

By: Guillen

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 or public housing
4 authority resident's councils on record with the state,
5 municipality, or county in which the development described in the
6 application is to be located and whose boundaries, as established
7 by the applicable record on file:

8 (A) contain the proposed development site; or

9 (B) encompass the same public elementary school
10 attendance zone, or a portion of the same zone, as the proposed
11 development site; and

12 (7) any public housing authority resident's council:

13 (A) with one or more members who reside or who the
14 applicant knows are likely to reside at the development described
15 in the application; and

16 (B) whose boundaries contain the proposed
17 development site.

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

20 (b-1) The preapplication process must require the applicant
21 to provide the department with evidence that the applicant has
22 notified the following entities with respect to the filing of the
23 application:

24 (1) any neighborhood organizations or public housing
25 authority resident's councils on record with the state,
26 municipality, or county in which the development is to be located
27 and whose boundaries, as established by the applicable record on

1 file:

2 (A) contain the proposed development site; or

3 (B) encompass the same public elementary school
4 attendance zone, or a portion of the same zone, as the proposed
5 development site;

6 (2) the superintendent and the presiding officer of
7 the board of trustees of the school district containing the
8 development;

9 (3) the presiding officer of the governing body of any
10 municipality containing the development and all elected members of
11 that body;

12 (4) the presiding officer of the governing body of the
13 county containing the development and all elected members of that
14 body; [~~and~~]

15 (5) the state senator and state representative of the
16 district containing the development; and

17 (6) any public housing authority resident's council:

18 (A) with one or more members who reside or who the
19 applicant knows are likely to reside at the development; and

20 (B) whose boundaries contain the proposed
21 development site.

22 SECTION 3. Section 2306.6705, Government Code, is amended
23 to read as follows:

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

27 (1) a description of:

1 (A) the financing plan for the development,
2 including any nontraditional financing arrangements;

3 (B) the use of funds with respect to the
4 development;

5 (C) the funding sources for the development,
6 including:

7 (i) construction, permanent, and bridge
8 loans; and

9 (ii) rents, operating subsidies, and
10 replacement reserves; and

11 (D) the commitment status of the funding sources
12 for the development;

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

16 (3) from a syndicator or a financial consultant of the
17 applicant, an estimate of the amount of equity dollars expected to
18 be raised for the development in conjunction with the amount of
19 housing tax credits requested for allocation to the applicant,
20 including:

21 (A) pay-in schedules; and

22 (B) syndicator consulting fees and other
23 syndication costs;

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

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

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

2 (C) the term and expiration date of the contract
3 or other agreement;

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

9 (A) the development is permitted under the
10 provisions of the ordinance that apply to the location of the
11 development; or

12 (B) the applicant is in the process of seeking
13 the appropriate zoning and has signed and provided to the political
14 subdivision a release agreeing to hold the political subdivision
15 and all other parties harmless in the event that the appropriate
16 zoning is denied;

17 (6) if an occupied development is proposed for
18 rehabilitation:

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

21 (B) a relocation plan outlining:

22 (i) relocation requirements; and

23 (ii) a budget with an identified funding
24 source; and

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

27 (7) a certification of the applicant's compliance with

1 appropriate state and federal laws, as required by other state law
2 or by the board;

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

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

7 (A) any neighborhood organizations or public
8 housing authority resident's councils on record with the state,
9 municipality, or county in which the development is to be located
10 and whose boundaries, as established by the applicable record on
11 file:

12 (i) contain the proposed development site;
13 or

14 (ii) encompass the same public elementary
15 school attendance zone, or a portion of the same zone, as the
16 proposed development site;

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

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

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

26 (E) the state senator and state representative of
27 the district containing the development; and

1 (F) any public housing authority resident's
2 council:

3 (i) with one or more members who reside or
4 who the applicant knows are likely to reside at the development; and

5 (ii) whose boundaries contain the proposed
6 development site.

7 SECTION 4. Section 2306.6710, Government Code, is amended
8 by amending Subsection (b) and adding Subsections (g) and (h) to
9 read as follows:

10 (b) If an application satisfies the threshold criteria, the
11 department shall score and rank the application using a point
12 system that:

13 (1) prioritizes in descending order criteria
14 regarding:

15 (A) financial feasibility of the development
16 based on the supporting financial data required in the application
17 that will include a project underwriting pro forma from the
18 permanent or construction lender;

19 (B) quantifiable community participation with
20 respect to the development, evaluated on the basis of written
21 statements from:

22 (i) any neighborhood organizations or
23 public housing authority resident's councils on record with the
24 state, municipality, or county in which the development is to be
25 located and whose boundaries, as established by the applicable
26 record on file:

27 (a) contain the proposed development

1 site; or

2 (b) encompass the same public
3 elementary school attendance zone, or a portion of the same zone, as
4 the proposed development site; or

5 (ii) any public housing authority
6 resident's council:

7 (a) with one or more members who
8 reside or who the applicant knows are likely to reside at the
9 development; and

10 (b) whose boundaries contain the
11 proposed development site;

12 (C) the income levels of tenants of the
13 development;

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

15 (E) the commitment of development funding by
16 local political subdivisions;

17 (F) the level of community support for the
18 application, evaluated on the basis of written statements from the
19 state representative or the state senator that represents the
20 district containing the proposed development site;

21 (G) the rent levels of the units;

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

23 (I) the services to be provided to tenants of the
24 development; and

25 (J) whether, at the time the complete application
26 is submitted or at any time within the two-year period preceding the
27 date of submission, the proposed development site is located in an

1 area declared to be a disaster under Section 418.014;

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

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

13 (g) The department shall presume that the applicant has made
14 a good faith effort to obtain quantifiable community participation
15 and shall award the applicant the total number of points that may be
16 awarded under Subsection (b)(1)(B) if the application includes a
17 statement that an organization or other entity described by
18 Subsection (b)(1)(B) does not exist, as verified by:

19 (1) the presiding officer or authorized
20 representative of the governing body of the municipality in which
21 the development is to be located; or

22 (2) the clerk of the county in which the development is
23 to be located if the development is to be located outside a
24 municipality.

25 (h) Except as provided by this chapter, the department may
26 not adopt rules regarding quantifiable community participation in
27 relation to a development described in an application for housing

1 tax credits.

2 SECTION 5. The changes in law made by this Act relating to
3 applications for financial assistance administered by the Texas
4 Department of Housing and Community Affairs apply only to an
5 application filed on or after the effective date of this Act. An
6 application filed before the effective date of this Act is governed
7 by the law in effect on the date the application was filed, and the
8 former law is continued in effect for that purpose.

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