

By: Lucio

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. SMALL MUNICIPALITY AND RURAL AREA HOUSING DEVELOPMENT FUND. (a) In this section, "colonia" means a geographic area that:

(1) is located in a county or municipality that is eligible, as identified by office rule, to receive financial assistance from the community development block grant colonia fund under this subchapter;

(2) 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

(3) 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 department.

(b) The small municipality and rural area housing

1 development fund is an account in the general revenue fund.

2 (c) In each state fiscal year, the office shall set aside
3 for the purposes of this section an amount of money, not to exceed
4 \$7.5 million each year, that is equal to any amount provided to the
5 community development block grant colonia fund under this
6 subchapter that exceeds the amount provided to that colonia fund
7 for the state fiscal year ending August 31, 2008.

8 (d) Except as provided by Subsection (e), amounts deposited
9 to the account may be appropriated to the office only for:

10 (1) housing initiatives in eligible counties and
11 municipalities under office rules; or

12 (2) the improvement of the housing conditions in a
13 colonia.

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

18 (f) Sections 403.095 and 404.071 do not apply to the
19 account.

20 Sec. 487.356. COORDINATION WITH TEXAS DEPARTMENT OF HOUSING
21 AND COMMUNITY AFFAIRS. The office shall work with the Texas
22 Department of Housing and Community Affairs to identify available
23 sources of funding for housing initiatives in a county or
24 municipality that is eligible, as identified by office rule, to
25 receive financial assistance from the community development block
26 grant colonia fund under this subchapter.

27 SECTION 2. Section 2306.0521(b), Government Code, is

1 amended to read as follows:

2 (b) This section does not apply to:

3 (1) the manufactured housing division; or

4 (2) the division for rural community and small
5 municipality housing initiatives established by Section 2306.302.

6 SECTION 3. Subchapter E, Chapter 2306, Government Code, is
7 amended by adding Section 2306.098 to read as follows:

8 Sec. 2306.098. COORDINATION WITH OFFICE OF RURAL COMMUNITY
9 AFFAIRS. The department shall work with the Office of Rural
10 Community Affairs to identify available sources of funding for
11 housing initiatives in eligible counties and municipalities, as
12 described by Section 487.356.

13 SECTION 4. Section 2306.253, Government Code, is amended by
14 adding Subsections (a-1) and (a-2) to read as follows:

15 (a-1) In addition to the education program implemented
16 under Subsection (a), the department shall develop and implement a
17 homebuyer education program designed to provide information and
18 counseling to individuals and families of low income in rural
19 communities and small municipalities. The education program must
20 address topics relating to:

21 (1) the home buying process;

22 (2) financial literacy;

23 (3) foreclosure remediation; and

24 (4) other programs determined by the department as
25 necessary to increase home ownership by individuals and families of
26 low income.

27 (a-2) The department may require any person who receives

mortgage-based financial assistance from the department to
complete the homebuyer education program established by Subsection
(a-1).

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

SUBCHAPTER N. RURAL COMMUNITY AND SMALL MUNICIPALITY HOUSING
INITIATIVES

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

Sec. 2306.302. ESTABLISHMENT OF DIVISION. (a) The
department shall establish a division to support rural community
and small municipality housing initiatives.

(b) The department by rule shall define:

(1) a small municipality; and

(2) a rural community.

Sec. 2306.303. REGIONAL HOUSING DEVELOPMENT ORGANIZATIONS.

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

(b) To implement this section, the department may use any
money available to the department for the purpose, including
legislative appropriations and gifts, grants, and donations.

(c) The division may use the services of the Texas State
Affordable Housing Corporation when necessary to accomplish the
purposes of this section.

Sec. 2306.304. TRAINING. The division annually shall

1 provide to elected officials, community organizations, nonprofit
2 organizations, and private developers a training course that
3 addresses housing programs and techniques that increase housing
4 opportunities in rural communities and small municipalities. The
5 division shall provide the course at an appropriate location
6 selected by the division and shall make the course available online
7 in real time.

8 Sec. 2306.305. RURAL GRANTS ADMINISTRATOR. (a) The
9 director shall designate a rural grants administrator within the
10 division established by Section 2306.302.

11 (b) The rural grants administrator shall:

12 (1) oversee and coordinate department initiatives
13 that are directed toward specific rural communities or small
14 municipalities; and

15 (2) provide information to the director and the board
16 regarding the impact of proposed department programs, rules, and
17 initiatives on housing opportunities in rural communities and small
18 municipalities.

19 Sec. 2306.306. HOUSING DEVELOPMENT PLANNING ASSISTANCE. On
20 the request of the governing body of a municipality or county, the
21 division shall assign a department employee or independent
22 contractor to assist the municipality or county in:

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

25 (2) supporting housing development initiatives in
26 those communities and municipalities; and

27 (3) identifying financial resources available for

those plans and initiatives.

Sec. 2306.307. RURAL COMMUNITY AND SMALL MUNICIPALITY HOUSING DEVELOPMENT PILOT PROJECTS. Notwithstanding other program rules and procedures of the department, the department may establish pilot projects to test and develop new approaches to providing housing in rural communities and small municipalities for:

- (1) individuals and families of low income;
- (2) individuals and families of very low income; or
- (3) agricultural workers.

Sec. 2306.308. AGRICULTURAL WORKER HOUSING INITIATIVE. (a) The division shall fund housing initiatives that serve agricultural workers, including:

- (1) new housing initiatives;
- (2) housing rehabilitation initiatives; or
- (3) tenant-based rental assistance.

(b) The division may designate a housing initiative for agricultural workers as a pilot project authorized under Section 2306.307.

(c) The division shall coordinate with other appropriate divisions of the department to:

- (1) document agricultural worker housing needs;
- (2) determine whether a housing need documented by the department is critical; and
- (3) develop initiatives to address those housing needs.

(d) The department may use any available funds to implement

this section, including legislative appropriations and gifts, grants, and donations.

Sec. 2306.309. RURAL LAND BANK DEMONSTRATION PROGRAM. (a) The department may adopt a rural land bank demonstration program, or may enter into a memorandum of understanding requiring the Texas State Affordable Housing Corporation to adopt a rural land bank demonstration program, in which the officer charged with selling real property ordered sold pursuant to foreclosure of a tax lien may sell certain eligible real property by private sale for purposes of affordable housing development as provided by department rule.

(b) The department may adopt any rules necessary for the purposes of the program, including a rule to establish or approve a land bank for the purpose of acquiring, holding, and transferring unimproved real property under this section.

SECTION 6. Section 2306.67022, Government Code, is amended to read as follows:

Sec. 2306.67022. QUALIFIED ALLOCATION PLAN; MANUAL. (a) The board annually shall adopt a qualified allocation plan and a corresponding manual to provide information regarding the administration of and eligibility for the low income housing tax credit program.

(b) The board shall adopt any provisions in the qualified allocation plan that the board considers necessary to facilitate the efficient delivery of multifamily housing to rural areas in this state.

SECTION 7. Section 2306.6723(b), Government Code, is amended to read as follows:

(b) The rural development agency shall assist in developing all threshold, scoring, and underwriting criteria applied to applications eligible for the rural area set-aside. The criteria must be approved by that agency. To the extent permitted by federal law and notwithstanding any funding priorities otherwise provided by state law, the threshold, scoring, and underwriting criteria developed and approved under this section must ensure that applications for allocations of housing tax credits to small-scale developments located in rural areas are not placed, based solely on the size of the proposed developments, at a competitive disadvantage with applications for allocations of housing tax credits to other developments located in those areas. For purposes of this subsection, "small-scale development" means a development with fewer than 33 units.

SECTION 8. Chapter 2306, Government Code, is amended by adding Subchapter NN to read as follows:

SUBCHAPTER NN. TEXAS SECURE LOAN PILOT PROGRAM

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

Sec. 2306.1082. TEXAS SECURE LOAN PILOT PROGRAM. (a) The department shall establish the Texas secure loan pilot program to provide first lien and second lien single-family mortgage loans to individuals and families of low income.

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

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

1 (b) The board shall adopt rules governing:

2 (1) the administration of the program, including the
3 origination of loans under the program;

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

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

9 (4) the verification of occupancy of the home by the
10 homebuyer as the homebuyer's principal residence;

11 (5) the terms of any memorandum of understanding or
12 contract with another entity for processing, servicing, or
13 administering the loans; and

14 (6) criteria for authorizing the modification of loan
15 terms for homebuyers whose income is adversely affected by
16 circumstances such as unemployment, a reduction of wages or hours
17 of employment, illness, or the death of a spouse or other person
18 contributing to the income of a homebuyer.

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

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

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

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

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

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

5 (b) The department may enter into memoranda of
6 understanding with other agencies of the state or may contract with
7 private entities to process, service, or administer all or a
8 portion of the loans issued under this subchapter.

9 Sec. 2306.1085. ALLOCATION OF LOANS. The department shall
10 issue at least 50 percent of all loans under this subchapter to
11 homebuyers whose incomes do not exceed 60 percent of area median
12 family income, adjusted for family size.

13 Sec. 2306.1086. LOAN TERMS; RECOVERY OF PRINCIPAL. (a) The
14 department shall establish reasonable interest rates for first lien
15 and second lien mortgage loans under this subchapter to allow full
16 repayment of those loans by low-income homebuyers.

17 (b) The department shall recover the full amount of the
18 principal of a loan issued under this subchapter.

19 Sec. 2306.1087. MODIFICATION OF LOAN TERMS. If a homebuyer
20 meets the criteria adopted by the department under Section
21 2306.1083(b)(6), the department or other servicer of the loan may
22 modify the terms of the loan by:

23 (1) suspending payments for a specific period;

24 (2) extending the term of the loan to reduce the amount
25 of the payments; or

26 (3) lowering the interest rate to reduce the amount of
27 the payments.

1 Sec. 2306.1088. INITIATION OF MODIFIED LOAN TERMS. (a)
2 Regardless of whether a loan payment is missed, the modification of
3 loan terms under Section 2306.1087 may be requested by the
4 homebuyer or initiated by the department or other servicer of the
5 loan.

6 (b) If a homebuyer misses a scheduled payment for a loan
7 under this subchapter, the department or other servicer of the loan
8 shall contact the homebuyer and determine the reason for the missed
9 payment. If the payment was missed for a reason meeting the
10 criteria adopted by the board under Section 2306.1083(b)(6), the
11 department or servicer may modify the terms of the loan under
12 Section 2306.1087.

13 Sec. 2306.1089. EDUCATION SERVICES FOR HOMEBUYERS. The
14 department shall provide homebuyer and homeowner education and
15 counseling services to persons receiving loans under this
16 subchapter.

17 Sec. 2306.1090. FUNDING. (a) The department shall ensure
18 that a loan issued under this subchapter is structured in a way that
19 complies with any requirements associated with the source of the
20 funds used for the loan.

21 (b) In addition to funds set aside for the program under
22 Section 1372.023 and any other available funds, including
23 legislative appropriations, the department may solicit and accept
24 gifts and grants for the purposes of this subchapter.

25 (c) The department may package, securitize, and sell the
26 loans issued under this subchapter and use the proceeds of the sale
27 to issue additional loans.

SECTION 9. Subtitle C, Title 12, Local Government Code, is amended by adding Chapter 394A to read as follows:

CHAPTER 394A. RURAL HOUSING LAND ASSEMBLAGE PROGRAM

Sec. 394A.001. SHORT TITLE. This chapter may be cited as the Rural Housing Land Assemblage Program Act.

Sec. 394A.002. DEFINITIONS. In this chapter:

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

(2) "Department" means the Texas Department of Housing and Community Affairs.

(3) "Low-income household" means:

(A) for rental housing, a household with a gross income not to exceed 60 percent of the greater of the area median income or national nonmetropolitan median income, adjusted for household size, as determined annually by the United States Department of Housing and Urban Development; or

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

(4) "Rural county" means a county classified as a rural county by the United States Department of Agriculture for

purposes of the rural housing loan programs authorized by the Housing Act of 1949 (42 U.S.C. Section 1471 et seq.).

(5) "Rural housing land assemblage entity" means an entity established or designated by the governing bodies of one or more rural municipalities or rural counties for the purpose of implementing and operating a rural housing land assemblage program.

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

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

Sec. 394A.003. RURAL HOUSING LAND ASSEMBLAGE PROGRAM. The governing bodies of one or more rural municipalities or rural counties may participate in a rural housing land assemblage program. As part of the program, a participating municipality or county shall:

(1) enter into interlocal agreements with any other participating municipalities or counties governing the scope and operation of the program, subject to the provisions of this chapter; and

(2) establish or designate an entity to serve as the rural housing land assemblage entity in charge of implementing and operating the program.

1 Sec. 394A.004. RURAL HOUSING LAND ASSEMBLAGE ENTITY. A
2 rural housing land assemblage entity may acquire, hold, and
3 transfer, for the purpose of providing affordable housing for
4 low-income households, real property that is not improved with a
5 habitable building or buildings and is otherwise unoccupied.

6 Sec. 394A.005. PRIVATE SALE TO LAND ASSEMBLAGE ENTITY. (a)
7 Notwithstanding any other law and except as provided by Subsection
8 (f), real property that is ordered sold pursuant to foreclosure of a
9 tax lien may be sold in a private sale to a rural housing land
10 assemblage entity by the officer charged with the sale of the
11 property, without first offering the property for sale as otherwise
12 provided by Section 34.01, Tax Code, if:

13 (1) the property is used for the purpose of providing
14 affordable housing as described by Section 394A.004;

15 (2) the market value of the property as appraised by
16 the local appraisal district and as specified in the judgment of
17 foreclosure is less than the total amount due under the judgment,
18 including all taxes, penalties, and interest, plus the value of
19 nontax liens held by a taxing unit and awarded by the judgment,
20 court costs, and the cost of the sale;

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

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

25 (5) each municipality or county that participates in
26 the rural housing land assemblage program has executed with the
27 other taxing units that are parties to the tax suit an interlocal

1 agreement that enables those units to agree to participate in the
2 program while retaining the right to withhold consent to the sale of
3 specific properties to the rural housing land assemblage entity.

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

6 (c) If the person being sued in a suit for foreclosure of a
7 tax lien does not contest the market value of the property in the
8 suit, the person waives the right to challenge the amount of the
9 market value determined by the court for purposes of the sale of the
10 property under Section 33.50, Tax Code.

11 (d) For any sale of property under this section, each person
12 who was a defendant to the judgment, or that person's attorney,
13 shall be given, not later than the 60th day before the date of sale,
14 written notice of the proposed method of sale of the property by the
15 officer charged with the sale of the property. Notice shall be
16 given in the manner prescribed by Rule 21a, Texas Rules of Civil
17 Procedure.

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

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

26 (g) The owner of the property subject to sale may not
27 receive any proceeds of a sale under this section. However, the

1 owner does not have any personal liability for a deficiency of the
2 judgment as a result of a sale under this section.

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

10 (i) The deed of conveyance of the property sold to a rural
11 housing land assemblage entity under this section conveys to the
12 entity the right, title, and interest acquired or held by each
13 taxing unit that was a party to the judgment, subject to the right
14 of redemption.

15 Sec. 394A.006. EXEMPTION FROM AD VALOREM TAXATION.
16 Property sold to and held by a rural housing land assemblage entity
17 for subsequent resale is entitled to an exemption from ad valorem
18 taxation for a period not to exceed three years from the date of
19 acquisition. The exemption period may be renewed for a property for
20 an additional period, not to exceed three years, on approval of the
21 governing body of each participating municipality or county and any
22 other taxing unit in which the property is located. Property is
23 entitled to an exemption under this section only during the period
24 the property is held by the rural housing land assemblage entity.

25 Sec. 394A.007. DEPARTMENT RULEMAKING AUTHORITY. The
26 department shall develop and adopt additional guidelines and rules
27 governing the operation of a rural housing land assemblage program,

1 including reporting and audit requirements for rural housing land
2 assemblage entities, affordability terms, additional income
3 targeting, and the imposition of deed and resale restrictions on
4 real property sold under the program to achieve the purpose of
5 providing affordable housing for low-income households.

6 Sec. 394A.008. OPEN RECORDS AND MEETINGS. A rural housing
7 land assemblage entity is subject to Chapters 551 and 552,
8 Government Code.

9 Sec. 394A.009. RECORDS; AUDIT. (a) A rural housing land
10 assemblage entity shall keep accurate minutes of its meetings and
11 shall keep accurate records and books of account that conform with
12 generally accepted principles of accounting and that clearly
13 reflect the income and expenses of the rural housing land
14 assemblage entity and all transactions in relation to its property.

15 (b) A rural housing land assemblage entity shall file with
16 each participating municipality or county not later than the 90th
17 day after the close of the entity's fiscal year annual audited
18 financial statements prepared by a certified public accountant. The
19 financial transactions of the rural housing land assemblage entity
20 are subject to audit by a participating municipality or county and
21 by the department.

22 SECTION 10. (a) Not later than December 1, 2009, the Texas
23 Department of Housing and Community Affairs shall implement the
24 homebuyer education program required by Section 2306.253(a-1),
25 Government Code, as added by this Act.

26 (b) Not later than October 1, 2009, the Texas Department of
27 Housing and Community Affairs shall adopt the rules required by

1 Subchapter N, Chapter 2306, Government Code, as added by this Act.

2 SECTION 11. The changes in law made by this Act in amending
3 Subchapter DD, Chapter 2306, Government Code, apply only to an
4 application cycle that begins on or after the effective date of this
5 Act. An application cycle that begins before the effective date of
6 this Act is governed by the law in effect when the application cycle
7 began, and the former law is continued in effect for that purpose.

8 SECTION 12. The Texas Department of Housing and Community
9 Affairs shall adopt the rules required by Subchapter NN, Chapter
10 2306, Government Code, as added by this Act, not later than October
11 1, 2009, and shall begin issuing loans under the Texas secure loan
12 pilot program not later than January 1, 2010.

13 SECTION 13. This Act takes effect September 1, 2009.