

By: Guillen

H.B. No. 3716

Substitute the following for H.B. No. 3716:

By: Mallory Caraway

C.S.H.B. No. 3716

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the evaluation of applications for certain financial  
3 assistance administered by the Texas Department of Housing and  
4 Community Affairs.

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

6 SECTION 1. Section 2306.1114(a), Government Code, is  
7 amended to read as follows:

8 (a) Not later than the 14th day after the date an  
9 application or a proposed application for housing funds described  
10 by Section 2306.111 has been filed, the department shall provide  
11 written notice of the filing of the application or proposed  
12 application to the following persons:

13 (1) the United States representative who represents  
14 the community containing the development described in the  
15 application;

16 (2) members of the legislature who represent the  
17 community containing the development described in the application;

18 (3) the presiding officer of the governing body of the  
19 political subdivision containing the development described in the  
20 application;

21 (4) any member of the governing body of a political  
22 subdivision who represents the area containing the development  
23 described in the application;

24 (5) the superintendent and the presiding officer of

1 the board of trustees of the school district containing the  
2 development described in the application; and

3 (6) any neighborhood organizations on record with the  
4 state, municipality, or county in which the development described  
5 in the application is to be located and whose boundaries contain the  
6 proposed development site.

7 SECTION 2. Section 2306.6704(b-1), Government Code, is  
8 amended to read as follows:

9 (b-1) The preapplication process must require the applicant  
10 to provide the department with evidence that the applicant has  
11 notified the following entities with respect to the filing of the  
12 application:

13 (1) any neighborhood organizations on record with the  
14 state, municipality, or county in which the development is to be  
15 located and whose boundaries contain the proposed development site;

16 (2) the superintendent and the presiding officer of  
17 the board of trustees of the school district containing the  
18 development;

19 (3) the presiding officer of the governing body of any  
20 municipality containing the development and all elected members of  
21 that body;

22 (4) the presiding officer of the governing body of the  
23 county containing the development and all elected members of that  
24 body; and

25 (5) the state senator and state representative of the  
26 district containing the development.

27 SECTION 3. Section 2306.6705, Government Code, is amended

1 to read as follows:

2           Sec. 2306.6705. GENERAL APPLICATION REQUIREMENTS. An  
3 application must contain at a minimum the following written,  
4 detailed information in a form prescribed by the board:

5           (1) a description of:

6                   (A) the financing plan for the development,  
7 including any nontraditional financing arrangements;

8                   (B) the use of funds with respect to the  
9 development;

10                  (C) the funding sources for the development,  
11 including:

12                           (i) construction, permanent, and bridge  
13 loans; and

14                           (ii) rents, operating subsidies, and  
15 replacement reserves; and

16                   (D) the commitment status of the funding sources  
17 for the development;

18           (2) if syndication costs are included in the eligible  
19 basis, a justification of the syndication costs for each cost  
20 category by an attorney or accountant specializing in tax matters;

21           (3) from a syndicator or a financial consultant of the  
22 applicant, an estimate of the amount of equity dollars expected to  
23 be raised for the development in conjunction with the amount of  
24 housing tax credits requested for allocation to the applicant,  
25 including:

26                   (A) pay-in schedules; and

27                   (B) syndicator consulting fees and other

1 syndication costs;

2 (4) if rental assistance, an operating subsidy, or an  
3 annuity is proposed for the development, any related contract or  
4 other agreement securing those funds and an identification of:

5 (A) the source and annual amount of the funds;

6 (B) the number of units receiving the funds; and

7 (C) the term and expiration date of the contract  
8 or other agreement;

9 (5) if the development is located within the  
10 boundaries of a political subdivision with a zoning ordinance,  
11 evidence in the form of a letter from the chief executive officer of  
12 the political subdivision or from another local official with  
13 jurisdiction over zoning matters that states that:

14 (A) the development is permitted under the  
15 provisions of the ordinance that apply to the location of the  
16 development; or

17 (B) the applicant is in the process of seeking  
18 the appropriate zoning and has signed and provided to the political  
19 subdivision a release agreeing to hold the political subdivision  
20 and all other parties harmless in the event that the appropriate  
21 zoning is denied;

22 (6) if an occupied development is proposed for  
23 rehabilitation:

24 (A) an explanation of the process used to notify  
25 and consult with the tenants in preparing the application;

26 (B) a relocation plan outlining:

27 (i) relocation requirements; and

1 (ii) a budget with an identified funding  
2 source; and

3 (C) if applicable, evidence that the relocation  
4 plan has been submitted to the appropriate local agency;

5 (7) a certification of the applicant's compliance with  
6 appropriate state and federal laws, as required by other state law  
7 or by the board;

8 (8) any other information required by the board in the  
9 qualified allocation plan; and

10 (9) evidence that the applicant has notified the  
11 following entities with respect to the filing of the application:

12 (A) any neighborhood organizations on record  
13 with the state, municipality, or county in which the development is  
14 to be located and whose boundaries contain the proposed development  
15 site;

16 (B) the superintendent and the presiding officer  
17 of the board of trustees of the school district containing the  
18 development;

19 (C) the presiding officer of the governing body  
20 of any municipality containing the development and all elected  
21 members of that body;

22 (D) the presiding officer of the governing body  
23 of the county containing the development and all elected members of  
24 that body; and

25 (E) the state senator and state representative of  
26 the district containing the development.

27 SECTION 4. Section 2306.6710, Government Code, is amended

1 by amending Subsection (b) and adding Subsection (g) to read as  
2 follows:

3 (b) If an application satisfies the threshold criteria, the  
4 department shall score and rank the application using a point  
5 system that:

6 (1) prioritizes in descending order criteria  
7 regarding:

8 (A) financial feasibility of the development  
9 based on the supporting financial data required in the application  
10 that will include a project underwriting pro forma from the  
11 permanent or construction lender;

12 (B) quantifiable community participation with  
13 respect to the development, evaluated on the basis of written  
14 statements from any neighborhood organizations on record with the  
15 state, municipality, or county in which the development is to be  
16 located and whose boundaries contain the proposed development site;

17 (C) the income levels of tenants of the  
18 development;

19 (D) the size and quality of the units;

20 (E) the commitment of development funding by  
21 local political subdivisions;

22 (F) the level of community support for the  
23 application, evaluated on the basis of written statements from the  
24 state representative or the state senator that represents the  
25 district containing the proposed development site;

26 (G) the rent levels of the units;

27 (H) the cost of the development by square foot;

1 (I) the services to be provided to tenants of the  
2 development; and

3 (J) whether, at the time the complete application  
4 is submitted or at any time within the two-year period preceding the  
5 date of submission, the proposed development site is located in an  
6 area declared to be a disaster under Section 418.014;

7 (2) uses criteria imposing penalties on applicants or  
8 affiliates who have requested extensions of department deadlines  
9 relating to developments supported by housing tax credit  
10 allocations made in the application round preceding the current  
11 round or a developer or principal of the applicant that has been  
12 removed by the lender, equity provider, or limited partners for its  
13 failure to perform its obligations under the loan documents or  
14 limited partnership agreement; and

15 (3) encourages applicants to provide free notary  
16 public service to the residents of the developments for which the  
17 allocation of housing tax credits is requested.

18 (g) The department shall presume that the applicant has made  
19 a good faith effort to obtain quantifiable community participation  
20 and shall award the applicant the total number of points that may be  
21 awarded under Subsection (b)(1)(B) if the application includes:

22 (1) a statement that an organization described by  
23 Subsection (b)(1)(B) does not exist, as verified by:

24 (A) the presiding officer or authorized  
25 representative of the governing body of the municipality in which  
26 the development is to be located; or

27 (B) the clerk of the county in which the

1 development is to be located if the development is to be located  
2 outside a municipality; and

3 (2) one or more written statements of support from:

4 (A) the county in which the development is to be  
5 located;

6 (B) any municipality in which the development is  
7 to be located; or

8 (C) a civic or community organization that  
9 provides services to the area in which the development is to be  
10 located.

11 SECTION 5. The changes in law made by this Act relating to  
12 applications for financial assistance administered by the Texas  
13 Department of Housing and Community Affairs apply only to an  
14 application filed on or after the effective date of this Act. An  
15 application filed before the effective date of this Act is governed  
16 by the law in effect on the date the application was filed, and the  
17 former law is continued in effect for that purpose.

18 SECTION 6. This Act takes effect September 1, 2011.