

By: Olivo, et al.

H.B. No. 2121

A BILL TO BE ENTITLED

1 AN ACT
2 relating to participation in the process for evaluating an
3 application for a low income housing tax credit.

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

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

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

11 (1) each ~~[any]~~ neighborhood organization
12 ~~[organizations]~~ on record with the state or county in which the
13 development is to be located and that has ~~[whose]~~ boundaries
14 containing ~~[contain]~~ the proposed development site or has a
15 boundary located not more than 1,000 feet from any boundary of the
16 proposed development site;

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

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

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

1 body; and

2 (5) the state senator and state representative of the
3 district containing the development.

4 SECTION 2. Section 2306.6705, Government Code, is amended
5 to read as follows:

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

9 (1) a description of:

10 (A) the financing plan for the development,
11 including any nontraditional financing arrangements;

12 (B) the use of funds with respect to the
13 development;

14 (C) the funding sources for the development,
15 including:

16 (i) construction, permanent, and bridge
17 loans; and

18 (ii) rents, operating subsidies, and
19 replacement reserves; and

20 (D) the commitment status of the funding sources
21 for the development;

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

25 (3) from a syndicator or a financial consultant of the
26 applicant, an estimate of the amount of equity dollars expected to
27 be raised for the development in conjunction with the amount of

1 housing tax credits requested for allocation to the applicant,
2 including:

3 (A) pay-in schedules; and

4 (B) syndicator consulting fees and other
5 syndication costs;

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

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

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

11 (C) the term and expiration date of the contract
12 or other agreement;

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

18 (A) the development is permitted under the
19 provisions of the ordinance that apply to the location of the
20 development; or

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

26 (6) if an occupied development is proposed for
27 rehabilitation:

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

3 (B) a relocation plan outlining:

4 (i) relocation requirements; and

5 (ii) a budget with an identified funding
6 source; and

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

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

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

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

16 (A) each ~~[any]~~ neighborhood organization
17 ~~[organizations]~~ on record with the state or county in which the
18 development is to be located and that has ~~[whose]~~ boundaries
19 containing ~~[contain]~~ the proposed development site or has a
20 boundary located not more than 1,000 feet from any boundary of the
21 proposed development site;

22 (B) the superintendent and the presiding officer
23 of the board of trustees of the school district containing the
24 development;

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

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

4 (E) the state senator and state representative of
5 the district containing the development.

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

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

11 (1) prioritizes in descending order criteria
12 regarding:

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

17 (B) quantifiable community participation with
18 respect to the development, evaluated on the basis of written
19 statements from 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 1,000 feet from any boundary of the
24 proposed development site;

25 (C) the income levels of tenants of the
26 development;

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

1 (E) the commitment of development funding by
2 local political subdivisions;

3 (F) the level of community support for the
4 application, evaluated on the basis of written statements from the
5 state representative or the state senator that represents the
6 district containing the proposed development site;

7 (G) the rent levels of the units;

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

9 (I) the services to be provided to tenants of the
10 development; and

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

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

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

26 SECTION 4. The changes in law made by this Act apply only to
27 an application for a low income housing tax credit submitted to the

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

7 SECTION 5. This Act takes effect immediately if it receives
8 a vote of two-thirds of all the members elected to each house, as
9 provided by Section 39, Article III, Texas Constitution. If this
10 Act does not receive the vote necessary for immediate effect, this
11 Act takes effect September 1, 2009.