
14 excess of the first \$2.6 million shall be made available to  
15 nonprofit organizations for the purpose of acquiring,  
16 rehabilitating, and developing decent, safe, and sanitary housing.  
17 The remaining portion shall be competed for by nonprofit  
18 organizations, for-profit organizations, and other eligible  
19 entities. Notwithstanding any other section of this chapter, but  
20 subject to the limitations in Section 2306.251(c), the department  
21 may also use the fund to acquire property to endow the fund.]

22 (b) Use of the fund is limited to providing:

23 (1) assistance for individuals and families of low and  
24 very low income;

25 (2) ~~[technical]~~ assistance to housing sponsors for the  
26 purpose of [and capacity building to nonprofit organizations  
27 engaged in] developing housing for individuals and families of low



1 and very low income; and

2 (3) security for repayment of revenue bonds issued to  
3 finance housing for individuals and families of low and very low  
4 income.

5 Sec. 2306.203. RULES REGARDING ADMINISTRATION OF HOUSING  
6 TRUST FUND. The board shall adopt rules to administer the housing  
7 trust fund, including rules providing:

8 (1) that the division give priority to programs that  
9 maximize federal resources;

10 (2) for a process to set priorities for use of the  
11 fund, including the distribution of fund resources under a  
12 competitive application [~~request for a proposal~~] process developed  
13 and approved by the board;

14 (3) that the applications [~~criteria used to rank~~  
15 ~~proposals~~] be ranked based on a point system using only the  
16 following criteria, in descending order of priority [~~will include~~  
17 ~~the~~]:

18 (A) the extent to which individuals and families  
19 of low and very low income are served by the development [~~leveraging~~  
20 ~~of federal resources~~];

21 (B) the leveraging of non-governmental funding  
22 sources, with points awarded in proportion to how much  
23 non-governmental money is used per person served, based on a  
24 calculation of 1.5 persons per bedroom [~~cost-effectiveness of a~~  
25 ~~proposed development~~]; [~~and~~]

26 (C) support for the development from the state  
27 representative and state senator for the district in which the

1 development is to be located;

2 (D) whether the proposal is for a loan of housing  
3 trust funds instead of a grant; and

4 (E) other criteria established by the department  
5 that are not inconsistent with the priorities under this  
6 subdivision [~~extent to which individuals and families of very low~~  
7 ~~income are served by the development~~];

8 (4) that funds may not be made available to a  
9 development that permanently and involuntarily displaces  
10 individuals and families of low income;

11 (5) that the board attempt to allocate funds to  
12 achieve a broad geographical distribution with:

13 (A) special emphasis on equitably serving rural  
14 and nonmetropolitan areas; and

15 (B) consideration of the number and percentage of  
16 income-qualified families in different geographical areas; and

17 (6) that multifamily housing developed or  
18 rehabilitated through the fund remain affordable to  
19 income-qualified households for the term of the loan or, if a grant  
20 has been awarded, for at least 30 [20] years.

21 SECTION 36. Section 2306.205(f), Government Code, is  
22 amended to read as follows:

23 (f) In addition to the money transferred into the housing  
24 trust fund under this section, and subject to Subsection (e), the  
25 department shall transfer into the fund the amount of any  
26 origination fee, asset oversight fee, and servicing fee [~~the~~  
27 ~~department or~~] the Texas State Affordable Housing Corporation

1 receives in relation to the administration of its 501(c)(3) bond  
2 program established pursuant to Section 2306.358 that exceeds the  
3 amount needed by [~~the department or~~] the Texas State Affordable  
4 Housing Corporation to pay its operating and overhead costs and  
5 fund reserves, including an insurance reserve or credit enhancement  
6 reserve established by the board of the corporation in  
7 administering the program. The corporation shall transfer to the  
8 department the fee amounts described by this subsection to enable  
9 the department to discharge its duties under this subsection.

10 SECTION 37. Section 2306.227, Government Code, is amended  
11 to read as follows:

12 Sec. 2306.227. PREPAYMENT OF MORTGAGE LOANS. A mortgage  
13 loan made under this chapter may be prepaid at any time before [~~to~~]  
14 maturity [~~after the period of years and under the terms and~~  
15 ~~conditions determined by the board~~].

16 SECTION 38. Section 2306.229, Government Code, is amended  
17 by adding Subsection (c) to read as follows:

18 (c) For each loan made for the development of multifamily  
19 housing with funds provided to the state under the  
20 Cranston-Gonzalez National Affordable Housing Act (42 U.S.C.  
21 Section 12701 et seq.), the department shall obtain a mortgagee's  
22 title policy in the amount of the loan. The department may not  
23 designate a specific title insurance company to provide the  
24 mortgagee title policy or require the borrower to provide the  
25 policy from a specific title insurance company. The borrower shall  
26 select the title insurance company to close the loan and to provide  
27 the mortgagee title policy.

1 SECTION 39. Sections 2306.252(a), (b), and (c), Government  
2 Code, are amended to read as follows:

3 (a) The board shall establish a housing resource center in  
4 the housing finance division. The department shall fund the center  
5 with money available under Section 1372.006(a).

6 (b) The housing resource [~~department, through the~~]  
7 center[~~7~~] shall:

8 (1) provide educational material prepared in plain  
9 language to the public [~~housing advocates, housing sponsors,~~  
10 ~~borrowers, and tenants~~]; and

11 (2) [~~provide technical assistance to nonprofit~~  
12 ~~housing sponsors,~~

13 [~~(3)~~] assist in the development of housing policy,  
14 including the annual state low income housing plan and report and  
15 the consolidated plan[~~, and~~

16 [~~(4) provide, in cooperation with the state energy~~  
17 ~~conservation office, the Texas Commission on Environmental~~  
18 ~~Quality, and other governmental entities, information on the use of~~  
19 ~~sustainable and energy efficient housing construction products and~~  
20 ~~assist local governments and nonprofits in identifying information~~  
21 ~~on sustainable and energy efficient housing construction and energy~~  
22 ~~efficient resources and techniques].~~

23 (c) The housing resource center is intended to assist  
24 individuals, local organizations, and local governments in  
25 providing for the housing needs of individuals and families in  
26 their communities by providing information available to the center  
27 to housing contractors, for-profit and nonprofit housing sponsors,

1 community-based organizations, and local governments on:

- 2 (1) local housing needs;
- 3 (2) housing programs;
- 4 (3) available funding sources; and
- 5 (4) programs that affect the creation, improvement, or
- 6 preservation of housing affordable to individuals and families of
- 7 low and very low income.

8 SECTION 40. Section 2306.253(d), Government Code, is

9 amended to read as follows:

10 (d) To [~~In order to~~] implement this section, the department

11 may use money available to the department for housing purposes that

12 the department is not prohibited from spending on the homebuyer

13 education program, including:

14 (1) any [~~the amount of administrative or service~~] fees

15 the department charges persons to attend a homebuyer education

16 program [~~receives from the issuance or refunding of bonds that~~

17 ~~exceeds the amount the department needs to pay its overhead costs in~~

18 ~~administering its bond programs~~]; and

19 (2) money the department receives from other entities

20 by gift or grant under a contract.

21 SECTION 41. Sections 2306.254(b) and (d), Government Code,

22 are amended to read as follows:

23 (b) The department may encourage, but may not require,

24 [~~shall structure the requirements for~~] the provision of tenant

25 services in any multifamily housing development [~~so that tenant~~

26 ~~services provided through housing programs are coordinated with~~

27 ~~similar services provided through state workforce development and~~

1 ~~welfare programs~~]. The department shall encourage ~~[emphasize]~~  
2 tenant services that are coordinated with similar services provided  
3 through state workforce development and welfare programs and that  
4 are provided by third parties at no cost to the residents or that  
5 are eligible for ~~[additional]~~ federal matching funds through  
6 workforce development or welfare-related programs.

7 (d) The coordinator shall meet in Austin at least quarterly  
8 with representatives of the Texas Workforce Commission, the Texas  
9 Department of Human Services, the Department of Protective and  
10 Regulatory Services, and the Legislative Budget Board to:

11 (1) update coordination of tenant services with  
12 workforce development and welfare-related programs; and

13 (2) discuss funding sources for tenant services  
14 programs ~~[, and~~

15 ~~[(3) report on the status of tenant services programs,~~  
16 ~~including reporting on the number of clients and types of services~~  
17 ~~offered].~~

18 SECTION 42. Section 2306.256, Government Code, is  
19 transferred from Subchapter K, Chapter 2306, Government Code, to  
20 Subchapter HH, Chapter 2306, Government Code, and redesignated as  
21 Section 2306.8015 to read as follows:

22 Sec. 2306.8015 ~~[2306.256]~~. AFFORDABLE HOUSING  
23 PRESERVATION PROGRAM. (a) The department shall develop and  
24 implement a program to preserve affordable housing in this state.

25 (b) Through the program, the department shall:

26 (1) maintain data on housing projected to lose its  
27 affordable status;

1           (2) develop policies necessary to ensure the  
2 preservation of affordable housing in this state;

3           (3) advise other program areas with respect to the  
4 policies; and

5           (4) assist those other program areas in implementing  
6 the policies.

7           SECTION 43. Section 2306.257, Government Code, is amended  
8 by amending Subsection (a) and adding Subsection (a-1) to read as  
9 follows:

10           (a) The department may provide assistance through a housing  
11 program under this chapter only to an applicant who certifies the  
12 applicant's compliance with any applicable state and federal fair  
13 housing laws[+

14           ~~[(1) state and federal fair housing laws, including~~  
15 ~~Chapter 301, Property Code, Title VIII of the Civil Rights Act of~~  
16 ~~1968 (42 U.S.C. Section 3601 et seq.), and the Fair Housing~~  
17 ~~Amendments Act of 1988 (42 U.S.C. Section 3601 et seq.);~~

18           ~~[(2) the Civil Rights Act of 1964 (42 U.S.C. Section~~  
19 ~~2000a et seq.);~~

20           ~~[(3) the Americans with Disabilities Act of 1990 (42~~  
21 ~~U.S.C. Section 12101 et seq.); and~~

22           ~~[(4) the Rehabilitation Act of 1973 (29 U.S.C. Section~~  
23 ~~701 et seq.)].~~

24           (a-1) The board shall adopt rules requiring the department  
25 to obtain annually from housing program participants the  
26 information necessary to enable the department to comply with state  
27 and federal reporting requirements related to the laws described by

1 Subsection (a). Each item of information requested from the  
2 participant by the department must include a citation to the  
3 statutory authority authorizing the request of the information.

4 SECTION 44. Section 2306.268, Government Code, is amended  
5 to read as follows:

6 Sec. 2306.268. RENTS AND CHARGES. The department shall  
7 approve and may change from time to time a schedule of rents and  
8 charges for a housing development operated by the department [~~under~~  
9 ~~Section 2306.251~~].

10 SECTION 45. Section 2306.269, Government Code, is amended  
11 to read as follows:

12 Sec. 2306.269. TENANT [~~AND MANAGER~~] SELECTION. (a) The  
13 department may [~~shall~~] set standards for tenant [~~and management~~]  
14 selection by a housing sponsor.

15 (b) The department shall prohibit a multifamily rental  
16 housing development funded or administered by the department,  
17 including a development supported with a housing tax credit  
18 allocation under Subchapter DD, from:

19 (1) excluding an individual or family from admission  
20 to the development solely because the individual or family  
21 participates in the housing choice voucher program under Section 8,  
22 United States Housing Act of 1937 (42 U.S.C. Section 1437f); and

23 (2) using a financial or minimum income standard for  
24 an individual or family participating in the voucher program  
25 described by Subdivision (1) that requires the individual or family  
26 to have a monthly income of more than three [~~2-1/2~~] times the  
27 individual's or family's share of the total monthly rent payable to



1 the owner of the development.

2 SECTION 46. Sections 2306.271(b) and (d), Government Code,  
3 are amended to read as follows:

4 (b) The housing finance division shall require a housing  
5 sponsor to certify the actual housing development costs on  
6 completion of the housing development. Any certification of costs  
7 must be accompanied by an unqualified audit of the actual housing  
8 development costs prepared by a certified public accountant in  
9 accordance with generally accepted accounting principles and  
10 generally accepted auditing standards~~[, subject to audit and~~  
11 ~~determination by the department]~~.

12 (d) In this section, "housing development costs" means the  
13 total of all reasonable and necessary costs incurred in financing,  
14 creating, or purchasing a housing development, including a  
15 single-family dwelling~~[, approved by the department as reasonable~~  
16 ~~and necessary]~~. The costs may include:

17 (1) the value of land and buildings on the land owned  
18 by the sponsor or the cost of acquiring land and buildings on the  
19 land, including payments for options, deposits, or contracts to  
20 purchase properties on the proposed housing site;

21 (2) costs of site preparation, demolition, and  
22 development;

23 (3) expenses relating to the issuance of bonds;

24 (4) fees paid or payable in connection with the  
25 planning, execution, and financing of the housing development,  
26 including fees to:

27 (A) architects;

1 (B) engineers;  
2 (C) attorneys;  
3 (D) accountants; or  
4 (E) the housing finance division on the  
5 department's behalf;

6 (5) costs of necessary studies, surveys, plans,  
7 permits, insurance, interest, financing, tax and assessment costs,  
8 and other operating and carrying costs during construction;

9 (6) costs of construction, rehabilitation,  
10 reconstruction, fixtures, furnishings, equipment, machinery, and  
11 apparatus related to the real property;

12 (7) costs of land improvements, including landscaping  
13 and off-site improvements, whether or not the costs have been paid  
14 in cash or in a form other than cash;

15 (8) necessary expenses for the initial occupancy of  
16 the housing development;

17 (9) a reasonable profit and a risk fee for developer  
18 services in addition to job overhead to the general contractor or  
19 limited profit housing sponsor;

20 (10) an allowance [~~established by the department~~] for  
21 working capital and contingency reserves and reserves for  
22 anticipated operating deficits during the first two years of  
23 occupancy; and

24 (11) the cost of other items, including tenant  
25 relocation if tenant relocation costs are not otherwise provided  
26 for, [~~that the department determines are reasonable and necessary~~  
27 ~~for the development of the housing development,~~] less net rents and

1 other net revenues received from the operation of the real and  
2 personal property on the development site during construction.

3 SECTION 47. Sections 2306.313(a) and (b), Government Code,  
4 are amended to read as follows:

5 (a) The department or [~~with the department's approval,~~]  
6 the housing sponsor of a housing development may terminate the  
7 tenancy or interest of an individual or family whose gross income  
8 exceeds the income level allowed for admission if retaining the  
9 individual or family as occupants would violate the income  
10 limitations for the applicable affordable housing program [~~by more~~  
11 ~~than 25 percent for six months or more~~].

12 (b) A tenancy or interest of an individual or family in a  
13 housing development may not be terminated except on reasonable  
14 notice [~~and opportunity to obtain suitable alternate housing under~~  
15 ~~the department's rules~~].

16 SECTION 48. Section 2306.6015, Government Code, is amended  
17 to read as follows:

18 Sec. 2306.6015. PERSONNEL. The division director may  
19 employ and remove staff as necessary to perform the work of the  
20 division and may prescribe the staff's [~~their~~] duties and  
21 compensation. [~~Subject to applicable personnel policies and~~  
22 ~~regulations, the division director may remove any division~~  
23 ~~employee.~~]

24 SECTION 49. Section 2306.6701, Government Code, is amended  
25 to read as follows:

26 Sec. 2306.6701. PURPOSE. The department shall administer  
27 the low income housing tax credit program to:

1 (1) encourage the development and preservation of  
2 appropriate types of rental housing for households that have  
3 difficulty finding suitable, affordable rental housing in the  
4 private marketplace;

5 (2) maximize the number of suitable, affordable  
6 residential rental units added to the state's housing supply;

7 (3) maintain [~~prevent losses for any reason to~~] the  
8 state's supply of suitable, affordable residential rental units by  
9 enabling the rehabilitation of rental housing or by providing other  
10 preventive financial support under this subchapter; [~~and~~]

11 (4) provide for and encourage the participation of  
12 for-profit organizations in the acquisition, development, and  
13 operation of affordable housing developments; and

14 (5) provide for and encourage the participation of  
15 nonprofit organizations in the acquisition, development, and  
16 operation of affordable housing developments [~~in urban and rural~~  
17 ~~communities~~].

18 SECTION 50. Section 2306.6702(a), Government Code, is  
19 amended by amending Subdivisions (5), (10), and (15) and adding  
20 Subdivision (4-a) to read as follows:

21 (4-a) "Area median gross household income" means the  
22 area median gross household income as determined for all purposes  
23 in accordance with the requirements of Section 42, Internal Revenue  
24 Code of 1986.

25 (5) "At-risk development" means a development that:  
26 (A) has received the benefit of a subsidy in the  
27 form of a below-market interest rate loan, interest rate reduction,

1 rental subsidy, Section 8 housing assistance payment for at least  
2 10 percent of the units in the development, rental supplement  
3 payment, or rental assistance payment [~~, or equity incentive~~] under  
4 the following federal laws, as applicable:

5 (i) Sections 221(d)(3) and (5), National  
6 Housing Act (12 U.S.C. Section 17151);

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

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

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

13 (v) [~~the Section 8 Additional Assistance~~  
14 ~~Program for housing developments with HUD-Insured and HUD-Held~~  
15 ~~Mortgages administered by the United States Department of Housing~~  
16 ~~and Urban Development,~~

17 [~~(vi) the Section 8 Housing Assistance~~  
18 ~~Program for the Disposition of HUD-Owned Projects administered by~~  
19 ~~the United States Department of Housing and Urban Development,~~

20 [~~(vii)~~] Sections 514, 515, and 516, Housing  
21 Act of 1949 (42 U.S.C. Sections 1484, 1485, and 1486); [~~or~~]

22 (vi) [~~(viii)~~] Section 42, Internal Revenue  
23 Code of 1986 (26 U.S.C. Section 42); or

24 (vii) project-based assistance authority  
25 under Section 8, United States Housing Act of 1937 (42 U.S.C.  
26 Section 1437f et seq.); and

27 (B) is subject to the following conditions:

1 (i) the stipulation to maintain  
2 affordability in the contract granting the subsidy is within two  
3 years of [nearing] expiration or has expired but has the ability to  
4 be reinstated; or

5 (ii) the federally insured mortgage on the  
6 development is eligible for prepayment or is nearing the end of its  
7 term.

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

10 (A) provides the threshold and[~~7~~] scoring[~~7~~, ~~and~~  
11 ~~underwriting~~] criteria based on housing priorities of the  
12 department that are [~~appropriate to local conditions,~~

13 [~~(B)~~] consistent with this chapter [~~Section~~  
14 ~~2306.6710(e), gives preference in housing tax credit allocations to~~  
15 ~~developments that, as compared to the other developments:~~

16 [~~(i) when practicable and feasible based on~~  
17 ~~documented, committed, and available third-party funding sources,~~  
18 ~~serve the lowest income tenants per housing tax credit, and~~

19 [~~(ii) produce for the longest economically~~  
20 ~~feasible period the greatest number of high quality units committed~~  
21 ~~to remaining affordable to any tenants who are income-eligible~~  
22 ~~under the low income housing tax credit program]; and~~

23 (B) [~~(C)~~] provides a procedure for the  
24 department, the department's agent, or another private contractor  
25 of the department to use in monitoring compliance with the  
26 qualified allocation plan and this subchapter.

27 (15) "Threshold criteria" means the criteria used to

1 determine whether the development satisfies the minimum level of  
2 acceptability for consideration established by Section 2306.67042  
3 [~~in the department's qualified allocation plan~~].

4 SECTION 51. Section 2306.6703, Government Code, as amended  
5 by Chapters 330 and 1106, Acts of the 78th Legislature, Regular  
6 Session, 2003, is reenacted and amended to read as follows:

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

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

13 (A) a member of the board; or

14 (B) the director, a deputy director, the director  
15 of housing programs, the director of compliance, the director of  
16 underwriting, ~~or~~ the low income housing tax credit program  
17 manager employed by the department, or a member of the department  
18 committee that selects applications for approval;

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

22 (A) the applicant proposes to maintain for a  
23 period of 30 years or more 100 percent of the development units  
24 supported by housing tax credits as rent-restricted and exclusively  
25 for occupancy by individuals and families earning not more than 50  
26 percent of the area median income, adjusted for family size; and

27 (B) at least one-third of all the units in the

1 development are public housing units or Section 8 project-based  
2 units; ~~[or]~~

3 (3) the applicant proposes to develop ~~[construct]~~ a  
4 new construction development that is located one linear mile or  
5 less from a development that:

6 (A) serves the same type of household as the new  
7 development ~~[, regardless of whether the developments serve~~  
8 ~~families, elderly individuals, or another type of household];~~

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

12 (C) has not been withdrawn or terminated from the  
13 low income housing tax credit program; ~~[or]~~

14 (4) the development is located in a municipality or,  
15 if located outside a municipality, a county that has more than twice  
16 the state average of units per capita supported by housing tax  
17 credits or private activity bonds, unless the applicant:

18 (A) obtains ~~[has obtained prior]~~ approval of the  
19 development from the governing body of the appropriate municipality  
20 or county containing the development; and

21 (B) provides, not later than the 30th day before  
22 the date the board first meets to consider applications for an  
23 allocation of housing tax credits, ~~[has included in the~~  
24 ~~application]~~ a written statement of support from that governing  
25 body referencing this section and authorizing an allocation of  
26 housing tax credits for the development; or

27 (5) the applicant or an affiliate of the applicant has



1 a familial or financial relationship with a board member or an  
2 employee of the department.

3 (b) Subsections [~~Subsection~~] (a)(3) and (4) do [~~does~~] not  
4 apply to a development:

5 (1) that is using:

6 (A) federal HOPE VI funds or other similar funds  
7 received through the United States Department of Housing and Urban  
8 Development to assist in the preservation, through same-site  
9 reconstruction or rehabilitation, of distressed federally assisted  
10 housing;

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

13 (C) funds provided to the state under the  
14 Cranston-Gonzalez National Affordable Housing Act (42 U.S.C.  
15 Section 12701 et seq.); [~~or~~]

16 (D) funds provided to the state and participating  
17 jurisdictions under the Housing and Community Development Act of  
18 1974 (42 U.S.C. Section 5301 et seq.); or

19 (E) funds provided under Section 515, Housing Act  
20 of 1949 (42 U.S.C. Section 1485);

21 (2) that is located in a county with a population of  
22 less than one million;

23 [~~(2) that is located outside of a metropolitan~~  
24 ~~statistical area,~~] or

25 (3) that a local government where the project is to be  
26 located has by vote specifically allowed the development  
27 [~~construction~~] of a new construction development located within one

1 linear mile or less from a development under Subsection (a).

2 (c) The department by rule may identify additional factors  
3 that make an application ineligible for consideration, including  
4 additional actions or relationships of a housing sponsor,  
5 developer, or other person in the development process or of any  
6 person that has at least a 10 percent interest in or is otherwise in  
7 control of the housing sponsor, developer, or other person in the  
8 process.

9 SECTION 52. Subchapter DD, Chapter 2306, Government Code,  
10 is amended by adding Section 2306.67035 to read as follows:

11 Sec. 2306.67035. SPECIAL REQUIREMENTS FOR RURAL AND  
12 HISTORICALLY UNDERSERVED URBAN AREAS. (a) An application for  
13 housing tax credits from funds available for rural areas must be  
14 limited to:

15 (1) the rehabilitation of a development of any size;  
16 or  
17 (2) the development of a new construction development  
18 that contains not more than 76 units.

19 (b) A new construction development that contains more than  
20 76 units and is located in a rural area is eligible only for funds  
21 available for urban areas, including funds available for  
22 historically underserved urban areas, regardless of the  
23 development's location.

24 SECTION 53. Section 2306.6704, Government Code, is amended  
25 by amending Subsections (b-1), (c), and (d) and adding Subsection  
26 (e) to read as follows:

27 (b-1) The preapplication process must require the applicant

1 to provide the department with evidence that the applicant has  
2 notified the following entities with respect to the filing of the  
3 application:

4 (1) any neighborhood associations that, on December 1  
5 of the year immediately preceding the year of the application  
6 deadline, are ~~[organizations]~~ on record with the department or the  
7 municipality or county containing the proposed development site, if  
8 the ~~[state or county in which the development is to be located and~~  
9 ~~whose]~~ boundaries of the neighborhood association encompass the  
10 same elementary school attendance zone, or a portion of the same  
11 zone, as ~~[contain]~~ the proposed development site;

12 (2) ~~[the superintendent and the presiding officer of~~  
13 ~~the board of trustees of the school district containing the~~  
14 ~~development,~~

15 ~~[(3)]~~ the presiding officer of the governing body of  
16 any municipality containing the development and all elected members  
17 of that body;

18 (3) ~~[(4)]~~ the presiding officer of the governing body  
19 of the county containing the development and all elected members of  
20 that body; and

21 (4) ~~[(5)]~~ the state senator and state representative  
22 of the district containing the development.

23 (c) The department shall reject and return to the applicant  
24 any application assessed by the department under this section that  
25 fails to satisfy the threshold criteria specified by Section  
26 2306.67042 ~~[required by the board in the qualified allocation~~  
27 ~~plan]~~.

1 (d) If feasible under Section 2306.67041, an application  
2 under this section may [~~must~~] be submitted electronically.

3 (e) The department shall specify the date for filing an  
4 application under this section. The last date for submitting an  
5 application under this section may not be earlier than February 1.

6 SECTION 54. Subchapter DD, Chapter 2306, Government Code,  
7 is amended by adding Section 2306.67042 to read as follows:

8 Sec. 2306.67042. THRESHOLD CRITERIA. (a) To be eligible  
9 for scoring under Section 2306.6710, an application for an  
10 allocation of housing tax credits must satisfy only the threshold  
11 criteria provided by this chapter.

12 (b) The application developed by the department must be  
13 completed and submitted in a timely manner.

14 (c) The application must include:

15 (1) information regarding the location of the proposed  
16 development, including a legal description of the proposed site and  
17 county or, if applicable, municipal lot maps of the proposed site  
18 and a current title policy or title commitment for the development;

19 (2) documentation of all of the public notifications  
20 required by this subchapter;

21 (3) a financial statement provided by the applicant  
22 and any person that has at least a 10 percent ownership interest in  
23 the development owner, the developer, or the entity that will  
24 guarantee any obligation of the development owner;

25 (4) information demonstrating that the applicant has  
26 the experience and the financial capacity to ensure project  
27 completion;

1           (5) documentation that confirms the applicant's  
2 eligibility for all set-asides under which the applicant is seeking  
3 funding;

4           (6) a certification that the development will:

5                   (A) adhere to the requirements of the Property  
6 Code relating to residential tenancies, including the requirements  
7 relating to security devices;

8                   (B) comply with the appropriate accessibility  
9 standards required under Section 504, Rehabilitation Act of 1973  
10 (29 U.S.C. Section 794), and specified under 24 C.F.R. Part 8,  
11 Subpart C, to the same extent required for developments receiving  
12 federal financial assistance and the appropriate accessibility  
13 requirements adopted by the Texas Department of Licensing and  
14 Regulation under its Texas Accessibility Standards; and

15                   (C) adhere to local building codes or, if no  
16 local building codes are in place, the most recent version of the  
17 International Building Code;

18           (7) a certification that the applicant has no final  
19 unresolved findings of state or federal fair housing law  
20 violations; and

21           (8) a certification of the basic amenities that will  
22 be made available for the benefit of all tenants, such as:

23                   (A) full perimeter fencing;

24                   (B) a designated playground and equipment;

25                   (C) a community laundry room or laundry hook-ups  
26 in units;

27                   (D) a furnished community room;

1           (E) recreation facilities; or

2           (F) at least one public telephone available to  
3 tenants 24 hours a day.

4           (d) To establish the experience necessary to ensure project  
5 completion under Subsection (c)(4), the development owner, the  
6 owner's controlling person, or the developer must provide  
7 documentation satisfactory to the department verifying the  
8 completion of at least 100 residential units, or 36 residential  
9 units if the applicant is applying for an allocation of housing tax  
10 credits for a development located in a rural area, and the  
11 meaningful participation of the owner, controlling person, or  
12 developer in the development.

13           (e) The development must provide the following amenities in  
14 each unit without charge to the tenant:

15                   (1) for all new construction units, three  
16 communication networks as follows:

17                           (A) one network for telephone service installed  
18 using CAT5e or better wiring;

19                           (B) a second network for data installed using  
20 CAT5e or better wiring; and

21                           (C) a third network for television service  
22 installed using coaxial cable;

23                   (2) mini-blinds or window coverings for all windows;

24                   (3) except for developments receiving financing from  
25 the Texas Rural Development Office of the United States Department  
26 of Agriculture or development involving the rehabilitation of  
27 existing buildings, a dishwasher and disposal;

- 1           (4) a refrigerator;
- 2           (5) an oven and range;
- 3           (6) exhaust and vent fans in bathrooms; and
- 4           (7) ceiling fans in living areas and bedrooms.

5           (f) If fees in addition to rent are charged for an amenity  
6 reserved for an individual tenant's use, the amenity may not be  
7 included in the application.

8           (g) A development with more than 36 units must provide at  
9 least four of the amenities listed under Subsection (c)(8). A  
10 development with not more than 36 units or a development that  
11 receives funding under Section 515, Housing Act of 1949 (42 U.S.C.  
12 Section 1485), must provide at least two of the amenities listed  
13 under Subsection (c)(8).

14           (h) The developer must:

15                   (1) install a public notification sign at the proposed  
16 development site before the date the application is submitted; or

17                   (2) through regular mail provide a notice that  
18 contains the information required to be included on a public  
19 notification sign to:

20                           (A) all addresses for which zoning notification  
21 would be required by the municipality; or

22                           (B) for developments located in communities that  
23 do not have zoning, communities that do not require zoning  
24 notification, or communities located outside of a municipality, all  
25 addresses located within 1,000 feet of any part of the proposed  
26 development site.

27           (i) The department shall adopt rules detailing:

1           (1) the information required to be included on a  
2 public notification sign; and

3           (2) the type of proof required by the department that  
4 the sign has been installed or notice has been mailed.

5           (j) The application must include the architectural drawings  
6 identified by Subsection (k) or (l), as applicable. Full-size  
7 design or construction documents are not required, but the drawings  
8 must have an accurate and legible scale and show the dimensions of  
9 the development.

10          (k) An application for a development involving new  
11 construction or the rehabilitation of existing buildings with units  
12 not configured in the unit pattern proposed in the application must  
13 provide:

14           (1) a site plan;

15           (2) floor plans for each type of residential building  
16 and each type of common area building; and

17           (3) floor plans and elevations for each type of  
18 residential building and each type of common area building that  
19 clearly depict the height of each floor.

20          (l) An application for a development involving the  
21 rehabilitation of existing buildings for which the unit  
22 configurations are not being altered must provide:

23           (1) a site plan; and

24           (2) floor plans for each type of residential building  
25 and each type of common area building.

26          (m) To satisfy the requirements of Subsections (k) and (l),  
27 an application must include a boundary survey of the proposed



1 development site and of the property to be purchased. If property  
2 is to be purchased beyond the proposed site of the development, the  
3 survey must clearly distinguish between the boundaries of the  
4 larger site and the site of the development. The survey must also  
5 clearly delineate the floodplain boundary lines and all easements  
6 applicable to the proposed development site. The survey may be of  
7 any date.

8 (n) The application must include a description of the  
9 development's development costs and corresponding credit request  
10 and syndication information, including, as applicable:

11 (1) the information required by Section 2306.6705;

12 (2) a copy of a census map clearly showing that the  
13 development is located within a qualified census tract as  
14 determined by the secretary of housing and urban development;

15 (3) a schedule of any off-site costs; and

16 (4) if proposed site work costs include unusual or  
17 extraordinary items or exceed \$90,000 per acre, a detailed cost  
18 breakdown prepared by an architect or engineer.

19 (o) The application must include evidence of readiness to  
20 proceed, including the following:

21 (1) evidence of site control in the name of the  
22 development owner; and

23 (2) evidence of financing sufficient to fund the  
24 proposed total housing development cost less money requested from  
25 the department and any other sources documented in the application,  
26 including, as applicable:

27 (A) bona fide financing in place as evidenced by

1 a valid and binding loan agreement and a deed of trust in the name of  
2 the development owner that:

3 (i) identifies the mortgagor as the  
4 applicant or, if the applicant is a partnership, identifies the  
5 mortgagor as the entities that constitute the general partner; or

6 (ii) expressly allows the transfer to the  
7 development owner;

8 (B) a bona fide commitment or term sheet for the  
9 interim and permanent loans issued by a lending institution or  
10 mortgage company that is actively and regularly engaged in the  
11 business of lending money that:

12 (i) is addressed to the development owner  
13 or, if the owner is a partnership, to the entities that constitute  
14 the general partner; and

15 (ii) has been executed by the lender; or

16 (C) any federal, state, or local gap financing,  
17 whether of soft or hard debt.

18 (p) The evidence provided under Subsection (o)(2) must  
19 include, at a minimum, evidence from the lending agency that an  
20 application for funding has been made and a term sheet that clearly  
21 describes the amount and terms of the funding and the date by which  
22 the funding determination will be made and any commitment issued.  
23 Evidence of an application for funding from another department  
24 program is not required.

25 (q) The term of a loan under Subsection (o)(2) must be for a  
26 minimum of 15 years with at least a 30-year amortization. The  
27 commitment for financing must state an expiration date and all the

1 terms and conditions applicable to the financing, including the  
2 mechanism for determining the interest rate, if applicable, the  
3 anticipated interest rate, and any required guarantors. A  
4 commitment may be conditional on the completion of specified due  
5 diligence by the lender and on the allocation of housing tax  
6 credits.

7 (r) The application must include a description of the  
8 development's proposed ownership structure and the applicant's  
9 previous experience as follows:

10 (1) a chart that clearly:

11 (A) illustrates the complete organizational  
12 structure of the development team and owner, providing the names  
13 and ownership percentages of all persons having an ownership  
14 interest in the development owner; and

15 (B) discloses:

16 (i) any person that will serve as the  
17 developer of the development;

18 (ii) any person that will guarantee any  
19 obligation of the development owner; and

20 (iii) any person that has at least a 10  
21 percent ownership interest in the development owner, the developer,  
22 or the person that will guarantee any obligation of the development  
23 owner; and

24 (2) evidence that each entity shown on the  
25 organizational chart under Subdivision (1) has provided a copy of  
26 the completed and executed previous participation and background  
27 certification form to the department.

1       (s) The application must include a description of the  
2 development's projected income and operating expenses as follows:

3           (1) a 15-year pro forma estimate of operating income  
4 and expenses and supporting documentation used to generate  
5 projections;

6           (2) if rental assistance, an operating subsidy, or an  
7 interest rate reduction payment is proposed for the development, a  
8 description of the source and type of assistance, the number of  
9 units receiving the assistance, and the term and expiration date of  
10 the contract or other agreement; and

11           (3) documentation of the source of the utility  
12 allowance estimate used in completing the rent schedule.

13       (t) An application for a housing tax credit allocation from  
14 the nonprofit set-aside must include the documents described by  
15 Section 2306.6706. An application involving a nonprofit general  
16 partner must include the documents described by that section  
17 regardless of whether the application seeks a housing tax credit  
18 allocation from the nonprofit set-aside.

19       (u) An applicant applying under the nonprofit set-aside  
20 must provide the following information with respect to the  
21 nonprofit organization:

22           (1) a copy of the page from the articles of  
23 incorporation or bylaws indicating that one of the exempt purposes  
24 of the nonprofit organization is to provide low income housing;

25           (2) a copy of the page from the articles of  
26 incorporation or bylaws indicating that the nonprofit organization  
27 prohibits a member of its board of directors, other than a chief

1 staff member serving concurrently as a member of the board, from  
2 receiving material compensation for service on the board; and

3 (3) a copy of the nonprofit organization's most recent  
4 audited financial statement.

5 (v) To be eligible for a housing tax credit allocation from  
6 the nonprofit set-aside, an applicant must meet the requirements of  
7 Section 2306.6706(b).

8 (w) Subsection (u)(2) does not prohibit an attorney from  
9 serving as a board member while receiving compensation for legal  
10 service, provided that the attorney is not compensated merely for  
11 board membership.

12 (x) An applicant affiliated with the seller of the  
13 development must provide the following documentation:

14 (1) an appraisal of the property that is not more than  
15 12 months old on the date the appraisal is submitted to the  
16 department;

17 (2) a valuation report from the county tax appraisal  
18 district;

19 (3) clear identification of the seller and details of  
20 any relationship between the seller and the applicant; and

21 (4) documentation of the original acquisition or  
22 development cost and any other verifiable or justifiable costs of  
23 owning, improving, or holding the property that support the  
24 proposed acquisition price.

25 (y) An applicant applying for housing tax credits in  
26 connection with the acquisition of an existing housing development  
27 must provide, in addition to the documentation required under

1 Subsection (x), information to establish that the development is  
2 eligible for an allocation of those credits. For an occupied  
3 development undergoing rehabilitation, an applicant must provide,  
4 if available:

5 (1) historic monthly operating statements for 12  
6 consecutive months ending not more than four years before the date  
7 the information is provided; or

8 (2) the two most recent consecutive annual operating  
9 statements.

10 (z) The appraisal under Subsection (x)(1) must be submitted  
11 not later than the 30th day after the date the application is  
12 submitted to the department. The appraisal must separately state  
13 the as-is, preacquisition, or transfer value of the property and  
14 the improvements where applicable.

15 (aa) The following documents must be submitted not later  
16 than the 30th day after the date the application is submitted to the  
17 department:

18 (1) except as provided by Subsection (bb), a Phase I  
19 Environmental Site Assessment on the subject property, dated not  
20 more than 12 months before the date the application is submitted to  
21 the department; and

22 (2) except as provided by Subsection (cc), a  
23 comprehensive market analysis prepared at the applicant's expense  
24 by a disinterested qualified market analyst in accordance with  
25 Section 2306.67055.

26 (bb) If a Phase I Environmental Site Assessment on the  
27 development is dated more than 12 months before the date the

1 application is submitted to the department, the applicant must  
2 supply the department with an updated letter or updated report  
3 dated at least three months before the date the application is  
4 submitted from the organization that prepared the initial  
5 assessment confirming that the site has been reinspected and  
6 reaffirming the conclusions of the initial report or identifying  
7 the changes since the initial report. Developments that receive  
8 any funding from the United States Department of Agriculture or the  
9 United States Department of Housing and Urban Development are not  
10 required to submit a Phase I Environmental Site Assessment.

11 (cc) A market analysis is not required for applications that  
12 involve the rehabilitation of an existing property that receives  
13 funding from the United States Department of Agriculture.

14 SECTION 55. Section 2306.6705, Government Code, is amended  
15 to read as follows:

16 Sec. 2306.6705. GENERAL APPLICATION REQUIREMENTS. (a) The  
17 department may not require that an application contain information  
18 in addition to that required by this chapter. An application must  
19 contain [~~at a minimum~~] the following written, detailed information  
20 in a form prescribed by the board:

21 (1) a description of:

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

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

26 (C) the funding sources for the development,  
27 including:

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

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

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

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

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

15 (A) pay-in schedules; and

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

18 (4) if rental assistance or[~~7~~] an operating subsidy[~~7~~  
19 ~~or an annuity~~] is proposed for the development, any related  
20 contract or other agreement securing those funds and an  
21 identification of:

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

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

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

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



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

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

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

12 (6) if the development is not located within the  
13 boundaries of a political subdivision with a zoning ordinance,  
14 evidence in the form of a letter from the chief executive officer of  
15 the political subdivision or from another local official with  
16 appropriate jurisdiction that states that the development is  
17 located within the boundaries of a political subdivision that does  
18 not have a zoning ordinance and:

19 (A) the development fulfills a need for  
20 additional affordable rental housing as evidenced in a consolidated  
21 plan, comprehensive plan, or other local planning document; or

22 (B) if a plan described by Paragraph (A) does not  
23 exist, there is a need for affordable housing;

24 (7) if an occupied development is proposed for  
25 rehabilitation, [+

26 [~~(A) an explanation of the process used to notify~~  
27 ~~and consult with the tenants in preparing the application,~~

1           ~~[(B)]~~ a relocation plan outlining:

2           (A) how the rehabilitation process will affect  
3 any existing tenants ~~[(i) relocation requirements]~~; and

4           (B) [(ii)] a budget for any permanent or  
5 temporary relocation of tenants, with an identified funding source;  
6 ~~[and~~

7           ~~[(C) if applicable, evidence that the relocation~~  
8 ~~plan has been submitted to the appropriate local agency;]~~

9           (8) [(7)] a certification of the applicant's  
10 compliance with appropriate state and federal laws, as required by  
11 other state law or by the board; and

12           ~~[(8) any other information required by the board in~~  
13 ~~the qualified allocation plan; and]~~

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

16           (A) any neighborhood associations that, on  
17 December 1 of the year immediately preceding the year of the  
18 application deadline, are ~~[organizations]~~ on record with the  
19 department or the municipality or county containing the proposed  
20 development site, if the ~~[state or county in which the development~~  
21 ~~is to be located and whose]~~ boundaries of the neighborhood  
22 association encompass the same elementary school attendance zone,  
23 or a portion of the same zone, as ~~[contain]~~ the proposed development  
24 site;

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

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

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

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

9 (b) At the time the commitment fee or determination notice  
10 fee is paid, an applicant must obtain final approval of the  
11 appropriate zoning required under Subsection (a)(5) and provide to  
12 the department documentation of that zoning for the development as  
13 proposed in the application or must provide to the department the  
14 documentation required by Subsection (a)(6). If the applicant does  
15 not provide the documentation at the time required by this  
16 subsection, the department shall rescind any commitment of housing  
17 tax credits. An applicant may not request or be granted an  
18 extension of the deadline for providing documentation under this  
19 subsection.

20 SECTION 56. Subchapter DD, Chapter 2306, Government Code,  
21 is amended by adding Section 2306.67053 to read as follows:

22 Sec. 2306.67053. LIMITATION ON REQUIREMENTS UNDER THIS  
23 SUBCHAPTER. In setting requirements under this subchapter, the  
24 board and the department may not adopt rules or otherwise mandate  
25 the unit mix or bedroom arrangement of any development not reserved  
26 exclusively for occupancy by elderly individuals.

27 SECTION 57. Section 2306.6706(b), Government Code, is

1 amended to read as follows:

2 (b) To be eligible for a housing tax credit allocation from  
3 the nonprofit set-aside, a nonprofit organization must:

4 (1) control a majority of the development;

5 (2) materially participate in the development and  
6 operation of the development throughout the compliance period [~~if~~  
7 ~~the organization's application is filed on behalf of a limited~~  
8 ~~partnership, be the managing general partner~~]; and

9 (3) otherwise meet the requirements of Section  
10 42(h)(5), Internal Revenue Code of 1986 (26 U.S.C. Section  
11 42(h)(5)).

12 SECTION 58. Section 2306.6709(b), Government Code, is  
13 amended to read as follows:

14 (b) The application log must contain at least the following  
15 information:

16 (1) the names of the applicant and related parties;

17 (2) the physical location of the development,  
18 including the relevant region of the state;

19 (3) the amount of housing tax credits requested by  
20 [~~for allocation by the department to~~] the applicant;

21 (4) any set-aside category under which the application  
22 is filed;

23 (5) in strict compliance with Section 2306.6710 of  
24 this chapter and Section 42(m)(1)(B), Internal Revenue Code of  
25 1986, the score of the application in each scoring category  
26 contained in [~~adopted by the department under~~] the qualified  
27 allocation plan;

1 (6) any decision made by the department or board  
2 regarding the application, including the [~~department's decision~~  
3 ~~regarding whether to underwrite the application and the~~] board's  
4 decision regarding whether to allocate housing tax credits to the  
5 development;

6 (7) the names of persons making the decisions  
7 described by Subdivision (6), including the names of department  
8 staff scoring [~~and underwriting~~] the application, to be recorded  
9 next to the description of the applicable decision;

10 (8) the amount of housing tax credits allocated to the  
11 development; and

12 (9) a dated record and summary of any contact between  
13 the department staff, the board, and the applicant or any related  
14 parties.

15 SECTION 59. Section 2306.6710, Government Code, is amended  
16 to read as follows:

17 Sec. 2306.6710. EVALUATION [~~AND UNDERWRITING~~] OF  
18 APPLICATIONS. (a) In evaluating an application, the department  
19 shall determine whether the application satisfies the threshold  
20 criteria required by Section 2306.67042 [~~the board in the qualified~~  
21 ~~allocation plan~~]. The department shall reject and return to the  
22 applicant any application that fails to satisfy those [~~the~~]  
23 threshold criteria.

24 (b) If an application satisfies the threshold criteria, the  
25 department shall score and rank the application using the [~~a~~] point  
26 system described by this section [~~that~~].

27 [~~(1) prioritizes in descending order criteria~~]

1 regarding:

2                   ~~[(A) financial feasibility of the development~~  
3 ~~based on the supporting financial data required in the application~~  
4 ~~that will include a project underwriting pro forma from the~~  
5 ~~permanent or construction lender;~~

6                   ~~[(B) quantifiable community participation with~~  
7 ~~respect to the development, evaluated on the basis of written~~  
8 ~~statements from any neighborhood organizations on record with the~~  
9 ~~state or county in which the development is to be located and whose~~  
10 ~~boundaries contain the proposed development site;~~

11                   ~~[(C) the income levels of tenants of the~~  
12 ~~development;~~

13                   ~~[(D) the size and quality of the units;~~

14                   ~~[(E) the commitment of development funding by~~  
15 ~~local political subdivisions;~~

16                   ~~[(F) the level of community support for the~~  
17 ~~application, evaluated on the basis of written statements from~~  
18 ~~state elected officials;~~

19                   ~~[(G) the rent levels of the units;~~

20                   ~~[(H) the cost of the development by square foot;~~

21 and

22                   ~~[(I) the services to be provided to tenants of~~  
23 ~~the development, and~~

24                   ~~[(2) uses criteria imposing penalties on applicants or~~  
25 ~~affiliates who have requested extensions of department deadlines~~  
26 ~~relating to developments supported by housing tax credit~~  
27 ~~allocations made in the application round preceding the current~~

1 ~~round or a developer or principal of the applicant that has been~~  
2 ~~removed by the lender, equity provider, or limited partners for its~~  
3 ~~failure to perform its obligations under the loan documents or~~  
4 ~~limited partnership agreement].~~

5 (c) The department shall award 50 points if the development  
6 is determined to be financially feasible based on a project  
7 underwriting pro forma from the permanent or construction lender  
8 that discloses reasonably expected sources and uses of funds during  
9 the development process and planned operating income and expenses  
10 during the initial 15 years of operation as a development [~~publish~~  
11 ~~in the qualified allocation plan details of the scoring system used~~  
12 ~~by the department to score applications~~]. For a development that  
13 receives financing from the Texas Rural Development Office of the  
14 United States Department of Agriculture, the report entitled  
15 "Sources and Uses Comprehensive Evaluation for Multifamily Housing  
16 Loans" or any other evidence or similar report considered  
17 acceptable by the department meets the requirements of the  
18 underwriting pro forma.

19 (d) If the deferral of 50 percent or more of the developer's  
20 fee for an urban development, or 60 percent or more for a rural  
21 development, is required to make the development financially  
22 feasible under Subsection (c), the department shall deduct 10  
23 points.

24 (e) The department shall award points based on written  
25 statements of support or opposition from neighborhood associations  
26 that, on December 1 of the year immediately preceding the year of  
27 the application deadline, are on record with the department or the

1 municipality or county containing the proposed development site, if  
2 the boundaries of the neighborhood association encompass the same  
3 elementary school attendance zone, or a portion of the same zone, as  
4 the proposed development site. If there are no neighborhood  
5 associations on record with the department, if no letters either in  
6 support or opposition are received, or if the application involves  
7 the rehabilitation of an at-risk development, the department shall  
8 award the application 40 points. If 80 percent or more of the  
9 letters from neighborhood associations support the development,  
10 the department shall award the application 40 points. If at least  
11 50 percent but less than 80 percent of the letters from neighborhood  
12 associations support the development, the department shall award  
13 the application 30 points. If a majority of the letters from  
14 neighborhood associations oppose the development, the department  
15 shall award zero points.

16 (f) An application may receive points under either  
17 Subsection (g) or (i), but not under both subsections.

18 (g) The department shall award 30 points if:

19 (1) the development is located outside of a qualified  
20 census tract;

21 (2) there is a documented, committed, and available  
22 third-party funding source to provide project-based rental  
23 assistance to at least 50 percent of the tenants; and

24 (3) the applicant confirms, in the manner prescribed  
25 by department rule, that 50 percent or more of the total units in  
26 the development will be restricted to being rented to households  
27 with incomes equal to or below 30 percent of the greater of local



1 area median income, as adjusted for household size, or the  
2 statewide median income, as adjusted for household size.

3 (h) The documented, committed, and available third-party  
4 funding source under Subsection (g) may only be:

5 (1) project-based Section 8 assistance;

6 (2) a United States Department of Agriculture  
7 five-year rental assistance contract;

8 (3) a United States Department of Housing and Urban  
9 Development contract for project-based Section 8 operating  
10 assistance; or

11 (4) a similar federal or state project-based rental  
12 assistance program, with a term of at least five years.

13 (i) For an application to qualify for points under this  
14 subsection, the rents for the rent-restricted units in the  
15 development must not be higher than the allowable housing tax  
16 credit rents at the rent-restricted area median gross household  
17 income level. For Section 8 residents, or other rental assistance  
18 tenants, the tenant-paid rent plus the utility allowance must be  
19 compared to the rent limit to determine compliance. The  
20 development owner on making selections must set aside units at the  
21 rent-restricted levels of area median gross household income and  
22 must maintain the percentage of those units continuously over the  
23 compliance and extended-use period as specified in a land use  
24 restriction agreement. Applications may qualify for points under  
25 only one of the categories listed in this subsection. The  
26 department shall award points as follows:

27 (1) 25 points, if 10 percent or more of the total

1 number of the rent-restricted units at or below 60 percent of the  
2 area median gross household income are designated for tenants at or  
3 below 30 percent of the area median gross household income;

4 (2) 20 points, if 40 percent or more of the total  
5 number of the rent-restricted units at or below 60 percent of the  
6 area median gross household income are designated for tenants at or  
7 below 50 percent of the area median gross household income;

8 (3) 17 points, if 35 percent or more of the total  
9 number of the rent-restricted units at or below 60 percent of the  
10 area median gross household income are designated for tenants at or  
11 below 50 percent of the area median gross household income;

12 (4) 14 points, if 30 percent or more of the total  
13 number of the rent-restricted units at or below 60 percent of the  
14 area median gross household income are designated for tenants at or  
15 below 50 percent of the area median gross household income;

16 (5) 11 points, if 25 percent or more of the total  
17 number of the rent-restricted units at or below 60 percent of the  
18 area median gross household income are designated for tenants at or  
19 below 50 percent of the area median gross household income;

20 (6) eight points, if 20 percent or more of the total  
21 number of the rent-restricted units at or below 60 percent of the  
22 area median gross household income are designated for tenants at or  
23 below 50 percent of the area median gross household income;

24 (7) five points, if 15 percent or more of the total  
25 number of the rent-restricted units at or below 60 percent of the  
26 area median gross household income are designated for tenants at or  
27 below 50 percent of the area median gross household income; or

1           (8) two points, if 10 percent or more of the total  
2 number of the rent-restricted units at or below 60 percent of the  
3 area median gross household income are designated for tenants at or  
4 below 50 percent of the area median gross household income.

5           (j) Only an application for a development that meets the  
6 requirements of Subsection (k) may receive points under Subsection  
7 (l), except that an application involving the rehabilitation of  
8 existing buildings or an application for a development receiving  
9 funding from the United States Department of Agriculture is not  
10 required to meet the requirements of Subsection (k) to receive  
11 points under Subsection (l).

12           (k) The square feet of all of the units in the development,  
13 for each type of unit, must be at minimum:

14                   (1) 500 square feet for efficiency units;

15                   (2) 550 square feet for one-bedroom units reserved  
16 exclusively for occupancy by elderly individuals and 650 square  
17 feet for all other one-bedroom units;

18                   (3) 750 square feet for two-bedroom units reserved  
19 exclusively for occupancy by elderly individuals and 900 square  
20 feet for all other two-bedroom units;

21                   (4) 1,000 square feet for three-bedroom units; or

22                   (5) 1,200 square feet for four-bedroom units.

23           (l) The department by rule shall develop a list from which  
24 the applicant may indicate to the department specific unit and  
25 development amenity and quality features to be offered with respect  
26 to the development and for which the department may award points to  
27 the application. The total points awarded for unit and development

1 amenity and quality features may not exceed 25 points. The  
2 department by rule shall award double the point value for unit and  
3 development amenity and quality features with respect to  
4 applications involving rehabilitation of existing buildings or  
5 proposing single-room occupancy developments.

6 (m) If the development has received a commitment for 10  
7 percent or more of the total development cost from a political  
8 subdivision that is not a related party of the applicant, the  
9 department shall award the application 20 points. A commitment of  
10 financing described by this subsection may include financing  
11 through federal community development block grant or loan funds,  
12 HOME funds, funds from a local housing trust, local affordable  
13 housing funds, or other quantifiable contributions by the political  
14 subdivision. For rural developments, HOME and housing trust funds  
15 allocated by the department qualify the application for points  
16 under this subsection. The applicant must submit with the  
17 application a copy of the commitment of funds or a copy of the  
18 application filed with the funding entity and a letter from the  
19 funding entity indicating that the application was received. The  
20 applicant must provide a commitment of funds not later than the 60th  
21 day before the date of the board recommendation of housing tax  
22 credit allocations to receive points under this subsection.

23 (n) The department shall award points based on written  
24 statements of support or opposition from state elected officials  
25 representing constituents in areas that include the location of the  
26 development. The department shall score letters from state  
27 representatives or state senators received by the department not

1 later than the 30th day before the date the board first meets to  
2 consider applications for an allocation of housing tax credits.  
3 The department shall award an amount of points not to exceed 14  
4 points as follows:

5 (1) a letter of support from a state representative or  
6 a state senator, 10 points for a single letter of support or 14  
7 points for two letters of support;

8 (2) a letter of opposition from either a state  
9 representative or a state senator, 10 total points deducted;

10 (3) a letter of opposition from both a state  
11 representative and a state senator, 25 total points deducted; or

12 (4) if both the state representative and the state  
13 senator are contacted but no letters either in support or  
14 opposition are received, seven total points.

15 (o) Excluding any units reserved for a manager, if the units  
16 in the development are restricted so that the rent plus the  
17 allowance for utilities is equal to or below the maximum housing tax  
18 credit rent, the department shall award the application points as  
19 follows:

20 (1) if more than 95 percent of the units are  
21 restricted, 12 points;

22 (2) if more than 90 percent but not more than 95  
23 percent of the units in the development are restricted, 10 points;

24 (3) if more than 85 percent but not more than 90  
25 percent of the units in the development are restricted, nine  
26 points;

27 (4) if more than 80 percent but not more than 85

1 percent of the units in the development are restricted, eight  
2 points; and

3 (5) if 80 percent or less of the units in the  
4 development are restricted, seven points.

5 (p) If the applicant will pay ad valorem taxes on the  
6 development for a minimum of 15 years by making an annual payment  
7 that is equal to at least 50 percent of the total ad valorem taxes  
8 due in a tax year on that development, the department shall award  
9 the application eight points.

10 (q) The department shall award the application a total of  
11 five points under this subsection if the development is located  
12 within one of the following geographical areas:

13 (1) a geographical area that is:

14 (A) an economically distressed area, as defined  
15 by Section 17.921, Water Code;

16 (B) a colonia, as defined by Section 2306.581; or

17 (C) a difficult development area, as  
18 specifically designated by the secretary of housing and urban  
19 development;

20 (2) a designated state or federal empowerment or  
21 enterprise zone, urban enterprise community, or urban enhanced  
22 enterprise community;

23 (3) a municipality-sponsored area or zone where a  
24 municipality or county has, through a local government initiative,  
25 specifically encouraged or channeled growth, neighborhood  
26 preservation, or redevelopment;

27 (4) a county that has received an award, or that

1 contains a municipality that has received an award, within the past  
2 three years, from the Texas Department of Agriculture's rural  
3 municipal finance program, Texas capital fund real estate  
4 development program, or Texas capital fund infrastructure  
5 development program; or

6 (5) a qualified census tract, as defined by Section  
7 42, Internal Revenue Code of 1986, the development of which  
8 contributes to a concerted community revitalization plan.

9 (r) The department shall award an application five points  
10 if the development is located in a census tract in which there are  
11 no other existing developments supported by housing tax credits.

12 (s) The department shall award points to an application for  
13 a development that provides supportive services to tenants as  
14 follows:

15 (1) if the applicant coordinates tenant services with  
16 services provided through state workforce development and welfare  
17 programs as evidenced by execution of a Tenant Supportive Services  
18 Certification, one point; and

19 (2) if the applicant certifies that the development  
20 will provide special supportive services appropriate for the  
21 proposed tenants at no cost to the tenants either on-site or  
22 off-site with transportation provided by the development, three  
23 points.

24 (t) Service options under Subsection (s) include:

25 (1) child care;

26 (2) counseling services;

27 (3) GED preparation;

- 1           (4) English as a second language classes;
- 2           (5) credit counseling;
- 3           (6) financial planning assistance or courses;
- 4           (7) scholastic tutoring;
- 5           (8) social events and activities;
- 6           (9) a senior meal program;
- 7           (10) a home-delivered meal program; or
- 8           (11) any other program described under Title IV-A,

9 Social Security Act (42 U.S.C. Section 601 et seq.), that:

10           (A) enables children to be cared for in their  
11 homes or the homes of relatives;

12           (B) ends the dependence of needy families on  
13 government benefits by promoting job preparation;

14           (C) prevents or reduces the incidence of  
15 out-of-wedlock pregnancies; or

16           (D) encourages the formation and maintenance of  
17 two-parent families.

18           (u) The department shall award six points to an application  
19 that involves the preservation, through rehabilitation or  
20 reconstruction on the same site, of existing low income housing.

21           (v) The department shall award two points to an application  
22 for a development funded by federal HOPE VI funding or by public  
23 housing authority capital grant funds.

24           (w) The department shall award one point to an application  
25 for a development in which 100 percent of the units will be reserved  
26 for occupancy by elderly individuals or homeless persons.

27           (x) The department shall award one point to an application



1 in which the applicant commits to notifying the local public  
2 housing authority or the nearest agency that administers Section 8  
3 certificates or vouchers for the area in which the development is  
4 located that the applicant will consider as tenants for the  
5 development individuals and households on the public housing  
6 authority's waiting list for occupancy.

7 (y) The department shall award two points to an application  
8 for a development in which 50 percent or more of the total units in  
9 the development will have two or more bedrooms.

10 (z) The department shall award one point to an application  
11 if, for the minimum purchase price provided by, and in accordance  
12 with the requirements of, Section 42(i)(7), Internal Revenue Code  
13 of 1986, the development owner agrees to provide a right of first  
14 refusal to purchase the development on or after the date of  
15 termination of the compliance period to:

16 (1) a qualified nonprofit organization;

17 (2) for a single family building, an individual  
18 tenant; or

19 (3) for a multifamily housing development, a tenant  
20 cooperative, a resident management corporation in the development,  
21 or another association of tenants in the development.

22 (aa) The department shall award one point if the applicant  
23 agrees to extend the affordable housing period beyond the minimum  
24 required by Section 42, Internal Revenue Code of 1986, for an  
25 additional five-year period.

26 (bb) The department shall award points to an application for  
27 a mixed-income development comprised of both market rate units and

1 qualified housing tax credit units as follows:

2 (1) for a development in which not more than 85 percent  
3 of the units are housing tax credit units, three points;

4 (2) for a development in which more than 85 percent but  
5 not more than 90 percent of the units are housing tax credit units,  
6 two points; or

7 (3) for a development in which more than 90 percent but  
8 not more than 95 percent of the units are housing tax credit units,  
9 one point.

10 (cc) The department shall award four points to an  
11 application for a development that consists of not more than 36  
12 units and is not part of, or contiguous to, a larger development.

13 (dd) The department shall award one point to an application  
14 if the applicant or a representative of the applicant has attended a  
15 fair housing seminar at least 5-1/5 hours in duration within the  
16 preceding three years.

17 (ee) The department shall award one point to an application  
18 if the development experience of the development owner, the owner's  
19 controlling person, or the developer exceeds by 20 residential  
20 units the minimum development experience required by Section  
21 2306.67042(d).

22 (ff) The department shall award four points to an  
23 application if the applicant submitted an application during the  
24 preapplication process in conformity with department rules. An  
25 application that involves funding from the Texas Rural Development  
26 Office of the United States Department of Agriculture that also  
27 involves the rehabilitation of an affordable housing development is

1 eligible for points under this subsection regardless of whether the  
2 applicant submitted an application during the preapplication  
3 process.

4 (gg) If two or more applications receive the same score  
5 under this section and are eligible for an allocation of housing tax  
6 credits, the department shall give preference to the development  
7 that requests the least amount of housing tax credits per net  
8 rentable area.

9 (hh) The department shall implement a system of evaluating  
10 the financial aspects of housing tax credit developments that  
11 recognizes that those developments do not need, and are not subject  
12 to, the financial underwriting necessary for a mortgage loan  
13 transaction when the department has a financial interest in the  
14 loan. In evaluating housing tax credit developments, the  
15 department shall ensure only that the low income housing tax credit  
16 dollars allocated to a development do not exceed the amount  
17 necessary for the financial feasibility of the development and its  
18 viability throughout the first 15 years of operation.

19 (ii) The department shall evaluate [~~underwrite~~] the  
20 applications ranked under Subsection (b) beginning with the  
21 applications with the highest scores in each region described by  
22 Section 2306.111(d) and in each set-aside category described in the  
23 qualified allocation plan. Based on application rankings, the  
24 department shall continue to evaluate [~~underwrite~~] applications  
25 until the department has processed enough applications satisfying  
26 the department's evaluation [~~underwriting~~] criteria to enable the  
27 allocation of all available housing tax credits according to

1 regional allocation goals and set-aside categories. To enable the  
2 board to establish an applications waiting list under Section  
3 2306.6711, the department shall evaluate [~~underwrite~~] as many  
4 additional applications as the board considers necessary to ensure  
5 that all available housing tax credits are allocated within the  
6 period required by law. The department shall evaluate [~~underwrite~~]  
7 an application to determine the financial feasibility of the  
8 development and an appropriate level of housing tax credits.

9 (jj) In determining the financial feasibility of a  
10 development, the department shall consider only:

11 (1) the sources and uses of funds and the total  
12 financing planned for the development;

13 (2) any proceeds or receipts expected to be generated  
14 by reason of tax benefits;

15 (3) the percentage of the housing tax credit dollar  
16 amount used for development costs other than the cost of  
17 intermediaries; and

18 (4) the reasonableness of the developmental and  
19 operational costs of the development.

20 (kk) In determining an appropriate level of housing tax  
21 credits, the department shall evaluate the cost of the development  
22 based on acceptable cost parameters as adjusted for inflation and  
23 as established by historical final cost certifications of all  
24 previous housing tax credit allocations for:

25 (1) the county in which the development is to be  
26 located;

27 (2) if certifications are unavailable under

1 Subdivision (1), the metropolitan statistical area in which the  
2 development is to be located; or

3 (3) if certifications are unavailable under  
4 Subdivisions (1) and (2), the uniform state service region in which  
5 the development is to be located.

6 ~~[(c) In scoring applications for purposes of housing tax  
7 credit allocations, the department shall award, consistent with  
8 Section 42, Internal Revenue Code of 1986 (26 U.S.C. Section 42),  
9 preference points to a development that will:~~

10 ~~[(1) when practicable and feasible based on  
11 documented, committed, and available third-party funding sources,  
12 serve the lowest income tenants per housing tax credit, if the  
13 development is to be located outside a qualified census tract; and~~

14 ~~[(2) produce for the longest economically feasible  
15 period the greatest number of high quality units committed to  
16 remaining affordable to any tenants who are income-eligible under  
17 the low income housing tax credit program.~~

18 ~~[(f) In evaluating the level of community support for an  
19 application under Subsection (b)(1)(F), the department shall  
20 award:~~

21 ~~[(1) positive points for positive written statements  
22 received;~~

23 ~~[(2) negative points for negative written statements  
24 received; and~~

25 ~~[(3) zero points for neutral statements received.~~

26 ~~[(g) In awarding points under Subsection (f), the  
27 department shall give equal weight to each written statement~~

1 ~~received.]~~

2 SECTION 60. Section 2306.6711, Government Code, is amended  
3 by amending Subsections (b) and (f) and adding Subsection (g) to  
4 read as follows:

5 (b) Not later than the deadline specified in the qualified  
6 allocation plan, the board shall issue commitments for available  
7 housing tax credits based on the application evaluation process  
8 provided by Section 2306.6710. The board may not allocate to an  
9 applicant housing tax credits in any unnecessary amount, as  
10 determined by the department [~~department's underwriting policy~~]  
11 and by federal law, and in any event may not allocate to any one  
12 person [~~the applicant~~] housing tax credits in an amount greater  
13 than \$2 million in a single application round, except as provided by  
14 this subsection. The \$2 million limitation applies to a person  
15 regardless of whether the person is involved in the development in  
16 the capacity of the applicant or in the capacity of a related party.  
17 A development financed with tax-exempt bonds is not subject to the  
18 \$2 million limitation, and the development does not count towards  
19 the total limit on housing tax credits per person. The \$2 million  
20 limitation does not apply to:

21 (1) an entity that raises or provides equity for one or  
22 more developments, solely with respect to its actions in raising or  
23 providing equity for those developments;

24 (2) the provision by an entity of qualified commercial  
25 financing as that term is defined under Section 49(a)(1)(D)(ii),  
26 Internal Revenue Code of 1986; or

27 (3) a development consultant with respect to the

1 provision of consulting services, provided the development  
2 consultant is not a related party to the applicant and otherwise  
3 does not own an interest in the development and the consultant fee  
4 received for those services does not exceed \$150,000.

5 (f) The board may allocate housing tax credits to more than  
6 one development in a single community, as defined by department  
7 rule, in the same calendar year ~~[only]~~ if:

8 (1) the community is located in a county with a  
9 population of one million or less; or

10 (2) the allocations involve the rehabilitation of  
11 existing developments.

12 (g) The board may allocate in the same calendar year housing  
13 tax credits to more than one new construction development in a  
14 single community, as defined by department rule, located in a  
15 county with a population of more than one million only if the  
16 developments:

17 (1) are or will be located more than one linear mile  
18 apart; or

19 (2) are allocated housing tax credits from credits  
20 available to the state for different calendar years. [~~This~~  
21 ~~subsection applies only to communities contained within counties~~  
22 ~~with populations exceeding one million.]~~

23 SECTION 61. Sections 2306.6712(a)-(d), Government Code,  
24 are amended to read as follows:

25 (a) If a proposed modification would materially and  
26 adversely alter a development approved for an allocation of a  
27 housing tax credit, the department shall require the applicant to

1 file a formal, written amendment to the application on a form  
2 prescribed by the department.

3 (b) If the director determines that a proposed modification  
4 may materially and adversely alter a development, the [~~The~~]  
5 director shall require the department staff assigned to evaluate  
6 [~~underwrite~~] applications as described by Section 2306.6710(ii) to  
7 review [~~evaluate~~] the amendment and provide an analysis and written  
8 recommendation to the board. The appropriate monitor under Section  
9 2306.6719 shall also provide to the board an analysis and written  
10 recommendation regarding the amendment. If the director determines  
11 that a modification would not materially and adversely alter a  
12 development, the director shall approve the modification without  
13 board action.

14 (c) The board must vote on whether to approve an [~~the~~]  
15 amendment proposing a modification that the director determines may  
16 materially and adversely alter a development or whether to require  
17 resolution of the matter through an alternative dispute resolution  
18 process under Section 2306.082. The board by vote may reject an  
19 amendment and, if appropriate, rescind the allocation of housing  
20 tax credits and reallocate the credits to other applicants on the  
21 waiting list required by Section 2306.6711 if the board determines  
22 that the modification proposed in the amendment:

23 (1) would materially alter the development in a  
24 negative manner; or

25 (2) would have adversely affected the selection of the  
26 application in the application round.

27 (d) Material alteration of a development includes:



- 1 (1) a significant modification of the site plan;
- 2 (2) a modification of the number of units or bedroom  
3 mix of units;
- 4 (3) a substantive modification of the scope of tenant  
5 services;
- 6 (4) a change in the income levels of the tenants to be  
7 served by the development [~~a reduction of three percent or more in~~  
8 ~~the square footage of the units or common areas~~];
- 9 (5) any modification in the attributes of the  
10 development that would have affected the selection of the  
11 application in the application round [~~a significant modification of~~  
12 ~~the architectural design of the development~~]; and
- 13 (6) [~~a modification of the residential density of the~~  
14 ~~development of at least five percent~~; and
- 15 [~~(7)~~] any other modification considered significant  
16 by the board.

17 SECTION 62. Section 2306.6713(e), Government Code, is  
18 amended to read as follows:

19 (e) The director may not refuse the transfer of a project  
20 that received points in an application round for being developed by  
21 a historically underutilized business to a development owner that  
22 is not a historically underutilized business if the transfer occurs  
23 at least three years after completion of the project [~~development~~  
24 ~~owner shall certify to the director that the tenants in the~~  
25 ~~development have been notified in writing of the transfer before~~  
26 ~~the 30th day preceding the date of submission of the transfer~~  
27 ~~request to the department~~].

1 SECTION 63. Section 2306.6715, Government Code, is amended  
2 by amending Subsections (a), (c), (d), and (e) and adding  
3 Subsections (d-1), (d-2), and (f) to read as follows:

4 (a) In a form prescribed by the department in the qualified  
5 allocation plan, an applicant may appeal the following decisions  
6 made by the department in the application evaluation process  
7 provided by Section 2306.6710:

8 (1) an evaluation [~~a determination~~] regarding the  
9 application's satisfaction of threshold [~~and underwriting~~]  
10 criteria under Section 2306.67042 or scoring criteria under Section  
11 2306.6710;

12 (2) the scoring of the application; and

13 (3) a recommendation as to the amount of housing tax  
14 credits to be allocated to the application.

15 (c) An applicant must file a written appeal authorized by  
16 this section with the department not later than the 10th [~~seventh~~]  
17 day after the date the department publishes the results of the  
18 application evaluation process provided by Section 2306.6710. In  
19 the appeal, the applicant must specifically identify the  
20 applicant's grounds for appeal, based on the original application  
21 and additional documentation filed with the original application.

22 (d) The director shall respond in writing to the appeal not  
23 later than the 14th day after the date of receipt of the appeal. If  
24 the applicant is not satisfied with the director's response to the  
25 appeal, the applicant may request alternative dispute resolution in  
26 addition to making an appeal directly in writing to the board.

27 (d-1) An [~~provided that an~~] appeal filed with the board

1 under Subsection (d) [~~this subsection~~] must be received by the  
2 board before:

3 (1) the seventh day preceding the date of the board  
4 meeting at which the relevant allocation decision is expected to be  
5 made; or

6 (2) the third day preceding the date of the board  
7 meeting described by Subdivision (1), if the director does not  
8 respond to the appeal before the date described by Subdivision (1).

9 (d-2) The department may contract with the State Office of  
10 Administrative Hearings to provide alternative dispute resolution  
11 services, excluding binding arbitration. Alternative dispute  
12 resolution must run concurrently with an appeal to the board.

13 (e) Board review of an appeal under Subsection (d) is based  
14 on the original application and additional documentation filed with  
15 the original application. The board may not review any information  
16 not contained in or filed with the original application, unless  
17 doing so is recommended as a result of the alternative dispute  
18 resolution process. In making its decision regarding the appeal,  
19 the board shall consider the result of any alternative dispute  
20 resolution requested under Subsection (d) and any recommendations  
21 made to the board as a result of that process. The decision of the  
22 board regarding the appeal is a final administrative decision  
23 subject to judicial review.

24 (f) If a decision of the board or department staff denying  
25 an application for low income housing tax credits is reversed on  
26 appeal, the department shall award the applicant an appropriate  
27 forward commitment of tax credits for the next application round

1 that begins after the date of the reversal if the application would  
2 have been recommended for an award on the basis of factors other  
3 than those rejected on appeal.

4 SECTION 64. Section 2306.6716(a), Government Code, is  
5 amended to read as follows:

6 (a) A fee charged by the department for filing an  
7 application or for receiving an allocation or a commitment of  
8 housing tax credits may not be excessive and must reflect the  
9 department's actual costs in processing the application, providing  
10 copies of documents to persons connected with the application  
11 process, and making appropriate information available to the public  
12 through the department's website. The department shall treat the  
13 total amount of all allocation or commitment fees as being earned  
14 and available for use in the year in which the fees were received.

15 SECTION 65. Sections 2306.6717(a), (b), and (d), Government  
16 Code, are amended to read as follows:

17 (a) Subject to Section 2306.67041, the department shall  
18 make the following items available on the department's website:

19 (1) as soon as practicable, any proposed application  
20 submitted through the preapplication process established by this  
21 subchapter;

22 (2) before the 30th day preceding the date of the  
23 relevant board allocation decision, except as provided by  
24 Subdivision (3), the entire application, including all supporting  
25 documents and exhibits, the application log, a scoring sheet  
26 providing details of the application score, and any other document  
27 relating to the processing of the application;

1           (3) not later than the third working day after the date  
2 of the relevant determination, the results of each stage of the  
3 application process, including the results of the application  
4 scoring and evaluation [~~underwriting~~] phases and the allocation  
5 phase;

6           (4) before the 15th day preceding the date of board  
7 action on the amendment, notice of an amendment under Section  
8 2306.6712 and the recommendation of the director and monitor  
9 regarding the amendment; and

10           (5) an appeal filed with the department or board under  
11 Section 2306.6715 or 2306.6721 and any other document relating to  
12 the processing of the appeal.

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

20           (1) locally affected community groups;

21           (2) local and state elected officials;

22           (3) local housing departments;

23           (4) any appropriate newspapers of general or limited  
24 circulation that serve the community in which the development is to  
25 be located;

26           (5) nonprofit and for-profit organizations;

27           (6) on-site property managers of occupied

1 developments that are the subject of applications for posting in  
2 prominent locations in those developments; and

3 (7) any other interested persons and community groups  
4 that request the information.

5 (d) Notwithstanding any other provision of this section,  
6 the department shall ~~may~~ treat the financial statements of any  
7 applicant as confidential and may ~~elect~~ not ~~to~~ disclose those  
8 statements to the public.

9 SECTION 66. Section 2306.6718, Government Code, is amended  
10 by amending Subsection (a) and adding Subsection (e) to read as  
11 follows:

12 (a) The department, not the applicant, shall provide  
13 written notice of the filing of an application to the following  
14 elected officials:

15 (1) members of the legislature who represent the  
16 community containing the development described in the application;  
17 and

18 (2) the chief executive officer of the political  
19 subdivision containing the development described in the  
20 application.

21 (e) At least seven days before the board meeting at which  
22 the action will be considered, the department shall provide written  
23 notice of any proposed action on the application by the board to  
24 members of the legislature who represent the community containing  
25 the development described by the application.

26 SECTION 67. Section 2306.6719, Government Code, is amended  
27 by amending Subsection (a) and adding Subsection (c) to read as

1 follows:

2 (a) For a development that is not receiving federal  
3 assistance such that a federal agency will be monitoring the  
4 construction or rehabilitation of the development and will provide  
5 the department with copies of its construction inspection or  
6 operational inspection reports, the [The] department may contract  
7 with an independent third party to monitor the [a] development  
8 during its construction or rehabilitation and during its operation  
9 for compliance with:

10 (1) any conditions imposed by the department in  
11 connection with the allocation of housing tax credits to the  
12 development; and

13 (2) appropriate state and federal laws, as required by  
14 other state law or by the board.

15 (c) Except for the affordable housing disposition  
16 properties monitored under the memorandum of understanding between  
17 the department and the Federal Deposit Insurance Corporation, the  
18 cost of compliance monitoring for each development for 2006 may not  
19 exceed \$25 for each low income unit required by the land use  
20 restriction agreement. For years after 2006, the annual compliance  
21 fee may be increased as necessary to adjust for inflation as  
22 determined by the consumer price index published by the United  
23 States Department of Labor, to more than \$25 for each low income  
24 unit required by the land use restriction agreement.

25 SECTION 68. Section 2306.6720, Government Code, is amended  
26 to read as follows:

27 Sec. 2306.6720. ENFORCEABILITY OF APPLICANT

1 REPRESENTATIONS. Each representation made by an applicant to  
2 secure a housing tax credit allocation is enforceable by the  
3 department [~~and the tenants of the development supported with the~~  
4 ~~allocation~~].

5 SECTION 69. Section 2306.6721, Government Code, is amended  
6 by amending Subsection (d) and adding Subsection (e) to read as  
7 follows:

8 (d) A person debarred by the department from participation  
9 in the program is not eligible to participate in the program for a  
10 minimum of five years from the date of disbarment.

11 (e) A person debarred by the department from participation  
12 in the program may appeal the person's debarment:

13 (1) through the alternative dispute resolution  
14 process under Section 2306.082; or

15 (2) directly to the board.

16 SECTION 70. Section 2306.6722, Government Code, is amended  
17 to read as follows:

18 Sec. 2306.6722. DEVELOPMENT ACCESSIBILITY. Any  
19 development supported with a housing tax credit allocation shall  
20 comply with the accessibility standards that are detailed  
21 [~~required~~] under Section 504, Rehabilitation Act of 1973 (29 U.S.C.  
22 Section 794), and specified under 24 C.F.R. Part 8, Subpart C, to  
23 the same extent required for developments receiving federal  
24 financial assistance.

25 SECTION 71. Section 2306.6723(a), Government Code, is  
26 amended to read as follows:

27 (a) The department shall jointly administer with the rural



1 development agency the allocations [~~any set-aside~~] for rural areas  
2 to:

3 (1) ensure the maximum use and optimum geographic  
4 distribution of housing tax credits in rural areas; and

5 (2) provide for information sharing, efficient  
6 procedures, and fulfillment of development compliance requirements  
7 in rural areas.

8 SECTION 72. Section 2306.6724, Government Code, is amended  
9 by amending Subsections (a)-(d) and adding Subsection (c-1) to read  
10 as follows:

11 (a) Not later than August 15 [~~September 30~~] of each year,  
12 the department shall prepare and submit to the board for adoption  
13 the qualified allocation plan required by federal law for use by the  
14 department in setting criteria and priorities for the allocation of  
15 tax credits under the low income housing tax credit program.

16 (b) The board shall adopt and submit to the governor the  
17 qualified allocation plan not later than October 1 [~~November 15~~].

18 (c) The governor shall approve, reject, or modify and  
19 approve the qualified allocation plan not later than November  
20 [~~December~~] 1.

21 (c-1) If the governor rejects the qualified allocation plan  
22 submitted under Subsection (b), the board immediately shall adopt  
23 and submit to the governor a modified qualified allocation plan.  
24 The governor shall approve or modify and approve the modified  
25 qualified allocation plan not later than November 15.

26 (d) An applicant for a low income housing tax credit to be  
27 issued a commitment during the initial allocation cycle in a

1 calendar year must submit an application to the department not  
2 later than March 15 [~~1~~].

3 SECTION 73. Sections 2306.6725(a) and (c), Government Code,  
4 are amended to read as follows:

5 (a) In allocating low income housing tax credits, the  
6 department shall score each application using a point system that  
7 is consistent with Section 42, Internal Revenue Code of 1986, and  
8 Section 2306.6710 of this chapter [~~based on criteria adopted by the~~  
9 ~~department that are consistent with the department's housing goals,~~  
10 ~~including criteria addressing the ability of the proposed project~~  
11 ~~to:~~

12 [~~(1) provide quality social support services to~~  
13 ~~residents,~~

14 [~~(2) demonstrate community and neighborhood support~~  
15 ~~as defined by the qualified allocation plan,~~

16 [~~(3) consistent with sound underwriting practices and~~  
17 ~~when economically feasible, serve individuals and families of~~  
18 ~~extremely low income by leveraging private and state and federal~~  
19 ~~resources, including federal HOPE VI grants received through the~~  
20 ~~United States Department of Housing and Urban Development,~~

21 [~~(4) serve traditionally underserved areas,~~

22 [~~(5) remain affordable to qualified tenants for an~~  
23 ~~extended, economically feasible period, and~~

24 [~~(6) comply with the accessibility standards that are~~  
25 ~~required under Section 504, Rehabilitation Act of 1973 (29 U.S.C.~~  
26 ~~Section 794), and specified under 24 C.F.R. Part 8, Subpart C].~~

27 (c) On awarding tax credit allocations, the board shall

1 document the reasons for each project's selection, including an  
2 explanation of:

3 (1) all discretionary factors used in making its  
4 determination; and

5 (2) the reasons for any decision that conflicts with  
6 the recommendations of department staff under Section 2306.6731 or  
7 the scoring criteria under Section 2306.6710.

8 SECTION 74. Section 2306.6728(a), Government Code, is  
9 amended to read as follows:

10 (a) The department by rule shall adopt a policy regarding  
11 the admittance to low income housing tax credit properties of  
12 income-eligible individuals and families receiving assistance  
13 under Section 8, United States Housing Act of 1937 (42 U.S.C.  
14 Section 1437f). The policy must provide for admittance to the  
15 property for any individual or family whose Section 8 assistance is  
16 sufficient to allow the individual or family to make the required  
17 rental payment and who meets any other general criteria applicable  
18 to all tenants.

19 SECTION 75. Section 2306.6729, Government Code, is amended  
20 by adding Subsection (c) to read as follows:

21 (c) The department by rule shall implement a procedure to  
22 integrate the allocation of housing tax credits to nonprofit  
23 applicants with the allocation of housing tax credits to all other  
24 eligible applicants. If merit-based selection of applicants does  
25 not result in a sufficient allocation of housing tax credits to  
26 nonprofit applicants to satisfy any federally mandated set-aside,  
27 the department may select the next highest scoring nonprofit

1 applicant in place of a for-profit applicant to satisfy the  
2 federally mandated set-aside.

3 SECTION 76. Section 2306.6731(a), Government Code, is  
4 amended to read as follows:

5 (a) Department staff shall provide written, documented  
6 recommendations to the board concerning [~~the financial or~~  
7 ~~programmatic viability of~~] each application for a low income  
8 housing tax credit before the board makes a decision relating to the  
9 allocation of tax credits. The board may not make without good  
10 cause an allocation decision that conflicts with the  
11 recommendations of department staff.

12 SECTION 77. Section 2306.6733, Government Code, is amended  
13 by amending Subsection (a) and adding Subsection (a-1) to read as  
14 follows:

15 (a) A former board member or a former director, deputy  
16 director, director of housing programs, director of compliance,  
17 director of underwriting, member of any department committee  
18 involved in the selection of developments for an allocation of  
19 housing tax credits, or low income housing tax credit program  
20 manager employed by the department may not:

21 (1) for compensation, represent an applicant for an  
22 allocation of low income housing tax credits or a related party  
23 before the second anniversary of the date that the board member's,  
24 director's, committee member's, or manager's service in office or  
25 employment with the department ceases;

26 (2) represent any applicant or related party or  
27 receive compensation for services rendered on behalf of any

1 applicant or related party regarding the consideration of a housing  
2 tax credit application in which the former board member, director,  
3 committee member, or manager participated during the period of  
4 service in office or employment with the department, either through  
5 personal involvement or because the matter was within the scope of  
6 the board member's, director's, committee member's, or manager's  
7 official responsibility; or

8 (3) for compensation, communicate directly with a  
9 member of the legislative branch to influence legislation on behalf  
10 of an applicant or related party before the second anniversary of  
11 the date that the board member's, director's, committee member's, or  
12 manager's service in office or employment with the department  
13 ceases.

14 (a-1) If the administration of the low income housing tax  
15 credit program is transferred to any other department or agency,  
16 the prohibition under Subsection (a) applies to any person that  
17 would have been prohibited from participating in a low income  
18 housing tax credit application as if the housing tax credit program  
19 had remained under the administration of the department.

20 SECTION 78. Subchapter DD, Chapter 2306, Government Code,  
21 is amended by adding Section 2306.6735 to read as follows:

22 Sec. 2306.6735. RELATIONSHIP TO FEDERAL LAW. (a) This  
23 subchapter is enacted to implement the low income housing tax  
24 credit program established by Section 42, Internal Revenue Code of  
25 1986.

26 (b) To the extent that any provision of this subchapter is  
27 held to be inconsistent with federal law, the provision shall be

1 given effect in accordance with its terms to the greatest extent  
2 possible and consistent with the federal law, and the inconsistency  
3 of that provision has no effect on the remaining provisions of this  
4 subchapter.

5 (c) If a federal law or regulation is changed without  
6 providing for temporary waivers to allow compliance with state law  
7 and, as a result of this change, there is insufficient time to  
8 comply with a provision required by this subchapter, the department  
9 may act so as to comply with federal law subject to the requirements  
10 of Subsection (e).

11 (d) If a federal law or court order conflicts with this  
12 subchapter, the federal law or court order prevails over this  
13 subchapter.

14 (e) If the department determines that a provision of this  
15 subchapter is inconsistent with Section 42, Internal Revenue Code  
16 of 1986, or any federal regulations promulgated in compliance with  
17 that section, the department may notify the governor, the  
18 lieutenant governor, the speaker of the house of representatives,  
19 the presiding officer of the house and senate with oversight of the  
20 department, and the attorney general. If the attorney general  
21 concurs with the department determination that a provision of this  
22 subchapter is inconsistent with federal law, the department shall  
23 be authorized to implement the federal law.

24 SECTION 79. Section 2306.7581(a-1), Government Code, is  
25 amended to read as follows:

26 (a-1) Each state fiscal year the department shall transfer  
27 at least \$3 million to the owner-builder revolving fund from money

1 ~~[received under the federal HOME Investment Partnerships program~~  
2 ~~established under Title II of the Cranston-Gonzalez National~~  
3 ~~Affordable Housing Act (42 U.S.C. Section 12701 et seq.), from~~  
4 ~~money]~~ in the housing trust fund~~[7]~~ or from money appropriated by  
5 the legislature to the department. This subsection expires August  
6 31, 2010.

7 SECTION 80. The heading to Section 2306.803, Government  
8 Code, is amended to read as follows:

9 Sec. 2306.803. IDENTIFICATION OF CERTAIN AT-RISK  
10 MULTIFAMILY HOUSING~~[: IDENTIFICATION, PRIORITIZATION, AND~~  
11 ~~PRESERVATION]~~.

12 SECTION 81. Sections 2306.804(a) and (b), Government Code,  
13 are amended to read as follows:

14 (a) To the extent possible, the department shall use  
15 available resources for the preservation and rehabilitation of the  
16 multifamily housing developments identified ~~[and listed]~~ under  
17 Section 2306.803.

18 (b) To the extent consistent with Section 2306.6710  
19 ~~[possible]~~, the department shall allocate low income housing tax  
20 credits to applications involving the preservation of developments  
21 assigned a Class A priority under Section 2306.803 and in both urban  
22 and rural areas ~~[communities]~~ in approximate proportion to the  
23 housing needs of each uniform state service region.

24 SECTION 82. Section 2306.805(a), Government Code, is  
25 amended to read as follows:

26 (a) The department shall establish and administer a housing  
27 preservation incentives program to provide incentives through

1 ~~[loan guarantees,]~~ loans~~[,]~~ and grants to political subdivisions,  
2 housing finance corporations, public housing authorities,  
3 for-profit organizations, and nonprofit organizations for the  
4 acquisition and rehabilitation of multifamily housing developments  
5 with [assigned] a Class A or Class B priority under this subchapter  
6 ~~[Section 2306.803].~~

7 SECTION 83. Subchapter I, Chapter 487, Government Code, is  
8 amended by adding Section 487.354 to read as follows:

9 Sec. 487.354. FUNDING OF COLONIA SELF-HELP CENTERS. The  
10 office shall enter into a memorandum of understanding with the  
11 Texas Department of Housing and Community Affairs to permit the  
12 department to receive and administer the portion of the federal  
13 community development block grant money specifically allocated  
14 under the General Appropriations Act to fund the operation of  
15 colonia self-help centers. The memorandum must require the office  
16 to transfer to the department a portion of the office's total  
17 administrative funds in the same ratio that the portion of  
18 community development block grant money allocated for the self-help  
19 centers bears to the total yearly allocation of community  
20 development block grant money. The memorandum must require the  
21 office to continue to fund the department's border field offices  
22 through the community development block grant program and must  
23 require the department to exercise oversight and supervision over  
24 those field offices and staff.

25 SECTION 84. Section 1372.006(a), Government Code, is  
26 amended to read as follows:

27 (a) An application for a reservation under Subchapter B or a



1 carryforward designation under Subchapter C must be accompanied by  
2 a nonrefundable fee in the amount of \$500, except that for issuers  
3 of qualified residential rental project bonds the application must  
4 be accompanied by a nonrefundable fee of \$5,000, of which the board  
5 shall retain \$1,000 to offset the costs of the private activity bond  
6 allocation program and the administration of that program and of  
7 which the board shall transfer \$4,000 through an interagency  
8 agreement to the Texas Department of Housing and Community Affairs  
9 to fund the housing resource center [~~for use in the affordable~~  
10 ~~housing research and information program~~] as provided by Section  
11 2306.252 [~~2306.259~~].

12 SECTION 85. Section 6.060(d), Water Code, is amended to  
13 read as follows:

14 (d) The board shall meet annually with the board of the  
15 Texas Department of Housing and Community Affairs, or the successor  
16 agency that administers the portion of the federal community  
17 development block grant nonentitlement program that addresses the  
18 infrastructure needs of colonias, to assess the agencies' progress  
19 in meeting the needs of colonia residents [~~and to receive an update~~  
20 ~~and recommendations from the Colonia Initiatives Advisory~~  
21 ~~Committee, as provided by Section 2306.590, Government Code~~]. For  
22 purposes of this subsection, "colonia" has the meaning assigned by  
23 Section 2306.581, Government Code.

24 SECTION 86. The following provisions of the Government Code  
25 are repealed:

26 (1) Sections 2306.004(31)-(33), 2306.0724,  
27 2306.077(d) and (e), 2306.078, 2306.079, 2306.080, 2306.081(c),

1 2306.1112, 2306.185(f), 2306.186(a)(2), 2306.186(f), 2306.251,  
2 2306.257(b)-(d), 2306.259, 2306.270, 2306.313(c), 2306.314,  
3 2306.590, 2306.6702(a)(12), 2306.6712(e), 2306.6723(c),  
4 2306.6725(b) and (d), 2306.6726, 2306.6727, 2306.6728(b) and (c),  
5 2306.6730, 2306.6734, 2306.803(b)-(d), 2306.804(c),  
6 2306.805(c)-(e), and 2306.806;

7 (2) Subchapter II, Chapter 2306; and

8 (3) Subchapter JJ, Chapter 2306.

9 SECTION 87. It is the intent of the legislature that the  
10 passage by the 79th Legislature, Regular Session, 2005, of another  
11 bill that amends Chapter 2306, Government Code, and the amendments  
12 made by this Act shall be harmonized, if possible, as provided by  
13 Section 311.025(b), Government Code, so that effect may be given to  
14 each. If the amendments made by this Act to Chapter 2306,  
15 Government Code, and the amendments made to Chapter 2306,  
16 Government Code, by any other bill are irreconcilable, it is the  
17 intent of the legislature that this Act prevail, regardless of the  
18 relative dates of enactment of this Act and the other bill or bills,  
19 but only to the extent that any differences are irreconcilable.

20 SECTION 88. (a) The changes in law made by this Act  
21 relating to the evaluation of applications for financial assistance  
22 administered by the Texas Department of Housing and Community  
23 Affairs apply only to an application submitted on or after the  
24 effective date of this Act. An application submitted before the  
25 effective date of this Act is governed by the law in effect when the  
26 application was submitted, and the former law is continued in  
27 effect for that purpose.

1           (b) Notwithstanding the change in law made by Section  
2 2306.6724(a), Government Code, as amended by this Act, the Texas  
3 Department of Housing and Community Affairs shall prepare and  
4 submit to the governing board of the department the qualified  
5 allocation plan for 2006 not later than September 2, 2005.

6           SECTION 89. This Act takes effect September 1, 2005, except  
7 that Section 72 of this Act takes effect immediately if this Act  
8 receives a vote of two-thirds of all the members elected to each  
9 house, as provided by Section 39, Article III, Texas Constitution.  
10 If this Act does not receive the vote necessary for immediate  
11 effect, Section 72 takes effect September 1, 2005.