

By: Bohac

H.B. No. 1412

A BILL TO BE ENTITLED

AN ACT

relating to participation in the process for evaluating an application for a low income housing tax credit.

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

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

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

(1) each ~~[any]~~ neighborhood organization ~~[organizations]~~ on record with the state or county in which the development is to be located and that has ~~[whose]~~ boundaries containing ~~[contain]~~ the proposed development site or has a boundary located not more than one-half mile from the proposed development site;

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

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

(4) the presiding officer of the governing body of the county containing the development and all elected members of that

1 body; and

2 (5) each ~~[the]~~ state senator or ~~[and]~~ state
3 representative that represents a ~~[of the]~~ district that contains
4 ~~[containing]~~ the proposed development site or has a boundary
5 located not more than one-half mile from the proposed development
6 site.

7 SECTION 2. Section 2306.6705, Government Code, is amended
8 to read as follows:

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

12 (1) a description of:

13 (A) the financing plan for the development,
14 including any nontraditional financing arrangements;

15 (B) the use of funds with respect to the
16 development;

17 (C) the funding sources for the development,
18 including:

19 (i) construction, permanent, and bridge
20 loans; and

21 (ii) rents, operating subsidies, and
22 replacement reserves; and

23 (D) the commitment status of the funding sources
24 for the development;

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

1 (3) from a syndicator or a financial consultant of the
2 applicant, an estimate of the amount of equity dollars expected to
3 be raised for the development in conjunction with the amount of
4 housing tax credits requested for allocation to the applicant,
5 including:

6 (A) pay-in schedules; and

7 (B) syndicator consulting fees and other
8 syndication costs;

9 (4) if rental assistance, an operating subsidy, or an
10 annuity is proposed for the development, any related contract or
11 other agreement securing those funds and an identification of:

12 (A) the source and annual amount of the funds;

13 (B) the number of units receiving the funds; and

14 (C) the term and expiration date of the contract
15 or other agreement;

16 (5) if the development is located within the
17 boundaries of a political subdivision with a zoning ordinance,
18 evidence in the form of a letter from the chief executive officer of
19 the political subdivision or from another local official with
20 jurisdiction over zoning matters that states that:

21 (A) the development is permitted under the
22 provisions of the ordinance that apply to the location of the
23 development; or

24 (B) the applicant is in the process of seeking
25 the appropriate zoning and has signed and provided to the political
26 subdivision a release agreeing to hold the political subdivision
27 and all other parties harmless in the event that the appropriate

1 zoning is denied;

2 (6) if an occupied development is proposed for
3 rehabilitation:

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

6 (B) a relocation plan outlining:

7 (i) relocation requirements; and

8 (ii) a budget with an identified funding
9 source; and

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

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

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

17 (9) evidence that the applicant has notified the
18 following entities with respect to the filing of the application:

19 (A) each ~~[any]~~ neighborhood organization
20 ~~[organizations]~~ on record with the state or county in which the
21 development is to be located and that has ~~[whose]~~ boundaries
22 containing ~~[contain]~~ the proposed development site or has a
23 boundary located not more than one-half mile from the proposed
24 development site;

25 (B) the superintendent and the presiding officer
26 of the board of trustees of the school district containing the
27 development;

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

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

(E) each ~~[the]~~ state senator or ~~[and]~~ state representative that represents a ~~[of the]~~ district that contains ~~[containing]~~ the proposed development site or has a boundary located not more than one-half mile from the proposed development site.

SECTION 3. Section 2306.6710(b), Government Code, is amended to read as follows:

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

(1) prioritizes in descending order criteria regarding:

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

(B) quantifiable community participation with respect to the development, evaluated on the basis of written statements from each ~~[any]~~ neighborhood organization ~~[organizations]~~ on record with the state or county in which the development is to be located and that has ~~[whose]~~ boundaries

1 containing [~~contain~~] the proposed development site or has a
2 boundary located not more than one-half mile from the proposed
3 development site;

4 (C) the income levels of tenants of the
5 development;

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

7 (E) the commitment of development funding by
8 local political subdivisions;

9 (F) the level of community support or opposition
10 for the application, evaluated on the basis of written statements
11 from any [~~the~~] state representative or [~~the~~] state senator that
12 represents a [~~the~~] district that contains [~~containing~~] the proposed
13 development site or has a boundary located not more than one-half
14 mile from the proposed development site;

15 (G) the rent levels of the units;

16 (H) the cost of the development by square foot;

17 (I) the services to be provided to tenants of the
18 development; and

19 (J) whether, at the time the complete application
20 is submitted or at any time within the two-year period preceding the
21 date of submission, the proposed development site is located in an
22 area declared to be a disaster under Section 418.014;

23 (2) uses criteria imposing penalties on applicants or
24 affiliates who have requested extensions of department deadlines
25 relating to developments supported by housing tax credit
26 allocations made in the application round preceding the current
27 round or a developer or principal of the applicant that has been

1 removed by the lender, equity provider, or limited partners for its
2 failure to perform its obligations under the loan documents or
3 limited partnership agreement; and

4 (3) encourages applicants to provide free notary
5 public service to the residents of the developments for which the
6 allocation of housing tax credits is requested.

7 SECTION 4. Sections 2306.6718(a) and (c), Government Code,
8 are amended to read as follows:

9 (a) The department shall provide written notice of the
10 filing of an application to the following elected officials:

11 (1) members of the legislature who represent a house
12 or senate district that contains [~~the community containing~~] the
13 development described in the application or has a boundary located
14 not more than one-half mile from the development described in the
15 application; and

16 (2) the chief executive officer of the political
17 subdivision containing the development described in the
18 application.

19 (c) A member of the legislature who represents a house or
20 senate district that contains [~~the community containing~~] the
21 development described in the application or has a boundary located
22 not more than one-half mile from the development described in the
23 application may hold a district [~~community~~] meeting at which the
24 department shall provide appropriate representation.

25 SECTION 5. The changes in law made by this Act apply only to
26 an application for a low income housing tax credit submitted to the
27 Texas Department of Housing and Community Affairs during an

1 application cycle that begins on or after the effective date of this
2 Act. An application submitted during an application cycle that
3 began before the effective date of this Act is governed by the law
4 in effect on the date the application cycle began, and the former
5 law is continued in effect for that purpose.

6 SECTION 6. This Act takes effect immediately if it receives
7 a vote of two-thirds of all the members elected to each house, as
8 provided by Section 39, Article III, Texas Constitution. If this
9 Act does not receive the vote necessary for immediate effect, this
10 Act takes effect September 1, 2009.