

By: Moody

H.B. No. 2402

A BILL TO BE ENTITLED

AN ACT

relating to the eligibility of certain at-risk developments to receive low income housing tax credits.

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

SECTION 1. Section 2306.6702(a)(5), Government Code, is amended to read as follows:

(5) "At-risk development" means:

(A) a development that:

(i) has received the benefit of a subsidy in the form of a below-market interest rate loan, interest rate reduction, rental subsidy, Section 8 housing assistance payment, rental supplement payment, rental assistance payment, or equity incentive under the following federal laws, as applicable:

(a) Sections 221(d)(3) and (5), National Housing Act (12 U.S.C. Section 1715l);

(b) Section 236, National Housing Act (12 U.S.C. Section 1715z-1);

(c) Section 202, Housing Act of 1959 (12 U.S.C. Section 1701q);

(d) Section 101, Housing and Urban Development Act of 1965 (12 U.S.C. Section 1701s);

(e) the Section 8 Additional Assistance Program for housing developments with HUD-Insured and HUD-Held Mortgages administered by the United States Department of

Housing and Urban Development as specified by 24 C.F.R. Part 886,
Subpart A;

(f) the Section 8 Housing Assistance
Program for the Disposition of HUD-Owned Projects administered by
the United States Department of Housing and Urban Development as
specified by 24 C.F.R. Part 886, Subpart C;

(g) the Section 8 Housing Assistance
Payments Program for New Construction administered by the United
States Department of Housing and Urban Development as specified by
24 C.F.R. Part 880;

(h) the Section 8 Housing Assistance
Payments Program for Substantial Rehabilitation administered by
the United States Department of Housing and Urban Development as
specified by 24 C.F.R. Part 881;

(i) Sections 514, 515, and 516,
Housing Act of 1949 (42 U.S.C. Sections 1484, 1485, and 1486); or

(j) ~~(h)~~ Section 42, Internal
Revenue Code of 1986; and

(ii) is subject to the following
conditions:

(a) the stipulation to maintain
affordability in the contract granting the subsidy is nearing
expiration; or

(b) the HUD-insured or HUD-held
mortgage on the development is eligible for prepayment or is
nearing the end of its term; or

(B) a development that proposes to rehabilitate

1 or reconstruct housing units that:

2 (i) receive assistance under Section 9,
3 United States Housing Act of 1937 (42 U.S.C. Section 1437g) and are
4 owned by:

5 (a) a public housing authority; or
6 (b) a public facility corporation
7 created by a public housing authority under Chapter 303, Local
8 Government Code;

9 (ii) received assistance under Section 9,
10 United States Housing Act of 1937 (42 U.S.C. Section 1437g) and:

11 (a) are proposed to be disposed of or
12 demolished by a public housing authority or a public facility
13 corporation created by a public housing authority under Chapter
14 303, Local Government Code; or

15 (b) have been disposed of or
16 demolished by a public housing authority or a public facility
17 corporation created by a public housing authority under Chapter
18 303, Local Government Code, in the two-year period preceding the
19 application for housing tax credits; or

20 (iii) receive assistance or will receive
21 assistance through the Rental Assistance Demonstration program
22 administered by the United States Department of Housing and Urban
23 Development as specified by the Consolidated and Further Continuing
24 Appropriations Act, 2012 (Pub. L. No. 112-55) and its subsequent
25 amendments, if the application for assistance through the Rental
26 Assistance Demonstration program is included in the applicable
27 public housing plan that was most recently approved by the United

States Department of Housing and Urban Development as specified by 24 C.F.R. Section 903.23.

SECTION 2. Section 2306.6702, Government Code, is amended by adding Subsection (c) to read as follows:

(c) For purposes of Subsection (a)(5), a development described by that subdivision is considered an at-risk development under this subchapter regardless of whether:

(1) the development proposes to newly construct housing units or rehabilitate or reconstruct housing units at the same location of any of the original development sites; or

(2) the development proposes to wholly construct or reconstruct housing units at a location other than the location of any of the original development sites and the development:

(A) qualifies for points on the opportunity index under department rule; or

(B) is supported by the applicable governing body of the municipality or county in which the development is located, as evidenced by a resolution adopted by the governing body.

SECTION 3. 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 under Section 2306.67022, Government Code. 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

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1 law is continued in effect for that purpose.

2 SECTION 4. This Act takes effect September 1, 2023.