

By: Watson

S.B. No. 545

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the evaluation of applications for certain financial
3 assistance administered by the Texas Department of Housing and
4 Community Affairs.

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

6 SECTION 1. Section 2306.1114(a), Government Code, is
7 amended to read as follows:

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

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

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

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

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

24 (5) the superintendent and the presiding officer of

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

3 (6) any neighborhood organization [~~organizations~~] on
4 record and in good standing with the secretary of state or, if
5 applicable and verifiable, the county in which the development
6 described in the application is to be located and whose boundaries
7 contain the proposed development site.

8 SECTION 2. Section 2306.6704(b-1), Government Code, is
9 amended to read as follows:

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

14 (1) any neighborhood organization [~~organizations~~] on
15 record and in good standing with the secretary of state or, if
16 applicable and verifiable, the county in which the development is
17 to be located and whose boundaries contain the proposed development
18 site;

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

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

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

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

3 SECTION 3. 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 organization
16 [~~organizations~~] on record and in good standing with the secretary
17 of state or, if applicable and verifiable, the county in which the
18 development is to be located and whose boundaries contain the
19 proposed development site;

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

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

26 (D) the presiding officer of the governing body
27 of the county containing the development and all elected members of

1 that body; and

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

4 SECTION 4. 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;

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

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

6 (E) the rent levels of the units;

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

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

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

14 (I) quantifiable community participation with
15 respect to the development, evaluated on the basis of written
16 statements from any neighborhood organization [~~organizations~~] on
17 record and in good standing with the secretary of state or, if
18 applicable and verifiable, the county in which the development is
19 to be located and whose boundaries contain the proposed development
20 site; and

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

25 (2) uses criteria imposing penalties on applicants or
26 affiliates who have requested extensions of department deadlines
27 relating to developments supported by housing tax credit

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

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

9 SECTION 5. The change in law made by this Act applies only
10 to an application for low income housing tax credits that is
11 submitted to the Texas Department of Housing and Community Affairs
12 during an application cycle that is based on the 2020 qualified
13 allocation plan or a subsequent plan adopted by the governing board
14 of the department under Section [2306.67022](#), Government Code. An
15 application that is submitted during an application cycle that is
16 based on an earlier qualified allocation plan is governed by the law
17 in effect on the date the application cycle began, and the former
18 law is continued in effect for that purpose.

19 SECTION 6. This Act takes effect September 1, 2019.