

By: Swanson

H.B. No. 96

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 2306.6705, Government Code, is amended to read as follows:

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

(1) a description of:

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

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

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

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

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

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

(2) if syndication costs are included in the eligible basis, a justification of the syndication costs for each cost

1 category by an attorney or accountant specializing in tax matters;

2 (3) from a syndicator or a financial consultant of the
3 applicant, an estimate of the amount of equity dollars expected to
4 be raised for the development in conjunction with the amount of
5 housing tax credits requested for allocation to the applicant,
6 including:

7 (A) pay-in schedules; and

8 (B) syndicator consulting fees and other
9 syndication costs;

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

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

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

15 (C) the term and expiration date of the contract
16 or other agreement;

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

22 (A) the development is permitted under the
23 provisions of the ordinance that apply to the location of the
24 development; or

25 (B) the applicant is in the process of seeking
26 the appropriate zoning and has signed and provided to the political
27 subdivision a release agreeing to hold the political subdivision

1 and all other parties harmless in the event that the appropriate
2 zoning is denied;

3 (6) if an occupied development is proposed for
4 rehabilitation:

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

7 (B) a relocation plan outlining:

8 (i) relocation requirements; and

9 (ii) a budget with an identified funding
10 source; and

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

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

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

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

20 (A) any neighborhood organization that is
21 ~~[organizations]~~ on record with the state or county in which the
22 development is to be located and that has ~~[whose]~~ boundaries
23 containing ~~[contain]~~ the proposed development site or has a
24 boundary located not more than one mile from the proposed site;

25 (B) the superintendent and the presiding officer
26 of the board of trustees of the school district containing the
27 development;

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

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

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

9 (b) Notice provided under Subsection (a)(9) must:

10 (1) be given at least 90 days before the date the
11 application is submitted to the department;

12 (2) name the development and conspicuously identify
13 the development as "low-income government-subsidized housing"; and

14 (3) contain a description of the development and an
15 independent study of the development's anticipated effects on local
16 schools, area crime rates, infrastructure, governmental
17 expenditures, population density, area property values, and the
18 revenue of local, state, and federal governmental entities.

19 (c) In addition to the requirements under Subsection (a) and
20 other provisions of this subchapter, an application must be
21 accompanied by any written statements submitted to the developer
22 under Section 2306.6710(b)(1)(I), (J), or (K).

23 SECTION 2. Section 2306.6708, Government Code, is amended
24 by amending Subsection (a) and adding Subsection (c) to read as
25 follows:

26 (a) Except as provided by Subsections [~~Subsection~~] (b) and
27 (c), an applicant may not change or supplement an application in any

1 manner after the filing deadline.

2 (c) Not later than June 15, an applicant may supplement an
3 application with a written statement provided under Section
4 2306.6710(b)(1)(J).

5 SECTION 3. Section 2306.6710, Government Code, is amended
6 by amending Subsections (b) and (f) and adding Subsections (g),
7 (h), and (i) to read as follows:

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

11 (1) prioritizes in descending order criteria
12 regarding:

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

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

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

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

27 (iii) the commissioners court of a county

1 in which the proposed development site is to be located and the
2 governing body of the applicable municipality, if the proposed site
3 is to be located in the extraterritorial jurisdiction of a
4 municipality;

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

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

8 (E) the rent levels of the units;

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

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

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

16 (I) quantifiable community participation with
17 respect to the development, evaluated on the basis of written
18 statements from any neighborhood organization that is
19 [organizations] on record with the state or county in which the
20 development is to be located and that has [whose] boundaries
21 containing [contain] the proposed development site; [and]

22 (J) the level of community support for the
23 application, evaluated on the basis of a written statement from the
24 state representative who represents the district containing the
25 proposed development site; and

26 (K) quantifiable community participation with
27 respect to the development, evaluated on the basis of written

1 statements from any neighborhood organization that is on record
2 with the state or county in which the development is to be located
3 and that has a boundary located not more than one mile from the
4 proposed site, other than an organization described by Paragraph
5 (I);

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

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

17 (f) In evaluating quantifiable community participation or
18 the level of community support [~~for an application~~] under
19 Subsection (b)(1)(I) or (J) [~~(b)(1)(J)~~], as applicable, the
20 department shall award:

21 (1) positive points for positive written statements
22 received;

23 (2) negative points for negative written statements
24 received; and

25 (3) zero points for neutral written statements
26 received.

27 (g) In evaluating quantifiable community participation

1 under Subsection (b)(1)(K), the department shall award:

2 (1) zero points for positive or neutral written
3 statements received; and

4 (2) negative points for negative written statements
5 received.

6 (h) The maximum number of negative points that may be
7 awarded under Subsection (g) based on quantifiable community
8 participation described by Subsection (b)(1)(K) shall be
9 three-eighths of the maximum number of negative points that may be
10 awarded under Subsection (f) based on the level of community
11 support described by Subsection (b)(1)(J).

12 (i) The department shall notify a person or organization who
13 submits a written statement under Subsection (b)(1)(I), (J), or (K)
14 that the department has received the statement and shall provide a
15 copy of that statement to the applicant.

16 SECTION 4. The change in law made by this Act applies only
17 to an application for low income housing tax credits that is
18 submitted to the Texas Department of Housing and Community Affairs
19 during an application cycle that is based on the 2020 qualified
20 allocation plan or a subsequent plan adopted by the governing board
21 of the department under Section 2306.67022, Government Code. An
22 application that is submitted during an application cycle that is
23 based on an earlier qualified allocation plan is governed by the law
24 in effect on the date the application cycle began, and the former
25 law is continued in effect for that purpose.

26 SECTION 5. This Act takes effect September 1, 2019.