

By: Harper-Brown

H.B. No. 1818

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the continuation and functions of the Texas State  
3 Affordable Housing Corporation; providing penalties.

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

5 SECTION 1. Section 2306.5521, Government Code, is amended  
6 to read as follows:

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

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

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

21 (1) state or federal savings banks or savings and loan  
22 associations;

23 (2) community banks with assets of \$200 million or  
24 less;

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

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

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

1 (b) The training program must provide the person with  
2 information regarding:

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

5 (2) the programs, functions, rules, and budget of  
6 ~~operated by~~ the corporation;

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

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

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

11 [~~(6)~~] the results of the most recent formal audit of the  
12 corporation;

13 (4) [~~(7)~~] the requirements of laws relating to [~~+~~

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

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

16 [~~(C) the~~] administrative procedure, and  
17 conflicts of interest [~~law, Chapter 2001, and~~

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

20 (5) [~~(8)~~] any applicable ethics policies adopted by  
21 the corporation or the Texas Ethics Commission.

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

24 (b) A person may not be a member of the corporation's board  
25 of directors and may not be a corporation employee employed in a  
26 "bona fide executive, administrative, or professional capacity,"  
27 as that phrase is used for purposes of establishing an exemption to

1 the overtime provisions of the federal Fair Labor Standards Act of  
2 1938 (29 U.S.C. Section 201 et seq.), and its subsequent  
3 amendments, if:

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

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

12 SECTION 5. Section 2306.559(d), Government Code, is amended  
13 to read as follows:

14 (d) The report must include:

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

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

18 (3) balancesheets for all funds;

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

21 (5) the number, amount, and purpose of loans provided  
22 to affordable housing developers, regardless of whether the  
23 corporation provides those loans directly to the developers or  
24 administers the loans from another source;

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

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

3           SECTION 6. Subchapter Y, Chapter 2306, Government Code, is  
4 amended by adding Section 2306.5671 to read as follows:

5           Sec. 2306.5671. COMPLIANCE WITH TERMS OF CERTAIN CONTRACTS  
6 OR AGREEMENTS. A compliance contract or agreement between the  
7 corporation and a housing sponsor that receives bond financing by  
8 or through the corporation for the purpose of providing affordable  
9 multifamily housing must contain a provision stating that if the  
10 housing sponsor fails to comply with the terms of the contract or  
11 agreement, the corporation may, at a minimum and as appropriate:

12                   (1) assess penalties;

13                   (2) remove the manager of the affected property and  
14 select a new manager;

15                   (3) withdraw reserve funds to make needed repairs and  
16 replacements to the property; or

17                   (4) appoint the corporation as a receiver to protect  
18 and operate the property.

19           SECTION 7. Section 2306.568, Government Code, is amended to  
20 read as follows:

21           Sec. 2306.568. RECORD OF COMPLAINTS. (a) The corporation  
22 shall maintain a system to promptly and efficiently act on  
23 complaints [~~file on each written complaint~~] filed with the  
24 corporation. The corporation shall maintain information about  
25 parties to the complaint, [~~file must include:~~

26                   ~~[(1) the name of the person who filed the complaint,~~

27                   ~~[(2) the date the complaint is received by the~~

1 corporation,

2 [~~(3)~~] the subject matter of the complaint, ~~and~~

3 [~~(4)~~ the name of each person contacted in relation to  
4 the complaint,

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

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

10 (b) The corporation shall make information available  
11 describing its [~~provide to the person filing the complaint and to~~  
12 ~~each person who is a subject of the complaint a copy of the~~  
13 ~~corporation's policies and~~] procedures for [~~relating to~~] complaint  
14 investigation and resolution.

15 (c) The corporation [~~, at least quarterly until final~~  
16 ~~disposition of the complaint,~~] shall periodically notify the  
17 [~~person filing the~~] complaint parties [~~and each person who is a~~  
18 ~~subject of the complaint~~] of the status of the complaint until final  
19 disposition [~~investigation unless the notice would jeopardize an~~  
20 ~~undercover investigation~~].

21 SECTION 8. Section 2306.5671, Government Code, as added by  
22 this Act, does not affect the terms of a compliance contract or  
23 agreement entered into before the effective date of this Act,  
24 except that if the contract or agreement is renewed, modified, or  
25 extended on or after the effective date of this Act, Section  
26 2306.5671 applies to the contract or agreement beginning on the  
27 date of renewal, modification, or extension.

1           SECTION 9. The change in law made by this Act relating to  
2 the qualifications for membership on the board of directors of the  
3 Texas State Affordable Housing Corporation does not affect the  
4 eligibility of a member of the board serving immediately before the  
5 effective date of this Act to continue to serve on the board for the  
6 term to which the member was appointed. Not later than February 1,  
7 2015, the governor shall appoint members of the board as necessary  
8 to ensure that the composition of the board complies with Section  
9 2306.554(a), Government Code, as amended by this Act.

10           SECTION 10. This Act takes effect September 1, 2011.