

By: McClendon

H.B. No. 1650

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the continuation and functions of the Texas State  
3 Affordable Housing Corporation; providing penalties.

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

5 SECTION 1. Section 2306.5521, Government Code, is amended  
6 to read as follows:

7 Sec. 2306.5521. SUNSET PROVISION. The Texas State  
8 Affordable Housing Corporation is subject to Chapter 325 (Texas  
9 Sunset Act). Unless continued in existence as provided by that  
10 chapter, the corporation is abolished and this subchapter expires  
11 September 1, 2015 [~~2009~~].

12 SECTION 2. Sections 2306.554(a) and (b), Government Code,  
13 are amended to read as follows:

14 (a) The board of directors of the corporation consists of  
15 seven [~~five~~] members appointed by the governor. One member must  
16 represent the interests of individuals and families served by the  
17 corporation's single-family mortgage loan programs, one member  
18 must represent nonprofit housing organizations, and the remaining  
19 five members must [~~who~~] represent one or more [~~any~~] of the following  
20 areas:

21 (1) state or federal savings banks or savings and loan  
22 associations;

23 (2) community banks with assets of \$200 million or  
24 less;

- 1           (3) large metropolitan banks with assets of more than  
2 \$1 billion;
- 3           (4) asset management companies;
- 4           (5) mortgage servicing companies;
- 5           (6) builders;
- 6           (7) real estate developers;
- 7           (8) real estate brokers;
- 8           (9) community or economic development organizations;
- 9           (10) private mortgage companies;
- 10          (11) nonprofit housing development companies;
- 11          (12) attorneys;
- 12          (13) investment bankers;
- 13          (14) underwriters;
- 14          (15) private mortgage insurance companies;
- 15          (16) appraisers;
- 16          (17) property management companies;
- 17          (18) financial advisors;
- 18          (19) nonprofit foundations;
- 19          (20) financial advisors; or
- 20          (21) any other area of expertise that the governor  
21 finds necessary for the successful operation of the corporation.

22          (b) The governor shall designate a member of the  
23 corporation's board of directors as the presiding officer of the  
24 [corporation's] board of directors to serve in that capacity at the  
25 pleasure of the governor [from the members].

26          SECTION 3. Section 2306.5541, Government Code, is amended  
27 to read as follows:

1           Sec. 2306.5541. TERMS OF MEMBERS. The members of the board  
2 of directors of the corporation serve staggered six-year terms,  
3 with the terms of [~~one or~~] two or three members expiring on February  
4 1 of each odd-numbered year.

5           SECTION 4. Sections 2306.5543(b) and (c), Government Code,  
6 are amended to read as follows:

7           (b) The training program must provide the person with  
8 information regarding:

9                   (1) the legislation that created the corporation [~~and~~  
10 ~~the corporation's board of directors~~];

11                   (2) the programs, functions, rules, and budget of the  
12 corporation [~~the programs operated by the corporation~~];

13                   (3) [~~the role and functions of the corporation,~~

14                   [~~(4) the rules of the corporation with an emphasis on~~  
15 ~~the rules that relate to disciplinary and investigatory authority,~~

16                   [~~(5) the current budget for the corporation,~~

17                   [~~(6)~~] the results of the most recent formal audit of the  
18 corporation;

19                   (4) [~~(7)~~] the requirements of laws relating to[~~+~~

20                           [~~(A) the~~] open meetings, [~~law, Chapter 551,~~

21                           [~~(B) the~~] public information, [~~law, Chapter 552,~~

22                           [~~(C) the~~] administrative procedure, and

23 conflicts of interest [~~law, Chapter 2001, and~~

24                           [~~(D) other laws relating to public officials,~~  
25 ~~including conflict-of-interest laws~~]; and

26                   (5) [~~(8)~~] any applicable ethics policies adopted by  
27 the corporation or the Texas Ethics Commission.

1 (c) A person appointed to the corporation's board of  
2 directors is entitled to reimbursement, as [~~to the same extent~~]  
3 provided by the General Appropriations Act [~~for a member of a state~~  
4 ~~board~~], for the travel expenses incurred in attending the training  
5 program regardless of whether the attendance at the program occurs  
6 before or after the person qualifies for office.

7 SECTION 5. Section 2306.5545(b), Government Code, is  
8 amended to read as follows:

9 (b) A person may not be a member of the corporation's board  
10 of directors and may not be a corporation employee employed in a  
11 "bona fide executive, administrative, or professional capacity,"  
12 as that phrase is used for purposes of establishing an exemption to  
13 the overtime provisions of the federal Fair Labor Standards Act of  
14 1938 (29 U.S.C. Section 201 et seq.), and its subsequent  
15 amendments, if:

16 (1) the person is an officer, employee, or paid  
17 consultant of a Texas trade association in the field of banking,  
18 mortgage lending, real estate, housing development, or housing  
19 construction; or

20 (2) the person's spouse is an officer, manager, or paid  
21 consultant of a Texas trade association in the field of banking,  
22 mortgage lending, real estate, housing development, or housing  
23 construction.

24 SECTION 6. Section 2306.559(d), Government Code, is amended  
25 to read as follows:

26 (d) The report must include:

27 (1) a statement of support, revenue, and expenses and

1 change in fund balances;

2 (2) a statement of functional expenses; ~~and~~

3 (3) balance sheets for all funds;

4 (4) the number, amount, and purpose of private gifts,  
5 grants, donations, or other funds applied for and received;

6 (5) the number, amount, and purpose of loans provided  
7 to affordable housing developers, regardless of whether the  
8 corporation provides those loans directly to the developers or  
9 administers the loans from another source;

10 (6) the amount and source of funds deposited into any  
11 fund created by the corporation for the purpose of providing grants  
12 and the number, amount, and purpose of any grants provided; and

13 (7) the total amount of annual revenue generated by  
14 the corporation in excess of its expenditures.

15 SECTION 7. Subchapter Y, Chapter 2306, Government Code, is  
16 amended by adding Section 2306.5671 to read as follows:

17 Sec. 2306.5671. COMPLIANCE WITH CONTRACT TERMS. A contract  
18 or agreement between the corporation and a housing sponsor that  
19 receives financing by or through the corporation for the purpose of  
20 providing affordable multifamily housing must contain a provision  
21 stating that if the housing sponsor fails to comply with the terms  
22 of the contract or agreement, the corporation may, as appropriate:

23 (1) assess administrative penalties;

24 (2) remove the manager of the affected property and  
25 select a new manager;

26 (3) withdraw reserve funds to make needed repairs and  
27 replacements to the property; or

1           (4) appoint the corporation as a receiver to protect  
2 and operate the property.

3           SECTION 8. Section 2306.568, Government Code, is amended to  
4 read as follows:

5           Sec. 2306.568. RECORD OF COMPLAINTS. (a) The corporation  
6 shall maintain a system to promptly and efficiently act on  
7 complaints [~~file on each written complaint~~] filed with the  
8 corporation. The corporation shall maintain information about  
9 parties to the complaint, [~~file must include:~~

10            [~~(1) the name of the person who filed the complaint,~~

11            [~~(2) the date the complaint is received by the~~  
12 ~~corporation,~~

13            [~~(3)~~] the subject matter of the complaint, [~~+~~

14            [~~(4) the name of each person contacted in relation to~~  
15 ~~the complaint,~~

16            [~~(5)~~] a summary of the results of the review or  
17 investigation of the complaint, and its disposition [~~+~~ and

18            [~~(6) an explanation of the reason the file was closed,~~  
19 ~~if the corporation closed the file without taking action other than~~  
20 ~~to investigate the complaint].~~

21           (b) The corporation shall make information available  
22 describing its [~~provide to the person filing the complaint and to~~  
23 ~~each person who is a subject of the complaint a copy of the~~  
24 ~~corporation's policies and] procedures for [~~relating to~~] complaint  
25 investigation and resolution.~~

26           (c) The corporation [~~+~~ ~~at least quarterly until final~~  
27 ~~disposition of the complaint,~~] shall periodically notify the

1 ~~[person filing the]~~ complaint parties ~~[and each person who is a~~  
2 ~~subject of the complaint]~~ of the status of the complaint until final  
3 disposition ~~[investigation unless the notice would jeopardize an~~  
4 ~~undercover investigation].~~

5 SECTION 9. Section 2306.569, Government Code, is amended to  
6 read as follows:

7 Sec. 2306.569. EFFECTIVE USE OF TECHNOLOGY. The  
8 corporation's board of directors shall ~~[develop and]~~ implement a  
9 policy requiring the ~~[president of the]~~ corporation ~~[and~~  
10 ~~corporation employees]~~ to use ~~[research and propose]~~ appropriate  
11 technological solutions to improve the corporation's ability to  
12 perform its functions. The policy ~~[technological solutions]~~ must~~+~~

13 ~~[(1)]~~ ensure that the public is able to ~~[easily find~~  
14 ~~information about the corporation on the Internet,~~

15 ~~[(2)]~~ ensure that persons who want to use the  
16 ~~corporation's services are able to:~~

17 ~~[(A)]~~ interact with the corporation on ~~[through]~~  
18 the Internet~~+, and~~

19 ~~[(B)]~~ access any service that can be provided  
20 ~~effectively through the Internet, and~~

21 ~~[(3)]~~ be cost-effective and developed through the  
22 ~~corporation's planning processes].~~

23 SECTION 10. Section 2306.5671, Government Code, as added by  
24 this Act, does not affect the terms of a contract or agreement  
25 entered into before the effective date of this Act, except that if  
26 the contract or agreement is renewed, modified, or extended on or  
27 after the effective date of this Act, Section 2306.5671 applies to

1 the contract or agreement beginning on the date of renewal,  
2 modification, or extension.

3 SECTION 11. (a) Promptly after this Act takes effect, the  
4 governor shall appoint two additional members to the board of  
5 directors of the Texas State Affordable Housing Corporation. In  
6 appointing those members, the governor shall appoint one person to  
7 a term expiring February 1, 2011, and one to a term expiring  
8 February 1, 2013. As provided by Section 2306.554(a), Government  
9 Code, as amended by this Act:

10 (1) one member appointed under this subsection must  
11 represent the interests of individuals and families served by the  
12 Texas State Affordable Housing Corporation's single-family  
13 mortgage loan programs, unless the governor determines that a  
14 current member of the board of directors represents those persons;  
15 and

16 (2) one member appointed under this subsection must  
17 represent nonprofit housing organizations, unless the governor  
18 determines that a current member of the board of directors  
19 represents those organizations.

20 (b) Until all appointees to the board of directors of the  
21 Texas State Affordable Housing Corporation have taken office, a  
22 quorum of the board is a majority of the number of members who are  
23 qualified.

24 SECTION 12. This Act takes effect September 1, 2009.