

By: Menendez

H.B. No. 3872

A BILL TO BE ENTITLED

AN ACT

relating to the eligibility of certain applications to receive allocations under the low income housing tax credit program.

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

SECTION 1. Section 2306.6703, Government Code, is amended to read as follows:

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

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

(A) a member of the board; or

(B) the director, a deputy director, the director of housing programs, the director of compliance, the director of underwriting, or the low income housing tax credit program manager employed by the department;

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

(A) the applicant proposes to maintain for a period of 30 years or more 100 percent of the development units supported by housing tax credits as rent-restricted and exclusively for occupancy by individuals and families earning not more than 50

1 percent of the area median income, adjusted for family size; and

2 (B) at least one-third of all the units in the  
3 development are public housing units or Section 8 project-based  
4 units;

5 (3) unless the applicant obtains approval of the  
6 development from the governing body of the appropriate municipality  
7 or county containing the development, the applicant proposes to  
8 develop [~~construct~~] a new construction development that is located  
9 one linear mile or less from a development that:

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

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

16 (C) has not been withdrawn or terminated from the  
17 low income housing tax credit program; or

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

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

25 (B) provides, not later than the 30th day before  
26 the date the board first meets to consider applications for an  
27 allocation of housing tax credits, [~~has included in the~~

1 ~~application~~] a written statement of support from that governing  
2 body referencing this section and authorizing an allocation of  
3 housing tax credits for the development.

4 (b) Subsections (a)(2), (3), and (4) do [~~Subsection (a)(3)~~  
5 ~~does~~] not apply to a development:

6 (1) that is using:

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

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

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

17 (D) funds provided to the state and participating  
18 jurisdictions under the Housing and Community Development Act of  
19 1974 (42 U.S.C. Section 5301 et seq.); or

20 (2) that is located in a county with a population of  
21 less than one million[~~+~~

22 [~~(3) that is located outside of a metropolitan~~  
23 ~~statistical area; or~~

24 [~~(4) that a local government where the project is to be~~  
25 ~~located has by vote specifically allowed the construction of a new~~  
26 ~~development located within one linear mile or less from a~~  
27 ~~development under Subsection (a)].~~

1 SECTION 2. Section 2306.6711(f), Government Code, is  
2 amended to read as follows:

3 (f) The board may allocate housing tax credits to  
4 developments [~~more than one development~~] in a single community that  
5 are or will be located one linear mile or less from each other, as  
6 defined by department rule, in the same calendar year [~~only~~] if:

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

9 (2) one or more of the allocations involves the  
10 rehabilitation of existing developments and not more than one of  
11 the allocations involves new construction; or

12 (3) the developments each serve a different type of  
13 household from the other [~~the developments are or will be located~~  
14 ~~more than one linear mile apart~~]. [~~This subsection applies only to~~  
15 ~~communities contained within counties with populations exceeding~~  
16 ~~one million.~~]

17 SECTION 3. It is the intent of the legislature that the  
18 passage by the 80th Legislature, Regular Session, 2007, of another  
19 bill that amends Chapter 2306, Government Code, and the amendments  
20 made by this Act shall be harmonized, if possible, as provided by  
21 Section 311.025(b), Government Code, so that effect may be given to  
22 each. If the amendments made by this Act to Chapter 2306,  
23 Government Code, and the amendments made to Chapter 2306,  
24 Government Code, by any other bill are irreconcilable, it is the  
25 intent of the legislature that this Act prevail, regardless of the  
26 relative dates of enactment of this Act and the other bill or bills,  
27 but only to the extent that any differences are irreconcilable.

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

9           SECTION 5. This Act takes effect September 1, 2007.