

By: Hinojosa, Hegar

S.B. No. 649

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

SECTION 2. Subsections (a) and (b), Section 2306.554, Government Code, are amended to read as follows:

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

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

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

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

(4) asset management companies;

(5) mortgage servicing companies;

(6) builders;

(7) real estate developers;

(8) real estate brokers;

(9) community or economic development organizations;

(10) private mortgage companies;

(11) nonprofit housing development companies;

(12) attorneys;

(13) investment bankers;

(14) underwriters;

(15) private mortgage insurance companies;

(16) appraisers;

(17) property management companies;

(18) financial advisors;

(19) nonprofit foundations;

(20) financial advisors; or

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

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

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

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

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

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

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

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

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

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

~~open meetings, [law, Chapter 551,~~

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

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

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

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

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

(b) A person may not be a member of the corporation's board of directors and may not be a corporation employee employed in a "bona fide executive, administrative, or professional capacity," 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. Subsection (d), Section 2306.559, Government
13 Code, is amended 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) balance sheets 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~~

corporation,

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

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

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

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

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

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

SECTION 8. Section 2306.5671, Government Code, as added by this Act, does not affect the terms of a compliance contract or agreement entered into before the effective date of this Act, except that if the contract or agreement is renewed, modified, or extended on or after the effective date of this Act, Section 2306.5671 applies to the contract or agreement beginning on the 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
9 Subsection (a), Section 2306.554, Government Code, as amended by
10 this Act.

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