

By: Lucio

S.B. No. 1934

A BILL TO BE ENTITLED

AN ACT

relating to the administration of the low income housing tax credit program.

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

SECTION 1. Section 2306.6702(a)(10), Government Code, is amended to read as follows:

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

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

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

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

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

(B) [~~(C)~~] provides a procedure for the department, the department's agent, or another private contractor of the department to use in monitoring compliance with the

1 qualified allocation plan and this subchapter.

2 SECTION 2. Sections 2306.6710(a),(b) and (f), Government  
3 Code, are amended to read as follows:

4 Sec. 2306.6710. EVALUATION AND UNDERWRITING OF  
5 APPLICATIONS. (a) In evaluating an application, the department  
6 shall determine whether the application satisfies the threshold  
7 criteria required by the board in the qualified allocation plan. On  
8 the expiration of the application deficiency correction period  
9 allowed by the department, the ~~The~~ department shall reject and  
10 return to the applicant any application that fails to satisfy the  
11 threshold criteria.

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

15 (1) prioritizes in descending order criteria  
16 regarding:

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

21 (B) quantifiable community participation with  
22 respect to the development, evaluated on the basis of written  
23 statements from any neighborhood organizations on record with the  
24 state, ~~or~~ county, or municipality in which the development is to  
25 be located and whose boundaries contain the proposed development  
26 site and any other written material related to community  
27 participation and considered appropriate by the department;

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,~~] a resolution of support or opposition  
9 from:

10 (i) the governing body of the municipality  
11 in which the development is to be located; or

12 (ii) the commissioners court of the county  
13 in which the development is to be located if the development is to  
14 be located outside a municipality;

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

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

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

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

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

4 (1) positive points for positive [~~written statements~~]  
5 resolutions received;

6 (2) negative points for negative [~~written statements~~]  
7 resolutions received; and

8 (3) zero points for neutral [~~statements~~] resolutions  
9 received.

10 SECTION 3. Section 2306.6711, Government Code, is amended  
11 by amending Subsection (b) and adding Subsections (b-1) to read as  
12 follows:

13 (b) Not later than the deadline specified in the qualified  
14 allocation plan, the board shall issue commitments for available  
15 housing tax credits based on the application evaluation process  
16 provided by Section 2306.6710. The board may not allocate to an  
17 applicant housing tax credits in any unnecessary amount, as  
18 determined by the department's underwriting policy and by federal  
19 law, and, except as provided by Subsection (b-1), [~~in any event~~] may  
20 not allocate to any one person [~~the applicant~~] housing tax credits  
21 in an amount greater than \$2.4 [~~\$2~~] million in a single application  
22 round. For purposes of this subsection, a housing tax credit  
23 allocated for a development that is financed with tax-exempt bonds  
24 may not be included in the \$2.4 million limitation described by this  
25 subsection.

26 (b-1) The department may increase the possible allocation  
27 amount as necessary to adjust for inflation, as determined by the

1 average over a calendar year of the Consumer Price Index for All  
2 Urban Consumers (CPI-U), U.S. City Average, published monthly by  
3 the United States Bureau of Labor Statistics, or its successor in  
4 function.

5 SECTION 4. It is the intent of the legislature that the  
6 passage by the 80th Legislature, Regular Session, 2007, of another  
7 bill that amends Chapter 2306, Government Code, and the amendments  
8 made by this Act shall be harmonized, if possible, as provided by  
9 Section 311.025(b), Government Code, so that effect may be given to  
10 each. If the amendments made by this Act to Chapter 2306,  
11 Government Code, and the amendments made to Chapter 2306,  
12 Government Code, by any other bill are irreconcilable, it is the  
13 intent of the legislature that this Act prevail, regardless of the  
14 relative dates of enactment of this Act and the other bill or bills,  
15 but only to the extent that any differences are irreconcilable.

16 SECTION 5. The changes in law made by this Act relating to  
17 the evaluation of applications for the allocation of low income  
18 housing tax credits by the Texas Department of Housing and  
19 Community Affairs apply only to an application submitted on or  
20 after the effective date of this Act. An application submitted  
21 before the effective date of this Act is governed by the law in  
22 effect when the application was submitted, and the former law is  
23 continued in effect for that purpose.

24 SECTION 6. This Act takes effect September 1, 2007.