

By: Cook of Colorado

H.B. No. 3128

A BILL TO BE ENTITLED

AN ACT

relating to the administration of certain housing programs by the Texas Department of Housing and Community Affairs.

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

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

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

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

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

(C) in an area that is eligible for funding by the Texas Rural Development Office of the United States Department of Agriculture, other than an area that is located in a municipality with a population of 50,000 or more.

(28-b) "Rural development" means a development or proposed development that is located in a rural area, including rural developments described by Section 2306.67035(a) or (b).

(35) "Urban area" means the area that is located within the boundaries of a primary metropolitan statistical area or a metropolitan statistical area other than an area described by Subdivision (28-a)(B) or (C). The terms also includes a new

1 construction development described by Section 2306.67035(b).

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

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

23 (d) The department shall allocate housing funds provided to
24 the state under the Cranston-Gonzalez National Affordable Housing
25 Act (42 U.S.C. Section 12701 et seq.), housing trust funds
26 administered by the department under Sections 2306.201-2306.206,
27 and commitments issued under the federal low income housing tax

1 credit program administered by the department under Subchapter DD
2 to all urban [~~urban/exurban~~] areas and rural areas of each uniform
3 state service region based on a formula developed by the department
4 that is based on population and the need for housing assistance [~~and~~
5 ~~the availability of housing resources~~] in those urban
6 [~~urban/exurban~~] areas and rural areas. All [~~provided that the~~]
7 allocations must be [~~are~~] consistent with applicable federal and
8 state requirements and limitations. The department shall use the
9 latest annual population projections provided by the United States
10 Census Bureau [~~information contained in its annual state low income~~
11 ~~housing plan~~] and [~~shall use~~] other appropriate data to develop the
12 formula. If the department determines under the formula that an
13 insufficient number of eligible applications for assistance out of
14 funds or credits allocable under this subsection are submitted to
15 the department from a particular uniform state service region, the
16 department shall use the unused funds or credits allocated to that
17 region for urban [~~all urban/exurban~~] areas and rural areas in other
18 uniform state service regions [~~based on identified need and~~
19 ~~financial feasibility~~].

20 (d-2) In allocating low income housing tax credit
21 commitments under Subchapter DD, the department shall allocate five
22 percent of the housing tax credits in the allocation cycle to
23 developments that receive federal financial assistance through the
24 Texas Rural Development Office of the United States Department of
25 Agriculture. Any funds allocated to developments under this
26 subsection that involve rehabilitation must come from the funds set
27 aside for at-risk developments under Section 2306.6714. This

1 subsection does not apply to a development financed wholly or
2 partly under Section 538 of the Housing Act of 1949 (42 U.S.C.
3 Section 1490p-2).

4 (d-3) In allocating low income tax credit commitments under
5 Subchapter DD, the department shall allocate to developments in
6 rural areas 25 percent or more of the housing tax credits in the
7 allocation cycle, with \$500,000 or more in housing tax credits
8 being reserved for each uniform state service region under this
9 subsection. Any amount of housing tax credits set aside for
10 developments in rural areas under this subsection that remains
11 after the initial allocation of housing tax credits is available
12 for allocation to developments in urban areas of each uniform state
13 service region.

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

16 (1) the formula developed by the department under
17 Subsection (d); and

18 (2) the allocation targets established under the
19 formula for the urban [~~urban/exurban~~] areas and rural areas of each
20 uniform state service region.

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

27 (g) For all urban [~~urban/exurban~~] areas and rural areas of

1 each uniform state service region, the department shall establish
2 funding priorities to ensure that:

3 (1) funds are awarded to project applicants who are
4 best able to meet recognized needs for affordable housing, as
5 determined by department rule;

6 (2) when practicable and when authorized under Section
7 42, Internal Revenue Code of 1986 (26 U.S.C. Section 42), the least
8 restrictive funding sources are used to serve the lowest income
9 residents; and

10 (3) funds are awarded based on a project applicant's
11 ability, when consistent with Section 42, Internal Revenue Code of
12 1986 (26 U.S.C. Section 42), practicable, and economically
13 feasible, to:

14 (A) provide the greatest number of quality
15 residential units;

16 (B) serve persons with the lowest percent area
17 median family income;

18 (C) extend the duration of the project to serve a
19 continuing public need;

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

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

24 SECTION 3. Section 2306.111(c), Government Code, as amended
25 by Chapters 1367 and 1448, Acts of the 77th Legislature, Regular
26 Session, 2001, is reenacted and amended to read as follows:

27 (c) Except as provided by Subsection (c-3), in [In]

1 administering federal housing funds provided to the state under the
2 Cranston-Gonzalez National Affordable Housing Act (42 U.S.C.
3 Section 12701 et seq.), the department shall expend 100 [~~at least~~
4 ~~95~~] percent of these funds for:

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

9 (2) the preservation of existing affordable housing
10 that receives financing from the United States Department of
11 Agriculture. [~~All funds not set aside under this subsection shall~~
12 ~~be used for the benefit of persons with disabilities who live in~~
13 ~~areas other than small cities and rural areas.~~]

14 SECTION 4. Section 2306.1111, Government Code, is amended
15 by amending Subsection (a) and adding Subsections (a-1) and (a-2)
16 to read as follows:

17 (a) Notwithstanding any other state law and to the extent
18 consistent with federal law, the department shall establish a
19 uniform application and funding cycle for all single-family and
20 multifamily housing programs administered by the department under
21 this chapter, excluding any program described by Chapter 1372 and
22 including a uniform application and funding cycle for housing
23 sponsors of multifamily housing developments applying for:

24 (1) housing trust funds administered by the department
25 under Sections 2306.201-2306.206; and

26 (2) commitments issued under the federal low income
27 housing tax credit program administered by the department under

1 Subchapter DD.

2 (a-1) The application acceptance periods for the programs
3 described by Subsections (a)(1) and (2) must run concurrently.

4 (a-2) If the department does not receive during the uniform
5 application and funding cycle under Subsection (a) a sufficient
6 number of financially feasible applications for housing trust funds
7 administered by the department under Sections 2306.201-2306.206,
8 the department may consider additional applications for those
9 funds.

10 SECTION 5. Section 2306.142(d), Government Code, is amended
11 to read as follows:

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

25 SECTION 6. Subchapter DD, Chapter 2306, Government Code, is
26 amended by adding Section 2306.67035 to read as follows:

27 Sec. 2306.67035. SPECIAL PROVISIONS FOR RURAL AREAS. (a)

1 An application for housing tax credits from funds available for
2 rural areas must be limited to:

3 (1) the rehabilitation of a development of any size;

4 or

5 (2) the development of a new construction development
6 that contains not more than 80 units.

7 (b) A new construction development that contains 80 units or
8 more and is located in a rural area is eligible and may apply for
9 funds available for urban areas regardless of the development's
10 rural location.

11 SECTION 7. Section 2306.6710, Government Code, is amended
12 by amending Subsections (b) and (f) and adding Subsection (h) to
13 read as follows:

14 (b) If an application satisfies the threshold criteria, the
15 department shall score and rank the application using a point
16 system that:

17 (1) prioritizes in descending order criteria
18 regarding:

19 (A) financial feasibility of the development
20 based on the supporting financial data required in the application
21 that will include a project underwriting pro forma from the
22 permanent or construction lender;

23 (B) quantifiable community participation with
24 respect to the development, evaluated on the basis of written
25 statements from any neighborhood organizations on record with the
26 state or county in which the development is to be located and whose
27 boundaries contain the proposed development site;

1 (C) the income levels of tenants of the
2 development;

3 (D) the size and quality of the units;

4 (E) [~~the commitment of development funding by~~
5 ~~local political subdivisions,~~

6 [~~(F)~~] the level of community support for the
7 application, evaluated on the basis of written statements from
8 state elected officials;

9 (F) [~~(G)~~] the rent levels of the units;

10 (G) [~~(H)~~] the cost of the development by square
11 foot; and

12 (H) [~~(I)~~] the services to be provided to tenants
13 of the development; and

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

22 (f) In evaluating the level of community support for an
23 application under Subsection (b)(1)(E) [~~(b)(1)(F)~~], the department
24 shall award:

25 (1) positive points for positive written statements
26 received;

27 (2) negative points for negative written statements

1 received; and

2 (3) zero points for neutral statements received.

3 (h) For the purposes of Subsection (b)(1)(B), the
4 department shall award to an applicant points as follows:

5 (1) the maximum number of points possible under that
6 paragraph, if the development receives no written statements of
7 opposition, regardless of whether the applicant receives any
8 written statements of support; and

9 (2) for each written statement of opposition the
10 applicant receives, a negative number of points that is equal in
11 number to one-third the maximum number of points possible under
12 that paragraph.

13 SECTION 8. Section 2306.6702(12), Government Code, is
14 repealed.

15 SECTION 9. It is the intent of the legislature that the
16 passage by the 80th Legislature, Regular Session, 2007, of another
17 bill that amends Chapter 2306, Government Code, and the amendments
18 made by this Act shall be harmonized, if possible, as provided by
19 Section 311.025(b), Government Code, so that effect may be given to
20 each. If the amendments made by this Act to Chapter 2306,
21 Government Code, and the amendments made to Chapter 2306,
22 Government Code, by any other bill are irreconcilable, it is the
23 intent of the legislature that this Act prevail, regardless of the
24 relative dates of enactment of this Act and the other bill or bills,
25 but only to the extent that any differences are irreconcilable.

26 SECTION 10. The changes in law made by this Act relating to
27 the evaluation of applications for financial assistance

1 administered by the Texas Department of Housing and Community
2 Affairs apply only to an application submitted on or after the
3 effective date of this Act. An application submitted before the
4 effective date of this Act is governed by the law in effect when the
5 application was submitted, and the former law is continued in
6 effect for that purpose.

7 SECTION 11. This Act takes effect September 1, 2007.