

By: Riddle

H.B. No. 1568

A BILL TO BE ENTITLED

AN ACT

relating to the evaluation of applications for 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 2306.1114(a), Government Code, is amended to read as follows:

(a) Not later than the 14th day after the date an application or a proposed application for housing funds described by Section 2306.111 has been filed, the department shall provide written notice of the filing of the application or proposed application to the following persons:

(1) the United States representative who represents the community containing the development described in the application;

(2) members of the legislature who represent the community containing the development described in the application;

(3) the presiding officer of the governing body of the political subdivision containing the development described in the application;

(4) any member of the governing body of a political subdivision who represents the area containing the development described in the application;

(5) the superintendent and the presiding officer of

the board of trustees of the school district containing the development described in the application; ~~and~~

(6) any neighborhood organization that is ~~organizations~~ on record with the state or county in which the development described in the application is to be located and that has ~~whose~~ boundaries containing ~~contain~~ the proposed development site or has a boundary located not more than 300 feet from the proposed site; and

(7) any residence located not more than 300 feet from the proposed development site.

SECTION 2. Section [2306.6704](#), Government Code, is amended by amending Subsection (b-1) and adding Subsection (b-2) to read as follows:

(b-1) The preapplication process must require the applicant to provide the department with evidence that the applicant has notified the following entities with respect to the filing of the application:

(1) any neighborhood organization that is ~~organizations~~ on record with the state or county in which the development is to be located and that has ~~whose~~ boundaries containing ~~contain~~ the proposed development site or has a boundary located not more than 300 feet from the proposed site;

(2) the superintendent and the presiding officer of the board of trustees of the school district containing the development;

(3) the presiding officer of the governing body of any municipality containing the development and all elected members of

1 that body;

2 (4) the presiding officer of the governing body of the
3 county containing the development and all elected members of that
4 body; ~~and~~

5 (5) the state senator and state representative of the
6 district containing the development; and

7 (6) any residence located not more than 300 feet from
8 the proposed development site.

9 (b-2) Notification provided under Subsection (b-1) must
10 contain a description of the public hearing requirement under
11 Section [2306.67071](#).

12 SECTION 3. Section [2306.6705](#), Government Code, is amended
13 to read as follows:

14 Sec. 2306.6705. GENERAL APPLICATION REQUIREMENTS. (a) An
15 application must contain at a minimum the following written,
16 detailed information in a form prescribed by the board:

17 (1) a description of:

18 (A) the financing plan for the development,
19 including any nontraditional financing arrangements;

20 (B) the use of funds with respect to the
21 development;

22 (C) the funding sources for the development,
23 including:

24 (i) construction, permanent, and bridge
25 loans; and

26 (ii) rents, operating subsidies, and
27 replacement reserves; and

(D) the commitment status of the funding sources for the development;

(2) if syndication costs are included in the eligible basis, a justification of the syndication costs for each cost category by an attorney or accountant specializing in tax matters;

(3) from a syndicator or a financial consultant of the applicant, an estimate of the amount of equity dollars expected to be raised for the development in conjunction with the amount of housing tax credits requested for allocation to the applicant, including:

(A) pay-in schedules; and

(B) syndicator consulting fees and other syndication costs;

(4) if rental assistance, an operating subsidy, or an annuity is proposed for the development, any related contract or other agreement securing those funds and an identification of:

(A) the source and annual amount of the funds;

(B) the number of units receiving the funds; and

(C) the term and expiration date of the contract or other agreement;

(5) if the development is located within the boundaries of a political subdivision with a zoning ordinance, evidence in the form of a letter from the chief executive officer of the political subdivision or from another local official with jurisdiction over zoning matters that states that:

(A) the development is permitted under the provisions of the ordinance that apply to the location of the

1 development; or

2 (B) the applicant is in the process of seeking
3 the appropriate zoning and has signed and provided to the political
4 subdivision a release agreeing to hold the political subdivision
5 and all other parties harmless in the event that the appropriate
6 zoning is denied;

7 (6) if an occupied development is proposed for
8 rehabilitation:

9 (A) an explanation of the process used to notify
10 and consult with the tenants in preparing the application;

11 (B) a relocation plan outlining:

12 (i) relocation requirements; and

13 (ii) a budget with an identified funding
14 source; and

15 (C) if applicable, evidence that the relocation
16 plan has been submitted to the appropriate local agency;

17 (7) a certification of the applicant's compliance with
18 appropriate state and federal laws, as required by other state law
19 or by the board;

20 (8) any other information required by the board in the
21 qualified allocation plan; and

22 (9) evidence that the applicant has notified the
23 following entities with respect to the filing of the application:

24 (A) any neighborhood organization that is
25 ~~[organizations]~~ on record with the state or county in which the
26 development is to be located and that has ~~[whose]~~ boundaries
27 containing ~~[contain]~~ the proposed development site or has a

1 boundary located not more than 300 feet from the proposed
2 development site;

3 (B) the superintendent and the presiding officer
4 of the board of trustees of the school district containing the
5 development;

6 (C) the presiding officer of the governing body
7 of any municipality containing the development and all elected
8 members of that body;

9 (D) the presiding officer of the governing body
10 of the county containing the development and all elected members of
11 that body; ~~and~~

12 (E) the state senator and state representative of
13 the district containing the development; and

14 (F) any residence located not more than 300 feet
15 from the proposed development site.

16 (b) A notification provided under Subsection (a) must
17 contain a description of the public hearing requirement under
18 Section [2306.67071](#).

19 SECTION 4. Section [2306.67071](#), Government Code, is amended
20 by amending Subsections (a) and (c) and adding Subsection (c-1) to
21 read as follows:

22 (a) Before submitting to the department an application for
23 housing tax credits for developments financed through
24 competitively awarded tax credits or through the private activity
25 bond program, including private activity bonds issued by the
26 department, the Texas State Affordable Housing Corporation, or a
27 local issuer, an applicant must provide notice of the intent to file

1 the application to the state representative of the district
2 containing the proposed development site and:

3 (1) the governing body of a municipality in which the
4 proposed development site is to be located;

5 (2) subject to Subdivision (3), the commissioners
6 court of a county in which the proposed development site is to be
7 located, if the proposed site is to be located in an area of a county
8 that is not part of a municipality; or

9 (3) the commissioners court of a county in which the
10 proposed development site is to be located and the governing body of
11 the applicable municipality, if the proposed site is to be located
12 in the extraterritorial jurisdiction of a municipality.

13 (c) The board may not award a housing tax credit or issue a
14 determination notice with respect to [approve] an application for
15 housing tax credits for developments financed through
16 competitively awarded tax credits or through the private activity
17 bond program unless the applicant has submitted to the department a
18 certified copy of a resolution from each applicable governing body
19 described by Subsection (a) and a letter from each applicable state
20 representative described by Subsection (c-1). The resolution must
21 certify that:

22 (1) notice has been provided to each governing body as
23 required by Subsection (a);

24 (2) each governing body has had sufficient opportunity
25 to obtain a response from the applicant regarding any questions or
26 concerns about the proposed development;

27 (3) each governing body has held a hearing under

Subsection (b); and

(4) after due consideration of the information provided by the applicant and public comment, including any comment from neighborhood organizations, residents, or state representatives required to be notified under this subchapter, the governing body does not object to the proposed application.

(c-1) If a required resolution is adopted under Subsection (c) by a commissioners court and none of the sitting commissioners reside in the legislative district in which the proposed development site is to be located, the applicant must also submit from the state representative of the legislative district containing the proposed development site a letter stating that the representative does not object to the proposed application.

SECTION 5. Sections 2306.6710(b) and (f), Government Code, are amended to read as follows:

(b) If an application satisfies the threshold criteria, the department shall score and rank the application using a point system that:

(1) prioritizes in descending order criteria regarding:

(A) financial feasibility of the development based on the supporting financial data required in the application that will include a project underwriting pro forma from the permanent or construction lender;

~~(B) [quantifiable community participation with respect to the development, evaluated on the basis of a resolution concerning the development that is voted on and adopted by the~~

1 ~~following, as applicable:~~

2 ~~[(i) the governing body of a municipality~~
3 ~~in which the proposed development site is to be located,~~

4 ~~[(ii) subject to Subparagraph (iii), the~~
5 ~~commissioners court of a county in which the proposed development~~
6 ~~site is to be located, if the proposed site is to be located in an~~
7 ~~area of a county that is not part of a municipality; or~~

8 ~~[(iii) the commissioners court of a county~~
9 ~~in which the proposed development site is to be located and the~~
10 ~~governing body of the applicable municipality, if the proposed site~~
11 ~~is to be located in the extraterritorial jurisdiction of a~~
12 ~~municipality;~~

13 ~~[(C)]~~ the income levels of tenants of the
14 development;

15 (C) ~~[(D)]~~ the size and quality of the units;

16 (D) ~~[(E)]~~ the commitment of development funding
17 by local political subdivisions;

18 (E) ~~[(F)]~~ the rent levels of the units;

19 (F) ~~[(G)]~~ the cost of the development by square
20 foot;

21 (G) ~~[(H)]~~ the services to be provided to tenants
22 of the development;

23 (H) ~~[(I)]~~ whether, at the time the complete
24 application is submitted or at any time within the two-year period
25 preceding the date of submission, the proposed development site is
26 located in an area declared to be a disaster under Section [418.014](#);

27 (I) ~~[(J)]~~ quantifiable community participation

1 with respect to the development, evaluated on the basis of written
2 statements from any neighborhood organization that is
3 ~~[organizations]~~ on record with the state or county in which the
4 development is to be located and that has ~~[whose]~~ boundaries
5 containing ~~[contain]~~ the proposed development site or has a
6 boundary located not more than 300 feet from the proposed site; and

7 (J) ~~[(K)]~~ the level of community support for the
8 application, evaluated on the basis of a written statement from the
9 state representative who represents the district containing the
10 proposed development site;

11 (2) uses criteria imposing penalties on applicants or
12 affiliates who have requested extensions of department deadlines
13 relating to developments supported by housing tax credit
14 allocations made in the application round preceding the current
15 round or a developer or principal of the applicant that has been
16 removed by the lender, equity provider, or limited partners for its
17 failure to perform its obligations under the loan documents or
18 limited partnership agreement; and

19 (3) encourages applicants to provide free notary
20 public service to the residents of the developments for which the
21 allocation of housing tax credits is requested.

22 (f) In evaluating the level of community support for an
23 application under Subsection (b)(1)(J) ~~[(b)(1)(K)]~~, the department
24 shall award:

25 (1) positive points for positive written statements
26 received;

27 (2) negative points for negative written statements

1 received; and

2 (3) zero points for neutral statements received.

3 SECTION 6. The changes in law made by this Act apply only to
4 an application for financial assistance submitted to the Texas
5 Department of Housing and Community Affairs during an application
6 cycle that begins on or after the effective date of this Act. An
7 application submitted during an application cycle that began before
8 the effective date of this Act is governed by the law in effect on
9 the date the application cycle began, and the former law is
10 continued in effect for that purpose.

11 SECTION 7. This Act takes effect September 1, 2015.