

By: Harper-Brown

H.B. No. 1818

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the continuation and functions of the Texas State  
3 Affordable Housing Corporation and to the appointment of  
4 commissioners of a municipal housing authority; providing  
5 penalties.

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

7 SECTION 1. Section 2306.5521, Government Code, is amended  
8 to read as follows:

9 Sec. 2306.5521. SUNSET PROVISION. The Texas State  
10 Affordable Housing Corporation is subject to Chapter 325 (Texas  
11 Sunset Act). Unless continued in existence as provided by that  
12 chapter, the corporation is abolished and this subchapter expires  
13 September 1, 2023 [~~2011~~].

14 SECTION 2. Sections 2306.554(a) and (b), Government Code,  
15 are amended to read as follows:

16 (a) The board of directors of the corporation consists of  
17 five members appointed by the governor. One member must represent  
18 the interests of individuals and families served by the  
19 corporation's single-family mortgage loan programs, one member  
20 must represent nonprofit housing organizations, and the remaining  
21 three members must [~~who~~] represent one or more [~~any~~] of the  
22 following areas:

23 (1) state or federal savings banks or savings and loan  
24 associations;

- 1           (2) community banks with assets of \$200 million or  
2 less;
- 3           (3) large metropolitan banks with assets of more than  
4 \$1 billion;
- 5           (4) asset management companies;
- 6           (5) mortgage servicing companies;
- 7           (6) builders;
- 8           (7) real estate developers;
- 9           (8) real estate brokers;
- 10          (9) community or economic development organizations;
- 11          (10) private mortgage companies;
- 12          (11) nonprofit housing development companies;
- 13          (12) attorneys;
- 14          (13) investment bankers;
- 15          (14) underwriters;
- 16          (15) private mortgage insurance companies;
- 17          (16) appraisers;
- 18          (17) property management companies;
- 19          (18) financial advisors;
- 20          (19) nonprofit foundations;
- 21          (20) financial advisors; or
- 22          (21) any other area of expertise that the governor  
23 finds necessary for the successful operation of the corporation.

24          (b) The governor shall designate a member of the  
25 corporation's board of directors as the presiding officer of the  
26 [corporation's] board of directors to serve in that capacity at the  
27 pleasure of the governor [~~from the members~~].

1 SECTION 3. Section 2306.5543(b), Government Code, is  
2 amended to read as follows:

3 (b) The training program must provide the person with  
4 information regarding:

5 (1) the legislation that created the corporation [~~and~~  
6 ~~the corporation's board of directors~~];

7 (2) the programs, functions, rules, and budget of  
8 ~~[operated by]~~ the corporation;

9 (3) ~~[the role and functions of the corporation,~~

10 ~~[(4) the rules of the corporation with an emphasis on~~  
11 ~~the rules that relate to disciplinary and investigatory authority,~~

12 ~~[(5) the current budget for the corporation,~~

13 ~~[(6)] the results of the most recent formal audit of the~~  
14 corporation;

15 (4) [(7)] the requirements of laws relating to ~~[+~~

16 ~~[(A) the] open meetings, [law, Chapter 551,~~

17 ~~[(B) the] public information, [law, Chapter 552,~~

18 ~~[(C) the] administrative procedure, and~~

19 conflicts of interest [law, Chapter 2001, and

20 ~~[(D) other laws relating to public officials,~~  
21 ~~including conflict-of-interest laws]; and~~

22 (5) [(8)] any applicable ethics policies adopted by  
23 the corporation or the Texas Ethics Commission.

24 SECTION 4. Section 2306.5545(b), Government Code, is  
25 amended to read as follows:

26 (b) A person may not be a member of the corporation's board  
27 of directors and may not be a corporation employee employed in a

1 "bona fide executive, administrative, or professional capacity,"  
2 as that phrase is used for purposes of establishing an exemption to  
3 the overtime provisions of the federal Fair Labor Standards Act of  
4 1938 (29 U.S.C. Section 201 et seq.), and its subsequent  
5 amendments, if:

6 (1) the person is an officer, employee, or paid  
7 consultant of a Texas trade association in the field of banking,  
8 mortgage lending, real estate, housing development, or housing  
9 construction; or

10 (2) the person's spouse is an officer, manager, or paid  
11 consultant of a Texas trade association in the field of banking,  
12 mortgage lending, real estate, housing development, or housing  
13 construction.

14 SECTION 5. Subchapter Y, Chapter 2306, Government Code, is  
15 amended by adding Section 2306.5549 to read as follows:

16 Sec. 2306.5549. BOARD MEETINGS. (a) The board may hold  
17 meetings when called by the presiding officer, the director, or  
18 three of the members.

19 (b) The board shall keep minutes and complete transcripts of  
20 board meetings. The department shall post the transcripts on its  
21 website and shall otherwise maintain all accounts, minutes, and  
22 other records related to the meetings.

23 (c) All materials provided to the board that are relevant to  
24 a matter proposed for discussion at a board meeting must be posted  
25 on the department's website not later than the third day before the  
26 date of the meeting.

27 (d) Any materials made available to the board by the

1 department at a board meeting must be made available in hard-copy  
2 format to the members of the public in attendance at the meeting.

3 (e) The board shall conduct its meetings in accordance with  
4 Chapter 551, except as otherwise required by this chapter.

5 (f) For each item on the board's agenda at the meeting, the  
6 board shall provide for public comment after the presentation made  
7 by department staff and the motions made by the board on that topic.

8 (g) The board shall adopt rules that give the public a  
9 reasonable amount of time for testimony at meetings.

10 SECTION 6. Subchapter Y, Chapter 2306, Government Code, is  
11 amended by adding Section 2306.5553 to read as follows:

12 Sec. 2306.5553. HISTORICALLY UNDERUTILIZED BUSINESSES.

13 (a) The corporation shall make a good faith effort to provide  
14 contracting opportunities for, and to increase contract awards to,  
15 historically underutilized businesses for all services that may be  
16 required by the corporation, including professional and consulting  
17 services and commodities purchases.

18 (b) In accordance with Subchapter B, Chapter 20, Title 34,  
19 Texas Administrative Code, a good faith effort under Subsection (a)  
20 must include awarding historically underutilized businesses at  
21 least a portion of the total contract value of all contracts the  
22 corporation expects to award in a state fiscal year.

23 (c) The corporation may achieve annual procurement goals  
24 under this section by contracting directly with historically  
25 underutilized businesses or by contracting indirectly with those  
26 businesses through the provision of subcontracting opportunities.

27 SECTION 7. Section 2306.559(d), Government Code, is amended

1 to read as follows:

2 (d) The report must include:

3 (1) a statement of support, revenue, and expenses and  
4 change in fund balances;

5 (2) a statement of functional expenses; ~~and~~

6 (3) balance sheets for all funds;

7 (4) the number, amount, and purpose of private gifts,  
8 grants, donations, or other funds applied for and received;

9 (5) the number, amount, and purpose of loans provided  
10 to affordable housing developers, regardless of whether the  
11 corporation provides those loans directly to the developers or  
12 administers the loans from another source;

13 (6) the amount and source of funds deposited into any  
14 fund created by the corporation for the purpose of providing grants  
15 and the number, amount, and purpose of any grants provided; and

16 (7) the total amount of annual revenue generated by  
17 the corporation in excess of its expenditures.

18 SECTION 8. Subchapter Y, Chapter 2306, Government Code, is  
19 amended by adding Section 2306.5671 to read as follows:

20 Sec. 2306.5671. COMPLIANCE WITH TERMS OF CERTAIN CONTRACTS  
21 OR AGREEMENTS. A compliance contract or agreement between the  
22 corporation and a housing sponsor that receives bond financing by  
23 or through the corporation for the purpose of providing affordable  
24 multifamily housing must contain a provision stating that if the  
25 housing sponsor fails to comply with the terms of the contract or  
26 agreement, the corporation may, at a minimum and as appropriate:

27 (1) assess penalties;

- 1           (2) remove the manager of the affected property and  
2 select a new manager;  
3           (3) withdraw reserve funds to make needed repairs and  
4 replacements to the property; or  
5           (4) appoint the corporation as a receiver to protect  
6 and operate the property.

7           SECTION 9. Section 2306.568, Government Code, is amended to  
8 read as follows:

9           Sec. 2306.568. RECORD OF COMPLAINTS. (a) The corporation  
10 shall maintain a system to promptly and efficiently act on  
11 complaints [~~file on each written complaint~~] filed with the  
12 corporation. The corporation shall maintain information about  
13 parties to the complaint, [~~file must include:~~

14           [~~(1) the name of the person who filed the complaint;~~  
15           [~~(2) the date the complaint is received by the~~  
16 ~~corporation;~~

17           [~~(3)~~] the subject matter of the complaint, [~~+~~

18           [~~(4) the name of each person contacted in relation to~~  
19 ~~the complaint;~~

20           [~~(5)~~] a summary of the results of the review or  
21 investigation of the complaint, and its disposition [~~+~~ and

22           [~~(6) an explanation of the reason the file was closed,~~  
23 ~~if the corporation closed the file without taking action other than~~  
24 ~~to investigate the complaint].~~

25           (b) The corporation shall make information available  
26 describing its [~~provide to the person filing the complaint and to~~  
27 ~~each person who is a subject of the complaint a copy of the~~

1 ~~corporation's policies and~~ procedures for ~~[relating to]~~ complaint  
2 investigation and resolution.

3 (c) The corporation~~[, at least quarterly until final~~  
4 ~~disposition of the complaint,]~~ shall periodically notify the  
5 ~~[person filing the]~~ complaint parties ~~[and each person who is a~~  
6 ~~subject of the complaint]~~ of the status of the complaint until final  
7 disposition ~~[investigation unless the notice would jeopardize an~~  
8 ~~undercover investigation].~~

9 SECTION 10. Section 392.0331, Local Government Code, is  
10 amended by amending Subsections (b) and (f) and adding Subsections  
11 (b-1) and (f-1) to read as follows:

12 (b) Except as provided by Subsection (b-1), in [In]  
13 appointing commissioners under Section 392.031, a municipality  
14 with a municipal housing authority composed of five commissioners  
15 shall appoint at least one commissioner to the authority who is a  
16 tenant of a public housing project over which the authority has  
17 jurisdiction. In appointing commissioners under Section 392.031, a  
18 municipality with a municipal housing authority composed of seven  
19 or more commissioners shall appoint at least two commissioners to  
20 the authority who are tenants of a public housing project over which  
21 the authority has jurisdiction.

22 (b-1) The presiding officer of the governing body of a  
23 municipality that has a municipal housing authority in which the  
24 total number of units is 300 or fewer is not required to appoint a  
25 tenant to the position of commissioner as otherwise required by  
26 Subsection (b) if the presiding officer has provided timely notice  
27 of a vacancy in the position to all eligible tenants and is unable



1 to fill the position with an eligible tenant before the 60th day  
2 after the date the position becomes vacant.

3 (f) Except as provided by Subsection (f-1), a [A]  
4 commissioner appointed under this section may not serve more than  
5 two consecutive two-year terms.

6 (f-1) Subsection (f) does not apply to a municipality that  
7 has a municipal housing authority in which the total number of units  
8 is 300 or fewer.

9 SECTION 11. Section 2306.5671, Government Code, as added by  
10 this Act, does not affect the terms of a compliance contract or  
11 agreement entered into before the effective date of this Act,  
12 except that if the contract or agreement is renewed, modified, or  
13 extended on or after the effective date of this Act, Section  
14 2306.5671 applies to the contract or agreement beginning on the  
15 date of renewal, modification, or extension.

16 SECTION 12. The change in law made by this Act relating to  
17 the qualifications for membership on the board of directors of the  
18 Texas State Affordable Housing Corporation does not affect the  
19 eligibility of a member of the board serving immediately before the  
20 effective date of this Act to continue to serve on the board for the  
21 term to which the member was appointed. Not later than February 1,  
22 2015, the governor shall appoint members of the board as necessary  
23 to ensure that the composition of the board complies with Section  
24 2306.554(a), Government Code, as amended by this Act.

25 SECTION 13. This Act takes effect September 1, 2011.