

By: Lucio

S.B. No. 1565

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. Sections 2306.67071(c) and (d), Government Code, are amended to read as follows:

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

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

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

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

~~(4) after due consideration of the information~~

1 ~~provided by the applicant and public comment, the governing body~~
2 ~~does not object to the proposed application].~~

3 (d) The department by rule may provide for the time and
4 manner of the submission to the department of a certification
5 ~~[resolution]~~ required by Subsection (c).

6 SECTION 3. Section 2306.6710(b), Government Code, is
7 amended 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) considers ~~[prioritizes in descending order]~~
12 criteria 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 organizations on record with the
19 state or county in which the development is to be located and whose
20 boundaries contain the proposed development 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 4. Section 2306.6725(b), Government Code, is
10 amended to read as follows:

11 (b) The department shall provide appropriate incentives as
12 determined through the qualified allocation plan to reward
13 applicants who agree to:

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

17 (2) provide to a qualified entity, in a land use
18 restriction agreement in accordance with Section 2306.6726, a right
19 of first refusal to purchase the development at the minimum price
20 provided in, and in accordance with the requirements of, Section
21 42(i)(7), Internal Revenue Code of 1986 (26 U.S.C. Section
22 42(i)(7)) [~~and~~

23 [~~(2) locate the development in a census tract in which~~
24 ~~there are no other existing developments supported by housing tax~~
25 ~~credits]~~.

26 SECTION 5. Section 2306.67071(b), Government Code, is
27 repealed.

1 SECTION 6. The change in law made by this Act applies only
2 to an application for low income housing tax credits that is
3 submitted to the Texas Department of Housing and Community Affairs
4 during an application cycle that is based on the 2022 qualified
5 allocation plan or a subsequent plan adopted by the governing board
6 of the department. An application that is submitted during an
7 application cycle that is based on an earlier qualified allocation
8 plan is governed by the law in effect on the date the application
9 cycle began, and the former law is continued in effect for that
10 purpose.

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