

AN ACT

relating to restrictions on the use, transfer, and sale of housing developments that have received certain financial assistance administered by the Texas Department of Housing and Community Affairs.

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

SECTION 1. Section 2306.185, Government Code, is amended by adding Subsection (d-1) and amending Subsection (e) to read as follows:

(d-1) The department shall adopt rules that provide for the amendment of a land use restriction agreement. Rules adopted under this subsection must require reasonable notice to tenants, a public hearing, and board approval for any material amendment to a land use restriction agreement.

(e) Subsections (c), ~~[and]~~ (d), and (d-1) and Section 2306.269 apply only to multifamily rental housing developments to which the department is providing one or more of the following forms of assistance:

(1) a loan or grant in an amount greater than 33 percent of the market value of the development on the date the recipient completed the construction of the development;

(2) a loan guarantee for a loan in an amount greater than 33 percent of the market value of the development on the date the recipient took legal title to the development; or

1 (3) a low income housing tax credit.

2 SECTION 2. Section 2306.6713, Government Code, is amended  
3 by adding Subsection (g) to read as follows:

4 (g) The transfer of ownership of a development supported  
5 with an allocation of housing tax credits under this section does  
6 not subject the development to a right of first refusal under  
7 Section 2306.6726 if the transfer is made to a newly formed entity:

8 (1) that is under common control with the development  
9 owner; and

10 (2) the primary purpose of the formation of which is to  
11 facilitate the financing of the rehabilitation of the development  
12 using assistance administered through a state financing program.

13 SECTION 3. Section 2306.6720, Government Code, is amended  
14 to read as follows:

15 Sec. 2306.6720. ENFORCEABILITY OF APPLICANT  
16 REPRESENTATIONS. Each material representation made by an applicant  
17 to secure a housing tax credit allocation is enforceable by the  
18 department and the tenants of the development supported with the  
19 allocation. Subject to modification and enforcement as provided by  
20 this chapter, a land use restriction agreement that is recorded  
21 with respect to a development is considered to state the  
22 development owner's ongoing obligations with regard to the matters  
23 addressed in the agreement.

24 SECTION 4. Section 2306.6725(b), Government Code, is  
25 amended to read as follows:

26 (b) The department shall provide appropriate incentives as  
27 determined through the qualified allocation plan to reward

1 applicants who agree to:

2 (1) equip the development [~~property~~] that is the basis  
3 of the application with energy saving devices that meet the  
4 standards established by the state energy conservation office or  
5 [~~to~~] provide to a qualified entity, in a land use restriction  
6 agreement in accordance with Section 2306.6726, [nonprofit  
7 ~~organization or tenant organization]~~ a right of first refusal to  
8 purchase the development [~~property~~] at the minimum price provided  
9 in, and in accordance with the requirements of, Section 42(i)(7),  
10 Internal Revenue Code of 1986 (26 U.S.C. Section 42(i)(7)); and

11 (2) locate the development in a census tract in which  
12 there are no other existing developments supported by housing tax  
13 credits.

14 SECTION 5. Section 2306.6726, Government Code, is amended  
15 to read as follows:

16 Sec. 2306.6726. SALE OF CERTAIN LOW INCOME HOUSING TAX  
17 CREDIT DEVELOPMENTS [~~PROPERTY~~]. (a) An owner of a development  
18 subject to [Not later than two years before the expiration of the  
19 ~~compliance period, a recipient of a low income housing tax credit~~  
20 ~~who agreed to provide]~~ a right of first refusal under Section  
21 2306.6725 [~~and~~] who intends to sell the development at any time  
22 after the expiration of the compliance period [~~property~~] shall  
23 notify the department and the tenants of the development of the  
24 owner's [~~recipient's~~] intent to sell and, if applicable, shall  
25 specifically identify to the department any qualified entity that  
26 is the owner's intended recipient of the right of first refusal in  
27 the land use restriction agreement.

1        (a-1) As soon as practicable after receiving notice under  
2 Subsection (a), the department [~~The recipient~~] shall:

3            (1) provide to any qualified entity specifically  
4 identified under Subsection (a) notice regarding the owner's intent  
5 to sell the development; and

6            (2) post on the department's Internet website the  
7 notice described by Subdivision (1) [~~notify qualified nonprofit~~  
8 ~~organizations and tenant organizations of the opportunity to~~  
9 ~~purchase the property~~].

10        (b) The owner of a development subject to a right of first  
11 refusal under Section 2306.6725 [~~recipient~~] may:

12            (1) during the first 60-day [~~six-month~~] period after  
13 notice is provided under Subsection (a-1) [~~notifying the~~  
14 ~~department~~], negotiate or enter into a purchase agreement only with  
15 a qualified entity [~~nonprofit organization~~] that is:

16                    (A) [also] a community housing development  
17 organization as defined by the federal HOME [~~home~~] investment  
18 partnership program; or

19                    (B) controlled by an entity described by  
20 Paragraph (A);

21            (2) during the second 60-day [~~six-month~~] period after  
22 notice is provided under Subsection (a-1) [~~notifying the~~  
23 ~~department~~], negotiate or enter into a purchase agreement with a  
24 [any] qualified entity that:

25                    (A) is described by Section 2306.6706;

26                    (B) is controlled by an entity described by  
27 Paragraph (A) [~~nonprofit organization or tenant organization~~]; or

1                    (C) is a tenant organization; and

2                    (3) during the last 60-day period after notice is  
3 provided under Subsection (a-1) [~~year before the expiration of the~~  
4 ~~compliance period~~], negotiate or enter into a purchase agreement  
5 with [~~the department or~~] any other qualified entity [~~nonprofit~~  
6 ~~organization or tenant organization approved by the department~~].

7                    (c) Beginning on the 181st day after the date the department  
8 posts notice under Subsection (a-1), an owner of a development  
9 subject to a right of first refusal [~~Notwithstanding an agreement~~]  
10 under Section 2306.6725 [~~, a recipient of a low income housing tax~~  
11 ~~credit~~] may sell to any purchaser a development [~~property~~] to which  
12 the right of first refusal [~~tax credit~~] applies [~~to any purchaser~~  
13 ~~after the expiration of the compliance period~~] if a qualified  
14 entity [~~nonprofit organization or tenant organization~~] does not  
15 offer to purchase the development for a price that the department  
16 determines to be reasonable [~~property at the minimum price provided~~  
17 ~~by Section 42(i)(7), Internal Revenue Code of 1986 (26 U.S.C.~~  
18 ~~Section 42(i)(7))~~], and the department declines to purchase the  
19 property].

20                    (c-1) This section applies only to a right of first refusal  
21 memorialized in a land use restriction agreement. This section  
22 does not authorize a modification of any other agreement between an  
23 owner of a development and a qualified entity.

24                    (c-2) The department shall adopt rules and procedures to  
25 give effect to the right of first refusal granted by any land use  
26 restriction agreement.

27                    (d) In this section:

1           (1) [~~7~~] "Compliance [~~compliance~~] period" has the  
2 meaning assigned by Section 42(i)(1), Internal Revenue Code of 1986  
3 (26 U.S.C. Section 42(i)(1)).

4           (2) "Qualified entity" means an entity described by,  
5 or an entity controlled by an entity described by, Section  
6 42(i)(7)(A), Internal Revenue Code of 1986 (26 U.S.C. Section  
7 42(i)(7)(A)).

8           SECTION 6. Sections [2306.6713](#), [2306.6725](#), and [2306.6726](#),  
9 Government Code, as amended by this Act, apply to the transfer or  
10 sale of a development supported with an allocation of low income  
11 housing tax credits issued before, on, or after the effective date  
12 of this Act.

13           SECTION 7. This Act takes effect September 1, 2015.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 3576 was passed by the House on May 8, 2015, by the following vote: Yeas 118, Nays 24, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3576 on May 28, 2015, by the following vote: Yeas 120, Nays 23, 2 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 3576 was passed by the Senate, with amendments, on May 26, 2015, by the following vote: Yeas 26, Nays 5.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor