

By: Menendez

H.B. No. 563

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the evaluation of applications for certain financial
3 assistance administered by the Texas Department of Housing and
4 Community Affairs.

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

6 SECTION 1. Section 2306.1114(a), Government Code, is
7 amended to read as follows:

8 (a) Not later than the 14th day after the date an
9 application or a proposed application for housing funds described
10 by Section 2306.111 has been filed, the department shall provide
11 written notice of the filing of the application or proposed
12 application to the following persons:

13 (1) the United States representative who represents
14 the community containing the development described in the
15 application;

16 (2) members of the legislature who represent the
17 community containing the development described in the application;

18 (3) the presiding officer of the governing body of the
19 political subdivision containing the development described in the
20 application;

21 (4) any member of the governing body of a political
22 subdivision who represents the area containing the development
23 described in the application;

24 (5) the superintendent and the presiding officer of

1 the board of trustees of the school district containing the
2 development described in the application; ~~and~~

3 (6) any neighborhood organizations on record with the
4 state, municipality, or county in which the development described
5 in the application is to be located and whose boundaries, as
6 established by the applicable record on file:

7 (A) contain the proposed development site; or

8 (B) encompass the same public elementary school
9 attendance zone, or a portion of the same zone, as the proposed
10 development site, if the boundary of the organization is located
11 not more than one linear mile from the site; and

12 (7) any public housing authority resident's council
13 with one or more members who reside or who the applicant knows are
14 likely to reside at the development described in the application.

15 SECTION 2. Section 2306.6704(b-1), Government Code, is
16 amended to read as follows:

17 (b-1) The preapplication process must require the applicant
18 to provide the department with evidence that the applicant has
19 notified the following entities with respect to the filing of the
20 application:

21 (1) any neighborhood organizations on record with the
22 state, municipality, or county in which the development is to be
23 located and whose boundaries, as established by the applicable
24 record on file:

25 (A) contain the proposed development site; or

26 (B) encompass the same public elementary school
27 attendance zone, or a portion of the same zone, as the proposed

1 development site, if the boundary of the organization is located
2 not more than one linear mile from the site;

3 (2) the superintendent and the presiding officer of
4 the board of trustees of the school district containing the
5 development;

6 (3) the presiding officer of the governing body of any
7 municipality containing the development and all elected members of
8 that body;

9 (4) the presiding officer of the governing body of the
10 county containing the development and all elected members of that
11 body; ~~and~~

12 (5) the state senator and state representative of the
13 district containing the development; and

14 (6) any public housing authority resident's council
15 with one or more members who reside or who the applicant knows are
16 likely to reside at the development.

17 SECTION 3. Section 2306.6705, Government Code, is amended
18 to read as follows:

19 Sec. 2306.6705. GENERAL APPLICATION REQUIREMENTS. An
20 application must contain at a minimum the following written,
21 detailed information in a form prescribed by the board:

22 (1) a description of:

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

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

27 (C) the funding sources for the development,

1 including:

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

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

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

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

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

16 (A) pay-in schedules; and

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

19 (4) if rental assistance, an operating subsidy, or an
20 annuity is proposed for the development, any related contract or
21 other agreement securing those funds and an 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 an occupied development is proposed for
13 rehabilitation:

14 (A) an explanation of the process used to notify
15 and consult with the tenants in preparing the application;

16 (B) a relocation plan outlining:

17 (i) relocation requirements; and

18 (ii) a budget with an identified funding
19 source; and

20 (C) if applicable, evidence that the relocation
21 plan has been submitted to the appropriate local agency;

22 (7) a certification of the applicant's compliance with
23 appropriate state and federal laws, as required by other state law
24 or by the board;

25 (8) any other information required by the board in the
26 qualified allocation plan; and

27 (9) evidence that the applicant has notified the

1 following entities with respect to the filing of the application:

2 (A) any neighborhood organizations on record
3 with the state, municipality, or county in which the development is
4 to be located and whose boundaries, as established by the
5 applicable record on file:

6 (i) contain the proposed development site;
7 or

8 (ii) encompass the same public elementary
9 school attendance zone, or a portion of the same zone, as the
10 proposed development site, if the boundary of the organization is
11 located not more than one linear mile from the site;

12 (B) the superintendent and the presiding officer
13 of the board of trustees of the school district containing the
14 development;

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

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

21 (E) the state senator and state representative of
22 the district containing the development; and

23 (F) any public housing authority resident's
24 council with one or more members who reside or who the applicant
25 knows are likely to reside at the development.

26 SECTION 4. Section 2306.6710, Government Code, is amended
27 by amending Subsections (b) and (f) and adding Subsection (g) to

1 read as follows:

2 (b) If an application satisfies the threshold criteria, the
3 department shall score and rank the application using a point
4 system that:

5 (1) assigns 50 percent of the total possible points to
6 the ~~[prioritizes in descending order criteria regarding:~~

7 ~~[(A)]~~ financial feasibility of the development
8 based on the supporting financial data required in the application
9 that will include a project underwriting pro forma from the
10 permanent or construction lender;

11 (2) assigns 30 percent of the total possible points,
12 equally divided, to:

13 (A) ~~[(B)]~~ quantifiable community participation
14 with respect to the development, evaluated on the basis of written
15 statements from:

16 (i) any neighborhood organizations on
17 record with the state, municipality, or county in which the
18 development is to be located and whose boundaries, as established
19 by the applicable record on file:

20 (a) contain the proposed development
21 site; or

22 (b) encompass the same public
23 elementary school attendance zone, or a portion of the same zone, as
24 the proposed development site, if the boundary of the organization
25 is located not more than one linear mile from the site; or

26 (ii) any public housing authority
27 resident's council with one or more members who reside or who the

1 applicant knows are likely to reside at the development;

2 (B) [(C)] the income levels of tenants of the
3 development;

4 (C) [(D) the size and quality of the units;
5 [(E) the commitment of development funding by
6 local political subdivisions;

7 [(F)] the level of community support for the
8 application, evaluated on the basis of written statements from the
9 state representative or the state senator that represents the
10 district containing the proposed development site;

11 (D) [(G)] the rent levels of the units; and
12 (E) the level of community support for the
13 application, evaluated on the basis of a resolution concerning the
14 development and adopted by the governing body of an affected
15 municipality or county;

16 (3) assigns 20 percent of the total possible points,
17 equally divided, to:

18 (A) the size and quality of the units;
19 (B) the commitment of development funding by
20 local political subdivisions;

21 (C) [(H)] the cost of the development by square
22 foot;

23 (D) [(I)] the services to be provided to tenants
24 of the development; and

25 (E) [(J)] whether, at the time the complete
26 application is submitted or at any time within the two-year period
27 preceding the date of submission, the proposed development site is

1 located in an area declared to be a disaster under Section 418.014;

2 (4) [~~(2)~~] uses criteria imposing penalties on
3 applicants or affiliates who have requested extensions of
4 department deadlines relating to developments supported by housing
5 tax credit allocations made in the application round preceding the
6 current round or a developer or principal of the applicant that has
7 been removed by the lender, equity provider, or limited partners
8 for its failure to perform its obligations under the loan documents
9 or limited partnership agreement; and

10 (5) [~~(3)~~] encourages applicants to provide free
11 notary public service to the residents of the developments for
12 which the allocation of housing tax credits is requested.

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

16 (1) positive points for positive written statements
17 received;

18 (2) negative points for negative written statements
19 received; and

20 (3) zero points for neutral statements received.

21 (g) The department shall presume that the applicant has made
22 a good faith effort to obtain community participation and shall
23 award the applicant the total number of points that may be awarded
24 under Subsection (b)(2)(A) if the application includes a statement
25 that an organization or other entity described by Subsection
26 (b)(2)(A) does not exist, as verified by:

27 (1) the presiding officer or authorized

1 representative of the governing body of the municipality in which
2 the development is to be located; or

3 (2) the clerk of the county in which the development is
4 to be located if the development is to be located outside a
5 municipality.

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

13 SECTION 6. This Act takes effect September 1, 2009.