

AN ACT

1
2 relating to the continuation and functions of the Texas State
3 Affordable Housing Corporation and to the appointment of
4 commissioners of a municipal housing authority; providing
5 penalties.

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

7 SECTION 1. Section 2306.5521, Government Code, is amended
8 to read as follows:

9 Sec. 2306.5521. SUNSET PROVISION. The Texas State
10 Affordable Housing Corporation is subject to Chapter 325 (Texas
11 Sunset Act). Unless continued in existence as provided by that
12 chapter, the corporation is abolished and this subchapter expires
13 September 1, 2023 [~~2011~~].

14 SECTION 2. Sections 2306.554(a) and (b), Government Code,
15 are amended to read as follows:

16 (a) The board of directors of the corporation consists of
17 five members appointed by the governor. One member must represent
18 the interests of individuals and families served by the
19 corporation's single-family mortgage loan programs, one member
20 must represent nonprofit housing organizations, and the remaining
21 three members must [~~who~~] represent one or more [~~any~~] of the
22 following areas:

23 (1) state or federal savings banks or savings and loan
24 associations;

- 1 (2) community banks with assets of \$200 million or
2 less;
- 3 (3) large metropolitan banks with assets of more than
4 \$1 billion;
- 5 (4) asset management companies;
- 6 (5) mortgage servicing companies;
- 7 (6) builders;
- 8 (7) real estate developers;
- 9 (8) real estate brokers;
- 10 (9) community or economic development organizations;
- 11 (10) private mortgage companies;
- 12 (11) nonprofit housing development companies;
- 13 (12) attorneys;
- 14 (13) investment bankers;
- 15 (14) underwriters;
- 16 (15) private mortgage insurance companies;
- 17 (16) appraisers;
- 18 (17) property management companies;
- 19 (18) financial advisors;
- 20 (19) nonprofit foundations;
- 21 (20) financial advisors; or
- 22 (21) any other area of expertise that the governor
23 finds necessary for the successful operation of the corporation.

24 (b) The governor shall designate a member of the
25 corporation's board of directors as the presiding officer of the
26 [corporation's] board of directors to serve in that capacity at the
27 pleasure of the governor [~~from the members~~].

1 SECTION 3. Section 2306.5543(b), Government Code, is
2 amended to read as follows:

3 (b) The training program must provide the person with
4 information regarding:

5 (1) the legislation that created the corporation [~~and~~
6 ~~the corporation's board of directors~~];

7 (2) the programs, functions, rules, and budget of
8 ~~[operated by]~~ the corporation;

9 (3) ~~[the role and functions of the corporation,~~

10 ~~[(4) the rules of the corporation with an emphasis on~~
11 ~~the rules that relate to disciplinary and investigatory authority,~~

12 ~~[(5) the current budget for the corporation,~~

13 ~~[(6)] the results of the most recent formal audit of the~~
14 corporation;

15 (4) [(7)] the requirements of laws relating to ~~[+~~

16 ~~[(A) the] open meetings, [law, Chapter 551,~~

17 ~~[(B) the] public information, [law, Chapter 552,~~

18 ~~[(C) the] administrative procedure, and~~

19 conflicts of interest [law, Chapter 2001, and

20 ~~[(D) other laws relating to public officials,~~
21 ~~including conflict-of-interest laws]; and~~

22 (5) [(8)] any applicable ethics policies adopted by
23 the corporation or the Texas Ethics Commission.

24 SECTION 4. Section 2306.5545(b), Government Code, is
25 amended to read as follows:

26 (b) A person may not be a member of the corporation's board
27 of directors and may not be a corporation employee employed in a

1 "bona fide executive, administrative, or professional capacity,"
2 as that phrase is used for purposes of establishing an exemption to
3 the overtime provisions of the federal Fair Labor Standards Act of
4 1938 (29 U.S.C. Section 201 et seq.), and its subsequent
5 amendments, if:

6 (1) the person is an officer, employee, or paid
7 consultant of a Texas trade association in the field of banking,
8 mortgage lending, real estate, housing development, or housing
9 construction; or

10 (2) the person's spouse is an officer, manager, or paid
11 consultant of a Texas trade association in the field of banking,
12 mortgage lending, real estate, housing development, or housing
13 construction.

14 SECTION 5. Subchapter Y, Chapter 2306, Government Code, is
15 amended by adding Section 2306.5549 to read as follows:

16 Sec. 2306.5549. MEETINGS OF THE CORPORATION'S BOARD. (a)
17 The corporation's board may hold meetings when called by the
18 presiding officer, the president, or three of the members.

19 (b) The corporation's board shall keep minutes and complete
20 transcripts of its meetings. The corporation shall post the
21 transcripts on its Internet website and shall otherwise maintain
22 all accounts, minutes, and other records related to the meetings.

23 (c) All materials provided to the corporation's board that
24 are relevant to a matter proposed for discussion at a meeting of
25 that board must be posted on the corporation's Internet website not
26 later than the third day before the date of the meeting.

27 (d) Any materials made available to the corporation's board

1 by the corporation at a meeting of that board must be made available
2 in hard-copy format to the members of the public in attendance at
3 the meeting.

4 (e) The corporation's board shall conduct its meetings in
5 accordance with Chapter 551, except as otherwise required by this
6 chapter.

7 (f) For each item on the agenda at a meeting of the
8 corporation's board, the corporation's board shall provide for
9 public comment after the presentation made by corporation staff and
10 the motions made by the corporation's board on that topic.

11 (g) The corporation's board shall adopt rules that give the
12 public a reasonable amount of time for testimony at meetings.

13 SECTION 6. Subchapter Y, Chapter 2306, Government Code, is
14 amended by adding Section 2306.5553 to read as follows:

15 Sec. 2306.5553. HISTORICALLY UNDERUTILIZED BUSINESSES. (a)
16 The corporation shall make a good faith effort to provide
17 contracting opportunities for, and to increase contract awards to,
18 historically underutilized businesses for all services that may be
19 required by the corporation, including professional and consulting
20 services and commodities purchases.

21 (b) In accordance with Subchapter B, Chapter 20, Title 34,
22 Texas Administrative Code, a good faith effort under Subsection (a)
23 must include awarding historically underutilized businesses at
24 least a portion of the total contract value of all contracts the
25 corporation expects to award in a state fiscal year.

26 (c) The corporation may achieve annual procurement goals
27 under this section by contracting directly with historically

1 underutilized businesses or by contracting indirectly with those
2 businesses through the provision of subcontracting opportunities.

3 SECTION 7. Section 2306.559(d), Government Code, is amended
4 to read as follows:

5 (d) The report must include:

6 (1) a statement of support, revenue, and expenses and
7 change in fund balances;

8 (2) a statement of functional expenses; ~~and~~

9 (3) balance sheets for all funds;

10 (4) the number, amount, and purpose of private gifts,
11 grants, donations, or other funds applied for and received;

12 (5) the number, amount, and purpose of loans provided
13 to affordable housing developers, regardless of whether the
14 corporation provides those loans directly to the developers or
15 administers the loans from another source;

16 (6) the amount and source of funds deposited into any
17 fund created by the corporation for the purpose of providing grants
18 and the number, amount, and purpose of any grants provided; and

19 (7) the total amount of annual revenue generated by
20 the corporation in excess of its expenditures.

21 SECTION 8. Subchapter Y, Chapter 2306, Government Code, is
22 amended by adding Section 2306.5671 to read as follows:

23 Sec. 2306.5671. COMPLIANCE WITH TERMS OF CERTAIN CONTRACTS
24 OR AGREEMENTS. A compliance contract or agreement between the
25 corporation and a housing sponsor that receives bond financing by
26 or through the corporation for the purpose of providing affordable
27 multifamily housing must contain a provision stating that if the

1 housing sponsor fails to comply with the terms of the contract or
2 agreement, the corporation may, at a minimum and as appropriate:

- 3 (1) assess penalties;
4 (2) remove the manager of the affected property and
5 select a new manager;
6 (3) withdraw reserve funds to make needed repairs and
7 replacements to the property; or
8 (4) appoint the corporation as a receiver to protect
9 and operate the property.

10 SECTION 9. Section 2306.568, Government Code, is amended to
11 read as follows:

12 Sec. 2306.568. RECORD OF COMPLAINTS. (a) The corporation
13 shall maintain a system to promptly and efficiently act on
14 complaints [~~file on each written complaint~~] filed with the
15 corporation. The corporation shall maintain information about
16 parties to the complaint, [~~file must include:~~

- 17 [~~(1) the name of the person who filed the complaint,~~
18 [~~(2) the date the complaint is received by the~~
19 ~~corporation,~~

20 [~~(3)~~] the subject matter of the complaint, [~~+~~

21 [~~(4) the name of each person contacted in relation to~~
22 ~~the complaint,~~

23 [~~(5)~~] a summary of the results of the review or
24 investigation of the complaint, and its disposition [~~+~~ and

25 [~~(6) an explanation of the reason the file was closed,~~
26 ~~if the corporation closed the file without taking action other than~~
27 ~~to investigate the complaint].~~

1 (b) The corporation shall make information available
2 describing its [~~provide to the person filing the complaint and to~~
3 ~~each person who is a subject of the complaint a copy of the~~
4 ~~corporation's policies and~~] procedures for [~~relating to~~] complaint
5 investigation and resolution.

6 (c) The corporation[~~, at least quarterly until final~~
7 ~~disposition of the complaint,~~] shall periodically notify the
8 [~~person filing the~~] complaint parties [~~and each person who is a~~
9 ~~subject of the complaint~~] of the status of the complaint until final
10 disposition [~~investigation unless the notice would jeopardize an~~
11 ~~undercover investigation~~].

12 SECTION 10. Section 392.0331, Local Government Code, is
13 amended by amending Subsections (b) and (f) and adding Subsections
14 (b-1) and (f-1) to read as follows:

15 (b) Except as provided by Subsection (b-1), in [~~In~~]
16 appointing commissioners under Section 392.031, a municipality
17 with a municipal housing authority composed of five commissioners
18 shall appoint at least one commissioner to the authority who is a
19 tenant of a public housing project over which the authority has
20 jurisdiction. In appointing commissioners under Section 392.031, a
21 municipality with a municipal housing authority composed of seven
22 or more commissioners shall appoint at least two commissioners to
23 the authority who are tenants of a public housing project over which
24 the authority has jurisdiction.

25 (b-1) The presiding officer of the governing body of a
26 municipality that has a municipal housing authority in which the
27 total number of units is 150 or fewer is not required to appoint a

1 tenant to the position of commissioner as otherwise required by
2 Subsection (b) if the presiding officer has provided timely notice
3 of a vacancy in the position to all eligible tenants and is unable
4 to fill the position with an eligible tenant before the 60th day
5 after the date the position becomes vacant.

6 (f) Except as provided by Subsection (f-1), a [A]
7 commissioner appointed under this section may not serve more than
8 two consecutive two-year terms.

9 (f-1) Subsection (f) does not apply to a municipality that
10 has a municipal housing authority in which the total number of units
11 is 150 or fewer.

12 SECTION 11. Section 2306.5671, Government Code, as added by
13 this Act, does not affect the terms of a compliance contract or
14 agreement entered into before the effective date of this Act,
15 except that if the contract or agreement is renewed, modified, or
16 extended on or after the effective date of this Act, Section
17 2306.5671 applies to the contract or agreement beginning on the
18 date of renewal, modification, or extension.

19 SECTION 12. The change in law made by this Act relating to
20 the qualifications for membership on the board of directors of the
21 Texas State Affordable Housing Corporation does not affect the
22 eligibility of a member of the board serving immediately before the
23 effective date of this Act to continue to serve on the board for the
24 term to which the member was appointed. Not later than February 1,
25 2015, the governor shall appoint members of the board as necessary
26 to ensure that the composition of the board complies with Section
27 2306.554(a), Government Code, as amended by this Act.

1 SECTION 13. This Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I certify that H.B. No. 1818 was passed by the House on May 10, 2011, by the following vote: Yeas 144, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1818 on May 23, 2011, by the following vote: Yeas 144, Nays 1, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1818 was passed by the Senate, with amendments, on May 20, 2011, by the following vote: Yeas 30, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor