

By: Lucio, Zaffirini  
West

S.B. No. 679

A BILL TO BE ENTITLED

AN ACT

relating to the administration of certain housing funds by the Texas Department of Housing and Community Affairs.

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

SECTION 1. Section 2306.201, Government Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) The fund consists of:

(1) appropriations or transfers made to the fund;

(2) unencumbered fund balances;

(3) public or private gifts, ~~or~~ grants, or donations;

(4) investment income, including all interest, dividends, capital gains, or other income from the investment of any portion of the fund;

(5) repayments received on loans made from the fund;  
and

(6) funds from any other source.

(c) The department may accept gifts, grants, or donations for the housing trust fund. All funds received for the housing trust fund under Subsection (b) shall be deposited or transferred into the Texas Treasury Safekeeping Trust Company.

SECTION 2. Subsection (a), Section 2306.202, Government Code, is amended to read as follows:

1           (a) The department, through the housing finance division,  
2 shall use the housing trust fund to provide loans, grants, or other  
3 comparable forms of assistance to local units of government, public  
4 housing authorities, nonprofit organizations, and income-eligible  
5 individuals, families, and households to finance, acquire,  
6 rehabilitate, and develop decent, safe, and sanitary housing. In  
7 each biennium the first \$2.6 million available through the housing  
8 trust fund for loans, grants, or other comparable forms of  
9 assistance shall be set aside and made available exclusively for  
10 local units of government, public housing authorities, and  
11 nonprofit organizations. Any additional funds may also be made  
12 available to for-profit organizations provided that ~~[so long as]~~ at  
13 least 45 percent of available funds, as determined on September 1 of  
14 each state fiscal year, in excess of the first \$2.6 million shall be  
15 made available to nonprofit organizations for the purpose of  
16 acquiring, rehabilitating, and developing decent, safe, and  
17 sanitary housing. The remaining portion shall be distributed to  
18 ~~[competed for by]~~ nonprofit organizations, for-profit  
19 organizations, and other eligible entities. Notwithstanding any  
20 other section of this chapter, but subject to the limitations in  
21 Section 2306.251(c), the department may also use the fund to  
22 acquire property to endow the fund.

23           SECTION 3. Section 2306.203, Government Code, is amended to  
24 read as follows:

25           Sec. 2306.203. RULES REGARDING ADMINISTRATION OF HOUSING  
26 TRUST FUND. The board shall adopt rules to administer the housing  
27 trust fund, including rules providing:

1 (1) that the division give priority to programs that  
2 maximize federal resources;

3 (2) for a process to set priorities for use of the  
4 fund, including the distribution of fund resources in accordance  
5 with a plan that is [~~under a request for a proposal process~~]  
6 developed and approved by the board and included in the  
7 department's annual report regarding the housing trust fund as  
8 described in the General Appropriations Act;

9 (3) that the criteria used to evaluate a proposed  
10 activity [~~rank proposals~~] will include the:

11 (A) leveraging of [~~federal~~] resources;

12 (B) cost-effectiveness of the [~~a~~] proposed  
13 activity [~~development~~]; and

14 (C) extent to which individuals and families of  
15 very low income are served by the proposed activity [~~development~~];

16 (4) that funds may not be made available for a proposed  
17 activity [~~to a development~~] that permanently and involuntarily  
18 displaces individuals and families of low income;

19 (5) that the board attempt to allocate funds to  
20 achieve a broad geographical distribution with:

21 (A) special emphasis on equitably serving rural  
22 and nonmetropolitan areas; and

23 (B) consideration of the number and percentage of  
24 income-qualified families in different geographical areas; and

25 (6) that multifamily housing developed or  
26 rehabilitated through the fund remain affordable to  
27 income-qualified households for at least 20 years.

1 SECTION 4. Subsection (b), Section 2306.753, Government  
2 Code, is amended to read as follows:

3 (b) To be eligible for a loan under this subchapter, an  
4 owner-builder:

5 (1) may not have an annual income that exceeds 60  
6 percent, as determined by the department, of the greater of the  
7 state or local median family income, when combined with the income  
8 of any person who resides with the owner-builder;

9 (2) must have resided in this state for the preceding  
10 six months;

11 (3) must have successfully completed an owner-builder  
12 education class under Section 2306.756; and

13 (4) must agree to:

14 (A) provide through personal labor at least 65  
15 ~~[60]~~ percent of the labor necessary to build or rehabilitate the  
16 proposed housing by working through a state-certified  
17 owner-builder housing program; ~~[or]~~

18 (B) provide an amount of personal labor  
19 equivalent to the amount required under Paragraph (A) in connection  
20 with building or rehabilitating housing for others through a  
21 state-certified ~~[nonprofit]~~ owner-builder housing program;

22 (C) provide through the noncontract labor of  
23 friends, family, or volunteers and through personal labor at least  
24 65 percent of the labor necessary to build or rehabilitate the  
25 proposed housing by working through a state-certified  
26 owner-builder housing program; or

27 (D) if due to documented disability or other

1 limiting circumstances as defined by department rule the  
2 owner-builder cannot provide the amount of personal labor otherwise  
3 required by this subdivision, provide through the noncontract labor  
4 of friends, family, or volunteers at least 65 percent of the labor  
5 necessary to build or rehabilitate the proposed housing by working  
6 through a state-certified owner-builder housing program.

7 SECTION 5. Subsections (a), (b), and (c), Section 2306.754,  
8 Government Code, are amended to read as follows:

9 (a) The department may establish the minimum amount of a  
10 loan under this subchapter, but a loan made by the department may  
11 not exceed \$45,000 [~~\$30,000~~].

12 (b) If it is not possible for an owner-builder to purchase  
13 necessary real property and build or rehabilitate adequate housing  
14 for \$45,000 [~~\$30,000~~], the owner-builder must obtain the amount  
15 necessary that exceeds \$45,000 [~~\$30,000~~] from other sources of  
16 funds [~~one or more local governmental entities, nonprofit~~  
17 ~~organizations, or private lenders~~]. The total amount of amortized,  
18 repayable loans made by the department and other entities to an  
19 owner-builder under this subchapter may not exceed \$90,000  
20 [~~\$60,000~~].

21 (c) A loan made by the department under this subchapter:

22 (1) may not exceed a term of 30 years;

23 (2) may bear interest at a fixed rate of not more than  
24 three percent or bear interest in the following manner:

25 (A) no interest for the first two years of the  
26 loan;

27 (B) beginning with the second anniversary of the

1 date the loan was made, interest at the rate of one percent a year;

2 (C) beginning on the third anniversary of the  
3 date the loan was made and ending on the sixth anniversary of the  
4 date the loan was made, interest at a rate that is one percent  
5 greater than the rate borne in the preceding year; and

6 (D) beginning on the sixth anniversary of the  
7 date the loan was made and continuing through the remainder of the  
8 loan term, interest at the rate of five percent; and

9 (3) shall [~~may~~] be secured by:

10 (A) a first lien by the department on the real  
11 property if the loan is the largest amortized, repayable loan  
12 secured by the real property; or

13 (B) a co-first lien or subordinate lien as  
14 determined by department rule, if the loan is not the largest loan  
15 as described by Paragraph (A) [~~, including a lien that is~~  
16 ~~subordinate to a lien that secures a loan made under Subsection (b)~~  
17 ~~and that is greater than the department's lien]~~.

18 SECTION 6. Subsection (a), Section 2306.755, Government  
19 Code, is amended to read as follows:

20 (a) The department may certify nonprofit owner-builder  
21 housing programs operated by a tax-exempt organization listed under  
22 Section 501(c)(3), Internal Revenue Code of 1986, to:

23 (1) qualify potential owner-builders for loans under  
24 this subchapter;

25 (2) provide owner-builder education classes under  
26 Section 2306.756;

27 (3) assist owner-builders in building or

1 rehabilitating housing; and

2 (4) originate or service loans made under this  
3 subchapter.

4 SECTION 7. Subsection (a), Section 2306.756, Government  
5 Code, is amended to read as follows:

6 (a) A state-certified nonprofit owner-builder housing  
7 program shall offer owner-builder education classes to potential  
8 owner-builders. A class under this section must provide  
9 information on:

10 (1) the financial responsibilities of an  
11 owner-builder under this subchapter, including the consequences of  
12 an owner-builder's failure to meet those responsibilities;

13 (2) the building or rehabilitation of housing by  
14 owner-builders;

15 (3) resources for low-cost building materials  
16 available to owner-builders; and

17 (4) resources for building or rehabilitation  
18 assistance available to owner-builders.

19 SECTION 8. Section 2306.757, Government Code, is amended to  
20 read as follows:

21 Sec. 2306.757. LOAN PRIORITY FOR WAIVER OF LOCAL GOVERNMENT  
22 FEES. In making loans under this subchapter, the department shall  
23 give priority to loans to owner-builders who will reside in  
24 counties or municipalities that agree in writing to waive capital  
25 recovery fees, building permit fees, inspection fees, or other fees  
26 related to the building or rehabilitation of the housing to be built  
27 or improved with the loan proceeds.

1           SECTION 9. Subsection (c), Section 2306.758, Government  
2 Code, is amended to read as follows:

3           (c) In a state fiscal year, the department may use not more  
4 than 10 percent of the revenue available for purposes of this  
5 subchapter to enhance the ability of tax-exempt organizations  
6 described by Section 2306.755(a) to implement the purposes of this  
7 chapter and to enhance the number of such organizations that are  
8 able to implement those purposes. The department shall use that  
9 available revenue to provide financial assistance, technical  
10 training, and management support for the purposes of this  
11 subsection.

12           SECTION 10. Subsection (a-1), Section 2306.7581,  
13 Government Code, is amended to read as follows:

14           (a-1) Each state fiscal year the department shall transfer  
15 at least \$3 million to the owner-builder revolving fund from money  
16 received under the federal HOME Investment Partnerships program  
17 established under Title II of the Cranston-Gonzalez National  
18 Affordable Housing Act (42 U.S.C. Section 12701 et seq.), from  
19 money in the housing trust fund, or from money appropriated by the  
20 legislature to the department. This subsection expires August 31,  
21 2020 [~~2010~~].

22           SECTION 11. (a) The change in law made by this Act in  
23 amending Sections 2306.202, 2306.203, and 2306.758, Government  
24 Code, applies beginning with the state fiscal year that begins  
25 September 1, 2009.

26           (b) The change in law made by this Act in amending Sections  
27 2306.753 and 2306.754, Government Code, applies only to



1 owner-builder loans granted by the department on or after the  
2 effective date of this Act. An owner-builder loan granted before  
3 the effective date of this Act is governed by the law in effect at  
4 the time the loan was granted, and the former law is continued in  
5 effect for that purpose.

6 SECTION 12. This Act takes effect immediately if it  
7 receives a vote of two-thirds of all the members elected to each  
8 house, as provided by Section 39, Article III, Texas Constitution.  
9 If this Act does not receive the vote necessary for immediate  
10 effect, this Act takes effect September 1, 2009.