

1-1 By: Harper-Brown (Senate Sponsor - Hinojosa) H.B. No. 1818
1-2 (In the Senate - Received from the House May 11, 2011;
1-3 May 11, 2011, read first time and referred to Committee on
1-4 Government Organization; May 18, 2011, reported adversely, with
1-5 favorable Committee Substitute by the following vote: Yeas 5,
1-6 Nays 0; May 18, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 1818 By: Hegar

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

1-10 relating to the continuation and functions of the Texas State
1-11 Affordable Housing Corporation; providing penalties.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 2306.5521, Government Code, is amended
1-14 to read as follows:

1-15 Sec. 2306.5521. SUNSET PROVISION. The Texas State
1-16 Affordable Housing Corporation is subject to Chapter 325 (Texas
1-17 Sunset Act). Unless continued in existence as provided by that
1-18 chapter, the corporation is abolished and this subchapter expires
1-19 September 1, 2023 ~~[2011]~~.

1-20 SECTION 2. Sections 2306.554(a) and (b), Government Code,
1-21 are amended to read as follows:

1-22 (a) The board of directors of the corporation consists of
1-23 five members appointed by the governor. One member must represent
1-24 the interests of individuals and families served by the
1-25 corporation's single-family mortgage loan programs, one member
1-26 must represent nonprofit housing organizations, and the remaining
1-27 three members must ~~[who]~~ represent one or more ~~[any]~~ of the
1-28 following areas:

1-29 (1) state or federal savings banks or savings and loan
1-30 associations;

1-31 (2) community banks with assets of \$200 million or
1-32 less;

1-33 (3) large metropolitan banks with assets of more than
1-34 \$1 billion;

1-35 (4) asset management companies;

1-36 (5) mortgage servicing companies;

1-37 (6) builders;

1-38 (7) real estate developers;

1-39 (8) real estate brokers;

1-40 (9) community or economic development organizations;

1-41 (10) private mortgage companies;

1-42 (11) nonprofit housing development companies;

1-43 (12) attorneys;

1-44 (13) investment bankers;

1-45 (14) underwriters;

1-46 (15) private mortgage insurance companies;

1-47 (16) appraisers;

1-48 (17) property management companies;

1-49 (18) financial advisors;

1-50 (19) nonprofit foundations;

1-51 (20) financial advisors; or

1-52 (21) any other area of expertise that the governor
1-53 finds necessary for the successful operation of the corporation.

1-54 (b) The governor shall designate a member of the
1-55 corporation's board of directors as the presiding officer of the
1-56 ~~[corporation's]~~ board of directors to serve in that capacity at the
1-57 pleasure of the governor ~~[from the members]~~.

1-58 SECTION 3. Section 2306.5543(b), Government Code, is
1-59 amended to read as follows:

1-60 (b) The training program must provide the person with
1-61 information regarding:

1-62 (1) the legislation that created the corporation ~~[and~~
1-63 ~~the corporation's board of directors]~~;

2-1 (2) the programs, functions, rules, and budget of
2-2 ~~operated by~~ the corporation;

2-3 (3) ~~the role and functions of the corporation,~~
2-4 ~~(4) the rules of the corporation with an emphasis on~~
2-5 ~~the rules that relate to disciplinary and investigatory authority,~~
2-6 ~~(5) the current budget for the corporation,~~
2-7 ~~(6) the results of the most recent formal audit of the~~
2-8 corporation;

2-9 (4) ~~(7)~~ the requirements of laws relating to ~~(+)~~
2-10 ~~(A) the~~ open meetings, ~~law, Chapter 551,~~
2-11 ~~(B) the~~ public information, ~~law, Chapter 552,~~
2-12 ~~(C) the~~ administrative procedure, and
2-13 conflicts of interest [law, Chapter 2001; and
2-14 ~~(D) other laws relating to public officials,~~
2-15 ~~including conflict-of-interest laws]; and~~

2-16 (5) ~~(8)~~ any applicable ethics policies adopted by
2-17 the corporation or the Texas Ethics Commission.

2-18 SECTION 4. Section 2306.5545(b), Government Code, is
2-19 amended to read as follows:

2-20 (b) A person may not be a member of the corporation's board
2-21 of directors and may not be a corporation employee employed in a
2-22 "bona fide executive, administrative, or professional capacity,"
2-23 as that phrase is used for purposes of establishing an exemption to
2-24 the overtime provisions of the federal Fair Labor Standards Act of
2-25 1938 (29 U.S.C. Section 201 et seq.), and its subsequent
2-26 amendments, if:

2-27 (1) the person is an officer, employee, or paid
2-28 consultant of a Texas trade association in the field of banking,
2-29 mortgage lending, real estate, housing development, or housing
2-30 construction; or

2-31 (2) the person's spouse is an officer, manager, or paid
2-32 consultant of a Texas trade association in the field of banking,
2-33 mortgage lending, real estate, housing development, or housing
2-34 construction.

2-35 SECTION 5. Subchapter Y, Chapter 2306, Government Code, is
2-36 amended by adding Section 2306.5549 to read as follows:

2-37 Sec. 2306.5549. MEETINGS OF THE CORPORATION'S BOARD. (a)
2-38 The corporation's board may hold meetings when called by the
2-39 presiding officer, the president, or three of the members.

2-40 (b) The corporation's board shall keep minutes and complete
2-41 transcripts of its meetings. The corporation shall post the
2-42 transcripts on its Internet website and shall otherwise maintain
2-43 all accounts, minutes, and other records related to the meetings.

2-44 (c) All materials provided to the corporation's board that
2-45 are relevant to a matter proposed for discussion at a meeting of
2-46 that board must be posted on the corporation's Internet website not
2-47 later than the third day before the date of the meeting.

2-48 (d) Any materials made available to the corporation's board
2-49 by the corporation at a meeting of that board must be made available
2-50 in hard-copy format to the members of the public in attendance at
2-51 the meeting.

2-52 (e) The corporation's board shall conduct its meetings in
2-53 accordance with Chapter 551, except as otherwise required by this
2-54 chapter.

2-55 (f) For each item on the agenda at a meeting of the
2-56 corporation's board, the corporation's board shall provide for
2-57 public comment after the presentation made by corporation staff and
2-58 the motions made by the corporation's board on that topic.

2-59 (g) The corporation's board shall adopt rules that give the
2-60 public a reasonable amount of time for testimony at meetings.

2-61 SECTION 6. Subchapter Y, Chapter 2306, Government Code, is
2-62 amended by adding Section 2306.5553 to read as follows:

2-63 Sec. 2306.5553. HISTORICALLY UNDERUTILIZED BUSINESSES. (a)
2-64 The corporation shall make a good faith effort to provide
2-65 contracting opportunities for, and to increase contract awards to,
2-66 historically underutilized businesses for all services that may be
2-67 required by the corporation, including professional and consulting
2-68 services and commodities purchases.

2-69 (b) In accordance with Subchapter B, Chapter 20, Title 34,

3-1 Texas Administrative Code, a good faith effort under Subsection (a)
 3-2 must include awarding historically underutilized businesses at
 3-3 least a portion of the total contract value of all contracts the
 3-4 corporation expects to award in a state fiscal year.

3-5 (c) The corporation may achieve annual procurement goals
 3-6 under this section by contracting directly with historically
 3-7 underutilized businesses or by contracting indirectly with those
 3-8 businesses through the provision of subcontracting opportunities.

3-9 SECTION 7. Section 2306.559(d), Government Code, is amended
 3-10 to read as follows:

3-11 (d) The report must include:

3-12 (1) a statement of support, revenue, and expenses and
 3-13 change in fund balances;

3-14 (2) a statement of functional expenses; ~~and~~

3-15 (3) balance sheets for all funds;

3-16 (4) the number, amount, and purpose of private gifts,
 3-17 grants, donations, or other funds applied for and received;

3-18 (5) the number, amount, and purpose of loans provided
 3-19 to affordable housing developers, regardless of whether the
 3-20 corporation provides those loans directly to the developers or
 3-21 administers the loans from another source;

3-22 (6) the amount and source of funds deposited into any
 3-23 fund created by the corporation for the purpose of providing grants
 3-24 and the number, amount, and purpose of any grants provided; and

3-25 (7) the total amount of annual revenue generated by
 3-26 the corporation in excess of its expenditures.

3-27 SECTION 8. Subchapter Y, Chapter 2306, Government Code, is
 3-28 amended by adding Section 2306.5671 to read as follows:

3-29 Sec. 2306.5671. COMPLIANCE WITH TERMS OF CERTAIN CONTRACTS
 3-30 OR AGREEMENTS. A compliance contract or agreement between the
 3-31 corporation and a housing sponsor that receives bond financing by
 3-32 or through the corporation for the purpose of providing affordable
 3-33 multifamily housing must contain a provision stating that if the
 3-34 housing sponsor fails to comply with the terms of the contract or
 3-35 agreement, the corporation may, at a minimum and as appropriate:

3-36 (1) assess penalties;

3-37 (2) remove the manager of the affected property and
 3-38 select a new manager;

3-39 (3) withdraw reserve funds to make needed repairs and
 3-40 replacements to the property; or

3-41 (4) appoint the corporation as a receiver to protect
 3-42 and operate the property.

3-43 SECTION 9. Section 2306.568, Government Code, is amended to
 3-44 read as follows:

3-45 Sec. 2306.568. RECORD OF COMPLAINTS. (a) The corporation
 3-46 shall maintain a system to promptly and efficiently act on
 3-47 complaints ~~[file on each written complaint]~~ filed with the
 3-48 corporation. The corporation shall maintain information about
 3-49 parties to the complaint, ~~[file must include:~~

3-50 ~~(1) the name of the person who filed the complaint,~~

3-51 ~~(2) the date the complaint is received by the~~
 3-52 ~~corporation,~~

3-53 ~~(3) the subject matter of the complaint, ~~[~~~~

3-54 ~~(4) the name of each person contacted in relation to~~
 3-55 ~~the complaint,~~

3-56 ~~(5) a summary of the results of the review or~~
 3-57 ~~investigation of the complaint, and its disposition ~~[, and~~~~

3-58 ~~(6) an explanation of the reason the file was closed,~~
 3-59 ~~if the corporation closed the file without taking action other than~~
 3-60 ~~to investigate the complaint].~~

3-61 (b) The corporation shall make information available
 3-62 describing its ~~[provide to the person filing the complaint and to~~
 3-63 ~~each person who is a subject of the complaint a copy of the~~
 3-64 ~~corporation's policies and] procedures for ~~[relating to]~~ complaint~~
 3-65 investigation and resolution.

3-66 (c) The corporation [, at least quarterly until final
 3-67 disposition of the complaint,] shall periodically notify the
 3-68 [person filing the] complaint parties ~~[and each person who is a~~
 3-69 subject of the complaint] of the status of the complaint until final

4-1 disposition [~~investigation unless the notice would jeopardize an~~
4-2 ~~undercover investigation~~].

4-3 SECTION 10. Section 2306.5671, Government Code, as added by
4-4 this Act, does not affect the terms of a compliance contract or
4-5 agreement entered into before the effective date of this Act,
4-6 except that if the contract or agreement is renewed, modified, or
4-7 extended on or after the effective date of this Act, Section
4-8 2306.5671 applies to the contract or agreement beginning on the
4-9 date of renewal, modification, or extension.

4-10 SECTION 11. The change in law made by this Act relating to
4-11 the qualifications for membership on the board of directors of the
4-12 Texas State Affordable Housing Corporation does not affect the
4-13 eligibility of a member of the board serving immediately before the
4-14 effective date of this Act to continue to serve on the board for the
4-15 term to which the member was appointed. Not later than February 1,
4-16 2015, the governor shall appoint members of the board as necessary
4-17 to ensure that the composition of the board complies with Section
4-18 2306.554(a), Government Code, as amended by this Act.

4-19 SECTION 12. This Act takes effect September 1, 2011.

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