

By: Campbell

S.B. No. 1719

A BILL TO BE ENTITLED

AN ACT

relating to the evaluation of an application for a low income housing tax credit.

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

SECTION 1. Section 2306.6704(b-1), Government Code, is amended to read as follows:

(b-1) The preapplication process must require the applicant to provide the department with evidence that the applicant has notified the following entities with respect to the filing of the application:

(1) any neighborhood organizations on record with the state or county in which the development is to be located and whose boundaries contain the proposed development site;

(2) the superintendent and the presiding officer of the board of trustees of the school district containing the development;

(3) the presiding officer of the governing body of any municipality containing the development and all elected members of that body;

(4) the presiding officer of the governing body of the county containing the development and all elected members of that body; ~~and~~

(5) all elected members of the board of directors of any municipal utility district containing the development; and

1 (6) the state senator and state representative of the
2 district containing the development.

3 SECTION 2. Section 2306.6705, Government Code, is amended
4 to read as follows:

5 Sec. 2306.6705. GENERAL APPLICATION REQUIREMENTS. An
6 application must contain at a minimum the following written,
7 detailed information in a form prescribed by the board:

8 (1) a description of:

9 (A) the financing plan for the development,
10 including any nontraditional financing arrangements;

11 (B) the use of funds with respect to the
12 development;

13 (C) the funding sources for the development,
14 including:

15 (i) construction, permanent, and bridge
16 loans; and

17 (ii) rents, operating subsidies, and
18 replacement reserves; and

19 (D) the commitment status of the funding sources
20 for the development;

21 (2) if syndication costs are included in the eligible
22 basis, a justification of the syndication costs for each cost
23 category by an attorney or accountant specializing in tax matters;

24 (3) from a syndicator or a financial consultant of the
25 applicant, an estimate of the amount of equity dollars expected to
26 be raised for the development in conjunction with the amount of
27 housing tax credits requested for allocation to the applicant,

1 including:

2 (A) pay-in schedules; and

3 (B) syndicator consulting fees and other
4 syndication costs;

5 (4) if rental assistance, an operating subsidy, or an
6 annuity is proposed for the development, any related contract or
7 other agreement securing those funds and an identification of:

8 (A) the source and annual amount of the funds;

9 (B) the number of units receiving the funds; and

10 (C) the term and expiration date of the contract
11 or other agreement;

12 (5) if the development is located within the
13 boundaries of a political subdivision with a zoning ordinance,
14 evidence in the form of a letter from the chief executive officer of
15 the political subdivision or from another local official with
16 jurisdiction over zoning matters that states that:

17 (A) the development is permitted under the
18 provisions of the ordinance that apply to the location of the
19 development; or

20 (B) the applicant is in the process of seeking
21 the appropriate zoning and has signed and provided to the political
22 subdivision a release agreeing to hold the political subdivision
23 and all other parties harmless in the event that the appropriate
24 zoning is denied;

25 (6) if an occupied development is proposed for
26 rehabilitation:

27 (A) an explanation of the process used to notify

1 and consult with the tenants in preparing the application;

2 (B) a relocation plan outlining:

3 (i) relocation requirements; and

4 (ii) a budget with an identified funding
5 source; and

6 (C) if applicable, evidence that the relocation
7 plan has been submitted to the appropriate local agency;

8 (7) a certification of the applicant's compliance with
9 appropriate state and federal laws, as required by other state law
10 or by the board;

11 (8) any other information required by the board in the
12 qualified allocation plan; and

13 (9) evidence that the applicant has notified the
14 following entities with respect to the filing of the application:

15 (A) any neighborhood organizations on record
16 with the state or county in which the development is to be located
17 and whose boundaries contain the proposed development site;

18 (B) the superintendent and the presiding officer
19 of the board of trustees of the school district containing the
20 development;

21 (C) the presiding officer of the governing body
22 of any municipality containing the development and all elected
23 members of that body;

24 (D) the presiding officer of the governing body
25 of the county containing the development and all elected members of
26 that body; ~~and~~

27 (E) all elected members of the board of directors

1 of any municipal utility district containing the development; and

2 (F) the state senator and state representative of
3 the district containing the development.

4 SECTION 3. Section 2306.6710(b), Government Code, is
5 amended to read as follows:

6 (b) If an application satisfies the threshold criteria, the
7 department shall score and rank the application using a point
8 system that:

9 (1) prioritizes in descending order criteria
10 regarding:

11 (A) financial feasibility of the development
12 based on the supporting financial data required in the application
13 that will include a project underwriting pro forma from the
14 permanent or construction lender;

15 (B) quantifiable community participation with
16 respect to the development, evaluated on the basis of a resolution
17 concerning the development that is voted on and adopted by the
18 following, as applicable:

19 (i) the governing body of a municipality in
20 which the proposed development site is to be located;

21 (ii) subject to Subparagraph (iii), the
22 commissioners court of a county in which the proposed development
23 site is to be located, if the proposed site is to be located in an
24 area of a county that is not part of a municipality; ~~or~~

25 (iii) the commissioners court of a county
26 in which the proposed development site is to be located and the
27 governing body of the applicable municipality, if the proposed site

1 is to be located in the extraterritorial jurisdiction of a
2 municipality; or

3 (iv) the board of directors of a municipal
4 utility district in which the proposed development site is to be
5 located;

6 (C) the income levels of tenants of the
7 development;

8 (D) the size and quality of the units;

9 (E) the commitment of development funding by
10 local political subdivisions;

11 (F) the rent levels of the units;

12 (G) the cost of the development by square foot;

13 (H) the services to be provided to tenants of the
14 development;

15 (I) whether, at the time the complete application
16 is submitted or at any time within the two-year period preceding the
17 date of submission, the proposed development site is located in an
18 area declared to be a disaster under Section [418.014](#);

19 (J) quantifiable community participation with
20 respect to the development, evaluated on the basis of written
21 statements from any neighborhood organizations on record with the
22 state or county in which the development is to be located and whose
23 boundaries contain the proposed development site; and

24 (K) the level of community support for the
25 application, evaluated on the basis of a written statement from:

26 (i) the state representative who represents
27 the district containing the proposed development site;

1 (ii) a member of the commissioners court of
2 any county containing the proposed development site;

3 (iii) a member of the governing body of any
4 municipality containing the proposed development site; or

5 (iv) an elected member of the board of
6 directors of a municipal utility district containing the proposed
7 development site;

8 (2) uses criteria imposing penalties on applicants or
9 affiliates who have requested extensions of department deadlines
10 relating to developments supported by housing tax credit
11 allocations made in the application round preceding the current
12 round or a developer or principal of the applicant that has been
13 removed by the lender, equity provider, or limited partners for its
14 failure to perform its obligations under the loan documents or
15 limited partnership agreement; and

16 (3) encourages applicants to provide free notary
17 public service to the residents of the developments for which the
18 allocation of housing tax credits is requested.

19 SECTION 4. The change in law made by this Act applies only
20 to an application for low income housing tax credits that is
21 submitted to the Texas Department of Housing and Community Affairs
22 during an application cycle that begins on or after the effective
23 date of this Act. An application that is submitted during an
24 application cycle that began before the effective date of this Act
25 is governed by the law in effect at the time the application cycle
26 began, and the former law is continued in effect for that purpose.

27 SECTION 5. This Act takes effect September 1, 2015.