

By: Lucio, Seliger

S.B. No. 2288

A BILL TO BE ENTITLED

AN ACT

relating to the provision of affordable housing in this state.

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

SECTION 1. Subchapter I, Chapter 487, Government Code, is amended by adding Sections 487.355 and 487.356 to read as follows:

Sec. 487.355. NONBORDER COLONIA FUND. (a) In this section, "nonborder colonia" means a geographic area that:

(1) is located in a county all parts of which are located at least 150 miles from the international border of this state;

(2) is located in a county or municipality that is eligible, as identified by office rule, to receive community development block grant money under this subchapter;

(3) consists of 11 or more dwellings that are located in close proximity to each other in an area that may be described as a community or neighborhood; and

(4) either:

(A) has a majority population composed of individuals and families of low income, based on the federal Office of Management and Budget poverty index, and meets the qualifications of an economically distressed area under Section 17.921, Water Code; or

(B) has the physical and economic characteristics of a colonia, as determined by the office.

1 (b) The nonborder colonia fund is an account in the general
2 revenue fund.

3 (c) In each state fiscal year, from amounts allocated to the
4 state under the federal community development block grant
5 nonentitlement program authorized by Title I of the Housing and
6 Community Development Act of 1974 (42 U.S.C. Section 5301 et seq.),
7 the office shall set aside and transfer to the account for the
8 purposes of this section the portion of that money, not to exceed
9 \$7.5 million each year, that exceeds the amount provided to the
10 state under that program for the state fiscal year ending August 31,
11 2008.

12 (d) Except as provided by Subsection (e), amounts deposited
13 to the account may be appropriated to the office only for the
14 benefit of counties and municipalities identified by office rule as
15 eligible to receive community development block grant money under
16 this subchapter for:

17 (1) housing initiatives for nonborder colonias
18 located in those counties and municipalities, including
19 infrastructure associated with new construction, rehabilitation,
20 or improvements; and

21 (2) the improvement of the housing conditions in those
22 colonias.

23 (e) Amounts deposited to the account may not be appropriated
24 to the office for financial assistance to political subdivisions
25 for the construction, acquisition, or improvement of water supply
26 and sewer services, as described by Section 17.922, Water Code.

27 (f) Sections 403.095 and 404.071 do not apply to the

1 account.

2 Sec. 487.356. COORDINATION WITH TEXAS DEPARTMENT OF HOUSING
3 AND COMMUNITY AFFAIRS. The office shall work with the Texas
4 Department of Housing and Community Affairs to:

5 (1) identify available sources of funding for housing
6 initiatives in a county or municipality that is eligible, as
7 identified by office rule, to receive financial assistance from the
8 nonborder colonia fund established by Section 487.355;

9 (2) coordinate housing initiatives that receive funds
10 under Section 487.355(d); and

11 (3) make available on or before August 1 of each year a
12 plan that addresses the housing and infrastructure needs for the
13 following state fiscal year for at least one colonia, as defined by
14 Section 2306.083.

15 SECTION 2. Subchapter E, Chapter 2306, Government Code, is
16 amended by adding Sections 2306.098 and 2306.099 to read as
17 follows:

18 Sec. 2306.098. COORDINATION WITH OFFICE OF RURAL COMMUNITY
19 AFFAIRS. The department shall work with the Office of Rural
20 Community Affairs to:

21 (1) identify available sources of funding for housing
22 initiatives in a county or municipality that is eligible, as
23 identified by office rule, to receive financial assistance from the
24 nonborder colonia fund established by Section 487.355;

25 (2) coordinate housing initiatives that receive funds
26 under Section 487.355(d); and

27 (3) make available on or before August 1 of each year a

1 plan that addresses the housing and infrastructure needs for the
2 following state fiscal year for at least one colonia, as defined by
3 Section 2306.083.

4 Sec. 2306.099. RURAL HOUSING FIELD OFFICES. (a) The board
5 by rule shall:

6 (1) establish field offices in rural areas of each
7 uniform state service region to assist political subdivisions and
8 nonprofit entities in developing or administering affordable
9 housing programs in those areas; and

10 (2) specify the duties for each field office.

11 (b) The rules under Subsection (a) must include the
12 following duties for each field office:

13 (1) identifying affordable housing needs for rural
14 areas of the uniform state service region in which the field office
15 is located;

16 (2) identifying state and federal programs that may
17 address the needs identified under Subdivision (1);

18 (3) facilitating the development of relationships
19 that will assist in building local capacity to address the needs
20 identified under Subdivision (1); and

21 (4) providing information regarding state programs to
22 assist in the development of affordable housing for rural areas of
23 the uniform state service region in which the field office is
24 located.

25 SECTION 3. Chapter 2306, Government Code, is amended by
26 adding Subchapter N to read as follows:

1 SUBCHAPTER N. OFFICE OF RURAL COMMUNITY AND SMALL MUNICIPALITY

2 HOUSING INITIATIVES

3 Sec. 2306.301. DEFINITION. In this subchapter, "office"
4 means the office established by Section 2306.302 to support rural
5 community and small municipality housing initiatives.

6 Sec. 2306.302. ESTABLISHMENT OF OFFICE. (a) The
7 department shall establish an office to support rural community and
8 small municipality housing initiatives.

9 (b) The department by rule shall define for purposes of this
10 subchapter:

11 (1) a rural community; and

12 (2) a small municipality.

13 (c) Subject to available funding, the department by rule may
14 establish not more than seven field offices as part of the office.

15 (d) The office shall work with each regional council of
16 government to:

17 (1) match housing sponsors to the housing needs of
18 rural communities and small municipalities; and

19 (2) identify available sources of funds for those
20 housing needs.

21 (e) The office shall use funds available from the housing
22 trust fund established under Section 2306.201 to administer
23 capacity building programs for rural communities and small
24 municipalities.

25 (f) The office shall coordinate a meeting at least two times
26 each year between department program directors and representatives
27 of rural communities and small municipalities to discuss best

1 practices for rural community and small municipality housing
2 initiatives.

3 (g) The office shall establish an online clearinghouse of
4 information relating to best practices for rural community and
5 small municipality housing initiatives.

6 (h) The director may assign additional duties to the office.

7 Sec. 2306.303. REGIONAL HOUSING DEVELOPMENT ORGANIZATIONS.

8 (a) The office shall establish regional nonprofit housing
9 development organizations that serve rural communities and small
10 municipalities in accordance with the purposes of this subchapter.

11 (b) To implement this section, the department may use any
12 money available to the department for the purpose, including gifts,
13 grants, and donations and funds allocated to the state under the
14 federal HOME Investment Partnerships program established under
15 Title II of the Cranston-Gonzalez National Affordable Housing Act
16 (42 U.S.C. Section 12701 et seq.).

17 Sec. 2306.304. TRAINING. (a) The office annually shall
18 provide to elected officials, community organizations, nonprofit
19 organizations, and private developers a training course that
20 addresses housing programs and techniques that increase housing
21 opportunities in rural communities and small municipalities. The
22 office shall provide the course at an appropriate location selected
23 by the office and shall make the course available online in real
24 time.

25 (b) The department periodically shall also provide to
26 elected officials a training course regarding housing programs and
27 sources of funding for these programs.

1 Sec. 2306.305. HOUSING DEVELOPMENT PLANNING ASSISTANCE. On
2 the request of the governing body of a municipality or county, the
3 office shall assign an employee or independent contractor to assist
4 the municipality or county in:

5 (1) developing comprehensive housing plans for rural
6 communities and small municipalities in that county;

7 (2) supporting housing development initiatives in
8 those communities and municipalities; and

9 (3) identifying financial resources available for
10 those plans and initiatives.

11 Sec. 2306.306. RURAL COMMUNITY AND SMALL MUNICIPALITY
12 HOUSING DEVELOPMENT PILOT PROJECTS. Notwithstanding other program
13 rules and procedures of the department, the department may
14 establish pilot projects to test and develop new approaches to
15 providing housing in rural communities and small municipalities
16 for:

17 (1) individuals and families of low income; and

18 (2) individuals and families of very low income.

19 Sec. 2306.307. AGRICULTURAL WORKER HOUSING INITIATIVE.
20 (a) The office shall fund housing initiatives that serve
21 agricultural workers and their families, including:

22 (1) new housing initiatives;

23 (2) housing rehabilitation initiatives; or

24 (3) tenant-based rental assistance.

25 (b) The office may designate as a pilot project a housing
26 initiative implemented under this section for agricultural workers
27 and their families.

1 (c) The office shall coordinate with appropriate divisions
2 of the department to:

3 (1) document agricultural worker housing needs;

4 (2) determine whether a housing need documented by the
5 department is critical; and

6 (3) develop initiatives to address those housing
7 needs.

8 (d) The department may use any available funds to implement
9 this section, including gifts, grants, and donations and funds
10 allocated to the department under the federal HOME Investment
11 Partnerships program established under Title II of the
12 Cranston-Gonzalez National Affordable Housing Act (42 U.S.C.
13 Section 12701 et seq.).

14 (e) In this section, "agricultural worker":

15 (1) means a person who receives a substantial portion
16 of income from employment that involves:

17 (A) the primary production of agricultural or
18 aquacultural commodities; or

19 (B) the handling of agricultural or aquacultural
20 commodities in an unprocessed state, including handling those
21 commodities in a feedlot or a meat processing plant; and

22 (2) includes a person who is retired or disabled but
23 was employed as described by Subdivision (1) at the time of that
24 person's retirement or disablement.

25 Sec. 2306.308. COMMUNITY DEVELOPMENT CORPORATION FOR
26 AGRICULTURAL WORKER HOUSING FACILITIES. (a) In this section,
27 "community development corporation" means a private, nonprofit

1 corporation organized to foster economic growth and
2 revitalization, create small businesses, or develop affordable
3 housing in a defined neighborhood or for a targeted population.

4 (b) Using existing resources, the department shall create a
5 statewide community development corporation charged with
6 developing, acquiring, and rehabilitating housing facilities in
7 appropriate areas in the state for agricultural workers and their
8 families.

9 (c) The department shall work with the community
10 development corporation to implement the findings and
11 recommendations of the department in the report submitted under
12 Section 2(f), Chapter 60 (H.B. 1099), Acts of the 79th Legislature,
13 Regular Session, 2005.

14 (d) The department may use any available funds to implement
15 this section, including gifts, grants, and donations and funds
16 allocated to the department under the federal HOME Investment
17 Partnerships program established under Title II of the
18 Cranston-Gonzalez National Affordable Housing Act (42 U.S.C.
19 Section 12701 et seq.).

20 (e) In this section, "agricultural worker":

21 (1) means a person who receives a substantial portion
22 of income from employment that involves:

23 (A) the primary production of agricultural or
24 aquacultural commodities; or

25 (B) the handling of agricultural or aquacultural
26 commodities in an unprocessed state, including handling those
27 commodities in a feedlot or a meat processing plant; and

1 (2) includes a person who is retired or disabled but
2 was employed as described by Subdivision (1) at the time of that
3 person's retirement or disablement.

4 SECTION 4. Chapter 2306, Government Code, is amended by
5 adding Subchapter EE to read as follows:

6 SUBCHAPTER EE. RURAL HOUSING LAND ASSEMBLAGE PROGRAM

7 Sec. 2306.701. SHORT TITLE. This subchapter may be cited as
8 the Rural Housing Land Assemblage Program Act.

9 Sec. 2306.702. DEFINITIONS. In this subchapter:

10 (1) "Affordable" means that the monthly mortgage
11 payment or contract rent does not exceed 30 percent of the
12 applicable median income for that unit size, in accordance with the
13 income and rent limit rules adopted by the department.

14 (2) "Low-income household" means:

15 (A) for rental housing, a household with a gross
16 income not to exceed 80 percent of the greater of the area median
17 income or national nonmetropolitan median income, adjusted for
18 household size, as determined annually by the United States
19 Department of Housing and Urban Development; or

20 (B) for purchased housing, a household with a
21 gross income not to exceed 80 percent of the greater of the area
22 median income or the state median income, adjusted for household
23 size, as determined annually by the United States Department of
24 Housing and Urban Development or by the department based on data
25 from the United States Department of Housing and Urban Development,
26 as appropriate.

27 (3) "Office" means the Office of Rural Community

1 Affairs.

2 (4) "Rural county" means, notwithstanding Section
3 2306.004, a county classified as a rural county by the United States
4 Department of Agriculture for purposes of the rural housing loan
5 programs authorized by the Housing Act of 1949 (42 U.S.C. Section
6 1471 et seq.).

7 (5) "Rural housing land assemblage entity" means an
8 entity established or designated by the governing bodies of one or
9 more rural municipalities or rural counties for the purpose of
10 participating in the rural housing land assemblage program.

11 (6) "Rural housing land assemblage program" means a
12 program established by the department to acquire, hold, and
13 transfer real property under this subchapter for the purpose of
14 providing affordable housing for low-income households.

15 (7) "Rural municipality" means a municipality
16 classified as a rural municipality by the United States Department
17 of Agriculture for purposes of the rural housing loan programs
18 authorized by the Housing Act of 1949 (42 U.S.C. Section 1471 et
19 seq.).

20 Sec. 2306.703. RURAL HOUSING LAND ASSEMBLAGE PROGRAM.

21 (a) The department, in consultation with the office, shall
22 establish the rural housing land assemblage program.

23 (b) The governing bodies of one or more rural municipalities
24 or rural counties may agree to establish a rural housing land
25 assemblage entity and for that purpose may apply to participate in
26 the rural housing land assemblage program.

27 (c) The department and the office shall:

1 (1) jointly select not more than five applications for
2 participation in the program; and

3 (2) enter into a memorandum of understanding to
4 establish a selection procedure and address performance of other
5 duties imposed on the department and the office under this
6 subchapter.

7 (d) If selected to participate in the program, a
8 municipality or county shall:

9 (1) enter into interlocal agreements with any other
10 municipalities or counties selected to participate in the program
11 with that municipality or county, subject to the provisions of this
12 subchapter; and

13 (2) establish or designate a rural housing land
14 assemblage entity to exercise powers as described by this
15 subchapter.

16 Sec. 2306.704. RURAL HOUSING LAND ASSEMBLAGE ENTITY. For
17 the purpose of providing affordable housing for low-income
18 households, a rural housing land assemblage entity may acquire,
19 hold, and transfer real property that is not improved with a
20 habitable building or buildings and is otherwise unoccupied.

21 Sec. 2306.705. PRIVATE SALE TO LAND ASSEMBLAGE ENTITY.

22 (a) Notwithstanding any other law and except as provided by
23 Subsection (f), real property that is ordered sold pursuant to
24 foreclosure of a tax lien may be sold in a private sale to a rural
25 housing land assemblage entity by the officer charged with the sale
26 of the property, without first offering the property for sale as
27 otherwise provided by Section 34.01, Tax Code, if:

1 (1) the property is used for the purpose of providing
2 affordable housing as described by Section 2306.704;

3 (2) the market value of the property as appraised by
4 the local appraisal district and as specified in the judgment of
5 foreclosure is less than the total amount due under the judgment,
6 including all taxes, penalties, and interest, plus the value of
7 nontax liens held by a taxing unit and awarded by the judgment,
8 court costs, and the cost of the sale;

9 (3) the property is not improved with a habitable
10 building or buildings and is otherwise unoccupied;

11 (4) there are delinquent taxes on the property for a
12 total of at least five years; and

13 (5) each municipality or county that established or
14 designated the rural housing land assemblage entity has executed
15 with the other taxing units that are parties to the tax suit an
16 interlocal agreement that enables those units to retain the right
17 to withhold consent to the sale of specific properties to the rural
18 housing land assemblage entity.

19 (b) A sale of property for use in connection with the rural
20 housing land assemblage program is a sale for a public purpose.

21 (c) If the person being sued in a suit for foreclosure of a
22 tax lien does not contest the market value of the property in the
23 suit, the person waives the right to challenge the amount of the
24 market value determined by the court for purposes of the sale of the
25 property under Section 33.50, Tax Code.

26 (d) For any sale of property under this section, each person
27 who was a defendant to the judgment, or that person's attorney,

1 shall be given, not later than the 60th day before the date of sale,
2 written notice of the proposed method of sale of the property by the
3 officer charged with the sale of the property. Notice shall be
4 given in the manner prescribed by Rule 21a, Texas Rules of Civil
5 Procedure.

6 (e) After receipt of the notice required by Subsection (d)
7 and before the date of the proposed sale, the owner of the property
8 subject to sale may file with the officer charged with the sale a
9 written request that the property not be sold in the manner provided
10 by this section.

11 (f) If the officer charged with the sale receives a written
12 request as provided by Subsection (e), the officer shall sell the
13 property as otherwise provided in Section 34.01, Tax Code.

14 (g) The owner of the property subject to sale may not
15 receive any proceeds of a sale under this section. However, the
16 owner does not have any personal liability for a deficiency of the
17 judgment as a result of a sale under this section.

18 (h) Notwithstanding any other law, if consent is given by
19 the taxing units that are a party to the judgment, property may be
20 sold to the rural housing land assemblage entity for less than the
21 market value of the property as specified in the judgment or less
22 than the total of all taxes, penalties, and interest, plus the value
23 of nontax liens held by a taxing unit and awarded by the judgment,
24 court costs, and the cost of the sale.

25 (i) The deed of conveyance of the property sold to a rural
26 housing land assemblage entity under this section conveys to the
27 entity the right, title, and interest acquired or held by each

1 taxing unit that was a party to the judgment, subject to the right
2 of redemption.

3 Sec. 2306.706. EXEMPTION FROM AD VALOREM TAXATION.

4 Property sold to and held by a rural housing land assemblage entity
5 for subsequent resale is entitled to an exemption from ad valorem
6 taxation for a period not to exceed three years from the date of
7 acquisition. The exemption period may be renewed for a property for
8 an additional period, not to exceed three years, on approval of the
9 governing body of each participating municipality or county and any
10 other taxing unit in which the property is located. Property is
11 entitled to an exemption under this section only during the period
12 the property is held by the rural housing land assemblage entity.

13 Sec. 2306.707. REGIONAL WORKSHOPS. (a) The department and
14 the office shall conduct regional workshops for rural housing land
15 assemblage entities. A workshop must include information regarding
16 the operation of the rural housing land assemblage program, such as
17 reporting and audit requirements for rural housing land assemblage
18 entities, affordability terms, additional income targeting, and
19 the imposition of deed and resale restrictions on real property
20 sold under the program to achieve the purpose of providing
21 affordable housing for low-income households.

22 (b) The department and the office shall contract for
23 technical assistance in conducting the workshops, if necessary.

24 Sec. 2306.708. FUNDING; REPORT. (a) The department shall
25 allocate \$1 million to the rural housing land assemblage program
26 from funds allocated to the department under the federal HOME
27 Investment Partnerships program established under Title II of the

1 Cranston-Gonzalez National Affordable Housing Act (42 U.S.C.
2 Section 12701 et seq.).

3 (b) The office shall allocate \$1 million to the rural
4 housing land assemblage program from funds allocated to the office
5 under the federal community development block grant nonentitlement
6 program authorized by Title I of the Housing and Community
7 Development Act of 1974 (42 U.S.C. Section 5301 et seq.).

8 (c) Not later than December 1, 2012, the department and the
9 office jointly shall submit a report to the legislature on the
10 establishment and implementation of the rural housing land
11 assemblage program.

12 (d) This section expires September 1, 2013.

13 Sec. 2306.709. OPEN RECORDS AND MEETINGS. A rural housing
14 land assemblage entity is subject to Chapters 551 and 552.

15 Sec. 2306.710. RECORDS; AUDIT. (a) A rural housing land
16 assemblage entity shall keep accurate minutes of its meetings and
17 shall keep accurate records and books of account that conform with
18 generally accepted principles of accounting and that clearly
19 reflect the income and expenses of the rural housing land
20 assemblage entity and all transactions in relation to its property.

21 (b) A rural housing land assemblage entity shall file with
22 the department and each participating municipality or county, not
23 later than the 120th day after the close of the entity's fiscal
24 year, annual audited financial statements prepared by a certified
25 public accountant. The financial transactions of the rural housing
26 land assemblage entity are subject to audit by a participating
27 municipality or county and by the department.

1 SECTION 5. Chapter 2306, Government Code, is amended by
2 adding Subchapter NN to read as follows:

3 SUBCHAPTER NN. TEXAS SECURE LOAN PILOT PROGRAM

4 Sec. 2306.1081. DEFINITION. In this subchapter, "program"
5 means the Texas secure loan pilot program.

6 Sec. 2306.1082. TEXAS SECURE LOAN PILOT PROGRAM. (a) The
7 department shall establish the Texas secure loan pilot program to
8 provide to individuals and families of low income mortgage loans
9 that allow modifications to the terms of the loans, such as
10 adjustments to the period of the loans and to interest rates, to
11 assist program participants in avoiding foreclosure of those loans.

12 (b) The program may include the provision of down payment
13 and closing cost assistance.

14 (c) The department may work with mortgage brokers, lenders,
15 and nonprofit organizations to design mortgage loan products
16 available under the program.

17 Sec. 2306.1083. ADMINISTRATION OF PROGRAM; RULES. (a) The
18 department shall administer the program.

19 (b) The board shall adopt rules governing:

20 (1) the administration of the program, including the
21 origination of loans under the program;

22 (2) the criteria for approving another entity to
23 service loans originated under the program;

24 (3) the use of insurance on the loans and the homes
25 financed under the program, as considered appropriate by the board
26 to provide additional security for the loans;

27 (4) the verification of occupancy of the home by the

1 homebuyer as the homebuyer's principal residence;

2 (5) the terms of any memorandum of understanding or
3 contract with another entity for processing, servicing, or
4 administering the loans;

5 (6) the types of loan modifications that would assist
6 a homebuyer in avoiding foreclosure of a loan under this
7 subchapter; and

8 (7) criteria for authorizing loan modifications for
9 homebuyers whose income is adversely affected by circumstances such
10 as unemployment, a reduction of wages or hours of employment,
11 illness, or the death of a spouse or other person contributing to
12 the income of a homebuyer.

13 Sec. 2306.1084. ELIGIBILITY. (a) To be eligible for a
14 mortgage loan issued by the department under this subchapter, a
15 homebuyer must:

16 (1) earn an income, adjusted for family size, of not
17 more than:

18 (A) 80 percent of the area median income if the
19 homebuyer lives in a rural area; or

20 (B) 60 percent of the area median income if the
21 homebuyer lives in an urban area;

22 (2) intend to occupy, as the homebuyer's principal
23 residence, the home for which the mortgage loan is issued; and

24 (3) meet any additional eligibility requirements or
25 limitations prescribed by the department.

26 (b) The department may enter into memoranda of
27 understanding with other agencies of the state or may contract with

1 private entities to process, service, or administer all or a
2 portion of the loans issued under this subchapter.

3 SECTION 6. The Texas Department of Housing and Community
4 Affairs shall create the community development corporations
5 required by Section 2306.308, Government Code, as added by this
6 Act, as soon as practicable after the effective date of this Act,
7 but not later than October 1, 2009.

8 SECTION 7. Not later than October 1, 2009, the Texas
9 Department of Housing and Community Affairs shall adopt the rules
10 required by Subchapter N, Chapter 2306, Government Code, as added
11 by this Act.

12 SECTION 8. Not later than January 1, 2010, the Texas
13 Department of Housing and Community Affairs and the Office of Rural
14 Community Affairs shall allocate the funds required by Section
15 2306.708, Government Code, as added by this Act, to the rural
16 housing land assemblage program established under Subchapter EE,
17 Chapter 2306, Government Code, as added by this Act.

18 SECTION 9. The board of directors of the Texas Department of
19 Housing and Community Affairs shall adopt the rules required by
20 Subchapter NN, Chapter 2306, Government Code, as added by this Act,
21 not later than October 1, 2009, and the Texas Department of Housing
22 and Community Affairs shall begin issuing loans under the Texas
23 secure loan pilot program not later than January 1, 2010.

24 SECTION 10. This Act does not make an appropriation. A
25 provision in this Act that creates a new governmental program,
26 creates a new entitlement, or imposes a new duty on a governmental
27 entity is not mandatory during a fiscal period for which the

1 legislature has not made a specific appropriation to implement the
2 provision.

3 SECTION 11. This Act takes effect September 1, 2009.