

1-1 By: Lucio S.B. No. 2288
1-2 (In the Senate - Filed March 13, 2009; March 31, 2009, read
1-3 first time and referred to Committee on International Relations and
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1-5 Committee Substitute by the following vote: Yeas 6, Nays 0;
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1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 2288 By: Lucio

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the provision of affordable housing in this state.

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

1-12 SECTION 1. Subchapter I, Chapter 487, Government Code, is
1-13 amended by adding Sections 487.355 and 487.356 to read as follows:

1-14 Sec. 487.355. SMALL MUNICIPALITY AND RURAL AREA HOUSING
1-15 DEVELOPMENT FUND. (a) In this section, "colonia" means a
1-16 geographic area that:

1-17 (1) is located in a county or municipality that is
1-18 eligible, as identified by office rule, to receive financial
1-19 assistance from the community development block grant colonia fund
1-20 under this subchapter;

1-21 (2) consists of 11 or more dwellings that are located
1-22 in close proximity to each other in an area that may be described as
1-23 a community or neighborhood; and

1-24 (3) either:

1-25 (A) has a majority population composed of
1-26 individuals and families of low income, based on the federal Office
1-27 of Management and Budget poverty index, and meets the
1-28 qualifications of an economically distressed area under Section
1-29 17.921, Water Code; or

1-30 (B) has the physical and economic
1-31 characteristics of a colonia, as determined by the Texas Department
1-32 of Housing and Community Affairs.

1-33 (b) The small municipality and rural area housing
1-34 development fund is an account in the general revenue fund.

1-35 (c) In each state fiscal year, the office shall set aside
1-36 for the purposes of this section an amount of money, not to exceed
1-37 \$7.5 million each year, that is equal to any amount provided to the
1-38 community development block grant colonia fund under this
1-39 subchapter that exceeds the amount provided to that colonia fund
1-40 for the state fiscal year ending August 31, 2008.

1-41 (d) Except as provided by Subsection (e), amounts deposited
1-42 to the account may be appropriated to the office only for the
1-43 benefit of counties and municipalities identified by office rule as
1-44 eligible to receive community development block grant money under
1-45 this subchapter for:

1-46 (1) housing initiatives for colonias located in those
1-47 counties and municipalities, including infrastructure associated
1-48 with new construction, rehabilitation, or improvements; and

1-49 (2) the improvement of the housing conditions in those
1-50 colonias.

1-51 (e) Amounts deposited to the account may not be appropriated
1-52 to the office for financial assistance to political subdivisions
1-53 for the construction, acquisition, or improvement of water supply
1-54 and sewer services, as described by Section 17.922, Water Code.

1-55 (f) Sections 403.095 and 404.071 do not apply to the
1-56 account.

1-57 Sec. 487.356. COORDINATION WITH TEXAS DEPARTMENT OF HOUSING
1-58 AND COMMUNITY AFFAIRS. The office shall work with the Texas
1-59 Department of Housing and Community Affairs to:

1-60 (1) identify available sources of funding for housing
1-61 initiatives in a county or municipality that is eligible, as
1-62 identified by office rule, to receive financial assistance from the
1-63 community development block grant colonia fund under this

subchapter;

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

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

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

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

(1) identify available sources of funding for housing initiatives 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 Subchapter I, Chapter 487;

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

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

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

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

(2) specify the duties for each field office.

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

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

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

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

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

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

SUBCHAPTER N. OFFICE OF RURAL COMMUNITY AND SMALL MUNICIPALITY HOUSING INITIATIVES

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

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

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

(1) a rural community; and

(2) a small municipality.

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

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

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

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

(e) The office shall use funds available from the housing trust fund established under Section 2306.201 to administer

capacity building programs for rural communities and small municipalities.

(f) The office shall coordinate a meeting at least two times each year between department program directors and representatives of rural communities and small municipalities to discuss best practices for rural community and small municipality housing initiatives.

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

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

Sec. 2306.303. REGIONAL HOUSING DEVELOPMENT ORGANIZATIONS.

(a) The office 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 gifts, grants, and donations and funds allocated to the state under the federal HOME Investment Partnerships program established under Title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. Section 12701 et seq.).

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

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

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

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

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

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

Sec. 2306.306. 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; and

(2) individuals and families of very low income.

Sec. 2306.307. AGRICULTURAL WORKER HOUSING INITIATIVE.

(a) The office 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 office may designate a housing initiative for agricultural workers as a pilot project.

(c) The office shall coordinate with 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 gifts, grants, and donations and funds allocated to the department under the federal HOME Investment Partnerships program established under Title II of the

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

Sec. 2306.308. COMMUNITY DEVELOPMENT CORPORATION FOR AGRICULTURAL WORKER HOUSING FACILITIES. (a) In this section, "community development corporation" means a private, nonprofit corporation organized to foster economic growth and revitalization, create small businesses, or develop affordable housing in a defined neighborhood or for a targeted population.

(b) Using existing resources, the department shall create a statewide community development corporation charged with developing, acquiring, and rehabilitating agricultural worker housing facilities in appropriate areas in the state.

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

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

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

SUBCHAPTER EE. RURAL HOUSING LAND ASSEMBLAGE PROGRAM

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

Sec. 2306.702. DEFINITIONS. In this subchapter:

(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) "Low-income household" means:

(A) for rental housing, a household with a gross income not to exceed 80 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.

(3) "Office" means the Office of Rural Community Affairs.

(4) "Rural county" means, notwithstanding Section 2306.004, 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 participating in the rural housing land assemblage program.

(6) "Rural housing land assemblage program" means a program established by the department 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. 2306.703. RURAL HOUSING LAND ASSEMBLAGE PROGRAM.

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

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

(c) The department and the office shall:

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

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

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

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

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

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

Sec. 2306.705. PRIVATE SALE TO LAND ASSEMBLAGE ENTITY. (a) Notwithstanding any other law and except as provided by Subsection (f), real property that is ordered sold pursuant to foreclosure of a tax lien may be sold in a private sale to a rural housing land assemblage entity by the officer charged with the sale of the property, without first offering the property for sale as otherwise provided by Section 34.01, Tax Code, if:

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 2306.706. EXEMPTION FROM AD VALOREM TAXATION. Property sold to and held by a rural housing land assemblage entity for subsequent resale is entitled to an exemption from ad valorem taxation for a period not to exceed three years from the date of acquisition. The exemption period may be renewed for a property for an additional period, not to exceed three years, on approval of the governing body of each participating municipality or county and any other taxing unit in which the property is located. Property is entitled to an exemption under this section only during the period the property is held by the rural housing land assemblage entity.

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

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

Sec. 2306.708. FUNDING; REPORT. (a) The department shall allocate \$1 million to the rural housing land assemblage program from funds allocated to the department under the federal HOME Investment Partnerships program established under Title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. Section 12701 et seq.).

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

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

(d) This section expires September 1, 2013.

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

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

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

land assemblage entity are subject to audit by a participating municipality or county and by the department.

SECTION 5. 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 to individuals and families of low income mortgage loans that allow modifications to the terms of the loans, such as adjustments to the period of the loans and to interest rates, to assist program participants in avoiding foreclosure of those loans.

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

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

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

(b) The board shall adopt rules governing:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 8. Not later than January 1, 2010, the Texas Department of Housing and Community Affairs and the Office of Rural

8-1 Community Affairs shall allocate the funds required by Section
8-2 2306.708, Government Code, as added by this Act, to the rural
8-3 housing land assemblage program established under Subchapter EE,
8-4 Chapter 2306, Government Code, as added by this Act.

8-5 SECTION 9. The board of directors of the Texas Department of
8-6 Housing and Community Affairs shall adopt the rules required by
8-7 Subchapter NN, Chapter 2306, Government Code, as added by this Act,
8-8 not later than October 1, 2009, and the Texas Department of Housing
8-9 and Community Affairs shall begin issuing loans under the Texas
8-10 secure loan pilot program not later than January 1, 2010.

8-11 SECTION 10. This Act takes effect September 1, 2009.

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