

By: Alvarado

H.B. No. 3576

A BILL TO BE ENTITLED

AN ACT

1
2 relating to restrictions on the use, transfer, and sale of housing
3 developments that have received certain financial assistance
4 administered by the Texas Department of Housing and Community
5 Affairs.

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

7 SECTION 1. Sections [2306.185](#)(c) and (d), Government Code,
8 are amended to read as follows:

9 (c) Unless a shorter term is permitted under federal law,
10 the [~~The~~] department shall require that a recipient of funding
11 maintains the affordability of the multifamily housing development
12 for households of extremely low, very low, low, and moderate
13 incomes for the greater of a 30-year period from the date the
14 recipient takes legal possession of the housing or the remaining
15 term of the existing federal government assistance. In addition,
16 the agreement between the department and the recipient shall
17 require the renewal of rental subsidies if available and if the
18 subsidies are sufficient to maintain the economic viability of the
19 multifamily development.

20 (d) The development restrictions provided by Subsection
21 (a)(1) [~~(a) and Section [2306.269](#)~~] are enforceable by [~~the~~
22 ~~department, by~~] tenants of the development, and [~~, or by private~~
23 ~~parties against the initial owner or any subsequent owner. The~~
24 ~~department shall require a land use restriction agreement providing~~

1 ~~for enforcement of the restrictions by the department,~~ a tenant
2 seeking enforcement of the restriction may [~~, or a private party~~
3 ~~that includes the right to~~] recover reasonable attorney's fees if
4 the [~~party seeking~~] enforcement action [~~of the restriction~~] is
5 successful.

6 SECTION 2. Section [2306.6713](#), Government Code, is amended
7 by amending Subsection (a) and adding Subsection (g) to read as
8 follows:

9 (a) An applicant may not transfer an allocation of housing
10 tax credits and a development owner may not transfer [~~or~~] ownership
11 of a development supported with an allocation of housing tax
12 credits to any person other than an affiliate unless the applicant
13 obtains the director's prior, written approval of the transfer.

14 (g) The transfer of ownership of a development supported
15 with an allocation of housing tax credits to an affiliate of the
16 development owner under this section does not subject the property
17 to a right of first refusal under Section [2306.6726](#).

18 SECTION 3. Section [2306.6725](#)(b), Government Code, is
19 amended to read as follows:

20 (b) The department shall provide appropriate incentives as
21 determined through the qualified allocation plan to reward
22 applicants who agree to:

23 (1) equip the property that is the basis of the
24 application with energy saving devices that meet the standards
25 established by the state energy conservation office or to provide
26 to a qualified nonprofit organization or tenant organization a
27 right of first refusal to purchase the property in the manner

1 provided by Section 2306.6726 [~~at the minimum price provided in,~~
2 ~~and in accordance with the requirements of, Section 42(i)(7),~~
3 ~~Internal Revenue Code of 1986 (26 U.S.C. Section 42(i)(7))~~]; and

4 (2) locate the development in a census tract in which
5 there are no other existing developments supported by housing tax
6 credits.

7 SECTION 4. Section 2306.6726, Government Code, is amended
8 to read as follows:

9 Sec. 2306.6726. SALE OF CERTAIN LOW INCOME HOUSING TAX
10 CREDIT PROPERTY. (a) An owner of a property subject to [~~Not later~~
11 ~~than two years before the expiration of the compliance period, a~~
12 ~~recipient of a low income housing tax credit who agreed to provide]~~
13 a right of first refusal under Section 2306.6725 [~~and~~] who intends
14 to sell the property at any time after the expiration of the
15 compliance period shall notify the department of the owner's
16 [~~recipient's~~] intent to sell.

17 (a-1) After receiving notice under Subsection (a), the
18 department [~~The recipient~~] shall post on the department's Internet
19 website a notice that the property is available for [~~notify~~
20 ~~qualified nonprofit organizations and tenant organizations of the~~
21 ~~opportunity to~~] purchase by qualified entities at not less than the
22 minimum purchase price for a period of 90 days that begins on the
23 date the notice is posted [~~the property~~].

24 (b) Beginning on the 91st day after the date the department
25 posts notice under Subsection (a-1), an owner of a property subject
26 to a right of first refusal [~~The recipient may:~~

27 [~~(1) during the first six-month period after notifying~~

1 ~~the department, negotiate or enter into a purchase agreement only~~
2 ~~with a qualified nonprofit organization that is also a community~~
3 ~~housing development organization as defined by the federal home~~
4 ~~investment partnership program;~~

5 ~~[(2) during the second six-month period after~~
6 ~~notifying the department, negotiate or enter into a purchase~~
7 ~~agreement with any qualified nonprofit organization or tenant~~
8 ~~organization; and~~

9 ~~[(3) during the year before the expiration of the~~
10 ~~compliance period, negotiate or enter into a purchase agreement~~
11 ~~with the department or any qualified nonprofit organization or~~
12 ~~tenant organization approved by the department.~~

13 ~~[(c) Notwithstanding an agreement]~~ under Section
14 ~~2306.6725 [a recipient of a low income housing tax credit]~~ may sell
15 to any purchaser property to which the right of first refusal ~~[tax~~
16 ~~credit]~~ applies ~~[to any purchaser after the expiration of the~~
17 ~~compliance period]~~ if a qualified entity ~~[nonprofit organization or~~
18 ~~tenant organization]~~ does not offer to purchase the property for a
19 price that is at least equivalent to ~~[at]~~ the minimum purchase price
20 ~~[provided by Section 42(i)(7), Internal Revenue Code of 1986 (26~~
21 ~~U.S.C. Section 42(i)(7))], and the department declines to purchase~~
22 ~~the property].~~

23 (c) ~~[(d)]~~ In this section:

24 (1) ~~[7]~~ "Compliance ~~[compliance]~~ period" has the
25 meaning assigned by Section 42(i)(1), Internal Revenue Code of 1986
26 (26 U.S.C. Section 42(i)(1)).

27 (2) "Minimum purchase price" has the meaning assigned

1 by Section 42(i)(7)(B), Internal Revenue Code of 1986 (26 U.S.C.
2 Section 42(i)(7)(B)).

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

6 SECTION 5. Section 2306.185, Government Code, as amended by
7 this Act, applies only to an enforcement action commenced on or
8 after the effective date of this Act, regardless of when the
9 underlying violation occurred. An action commenced before the
10 effective date of this Act is governed by the law in effect
11 immediately before that date, and that law is continued in effect
12 for that purpose.

13 SECTION 6. Sections 2306.6713, 2306.6725, and 2306.6726,
14 Government Code, as amended by this Act, apply to the transfer or
15 sale of a development supported with an allocation of low income
16 housing tax credits issued before, on, or after the effective date
17 of this Act.

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