

House Bill 3311
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

No equivalent provision.

SENATE VERSION (IE)

CONFERENCE

SECTION __. Sections 2306.6710(b) and (f), Government Code, are amended to read as follows:

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

(1) prioritizes in descending order criteria regarding:

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

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

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

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

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

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

(D) the size and quality of the units;

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

~~(F)~~ the rent levels of the units;

~~(F)~~ ~~(G)~~ the cost of the development by square foot;

~~(G)~~ ~~(H)~~ the services to be provided to tenants of the development;

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

(I) [~~(I)~~] quantifiable community participation with respect to the development, evaluated on the basis of written statements from 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; and

(J) [~~(K)~~] the level of community support for the application, evaluated on the basis of a written statement from the state representative who represents the district containing the proposed development site;

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

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

(f) In evaluating the level of community support for an application under Subsection (b)(1)(J) [~~(b)(1)(K)~~], the department shall award:

(1) positive points for positive written statements received;

(2) negative points for negative written statements received;

and

(3) zero points for neutral statements received. [FA1(5)]

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SECTION 1. Section 2306.6711, Government Code, is amended by adding Subsections (h) and (i) to read as follows:

(h) Notwithstanding Section 2306.6710(d), and except as necessary to comply with the nonprofit set-aside required by Section 42(h)(5), Internal Revenue Code of 1986 (26 U.S.C. Section 42(h)(5)), the board may not allocate to developments reserved for elderly persons and located in an urban subregion of a uniform state service region a percentage of the available housing tax credits allocated to developments located in that subregion that is greater than the percentage that results from the following formula, unless there are no other qualified applicants in that region:

$MP = [(LEH - ERU)/(TLH - TEU)] \times 100$

where:

"MP" is the maximum percentage of the available housing tax credits allocated to developments in the subregion that may be allocated to developments reserved for elderly persons;

"LEH" is the number of low income elderly households in the subregion;

"ERU" is the number of existing units reserved for elderly persons in developments located in the subregion that already receive housing tax credits;

"TLH" is the total number of low income households in the subregion; and

"TEU" is the total number of existing units in developments located in the subregion that already receive housing tax credits.

(i) Subsection (h) applies only to a uniform state service region that contains a county with a population of more than one million.

SECTION 1. Same as House version.

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SECTION 2. Section 2306.6725(d), Government Code, is amended to read as follows:

(d) For each scoring criterion, the department shall use a range of points to evaluate the degree to which a proposed project satisfies the criterion. The department may not award:

SECTION 2. Section 2306.6725, Government Code, is amended by amending Subsections (a) and (d) and adding Subsections (e) and (f) to read as follows: [FA1(1)]

(a) In allocating low income housing tax credits, the department shall score each application using a point system based on criteria adopted by the department that are consistent with the department's housing goals, including criteria addressing the ability of the proposed project to:

- (1) provide quality social support services to residents;
- (2) demonstrate community and neighborhood support as defined by the qualified allocation plan;
- (3) consistent with sound underwriting practices and when economically feasible, serve individuals and families of extremely low income by leveraging private and state and federal resources, including federal HOPE VI grants received through the United States Department of Housing and Urban Development;
- (4) serve traditionally underserved areas;
- (5) demonstrate support from local political subdivisions based on the subdivisions' commitment of development funding;
- (6) remain affordable to qualified tenants for an extended, economically feasible period; and
- (7) [~~6~~] comply with the accessibility standards that are required under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), and specified under 24 C.F.R. Part 8, Subpart C. [FA1(2)]

(d) For each scoring criterion, the department shall use a range of points to evaluate the degree to which a proposed project satisfies the criterion. The department may not award:

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(1) a number of points for a scoring criterion that is disproportionate to the degree to which a proposed project complies with that criterion; or

(2) to a proposed project for the general population a number of points for a scoring criterion that is different than the number of points awarded for that criterion to a proposed project reserved for elderly persons if the proposed projects comply with the criterion to the same degree.

SECTION 3. (a) The change in law made by this Act to Section 2306.6711, Government Code, applies only to the allocation of low income housing tax credits for an application cycle that begins on or after the effective date of this Act. The allocation of low income housing tax credits for an application cycle that begins before the effective date of this Act is governed by the law in effect on the date the application cycle began, and the former law is continued in effect for that purpose.

(b) The change in law made by this Act to Section 2306.6725(d), Government Code, applies only to an application for low income housing tax credits that is

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(1) a number of points for a scoring criterion that is disproportionate to the degree to which a proposed project complies with that criterion; or

(2) to a proposed project for the general population a number of points for a scoring criterion that is different than the number of points awarded for that criterion to a proposed project reserved for elderly persons if the proposed projects comply with the criterion to the same degree.

(e) In establishing for the 2016 and 2017 qualified allocation plans the scoring criterion related to the commitment of development funding by local political subdivisions, the department shall significantly reduce for each place regardless of population the amount in funding, per low income unit, that is required for a proposed project to receive the applicable number of points for that criterion. After the reduction, the amount of required funding may be a de minimis amount.

(f) Subsection (e) and this subsection expire September 1, 2019. [FA1(3)]

SECTION 3. (a) The change in law made by this Act to Section 2306.6711, Government Code, applies only to the allocation of low income housing tax credits for an application cycle that begins on or after the effective date of this Act. The allocation of low income housing tax credits for an application cycle that begins before the effective date of this Act is governed by the law in effect on the date the application cycle began, and the former law is continued in effect for that purpose.

(b) The change in law made by this Act to Sections 2306.6710 and 2306.6725, Government Code, applies only to an application for low income housing tax credits that is

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submitted to the Texas Department of Housing and Community Affairs during an application cycle that begins on or after the effective date of this Act. An application that is submitted during an application cycle that began before the effective date of this Act is governed by the law in effect at the time the application cycle began, and the former law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 2015.

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submitted to the Texas Department of Housing and Community Affairs during an application cycle that begins on or after the effective date of this Act. An application that is submitted during an application cycle that began before the effective date of this Act is governed by the law in effect at the time the application cycle began, and the former law is continued in effect for that purpose. [FA1(4)]

SECTION 4. Same as House version.

CONFERENCE