H.B. No. 1766

AN ACT

relating to the issuance of private activity bonds for qualified residential rental projects.

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

SECTION 1.  Section 1202.003, Government Code, is amended by adding Subsection (b-1) to read as follows:

(b-1)  Notwithstanding Subsection (b), if Section 1372.037(b) applies with respect to the issuance of qualified residential rental project bonds in a program year, the attorney general must certify the issuer's compliance with that subsection before approving the issuance of those bonds. A certification made under this subsection may be based solely on a written verification provided by the issuer on request of the attorney general.

SECTION 2.  Section 1372.0231(f), Government Code, is amended to read as follows:

(f)  In each area described by Subsection (d) [~~or (e)~~], the board shall grant reservations based on the priority levels of proposed projects as described by Section 1372.0321.

SECTION 3.  Section 1372.0321, Government Code, is amended to read as follows:

Sec. 1372.0321.  PRIORITIES FOR RESERVATIONS AMONG ISSUERS OF QUALIFIED RESIDENTIAL RENTAL PROJECT ISSUES. (a) In granting reservations to issuers of qualified residential rental project issues, the board shall give first priority to projects that:

(1)  during the four-year period preceding the date of the application, have:

(A)  filed an application for a low-income housing tax credit with the Texas Department of Housing and Community Affairs; and

(B)  closed on a previous reservation of bonds in accordance with Section 1372.042, as determined based on the date of allocation of those bonds;

(2)  require a subsequent issuance of bonds to maintain compliance with the percentage requirement described by Subsection (e); and

(3)  have not previously applied for a subsequent issuance of bonds under this subsection.

(b)  In granting reservations to issuers of qualified residential rental project issues, the board shall give second priority to:

(1)  projects in which:

(A)  50 percent of the residential units in the project are:

(i)  under the restriction that the maximum allowable rents are an amount equal to 30 percent of 50 percent of the area median family income minus an allowance for utility costs authorized under the federal low-income housing tax credit program; and

(ii)  reserved for families and individuals earning not more than 50 percent of the area median income; and

(B)  the remaining 50 percent of the residential units in the project are:

(i)  under the restriction that the maximum allowable rents are an amount equal to 30 percent of 60 percent of the area median family income minus an allowance for utility costs authorized under the federal low-income housing tax credit program; and

(ii)  reserved for families and individuals earning not more than 60 percent of the area median income;

(2)  projects in which:

(A)  15 percent of the residential units in the project are:

(i)  under the restriction that the maximum allowable rents are an amount equal to 30 percent of 30 percent of the area median family income minus an allowance for utility costs authorized under the federal low-income housing tax credit program; and

(ii)  reserved for families and individuals earning not more than 30 percent of the area median income; and

(B)  the remaining 85 percent of the residential units in the project are:

(i)  under the restriction that the maximum allowable rents are an amount equal to 30 percent of 60 percent of the area median family income minus an allowance for utility costs authorized under the federal low-income housing tax credit program; and

(ii)  reserved for families and individuals earning not more than 60 percent of the area median income;

(3)  projects:

(A)  in which 100 percent of the residential units in the project are:

(i)  under the restriction that the maximum allowable rents are an amount equal to 30 percent of 60 percent of the area median family income minus an allowance for utility costs authorized under the federal low-income housing tax credit program; and

(ii)  reserved for families and individuals earning not more than 60 percent of the area median income; and

(B)  which are located in a census tract in which the median income, based on the most recent information published by the United States Bureau of the Census, is higher than the median income for the county, metropolitan statistical area, or primary metropolitan statistical area in which the census tract is located as established by the United States Department of Housing and Urban Development; or

(4)  on or after June 1, projects that are located in counties, metropolitan statistical areas, or primary metropolitan statistical areas with area median family incomes at or below the statewide median family income established by the United States Department of Housing and Urban Development.

(c) [~~(a-1)~~]  In granting reservations to issuers of qualified residential rental project issues, the board shall give third [~~second~~] priority to projects in which 80 percent or more of the residential units in the project are:

(1)  under the restriction that the maximum allowable rents are an amount equal to 30 percent of 60 percent of the area median family income minus an allowance for utility costs authorized under the federal low-income housing tax credit program; and

(2)  reserved for families and individuals earning not more than 60 percent of the area median income.

(d) [~~(a-2)~~]  In granting reservations to issuers of qualified residential rental project issues, the board shall give fourth [~~third~~] priority to any other qualified residential rental project.

(e) [~~(b)~~]  The board may not reserve a portion of the state ceiling for a first, [~~or~~] second, or third priority project described by this section unless the board receives evidence that an application has been filed with the Texas Department of Housing and Community Affairs for the low-income housing tax credit that is available for multifamily transactions that are at least 51 percent financed by tax-exempt private activity bonds.

SECTION 4.  Section 1372.037, Government Code, is amended by adding Subsection (b) to read as follows:

(b)  This subsection applies only to projects that are granted a reservation of a portion of the available state ceiling for a program year under Subsection (a)(5). If for a program year the total amount of qualified residential rental project bonds for which reservations are sought exceeds, as of October 20 of the preceding year, 55.75 percent of the state ceiling, the amount of bonds issued to each project may not exceed 55 percent of the reasonably expected aggregate basis of the project and the land on which the project is or will be located.

SECTION 5.  Section 1372.042(d), Government Code, is amended to read as follows:

(d)  Not later than the fifth business day after the date on which the bonds are closed, the issuer shall submit to the board:

(1)  a written notice stating the delivery date of the bonds and the principal amount of the bonds issued;

(2)  if the project is a project entitled to first, [~~or~~] second, or third priority under Section 1372.0321, evidence from the Texas Department of Housing and Community Affairs that an award of low-income housing tax credits has been approved for the project; and

(3)  a certified copy of the document authorizing the bonds and any other document relating to the issuance of the bonds, including a statement of the bonds':

(A)  principal amount;

(B)  interest rate or formula by which the interest rate is computed;

(C)  maturity schedule; and

(D)  purchaser or purchasers.

SECTION 6.  The change in law made by this Act in adding Section 1202.003(b-1), Government Code, and in amending Chapter 1372, Government Code, applies to the allocation of the available state ceiling under Chapter 1372 beginning with the 2024 program year.

SECTION 7.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2023.

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    President of the Senate Speaker of the House

I certify that H.B. No. 1766 was passed by the House on May 2, 2023, by the following vote:  Yeas 125, Nays 19, 3 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 1766 was passed by the Senate on May 24, 2023, by the following vote:  Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

                    Date

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                  Governor