

By: Cole

H.B. No. 4589

A BILL TO BE ENTITLED

AN ACT

relating to the operation and functions of the Texas Department of
Housing and Community Affairs.

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

SECTION 1. Section 2306.004(3), Government Code, is amended
to read as follows:

~~(3) "Contract for Deed" means a seller-financed
contract for the conveyance of real property under which:~~

~~(A) legal title does not pass to the purchaser
until the consideration of the contract is fully paid to the seller,
and~~

~~(B) the seller's remedy for nonpayment is
recision or forfeiture or acceleration of any remaining payments
rather than judicial or nonjudicial foreclosure.~~

(3) "Contract for Deed" a seller-financed executory
contract for the conveyance of real property, as further defined in
chapter 5, subchapter D, Property Code, under which:

(A) upon recordation of the contract for deed in
the county in which the property is located, the contract for deed
shall be the same as a deed with a vendor's lien. The vendor's lien
is for the amount of the unpaid contract price, less any lawful
deductions, and may be enforced by foreclosure sale under Section
5.066, Property Code, or by judicial foreclosure. A general
warranty is implied unless otherwise limited by the recorded

1 executory contract, and the seller is not required to continue
2 insuring the property; and

3 (B) if the contract for deed has not been
4 recorded, the seller may enforce the remedy of rescission or of
5 forfeiture and acceleration as further outlined in Section 5.064
6 Property Code against the buyer in default under a contract for
7 deed; and

8 (C) for purposes of department loan programs,
9 satisfaction of this section raises the presumption that ownership
10 of a residential property under a contract for deed that has been
11 properly recorded as vested in the buyer.

12 SECTION 2. Section 2306.004(36), Government Code, is
13 amended to read as follows:

14 (36) "Urban area" means the area that is located
15 within the boundaries of a primary metropolitan statistical area or
16 a metropolitan statistical area other than an area described by
17 Subdivision (28-a)(B) ~~or eligible for funding as described by~~
18 ~~Subdivision (28-a)(C).~~

19 SECTION 3. Section 2306.057(b), Government Code, is amended
20 to read as follows:

21 Sec. 2306.057. COMPLIANCE ASSESSMENT REQUIRED FOR PROJECT
22 APPROVAL BY BOARD. (a) Before the board approves any project
23 application submitted under this chapter, the department, through
24 the division with responsibility for compliance matters, shall:

25 (1) assess:

26 (A) the compliance history in this state of the
27 applicant and any affiliate of the applicant with respect to all

1 applicable requirements; and

2 (B) the compliance issues associated with the
3 proposed project; and

4 (2) provide to the board a written report regarding
5 the results of the assessments described by Subdivision (1).

6 (b) The written report described by Subsection (a)(2) ~~must~~
7 ~~be included in the appropriate project file for board and~~
8 ~~department review.~~ may be a summary of any concerns or conditions
9 identified in the compliance assessment. Full project files shall
10 be made available to the board upon request.

11 (c) The board shall fully document and disclose any
12 instances in which the board approves a project application despite
13 any noncompliance associated with the project, applicant, or
14 affiliate.

15 (d) In assessing the compliance of the project, applicant,
16 or affiliate, the board shall consider any relevant compliance
17 information in the department's database created under Section
18 [2306.081](#), including compliance information provided to the
19 department by the Texas State Affordable Housing Corporation.

20 SECTION 4. Section 2306.1112, Government Code, is amended
21 to read as follows:

22 Sec. 2306.1112. EXECUTIVE AWARD AND REVIEW ADVISORY
23 COMMITTEE. (a) The department shall establish an executive award
24 and review process ~~advisory committee~~ to make recommendations to
25 the board regarding funding and allocation decisions.

26 (b) Prior to making recommendations to the Board, the
27 Director shall consult with ~~The advisory committee must include~~

1 ~~representatives from~~ the department's underwriting and compliance
2 functions and ~~from~~ the divisions responsible for administering
3 federal housing funds provided to the state under the
4 Cranston-Gonzalez National Affordable Housing Act (42 U.S.C.
5 Section 12701 et seq.) and for administering low income housing tax
6 credits.

7 (c) The advisory committee is not subject to Chapter 2110.

8 (d) expired.

9 SECTION 5. Section 2306.1113, Government Code, is amended
10 by amending subchapter (a-2) to read as follows:

11 Sec. 2306.1113. EX PARTE COMMUNICATIONS. (a) During the
12 period beginning on the date project applications are filed in an
13 application cycle and ending on the date the board makes a final
14 decision with respect to the approval of any application in that
15 cycle, a member of the board may not communicate with the following
16 persons:

17 (1) an applicant or a related party, as defined by
18 state law, including board rules, and federal law; and

19 (2) any person who is:

20 (A) active in the construction, rehabilitation,
21 ownership, or control of a proposed project, including:

22 (i) a general partner or contractor; and

23 (ii) a principal or affiliate of a general
24 partner or contractor; or

25 (B) employed as a consultant, lobbyist, or
26 attorney by an applicant or a related party.

27 (a-1) Subject to Subsection (a-2), during the period

beginning on the date project applications are filed in an application cycle and ending on the date the board makes a final decision with respect to the approval of any application in that cycle, an employee of the department may communicate about an application with the following persons:

(1) the applicant or a related party, as defined by state law, including board rules, and federal law; and

(2) any person who is:

(A) active in the construction, rehabilitation, ownership, or control of the proposed project, including:

(i) a general partner or contractor; and

(ii) a principal or affiliate of a general partner or contractor; or

(B) employed as a consultant, lobbyist, or attorney by the applicant or a related party.

(a-2) A communication under Subsection (a-1) may be oral or in any written form, including electronic communication through the Internet, and must satisfy the following conditions:

(1) the communication must be restricted to technical or administrative matters directly affecting the application; and

~~(2) the communication may must occur or be received on the premises of the department during established business hours, and~~

~~(3)~~ (2) a record of the communication must be maintained and included with the application for purposes of board review and must contain the following information:

(A) the date, time, and means of communication;

1 (B) the names and position titles of the persons
2 involved in the communication and, if applicable, the person's
3 relationship to the applicant;

4 (C) the subject matter of the communication; and

5 (D) a summary of any action taken as a result of
6 the communication.

7 SECTION 6. Sections 2306.142 and 2306.143, Government Code,
8 are repealed.

9 SECTION 7. Section 2306.0723, Government Code, is repealed.

10 SECTION 8. Subchapter NN, Government Code, is repealed.

11 SECTION 9. Section 2306.353, Government Code, is amended by
12 adding the following subchapters:

13 (d) In this section, "credit agreement" and "obligation"
14 have the meanings assigned by Section 1371.001, Government Code.

15 (e) Notwithstanding any other statute, the board may
16 exercise any of the rights or powers of the governing body of an
17 issuer under Chapter 1371, Government Code, and may enter into a
18 credit agreement under that chapter. An obligation issued under
19 this section is an obligation under Chapter 1371, Government Code,
20 but is not required to be rated as required by that chapter.

21 SECTION 10. Section 2306.6712, Government Code, is amended
22 by amending subchapter (d) to read as follows:

23 Sec. 2306.6712. AMENDMENT OF APPLICATION SUBSEQUENT TO
24 ALLOCATION BY BOARD. (a) If a proposed modification would
25 materially alter a development approved for an allocation of a
26 housing tax credit or other multifamily funding, the department
27 shall require the applicant to file a formal, written amendment to

1 the application on a form prescribed by the department.

2 (b) The director shall require ~~the department~~ staff
3 ~~assigned to underwrite applications~~ to evaluate the amendment and
4 provide an analysis and written recommendation to the board. ~~The~~
5 ~~appropriate monitor under Section 2306.6719~~ shall also provide to
6 ~~the board an analysis and written recommendation regarding the~~
7 ~~amendment.~~

8 (c) The board must vote on whether to approve the amendment.
9 The board by vote may reject an amendment and, if appropriate,
10 rescind the allocation of housing tax credits and reallocate the
11 credits to other applicants on the waiting list required by Section
12 2306.6711 if the board determines that the modification proposed in
13 the amendment:

14 (1) would materially alter the development in a
15 negative manner; or

16 (2) would have adversely affected the selection of the
17 application in the application round.

18 (d) Material alteration of a development includes:

19 (1) a significant modification of the site plan;

20 (2) a modification of the number of units or bedroom
21 mix of units;

22 (3) a substantive modification of the scope of tenant
23 services;

24 (4) a reduction of ~~three~~ five percent or more in the
25 square footage of the ~~units~~ net rentable area or common areas;

26 (5) a significant modification of the architectural
27 design of the development;

(6) a modification of the residential density of the development of at least ~~five~~ ten percent; and

(7) any other modification considered significant by the ~~board~~ director.

(e) In evaluating the amendment under this subsection, the department staff shall consider whether the need for the modification proposed in the amendment was:

(1) reasonably foreseeable by the applicant at the time the application was submitted; or

(2) preventable by the applicant.

(f) For housing tax credit developments, ~~Tt~~his this section shall be administered in a manner that is consistent with Section 42, Internal Revenue Code of 1986 (26 U.S.C. Section 42).

SECTION 11. Section 2306.6713 is amended as follows:

Sec. 2306.6713. ~~HOUSING TAX CREDIT AND OWNERSHIP TRANSFERS FOR MULTIFAMILY DEVELOPMENTS~~. (a) An applicant may not transfer ~~an allocation of housing tax credits or~~ ownership of a development supported with an allocation of housing tax credits or other multifamily program funds from the department to any person other than an affiliate unless the applicant obtains the director's prior, written approval of the transfer.

(b) The director may not unreasonably withhold approval of the transfer.

(c) An applicant seeking director approval of a transfer and the proposed transferee must provide to the department a copy of any applicable agreement between the parties to the transfer, ~~including any third-party agreement with the department~~.

1 (d) On request, an applicant seeking director approval of a
2 transfer must provide to the department:

3 (1) a list of the ~~names of~~ transferees and ~~related~~
4 controlling parties; and

5 (2) ~~detailed an explanation information~~ describing
6 the experience and financial capacity of transferees ~~and related~~
7 ~~parties~~.

8 (e) When a transfer involves the sale of the development to
9 a new development owner, the ~~The~~ development owner or proposed
10 transferee shall certify to the director that the tenants in the
11 development have been provided at least a 30-day written
12 notification of the proposed transfer. The director's approval of
13 the transfer may not occur prior to the end of the 30-day
14 notification period to the tenants. ~~notified in writing of the~~
15 ~~transfer before the 30th day preceding the date of submission of the~~
16 ~~transfer request to the department.~~

17 (f) ~~Not later than the fifth working day after the date~~ Once
18 the department receives all necessary information under this
19 section, the department shall conduct a qualifications review of a
20 transferee to determine:

21 (1) the transferee's past compliance with all aspects
22 of the low income housing tax credit program or other multifamily
23 funding program, including land use restriction agreements; and

24 (2) the sufficiency of the transferee's experience
25 with developments supported with housing tax credit allocations or
26 other multifamily funds from the department.

27 (g) The transfer of ownership of a development supported

1 with an allocation of housing tax credits under this section does
2 not subject the development to a right of first refusal under
3 Section 2306.6726 if the transfer is made to a newly formed entity:

4 (1) that is under common control with the development
5 owner; and

6 (2) the primary purpose of the formation of which is to
7 facilitate the financing of the rehabilitation of the development
8 using assistance administered through a state financing program.

9 SECTION 12. Not later than March 1, 2026, the Texas
10 Department of Housing and Community Affairs shall adopt the rules
11 necessary to implement Section 2306.6712, Chapter 2306, Government
12 Code, as amended by this Act.

13 SECTION 13. The changes in law made by this Act relating to
14 the evaluation of applications for financial assistance
15 administered by the Texas Department of Housing and Community
16 Affairs apply only to an application submitted on or after the
17 effective date of this Act. An application submitted before the
18 effective date of this Act is governed by the law in effect when the
19 application was submitted, and the former law is continued in
20 effect for that purpose.

21 SECTION 14. This Act takes effect September 1, 2025.