

1-1 By: Lucio S.B. No. 679
1-2 (In the Senate - Filed February 4, 2009; February 23, 2009,
1-3 read first time and referred to Committee on Finance; May 4, 2009,
1-4 reported adversely, with favorable Committee Substitute by the
1-5 following vote: Yeas 10, Nays 0; May 4, 2009, sent to printer.)

1-6 COMMITTEE SUBSTITUTE FOR S.B. No. 679 By: Lucio

1-7 A BILL TO BE ENTITLED
1-8 AN ACT

1-9 relating to the administration of certain housing funds by the
1-10 Texas Department of Housing and Community Affairs.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 2306.201, Government Code, is amended by
1-13 amending Subsection (b) and adding Subsection (c) to read as
1-14 follows:

1-15 (b) The fund consists of:

1-16 (1) appropriations or transfers made to the fund;

1-17 (2) unencumbered fund balances;

1-18 (3) public or private gifts, ~~[or]~~ grants, or
1-19 donations;

1-20 (4) investment income, including all interest,
1-21 dividends, capital gains, or other income from the investment of
1-22 any portion of the fund;

1-23 (5) repayments received on loans made from the fund;

1-24 and

1-25 (6) funds from any other source.

1-26 (c) The department may accept gifts, grants, or donations
1-27 for the housing trust fund. All funds received for the housing
1-28 trust fund under Subsection (b) shall be deposited or transferred
1-29 into the Texas Treasury Safekeeping Trust Company.

1-30 SECTION 2. Subsection (a), Section 2306.202, Government
1-31 Code, is amended to read as follows:

1-32 (a) The department, through the housing finance division,
1-33 shall use the housing trust fund to provide loans, grants, or other
1-34 comparable forms of assistance to local units of government, public
1-35 housing authorities, nonprofit organizations, and income-eligible
1-36 individuals, families, and households to finance, acquire,
1-37 rehabilitate, and develop decent, safe, and sanitary housing. In
1-38 each biennium the first \$2.6 million available through the housing
1-39 trust fund for loans, grants, or other comparable forms of
1-40 assistance shall be set aside and made available exclusively for
1-41 local units of government, public housing authorities, and
1-42 nonprofit organizations. Any additional funds may also be made
1-43 available to for-profit organizations provided that ~~[so long as]~~ at
1-44 least 45 percent of available funds, as determined on September 1 of
1-45 each state fiscal year, in excess of the first \$2.6 million shall be
1-46 made available to nonprofit organizations for the purpose of
1-47 acquiring, rehabilitating, and developing decent, safe, and
1-48 sanitary housing. The remaining portion shall be distributed to
1-49 ~~[competed for by]~~ nonprofit organizations, for-profit
1-50 organizations, and other eligible entities. Notwithstanding any
1-51 other section of this chapter, but subject to the limitations in
1-52 Section 2306.251(c), the department may also use the fund to
1-53 acquire property to endow the fund.

1-54 SECTION 3. Section 2306.203, Government Code, is amended to
1-55 read as follows:

1-56 Sec. 2306.203. RULES REGARDING ADMINISTRATION OF HOUSING
1-57 TRUST FUND. The board shall adopt rules to administer the housing
1-58 trust fund, including rules providing:

1-59 (1) that the division give priority to programs that
1-60 maximize federal resources;

1-61 (2) for a process to set priorities for use of the
1-62 fund, including the distribution of fund resources in accordance
1-63 with a plan that is ~~[under a request for a proposal process]~~

2-1 developed and approved by the board and included in the
 2-2 department's annual report regarding the housing trust fund as
 2-3 described in the General Appropriations Act;

2-4 (3) that the criteria used to evaluate a proposed
 2-5 activity [~~rank proposals~~] will include the:

2-6 (A) leveraging of [~~federal~~] resources;

2-7 (B) cost-effectiveness of the [~~a~~] proposed
 2-8 activity [~~development~~]; and

2-9 (C) extent to which individuals and families of
 2-10 very low income are served by the proposed activity [~~development~~];

2-11 (4) that funds may not be made available for a proposed
 2-12 activity [~~to a development~~] that permanently and involuntarily
 2-13 displaces individuals and families of low income;

2-14 (5) that the board attempt to allocate funds to
 2-15 achieve a broad geographical distribution with:

2-16 (A) special emphasis on equitably serving rural
 2-17 and nonmetropolitan areas; and

2-18 (B) consideration of the number and percentage of
 2-19 income-qualified families in different geographical areas; and

2-20 (6) that multifamily housing developed or
 2-21 rehabilitated through the fund remain affordable to
 2-22 income-qualified households for at least 20 years.

2-23 SECTION 4. Subsection (b), Section 2306.753, Government
 2-24 Code, is amended to read as follows:

2-25 (b) To be eligible for a loan under this subchapter, an
 2-26 owner-builder:

2-27 (1) may not have an annual income that exceeds 60
 2-28 percent, as determined by the department, of the greater of the
 2-29 state or local median family income, when combined with the income
 2-30 of any person who resides with the owner-builder;

2-31 (2) must have resided in this state for the preceding
 2-32 six months;

2-33 (3) must have successfully completed an owner-builder
 2-34 education class under Section 2306.756; and

2-35 (4) must agree to:

2-36 (A) provide through personal labor at least 65
 2-37 [60] percent of the labor necessary to build or rehabilitate the
 2-38 proposed housing by working through a state-certified
 2-39 owner-builder housing program; [~~or~~]

2-40 (B) provide an amount of personal labor
 2-41 equivalent to the amount required under Paragraph (A) in connection
 2-42 with building or rehabilitating housing for others through a
 2-43 state-certified [~~nonprofit~~] owner-builder housing program;

2-44 (C) provide through the noncontract labor of
 2-45 friends, family, or volunteers and through personal labor at least
 2-46 65 percent of the labor necessary to build or rehabilitate the
 2-47 proposed housing by working through a state-certified
 2-48 owner-builder housing program; or

2-49 (D) if due to documented disability or other
 2-50 limiting circumstances as defined by department rule the
 2-51 owner-builder cannot provide the amount of personal labor otherwise
 2-52 required by this subdivision, provide through the noncontract labor
 2-53 of friends, family, or volunteers at least 65 percent of the labor
 2-54 necessary to build or rehabilitate the proposed housing by working
 2-55 through a state-certified owner-builder housing program.

2-56 SECTION 5. Subsections (a), (b), and (c), Section 2306.754,
 2-57 Government Code, are amended to read as follows:

2-58 (a) The department may establish the minimum amount of a
 2-59 loan under this subchapter, but a loan made by the department may
 2-60 not exceed \$45,000 [~~\$30,000~~].

2-61 (b) If it is not possible for an owner-builder to purchase
 2-62 necessary real property and build or rehabilitate adequate housing
 2-63 for \$45,000 [~~\$30,000~~], the owner-builder must obtain the amount
 2-64 necessary that exceeds \$45,000 [~~\$30,000~~] from other sources of
 2-65 funds [~~one or more local governmental entities, nonprofit~~
 2-66 ~~organizations, or private lenders~~]. The total amount of amortized,
 2-67 repayable loans made by the department and other entities to an
 2-68 owner-builder under this subchapter may not exceed \$90,000
 2-69 [~~\$60,000~~].

3-1 (c) A loan made by the department under this subchapter:
 3-2 (1) may not exceed a term of 30 years;
 3-3 (2) may bear interest at a fixed rate of not more than
 3-4 three percent or bear interest in the following manner:
 3-5 (A) no interest for the first two years of the
 3-6 loan;
 3-7 (B) beginning with the second anniversary of the
 3-8 date the loan was made, interest at the rate of one percent a year;
 3-9 (C) beginning on the third anniversary of the
 3-10 date the loan was made and ending on the sixth anniversary of the
 3-11 date the loan was made, interest at a rate that is one percent
 3-12 greater than the rate borne in the preceding year; and
 3-13 (D) beginning on the sixth anniversary of the
 3-14 date the loan was made and continuing through the remainder of the
 3-15 loan term, interest at the rate of five percent; and

3-16 (3) shall ~~may~~ be secured by:
 3-17 (A) a first lien by the department on the real
 3-18 property if the loan is the largest amortized, repayable loan
 3-19 secured by the real property; or
 3-20 (B) a co-first lien or subordinate lien as
 3-21 determined by department rule, if the loan is not the largest loan
 3-22 as described by Paragraph (A) [~~, including a lien that is~~
 3-23 ~~subordinate to a lien that secures a loan made under Subsection (b)~~
 3-24 ~~and that is greater than the department's lien]~~.

3-25 SECTION 6. Subsection (a), Section 2306.755, Government
 3-26 Code, is amended to read as follows:

3-27 (a) The department may certify nonprofit owner-builder
 3-28 housing programs operated by a tax-exempt organization listed under
 3-29 Section 501(c)(3), Internal Revenue Code of 1986, to:

- 3-30 (1) qualify potential owner-builders for loans under
 3-31 this subchapter;
- 3-32 (2) provide owner-builder education classes under
 3-33 Section 2306.756;
- 3-34 (3) assist owner-builders in building or
 3-35 rehabilitating housing; and
- 3-36 (4) originate or service loans made under this
 3-37 subchapter.

3-38 SECTION 7. Subsection (a), Section 2306.756, Government
 3-39 Code, is amended to read as follows:

3-40 (a) A state-certified nonprofit owner-builder housing
 3-41 program shall offer owner-builder education classes to potential
 3-42 owner-builders. A class under this section must provide
 3-43 information on:

- 3-44 (1) the financial responsibilities of an
 3-45 owner-builder under this subchapter, including the consequences of
 3-46 an owner-builder's failure to meet those responsibilities;
- 3-47 (2) the building or rehabilitation of housing by
 3-48 owner-builders;
- 3-49 (3) resources for low-cost building materials
 3-50 available to owner-builders; and
- 3-51 (4) resources for building or rehabilitation
 3-52 assistance available to owner-builders.

3-53 SECTION 8. Section 2306.757, Government Code, is amended to
 3-54 read as follows:

3-55 Sec. 2306.757. LOAN PRIORITY FOR WAIVER OF LOCAL GOVERNMENT
 3-56 FEES. In making loans under this subchapter, the department shall
 3-57 give priority to loans to owner-builders who will reside in
 3-58 counties or municipalities that agree in writing to waive capital
 3-59 recovery fees, building permit fees, inspection fees, or other fees
 3-60 related to the building or rehabilitation of the housing to be built
 3-61 or improved with the loan proceeds.

3-62 SECTION 9. Subsection (c), Section 2306.758, Government
 3-63 Code, is amended to read as follows:

3-64 (c) In a state fiscal year, the department may use not more
 3-65 than 10 percent of the revenue available for purposes of this
 3-66 subchapter to enhance the ability of tax-exempt organizations
 3-67 described by Section 2306.755(a) to implement the purposes of this
 3-68 chapter and to enhance the number of such organizations that are
 3-69 able to implement those purposes. The department shall use that

4-1 available revenue to provide financial assistance, technical
4-2 training, and management support for the purposes of this
4-3 subsection.

4-4 SECTION 10. Subsection (a-1), Section 2306.7581,
4-5 Government Code, is amended to read as follows:

4-6 (a-1) Each state fiscal year the department shall transfer
4-7 at least \$3 million to the owner-builder revolving fund from money
4-8 received under the federal HOME Investment Partnerships program
4-9 established under Title II of the Cranston-Gonzalez National
4-10 Affordable Housing Act (42 U.S.C. Section 12701 et seq.), from
4-11 money in the housing trust fund, or from money appropriated by the
4-12 legislature to the department. This subsection expires August 31,
4-13 2020 [~~2010~~].

4-14 SECTION 11. (a) The change in law made by this Act in
4-15 amending Sections 2306.202, 2306.203, and 2306.758, Government
4-16 Code, applies beginning with the state fiscal year that begins
4-17 September 1, 2009.

4-18 (b) The change in law made by this Act in amending Sections
4-19 2306.753 and 2306.754, Government Code, applies only to
4-20 owner-builder loans granted by the department on or after the
4-21 effective date of this Act. An owner-builder loan granted before
4-22 the effective date of this Act is governed by the law in effect at
4-23 the time the loan was granted, and the former law is continued in
4-24 effect for that purpose.

4-25 SECTION 12. This Act takes effect immediately if it
4-26 receives a vote of two-thirds of all the members elected to each
4-27 house, as provided by Section 39, Article III, Texas Constitution.
4-28 If this Act does not receive the vote necessary for immediate
4-29 effect, this Act takes effect September 1, 2009.

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