

By: Olivo

H.B. No. 2121

Substitute the following for H.B. No. 2121:

By: Pierson

C.S.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.