

By: Dutton

H.B. No. 2109

A BILL TO BE ENTITLED

AN ACT

relating to the evaluation of applications for 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 2306.1114(a), Government Code, is amended to read as follows:

(a) Not later than the 14th day after the date an application or a proposed application for housing funds described by Section 2306.111 has been filed, the department shall provide written notice of the filing of the application or proposed application to the following persons:

(1) the United States representative who represents the community containing the development described in the application;

(2) members of the legislature who represent the community containing the development described in the application;

(3) the presiding officer of the governing body of the political subdivision containing the development described in the application;

(4) any member of the governing body of a political subdivision who represents the area containing the development described in the application;

(5) the superintendent and the presiding officer of

the board of trustees of the school district containing the development described in the application; and

(6) any neighborhood organization that is ~~[organizations]~~ on record with the state or county in which the development described in the application is to be located and that has ~~[whose]~~ boundaries containing ~~[contain]~~ the proposed development site or has a boundary located not more than 10 miles from the proposed site.

SECTION 2. 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 organization that is ~~[organizations]~~ on record with the state or county in which the development is to be located and that has ~~[whose]~~ boundaries containing ~~[contain]~~ the proposed development site or has a boundary located not more than 10 miles from the proposed 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

1 body; and

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

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

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

9 (1) a description of:

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

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

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

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

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

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

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

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

1 housing tax credits requested for allocation to the applicant,
2 including:

3 (A) pay-in schedules; and

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

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

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

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

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

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

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

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

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

1 (A) an explanation of the process used to notify
2 and consult with the tenants in preparing the application;

3 (B) a relocation plan outlining:
4 (i) relocation requirements; and
5 (ii) a budget with an identified funding
6 source; and

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

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

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

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

16 (A) any neighborhood organization that is
17 ~~[organizations]~~ on record with the state or county in which the
18 development is to be located and that has ~~[whose]~~ boundaries
19 containing ~~[contain]~~ the proposed development site or has a
20 boundary located not more than 10 miles from the proposed site;

21 (B) the superintendent and the presiding officer
22 of the board of trustees of the school district containing the
23 development;

24 (C) the presiding officer of the governing body
25 of any municipality containing the development and all elected
26 members of that body;

27 (D) the presiding officer of the governing body

of the county containing the development and all elected members of that body; and

(E) the state senator and state representative of the district containing the development.

SECTION 4. Section 2306.6710(b), Government Code, is 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 rent levels of the units;

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

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

(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) quantifiable community participation with respect to the development, evaluated on the basis of written statements from any neighborhood organization that is ~~[organizations]~~ on record with the state or county in which the development is to be located and that has ~~[whose]~~ boundaries containing ~~[contain]~~ the proposed development site or has a boundary located not more than 10 miles from the proposed site; and

(J) 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

1 relating to developments supported by housing tax credit
2 allocations made in the application round preceding the current
3 round or a developer or principal of the applicant that has been
4 removed by the lender, equity provider, or limited partners for its
5 failure to perform its obligations under the loan documents or
6 limited partnership agreement; and

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

10 SECTION 5. The change in law made by this Act applies only
11 to an application for low income housing tax credits that is
12 submitted to the Texas Department of Housing and Community Affairs
13 during an application cycle that is based on the 2018 qualified
14 allocation plan or a subsequent plan adopted by the governing board
15 of the department under Section [2306.67022](#), Government Code. An
16 application that is submitted during an application cycle that is
17 based on an earlier qualified allocation plan is governed by the law
18 in effect on the date the application cycle began, and the former
19 law is continued in effect for that purpose.

20 SECTION 6. This Act takes effect September 1, 2017.