

1-1 By: Hinojosa, Hegar S.B. No. 649
1-2 (In the Senate - Filed February 21, 2011; February 23, 2011,
1-3 read first time and referred to Committee on Government
1-4 Organization; May 2, 2011, reported favorably by the following
1-5 vote: Yeas 5, Nays 0; May 2, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the continuation and functions of the Texas State
1-9 Affordable Housing Corporation; providing penalties.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 2306.5521, Government Code, is amended
1-12 to read as follows:

1-13 Sec. 2306.5521. SUNSET PROVISION. The Texas State
1-14 Affordable Housing Corporation is subject to Chapter 325 (Texas
1-15 Sunset Act). Unless continued in existence as provided by that
1-16 chapter, the corporation is abolished and this subchapter expires
1-17 September 1, 2023 [~~2011~~].

1-18 SECTION 2. Subsections (a) and (b), Section 2306.554,
1-19 Government Code, are amended to read as follows:

1-20 (a) The board of directors of the corporation consists of
1-21 five members appointed by the governor. One member must represent
1-22 the interests of individuals and families served by the
1-23 corporation's single-family mortgage loan programs, one member
1-24 must represent nonprofit housing organizations, and the remaining
1-25 three members must [~~who~~] represent one or more [~~any~~] of the
1-26 following areas:

- 1-27 (1) state or federal savings banks or savings and loan
1-28 associations;
1-29 (2) community banks with assets of \$200 million or
1-30 less;
1-31 (3) large metropolitan banks with assets of more than
1-32 \$1 billion;
1-33 (4) asset management companies;
1-34 (5) mortgage servicing companies;
1-35 (6) builders;
1-36 (7) real estate developers;
1-37 (8) real estate brokers;
1-38 (9) community or economic development organizations;
1-39 (10) private mortgage companies;
1-40 (11) nonprofit housing development companies;
1-41 (12) attorneys;
1-42 (13) investment bankers;
1-43 (14) underwriters;
1-44 (15) private mortgage insurance companies;
1-45 (16) appraisers;
1-46 (17) property management companies;
1-47 (18) financial advisors;
1-48 (19) nonprofit foundations;
1-49 (20) financial advisors; or
1-50 (21) any other area of expertise that the governor
1-51 finds necessary for the successful operation of the corporation.

1-52 (b) The governor shall designate a member of the
1-53 corporation's board of directors as the presiding officer of the
1-54 [corporation's] board of directors to serve in that capacity at the
1-55 pleasure of the governor [~~from the members~~].

1-56 SECTION 3. Subsection (b), Section 2306.5543, Government
1-57 Code, is amended to read as follows:

1-58 (b) The training program must provide the person with
1-59 information regarding:

1-60 (1) the legislation that created the corporation [~~and~~
1-61 ~~the corporation's board of directors~~];

1-62 (2) the programs, functions, rules, and budget of
1-63 [operated by] the corporation;

1-64 (3) [~~the role and functions of the corporation;~~

2-1 ~~[(4) the rules of the corporation with an emphasis on~~
 2-2 ~~the rules that relate to disciplinary and investigatory authority,~~
 2-3 ~~[(5) the current budget for the corporation,~~
 2-4 ~~[(6)] the results of the most recent formal audit of the~~
 2-5 corporation;

2-6 (4) ~~[(7)]~~ the requirements of laws relating to ~~[+~~
 2-7 ~~[(A) the] open meetings, [law, Chapter 551,~~
 2-8 ~~[(B) the] public information, [law, Chapter 552,~~
 2-9 ~~[(C) the] administrative procedure, and~~
 2-10 ~~conflicts of interest [law, Chapter 2001; and~~
 2-11 ~~[(D) other laws relating to public officials,~~
 2-12 ~~including conflict-of-interest laws]; and~~

2-13 (5) ~~[(8)]~~ any applicable ethics policies adopted by
 2-14 the corporation or the Texas Ethics Commission.

2-15 SECTION 4. Subsection (b), Section 2306.5545, Government
 2-16 Code, is amended to read as follows:

2-17 (b) A person may not be a member of the corporation's board
 2-18 of directors and may not be a corporation employee employed in a
 2-19 "bona fide executive, administrative, or professional capacity,"
 2-20 as that phrase is used for purposes of establishing an exemption to
 2-21 the overtime provisions of the federal Fair Labor Standards Act of
 2-22 1938 (29 U.S.C. Section 201 et seq.), and its subsequent
 2-23 amendments, if:

2-24 (1) the person is an officer, employee, or paid
 2-25 consultant of a Texas trade association in the field of banking,
 2-26 mortgage lending, real estate, housing development, or housing
 2-27 construction; or

2-28 (2) the person's spouse is an officer, manager, or paid
 2-29 consultant of a Texas trade association in the field of banking,
 2-30 mortgage lending, real estate, housing development, or housing
 2-31 construction.

2-32 SECTION 5. Subsection (d), Section 2306.559, Government
 2-33 Code, is amended to read as follows:

2-34 (d) The report must include:

2-35 (1) a statement of support, revenue, and expenses and
 2-36 change in fund balances;

2-37 (2) a statement of functional expenses; ~~and~~

2-38 (3) balance sheets for all funds;

2-39 (4) the number, amount, and purpose of private gifts,
 2-40 grants, donations, or other funds applied for and received;

2-41 (5) the number, amount, and purpose of loans provided
 2-42 to affordable housing developers, regardless of whether the
 2-43 corporation provides those loans directly to the developers or
 2-44 administers the loans from another source;

2-45 (6) the amount and source of funds deposited into any
 2-46 fund created by the corporation for the purpose of providing grants
 2-47 and the number, amount, and purpose of any grants provided; and

2-48 (7) the total amount of annual revenue generated by
 2-49 the corporation in excess of its expenditures.

2-50 SECTION 6. Subchapter Y, Chapter 2306, Government Code, is
 2-51 amended by adding Section 2306.5671 to read as follows:

2-52 Sec. 2306.5671. COMPLIANCE WITH TERMS OF CERTAIN CONTRACTS
 2-53 OR AGREEMENTS. A compliance contract or agreement between the
 2-54 corporation and a housing sponsor that receives bond financing by
 2-55 or through the corporation for the purpose of providing affordable
 2-56 multifamily housing must contain a provision stating that if the
 2-57 housing sponsor fails to comply with the terms of the contract or
 2-58 agreement, the corporation may, at a minimum and as appropriate:

2-59 (1) assess penalties;

2-60 (2) remove the manager of the affected property and
 2-61 select a new manager;

2-62 (3) withdraw reserve funds to make needed repairs and
 2-63 replacements to the property; or

2-64 (4) appoint the corporation as a receiver to protect
 2-65 and operate the property.

2-66 SECTION 7. Section 2306.568, Government Code, is amended to
 2-67 read as follows:

2-68 Sec. 2306.568. RECORD OF COMPLAINTS. (a) The corporation
 2-69 shall maintain a system to promptly and efficiently act on

3-1 complaints [~~file on each written complaint~~] filed with the
 3-2 corporation. The corporation shall maintain information about
 3-3 parties to the complaint, [~~file must include:~~
 3-4 [~~(1) the name of the person who filed the complaint,~~
 3-5 [~~(2) the date the complaint is received by the~~
 3-6 ~~corporation,~~
 3-7 [~~(3)~~] the subject matter of the complaint, [~~+~~
 3-8 [~~(4) the name of each person contacted in relation to~~
 3-9 ~~the complaint,~~
 3-10 [~~(5)~~] a summary of the results of the review or
 3-11 investigation of the complaint, and its disposition [~~+~~ and
 3-12 [~~(6) an explanation of the reason the file was closed,~~
 3-13 ~~if the corporation closed the file without taking action other than~~
 3-14 ~~to investigate the complaint]~~.

3-15 (b) The corporation shall make information available
 3-16 describing its [~~provide to the person filing the complaint and to~~
 3-17 ~~each person who is a subject of the complaint a copy of the~~
 3-18 ~~corporation's policies and]~~ procedures for [~~relating to~~] complaint
 3-19 investigation and resolution.

3-20 (c) The corporation [~~+~~ at least quarterly until final
 3-21 disposition of the complaint,] shall periodically notify the
 3-22 [~~person filing the~~] complaint parties [~~and each person who is a~~
 3-23 ~~subject of the complaint]~~ of the status of the complaint until final
 3-24 disposition [~~investigation unless the notice would jeopardize an~~
 3-25 ~~undercover investigation]~~.

3-26 SECTION 8. Section 2306.5671, Government Code, as added by
 3-27 this Act, does not affect the terms of a compliance contract or
 3-28 agreement entered into before the effective date of this Act,
 3-29 except that if the contract or agreement is renewed, modified, or
 3-30 extended on or after the effective date of this Act, Section
 3-31 2306.5671 applies to the contract or agreement beginning on the
 3-32 date of renewal, modification, or extension.

3-33 SECTION 9. The change in law made by this Act relating to
 3-34 the qualifications for membership on the board of directors of the
 3-35 Texas State Affordable Housing Corporation does not affect the
 3-36 eligibility of a member of the board serving immediately before the
 3-37 effective date of this Act to continue to serve on the board for the
 3-38 term to which the member was appointed. Not later than February 1,
 3-39 2015, the governor shall appoint members of the board as necessary
 3-40 to ensure that the composition of the board complies with
 3-41 Subsection (a), Section 2306.554, Government Code, as amended by
 3-42 this Act.

3-43 SECTION 10. This Act takes effect September 1, 2011.

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