

1-1 By: Menendez (Senate Sponsor - West) H.B. No. 3873  
1-2 (In the Senate - Received from the House May 14, 2007;  
1-3 May 15, 2007, read first time and referred to Committee on  
1-4 Intergovernmental Relations; May 18, 2007, reported favorably by  
1-5 the following vote: Yeas 3, Nays 0; May 18, 2007, sent to  
1-6 printer.)

1-7 A BILL TO BE ENTITLED  
1-8 AN ACT

1-9 relating to the administration of the Texas Department of Housing  
1-10 and Community Affairs; providing a penalty.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 2306.004, Government Code, is amended by  
1-13 amending Subdivisions (4), (7), and (14) and adding Subdivisions  
1-14 (4-a), (12-a), (23-a), (23-b), (26-a), (28-a), (28-b), (35), and  
1-15 (36) to read as follows:

1-16 (4) "Department" means the Texas Department of Housing  
1-17 and Community Affairs or any successor agency.

1-18 (4-a) "Development funding" means:

1-19 (A) a loan or grant; or

1-20 (B) an in-kind contribution, including a  
1-21 donation of real property, a fee waiver for a building permit or for  
1-22 water or sewer service, or a similar contribution that:

1-23 (i) provides an economic benefit; and

1-24 (ii) results in a quantifiable cost  
1-25 reduction for the applicable development.

1-26 (7) "Elderly individual" means an individual 62 [60]  
1-27 years of age or older or of an age specified by the applicable  
1-28 federal program.

1-29 (12-a) "Grant" means financial assistance that is  
1-30 awarded in the form of money to a housing sponsor for a specific  
1-31 purpose and that is not required to be repaid. For purposes of this  
1-32 chapter, a grant includes a forgivable loan.

1-33 (14) "Housing sponsor" means ~~[~~+

1-34 ~~[(A)]~~ an individual, ~~[including an individual or~~  
1-35 ~~family of low and very low income or family of moderate income,~~  
1-36 joint venture, partnership, limited partnership, trust, firm,  
1-37 corporation, limited liability company, other form of business  
1-38 organization, or cooperative that is approved by the department as  
1-39 qualified to own, construct, acquire, rehabilitate, operate,  
1-40 manage, or maintain a housing development, subject to the  
1-41 regulatory powers of the department and other terms and conditions  
1-42 in this chapter ~~[, or~~

1-43 ~~[(B) in an economically depressed or blighted~~  
1-44 ~~area, or in a federally assisted new community located within a~~  
1-45 ~~home-rule municipality, the term may include an individual or~~  
1-46 ~~family whose income exceeds the moderate income level if at least 90~~  
1-47 ~~percent of the total mortgage amount available under a mortgage~~  
1-48 ~~revenue bond issue is designated for individuals and families of~~  
1-49 ~~low income or families of moderate income].~~

1-50 (23-a) "Neighborhood organization" means an  
1-51 organization that is composed of persons living near one another  
1-52 within the organization's defined boundaries for the neighborhood  
1-53 and that has a primary purpose of working to maintain or improve the  
1-54 general welfare of the neighborhood. A neighborhood organization  
1-55 includes a homeowners' association or a property owners'  
1-56 association.

1-57 (23-b) "New construction" means any construction to a  
1-58 development or a portion of a development that does not meet the  
1-59 definition of rehabilitation under this section.

1-60 (26-a) "Rehabilitation" means the improvement or  
1-61 modification of an existing residential development through an  
1-62 alteration, addition, or enhancement. The term includes the  
1-63 demolition of an existing residential development and the  
1-64 reconstruction of any development units, but does not include the

2-1 improvement or modification of an existing residential development  
2-2 for the purpose of an adaptive reuse of the development.

2-3 (28-a) "Rural area" means an area that is located:

2-4 (A) outside the boundaries of a primary  
2-5 metropolitan statistical area or a metropolitan statistical area;

2-6 (B) within the boundaries of a primary  
2-7 metropolitan statistical area or a metropolitan statistical area,  
2-8 if the statistical area has a population of 25,000 or less and does  
2-9 not share a boundary with an urban area; or

2-10 (C) in an area that is eligible for funding by the  
2-11 Texas Rural Development Office of the United States Department of  
2-12 Agriculture, other than an area that is located in a municipality  
2-13 with a population of more than 50,000.

2-14 (28-b) "Rural development" means a development or  
2-15 proposed development that is located in a rural area, other than  
2-16 rural new construction developments with more than 80 units.

2-17 (35) "Uniform application and funding cycle" means an  
2-18 application and funding cycle established under Section 2306.1111.

2-19 (36) "Urban area" means the area that is located  
2-20 within the boundaries of a primary metropolitan statistical area or  
2-21 a metropolitan statistical area other than an area described by  
2-22 Subdivision (28-a)(B) or eligible for funding as described by  
2-23 Subdivision (28-a)(C).

2-24 SECTION 2. Sections 2306.032(b) through (e), Government  
2-25 Code, are amended to read as follows:

2-26 (b) The board shall keep ~~[complete]~~ minutes and complete  
2-27 transcripts of board meetings. The department shall post the  
2-28 transcripts on its website and shall otherwise maintain all  
2-29 accounts, minutes, and other records related to the meetings ~~[shall~~  
2-30 be maintained by the department].

2-31 (c) All materials provided to the board ~~[in the possession~~  
2-32 of the department] that are relevant to a matter proposed for  
2-33 discussion at a board meeting must be posted on the department's  
2-34 website not later than the third day before the date of the  
2-35 meeting~~[, made available in hard-copy format at the department,~~  
2-36 filed with the secretary of state for publication by reference in  
2-37 the Texas Register, and disseminated by any other means required by  
2-38 this chapter or by Chapter 551].

2-39 (d) Any materials made available to the board by the  
2-40 department at a board meeting ~~[The materials described by~~  
2-41 Subsection (c)] must be made available in hard copy format to the  
2-42 members of the public in attendance at ~~[as required by Subsection~~  
2-43 (c) not later than the seventh day before the date of] the meeting.  
2-44 ~~[The board may not consider at the meeting any material that is not~~  
2-45 made available to the public by the date required by this  
2-46 subsection.]

2-47 (e) The board shall conduct its meetings in accordance with  
2-48 Chapter 551, except as otherwise required by this chapter ~~[The~~  
2-49 agenda for a board meeting must state each project the staff is  
2-50 recommending for assistance by the department].

2-51 SECTION 3. Section 2306.039, Government Code, is amended to  
2-52 read as follows:

2-53 Sec. 2306.039. OPEN MEETINGS AND OPEN RECORDS. (a) Except  
2-54 as provided by Subsections ~~[Subsection]~~ (b) and (c), the department  
2-55 and the Texas State Affordable Housing Corporation are subject to  
2-56 Chapters 551 and 552.

2-57 (b) Chapters 551 and 552 do ~~[This section does]~~ not apply to  
2-58 the personal or business financial information, including social  
2-59 security numbers, taxpayer identification numbers, or bank account  
2-60 numbers, submitted by a housing sponsor or an individual or family  
2-61 to receive ~~[for]~~ a loan, grant, or other housing assistance under a  
2-62 program administered by the department or the Texas State  
2-63 Affordable Housing Corporation or from bonds issued by the  
2-64 department, except that the department and the corporation are  
2-65 permitted to disclose information about any applicant in a form  
2-66 that does not reveal the identity of the sponsor, individual, or  
2-67 family for purposes of determining eligibility for programs and in  
2-68 preparing reports required under this chapter.

2-69 (c) The department's internal auditor, fraud prevention

3-1 coordinator, or ethics advisor may meet in an executive session of  
 3-2 the board to discuss issues related to fraud, waste, or abuse.

3-3 SECTION 4. Subchapter B, Chapter 2306, Government Code, is  
 3-4 amended by adding Sections 2306.040 through 2306.0503 to read as  
 3-5 follows:

3-6 Sec. 2306.040. DEPARTMENT PARTICIPATION IN LEGISLATIVE  
 3-7 HEARING. On request, the department shall participate in any  
 3-8 public hearing conducted by a legislator to discuss a rule to be  
 3-9 adopted by the department.

3-10 Sec. 2306.041. IMPOSITION OF PENALTY. The board may impose  
 3-11 an administrative penalty on a person who violates this chapter or a  
 3-12 rule or order adopted under this chapter.

3-13 Sec. 2306.042. AMOUNT OF PENALTY. (a) The amount of an  
 3-14 administrative penalty may not exceed \$1,000 for each violation.  
 3-15 Each day a violation continues or occurs is a separate violation for  
 3-16 purposes of imposing a penalty.

3-17 (b) The amount of the penalty shall be based on:

3-18 (1) the seriousness of the violation, including:

3-19 (A) the nature, circumstance, extent, and  
 3-20 gravity of any prohibited act; and

3-21 (B) the hazard or potential hazard created to the  
 3-22 health, safety, or economic welfare of the public;

3-23 (2) the history of previous violations;

3-24 (3) the amount necessary to deter a future violation;

3-25 (4) efforts made to correct the violation; and

3-26 (5) any other matter that justice may require.

3-27 (c) The board by rule or through procedures adopted by the  
 3-28 board and published in the Texas Register shall develop a  
 3-29 standardized penalty schedule based on the criteria listed in  
 3-30 Subsection (b).

3-31 Sec. 2306.043. REPORT AND NOTICE OF VIOLATION AND PENALTY.

3-32 (a) If the director determines that a violation occurred, the  
 3-33 director shall issue to the board a report stating:

3-34 (1) the facts on which the determination is based; and

3-35 (2) the director's recommendation on the imposition of  
 3-36 the penalty, including a recommendation on the amount of the  
 3-37 penalty.

3-38 (b) Not later than the 14th day after the date the report is  
 3-39 issued, the director shall give written notice of the report to the  
 3-40 person.

3-41 (c) The notice must:

3-42 (1) include a brief summary of the alleged violation;

3-43 (2) state the amount of the recommended penalty; and

3-44 (3) inform the person of the person's right to a  
 3-45 hearing before the board on the occurrence of the violation, the  
 3-46 amount of the penalty, or both.

3-47 Sec. 2306.044. PENALTY TO BE PAID OR HEARING REQUESTED. (a)  
 3-48 Not later than the 20th day after the date the person receives the  
 3-49 notice, the person in writing may:

3-50 (1) accept the determination and recommended penalty  
 3-51 of the director; or

3-52 (2) make a request for a hearing before the board on  
 3-53 the occurrence of the violation, the amount of the penalty, or both.

3-54 (b) If the person accepts the determination and recommended  
 3-55 penalty of the director, the board by order shall approve the  
 3-56 determination and impose the recommended penalty.

3-57 Sec. 2306.045. HEARING. (a) If the person requests a  
 3-58 hearing before the board or fails to respond in a timely manner to  
 3-59 the notice, the director shall set a hearing and give written notice  
 3-60 of the hearing to the person.

3-61 (b) The board shall hold the hearing and make findings of  
 3-62 fact and conclusions of law about the occurrence of the violation  
 3-63 and the amount of a proposed penalty.

3-64 Sec. 2306.046. DECISION BY BOARD. (a) Based on the  
 3-65 findings of fact and conclusions of law, the board by order may:

3-66 (1) find that a violation occurred and impose a  
 3-67 penalty; or

3-68 (2) find that a violation did not occur.

3-69 (b) The notice of the board's order given to the person must

4-1 include a statement of the right of the person to judicial review of  
 4-2 the order.

4-3 Sec. 2306.047. OPTIONS FOLLOWING DECISION: PAY OR APPEAL.  
 4-4 Not later than the 30th day after the date the board's order becomes  
 4-5 final, the person shall:

4-6 (1) pay the penalty; or

4-7 (2) file a petition for judicial review contesting the  
 4-8 occurrence of the violation, the amount of the penalty, or both.

4-9 Sec. 2306.048. STAY OF ENFORCEMENT OF PENALTY. (a) Within  
 4-10 the 30-day period prescribed by Section 2306.047, a person who  
 4-11 files a petition for judicial review may:

4-12 (1) stay enforcement of the penalty by:

4-13 (A) paying the penalty to the court for placement  
 4-14 in an escrow account; or

4-15 (B) giving the court a supersedeas bond approved  
 4-16 by the court that:

4-17 (i) is for the amount of the penalty; and

4-18 (ii) is effective until all judicial review  
 4-19 of the board's order is final; or

4-20 (2) request the court to stay enforcement of the  
 4-21 penalty by:

4-22 (A) filing with the court a sworn affidavit of  
 4-23 the person stating that the person is financially unable to pay the  
 4-24 penalty and is financially unable to give the supersedeas bond; and

4-25 (B) sending a copy of the affidavit to the  
 4-26 director by certified mail.

4-27 (b) If the director receives a copy of an affidavit under  
 4-28 Subsection (a)(2), the director may file with the court, not later  
 4-29 than the fifth day after the date the copy is received, a contest to  
 4-30 the affidavit.

4-31 (c) The court shall hold a hearing on the facts alleged in  
 4-32 the affidavit as soon as practicable and shall stay the enforcement  
 4-33 of the penalty on finding that the alleged facts are true. The  
 4-34 person who files an affidavit has the burden of proving that the  
 4-35 person is financially unable to pay the penalty and to give a  
 4-36 supersedeas bond.

4-37 Sec. 2306.049. DECISION BY COURT. (a) Judicial review of a  
 4-38 board order imposing an administrative penalty is by trial de novo.

4-39 (b) If the court sustains the finding that a violation  
 4-40 occurred, the court may uphold or reduce the amount of the penalty  
 4-41 and order the person to pay the full or reduced amount of the  
 4-42 penalty.

4-43 (c) If the court does not sustain the finding that a  
 4-44 violation occurred, the court shall order that a penalty is not owed  
 4-45 and may award the person reasonable attorney's fees.

4-46 Sec. 2306.050. REMITTANCE OF PENALTY AND INTEREST. (a) If  
 4-47 the person paid the penalty and if the amount of the penalty is  
 4-48 reduced or the penalty is not upheld by the court, the court shall  
 4-49 order, when the court's judgment becomes final, that the  
 4-50 appropriate amount plus accrued interest be remitted to the person.

4-51 (b) The interest accrues at the rate charged on loans to  
 4-52 depository institutions by the New York Federal Reserve Bank.

4-53 (c) The interest shall be paid for the period beginning on  
 4-54 the date the penalty is paid and ending on the date the penalty is  
 4-55 remitted.

4-56 Sec. 2306.0501. RELEASE OF BOND. (a) If the person gave a  
 4-57 supersedeas bond and the penalty is not upheld by the court, the  
 4-58 court shall order, when the court's judgment becomes final, the  
 4-59 release of the bond.

4-60 (b) If the person gave a supersedeas bond and the amount of  
 4-61 the penalty is reduced, the court shall order the release of the  
 4-62 bond after the person pays the reduced amount.

4-63 Sec. 2306.0502. COLLECTION OF PENALTY. (a) If the person  
 4-64 does not pay the penalty and the enforcement of the penalty is not  
 4-65 stayed, the penalty may be collected.

4-66 (b) The attorney general may sue to collect the penalty.

4-67 Sec. 2306.0503. ADMINISTRATIVE PROCEDURE. A proceeding to  
 4-68 impose the penalty is considered to be a contested case under  
 4-69 Chapter 2001.

5-1 SECTION 5. Section 2306.054, Government Code, is amended by  
 5-2 amending Subsection (a) and adding Subsection (c) to read as  
 5-3 follows:

5-4 (a) The governor or director may appoint special advisory  
 5-5 councils to:

5-6 (1) assist the department in reviewing [~~adopting~~]  
 5-7 basic policy; or

5-8 (2) offer advice on technical aspects of certain  
 5-9 programs.

5-10 (c) A special advisory council is subject to Chapter 2110,  
 5-11 including Section 2110.008(a) but not including Section  
 5-12 2110.008(b).

5-13 SECTION 6. Section 2306.057(a), Government Code, is amended  
 5-14 to read as follows:

5-15 (a) Before the board approves any project application  
 5-16 submitted under this chapter, the department, through the division  
 5-17 with responsibility for compliance matters, shall:

5-18 (1) assess:

5-19 (A) the compliance history in this state of the  
 5-20 applicant and any affiliate of the applicant with respect to all  
 5-21 applicable requirements; and

5-22 (B) the compliance issues associated with the  
 5-23 proposed project; and

5-24 (2) provide to the board a written report regarding  
 5-25 the results of the assessments described by Subdivision (1).

5-26 SECTION 7. Section 2306.069(a), Government Code, is amended  
 5-27 to read as follows:

5-28 (a) With the approval of the attorney general, the  
 5-29 department may hire appropriate [~~The department shall obtain and~~  
 5-30 ~~evaluate information regarding the affirmative action policies and~~  
 5-31 ~~practices of proposed outside legal counsel. The department must~~  
 5-32 ~~include the evaluation in a request to the attorney general for]~~  
 5-33 outside legal counsel.

5-34 SECTION 8. Section 2306.070, Government Code, is amended to  
 5-35 read as follows:

5-36 Sec. 2306.070. BUDGET. (a) In preparing the  
 5-37 department's legislative appropriations request, the department  
 5-38 shall also prepare:

5-39 (1) a report detailing the fees received, on a cash  
 5-40 basis, for each activity administered by the department during each  
 5-41 of the three preceding years;

5-42 (2) an operating budget for the housing finance  
 5-43 division; and

5-44 (3) an explanation of any projected increase or  
 5-45 decrease of three percent or more in fees estimated for the  
 5-46 operating budget as compared to the fees received in the most recent  
 5-47 budget year.

5-48 (b) The department shall submit the report, operating  
 5-49 budget, and explanation to the Legislative Budget Board, the Senate  
 5-50 Finance Committee, and the House Appropriations Committee.

5-51 SECTION 9. Sections 2306.072(a) and (b), Government Code,  
 5-52 are amended to read as follows:

5-53 (a) Not later than March [~~December~~] 18 of each year, the  
 5-54 director shall prepare and submit to the board an annual report of  
 5-55 the department's housing activities for the preceding year.

5-56 (b) Not later than the 30th day after the date the board  
 5-57 receives and approves the report, the board shall submit the report  
 5-58 to the governor, lieutenant governor, speaker of the house of  
 5-59 representatives, and members of any legislative oversight  
 5-60 committee.

5-61 SECTION 10. Sections 2306.0721(a) and (b), Government Code,  
 5-62 are amended to read as follows:

5-63 (a) Not later than March [~~December~~] 18 of each year, the  
 5-64 director shall prepare and submit to the board an integrated state  
 5-65 low income housing plan for the next year.

5-66 (b) Not later than the 30th day after the date the board  
 5-67 receives and approves the plan, the board shall submit the plan to  
 5-68 the governor, lieutenant governor, and the speaker of the house of  
 5-69 representatives.

6-1 SECTION 11. Section 2306.0723, Government Code, is amended  
6-2 to read as follows:

6-3 Sec. 2306.0723. REPORT CONSIDERED AS RULE [PUBLIC  
6-4 PARTICIPATION REQUIREMENTS]. ~~[(a)]~~ The department shall consider  
6-5 the annual low income housing report to be a rule and in developing  
6-6 the report shall follow rulemaking procedures required by Chapter  
6-7 2001 [hold public hearings on the annual state low income housing  
6-8 plan and report before the director submits the report and the plan  
6-9 to the board. The department shall provide notice of the public  
6-10 hearings as required by Section 2306.0661. The published notice  
6-11 must include a summary of the report and plan. The department shall  
6-12 accept comments on the report and plan at the public hearings and  
6-13 for at least 30 days after the date of the publication of the notice  
6-14 of the hearings].

6-15 ~~[(b) In addition to any other necessary topics relating to~~  
6-16 ~~the report and the plan, each public hearing required by Subsection~~  
6-17 ~~(a) must address:~~

6-18 ~~[(1) infrastructure needs,~~  
6-19 ~~(2) home ownership programs,~~  
6-20 ~~(3) rental housing programs,~~  
6-21 ~~(4) housing repair programs, and~~  
6-22 ~~(5) the concerns of individuals with special needs,~~  
6-23 ~~as defined by Section 2306.511.~~

6-24 ~~[(c) The board shall hold a public hearing on the state low~~  
6-25 ~~income housing report and plan before the board submits the report~~  
6-26 ~~and the plan to the governor, lieutenant governor, speaker of the~~  
6-27 ~~house of representatives, and members of the legislature.~~

6-28 ~~[(d) The board shall include with the report and the plan~~  
6-29 ~~the board submits to the governor, lieutenant governor, speaker of~~  
6-30 ~~the house of representatives, members of the legislature, and~~  
6-31 ~~members of the advisory board formed by the department to advise on~~  
6-32 ~~the consolidated plan a written summary of public comments on the~~  
6-33 ~~report and the plan.]~~

6-34 SECTION 12. Section 2306.082, Government Code, is amended  
6-35 by amending Subsections (b) and (c) and adding Subsections (d),  
6-36 (e), and (f) to read as follows:

6-37 (b) The department's procedures relating to alternative  
6-38 dispute resolution must designate [conform, to the extent possible,  
6-39 to any model guidelines issued by] the State Office of  
6-40 Administrative Hearings as the primary mediator and, to the extent  
6-41 practicable, conform to any guidelines or rules issued by that  
6-42 office [for the use of alternative dispute resolution by state  
6-43 agencies].

6-44 (c) The department shall designate a ~~[trained]~~ person  
6-45 employed by or appointed to the office of the director but who is  
6-46 not in the legal division to coordinate and process requests for the  
6-47 alternative dispute resolution procedures. The person must receive  
6-48 training from an independent source in alternative dispute  
6-49 resolution not later than the 180th day after the date the person  
6-50 was designated to coordinate and process requests for the  
6-51 alternative dispute resolution procedures[+.

6-52 ~~[(1) coordinate the implementation of the policy~~  
6-53 ~~adopted under Subsection (a),~~

6-54 ~~[(2) serve as a resource for any training needed to~~  
6-55 ~~implement the procedures for negotiated rulemaking or alternative~~  
6-56 ~~dispute resolution, and~~

6-57 ~~[(3) collect data concerning the effectiveness of~~  
6-58 ~~those procedures, as implemented by the department].~~

6-59 (d) The department shall notify a person requesting the  
6-60 alternative dispute resolution procedures that:

6-61 (1) an alternative dispute resolution decision is not  
6-62 binding on the state; and

6-63 (2) the department will mediate in good faith.

6-64 (e) The alternative dispute resolution procedures may be  
6-65 requested before the board makes a final decision.

6-66 (f) Notwithstanding any other provision of this section,  
6-67 the alternative dispute resolution procedures may not be used to  
6-68 unnecessarily delay a proceeding under this chapter.

6-69 SECTION 13. Section 2306.092, Government Code, is amended

7-1 to read as follows:

7-2 Sec. 2306.092. DUTIES REGARDING CERTAIN PROGRAMS CREATED  
7-3 UNDER FEDERAL LAW. The department shall administer, as appropriate  
7-4 under policies established by the board:

7-5 (1) state responsibilities for programs created under  
7-6 the federal Economic Opportunity Act of 1964 (42 U.S.C. Section  
7-7 2701 et seq.);

7-8 (2) programs assigned to the department under the  
7-9 Omnibus Budget Reconciliation Act of 1981 (Pub.L. No. 97-35); and

7-10 (3) other federal acts creating economic opportunity  
7-11 programs assigned to the department.

7-12 SECTION 14. Section 2306.1111, Government Code, is amended  
7-13 to read as follows:

7-14 Sec. 2306.1111. UNIFORM APPLICATION AND FUNDING CYCLES  
7-15 [~~CYCLE~~]. (a) Notwithstanding any other state law and to the extent  
7-16 consistent with federal law, the department shall establish [~~a~~]  
7-17 uniform application and funding cycles [~~cycle~~] for all competitive  
7-18 single-family and multifamily housing programs administered by the  
7-19 department under this chapter, other than programs involving the  
7-20 issuance of private activity bonds.

7-21 (b) Wherever possible, the department shall use uniform  
7-22 threshold requirements for single-family and multifamily housing  
7-23 program applications, including uniform threshold requirements  
7-24 relating to market studies and environmental reports.

7-25 SECTION 15. Sections 2306.1112(b), (c), and (d), Government  
7-26 Code, are amended to read as follows:

7-27 (b) The advisory committee must include representatives  
7-28 from [~~is composed of the director, the administrator of each of the~~  
7-29 ~~department's programs, and one representative from each of]~~ the  
7-30 department's [~~planning,~~] underwriting[~~r~~] and compliance functions  
7-31 and from the divisions responsible for administering federal  
7-32 housing funds provided to the state under the Cranston-Gonzalez  
7-33 National Affordable Housing Act (42 U.S.C. Section 12701 et seq.)  
7-34 and for administering low income housing tax credits.

7-35 (c) [~~The advisory committee shall develop the funding~~  
7-36 ~~priorities required by Section 2306.111(g) and shall make funding~~  
7-37 ~~and allocation recommendations to the board based on the ability of~~  
7-38 ~~applicants to meet those priorities.~~

7-39 [~~(d)~~] The advisory committee is not subject to Chapter 2110.

7-40 SECTION 16. Section 2306.1113, Government Code, is amended  
7-41 by amending Subsections (a), (a-1), and (b) and adding Subsection  
7-42 (c) to read as follows:

7-43 (a) During the period beginning on the date [~~a~~] project  
7-44 applications are [~~application is~~] filed in an application cycle and  
7-45 ending on the date the board makes a final decision with respect to  
7-46 the [~~any~~] approval of any [~~that~~] application in that cycle, a member  
7-47 of the board may not communicate with the following persons:

7-48 (1) an [~~the~~] applicant or a related party, as defined  
7-49 by state law, including board rules, and federal law; and

7-50 (2) any person who is:

7-51 (A) active in the construction, rehabilitation,  
7-52 ownership, or control of a [~~the~~] proposed project, including:

7-53 (i) a general partner or contractor; and

7-54 (ii) a principal or affiliate of a general  
7-55 partner or contractor; or

7-56 (B) employed as a consultant, lobbyist, or  
7-57 attorney by an [~~the~~] applicant or a related party.

7-58 (a-1) Subject to Subsection (a-2), during the period  
7-59 beginning on the date [~~a~~] project applications are [~~application is~~  
7-60 filed in an application cycle and ending on the date the board makes  
7-61 a final decision with respect to the [~~any~~] approval of any [~~that~~]  
7-62 application in that cycle, an employee of the department may  
7-63 communicate about an [~~the~~] application with the following persons:

7-64 (1) the applicant or a related party, as defined by  
7-65 state law, including board rules, and federal law; and

7-66 (2) any person who is:

7-67 (A) active in the construction, rehabilitation,  
7-68 ownership, or control of the proposed project, including:

7-69 (i) a general partner or contractor; and

8-1 (ii) a principal or affiliate of a general  
8-2 partner or contractor; or

8-3 (B) employed as a consultant, lobbyist, or  
8-4 attorney by the applicant or a related party.

8-5 (b) Notwithstanding Subsection (a) or (a-1), a board member  
8-6 or department employee may communicate without restriction with a  
8-7 person listed in Subsection (a) or (a-1) during [at] any board  
8-8 meeting or public hearing held with respect to the application, but  
8-9 not during a recess or other nonrecord portion of the meeting or  
8-10 hearing.

8-11 (c) Subsection (a) does not prohibit the board from  
8-12 participating in social events at which a person with whom  
8-13 communications are prohibited may or will be present, provided that  
8-14 all matters related to applications to be considered by the board  
8-15 will not be discussed.

8-16 SECTION 17. Section 2306.185(b), Government Code, is  
8-17 amended to read as follows:

8-18 (b) In implementing Subsection (a)(1) and in developing  
8-19 underwriting standards and application scoring criteria for the  
8-20 award of loans, grants, or tax credits to multifamily developments,  
8-21 the department shall ensure that the economic benefits of longer  
8-22 affordability terms, for specific terms of years as established by  
8-23 the board, and below market rate rents are accurately assessed and  
8-24 considered.

8-25 SECTION 18. Section 2306.229, Government Code, is amended  
8-26 by adding Subsection (c) to read as follows:

8-27 (c) For each loan made for the development of multifamily  
8-28 housing with funds provided to the state under the  
8-29 Cranston-Gonzalez National Affordable Housing Act (42 U.S.C.  
8-30 Section 12701 et seq.), the department shall obtain a mortgagee's  
8-31 title policy in the amount of the loan. The department may not  
8-32 designate a specific title insurance company to provide the  
8-33 mortgagee title policy or require the borrower to provide the  
8-34 policy from a specific title insurance company. The borrower shall  
8-35 select the title insurance company to close the loan and to provide  
8-36 the mortgagee title policy.

8-37 SECTION 19. Section 2306.359(a), Government Code, is  
8-38 amended to read as follows:

8-39 (a) In evaluating an application for an issuance of private  
8-40 activity bonds, the department shall score and rank the application  
8-41 using a point system based on criteria that are adopted by the  
8-42 department, including criteria[+]

8-43 [~~(1)~~] regarding:  
8-44 (1) [~~(A)~~] the income levels of tenants of the  
8-45 development, consistent with the funding priorities provided by  
8-46 Section 1372.0321;

8-47 (2) [~~(B)~~] the rent levels of the units;  
8-48 (3) [~~(C)~~] the level of community support for the  
8-49 application;

8-50 (4) [~~(D)~~] the period of guaranteed affordability for  
8-51 low income tenants;

8-52 (5) [~~(E)~~] the cost per unit of the development;  
8-53 (6) [~~(F)~~] the size, quality, and amenities of the  
8-54 units;

8-55 (7) [~~(G)~~] the services to be provided to tenants of  
8-56 the development; and

8-57 (8) [~~(H)~~] ~~the commitment of development funding by~~  
8-58 ~~local political subdivisions that enables additional units for~~  
8-59 ~~individuals and families of very low income; and~~

8-60 [~~(I)~~] other criteria as developed by the board[+]  
8-61 and

8-62 [~~(2)~~] ~~imposing penalties on applicants who have~~  
8-63 ~~requested extensions of department deadlines relating to~~  
8-64 ~~developments supported by an issuance of private activity bonds~~  
8-65 ~~made in the application round preceding the current round].~~

8-66 SECTION 20. Section 2306.514(a), Government Code, is  
8-67 amended to read as follows:

8-68 (a) If a person is awarded state or federal funds by the  
8-69 department to construct single family affordable housing for



9-1 individuals and families of low and very low income, the affordable  
9-2 housing identified on the person's funding application must be  
9-3 constructed so that:

9-4 (1) at least one entrance door, whether located at the  
9-5 front, side, or back of the building:

9-6 (A) is on an accessible route served by a ramp or  
9-7 no-step entrance; and

9-8 (B) has at least a standard 36-inch door;

9-9 (2) on the first floor of the building:

9-10 (A) each interior door is at least a standard  
9-11 32-inch door, unless the door provides access only to a closet of  
9-12 less than 15 square feet in area;

9-13 (B) each hallway has a width of at least 36 inches  
9-14 and is level, with ramped or beveled changes at each door threshold;

9-15 (C) each bathroom wall is reinforced for  
9-16 potential installation of grab bars;

9-17 (D) each electrical panel [~~or breaker box~~], light  
9-18 switch, or thermostat is not higher than 48 inches above the floor;  
9-19 and

9-20 (E) each electrical plug or other receptacle is  
9-21 at least 15 inches above the floor; and

9-22 (3) if the applicable building code or codes do not  
9-23 prescribe another location for the breaker boxes, each breaker box  
9-24 is located not higher than 48 inches above the floor inside the  
9-25 building on the first floor.

9-26 SECTION 21. Subchapter DD, Chapter 2306, Government Code,  
9-27 is amended by adding Section 2306.6735 to read as follows:

9-28 Sec. 2306.6735. REQUIRED LEASE AGREEMENT PROVISIONS. A  
9-29 lease agreement with a tenant in a development supported with a  
9-30 housing tax credit allocation must:

9-31 (1) include any applicable federal or state standards  
9-32 identified by department rule that relate to the termination or  
9-33 nonrenewal of the lease agreement; and

9-34 (2) be consistent with state and federal law.

9-35 SECTION 22. Subchapter DD, Chapter 2306, Government Code,  
9-36 is amended by adding Section 2306.67171 to read as follows:

9-37 Sec. 2306.67171. ELECTRONIC MAIL NOTIFICATION SERVICE. (a)  
9-38 The department shall maintain an electronic mail notification  
9-39 service to which any person in this state may electronically  
9-40 subscribe to receive information concerning the status of  
9-41 preapplications and applications under this subchapter.

9-42 (b) The electronic mail notification service maintained  
9-43 under Subsection (a) must:

9-44 (1) allow a subscriber to request for a zip code  
9-45 notification of:

9-46 (A) the filing of any preapplication or  
9-47 application concerning a development that is or will be located in  
9-48 the zip code;

9-49 (B) any change in the status of an application or  
9-50 preapplication described by Paragraph (A); and

9-51 (C) any public hearing to be held concerning an  
9-52 application or preapplication described by Paragraph (A); and

9-53 (2) respond to a subscriber via electronic mail not  
9-54 later than the later of:

9-55 (A) the third business day after the date the  
9-56 department receives notice of an event described by Subdivision  
9-57 (1); or

9-58 (B) if applicable, the date or dates specified by  
9-59 Section 2306.6717(a).

9-60 (c) The department may include in an electronic mail  
9-61 notification sent to a subscriber any applicable information  
9-62 described by Section 2306.6717.

9-63 SECTION 23. The Texas Department of Housing and Community  
9-64 Affairs shall have the electronic mail notification service  
9-65 required to be maintained under Section 2306.67171, Government  
9-66 Code, as added by this Act, fully functional and able to receive  
9-67 subscription requests and respond appropriately to those requests  
9-68 not later than January 1, 2008.

9-69 SECTION 24. The following provisions of the Government Code

are repealed:

- (1) Sections 2306.021, 2306.062, 2306.0631, 2306.0661, 2306.0721(h), 2306.079, 2306.081(e), 2306.254, 2306.257(b), (c), and (d), and 2306.806;
- (2) Subchapter N, Chapter 2306;
- (3) Subchapter O, Chapter 2306;
- (4) Subchapter BB, Chapter 2306;
- (5) Subchapter CC, Chapter 2306; and
- (6) Subchapter EE, Chapter 2306.

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

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

SECTION 27. This Act takes effect September 1, 2007.

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