

By: Cortez

H.B. No. 2027

Substitute the following for H.B. No. 2027:

By: J. Johnson of Harris

C.S.H.B. No. 2027

A BILL TO BE ENTITLED

AN ACT

relating to the allocation of low income housing tax credits.

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

SECTION 1. The heading to Section 2306.67071, Government Code, is amended to read as follows:

Sec. 2306.67071. ADDITIONAL APPLICATION REQUIREMENT: NOTICE [~~, HEARING,~~] AND CERTIFICATION [~~RESOLUTION~~] BY CERTAIN GOVERNING BODIES.

SECTION 2. Section 2306.67071, Government Code, is amended by amending Subsections (c) and (d) and adding Subsection (c-1) to read as follows:

(c) Except as provided by Subsection (c-1), the [~~The~~] board may not approve an application for housing tax credits for developments financed through the private activity bond program unless each applicable governing body described by Subsection (a) [~~the applicant~~] has submitted to the department a certification stating [~~certified copy of a resolution from each applicable governing body described by Subsection (a). The resolution must certify~~] that:

(1) notice has been provided to the [~~each~~] governing body as required by Subsection (a); and

(2) the [~~each~~] governing body has had sufficient opportunity to obtain a response from the applicant regarding any questions or concerns about the proposed development[~~+~~

1           ~~[(3) each governing body has held a hearing under~~  
2 ~~Subsection (b); and~~

3           ~~[(4) after due consideration of the information~~  
4 ~~provided by the applicant and public comment, the governing body~~  
5 ~~does not object to the proposed application].~~

6           (c-1) The board may approve an application for housing tax  
7 credits without receiving each certification required by  
8 Subsection (c) if after the 60th day following the date on which all  
9 applicable governing bodies have received notice under Subsection  
10 (a) the applicant submits to the department a certification stating  
11 that the applicant has substantially complied with the requirements  
12 of Subsection (c)(2).

13           (d) The department by rule may provide for additional  
14 requirements relating to the time and manner of the submission to  
15 the department of a certification ~~[resolution]~~ required by  
16 Subsection (c) or (c-1).

17           SECTION 3. Section [2306.6710](#)(b), Government Code, is  
18 amended to read as follows:

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

22           (1) considers ~~[prioritizes in descending order]~~  
23 criteria regarding:

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

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

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

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

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

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

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

19 (E) the rent levels of the units;

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

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

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

27 (I) quantifiable community participation with

1 respect to the development, evaluated on the basis of written  
2 statements from any neighborhood organizations on record with the  
3 state or county in which the development is to be located and whose  
4 boundaries contain the proposed development site; and

5 (J) the level of community support for the  
6 application, evaluated on the basis of a written statement from the  
7 state representative who represents the district containing the  
8 proposed development site;

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

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

20 SECTION 4. Section [2306.6725\(b\)](#), Government Code, is  
21 amended to read as follows:

22 (b) The department shall provide appropriate incentives as  
23 determined through the qualified allocation plan to reward  
24 applicants who agree to:

25 (1) equip the development that is the basis of the  
26 application with energy saving devices that meet the standards  
27 established by the state energy conservation office; or

1           (2) provide to a qualified entity, in a land use  
2 restriction agreement in accordance with Section 2306.6726, a right  
3 of first refusal to purchase the development at the minimum price  
4 provided in, and in accordance with the requirements of, Section  
5 42(i)(7), Internal Revenue Code of 1986 (26 U.S.C. Section  
6 42(i)(7)) [~~and~~  
7           ~~[(2) locate the development in a census tract in which~~  
8 ~~there are no other existing developments supported by housing tax~~  
9 ~~credits]~~.

10           SECTION 5. Section 2306.67071(b), Government Code, is  
11 repealed.

12           SECTION 6. The change in law made by this Act applies only  
13 to an application for low income housing tax credits that is  
14 submitted to the Texas Department of Housing and Community Affairs  
15 during an application cycle that is based on the 2022 qualified  
16 allocation plan or a subsequent plan adopted by the governing board  
17 of the department. An application that is submitted during an  
18 application cycle that is based on an earlier qualified allocation  
19 plan is governed by the law in effect on the date the application  
20 cycle began, and the former law is continued in effect for that  
21 purpose.

22           SECTION 7. This Act takes effect September 1, 2021.