88R1049 JAM-D

By:  González of Dallas H.B. No. 738

A BILL TO BE ENTITLED

AN ACT

relating to a right of first refusal applicable to the sale of housing developments that have received 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 2306.6710, Government Code, is amended by adding Subsection (h) to read as follows:

(h)  In scoring applications for purposes of housing tax credit allocations, the department shall award preference points to a development that agrees to provide to a qualified entity, in a land use restriction agreement in accordance with Section 2306.6726, a right of first refusal to purchase the development at the minimum price provided in, and in accordance with the requirements of, Section 42(i)(7), Internal Revenue Code of 1986.

SECTION 2.  Section 2306.6725(b), Government Code, is amended to read as follows:

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

(1)  equip the development that is the basis of the application with energy saving devices that meet the standards established by the state energy conservation office [~~or provide to a qualified entity, in a land use restriction agreement in accordance with Section 2306.6726, a right of first refusal to purchase the development at the minimum price provided in, and in accordance with the requirements of, Section 42(i)(7), Internal Revenue Code of 1986 (26 U.S.C. Section 42(i)(7))~~]; and

(2)  locate the development in a census tract in which there are no other existing developments supported by housing tax credits.

SECTION 3.  Section 2306.6726, Government Code, is amended by amending Subsections (a), (b), and (c) and adding Subsection (c-3) to read as follows:

(a)  An owner of a development subject to a right of first refusal described by [~~under~~] Section 2306.6710(h) [~~2306.6725~~] who intends to sell the development at any time after the expiration of the compliance period shall notify the department and the tenants of the development of the owner's intent to sell and, if applicable, shall specifically identify to the department any qualified entity that is the owner's intended recipient of the right of first refusal in the land use restriction agreement.

(b)  The owner of a development subject to a right of first refusal described by [~~under~~] Section 2306.6710(h) [~~2306.6725~~] may:

(1)  during the first 120-day [~~60-day~~] period after notice is provided under Subsection (a-1), negotiate or enter into a purchase agreement only with a qualified entity that is:

(A)  a community housing development organization as defined by the federal HOME investment partnership program;

(B)  if the authority or the corporation owns the fee title to the development owner's leasehold estate:

(i)  a public housing authority; or

(ii)  a public facility corporation created by a public housing authority under Chapter 303, Local Government Code; or

(C)  controlled by an entity described by Paragraph (A) or (B);

(2)  during the second 120-day [~~60-day~~] period after notice is provided under Subsection (a-1), negotiate or enter into a purchase agreement with a qualified entity that:

(A)  is described by Section 2306.6706;

(B)  is controlled by an entity described by Paragraph (A); or

(C)  is a tenant organization; and

(3)  during the last 120-day [~~60-day~~] period after notice is provided under Subsection (a-1), negotiate or enter into a purchase agreement with any other qualified entity.

(c)  Beginning on the 361st [~~181st~~] day after the date the department posts notice under Subsection (a-1), an owner of a development subject to a right of first refusal described by [~~under~~] Section 2306.6710(h) [~~2306.6725~~] may sell to any purchaser a development to which the right of first refusal applies only if a qualified entity does not offer to purchase the development for the minimum price provided in, and in accordance with the requirements of, Section 42(i)(7), Internal Revenue Code of 1986 [~~a price that the department determines to be reasonable~~].

(c-3)  A development subject to a right of first refusal described by Section 2306.6710(h) may only be offered for sale at the minimum price provided in, and in accordance with the requirements of, Section 42(i)(7), Internal Revenue Code of 1986.

SECTION 4.  The change in law made by this Act applies only to an application for low income housing tax credits that is submitted to the Texas Department of Housing and Community Affairs during an application cycle that is based on the 2024 qualified allocation plan or a subsequent plan adopted by the governing board of the department. An application that is submitted during an application cycle that is based on an earlier qualified allocation plan is governed by the law in effect on the date the application cycle began, and the former law is continued in effect for that purpose.

SECTION 5.  This Act takes effect September 1, 2023.