

By: Blanco

S.B. No. 1038

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 or reconstruct housing units that:

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

(a) a public housing authority; or

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

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

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

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

(iii) receive assistance or will receive assistance through the Rental Assistance Demonstration program administered by the United States Department of Housing and Urban Development as specified by the Consolidated and Further Continuing Appropriations Act, 2012 (Pub. L. No. 112-55) and its subsequent amendments, if the application for assistance through the Rental

1 Assistance Demonstration program is included in the applicable
2 public housing plan that was most recently approved by the United
3 States Department of Housing and Urban Development as specified by
4 24 C.F.R. Section 903.23.

5 SECTION 2. The change in law made by this Act applies only
6 to an application for low income housing tax credits that is
7 submitted to the Texas Department of Housing and Community Affairs
8 during an application cycle that is based on the 2024 qualified
9 allocation plan or a subsequent plan adopted by the governing board
10 of the department under Section [2306.67022](#), Government Code. An
11 application that is submitted during an application cycle that is
12 based on an earlier qualified allocation plan is governed by the law
13 in effect on the date the application cycle began, and the former
14 law is continued in effect for that purpose.

15 SECTION 3. This Act takes effect September 1, 2023.