

1-1 By: Alvarado (Senate Sponsor - Menéndez) H.B. No. 3576
 1-2 (In the Senate - Received from the House May 11, 2015;
 1-3 May 15, 2015, read first time and referred to Committee on
 1-4 Intergovernmental Relations; May 24, 2015, reported adversely,
 1-5 with favorable Committee Substitute by the following vote: Yeas 6,
 1-6 Nays 0; May 24, 2015, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15			X	

1-16 COMMITTEE SUBSTITUTE FOR H.B. No. 3576 By: Menéndez

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to restrictions on the use, transfer, and sale of housing
 1-20 developments that have received certain financial assistance
 1-21 administered by the Texas Department of Housing and Community
 1-22 Affairs.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 2306.185, Government Code, is amended by
 1-25 adding Subsection (d-1) and amending Subsection (e) to read as
 1-26 follows:

1-27 (d-1) The department shall adopt rules that provide for the
 1-28 amendment of a land use restriction agreement. Rules adopted under
 1-29 this subsection must require reasonable notice to tenants, a public
 1-30 hearing, and board approval for any material amendment to a land use
 1-31 restriction agreement.

1-32 (e) Subsections (c), ~~and~~ (d), and (d-1) and Section
 1-33 2306.269 apply only to multifamily rental housing developments to
 1-34 which the department is providing one or more of the following forms
 1-35 of assistance:

1-36 (1) a loan or grant in an amount greater than 33
 1-37 percent of the market value of the development on the date the
 1-38 recipient completed the construction of the development;

1-39 (2) a loan guarantee for a loan in an amount greater
 1-40 than 33 percent of the market value of the development on the date
 1-41 the recipient took legal title to the development; or

1-42 (3) a low income housing tax credit.

1-43 SECTION 2. Section 2306.6713, Government Code, is amended
 1-44 by adding Subsection (g) to read as follows:

1-45 (g) The transfer of ownership of a development supported
 1-46 with an allocation of housing tax credits under this section does
 1-47 not subject the development to a right of first refusal under
 1-48 Section 2306.6726 if the transfer is made to a newly formed entity:

1-49 (1) that is under common control with the development
 1-50 owner; and

1-51 (2) the primary purpose of the formation of which is to
 1-52 facilitate the financing of the rehabilitation of the development
 1-53 using assistance administered through a state financing program.

1-54 SECTION 3. Section 2306.6720, Government Code, is amended
 1-55 to read as follows:

1-56 Sec. 2306.6720. ENFORCEABILITY OF APPLICANT
 1-57 REPRESENTATIONS. Each material representation made by an applicant
 1-58 to secure a housing tax credit allocation is enforceable by the
 1-59 department and the tenants of the development supported with the
 1-60 allocation. Subject to modification and enforcement as provided by

2-1 this chapter, a land use restriction agreement that is recorded
 2-2 with respect to a development is considered to state the
 2-3 development owner's ongoing obligations with regard to the matters
 2-4 addressed in the agreement.

2-5 SECTION 4. Section 2306.6725(b), Government Code, is
 2-6 amended to read as follows:

2-7 (b) The department shall provide appropriate incentives as
 2-8 determined through the qualified allocation plan to reward
 2-9 applicants who agree to:

2-10 (1) equip the development [property] that is the basis
 2-11 of the application with energy saving devices that meet the
 2-12 standards established by the state energy conservation office or
 2-13 ~~[to]~~ provide to a qualified entity, in a land use restriction
 2-14 agreement in accordance with Section 2306.6726, ~~[nonprofit~~
 2-15 ~~organization or tenant organization]~~ a right of first refusal to
 2-16 purchase the development [property] at the minimum price provided
 2-17 in, and in accordance with the requirements of, Section 42(i)(7),
 2-18 Internal Revenue Code of 1986 (26 U.S.C. Section 42(i)(7)); and

2-19 (2) locate the development in a census tract in which
 2-20 there are no other existing developments supported by housing tax
 2-21 credits.

2-22 SECTION 5. Section 2306.6726, Government Code, is amended
 2-23 to read as follows:

2-24 Sec. 2306.6726. SALE OF CERTAIN LOW INCOME HOUSING TAX
 2-25 CREDIT DEVELOPMENTS ~~[PROPERTY]~~. (a) An owner of a development
 2-26 subject to [Not later than two years before the expiration of the
 2-27 compliance period, a recipient of a low income housing tax credit
 2-28 who agreed to provide] a right of first refusal under Section
 2-29 2306.6725 ~~[and]~~ who intends to sell the development at any time
 2-30 after the expiration of the compliance period [property] shall
 2-31 notify the department and the tenants of the development of the
 2-32 owner's ~~[recipient's]~~ intent to sell and, if applicable, shall
 2-33 specifically identify to the department any qualified entity that
 2-34 is the owner's intended recipient of the right of first refusal in
 2-35 the land use restriction agreement.

2-36 (a-1) As soon as practicable after receiving notice under
 2-37 Subsection (a), the department [The recipient] shall:

2-38 (1) provide to any qualified entity specifically
 2-39 identified under Subsection (a) notice regarding the owner's intent
 2-40 to sell the development; and

2-41 (2) post on the department's Internet website the
 2-42 notice described by Subdivision (1) [notify qualified nonprofit
 2-43 organizations and tenant organizations of the opportunity to
 2-44 purchase the property].

2-45 (b) The owner of a development subject to a right of first
 2-46 refusal under Section 2306.6725 [recipient] may:

2-47 (1) during the first 60-day [six-month] period after
 2-48 notice is provided under Subsection (a-1) [notifying the
 2-49 department], negotiate or enter into a purchase agreement only with
 2-50 a qualified entity [nonprofit organization] that is:

2-51 (A) ~~[also]~~ a community housing development
 2-52 organization as defined by the federal HOME ~~[home]~~ investment
 2-53 partnership program; or

2-54 (B) controlled by an entity described by
 2-55 Paragraph (A);

2-56 (2) during the second 60-day [six-month] period after
 2-57 notice is provided under Subsection (a-1) [notifying the
 2-58 department], negotiate or enter into a purchase agreement with a
 2-59 [any] qualified entity that:

2-60 (A) is described by Section 2306.6706 and has a
 2-61 principal place of business in the uniform state service region in
 2-62 which the development is located; or

2-63 (B) is controlled by an entity described by
 2-64 Paragraph (A) [nonprofit organization or tenant organization]; and

2-65 (3) during the last 60-day period after notice is
 2-66 provided under Subsection (a-1) [year before the expiration of the
 2-67 compliance period], negotiate or enter into a purchase agreement
 2-68 with [the department or] any other qualified entity [nonprofit
 2-69 organization or tenant organization approved by the department].

3-1 (c) Beginning on the 181st day after the date the department
3-2 posts notice under Subsection (a-1), an owner of a development
3-3 subject to a right of first refusal [Notwithstanding an agreement]
3-4 under Section 2306.6725[, a recipient of a low income housing tax
3-5 credit] may sell to any purchaser a development [property] to which
3-6 the right of first refusal [tax credit] applies [to any purchaser
3-7 after the expiration of the compliance period] if:

3-8 (1) a qualified entity [nonprofit organization or
3-9 tenant organization] does not offer to purchase the development for
3-10 a price that the department determines to be reasonable; or

3-11 (2) a qualified entity enters into a purchase
3-12 agreement for the development but does not complete the purchase on
3-13 or before the 270th day after the date the agreement is entered
3-14 into, unless the failure to complete the purchase is due to default
3-15 by the seller or a title problem [property at the minimum price
3-16 provided by Section 42(i)(7), Internal Revenue Code of 1986 (26
3-17 U.S.C. Section 42(i)(7)), and the department declines to purchase
3-18 the property].

3-19 (c-1) This section applies only to a right of first refusal
3-20 memorialized in a land use restriction agreement. This section
3-21 does not authorize a modification of any other agreement between an
3-22 owner of a development and a qualified entity.

3-23 (c-2) The department shall adopt rules and procedures to
3-24 give effect to the right of first refusal granted by any land use
3-25 restriction agreement.

3-26 (d) In this section:

3-27 (1) [→] "Compliance [compliance] period" has the
3-28 meaning assigned by Section 42(i)(1), Internal Revenue Code of 1986
3-29 (26 U.S.C. Section 42(i)(1)).

3-30 (2) "Qualified entity" means an entity described by,
3-31 or an entity controlled by an entity described by, Section
3-32 42(i)(7)(A), Internal Revenue Code of 1986 (26 U.S.C. Section
3-33 42(i)(7)(A)).

3-34 SECTION 6. Sections 2306.6713, 2306.6725, and 2306.6726,
3-35 Government Code, as amended by this Act, apply to the transfer or
3-36 sale of a development supported with an allocation of low income
3-37 housing tax credits issued before, on, or after the effective date
3-38 of this Act.

3-39 SECTION 7. This Act takes effect September 1, 2015.

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