

By: Menéndez

S.B. No. 2222

A BILL TO BE ENTITLED

# 1 AN ACT

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

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

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

7 (b-1) Notwithstanding Subsection (b), if Section  
8 1372.037(b) applies with respect to the issuance of qualified  
9 residential rental project bonds in a program year, the attorney  
10 general must certify the issuer's compliance with that subsection  
11 before approving the issuance of those bonds.

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

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

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

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

1 accordance with Section 1372.042, as determined based on the date  
2 of allocation of those bonds; and

3 (2) require a subsequent issuance of bonds to maintain  
4 compliance with the percentage requirement described by Internal  
5 Revenue Code Section 42(h)(4)(B).

6 (b) In granting reservations to issuers of qualified  
7 residential rental project issues, the board shall give second  
8 priority to projects for which an application was filed on or before  
9 October 20 of the program year 2 years preceding the current program  
10 year and which:

11 (1) meet one of the requirements of Section  
12 1372.0321(c), and

13 (2) was not withdrawn and did not receive a bond  
14 reservation, and

15 (3) for which:

16 (A) a binding contract to incur significant  
17 expenditures for construction, reconstruction, or rehabilitation  
18 was entered into before submission of the application;

19 (B) significant expenditures for construction,  
20 reconstruction, or rehabilitation were readily identifiable with  
21 and necessary to carry out a binding contract for the supply of  
22 property or services or the sale of output; or

23 (C) significant expenditures were paid or  
24 incurred before submission of the application.

25 (4) In this section, "significant expenditures" means  
26 expenditures that are greater than the lesser of:

27 (A) \$500,000; or

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1 (B) 10 percent of the reasonably anticipated cost  
2 of the project

3                   (c) In granting reservation to issuers of qualified  
4 residential rental project issues, the board shall give third  
5 priority to

6 (1) projects in which:

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

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

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

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

18 (i) under the restriction that the maximum  
19 allowable rents are an amount equal to 30 percent of 80 percent of  
20 the area median family income minus an allowance for utility costs  
21 authorized under the federal low-income housing tax credit program;  
22 and

23 (ii) reserved for families and individuals  
24 earning not more than 80 percent of the area median income;

25 (2) projects in which:

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

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

10 (i) under the restriction that the maximum  
11 allowable rents are an amount equal to 30 percent of 80 percent of  
12 the area median family income minus an allowance for utility costs  
13 authorized under the federal low-income housing tax credit program;  
14 and

15 (ii) reserved for families and individuals  
16 earning not more than 80 percent of the area median income;

17 (3) projects:

18 (A) in which 100 percent of the residential units  
19 in the project are, on average:

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

25 (ii) reserved for families and individuals  
26 earning, on average, not more than 60 percent of the area median  
27 income; and

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

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

24           (e) [a-2] In granting reservations to issuers of  
25 qualified residential rental project issues, the board shall give  
26 fifth [~~third~~] priority to any other qualified residential rental  
27 project.

1  
2 SECTION 4. Section [1372.037](#), Government Code, is amended by  
3 adding Subsection (b) to read as follows:

4       **(b) This subsection applies only to projects that are**  
5       **granted a reservation of a portion of the available state ceiling**  
6       **for a program year under Subsection (a)(5). If for a program year**  
7       **the total amount of qualified residential rental project bonds for**  
8       **which reservations are sought exceeds, as of October 20 of the**  
9       **preceding year, 55.75 percent of the portion of state ceiling**  
10       **available for that year exclusively for reservations by issuers of**  
11       **qualified residential rental project bonds under Section**  
12       **[1372.0231](#)(f), the amount of bonds issued to each project may not**  
13       **exceed 55 percent of the reasonably expected aggregate basis of the**  
14       **project and the land on which the project is or will be located.**

15       SECTION 5. Section [1372.042](#)(d), Government Code, is amended  
16 to read as follows:

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

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

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

26               (3) a certified copy of the document authorizing the  
27 bonds and any other document relating to the issuance of the bonds,

1 including a statement of the bonds':

2 (A) principal amount;

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

5 (C) maturity schedule; and

6 (D) purchaser or purchasers.

7 SECTION 6. The change in law made by this Act in adding  
8 Section [1202.003\(b-1\)](#), Government Code, and in amending Chapter  
9 [1372](#), Government Code, applies to the allocation of the available  
10 state ceiling under Chapter [1372](#) beginning with the 2024 program  
11 year.

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