

GOVERNMENT CODE

CHAPTER 2306. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS  
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2306.001. PURPOSES. The purposes of the department are to:

- (1) assist local governments in:
  - (A) providing essential public services for their residents; and
  - (B) overcoming financial, social, and environmental problems;
- (2) provide for the housing needs of individuals and families of low, very low, and extremely low income and families of moderate income;
- (3) contribute to the preservation, development, and redevelopment of neighborhoods and communities, including cooperation in the preservation of government-assisted housing occupied by individuals and families of very low and extremely low income;
- (4) assist the governor and the legislature in coordinating federal and state programs affecting local government;
- (5) inform state officials and the public of the needs of local government;
- (6) serve as the lead agency for:
  - (A) addressing at the state level the problem of homelessness in this state;
  - (B) coordinating interagency efforts to address homelessness; and
  - (C) addressing at the state level and coordinating interagency efforts to address any problem associated with homelessness, including hunger; and
- (7) serve as a source of information to the public regarding all affordable housing resources and community support services in the state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 4, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 432, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1367, Sec. 1.01, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 330, Sec. 1, eff. Sept. 1, 2003.

Sec. 2306.002. POLICY. (a) The legislature finds that:

- (1) every resident of this state should have a decent, safe, and affordable living environment;
- (2) government at all levels should be involved in assisting individuals and families of low income in obtaining a decent, safe, and affordable living environment; and
- (3) the development and diversification of the economy, the elimination of unemployment or underemployment, and the development or expansion of commerce in this state should be encouraged.

(b) The highest priority of the department is to provide assistance to individuals and families of low and very low income who are not assisted by private enterprise or other governmental programs so that they may obtain affordable housing or other services and programs offered by the department.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.60, eff. Sept. 1, 1995.

Sec. 2306.003. PUBLIC PURPOSE. The duties imposed and activities authorized by this chapter serve public purposes, and public money may be borrowed, spent, advanced, loaned, granted, or appropriated for those purposes.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.004. DEFINITIONS. In this chapter:

- (1) "Board" means the governing board of the department.
- (2) "Bond" means an evidence of indebtedness or other obligation, regardless of the source of payment, issued by the department under Subchapter P, including a bond, note, or bond or revenue anticipation note, regardless of whether the obligation is general or special, negotiable or nonnegotiable, in bearer or registered form, in certified or book-entry form, in temporary or permanent form, or with or without interest coupons.
- (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 rescission or forfeiture or acceleration of any remaining payments rather than judicial or nonjudicial foreclosure.

(4) "Department" means the Texas Department of Housing and Community Affairs.

(5) "Director" means the executive director of the department.

(6) "Economically depressed or blighted area" means an area:

(A) that is a qualified census tract as defined by Section 143(j), Internal Revenue Code of 1986 (26 U.S.C. Section 143(j)) or has been determined by the housing finance division to be an area of chronic economic distress under Section 143, Internal Revenue Code of 1986 (26 U.S.C. Section 143 );

(B) established in a municipality that has a substantial number of substandard, slum, deteriorated, or deteriorating structures and that suffers from a high relative rate of unemployment; or

(C) that has been designated as a reinvestment zone under Chapter 311, Tax Code.

(7) "Elderly individual" means an individual 60 years of age or older or of an age specified by the applicable federal program.

(8) "Family of moderate income" means a family:

(A) that is determined by the board to require assistance, taking into account:

(i) the amount of the total income available for housing needs of the individuals and families;

(ii) the size of the family;

(iii) the cost and condition of available housing facilities;

(iv) the ability of the individuals and families to compete successfully in the private housing market and to pay the amounts required by private enterprise for sanitary, decent, and safe housing; and

(v) standards established for various federal programs determining eligibility based on income; and

(B) that does not qualify as a family of low income.

(9) "Federal government" means the United States of America and includes any corporate or other instrumentality of the United States of America, including the Resolution Trust Corporation.

(10) "Federal mortgage" means a mortgage loan for residential housing:

(A) that is made by the federal government; or

(B) for which a commitment to make has been given by the federal government.

(11) "Federally assisted new communities" means federally assisted areas that receive or will receive assistance in the form of loan guarantees under Title X of the National Housing Act (12 U.S.C. Section 1701 et seq.), and a portion of that federally assisted area has received grants under Section 107(a)(1) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. Section 5301 et seq.).

(12) "Federally insured mortgage" means a mortgage loan for residential housing that:

(A) is insured or guaranteed by the federal government; or

(B) the federal government has committed to insure or guarantee.

(13) "Housing development" means property or work or a project, building, structure, facility, or undertaking, whether existing, new construction, remodeling, improvement, or rehabilitation, that meets or is designed to meet minimum property standards required by the department and that is financed under the provisions of this chapter for the primary purpose of providing sanitary, decent, and safe dwelling accommodations for rent, lease, use, or purchase by individuals and families of low and very low income and families of moderate income in need of housing. The term includes:

(A) buildings, structures, land, equipment, facilities, or other real or personal properties that are

necessary, convenient, or desirable appurtenances, including streets, water, sewers, utilities, parks, site preparation, landscaping, stores, offices, and other nonhousing facilities, such as administrative, community, and recreational facilities the department determines to be necessary, convenient, or desirable appurtenances; and

(B) single and multifamily dwellings in rural and urban areas.

(14) "Housing sponsor" means:

(A) an individual, including an individual or family of low and very low income or family of moderate income, joint venture, partnership, limited partnership, trust, firm, corporation, or cooperative that is approved by the department as qualified to own, construct, acquire, rehabilitate, operate, manage, or maintain a housing development, subject to the regulatory powers of the department and other terms and conditions in this chapter; or

(B) in an economically depressed or blighted area, or in a federally assisted new community located within a home-rule municipality, the term may include an individual or family whose income exceeds the moderate income level if at least 90 percent of the total mortgage amount available under a mortgage revenue bond issue is designated for individuals and families of low income or families of moderate income.

(15) "Individuals and families of low income" means individuals and families earning not more than 80 percent of the area median income or applicable federal poverty line, as determined under Section 2306.123 or Section 2306.1231.

(16) "Individuals and families of very low income" means individuals and families earning not more than 60 percent of the area median income or applicable federal poverty line, as determined under Section 2306.123 or Section 2306.1231.

(17) "Individuals and families of extremely low income" means individuals and families earning not more than 30 percent of the area median income or applicable federal poverty line, as determined under Section 2306.123 or Section 2306.1231.

(18) "Land development" means:

(A) acquiring land for residential housing construction; and

(B) making, installing, or constructing nonresidential improvements that the department determines are necessary or desirable for a housing development to be financed by the department, including:

(i) waterlines and water supply installations;

(ii) sewer lines and sewage disposal installations;

(iii) steam, gas, and electric lines and installations; and

(iv) roads, streets, curbs, gutters, and sidewalks, whether on or off the site.

(19) "Local government" means a county, municipality, special district, or any other political subdivision of the state, a public, nonprofit housing finance corporation created under Chapter 394, Local Government Code, or a combination of those entities.

(20) "Mortgage" means an obligation, including a mortgage, mortgage deed, bond, note, deed of trust, or other instrument, that is a lien:

(A) on real property; or

(B) on a leasehold under a lease having a remaining term that, at the time the lien is acquired, does not expire until after the maturity date of the obligation secured by the lien.

(21) "Mortgage lender" means a bank, trust company, savings bank, mortgage company, mortgage banker, credit union, national banking association, savings and loan association, life insurance company, or other financial institution authorized to transact business in this state and approved as a mortgage lender by the department.

(22) "Mortgage loan" means an obligation secured by a mortgage.

(23) "Municipality" includes only a municipality in this state.

(24) "Public agency" means the department or any

agency, board, authority, department, commission, political subdivision, municipal corporation, district, public corporation, body politic, or instrumentality of this state, including a county, municipality, housing authority, state-supported institution of higher education, school district, junior college, other district or authority, or other type of governmental entity of this state.

(25) "Real estate owned contractor" means a person required to meet the obligations of a contract with the department for managing and marketing foreclosed property.

(26) "Real property" means land, including improvements and fixtures on the land, property of any nature appurtenant to the land or used in connection with the land, and a legal or equitable estate, interest, or right in land, including leasehold interests, terms for years, and a judgment, mortgage, or other lien.

(27) "Reserve fund" means any reserve fund established by the department.

(28) "Residential housing" means a specific work or improvement undertaken primarily to provide dwelling accommodations, including the acquisition, construction, reconstruction, remodeling, improvement, or rehabilitation of land and buildings and improvements to the buildings for residential housing and other incidental or appurtenant nonhousing facilities.

(29) "Servicer" means a person required to meet contractual obligations with the housing finance division or with a mortgage lender relating to a loan financed under Subchapter J, including:

- (A) purchasing mortgage certificates backed by mortgage loans;
- (B) collecting principal and interest from the borrower;
- (C) sending principal and interest payments to the division;
- (D) preparing periodic reports;
- (E) notifying the primary mortgage and pool insurers of delinquent and foreclosed loans; and
- (F) filing insurance claims on foreclosed property.

(30) "State low income housing plan" means the comprehensive and integrated plan for the state assessment of housing needs and allocation of housing resources.

(31) "Economic submarket" means a group of borrowers who have common home mortgage loan market eligibility characteristics, including income level, credit history or credit score, and employment characteristics, that are similar to Standard and Poor's credit underwriting criteria.

(32) "Geographic submarket" means a geographic region in the state, including a county, census tract, or municipality, that shares similar levels of access to home mortgage credit from the private home mortgage lending industry, as determined by the department based on home mortgage lending data published by federal and state banking regulatory agencies.

(33) "Rural county" means a county that is outside the boundaries of a primary metropolitan statistical area or a metropolitan statistical area.

(34) "Subprime loan" means a loan that is originated by a lender designated as a subprime lender on the subprime lender list maintained by the United States Department of Housing and Urban Development or identified as a lender primarily engaged in subprime lending under Section 2306.143.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.61, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 980, Sec. 5, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1367, Sec. 2.01, eff. Sept. 1, 2001.

Sec. 2306.005. REFERENCES TO FORMER LAW. A reference in law to the Texas Housing Agency or the Texas Department of Community Affairs means the Texas Department of Housing and Community Affairs.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.006. RULES OF ABOLISHED AGENCIES. Rules of the abolished Texas Housing Agency and the Texas Department of Community Affairs continue in effect as rules of the Texas Department of Housing and Community Affairs until amended or repealed by the department.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.007. ESTABLISHING ECONOMICALLY DEPRESSED OR BLIGHTED AREAS. (a) To establish an economically depressed or blighted area under Section 2306.004(6)(B) or (C), the governing body of a municipality must hold a public hearing and find that the area:

(1) substantially impairs or arrests the sound growth of the municipality; or

(2) is an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use.

(b) The governing body of a municipality holding a hearing under this section must give notice as provided by Chapter 551, except that notice must be published not less than 10 days before the date of the hearing.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 6, eff. Sept. 1, 1997.

Sec. 2306.008. PRESERVATION OF AFFORDABLE HOUSING. (a) The department shall support in the manner described by Subsection (b) the preservation of affordable housing for individuals with special needs, as defined by Section 2306.511, and individuals and families of low income at any location considered necessary by the department.

(b) The department shall support the preservation of affordable housing under this section by:

(1) making low interest financing and grants available to private for-profit and nonprofit buyers who seek to acquire, preserve, and rehabilitate affordable housing; and

(2) prioritizing available funding and financing resources for affordable housing preservation activities.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 3.01, eff. Sept. 1, 2001.

#### SUBCHAPTER B. GOVERNING BOARD AND DEPARTMENT

Sec. 2306.021. DEPARTMENT DIVISIONS. (a) The Texas Department of Housing and Community Affairs is a public and official agency of the state and is a political and corporate body.

(b) The department is composed of:

(1) the community affairs division;

(2) the housing finance division;

(3) the manufactured housing division; and

(4) any other division created by the director as permitted by Section 2306.0521.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 978, Sec. 23, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 980, Sec. 7, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1367, Sec. 1.02, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 330, Sec. 2, eff. Sept. 1, 2003.

Sec. 2306.022. APPLICATION OF SUNSET ACT. The Texas Department of Housing and Community Affairs is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished and this chapter expires September 1, 2011.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1169, Sec. 1.03, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1367, Sec. 1.03, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 330, Sec. 3, eff. Sept. 1, 2003.

Sec. 2306.024. BOARD MEMBERS: APPOINTMENT AND COMPOSITION. The board consists of seven public members appointed by the governor.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 1.03, eff. Sept. 1, 2001.

Sec. 2306.025. TERMS OF BOARD MEMBERS. Members of the board hold office for staggered terms of six years, with the terms of two or three members expiring on January 31 of each odd-numbered year.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 1.03, eff. Sept. 1, 2001.

Sec. 2306.027. ELIGIBILITY. (a) The governor shall appoint to the board public members who have a demonstrated interest in issues related to housing and community support services. A person appointed to the board must be a registered voter in the state and may not hold another public office.

(b) Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national

origin of the appointees and shall be made in a manner that produces representation on the board of the different geographical regions of this state. Appointments to the board must broadly reflect the geographic, economic, cultural, and social diversity of the state, including ethnic minorities, persons with disabilities, and women.

(c) A person may not be a member of the board if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the department;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the department; or

(3) uses or receives a substantial amount of tangible goods, services, or money from the department other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 1.03, eff. Sept. 1, 2001.

Sec. 2306.028. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the board may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.

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

(1) the legislation that created the department and the board;

(2) the programs operated by the department;

(3) the role and functions of the department;

(4) the rules of the department, with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the department;

(6) the results of the most recent formal audit of the department;

(7) the requirements of:

(A) the open meetings law, Chapter 551;

(B) the public information law, Chapter 552;

(C) the administrative procedure law, Chapter 2001; and

(D) other laws relating to public officials, including conflict-of-interest laws;

(8) the requirements of:

(A) state and federal fair housing laws, including Chapter 301, Property Code, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. Section 3601 et seq.), and the Fair Housing Amendments Act of 1988 (42 U.S.C. Section 3601 et seq.);

(B) the Civil Rights Act of 1964 (42 U.S.C. Section 2000a et seq.);

(C) the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.); and

(D) the Rehabilitation Act of 1973 (29 U.S.C. Section 701 et seq.); and

(9) any applicable ethics policies adopted by the department or the Texas Ethics Commission.

(c) A person appointed to the board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.03, eff. Sept. 1, 2001.

Sec. 2306.030. PRESIDING OFFICER; OTHER OFFICERS. (a) The governor shall designate a member of the board as the presiding officer of the board to serve in that capacity at the will of the governor. The presiding officer presides at meetings of the board and performs other duties required by this chapter.

(b) The board shall elect the following officers:

(1) from the members of the board, an assistant presiding officer to perform the duties of the presiding officer when the presiding officer is not present or is incapable of performing duties of the presiding officer;

(2) a secretary to be the official custodian of the

minutes, books, records, and seal of the board and to perform other duties assigned by the board; and

(3) a treasurer to perform duties assigned by the board.

(c) The offices of secretary and treasurer may be held by one individual, and the holder of each of these offices need not be a board member. The board may appoint one or more individuals who are not members to be assistant secretaries to perform any duty of the secretary.

(d) Officers of the board shall be elected at the first meeting of the board on or after January 31 of each odd-numbered year and at any other time as necessary to fill a vacancy.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 1.04, eff. Sept. 1, 2001.

Sec. 2306.031. MEMBERS' COMPENSATION. Members of the board serve without compensation but are entitled to reimbursement for actual expenses incurred in attending board meetings and in performing the duties of a board member.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.032. BOARD MEETINGS. (a) The board may hold meetings when called by the presiding officer, the director, or three of the members.

(b) The board shall keep complete minutes of board meetings. The accounts, minutes, and other records shall be maintained by the department.

(c) All materials in the possession of the department that are relevant to a matter proposed for discussion at a board meeting must be posted on the department's website, made available in hard-copy format at the department, filed with the secretary of state for publication by reference in the Texas Register, and disseminated by any other means required by this chapter or by Chapter 551.

(d) The materials described by Subsection (c) must be made available to the public as required by Subsection (c) not later than the seventh day before the date of the meeting. The board may not consider at the meeting any material that is not made available to the public by the date required by this subsection.

(e) The agenda for a board meeting must state each project the staff is recommending for assistance by the department.

(f) For each item on the board's agenda at the meeting, the board shall provide for public comment after the presentation made by department staff and the motions made by the board on that topic.

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

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.62, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 980, Sec. 8, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1367, Sec. 1.05, eff. Sept. 1, 2001.

Sec. 2306.0321. APPEAL OF BOARD AND DEPARTMENT DECISIONS. (a) The board shall adopt rules outlining a formal process for appealing board and department decisions.

(b) The rules must specify the requirements for appealing a board or department decision, including:

(1) the persons eligible to appeal;

(2) the grounds for an appeal;

(3) the process for filing an appeal, including the information that must be submitted with an appeal;

(4) a reasonable period in which an appeal must be filed, heard, and decided;

(5) the process by which an appeal is heard and a decision is made;

(6) the possible outcomes of an appeal; and

(7) the process by which notification of a decision and the basis for a decision is given.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.06, eff. Sept. 1, 2001.

Sec. 2306.033. REMOVAL OF MEMBERS. (a) It is a ground for removal from the board that a member:

(1) does not have at the time of taking office the qualifications required by Section 2306.027;

(2) does not maintain during service on the board the qualifications required by Section 2306.027;

(3) is ineligible for membership under Section 2306.027(c), 2306.034, or 2306.035;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term;

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the board; or

(6) engages in misconduct or unethical or criminal behavior.

(b) The validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a board member exists.

(c) If the director has knowledge that a potential ground for removal exists, the director shall notify the presiding officer of the board of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the director shall notify the next highest ranking officer of the board, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 9, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1367, Sec. 1.03, eff. Sept. 1, 2001.

Sec. 2306.034. DISQUALIFICATION OF MEMBERS AND CERTAIN EMPLOYEES. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a member of the board and may not be a department employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) if:

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

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

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 1.03, eff. Sept. 1, 2001.

Sec. 2306.035. LOBBYIST RESTRICTION. A person may not be a member of the board or act as the director of the department or the general counsel to the board or the department if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the department.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 1.03, eff. Sept. 1, 2001.

Sec. 2306.036. EMPLOYMENT OF DIRECTOR. (a) With the approval of the governor, the board shall employ a director to serve at the pleasure of the board.

(b) After the election of a governor who did not approve the director's employment under Subsection (a), that governor may remove the director and require the board to employ a new director in accordance with Subsection (a). The governor must act under this subsection before the 90th day after the date the governor takes office.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 519, Sec. 1, eff. June 18, 1999.

Sec. 2306.037. DIRECTOR'S COMPENSATION. The board shall set the salary of the director.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 519, Sec. 2, eff. June 18, 1999.

Sec. 2306.038. ACTING DIRECTOR. The board shall establish a procedure for designating an acting director and shall, with the



approval of the governor, immediately designate an acting director or a new permanent director if the position becomes vacant because of absence or disability. A director designated under this section serves at the pleasure of the board but is subject to removal by a newly elected governor in accordance with Section 2306.036(b). Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 519, Sec. 3, eff. June 18, 1999.

Sec. 2306.039. OPEN MEETINGS AND OPEN RECORDS. (a) Except as provided by Subsection (b), the department and the Texas State Affordable Housing Corporation are subject to Chapters 551 and 552.

(b) This section does not apply to the personal financial information submitted by an individual or family for a loan, grant, or other housing assistance under a program administered by the department or the Texas State Affordable Housing Corporation or from bonds issued by the department, except that the department and the corporation are permitted to disclose information about any applicant in a form that does not reveal the identity of the individual or family for purposes of determining eligibility for programs and in preparing reports required under this chapter.

Added by Acts 1997, 75th Leg., ch. 980, Sec. 10, eff. Sept. 1, 1997.

#### SUBCHAPTER C. POWERS AND DUTIES

Sec. 2306.051. SEPARATION OF RESPONSIBILITIES. The board shall develop and implement policies that clearly separate the policy-making responsibilities of the board and the management responsibilities of the director and staff of the department.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.07, eff. Sept. 1, 2001.

Sec. 2306.052. DIRECTOR'S POWERS AND DUTIES. (a) The director is the administrator and the head of the department and must be an individual qualified by training and experience to perform the duties of the office.

(b) The director shall:

(1) administer and organize the work of the department consistent with this chapter and with sound organizational management that promotes efficient and effective operation;

(2) appoint and remove personnel employed by the department;

(3) submit, through and with the approval of the governor, requests for appropriations and other money to operate the department;

(4) administer all money entrusted to the department;

(5) administer all money and investments of the department subject to:

(A) department indentures and contracts;

(B) Sections 2306.118 through 2306.120; and

(C) an action of the board under Section 2306.351; and

(6) perform other functions that may be assigned by the board or the governor.

(c) The director shall develop and implement the policies established by the board that define the responsibilities of each division in the department.

(d) Repealed by Acts 2001, 77th Leg., ch. 1367, Sec. 1.45, eff. Sept. 1, 2001.

(e) The board shall adopt rules and the director shall develop and implement a program to train employees on the public information requirements of Chapter 552. The director shall monitor the compliance of employees with those requirements.

(f) The director shall use existing department resources to provide the board with any administrative support necessary for the board to exercise its duties regarding the implementation of this chapter, including:

(1) assigning personnel to assist the board;

(2) providing office space, equipment, and documents and other information to the board; and

(3) making in-house legal counsel available to the board.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.64(a), eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 519, Sec. 4, eff. June 18, 1999; Acts 2001, 77th Leg., ch. 1367, Sec. 1.08, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1367, Sec. 1.45, eff. Sept. 1, 2001.

Sec. 2306.0521. ORGANIZATIONAL FLEXIBILITY OF DEPARTMENT. (a) Notwithstanding Section 2306.021(b) or any other

provision of this chapter, the director, with the approval of the board, may:

(1) create divisions in addition to those listed in Section 2306.021(b) and assign to the newly created divisions any duties and powers imposed on or granted to an existing division or the department generally;

(2) eliminate any division listed in Section 2306.021(b) or created under this section and assign any duties or powers previously assigned to the eliminated division to another division listed in Section 2306.021(b) or created under this section; or

(3) eliminate all divisions listed in Section 2306.021(b) or created under this section and reorganize the distribution of powers and duties granted to or imposed on a division in any manner the director determines appropriate for the proper administration of the department.

(b) This section does not apply to the manufactured housing division.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.07, eff. Sept. 1, 2001.

Sec. 2306.053. DEPARTMENT POWERS AND DUTIES. (a) The department shall maintain suitable headquarters and other offices in this state that the director determines are necessary.

(b) The department may:

(1) sue and be sued, or plead and be impleaded;

(2) act for and on behalf of this state;

(3) adopt an official seal or alter it;

(4) adopt and enforce bylaws and rules;

(5) contract with the federal government, state, any public agency, mortgage lender, person, or other entity;

(6) designate mortgage lenders to act for the department for the origination, processing, and servicing of the department's mortgage loans under conditions agreed to by the parties;

(7) provide, contract, or arrange for consolidated processing of a housing development to avoid duplication;

(8) encourage homeless individuals and individuals of low or very low income to attend the department's educational programs and assist those individuals in attending the programs;

(9) appoint and determine the qualifications, duties, and tenure of its agents, counselors, and professional advisors, including accountants, appraisers, architects, engineers, financial consultants, housing construction and financing experts, and real estate consultants;

(10) administer federal housing, community affairs, or community development programs, including the low income housing tax credit program;

(11) establish eligibility criteria for individuals and families of low, very low, and families of moderate income to participate in and benefit from programs administered by the department;

(12) execute funding agreements;

(13) obtain, retain, and disseminate records and other documents in electronic form; and

(14) do all things necessary, convenient, or desirable to carry out the powers expressly granted or necessarily implied by this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.62(c), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 980, Sec. 11, eff. Sept. 1, 1997.

Sec. 2306.054. SPECIAL ADVISORY COUNCILS. (a) The governor or director may appoint special advisory councils to:

(1) assist the department in adopting basic policy;

or

(2) offer advice on technical aspects of certain programs.

(b) A special advisory council is dissolved on completion of its stated purpose unless continued by the governor or director.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Renumbered from V.T.C.A., Government Code Sec. 2306.094 and amended by Acts 1995, 74th Leg. ch. 76, Sec. 5.70(a), eff. Sept. 1, 1995.

Sec. 2306.055. TRANSFERS FROM GOVERNOR. The governor may transfer to any division personnel, equipment, records, obligations, appropriations, functions, and duties of appropriate divisions of the governor's office.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Renumbered from V.T.C.A., Government Code Sec. 2306.095 and amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.71(a), eff. Sept. 1, 1995.

Sec. 2306.056. COMMITTEES. (a) The presiding officer may appoint a committee composed of board members to carry out the board's duties.

(b) The board may consider a recommendation of a committee in making a decision under this chapter.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.63(a), eff. Sept. 1, 1995.

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

(1) assess:

(A) the compliance history of the applicant and any affiliate of the applicant with respect to all applicable requirements; and

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

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

(b) The written report described by Subsection (a)(2) must be included in the appropriate project file for board and department review.

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

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

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.07, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 332, Sec. 4, eff. Sept. 1, 2003.

#### SUBCHAPTER D. GENERAL ADMINISTRATIVE PROVISIONS

Sec. 2306.061. STANDARDS OF CONDUCT. The director or the director's designee shall become aware of and provide to members of the board and to department employees, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 1.09, eff. Sept. 1, 2001.

Sec. 2306.062. CAREER LADDER. The director or the director's designee shall develop an intraagency career ladder program. The program shall require intraagency postings of all nonentry level positions concurrently with any public posting.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.063. PERFORMANCE EVALUATIONS. The director or the director's designee shall develop a system of annual performance evaluations. All merit pay for department employees must be based on the system established under this section.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.0631. STATE EMPLOYEE INCENTIVE PROGRAM. The director or the director's designee shall provide to department employees information and training on the benefits and methods of participation in the state employee incentive program under Subchapter B, Chapter 2108.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.09, eff. Sept. 1, 2001.

Sec. 2306.064. EQUAL EMPLOYMENT OPPORTUNITIES. (a) The director or the director's designee shall prepare and maintain a written policy statement to ensure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) a comprehensive analysis of the department work force that meets federal and state guidelines;

(2) personnel policies, including policies relating

to recruitment, evaluation, selection, appointment, training, and promotion of personnel;

(3) procedures by which a determination can be made of significant underuse in the department work force of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of significant underuse.

(b) A policy statement prepared under Subsection (a) must cover an annual period, be updated at least annually, and be filed with the governor's office.

(c) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (b). The report may be made separately or as a part of other biennial reports made to the legislature.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.065. DISCRIMINATION PROHIBITED. An individual may not, because of that individual's race, color, national origin, or sex, be excluded from participation, be denied benefits, or be subjected to discrimination in any program or activity funded in whole or in part with funds made available under this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.066. INFORMATION AND COMPLAINTS. (a) The department shall prepare information of public interest describing the functions of the department and the procedures by which complaints are filed with and resolved by the department. The department shall make the information available to the public and appropriate state agencies.

(b) The department shall maintain a file on each written complaint filed with the department. The file must include:

(1) the name of the person who filed the complaint;

(2) the date the complaint is received by the department;

(3) the subject matter of the complaint;

(4) the name of each person contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) an explanation of the reason the file was closed, if the department closed the file without taking action other than to investigate the complaint.

(c) The department shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the department's policies and procedures relating to complaint investigation and resolution. The department, at least quarterly until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

(d) The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board.

(e) The director shall prepare and maintain a written plan that describes how an individual who does not speak English or who has a physical, mental, or developmental disability may be provided reasonable access to and participation in the department's programs.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 1.10, eff. Sept. 1, 2001.

Sec. 2306.0661. PUBLIC HEARINGS. (a) Except as provided by Subsection (b), this section applies only to state-funded housing programs, programs funded with bond proceeds, the low income housing tax credit program, and the state low income housing plan. Federally funded programs shall comply with the federal public participation requirements and Chapter 2105, if applicable.

(b) The department shall encourage informed and effective public participation in the department's programs and plans by holding, on at least an annual basis in each uniform service region of the state, a consolidated public hearing in which the department solicits and accepts public comments regarding the following programs:

(1) the housing trust fund program;

(2) the HOME investment partnerships program;

(3) the single-family housing mortgage revenue bond program;

(4) the multifamily housing mortgage revenue bond program;

(5) the low income housing tax credit program;

(6) the low income energy assistance program;

(7) any other program in the consolidated plan submitted to the United States Department of Housing and Urban Development; and

(8) any other program in the state low income housing plan.

(c) In holding a public hearing, the department shall ensure that:

(1) the location of the hearing is:

(A) in a public building or facility accessible to the public;

(B) accessible to persons with disabilities; and

(C) reasonably accessible by public transportation, if available;

(2) hearings are scheduled at times when working and nonworking people can attend; and

(3) child care is provided where practical.

(d) In scheduling a public hearing, the department shall:

(1) publish notice of the time, place, and subject of the hearing in the Texas Register and a newspaper of general circulation in the community in which the hearing is to be held at least seven days before the date of the hearing. Whenever practical, the department shall publish notice of the time, place, and subject of the hearing in the Texas Register and a newspaper of general circulation in the community in which the hearing is to be held at least thirty days before the date of the hearing;

(2) provide notice of the hearing to each public library, in the community in which the hearing is to be held, for posting in a public area of the library;

(3) provide notice of the hearing to:

(A) each member of the board;

(B) each member of the advisory committee consulted by the department during preparation of the state low income housing plan; and

(C) each member of the legislature;

(4) make information about the hearing, including, if appropriate, the qualified allocation plan, application forms for a low income housing tax credit, and the state low income housing plan, available on the Internet in accordance with Subsection (e) and with Section 2306.077; and

(5) provide an opportunity for persons to transmit on the Internet written testimony or comments on a subject of a hearing in accordance with rules adopted by the board.

(e) At least one week before the date of the hearing, all materials in the possession of the department that are relevant to a matter proposed for discussion at a consolidated public hearing under this section must be sent to interested persons and organizations, posted on the department's website, made available in hard-copy format at the department, filed with the secretary of state for publication by reference in the Texas Register, and disseminated by any other means required by this chapter or by Chapter 551.

(f) The board shall adopt rules governing the topics that may be considered at a public hearing. The rules must require the department to consider the following topics in relation to a proposed housing development:

(1) the developer market study;

(2) the location;

(3) the compliance history of the developer;

(4) the financial feasibility;

(5) the appropriateness of the development's size and configuration in relation to the housing needs of the community in which the development is located;

(6) the development's proximity to other low income housing developments;

(7) the availability of adequate public facilities and services;

(8) the anticipated impact on local school districts;

(9) zoning and other land use considerations; and

(10) any other topics that the board by rule

determines to be appropriate.

Added by Acts 1997, 75th Leg., ch. 980, Sec. 12, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 1.11, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 330, Sec. 4, eff. Sept. 1, 2003.

Sec. 2306.067. LOANED EMPLOYEES. (a) The director may enter into reciprocal agreements with a state agency or instrumentality or local government to loan or assign department employees to that entity.

(b) A state agency or instrumentality or local government may loan or assign employees to the department, with or without reimbursement, by agreement between the department and the other party. The department may contract to reimburse all costs incidental to loaning or assigning employees.

(c) An employee loaned or assigned to the department is an employee of the lending agency or unit for purposes of salary, leave, retirement, and other personnel benefits. The loaned or assigned employee is under the supervision of personnel of the department and is an employee of the department for all other purposes.

(d) The director may enter into an agreement with the manufactured housing division to loan or assign department employees, equipment, and facilities to that division.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 1.12, eff. Sept. 1, 2001.

Sec. 2306.068. INTERAGENCY COOPERATION. An agency or institution of the state shall cooperate with the department by providing personnel, information, and technical advice as the department assists the governor in:

(1) the coordination of federal and state activities affecting local government; and

(2) providing affordable housing for individuals and families of low and very low income and families of moderate income.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.069. LEGAL COUNSEL. (a) The department shall obtain and evaluate information regarding the affirmative action policies and practices of proposed outside legal counsel. The department must include the evaluation in a request to the attorney general for outside legal counsel.

(b) The department may hire in-house legal counsel. The director shall prescribe the duties of the legal counsel.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.68(a), eff. Sept. 1, 1995.

Sec. 2306.070. BUDGET. In preparing the department's legislative appropriations request, the department shall also prepare an operating budget for the housing finance division. The department shall submit the operating budget to the Legislative Budget Board, the Senate Finance Committee, and the House Appropriations Committee.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.0705. GENERAL APPROPRIATIONS ACT. Except as specifically provided by this chapter, the department is subject to the General Appropriations Act.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.65(a), eff. Sept. 1, 1995.

Sec. 2306.071. FUNDS. (a) The department may request, contract for, receive, and spend for its purposes an appropriation, grant, allocation, subsidy, rent supplement, guarantee, aid, contribution, gift, service, labor, or material from this state, the federal government, or another public or private source.

(b) The funds and revenues of the housing finance division shall be kept separate from the funds and revenues of the other divisions, and the other divisions may use funds and revenues of the housing finance division only to administer housing-related programs.

(c) Except for legislative appropriations, funds necessary for the operation of the housing finance division, and trustee-held funds of the department under a multifamily bond indenture, all funds and revenue received by the housing finance division are to be kept outside the state treasury.

(d) Legislative appropriations to the housing finance division and the operating funds of the division shall be kept in the state treasury. Trustee-held funds of the department under a multifamily bond indenture are held by the trustee as provided by

the indenture.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.  
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.65(b), eff. Sept. 1, 1995.

Sec. 2306.072. ANNUAL LOW INCOME HOUSING REPORT. (a) Not later than December 18 of each year, the director shall prepare and submit to the board an annual report of the department's housing activities for the preceding year.

(b) Not later than the 30th day after the date the board receives the report, the board shall submit the report to the governor, lieutenant governor, speaker of the house of representatives, and members of any legislative oversight committee.

(c) The report must include:

(1) a complete operating and financial statement of the department;

(2) a comprehensive statement of the activities of the department during the preceding year to address the needs identified in the state low income housing plan prepared as required by Section 2306.0721, including:

(A) a statistical and narrative analysis of the department's performance in addressing the housing needs of individuals and families of low and very low income;

(B) the ethnic and racial composition of individuals and families applying for and receiving assistance from each housing-related program operated by the department; and

(C) the department's progress in meeting the goals established in the previous housing plan;

(3) an explanation of the efforts made by the department to ensure the participation of individuals of low income and their community-based institutions in department programs that affect them;

(4) a statement of the evidence that the department has made an affirmative effort to ensure the involvement of individuals of low income and their community-based institutions in the allocation of funds and the planning process;

(5) a statistical analysis, delineated according to each ethnic and racial group served by the department, that indicates the progress made by the department in implementing the state low income housing plan in each of the uniform state service regions;

(6) an analysis, based on information provided by the fair housing sponsor reports required under Section 2306.0724 and other available data, of fair housing opportunities in each housing development that receives financial assistance from the department that includes the following information for each housing development that contains 20 or more living units:

(A) the street address and municipality or county in which the property is located;

(B) the telephone number of the property management or leasing agent;

(C) the total number of units, reported by bedroom size;

(D) the total number of units, reported by bedroom size, designed for individuals who are physically challenged or who have special needs and the number of these individuals served annually;

(E) the rent for each type of rental unit, reported by bedroom size;

(F) the race or ethnic makeup of each project;

(G) the number of units occupied by individuals receiving government-supported housing assistance and the type of assistance received;

(H) the number of units occupied by individuals and families of extremely low income, very low income, low income, moderate income, and other levels of income;

(I) a statement as to whether the department has been notified of a violation of the fair housing law that has been filed with the United States Department of Housing and Urban Development, the Commission on Human Rights, or the United States Department of Justice; and

(J) a statement as to whether the development has any instances of material noncompliance with bond indentures or deed restrictions discovered through the normal monitoring activities and procedures that include meeting occupancy

requirements or rent restrictions imposed by deed restriction or financing agreements;

(7) a report on the geographic distribution of low income housing tax credits, the amount of unused low income housing tax credits, and the amount of low income housing tax credits received from the federal pool of unused funds from other states; and

(8) a statistical analysis, based on information provided by the fair housing sponsor reports required by Section 2306.0724 and other available data, of average rents reported by county.

(d) Repealed by Acts 2003, 78th Leg., ch. 330, Sec. 31(1). Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.66(a), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 980, Sec. 13, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 226, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1367, Sec. 4.01, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 330, Sec. 31(1), eff. Sept. 1, 2003.

Sec. 2306.0721. LOW INCOME HOUSING PLAN. (a) Not later than December 18 of each year, the director shall prepare and submit to the board an integrated state low income housing plan for the next year.

(b) Not later than the 30th day after the date the board receives the plan, the board shall submit the plan to the governor, lieutenant governor, and the speaker of the house of representatives.

(c) The plan must include:

(1) an estimate and analysis of the housing needs of the following populations in each uniform state service region:

(A) individuals and families of moderate, low, very low, and extremely low income;

(B) individuals with special needs; and

(C) homeless individuals;

(2) a proposal to use all available housing resources to address the housing needs of the populations described by Subdivision (1) by establishing funding levels for all housing-related programs;

(3) an estimate of the number of federally assisted housing units available for individuals and families of low and very low income and individuals with special needs in each uniform state service region;

(4) a description of state programs that govern the use of all available housing resources;

(5) a resource allocation plan that targets all available housing resources to individuals and families of low and very low income and individuals with special needs in each uniform state service region;

(6) a description of the department's efforts to monitor and analyze the unused or underused federal resources of other state agencies for housing-related services and services for homeless individuals and the department's recommendations to ensure the full use by the state of all available federal resources for those services in each uniform state service region;

(7) strategies to provide housing for individuals and families with special needs in each uniform state service region;

(8) a description of the department's efforts to encourage in each uniform state service region the construction of housing units that incorporate energy efficient construction and appliances;

(9) an estimate and analysis of the housing supply in each uniform state service region;

(10) an inventory of all publicly and, where possible, privately funded housing resources, including public housing authorities, housing finance corporations, community housing development organizations, and community action agencies;

(11) strategies for meeting rural housing needs;

(12) a biennial action plan for colonias that:

(A) addresses current policy goals for colonia programs, strategies to meet the policy goals, and the projected outcomes with respect to the policy goals; and

(B) includes information on the demand for contract-for-deed conversions, services from self-help centers, consumer education, and other colonia resident services in counties some part of which is within 150 miles of the international border of this state;



(13) a summary of public comments received at a hearing under this chapter or from another source that concern the demand for colonia resident services described by Subdivision (12); and

(14) any other housing-related information that the state is required to include in the one-year action plan of the consolidated plan submitted annually to the United States Department of Housing and Urban Development.

(d) The priorities and policies in another plan adopted by the department must be consistent to the extent practical with the priorities and policies established in the state low income housing plan.

(e) To the extent consistent with federal law, the preparation and publication of the state low income housing plan shall be consistent with the filing and publication deadlines required of the department for the consolidated plan.

(f) The director may subdivide the uniform state service regions as necessary for purposes of the state low income housing plan.

(g) The department shall include the plan developed by the Texas State Affordable Housing Corporation under Section 2306.566 in the department's resource allocation plan under Subsection (c)(5).

(h) The department shall consider and incorporate the specific results of the programs of the Texas State Affordable Housing Corporation in the department's estimate and analysis of the housing supply in each uniform state service region under Subsection (c)(9).

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.66(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 14, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 226, Sec. 2, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1367, Sec. 1.13, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 330, Sec. 5, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 332, Sec. 5, eff. Sept. 1, 2003.

Sec. 2306.0722. PREPARATION OF PLAN AND REPORT. (a) Before preparing the annual low income housing report under Section 2306.072 and the state low income housing plan under Section 2306.0721, the department shall meet with regional planning commissions created under Chapter 391, Local Government Code, representatives of groups with an interest in low income housing, nonprofit housing organizations, managers, owners, and developers of affordable housing, local government officials, residents of low income housing, and members of the Colonia Resident Advisory Committee. The department shall obtain the comments and suggestions of the representatives, officials, residents, and members about the prioritization and allocation of the department's resources in regard to housing.

(b) In preparing the annual report under Section 2306.072 and the state low income housing plan under Section 2306.0721, the director shall:

(1) coordinate local, state, and federal housing resources, including tax exempt housing bond financing and low income housing tax credits;

(2) set priorities for the available housing resources to help the neediest individuals;

(3) evaluate the success of publicly supported housing programs;

(4) survey and identify the unmet housing needs of individuals the department is required to assist;

(5) ensure that housing programs benefit an individual without regard to the individual's race, ethnicity, sex, or national origin;

(6) develop housing opportunities for individuals and families of low and very low income and individuals with special housing needs;

(7) develop housing programs through an open, fair, and public process;

(8) set priorities for assistance in a manner that is appropriate and consistent with the housing needs of the populations described by Section 2306.0721(c)(1);

(9) incorporate recommendations that are consistent with the consolidated plan submitted annually by the state to the United States Department of Housing and Urban Development;

(10) identify the organizations and individuals consulted by the department in preparing the annual report and

state low income housing plan and summarize and incorporate comments and suggestions provided under Subsection (a) as the board determines to be appropriate;

(11) develop a plan to respond to changes in federal funding and programs for the provision of affordable housing;

(12) use the following standardized categories to describe the income of program applicants and beneficiaries:

(A) 0 to 30 percent of area median income adjusted for family size;

(B) more than 30 to 60 percent of area median income adjusted for family size;

(C) more than 60 to 80 percent of area median income adjusted for family size;

(D) more than 80 to 115 percent of area median income adjusted for family size; or

(E) more than 115 percent of area median income adjusted for family size;

(13) use the most recent census data combined with existing data from local housing and community service providers in the state, including public housing authorities, housing finance corporations, community housing development organizations, and community action agencies; and

(14) provide the needs assessment information compiled for the report and plan to the Texas State Affordable Housing Corporation.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.66(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 15, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1367, Sec. 1.14, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 330, Sec. 6, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 332, Sec. 6, eff. Sept. 1, 2003.

Sec. 2306.0723. PUBLIC PARTICIPATION REQUIREMENTS. (a) The department shall hold public hearings on the annual state low income housing plan and report before the director submits the report and the plan to the board. The department shall provide notice of the public hearings as required by Section 2306.0661. The published notice must include a summary of the report and plan. The department shall accept comments on the report and plan at the public hearings and for at least 30 days after the date of the publication of the notice of the hearings.

(b) In addition to any other necessary topics relating to the report and the plan, each public hearing required by Subsection (a) must address:

(1) infrastructure needs;

(2) home ownership programs;

(3) rental housing programs;

(4) housing repair programs; and

(5) the concerns of individuals with special needs, as defined by Section 2306.511.

(c) The board shall hold a public hearing on the state low income housing report and plan before the board submits the report and the plan to the governor, lieutenant governor, speaker of the house of representatives, and members of the legislature.

(d) The board shall include with the report and the plan the board submits to the governor, lieutenant governor, speaker of the house of representatives, members of the legislature, and members of the advisory board formed by the department to advise on the consolidated plan a written summary of public comments on the report and the plan.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.66(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 16, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1367, Sec. 1.15, eff. Sept. 1, 2001.

Sec. 2306.0724. FAIR HOUSING SPONSOR REPORT. (a) The department shall require the owner of each housing development that receives financial assistance from the department and that contains 20 or more living units to submit an annual fair housing sponsor report. The report must include the relevant information necessary for the analysis required by Section 2306.072(c)(6). In compiling the information for the report, the owner of each housing development shall use data current as of January 1 of the reporting year.

(b) The department shall adopt rules regarding the procedure for filing the report.

(c) The department shall maintain the reports in electronic and hard-copy formats readily available to the public at no cost.

(d) A housing sponsor who fails to file a report in a timely manner is subject to the following sanctions, as determined by the department:

- (1) denial of a request for additional funding; or
  - (2) an administrative penalty in an amount not to exceed \$1,000, assessed in the manner provided for an administrative penalty under Section 2306.6023.
- Added by Acts 2001, 77th Leg., ch. 1367, Sec. 4.02, eff. Sept. 1, 2001.

Sec. 2306.073. INTERNAL AUDIT. (a) The director, with the approval of the board, shall appoint an internal auditor who reports directly to the board and serves at the pleasure of the board.

- (b) The internal auditor shall:
- (1) prepare an annual audit plan using risk assessment techniques to rank high-risk functions in the department; and
  - (2) submit the annual audit plan to the director and board for consideration and approval or change as necessary or advisable.

(c) The internal auditor may bring before the director or board an issue outside the annual audit plan that requires the immediate attention of the director or board.

(d) The internal auditor may not be assigned any operational or management responsibilities that impair the ability of the internal auditor to make an independent examination of the department's operations.

(e) The department shall give the internal auditor unrestricted access to activities and records of the department unless restricted by other law.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.67(a), eff. Sept. 1, 1995.

Sec. 2306.074. AUDIT. (a) The department's books and accounts must be audited each fiscal year by a certified public accountant or, if requested by the department and if the legislative audit committee approves including the audit in the audit plan under Section 321.013(c), by the state auditor. A copy of the audit must be filed with the governor, the comptroller, and the legislature not later than the 30th day after the submission date for the annual financial report as required by the General Appropriations Act. If the state auditor is conducting the audit and it is not available by the 30th day after the submission date as required by the General Appropriations Act for annual financial reporting, it must be filed as soon as it is available.

(b) The department shall pay for the audit.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.66(b), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1035, Sec. 67, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 785, Sec. 48, eff. Sept. 1, 2003.

Sec. 2306.075. TAX EXEMPTION. The property of the department, its income, and its operations are exempt from all taxes and assessments imposed by this state and all public agencies on property acquired or used by the department under this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.076. INSURANCE. (a) The board may purchase from department funds liability insurance for the director, board members, officers, and employees of the department.

(b) The board may purchase the insurance in an amount the board considers reasonably necessary to:

(1) insure against reasonably foreseeable liabilities; and

(2) provide for all costs of defending against those liabilities, including court costs and attorney's fees.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.66(c), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 17, eff. Sept. 1, 1997.

Sec. 2306.077. INTERNET AVAILABILITY. (a) In this section, "Internet" means the largest, nonproprietary, nonprofit, cooperative, public computer network, popularly known as the Internet.

(b) The department, to the extent it considers it to be feasible and appropriate, shall make information on the department's programs, public hearings, and scheduled public meetings available to the public on the Internet.

(c) The access to information allowed by this section is in

addition to the public's free access to the information through other electronic or print distribution of the information and does not alter, diminish, or relinquish any copyright or other proprietary interest or entitlement of this state or a private entity under contract with this state.

(d) The department shall provide for annual housing sponsor reports required by Section 2306.0724 to be filed through the Internet.

(e) The department shall provide for reports regarding housing units designed for persons with disabilities made under Section 2306.078 to be filed through the Internet.

Added by Acts 1997, 75th Leg., ch. 980, Sec. 18, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 4.03, eff. Sept. 1, 2001.

Sec. 2306.078. INFORMATION REGARDING HOUSING FOR PERSONS WITH DISABILITIES. (a) The department shall establish a system that requires owners of state or federally assisted housing developments with 20 or more housing units to report information regarding housing units designed for persons with disabilities.

(b) The system must provide for each owner of a development described by Subsection (a) with at least one housing unit designed for a person with a disability to enter the following information on the department's Internet site:

(1) the name, if any, of the development;

(2) the street address of the development;

(3) the number of housing units in the development that are designed for persons with disabilities and that are available for lease;

(4) the number of bedrooms in each housing unit designed for a person with a disability;

(5) the special features that characterize each housing unit's suitability for a person with a disability;

(6) the rent for each housing unit designed for a person with a disability; and

(7) the telephone number and name of the development manager or agent to whom inquiries by prospective tenants may be made.

(c) The department shall require each owner to maintain updated contact information under Subsection (b)(7) and shall solicit the owner's voluntary provision of updated information under Subsections (b)(3) and (6).

(d) The department shall make information provided under this section available to the public in electronic and hard-copy formats at no cost.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 4.04, eff. Sept. 1, 2001.

Sec. 2306.079. REGIONAL DEVELOPMENT COORDINATOR. (a) In this section:

(1) "Regional development coordinator" means a person employed by or under contract with the department to perform the duties described by this section.

(2) "Regional partner" means an entity such as a regional planning commission, political subdivision, local nonprofit organization, institution of higher education, community housing development organization, housing finance corporation, public housing authority, agricultural extension agent, local bank, or field office or service center of the United States Department of Agriculture Rural Development Texas that is engaged in data-gathering projects related to the goals of the department.

(b) The department shall employ or contract with a regional development coordinator for each uniform state service region of this state. The primary responsibilities of a regional development coordinator are:

(1) assisting local communities in determining how to address affordable housing and community development needs;

(2) establishing regional planning and resource-sharing partnerships; and

(3) facilitating the leveraging of available local, state, and federal funds.

(c) A regional development coordinator shall:

(1) gather and manage data about affordable housing and community development needs in the uniform state service region the coordinator represents by:

(A) identifying and working with regional partners;

(B) using a variety of data resources, including:  
(i) the United States Census Bureau;  
(ii) the United States Department of Housing and Urban Development;  
(iii) the Texas State Data Center;  
(iv) the Texas Real Estate Research Center;  
and

(v) the office of the comptroller, the Texas Department of Economic Development, and other state agencies;

(C) developing an analysis of the region's affordable housing and community development needs based on the data gathered and local and regional input; and

(D) establishing a framework for sharing the data with the regional partners;

(2) use the data described by Subdivision (1) to facilitate the development of a regional plan and shall encourage the consensus of the regional partners concerning the plan;

(3) identify statewide and national partners for meeting the region's affordable housing and community development needs, including the United States Department of Housing and Urban Development, the United States Department of Agriculture Rural Development Texas, the Texas State Affordable Housing Corporation, statewide nonprofit entities, banking associations, developer associations, and foundations; and

(4) provide an information clearinghouse for the region that facilitates planning and resource sharing by identifying programs that leverage local, state, and federal financial aid.

(d) In each uniform state service region, the regional planning commission and other regional partners shall establish an advisory committee consisting of representatives of two or more regional partners that shall:

(1) advise the department regarding the affordable housing and community development needs of that region;

(2) assist the department in:

(A) assigning priorities to the affordable housing and community development needs of that region;

(B) identifying resources to address those needs; and

(C) implementing the low income housing plan as applied to that region; and

(3) request and gather from political subdivisions and other appropriate entities any affordable housing and community development plans that are relevant to the development of the regional plan described by Subsection (c), including local plans, regional plans from regional planning commissions, and plans developed for the United States Department of Housing and Urban Development consolidated planning process.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 5.01, eff. Sept. 1, 2001.

Sec. 2306.080. DATABASE INFORMATION SPECIALIST. The director shall appoint a database information specialist. The primary responsibility of the database information specialist is to provide for the effective and efficient dissemination to the public of information related to affordable housing and community development in a form that is accessible, widely available, and easily used.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 5.01, eff. Sept. 1, 2001.

Sec. 2306.081. PROJECT COMPLIANCE; DATABASE. (a) The department, through the division with responsibility for compliance matters, shall monitor for compliance with all applicable requirements the entire construction phase associated with any project under this chapter. The monitoring level for each project must be based on the amount of risk associated with the project.

(b) After completion of a project's construction phase, the department shall periodically review the performance of the project to confirm the accuracy of the department's initial compliance evaluation during the construction phase.

(c) The department shall use the division responsible for credit underwriting matters and the division responsible for compliance matters to determine the amount of risk associated with each project.

(d) The department shall create an easily accessible

database that contains all project compliance information developed under this chapter, including project compliance information provided to the department by the Texas State Affordable Housing Corporation.

(e) The department shall allow the Texas State Affordable Housing Corporation timely access to the information in the database.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.09, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 332, Sec. 7, eff. Sept. 1, 2003.

Sec. 2306.082. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE RESOLUTION. (a) The department shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 for the adoption of department rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal and external disputes under the department's jurisdiction.

(b) The department's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The department shall designate a trained person to:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures, as implemented by the department.

Added by Acts 2003, 78th Leg., ch. 330, Sec. 7, eff. Sept. 1, 2003.

Sec. 2306.083. REPORT TO SECRETARY OF STATE. (a) In this section, "colonia" means a geographic area that:

(1) is an economically distressed area as defined by Section 17.921, Water Code; and

(2) is located in a county any part of which is within 62 miles of an international border.

(b) To assist the secretary of state in preparing the report required under Section 405.021, the board on a quarterly basis shall provide a report to the secretary of state detailing any projects funded by the department that provide assistance to colonias.

(c) The report must include:

(1) a description of any relevant projects;

(2) the location of each project;

(3) the number of colonia residents served by each project;

(4) the cost or anticipated cost of each project;

(5) a statement of whether each project is completed and, if not, the expected completion date of the project; and

(6) any other information, as determined appropriate by the secretary of state.

Added by Acts 2005, 79th Leg., ch. 828, Sec. 4, eff. Sept. 1, 2005.

SUBCHAPTER E. COMMUNITY AFFAIRS AND COMMUNITY DEVELOPMENT PROGRAMS

Sec. 2306.092. DUTIES REGARDING CERTAIN PROGRAMS CREATED UNDER FEDERAL LAW. The department shall administer, as appropriate:

(1) state responsibilities for programs created under the federal Economic Opportunity Act of 1964 (42 U.S.C. Section 2701 et seq.);

(2) programs assigned to the department under the Omnibus Budget Reconciliation Act of 1981 (Pub.L. No. 97-35); and

(3) other federal acts creating economic opportunity programs assigned to the department.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.69(a), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 994, Sec. 4, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 1367, Sec. 1.16, eff. Sept. 1, 2001.

Sec. 2306.093. HOUSING ASSISTANCE GOAL. By action of the board the community affairs division shall have a goal to apply a minimum of 25 percent of the division's total housing-related funds toward housing assistance for individuals and families of very low income.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.094. SERVICES FOR THE HOMELESS. The department shall administer the state's allocation of federal funds provided under the Emergency Shelter Grants Program (42 U.S.C. Section 11371 et seq.), as amended, or its successor program, and any other federal funds provided for the benefit of homeless individuals and families.

Added by Acts 1997, 75th Leg., ch. 980, Sec. 20, eff. Sept. 1, 1997.

Sec. 2306.097. ENERGY SERVICES PROGRAM FOR LOW-INCOME INDIVIDUALS. The Energy Services Program for Low-Income Individuals shall operate in conjunction with the community services block grant program and has jurisdiction and responsibility for administration of the following elements of the State Low-Income Energy Assistance Program, from whatever sources funded:

- (1) the Energy Crisis Intervention Program;
- (2) the weatherization program; and
- (3) the Low-Income Home Energy Assistance Program.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.72(a), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 980, Sec. 21, eff. Sept. 1, 1997.

Sec. 2306.0985. RECOVERY OF FUNDS FROM CERTAIN SUBDIVISIONS. (a) It is the intent of the legislature that a private developer not unduly benefit from the expenditure by the state of public funds on infrastructure for public benefit.

(b) This section applies only to property located in:

- (1) the unincorporated area of an affected county, as defined by Section 16.341, Water Code; and
- (2) an economically distressed area, as defined by Section 16.341, Water Code.

(c) As a condition for the receipt of state funds, and to the extent permitted by law, federal funds, the department may require a political entity with authority to tax and place a lien on property to place a lien or assessment on property that benefits from the expenditure of state or federal funds for water, wastewater, or drainage improvements affecting the property. The lien or assessment may not exceed an amount equal to the cost of making the improvements as those costs relate to the property. The lien or assessment expires 10 years after the date the improvements are completed.

(d) If property subject to a lien or assessment under Subsection (c) is sold, the seller must pay to the political entity from the proceeds of the sale an amount equal to the value of the lien or assessment. This subsection does not apply if:

- (1) the reason for the sale is:
  - (A) the disposition of the estate following the death of the owner of the property; or
  - (B) the owner because of physical condition must reside in a continuous care facility and no longer resides on the property; or
- (2) the owner of the property is a person of low or moderate income.

(e) If property subject to a lien or assessment under Subsection (c) is repossessed by the holder of a note or a contract for deed, the holder must pay to the political entity an amount equal to the value of the lien or assessment before taking possession of the property.

(f) Subject to rules adopted by the department, a political entity shall collect payments made under this section and remit the funds for deposit in the treasury to the credit of a special account in the general revenue fund that may be appropriated only to the department for use in administering a program under Section 2306.098.

(g) After public notice and comment, the department shall adopt rules to administer this section. The department may provide by rule for the reduction or waiver of a fee authorized by this section.

Added by Acts 1995, 74th Leg., ch. 979, Sec. 28, eff. June 16, 1995.

#### SUBCHAPTER F. HOUSING FINANCE DIVISION: GENERAL PROVISIONS

Sec. 2306.111. HOUSING FUNDS. (a) The department, through the housing finance division, shall administer all federal housing funds provided to the state under the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. Section 12704 et seq.) or any other affordable housing program.

(b) The housing finance division shall adopt a goal to apply

an aggregate minimum of 25 percent of the division's total housing funds toward housing assistance for individuals and families of extremely low and very low income.

Text of subsec. (c) as amended by Acts 2001, 77th Leg., ch. 1367,  
Sec. 6.01

(c) In administering federal housing funds provided to the state under the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. Section 12701 et seq.), the department shall expend at least 95 percent of these funds for the benefit of non-participating small cities and rural areas that do not qualify to receive funds under the Cranston-Gonzalez National Affordable Housing Act directly from the United States Department of Housing and Urban Development. All funds not set aside under this subsection shall be used for the benefit of persons with disabilities who live in areas other than small cities and rural areas.

Text of subsec. (c) as amended by Acts 2001, 77th Leg., ch. 1448,  
Sec. 1

(c) In administering federal housing funds provided to the state under the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. Section 12701 et seq.), the department shall expend at least 95 percent of these funds for the benefit of non-participating areas that do not qualify to receive funds under the Cranston-Gonzalez National Affordable Housing Act directly from the United States Department of Housing and Urban Development. All funds not set aside under this subsection shall be used for the benefit of persons with disabilities who live in areas other than non-participating areas.

(c-1) The following entities are eligible to apply for set-aside funds under Subsection (c):

(1) nonprofit providers of affordable housing, including community housing development organizations; and  
(2) for-profit providers of affordable housing.

(c-2) In allocating set-aside funds under Subsection (c), the department may not give preference to nonprofit providers of affordable housing, except as required by federal law.

(d) The department shall allocate housing funds provided to the state under the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. Section 12701 et seq.), housing trust funds administered by the department under Sections 2306.201-2306.206, and commitments issued under the federal low income housing tax credit program administered by the department under Subchapter DD to all urban/exurban areas and rural areas of each uniform state service region based on a formula developed by the department that is based on the need for housing assistance and the availability of housing resources in those urban/exurban areas and rural areas, provided that the allocations are consistent with applicable federal and state requirements and limitations. The department shall use the information contained in its annual state low income housing plan and shall use other appropriate data to develop the formula. If the department determines under the formula that an insufficient number of eligible applications for assistance out of funds or credits allocable under this subsection are submitted to the department from a particular uniform state service region, the department shall use the unused funds or credits allocated to that region for all urban/exurban areas and rural areas in other uniform state service regions based on identified need and financial feasibility.

(d-1) Funds or credits are not required to be allocated according to the regional allocation formula under Subsection (d) if:

(1) the funds or credits are reserved for contract-for-deed conversions or for set-asides mandated by state or federal law; and

(2) each contract-for-deed allocation or set-aside allocation equals not more than 10 percent of the total allocation of funds or credits for the applicable program.

(e) The department shall include in its annual low income housing plan under Section 2306.0721:

(1) the formula developed by the department under Subsection (d); and

(2) the allocation targets established under the formula for the urban/exurban areas and rural areas of each uniform state service region.

(f) The department shall include in its annual low income



housing report under Section 2306.072 the amounts of funds and credits allocated to the urban/exurban areas and rural areas of each uniform state service region in the preceding year for each federal and state program affected by the requirements of Subsection (d).

(g) For all urban/exurban areas and rural areas of each uniform state service region, the department shall establish funding priorities to ensure that:

(1) funds are awarded to project applicants who are best able to meet recognized needs for affordable housing, as determined by department rule;

(2) when practicable and when authorized under Section 42, Internal Revenue Code of 1986 (26 U.S.C. Section 42), the least restrictive funding sources are used to serve the lowest income residents; and

(3) funds are awarded based on a project applicant's ability, when consistent with Section 42, Internal Revenue Code of 1986 (26 U.S.C. Section 42), practicable, and economically feasible, to:

(A) provide the greatest number of quality residential units;

(B) serve persons with the lowest percent area median family income;

(C) extend the duration of the project to serve a continuing public need;

(D) use other local funding sources to minimize the amount of state subsidy needed to complete the project; and

(E) provide integrated, affordable housing for individuals and families with different levels of income.

(h) The department by rule shall adopt a policy providing for the reallocation of financial assistance administered by the department, including financial assistance related to bonds issued by the department, if the department's obligation with respect to that assistance is prematurely terminated.

(i) The director shall designate an employee of the department to act as the information officer and as a liaison with the public regarding each application seeking an allocation of housing funds described by this section.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.75(a), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 980, Sec. 23, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 421, Sec. 1, eff. Sept. 1, 2000; Acts 2001, 77th Leg., ch. 1367, Sec. 1.17, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1367, Sec. 6.01, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1448, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 330, Sec. 8, 9, eff. Sept. 1, 2003.

Sec. 2306.1111. UNIFORM APPLICATION AND FUNDING CYCLE. (a) Notwithstanding any other state law and to the extent consistent with federal law, the department shall establish a uniform application and funding cycle for all single-family and multifamily housing programs administered by the department under this chapter.

(b) Wherever possible, the department shall use uniform threshold requirements for single-family and multifamily housing program applications, including uniform threshold requirements relating to market studies and environmental reports.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.18, eff. Sept. 1, 2001.

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

(b) The advisory committee is composed of the director, the administrator of each of the department's programs, and one representative from each of the department's planning, underwriting, and compliance functions.

(c) The advisory committee shall develop the funding priorities required by Section 2306.111(g) and shall make funding and allocation recommendations to the board based on the ability of applicants to meet those priorities.

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

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.18, eff. Sept. 1, 2001.

Sec. 2306.1113. EX PARTE COMMUNICATIONS. (a) During the period beginning on the date a project application is filed and ending on the date the board makes a final decision with respect to

any approval of that application, a member of the board may not communicate 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 lobbyist by the applicant or a related party.

(a-1) Subject to Subsection (a-2), during the period beginning on the date a project application is filed and ending on the date the board makes a final decision with respect to any approval of that application, an employee of the department may communicate about the 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 lobbyist 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;

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

(3) 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;

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

(C) the subject matter of the communication; and

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

(b) Notwithstanding Subsection (a) or (a-1), a board member or department employee may communicate without restriction with a person listed in Subsection (a) or (a-1) at any board meeting or public hearing held with respect to the application.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.18, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 330, Sec. 10, eff. Sept. 1, 2003.

Sec. 2306.1114. NOTICE OF RECEIPT OF APPLICATION OR PROPOSED APPLICATION. (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 organizations on record with the state or county in which the development described in the application is to be located and whose boundaries contain the proposed development site.

(b) The notice provided under Subsection (a) must include the following information:

(1) the relevant dates affecting the application, including:

(A) the date on which the application was filed;  
(B) the date or dates on which any hearings on the application will be held; and  
(C) the date by which a decision on the application will be made;

(2) a summary of relevant facts associated with the development;

(3) a summary of any public benefits provided as a result of the development, including rent subsidies and tenant services; and

(4) the name and contact information of the employee of the department designated by the director to act as the information officer and liaison with the public regarding the application.

Added by Acts 2003, 78th Leg., ch. 330, Sec. 11, eff. Sept. 1, 2003.

Sec. 2306.112. PREPARATION AND CONTENT OF ANNUAL BUDGET. (a) On or before August 1 of each year, the director shall file with the board a proposed annual budget for the housing finance division for the succeeding fiscal year.

(b) The budget shall state:

(1) the general categories of expected expenditures from revenues and income of the housing finance division;

(2) the amount of expected expenditures for each category;

(3) expected operating expenses of the housing finance division; and

(4) the proposed use of projected year-end unencumbered balances.

(c) The budget may include a provision or reserve for contingencies or overexpenditures.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.113. BOARD CONSIDERATION OF ANNUAL BUDGET. On or before September 1 of each year, the board shall consider the director's proposed annual budget for the housing finance division and shall approve or change the budget as the board determines necessary or advisable.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.114. FILING OF ANNUAL BUDGET. (a) Copies of the annual budget certified by the presiding officer of the board shall be filed promptly with the governor and the legislature.

(b) The annual budget is not effective until filed.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.115. FAILURE TO ADOPT ANNUAL BUDGET. If the board does not adopt the annual budget on or before September 1, the budget for the preceding year remains in effect until a new budget is adopted.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.116. AMENDED ANNUAL BUDGET. (a) The board may adopt an amended annual budget during the fiscal year.

(b) An amended annual budget does not supersede a prior budget until it is filed with the governor and the legislature.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.117. PAYMENT OF EXPENSES; INDEBTEDNESS. (a) The expenses incurred in carrying out the functions of the housing finance division may be paid only from revenues or funds provided under this chapter.

(b) This chapter does not authorize the housing finance division to incur debt or liability on behalf of or payable by the state, except as provided by this chapter or other law.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.118. DEPOSIT OF FUNDS WITH TEXAS TREASURY SAFEKEEPING TRUST COMPANY. Except as provided by Section 2306.120, revenue and funds of the department received by or payable through the programs and functions of the housing finance division, other than funds necessary for the operation of the housing finance division and appropriated funds, shall be deposited outside the treasury with the Texas Treasury Safekeeping Trust Company.

Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.119. SELECTION OF DEPOSITORY FOR OPERATING FUNDS. (a) The department shall choose a depository for the

operating funds of the housing finance division after inviting bids for favorable interest rates.

(b) The housing finance division shall publish notice in at least one newspaper of general circulation in this state no later than the 14th day before the last day set for the receipt of the bids.

(c) Notice published under this section must state the:

- (1) types of deposits planned;
- (2) last day on which bids will be received; and
- (3) time and place for opening bids.

(d) Sealed bids must be:

(1) identified on the envelope as bids; and  
(2) submitted to the housing finance division before the deadline for receiving bids.

(e) The housing finance division shall provide a tabulation of all submitted bids for public inspection.

(f) The department shall choose the depository submitting the bid with the most favorable financial terms to the department, considering the security and efficiency with which the depository is capable of managing the department's funds.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.120. SELECTION OF DEPOSITORY UNDER COVENANTS OF BONDS OR TRUST INDENTURES. (a) If covenants related to the department's bonds or the trust indentures governing the bonds specify one or more depositories or set out a method of selecting depositories different from the method required by this subchapter, the covenants prevail regarding the funds to which they apply and the funds are not required to be deposited with the Texas Treasury Safekeeping Trust Company.

(b) Bonds of the housing finance division issued under trust indentures executed or resolutions adopted on or after September 1, 1991, may not include a covenant that interferes with the deposit of funds in the Texas Treasury Safekeeping Trust Company.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.121. RECORDS. The housing finance division shall keep complete records and accounts of its business transactions according to generally accepted accounting principles.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.123. AREA MEDIAN INCOME. The department may determine the median income of an individual or family for an area by using a source or methodology acceptable under federal law or rule.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.1231. FEDERAL POVERTY LINE. The department shall use the applicable federal poverty line in determining eligibility for each federal or state program administered by the department that requires poverty instead of area median income to be used as a criterion of program eligibility.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.76(a), eff. Sept. 1, 1995.

Sec. 2306.124. RULES REGARDING HOUSING DEVELOPMENTS. The department may adopt and publish rules regarding the:

- (1) making of mortgage loans under this subchapter;
- (2) regulation of borrowers;
- (3) construction of ancillary commercial facilities;

and

(4) resale and disposition of real property, or an interest in the property, that is financed by the department.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.125. COURT ACTIONS. (a) The department may institute a judicial action or proceeding against a housing sponsor receiving a loan or owning a housing development under this chapter to:

(1) enforce this chapter;  
(2) enforce the terms and provisions of an agreement or contract between the department and the recipient of a loan under this chapter, including provisions regarding rental or carrying charges and income limits as applied to tenants or occupants;

(3) foreclose its mortgage; or

(4) protect:

- (A) the public interest;
- (B) individuals and families of low and very low income or families of moderate income;
- (C) stockholders; or
- (D) creditors of the sponsor.

(b) In an action or proceeding under this section, the department may apply for the appointment of a trustee or receiver to assume the management and operation of the affairs of a housing sponsor.

(c) The department, through its designated agent, may accept appointment as trustee or receiver of a housing sponsor when appointed by a court of competent jurisdiction.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.126. EXEMPTION FROM PROPERTY TAX. (a) The department may, under its terms, conditions, and rules, pay public agencies in lieu of ad valorem taxes on property that the department acquires through foreclosure or sale under a deed of trust.

(b) The department shall make payments under this section instead of paying taxes whenever practicable with money lawfully available for this purpose, subject to the provisions of any bond resolution.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.127. PRIORITY FOR CERTAIN COMMUNITIES. In a manner consistent with the regional allocation formula described under Section 2306.111(d), the department shall give priority through its housing program scoring criteria to communities that are located wholly or partly in:

(1) a federally designated urban enterprise community;

(2) an urban enhanced enterprise community; or

(3) an economically distressed area or colonia.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.19, eff. Sept. 1, 2001.

#### SUBCHAPTER G. HOUSING FINANCE DIVISION: GENERAL POWERS AND DUTIES OF BOARD

Sec. 2306.141. RULES. The board shall have the specific duty and power to adopt rules governing the administration of the housing finance division and its programs.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.142. AUTHORIZATION OF BONDS. (a) Subject to the requirements of this section, the board shall authorize all bonds issued by the department.

(b) If the issuance is authorized by the board, the department shall issue single-family mortgage revenue bonds to make home mortgage credit available for the purchase of newly constructed or previously owned single-family homes to economic and geographic submarkets of borrowers who are not served or who are substantially underserved by the conventional, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, or Federal Housing Administration home mortgage lending industry or by housing finance corporations organized under Chapter 394, Local Government Code.

(c) The board by rule shall adopt a methodology for determining through a market study the home mortgage credit needs in underserved economic and geographic submarkets in the state. In conducting the market study required by this subsection, the department or its designee shall analyze for the underserved economic and geographic submarkets, at a minimum, the following factors:

(1) home ownership rates;

(2) loan volume;

(3) loan approval ratios;

(4) loan interest rates;

(5) loan terms;

(6) loan availability;

(7) type and number of dwelling units; and

(8) use of subprime mortgage loan products, comparing the volume amount of subprime loans and interest rates to "A" paper mortgage loans as defined by Standard and Poor's credit underwriting criteria.

(d) The department or its designee shall analyze the potential market demand, loan availability, and private sector home mortgage lending rates available to extremely low, very low, low, and moderate income borrowers in the rural counties of the state, in census tracts in which the median family income is less than 80 percent of the median family income for the county in which the census tract is located, and in the region of the state adjacent to the international border of the state. The department or its designee shall establish a process for serving those counties, census tracts, and regions through the single-family mortgage

revenue bond program in a manner proportionate to the credit needs of those areas as determined through the department's market study.

(e) Using the market study and the analysis required by this section, the board shall evaluate the feasibility of a single-family mortgage revenue bond program with loan marketing, eligibility, underwriting, structuring, collection, and foreclosure criteria and with loan services practices that are designed to meet the credit needs of the underserved economic and geographic submarkets of the state, including those submarkets served disproportionately by subprime lenders.

(f) In evaluating a proposed bond program under this section, the board shall consider, consistent with the reasonable financial operation of the department, specific set-asides or reservations of mortgage loans for underserved economic and geographic submarkets in the state, including the reservation of funds to serve borrowers who have "A-" to "B-" credit according to Standard and Poor's credit underwriting criteria.

(g) The department may use any source of funds or subsidy available to the department to provide credit enhancement, down payment assistance, pre-homebuyer and post-homebuyer counseling, interest rate reduction, and payment of incentive lender points to accomplish the purposes of this section in a manner considered by the board to be consistent with the reasonable financial operation of the department.

(h) In allocating funds under Subsection (g), the department's highest priority is to provide assistance to borrowers in underserved economic and geographic submarkets in the state. If the board determines that sufficient funds are available after fully meeting the credit needs of borrowers in those submarkets, the department may provide assistance to other borrowers.

(i) The board shall certify that each single-family mortgage revenue bond issued by the department under this section is structured in a manner that serves the credit needs of borrowers in underserved economic and geographic submarkets in the state.

(j) After any board approval and certification of a single-family mortgage revenue bond issuance, the department shall submit the proposed bond issuance to the Bond Review Board for review.

(k) In the state fiscal year beginning on September 1, 2001, the department shall:

(1) adopt by rule a market study methodology as required by Subsection (c);

(2) conduct the market study;

(3) propose for board review a single-family mortgage revenue bond program, including loan feature details, a program for borrower subsidies as provided by Subsections (g) and (h), and origination and servicing infrastructure;

(4) identify reasonable capital markets financing;

(5) conduct a public hearing on the market study results and the proposed bond program; and

(6) submit for review by the Bond Review Board the market study results and, if approved and certified by the board, the proposed bond program.

(l) In the state fiscal year beginning on September 1, 2002, and in each subsequent state fiscal year, the department shall allocate not less than 40 percent of the total single-family mortgage revenue bond loan volume to meet the credit needs of borrowers in underserved economic and geographic submarkets in the state, subject to the identification of a satisfactory market volume demand through the market study.

(m) On completion of the market study, if the board determines in any year that bonds intended to be issued to achieve the purposes of this section are unfeasible or would damage the financial condition of the department, the board may formally appeal to the Bond Review Board the requirements of Subsection (k) or (l), as applicable. The Bond Review Board has sole authority to modify or waive the required allocation levels.

(n) In addition to any other loan originators selected by the department, the department shall authorize colonia self-help centers and any other community-based, nonprofit institutions considered appropriate by the board to originate loans on behalf of the department. All non-financial institutions acting as loan originators under this subsection must undergo adequate training, as prescribed by the department, to participate in the bond program. The department may require lenders to participate in

ongoing training and underwriting compliance audits to maintain good standing to participate in the bond program. The department may require that lenders meet appropriate eligibility standards as prescribed by the department.

(o) The department shall structure all single-family mortgage revenue bond issuances in a manner designed to recover the full costs associated with conducting the activities required by this section.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 24, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1367, Sec. 2.02, eff. Sept. 1, 2001.

Sec. 2306.143. ALTERNATIVE TO SUBPRIME LENDER LIST. (a) If the United States Department of Housing and Urban Development ceases to prepare or make public a subprime lender list, the market study required by Section 2306.142 must annually survey the 100 largest refinancing lenders and the 100 largest home purchase loan lenders in the state to identify lenders primarily engaged in subprime lending.

(b) The lenders included in the survey must be identified on the basis of home mortgage loan data reported by lenders under the Home Mortgage Disclosure Act of 1975 (12 U.S.C. Section 2801 et seq.) and the Community Reinvestment Act of 1977 (12 U.S.C. Section 2901 et seq.).

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 2.03, eff. Sept. 1, 2001.

Sec. 2306.144. FEES FOR SERVICES AND FACILITIES; PAYMENT OF DEPARTMENT OBLIGATIONS AND EXPENSES. (a) It is the duty of the board to establish and collect sufficient fees for services and facilities.

(b) The board shall use available sources of revenue, income, and receipts to:

(1) pay all expenses of the department's operation and maintenance;

(2) pay the principal and interest on department bonds; and

(3) create and maintain the reserves or funds provided by each resolution authorizing the issuance of department bonds.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.145. LOAN PROCEDURES. The board shall have the specific duty and power to adopt procedures for approving loans, purchases of loans and interests in loans, and commitments to purchase loans under this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.146. INTEREST RATES AND AMORTIZATION SCHEDULES. The board shall have the specific duty and power to establish interest rates and amortization schedules for loans made or financed under this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.147. FEES AND PENALTIES. (a) The board shall have the specific duty and power to establish a schedule of fees and penalties relating to the operation of the housing finance division and authorized by this chapter, including application, processing, loan commitment, origination, servicing, and administrative fees.

(b) The department shall waive grant application fees for nonprofit organizations that offer expanded services such as child care, nutrition programs, job training assistance, health services, or human services.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 980, Sec. 25, eff. Sept. 1, 1997.

Sec. 2306.148. UNDERWRITING STANDARDS. The board shall have the specific duty and power to adopt underwriting standards for loans made or financed by the housing finance division.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.149. APPROVED MORTGAGE LENDERS. The board shall have the specific duty and power to compile a list of approved mortgage lenders.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.150. PROPERTY STANDARDS. The board shall have the specific duty and power to adopt minimum property standards for housing developments financed or acquired under this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.151. TARGET STRATEGY FOR BOND PROCEEDS. The board shall have the specific duty and power to adopt a target strategy

for the percentage of mortgage revenue bond proceeds to be made available to individuals and families of low and very low income. Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.152. ELIGIBILITY CRITERIA. The board shall have the specific duty and power to establish eligibility criteria for participation in the housing finance division's programs for individuals and families of low and very low income and families of moderate income.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER H. HOUSING FINANCE DIVISION: GENERAL POWERS AND DUTIES OF DEPARTMENT

Sec. 2306.171. GENERAL DUTIES OF DEPARTMENT RELATING TO PURPOSES OF HOUSING FINANCE DIVISION. The department shall:

(1) develop policies and programs designed to increase the number of individuals and families of extremely low, very low, and low income and families of moderate income that participate in the housing finance division's programs;

(2) work with municipalities, counties, public agencies, housing sponsors, and nonprofit and for profit corporations to provide:

(A) information on division programs; and

(B) technical assistance to municipalities, counties, and nonprofit corporations;

(3) encourage private for profit and nonprofit corporations and state organizations to match the division's funds to assist in providing affordable housing to individuals and families of low and very low income and families of moderate income;

(4) provide matching funds to municipalities, counties, public agencies, housing sponsors, and nonprofit developers who qualify under the division's programs; and

(5) administer the state's allocation of federal funds provided under the rental rehabilitation grant program authorized by Section 17, Title I, of the United States Housing Act of 1937 (42 U.S.C. Section 1437o).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 980, Sec. 26, eff. Sept. 1, 1997.

Sec. 2306.1711. RULEMAKING PROCEDURES FOR CERTAIN PROGRAMS. (a) The department shall adopt rules outlining formal rulemaking procedures for the low income housing tax credit program and the multifamily housing mortgage revenue bond program in accordance with Chapter 2001.

(b) The rules adopted under Subsection (a) must include:

(1) procedures for allowing interested parties to petition the department to request the adoption of a new rule or the amendment of an existing rule;

(2) notice requirements and deadlines for taking certain actions; and

(3) a provision for a public hearing.

(c) The department shall provide for public input before adopting rules for programs with requests for proposals and notices of funding availability.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.20, eff. Sept. 1, 2001.

Sec. 2306.172. ACQUISITION AND USE OF MONEY; DEPOSITORIES. The department may:

(1) acquire, hold, invest, deposit, use, and spend its income and money from every source; and

(2) select its depository or depositories, subject only to the provisions of:

(A) this chapter; and

(B) a covenant relating to the department's bonds issued by the housing finance division.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.173. INVESTMENTS. Subject to a resolution authorizing issuance of its bonds, the department may:

(1) invest its money in bonds, obligations, or other securities; or

(2) place its money in demand or time deposits, whether or not evidenced by certificates of deposit.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.174. ACQUISITION AND DISPOSITION OF PROPERTY. The department may:

(1) acquire, own, rent, lease, accept, hold, or dispose of any real, personal, or mixed property, or any interest in



property, including a right or easement, in performing its duties and exercising its powers under this chapter, by purchase, exchange, gift, assignment, transfer, foreclosure, sale, lease, or otherwise;

(2) hold, manage, operate, or improve real, personal, or mixed property, except that:

(A) the department is restricted in acquiring property under Section 2306.251 unless it is required to foreclose on a delinquent loan and elects to acquire the property at foreclosure;

(B) the department shall make a diligent effort to sell a housing development acquired through foreclosure to a purchaser who will be required to pay ad valorem taxes on the housing development or, if such a purchaser cannot be found, to another purchaser; and

(C) the department shall sell a housing development acquired through foreclosure not later than the third anniversary of the date of acquisition unless the board adopts a resolution stating that a purchaser cannot be found after diligent search by the housing finance division, in which case the department shall continue to try to find a purchaser and shall sell the housing development when a purchaser is found; and

(3) lease or rent land or a dwelling, house, accommodation, building, structure, or facility from a private party to carry out the housing finance division's purposes.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.175. TRANSFER AND DISPOSITION OF PROPERTY; MANNER OF SALE. (a) The department may:

(1) sell, assign, lease, encumber, mortgage, or otherwise dispose of real, personal, or mixed property, or an interest in property, or a deed of trust or mortgage lien interest owned by it or in its control, custody, or possession; and

(2) release or relinquish a right, title, claim, lien, interest, easement, or demand acquired in any manner, including an equity or right of redemption in property foreclosed by it.

(b) Notwithstanding any other law, the department may, under this section, conduct a public or private sale, with or without public bidding.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.176. FEES. The department may set, charge, and collect fees relating to loans made or other services provided by the department under this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.177. HEARINGS. The department may:

(1) conduct hearings; and

(2) take testimony and proof, under oath, at public hearings, on matters necessary to carry out the department's purposes.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 980, Sec. 27, eff. Sept. 1, 1997.

Sec. 2306.178. INSURANCE. The department may acquire, and pay premiums on, insurance of any kind in amounts and from insurers that the board considers necessary or advisable.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.179. INVESTIGATION. The department may:

(1) investigate housing conditions and means for improving those conditions; and

(2) determine the location of slum or blighted areas.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.180. ENCOURAGING HOME OWNERSHIP. The department may encourage individual or cooperative home ownership among individuals and families of low and very low income and families of moderate income.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.181. TARGETING BOND PROCEEDS. The department may target the proceeds from housing bonds issued by it to a geographic area or areas of the state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.182. LOANS TO LENDERS. The department may make loans to mortgage lenders, public agencies, or other housing sponsors and use the proceeds to make loans for multifamily housing developments that will be substantially occupied by individuals and families of low and very low income or families of moderate income.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.183. NEEDS OF QUALIFYING INDIVIDUALS AND FAMILIES IN RURAL AREAS AND SMALL MUNICIPALITIES. The department may adopt a target strategy to ensure that the credit and housing needs of qualifying individuals and families who reside in rural areas and small municipalities are equitably served by the housing finance division.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.184. DISCLOSURE OF FEES. (a) This section does not apply to an application submitted by an individual or family for a loan, grant, or other assistance under a program administered by the department or the Texas State Affordable Housing Corporation or from bonds issued by the department.

(b) An application for a loan, grant, or other assistance for an eligible affordable housing project or activity under a program administered by the department or the Texas State Affordable Housing Corporation or from bonds issued by the department must include:

(1) the name of each person expected to charge the applicant a project development fee or project operation fee;

(2) the nature and amount of each project development fee and project operation fee the applicant is expected to pay; and

(3) any interlocking interests of persons listed under Subdivision (1).

(c) On completion of the project, the applicant shall cost certify the project and include the following:

(1) the name of each person to whom the recipient paid a project development fee or project operation fee during the term of the project;

(2) the nature and amount of each project development fee and project operation fee paid by the recipient during the term of the project; and

(3) any interlocking interests of persons listed under Subdivision (1).

(d) The department shall adopt rules governing penalties and sanctions under this section for a person who:

(1) does not provide the information required by this section; or

(2) knowingly discloses false information.

(e) In this section:

(1) "Project development fee" means a fee charged in connection with the planning, design, or development of an affordable housing project, including an application fee, tax credit consulting fee, development consulting fee, mortgage brokerage fee, and financial advising fee.

(2) "Project operation fee" means a fee charged in connection with the operation, construction, management, or administration of an affordable housing project, including a management fee, asset management fee, incentive management fee, general partner fee, construction supervision fee, and construction management fee.

Added by Acts 1997, 75th Leg., ch. 980, Sec. 28, eff. Sept. 1, 1997.

Sec. 2306.185. LONG-TERM AFFORDABILITY AND SAFETY OF MULTIFAMILY RENTAL HOUSING DEVELOPMENTS. (a) The department shall adopt policies and procedures to ensure that, for a multifamily rental housing development funded through loans, grants, or tax credits under this chapter, the owner of the development:

(1) keeps the rents affordable for low income tenants for the longest period that is economically feasible; and

(2) provides regular maintenance to keep the development sanitary, decent, and safe and otherwise complies with the requirements of Section 2306.186.

(b) In implementing Subsection (a)(1) and in developing underwriting standards and application scoring criteria for the award of loans, grants, or tax credits to multifamily developments, the department shall ensure that the economic benefits of longer affordability terms and below market rate rents are accurately assessed and considered.

(c) The department shall require that a recipient of funding maintains the affordability of the multifamily housing development for households of extremely low, very low, low, and moderate incomes for the greater of a 30-year period from the date the recipient takes legal possession of the housing or the remaining term of the existing federal government assistance. In addition, the agreement between the department and the recipient shall require the renewal of rental subsidies if available and if the

subsidies are sufficient to maintain the economic viability of the multifamily development.

(d) The development restrictions provided by Subsection (a) and Section 2306.269 are enforceable by the department, by tenants of the development, or by private parties against the initial owner or any subsequent owner. The department shall require a land use restriction agreement providing for enforcement of the restrictions by the department, a tenant, or a private party that includes the right to recover reasonable attorney's fees if the party seeking enforcement of the restriction is successful.

(e) Subsections (c) and (d) and Section 2306.269 apply only to multifamily rental housing developments to which the department is providing one or more of the following forms of assistance:

(1) a loan or grant in an amount greater than 33 percent of the market value of the development on the date the recipient completed the construction of the development;

(2) a loan guarantee for a loan in an amount greater than 33 percent of the market value of the development on the date the recipient took legal title to the development; or

(3) a low income housing tax credit.

(f) An owner of the housing development who intends to sell, lease, prepay the loan insured by the United States Department of Housing and Urban Development, opt out of a housing assistance payments contract under Section 8, United States Housing Act of 1937 (42 U.S.C. Section 1437f), or otherwise dispose of the development shall agree to provide notice to the department at least 12 months before the date of any attempt to dispose of the development, prepay the loan, or opt out of the Section 8 contract to enable the department to attempt to locate a buyer who will conform to the development restrictions provided by this section.

(g) Repealed by Acts 2003, 78th Leg., ch. 330, Sec. 31(1).

(h) The department shall monitor a development owner's compliance with this section.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 3.02, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 330, Sec. 12, 31(1), eff. Sept. 1, 2003.

Sec. 2306.186. MANDATORY DEPOSITS TO FUND NECESSARY REPAIRS. (a) In this section:

(1) "Bank trustee" means a bank authorized to do business in this state, with the power to act as trustee.

(2) "Department assistance" means any state or federal assistance administered by or through the department, including low income housing tax credits.

(3) "First lien lender" means a lender whose lien has first priority.

(4) "Reserve account" means an individual account:

(A) created to fund any necessary repairs for a multifamily rental housing development; and

(B) maintained by a first lien lender or bank trustee.

(b) If the department is the first lien lender with respect to the development, each owner who receives department assistance for a multifamily rental housing development that contains 25 or more rental units shall deposit annually into a reserve account:

(1) for the year 2004:

(A) not less than \$150 per unit per year for units one to five years old; and

(B) not less than \$200 per unit per year for units six or more years old; and

(2) for each year following the year 2004, the amounts per unit per year as described by Subdivision (1).

(c) A land use restriction agreement or restrictive covenant between the owner and the department must require the owner to begin making annual deposits to the reserve account on the date that occupancy of the multifamily rental housing development stabilizes or the date that permanent financing for the development is completely in place, whichever occurs later, and shall continue making deposits until the earliest of the following dates:

(1) the date of any involuntary change in ownership of the development;

(2) the date on which the owner suffers a total casualty loss with respect to the development or the date on which the development becomes functionally obsolete, if the development cannot be or is not restored;

(3) the date on which the development is demolished;

(4) the date on which the development ceases to be used as multifamily rental property; or

(5) the end of the affordability period specified by the land use restriction agreement or restrictive covenant.

(d) With respect to multifamily rental developments, if the establishment of a reserve fund for repairs has not been required by the first lien lender, the development owner shall set aside the repair reserve amount as a reserve for capital improvements. The reserve must be established for each unit in the development, regardless of the amount of rent charged for the unit.

(e) Beginning with the 11th year after the awarding of any financial assistance for the development by the department, the owner of a multifamily rental housing development shall contract for a third-party physical needs assessment at appropriate intervals that are consistent with lender requirements with respect to the development. If the first lien lender does not require a third-party physical needs assessment or if the department is the first lien lender, the owner shall contract with a third party to conduct a physical needs assessment at least once during each five-year period beginning with the 11th year after the awarding of any financial assistance for the development by the department. The owner of the development shall submit to the department copies of the most recent third-party physical needs assessment conducted on the development, any response by the owner to the assessment, any repairs made in response to the assessment, and information on any necessary changes to the required reserve based on the assessment.

(f) The department may complete necessary repairs if the owner fails to complete the repairs as required by Subsection (e). Payment for those repairs must be made directly by the owner of the development or through a reserve account established for the development under this section.

(g) If notified of the development owner's failure to comply with a local health, safety, or building code, the department may enter on the property and complete any repairs necessary to correct a violation of that code, as identified in the applicable violation report, and may pay for those repairs through a reserve account established for the development under this section.

(h) The duties of the owner of a multifamily rental housing development under this section cease on the date of a voluntary change in ownership of the development, but the subsequent owner of the development is subject to the deposit, inspection, and notification requirements of Subsections (b), (c), (d), and (e).

(i) The first lien lender shall maintain the reserve account. In the event there is no longer a first lien lender, then Subsections (b) and (d) no longer apply.

(j) The department shall adopt rules that:

(1) establish requirements and standards regarding:

(A) for first lien lenders and bank trustees:

(i) maintenance of reserve accounts and reasonable costs of that maintenance;

(ii) asset management;

(iii) transfer of money in reserve accounts to the department to fund necessary repairs; and

(iv) oversight of reserve accounts and the provision of financial data and other information to the department; and

(B) for owners, inspections of the multifamily rental housing developments and identification of necessary repairs, including requirements and standards regarding construction, rehabilitation, and occupancy that may enable quicker identification of those repairs;

(2) identify circumstances in which money in the reserve accounts may:

(A) be used for expenses other than necessary repairs, including property taxes or insurance; and

(B) fall below mandatory deposit levels without resulting in department action;

(3) define the scope of department oversight of reserve accounts and the repair process;

(4) provide the consequences of any failure to make a required deposit, including a definition of good cause, if any, for a failure to make a required deposit;

(5) specify or create processes and standards to be used by the department to obtain repairs for developments;

(6) define for purposes of Subsection (c) the date on

which occupancy of a development is considered to have stabilized and the date on which permanent financing is considered to be completely in place; and

(7) provide for appointment of a bank trustee as necessary under this section.

(k) The department shall assess an administrative penalty on development owners who fail to contract for the third-party physical needs assessment and make the identified repairs as required by this section. The department may assess the administrative penalty in the same manner as an administrative penalty assessed under Section 2306.6023. The penalty is computed by multiplying \$200 by the number of dwelling units in the development and must be paid to the department. The office of the attorney general shall assist the department in the collection of the penalty and the enforcement of this subsection.

(1) This section does not apply to a development for which an owner is required to maintain a reserve account under any other provision of federal or state law.

Added by Acts 2003, 78th Leg., ch. 330, Sec. 13, eff. Sept. 1, 2003.

SUBCHAPTER I. HOUSING FINANCE DIVISION: FUNDS

Sec. 2306.201. HOUSING TRUST FUND. (a) The housing trust fund is a fund:

(1) administered by the department through the housing finance division; and

(2) placed with the Texas Treasury Safekeeping Trust Company.

(b) The fund consists of:

(1) appropriations or transfers made to the fund;

(2) unencumbered fund balances;

(3) public or private gifts or grants;

(4) investment income, including all interest, dividends, capital gains, or other income from the investment of any portion of the fund;

(5) repayments received on loans made from the fund; and

(6) funds from any other source.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 29, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 223, Sec. 1, eff. May 24, 1999.

Sec. 2306.202. USE OF HOUSING TRUST FUND. (a) The department, through the housing finance division, shall use the housing trust fund to provide loans, grants, or other comparable forms of assistance to local units of government, public housing authorities, nonprofit organizations, and income-eligible individuals, families, and households to finance, acquire, rehabilitate, and develop decent, safe, and sanitary housing. In each biennium the first \$2.6 million available through the housing trust fund for loans, grants, or other comparable forms of assistance shall be set aside and made available exclusively for local units of government, public housing authorities, and nonprofit organizations. Any additional funds may also be made available to for-profit organizations so long as at least 45 percent of available funds in excess of the first \$2.6 million shall be made available to nonprofit organizations for the purpose of acquiring, rehabilitating, and developing decent, safe, and sanitary housing. The remaining portion shall be competed for by nonprofit organizations, for-profit organizations, and other eligible entities. Notwithstanding any other section of this chapter, but subject to the limitations in Section 2306.251(c), the department may also use the fund to acquire property to endow the fund.

(b) Use of the fund is limited to providing:

(1) assistance for individuals and families of low and very low income;

(2) technical assistance and capacity building to nonprofit organizations engaged in developing housing for individuals and families of low and very low income; and

(3) security for repayment of revenue bonds issued to finance housing for individuals and families of low and very low income.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 30, eff. Sept. 1, 1997.

Sec. 2306.203. RULES REGARDING ADMINISTRATION OF HOUSING TRUST FUND. The board shall adopt rules to administer the housing

trust fund, including rules providing:

(1) that the division give priority to programs that maximize federal resources;

(2) for a process to set priorities for use of the fund, including the distribution of fund resources under a request for a proposal process developed and approved by the board;

(3) that the criteria used to rank proposals will include the:

(A) leveraging of federal resources;

(B) cost-effectiveness of a proposed development; and

(C) extent to which individuals and families of very low income are served by the development;

(4) that funds may not be made available to a development that permanently and involuntarily displaces individuals and families of low income;

(5) that the board attempt to allocate funds to achieve a broad geographical distribution with:

(A) special emphasis on equitably serving rural and nonmetropolitan areas; and

(B) consideration of the number and percentage of income-qualified families in different geographical areas; and

(6) that multifamily housing developed or rehabilitated through the fund remain affordable to income-qualified households for at least 20 years.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.204. INDEPENDENT AUDIT OF HOUSING TRUST FUND. (a) An independent auditor shall annually conduct an audit of the housing trust fund to determine the amount of unencumbered fund balances that is greater than the amount required for the reserve fund.

(b) The independent auditor shall submit the audit report to the board not later than December 31 of each year.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.205. TRANSFER OF MONEY TO HOUSING TRUST FUND. (a) Except as provided by Subsections (c), (d), and (e), not later than January 10 of each year the housing finance division shall transfer to the housing trust fund an amount, as determined by the audit report prepared under Section 2306.204, equal to one-half of the housing finance division's unencumbered fund balances in excess of two percent of the division's total bonded indebtedness that is not rated on its own merits in the highest long-term debt rating category by one or more nationally recognized rating agencies.

(b) The department shall determine the unencumbered fund balance under Subsection (a) according to the debt rating criteria established for housing finance agencies by one or more nationally recognized rating agencies.

(c) If, at the time an annual audit required by Section 2306.204 is concluded, the housing finance division's unencumbered fund balances exceed four percent of its total bonded indebtedness that is not rated on its own merits in the highest long-term debt rating category, the department shall transfer not later than January 10 of the next year all amounts in excess of that four percent.

(d) If, at the time an annual audit required by Section 2306.204 is concluded, a nationally recognized rating agency has recommended that the housing finance division maintain unencumbered fund balances in excess of the amount permitted by Subsection (a) to achieve or maintain a rating of at least Aa/A+ on all or a portion of the bonded indebtedness of the housing finance division that is issued under an open indenture or an open flow of funds, the department shall transfer not later than January 10 of the next year all amounts in excess of the amount required by the rating agency to be held as unencumbered fund balances.

(e) If, at the time an annual audit required by Section 2306.204 is concluded, a nationally recognized rating agency has recommended that the housing finance division increase the amount of its unencumbered fund balances to achieve or maintain a financially sound condition or to prevent a decrease in the long-term debt rating maintained on all or a portion of the housing finance division's bonded indebtedness, the housing finance division may not make further annual transfers to the housing trust fund until all requirements and conditions of the rating agency have been met.

(f) In addition to the money transferred into the housing

trust fund under this section, and subject to Subsection (e), the department shall transfer into the fund the amount of any origination fee, asset oversight fee, and servicing fee the department or the Texas State Affordable Housing Corporation receives in relation to the administration of its 501(c)(3) bond program established pursuant to Section 2306.358 that exceeds the amount needed by the department or the Texas State Affordable Housing Corporation to pay its operating and overhead costs and fund reserves, including an insurance reserve or credit enhancement reserve established by the board in administering the program. Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 31, eff. Sept. 1, 1997.

Sec. 2306.206. HOUSING TRUST FUND NOT SUBJECT TO TEXAS TRUST CODE. The housing trust fund provided for by this subchapter is not subject to Subtitle B, Title 9, Property Code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.207. RESERVE FUND. (a) The department may create a reserve fund with the comptroller out of:

(1) proceeds from the sale of the department's bonds;  
or

(2) other resources.

(b) The reserve fund is additional security for the division's bonds.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993 . Amended by Acts 1997, 75th Leg., ch. 980, Sec. 32, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 8.75, eff. Sept. 1, 1997.

#### SUBCHAPTER J. HOUSING FINANCE DIVISION: LOAN TERMS AND CONDITIONS

Sec. 2306.221. HOUSING DEVELOPMENT LOANS. To finance the purchase, construction, remodeling, improvement, or rehabilitation of housing developments for residential housing designed and planned for individuals and families of low and very low income and families of moderate income, the department, on the terms and conditions stated in this chapter, may:

(1) make, commit to make, and participate in the making of mortgage loans, including federally insured loans to housing sponsors; and

(2) make temporary loans and advances in anticipation of permanent mortgage loans.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.222. CONTRACTS AND AGREEMENTS REGARDING HOUSING DEVELOPMENTS. The department may enter into agreements and contracts with housing sponsors and mortgage lenders under this chapter to make or participate in mortgage loans for residential housing for individuals and families of low and very low income and families of moderate income.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.223. CRITERIA FOR FINANCING HOUSING DEVELOPMENT OF HOUSING SPONSOR. Notwithstanding any other provision of this chapter, the department may not finance a housing development undertaken by a housing sponsor under this chapter, unless the department first determines that:

(1) the housing development is necessary to provide needed decent, safe, and sanitary housing at rentals or prices that individuals or families of low and very low income or families of moderate income can afford;

(2) the housing sponsor undertaking the proposed housing development will supply well-planned and well-designed housing for individuals or families of low and very low income or families of moderate income;

(3) the housing sponsor is financially responsible;

(4) the housing sponsor is not, or will not enter into a contract for the proposed housing development with, a housing developer that:

(A) is on the department's debarred list, including any parts of that list that are derived from the debarred list of the United States Department of Housing and Urban Development;

(B) breached a contract with a public agency; or

(C) misrepresented to a subcontractor the extent to which the developer has benefited from contracts or financial assistance that has been awarded by a public agency, including the scope of the developer's participation in contracts with the agency and the amount of financial assistance awarded to the developer by

the agency;

(5) the financing of the housing development is a public purpose and will provide a public benefit; and

(6) the housing development will be undertaken within the authority granted by this chapter to the housing finance division and the housing sponsor.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 7.01, eff. Sept. 1, 2001.

Sec. 2306.224. LOAN TERMS AND CONDITIONS. A loan financed through a program of the housing finance division under this subchapter is subject to the terms and conditions provided by this subchapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.225. RATIO OF LOAN TO DEVELOPMENT COST; AMORTIZATION PERIOD. (a) Except as provided by Subsection (b), the ratio of loan to total housing development cost and the amortization period of a loan insured or guaranteed by the federal government is governed by the federal government mortgage insurance commitment or federal guarantee for each housing development.

(b) The amortization period for a loan may not exceed 40 years.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.226. INTEREST RATES. (a) The board shall set the interest rates at which the housing finance division makes loans and loan commitments.

(b) The interest rates shall be set to produce, when combined with other available funds, at least the amounts required to pay for the housing finance division's costs of operation and to meet its covenants with and responsibilities to the holders of its bonds.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.227. PREPAYMENT OF MORTGAGE LOANS. A mortgage loan made under this chapter may be prepaid to maturity after the period of years and under the terms and conditions determined by the board.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.228. LOAN FEES. The department shall make and collect loan fees that the department determines are reasonable, including:

(1) fees to reimburse the housing finance division's financing costs;

(2) service charges;

(3) insurance premiums;

(4) mortgage insurance premiums; and

(5) fees for administrative costs.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.229. DOCUMENTS SUPPORTING MORTGAGE LOANS. (a) A mortgage loan shall be evidenced by a mortgage or deed of trust note or bond and by a mortgage that creates a lien on the housing development and on all real property that constitutes the site of or that relates to the housing development.

(b) A note or bond and a mortgage or deed of trust:

(1) must contain provisions satisfactory to the department;

(2) must be in a form satisfactory to the department; and

(3) may contain exculpatory provisions relieving the borrower or its principal from personal liability if the department agrees.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.230. AGREEMENTS REGARDING CERTAIN LIMITATIONS ON HOUSING SPONSORS. A mortgage loan is subject to an agreement between the department and the housing sponsor that subjects the sponsor and its principals or stockholders to limitations established by the department regarding:

(1) rentals and other charges;

(2) builders' and developers' profits and fees;

(3) the disposition of its property; and

(4) the real property that constitutes the site of or relates to the housing development.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.231. LOAN CONDITIONS RELATING TO DEPARTMENT POWERS. As a condition of each loan, the department, acting through the housing finance division, may at any time during the



construction, rehabilitation, or operation of a housing development:

(1) enter and inspect the housing development to:  
(A) investigate the development's:  
(i) physical and financial condition;  
(ii) construction;  
(iii) rehabilitation;  
(iv) operation;  
(v) management; and  
(vi) maintenance; and  
(B) examine all books and records relating to:  
(i) capitalization;  
(ii) income; and  
(iii) other matters regarding capitalization or income;

(2) impose charges that are required to cover the cost of inspections and examinations under Subdivision (1);

(3) order alterations, changes, or repairs necessary to protect:

(A) the security of the department's investment in a housing development; or

(B) the health, safety, and welfare of the occupants of a housing development;

(4) order a managing agent, housing development manager, or housing development owner to do whatever is necessary to comply with or refrain from violating an applicable law, ordinance, department rule, or term of an agreement regarding the housing development; and

(5) file and prosecute a complaint against a managing agent, housing development manager, or housing development owner for a violation of any applicable law or ordinance.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.232. TEXAS HOUSING AGENCY LOAN OR GUARANTEE. A loan or guarantee made by the Texas Housing Agency becomes a loan or guarantee of the department.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 33, eff. Sept. 1, 1997.

#### SUBCHAPTER K. HOUSING PROGRAMS

Sec. 2306.251. PROPERTY OWNERSHIP PROGRAM. (a) While it is not the intent of the legislature that the department compete with the private sector by becoming a long-term owner of real property merely for the purpose of owning, managing, and operating tenant properties, the department may acquire, own, reconstruct, rehabilitate, manage, or operate real property:

(1) on an interim basis for sale or rental to:  
(A) individuals and families of low and very low income and families of moderate income; and

(B) nonprofit housing organizations and other housing organizations to serve the needs of individuals and families of low and very low income and families of moderate income;

(2) for a period of time not to exceed 10 years for the purposes of:

(A) preserving publicly financed or subsidized housing; or

(B) participating in a risk-sharing program entered into with the United States Department of Housing and Urban Development, any other insurer or guarantor of any United States Department of Housing and Urban Development-related indebtedness, a government sponsored enterprise, a housing finance agency or corporation, or a public housing authority.

(b) The department may use money from the housing trust fund, unencumbered fund balances, fees received by the housing finance division, proceeds from the sale or rental of real property, distribution of earnings under Section 2306.557, or appropriations, allocations, grants, or gifts from any public or private source to purchase property under this section.

(c) If the department uses the housing trust fund to finance real property acquisitions, it may not use more than 10 percent of the yearly balance of the fund to acquire the real property.

(d) If the department acquires property under this section, the department shall submit an annual report to the board that includes an analysis of the property ownership program's:

(1) financial stability;

(2) cost-effectiveness; and

(3) effectiveness in serving individuals and families of low and very low income and families of moderate income. Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.77(b), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 980, Sec. 34, eff. Sept. 1, 1997.

Sec. 2306.252. HOUSING RESOURCE CENTER. (a) The board shall establish a housing resource center in the housing finance division.

(b) The department, through the center, shall:

(1) provide educational material prepared in plain language to housing advocates, housing sponsors, borrowers, and tenants;

(2) provide technical assistance to nonprofit housing sponsors;

(3) assist in the development of housing policy, including the annual state low income housing plan and report and the consolidated plan; and

(4) provide, in cooperation with the state energy conservation office, the Texas Commission on Environmental Quality, and other governmental entities, information on the use of sustainable and energy efficient housing construction products and assist local governments and nonprofits in identifying information on sustainable and energy efficient housing construction and energy efficient resources and techniques.

(c) The housing resource center is intended to assist individuals, local organizations, and local governments in providing for the housing needs of individuals and families in their communities by providing information available to the center to housing contractors, nonprofit housing sponsors, community-based organizations, and local governments on:

(1) local housing needs;

(2) housing programs;

(3) available funding sources; and

(4) programs that affect the creation, improvement, or preservation of housing affordable to individuals and families of low and very low income.

(d) The center shall serve as a housing and community services clearinghouse to provide information to the public, local communities, housing providers, and other interested parties regarding:

(1) the performance of each department program;

(2) the number of people served;

(3) the income of people served;

(4) the funding amounts distributed;

(5) allocation decisions;

(6) regional impact of department programs; and

(7) any other relevant information.

(e) The center shall compile the department's reports into an integrated format and shall compile and maintain a list of all affordable housing resources in the state, organized by community.

(f) The information required under Subsections (d) and (e) must be readily available in:

(1) a hard-copy format; and

(2) a user-friendly format on the department's website.

(g) The center shall provide information regarding the department's housing and community affairs programs to the Texas Information and Referral Network for inclusion in the statewide information and referral network as required by Section 531.0312.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 35, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1367, Sec. 1.21, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 330, Sec. 14, eff. Sept. 1, 2003.

Sec. 2306.253. HOMEBUYER EDUCATION PROGRAM. (a) The department shall develop and implement a statewide homebuyer education program designed to provide information and counseling to prospective homebuyers about the home buying process.

(b) The department shall develop the program in cooperation with the Texas Agricultural Extension Service, the Texas Department of Human Services, the Real Estate Research Center at Texas A&M University, the Texas Workforce Commission, experienced homebuyer education providers, community-based organizations, and advocates of affordable housing. The department shall implement the program through self-help centers when feasible.

(c) The department shall make full use of existing training

and informational materials available from sources such as the United States Department of Housing and Urban Development, the cooperative extension system, the Neighborhood Reinvestment Corporation, and existing homebuyer education providers.

(d) In order to implement this section, the department may use money available to the department for housing purposes that the department is not prohibited from spending on the homebuyer education program, including:

(1) the amount of administrative or service fees the department receives from the issuance or refunding of bonds that exceeds the amount the department needs to pay its overhead costs in administering its bond programs; and

(2) money the department receives from other entities by gift or grant under a contract.

Added by Acts 1997, 75th Leg., ch. 980, Sec. 36, eff. Sept. 1, 1997.

Sec. 2306.254. TENANT SERVICES PROGRAM. (a) In this section, "tenant services" means social services, including child care, transportation, and basic adult education, that are provided to individuals residing in low income housing under Title IV-A, Social Security Act (42 U.S.C. Section 601 et seq.), and other similar services.

(b) The department shall structure the requirements for the provision of tenant services so that tenant services provided through housing programs are coordinated with similar services provided through state workforce development and welfare programs. The department shall emphasize tenant services that are eligible for additional federal matching funds through workforce development or welfare-related programs.

(c) The department shall designate a department employee as the tenant services program coordinator. The coordinator shall serve as a liaison to the Texas Workforce Commission, the Texas Department of Human Services, the Department of Protective and Regulatory Services, and the Legislative Budget Board on matters relating to the coordination of tenant services programs.

(d) The coordinator shall meet in Austin at least quarterly with representatives of the Texas Workforce Commission, the Texas Department of Human Services, the Department of Protective and Regulatory Services, and the Legislative Budget Board to:

(1) update coordination of tenant services with workforce development and welfare-related programs;

(2) discuss funding sources for tenant services programs; and

(3) report on the status of tenant services programs, including reporting on the number of clients and types of services offered.

(e) Not later than December 1 preceding a regular session of the legislature, the department shall file with the appropriate state agencies and legislative committees a report discussing the results of the department's program under this section.

Added by Acts 1997, 75th Leg., ch. 980, Sec. 36, eff. Sept. 1, 1997.

Sec. 2306.255. CONTRACT FOR DEED CONVERSION PROGRAM. (a) In this section, "office" means the office established by the department to promote initiatives for colonias.

(b) The office shall establish a program to guarantee loans made by private lenders to convert a contract for deed into a warranty deed. To the extent possible, the office shall encourage conversion of a contract for deed under the program into a general warranty deed.

(c) The office shall make agreements with private lenders that will issue loans for contract conversions under the guarantee of the department. The office and the lender must agree on the criteria for issuing a deed conversion loan, including the percentage of the guarantee to be issued by the department.

(d) The office may not make an agreement with a lender unless the agreement allows the office to annually renegotiate the guarantee percentage for a loan issued by the lender. The office shall renegotiate the terms of a guarantee when possible to obtain a better guarantee percentage for the state from the lender.

(e) The office may establish eligibility criteria for a holder of a contract for deed who participates in this program. The criteria must include a priority for homeowners and owners of residential real property who are individuals or families of low, very low, or extremely low income.

(f) The office shall use funds allocated to the department under the federal HOME Investment Partnerships program established

under Title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. Section 12701 et seq.) for a guarantee issued under this section.

(g) The office may use the services of the Texas State Affordable Housing Corporation when necessary to accomplish the purposes of this section.

(h) The office shall:

(1) compose an annual report that evaluates the repayment history and coinciding guarantee percentages for guarantees issued under this section; and

(2) deliver a copy of the report to the governor, the lieutenant governor, and the speaker of the house of representatives.

(i) The department may adopt rules necessary to accomplish the purposes of this section.

Added by Acts 1999, 76th Leg., ch. 1238, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 1.22, eff. Sept. 1, 2001.

Sec. 2306.256. AFFORDABLE HOUSING PRESERVATION PROGRAM. (a) The department shall develop and implement a program to preserve affordable housing in this state.

(b) Through the program, the department shall:

(1) maintain data on housing projected to lose its affordable status;

(2) develop policies necessary to ensure the preservation of affordable housing in this state;

(3) advise other program areas with respect to the policies; and

(4) assist those other program areas in implementing the policies.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.23, eff. Sept. 1, 2001.

Sec. 2306.2561. AFFORDABLE HOUSING PRESERVATION PROGRAM: LOANS AND GRANTS. (a) The department, through the housing finance division, shall provide loans and grants to political subdivisions, housing finance corporations, public housing authorities, for-profit organizations, nonprofit organizations, and income-eligible individuals, families, and households for purposes of rehabilitating housing to preserve affordability of the housing.

(b) The department may use any available revenue, including legislative appropriations, to provide loans and grants under this section.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 3.03, eff. Sept. 1, 2001.

Sec. 2306.257. APPLICANT COMPLIANCE WITH STATE AND FEDERAL LAWS PROHIBITING DISCRIMINATION: CERTIFICATION AND MONITORING. (a) The department may provide assistance through a housing program under this chapter only to an applicant who certifies the applicant's compliance with:

(1) state and federal fair housing laws, including Chapter 301, Property Code, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. Section 3601 et seq.), and the Fair Housing Amendments Act of 1988 (42 U.S.C. Section 3601 et seq.);

(2) the Civil Rights Act of 1964 (42 U.S.C. Section 2000a et seq.);

(3) the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.); and

(4) the Rehabilitation Act of 1973 (29 U.S.C. Section 701 et seq.).

(b) In conjunction with the state Commission on Human Rights, the department shall adopt rules governing the certification process described by this section, including rules establishing:

(1) procedures for certifying compliance;

(2) methods for measuring continued compliance; and

(3) different degrees of sanctions for noncompliance and reasonable periods for correcting noncompliance.

(c) Sanctions imposed under Subsection (b)(3) may:

(1) include a public reprimand, termination of assistance, and a bar on future eligibility for assistance through a housing program under this chapter; and

(2) be imposed in addition to any action taken by the state Commission on Human Rights.

(d) The department shall promptly notify the state Commission on Human Rights if the department determines that a

program participant may have failed to comply with the laws listed by Subsection (a).

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.23, eff. Sept. 1, 2001.

Sec. 2306.258. TRANSITIONAL HOUSING PILOT PROGRAM. (a) If funds are available, the department shall operate a transitional housing pilot program in four areas of the state.

(b) The program must address the needs of the homeless for:

- (1) interim housing;
- (2) physical and mental health services;
- (3) literacy training;
- (4) job training;
- (5) family counseling;
- (6) credit counseling;
- (7) education services; and
- (8) other services that will prevent homelessness.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.80(a), eff. Sept. 1, 2001. Renumbered from V.T.C.A., Government Code Sec. 2307.006 and amended by Acts 2001, 77th Leg., ch. 432, Sec. 2, eff. Sept. 1, 2001. Renumbered from V.T.C.A., Government Code Sec. 2306.256 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(87), eff. Sept. 1, 2003.

Sec. 2306.259. AFFORDABLE HOUSING RESEARCH AND INFORMATION PROGRAM. With money available under Section 1372.006(a), the department shall establish an affordable housing research and information program in which the department shall contract for:

(1) periodic market studies to determine the need for housing for families of extremely low, very low, and low income in census tracts throughout the state;

(2) research from qualified professionals to determine the effect of affordable housing developments on property values, social conditions, and quality of life in surrounding neighborhoods;

(3) independent research in affordable housing design and development approaches that enhance community acceptance of affordable housing and improve the quality of life for the residents of the housing; and

(4) public education and outreach efforts to assist the public in understanding the nature and purpose of affordable housing and the process for public participation in the administration of affordable housing programs.

Added by Acts 2003, 78th Leg., ch. 1329, Sec. 17, eff. Sept. 1, 2003.

Sec. 2306.260. STUDY REGARDING RESIDENTIAL FORECLOSURES.

Text of section effective until February 1, 2007

(a) The department shall conduct a study to examine mortgage foreclosure rates in Bexar, Cameron, Dallas, El Paso, Harris, and Travis Counties and shall establish an advisory committee to direct the focus of the study. The advisory committee shall be composed of:

(1) the director or the director's representative;

(2) the savings and loan commissioner or the commissioner's representative;

(3) four members appointed by the director who represent community and consumer interests;

(4) four members appointed by the savings and loan commissioner who represent the mortgage lending industry; and

(5) a representative of the Texas Housing Research Consortium at The University of Texas at Austin.

(b) The representative of the Texas Housing and Research Consortium at The University of Texas at Austin serves as chair of the advisory committee.

(c) The advisory committee established under Subsection (a) shall address the following topics in the study:

(1) the extent to which the terms of mortgages are related to the foreclosure rate and whether the terms could be offered in a manner to reduce the likelihood of foreclosures;

(2) the socioeconomic and geographic elements characterizing foreclosures;

(3) the securitization of mortgages in the secondary market and its effect on foreclosures;

(4) consumer education efforts to prevent foreclosures; and

(5) recommendations to reduce foreclosures and the foreclosure rate across this state.

(d) The advisory committee shall determine the methodology

to be used in conducting the study. The methodology used to study the topics listed in Subsections (c)(1), (2), and (3) must include a statistically significant sample size.

(e) All findings of the advisory committee must be approved by a majority of the members of the advisory committee.

(f) To obtain information to conduct the study, the department may contract with appropriate organizations, public or private institutions of higher education, and entities with experience in conducting real estate or mortgage research. All state agencies, boards, commissions, and institutions of higher education shall comply with requests from the department for information or assistance in conducting the study.

(g) All information used to conduct the study must be accessible to the department, the Savings and Loan Department, and the legislature. The department shall prepare a consolidated analysis and recapitulation of the information used to conduct the study and shall make the analysis and recapitulation available to the public. The department shall ensure that the analysis and recapitulation of the information used to conduct the study contain only aggregate data and do not contain data specific to any mortgage.

(h) Except as provided by other law, private, confidential, and privileged information obtained for the production of any public reports is the property of the parties to the mortgage and is not subject to the disclosure provisions of Chapter 552.

(i) The department shall report to the governor, the lieutenant governor, and the speaker of the house of representatives on the study and its results not later than September 1, 2006.

(j) To conduct the study, the department may use money available under Section 1372.006(a-1), and the department or advisory committee may seek and accept grants and donations.

(k) This section expires February 1, 2007.

Added by Acts 2005, 79th Leg., ch. 951, Sec. 1, eff. June 18, 2005.

#### SUBCHAPTER L. HOUSING FINANCE DIVISION: REGULATION OF HOUSING SPONSORS

Sec. 2306.261. SUPERVISING HOUSING SPONSORS. The housing finance division may, as provided by this subchapter, supervise:

(1) housing sponsors, including limited profit housing sponsors, of housing developments that are financed under this chapter and rented or leased to tenants; and

(2) real and personal property of sponsors.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.262. UNIFORM SYSTEMS OF ACCOUNTS AND RECORDS. The department may require uniform systems of accounts and records for housing sponsors.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.263. REPORTING. The department may require housing sponsors to:

(1) make reports and certifications of their expenditures; and

(2) answer specific questions on forms whenever necessary for the purposes of this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.264. INSPECTIONS AND EXAMINATIONS. The department, through its agents or employees, may:

(1) enter and inspect, in whole or in part, the land, buildings, and equipment of a housing sponsor; and

(2) examine all records showing the capital structure, income, expenditures, and other payments of a housing sponsor.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.265. OPERATION, MAINTENANCE, AND REPAIR. The department may:

(1) supervise the operation and maintenance of a housing development; and

(2) order necessary repairs to protect the public interest or the health, welfare, or safety of the housing development occupants.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.266. FEES RELATING TO REGULATION. The department may require a housing sponsor to pay the housing finance division fees for the cost of regulating the housing sponsor, including the cost of:

(1) examination;

(2) inspection;

- (3) supervision; and
- (4) auditing.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.267. COMPLIANCE WITH APPLICABLE LAWS, RULES, AND CONTRACT TERMS. The department may order a housing sponsor to perform or refrain from performing certain acts in order to comply with the law, department rules, or terms of a contract or agreement to which the housing sponsor is a party.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 37, eff. Sept. 1, 1997.

Sec. 2306.268. RENTS AND CHARGES. The department shall approve and may change from time to time a schedule of rents and charges for a housing development operated by the department under Section 2306.251.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.269. TENANT AND MANAGER SELECTION. (a) The department shall set standards for tenant and management selection by a housing sponsor.

(b) The department shall prohibit a multifamily rental housing development funded or administered by the department, including a development supported with a housing tax credit allocation under Subchapter DD, from:

(1) excluding an individual or family from admission to the development because the individual or family participates in the housing choice voucher program under Section 8, United States Housing Act of 1937 (42 U.S.C. Section 1437f); and

(2) using a financial or minimum income standard for an individual or family participating in the voucher program described by Subdivision (1) that requires the individual or family to have a monthly income of more than 2-1/2 times the individual's or family's share of the total monthly rent payable to the owner of the development.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 3.04, eff. Sept. 1, 2001.

Sec. 2306.270. REGULATION OF RETIREMENT OF CAPITAL INVESTMENT OR REDEMPTION OF STOCK. The department shall regulate the retirement of a capital investment or the redemption of stock of a limited profit housing sponsor if the retirement or redemption, when added to a dividend or other distribution, exceeds in any one fiscal year the permitted percentage, as allowed by the department, of the original face amount of the limited profit housing sponsor's investment or equity in a housing development.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 38, eff. Sept. 1, 1997.

Sec. 2306.271. COST CONTROLS. (a) The housing finance division by rule shall specify the categories of costs allowable in the construction, reconstruction, remodeling, improvement, or rehabilitation of a housing development.

(b) The housing finance division shall require a housing sponsor to certify the actual housing development costs on completion of the housing development, subject to audit and determination by the department.

(c) The department may accept, instead of certification of housing development costs under Subsection (b), other assurances of the costs, in any form, that will enable the housing finance division to determine with reasonable accuracy the amount of the costs.

(d) In this section, "housing development costs" means the total of all costs incurred in financing, creating, or purchasing a housing development, including a single-family dwelling, approved by the department as reasonable and necessary. The costs may include:

(1) the value of land and buildings on the land owned by the sponsor or the cost of acquiring land and buildings on the land, including payments for options, deposits, or contracts to purchase properties on the proposed housing site;

(2) costs of site preparation, demolition, and development;

(3) expenses relating to the issuance of bonds;

(4) fees paid or payable in connection with the planning, execution, and financing of the housing development, including fees to:

(A) architects;  
(B) engineers;  
(C) attorneys;  
(D) accountants; or  
(E) the housing finance division on the department's behalf;

(5) costs of necessary studies, surveys, plans, permits, insurance, interest, financing, tax and assessment costs, and other operating and carrying costs during construction;

(6) costs of construction, rehabilitation, reconstruction, fixtures, furnishings, equipment, machinery, and apparatus related to the real property;

(7) costs of land improvements, including landscaping and off-site improvements, whether or not the costs have been paid in cash or in a form other than cash;

(8) necessary expenses for the initial occupancy of the housing development;

(9) a reasonable profit and risk fee in addition to job overhead to the general contractor or limited profit housing sponsor;

(10) an allowance established by the department for working capital and contingency reserves and reserves for anticipated operating deficits during the first two years of occupancy; and

(11) the cost of other items, including tenant relocation if tenant relocation costs are not otherwise provided for, that the department determines are reasonable and necessary for the development of the housing development, less net rents and other net revenues received from the operation of the real and personal property on the development site during construction.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.272. HOUSING SPONSOR INVESTMENTS. (a) A principal or stockholder of a housing sponsor may not earn, accept, or receive a per annum return on an investment in a housing development financed by the department greater than that allowed by department rule.

(b) A housing sponsor's equity in a housing development is the difference between the mortgage loan and the total housing development cost.

(c) The department shall establish a housing sponsor's equity when the final mortgage advance is made.

(d) For the purposes of this section, the amount established under Subsection (c) remains constant during the life of the department's mortgage on the development, except for additional equity investment made by the sponsor with the department's approval or at its order.

(e) In this section, "housing development costs" has the meaning assigned by Section 2306.271(d).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.273. LIMITATION ON APPLICATION OF CERTAIN PROVISIONS OF SUBCHAPTER. Sections 2306.261 through 2306.271 do not apply to a housing development:

(1) for which individuals or families of low and very low income or families of moderate income receive a mortgage loan under this chapter; and

(2) that initially is intended for occupancy by those individuals or families.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

#### SUBCHAPTER M. HOUSING FINANCE DIVISION: PURCHASE AND SALE OF MORTGAGE LOANS

Sec. 2306.291. PURCHASE AND SALE OF MORTGAGE LOANS. (a) The department may purchase and take assignments from mortgage lenders or the federal government of notes and other obligations, including contracts for deed and mortgages, evidencing loans or interest in loans for the construction, remodeling, improvement, rehabilitation, purchase, leasing, or refinancing of housing developments for individuals and families of low and very low income and families of moderate income.

(b) The department may sell, at public or private sale, with or without public bidding, a mortgage or other obligation held by the department.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.  
Amended by Acts 1997, 75th Leg., ch. 980, Sec. 39, eff. Sept. 1, 1997.

Sec. 2306.292. ELIGIBILITY OF MORTGAGE LOANS FOR



PURCHASE. A mortgage loan or interest in a mortgage loan is not eligible for purchase by or on behalf of the department from a mortgage lender unless the mortgage lender certifies that the mortgage loan or interest in the mortgage loan is for a housing development for individuals or families of low and very low income or for families of moderate income.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.293. FEDERALLY ASSISTED MORTGAGE LOANS. A mortgage loan or interest in a mortgage loan purchased or sold under this subchapter may include a mortgage loan that is insured, guaranteed, or assisted by the federal government or a mortgage loan that the federal government has committed to insure, guarantee, or assist.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.294. MORTGAGE LOAN PURCHASE PRICE. (a) On purchasing a mortgage loan or interest in a mortgage loan from a mortgage lender, the department shall pay a purchase price equal to the outstanding principal balance, except that a discount from the principal balance or the payment of a premium may be used to produce a fair rate of return consistent with the obligations of the department and the purposes of this chapter.

(b) In addition to payment of the outstanding principal balance, the department shall pay the accrued interest due to the date on which the mortgage loan is delivered against payment.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.295. RULES GOVERNING PURCHASE AND SALE OF MORTGAGE LOANS. The department shall adopt rules governing the purchase and sale of mortgage loans and the application of sale proceeds, including rules governing:

(1) procedures for submitting requests or inviting proposals for the purchase and sale of mortgage loans or interest in the mortgage loans;

(2) restrictions on the number of family units, location, or other qualifications of residences to be financed by residential mortgage loans;

(3) income limits of individuals and families of low and very low income or families of moderate income occupying a residence financed by a residential mortgage loan;

(4) restrictions relating to the interest rates on mortgage loans or the return realized by mortgage lenders;

(5) requirements for commitments by mortgage lenders relating to mortgage loans;

(6) schedules of fees and charges necessary for expenses and reserves of the housing finance division;

(7) resale of the housing development; and

(8) any other matter related to the power of the department to purchase and sell mortgage loans or interests in mortgage loans.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.296. REVIEW AND SUBSTITUTION OF PURCHASED MORTGAGE LOANS. (a) The department shall review each mortgage loan purchased or financed by the department to determine if the loan meets:

(1) the conditions of this chapter;

(2) the department's rules; and

(3) any commitment made with the mortgage lender to purchase mortgage loans.

(b) The department may require the substitution of another mortgage loan if it determines that a loan does not comply with the criteria of Subsection (a).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.297. APPLICATION OF PROVISIONS RELATING TO LOAN TERMS AND CONDITIONS. Sections 2306.225 through 2306.229 apply to the purchase of mortgage loans.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

#### SUBCHAPTER N. HOUSING FINANCE DIVISION: TENANTS OF HOUSING DEVELOPMENTS

Sec. 2306.311. ADMISSION TO HOUSING DEVELOPMENTS. Admission to a housing development financed under this chapter that is leased to tenants is limited to individuals or families of low and very low income and families of moderate income.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.312. EXAMINATION OF TENANT INCOME. The department shall periodically examine, or require that a housing sponsor examine, the income of an individual or family residing as a tenant

in a housing development.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.313. TERMINATION OF TENANCY. (a) The department or, with the department's approval, the housing sponsor of a housing development may terminate the tenancy or interest of an individual or family whose gross income exceeds the income level allowed for admission by more than 25 percent for six months or more.

(b) A tenancy or interest of an individual or family in a housing development may not be terminated except on reasonable notice and opportunity to obtain suitable alternate housing under the department's rules.

(c) At the time notice of termination is given, the housing finance division shall provide information to the tenant on other division programs for which the tenant qualifies and shall encourage the tenant's participation in those programs.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.314. CONTINUED OCCUPANCY ON PAYMENT OF SURCHARGE. An individual or family whose gross income would not otherwise permit continued occupancy of a dwelling unit may, with the department's approval, continue to occupy a dwelling unit on payment of a surcharge to the housing sponsor under a schedule of surcharges determined by the department.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.315. DISCHARGE FROM LIABILITY; REIMBURSEMENT. If an individual or family who resides in a cooperative housing development is required to move from the development because of excessive income, the individual or family must be:

(1) discharged from liability for any note, bond, or other evidence of indebtedness; and

(2) reimbursed, under department rules, for all sums paid to the housing sponsor on account of the:

(A) purchase of stock or debentures as a condition of occupancy; or

(B) acquisition of title for that purpose.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.316. LIMITATION ON APPLICATION OF SUBCHAPTER. This subchapter does not apply to a housing development:

(1) for which individuals or families of low and very low income or families of moderate income receive a mortgage loan under this chapter; and

(2) that initially is intended for occupancy by those persons or families.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER O. HOUSING FINANCE DIVISION: REGULATION OF MORTGAGE LENDERS, SERVICERS, AND CONTRACTORS

Sec. 2306.331. MORTGAGE LENDER SELECTION. The department shall develop a process to select mortgage lenders that includes consideration of the lender's:

(1) distribution of loans by income and geographic region in past programs of the department or its predecessor; and

(2) rating under the Community Reinvestment Act of 1977 (12 U.S.C. Section 2901 et seq.).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.332. MONITORING MORTGAGE LENDERS. The department shall develop a written plan to monitor and audit the performance of mortgage lenders. The plan must include a requirement:

(1) that mortgage lenders comply with quality control standards established by appropriate federal agencies;

(2) for an audit of mortgage lenders' compliance with program guidelines to be conducted by random selection of loans and associated paperwork for review;

(3) for monitoring delinquency and foreclosure rates for currently participating mortgage lenders to identify unfavorable trends;

(4) for an extensive audit after a finding of an unfavorable trend under Subdivision (3); and

(5) for reporting the information gathered under this section to the director and the board.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.333. MONITORING MORTGAGE SERVICERS. The housing finance division shall develop a written plan to monitor and audit the performance of mortgage servicers. The plan must include:

(1) a method of developing criteria to evaluate the

performance of servicers;

(2) a method of monitoring the performance of a servicer under the criteria developed under Subdivision (1);

(3) a requirement for a review of the financial statements of a servicer;

(4) a process for an extensive audit of servicers who repeatedly violate the terms of the servicers' contracts with the department;

(5) the designation of an audit team consisting of staff members from relevant areas of the housing finance division; and

(6) a method of reporting the information gathered under this section to the director and the board.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.334. MONITORING CONTRACTORS. The department shall develop a written plan to monitor and audit the performance of real estate owned contractors and other contractors. The plan must include:

(1) a requirement for a periodic inspection of foreclosed property;

(2) a method of monitoring contractors' performance of contract requirements; and

(3) a requirement for a periodic review of contractors' billing procedures.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

#### SUBCHAPTER P. HOUSING FINANCE DIVISION BONDS: ISSUANCE OF BONDS

Sec. 2306.351. ISSUANCE OF BONDS. (a) The department may issue bonds under this chapter, including qualified 501(c)(3) bonds under Section 145, Internal Revenue Code of 1986 (26 U.S.C. Section 145), and may:

(1) provide for and secure payment of the bonds;

(2) provide for the rights of the holders of the bonds, as permitted by this chapter and the Texas Constitution; and

(3) purchase, hold, cancel, resell, or otherwise dispose of its bonds, subject to restrictions in a resolution authorizing issuance of its bonds.

(b) In connection with or incidental to issuing and selling its bonds, the department may enter into contracts that the board considers necessary or appropriate for the department's obligation, as represented by the bonds and incidental contracts, to be placed, in whole or in part, on the basis desired by the board, including interest rate, currency, or cash flow.

(c) Contracts that may be entered into under Subsection (b) include contracts:

(1) commonly known as interest rate swap agreements, currency swap agreements, or forward payment conversion agreements;

(2) providing for payments based on levels of or changes in interest rates or currency exchange rates;

(3) to exchange cash flows or a series of payments; or

(4) that include options, puts or calls to hedge payment, currency, rate, spread, or similar exposure.

(d) A contract entered into under this section shall be on terms and conditions approved by the board.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 980, Sec. 40, eff. Sept. 1, 1997.

Sec. 2306.352. TEXAS HOUSING BONDS. (a) The board by resolution may provide for the issuance of negotiable bonds as authorized by the Texas Constitution.

(b) The bonds shall be on a parity and shall be called Texas Housing Bonds.

(c) The board:

(1) may issue the bonds in one or several installments; and

(2) shall date the bonds of each issue.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.353. REVENUE BONDS. (a) In addition to issuing general obligation bonds under Section 2306.352, the department may issue revenue bonds to provide money to carry out a purpose, power, or duty of the housing finance division under this chapter.

(b) The bonds may be issued from time to time in one or more series or issues.

(c) The bonds shall be payable as to principal, interest, and redemption premium, if any, from, and secured by, a first or

subordinate lien on, and pledge of, all or part of the revenues, income, or other resources of the housing finance division, including:

- (1) the repayments of mortgage loans;
- (2) the earnings from investment or deposit of the reserve fund and other funds of the housing finance division;
- (3) the fees, charges, and other amounts or payments received under this chapter; and
- (4) appropriations, grants, allocations, subsidies, rent supplements, guaranties, aid, contribution, or donations.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.354. DEFINITIVE REFUNDING BONDS. (a) The department may issue definitive refunding bonds if the bonds are issued and delivered to refund:

- (1) other department bonds; or
- (2) the obligations of:
  - (A) the department's predecessor; or
  - (B) a local housing finance corporation.

(b) The bonds must be payable as to principal, interest, and redemption premium, if any, from the refunding bonds and other revenues, income, or resources of the department.

(c) The department may contract to issue, sell, and deliver the definitive refunding bonds in a manner that will provide the money necessary to pay a required part of the principal, interest, and redemption premium, if any, on the refunded bonds or obligations when due.

(d) The refunded bonds or obligations may be refunded in another manner permitted by this chapter or other state law, including Chapter 1207.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.247, eff. Sept. 1, 2001.

Sec. 2306.355. ISSUANCE OF ADDITIONAL PARITY OR SUBORDINATE LIEN BONDS. The department may issue additional parity bonds or subordinate lien bonds under terms or conditions in the resolution authorizing issuance of the bonds.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.356. ISSUANCE OF BONDS TO FUND DEPARTMENT RESERVES OR FUNDS. The department may issue bonds to provide all or part of the money required for funding or increasing the department's reserves or funds.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.357. BONDS ISSUED BY TEXAS HOUSING AGENCY. A general obligation or revenue bond issued by the Texas Housing Agency becomes a general obligation or revenue bond of the department.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 41, eff. Sept. 1, 1997.

Sec. 2306.358. ISSUANCE OF QUALIFIED 501(C)(3) BONDS. (a) Of the total qualified 501(c)(3) bonds issued under Section 145 of the Internal Revenue Code of 1986 (26 U.S.C. Section 145) in each fiscal year, it is the express intent of the legislature that the department shall allocate qualified 501(c)(3) bonding authority as follows:

(1) not more than 25 percent of the total annual issuance amount authorized through the memorandum of understanding provided for in Subsection (b) may be used for projects in any one metropolitan area; and

(2) at least 15 percent of the annual issuance amount authorized through the memorandum of understanding provided for in Subsection (b) is reserved for projects in rural areas.

(a-1) For the purposes of Subsection (a), "rural area" and "metropolitan area" shall be defined through the memorandum of understanding provided for in Subsection (b).

(b) A qualified 501(c)(3) bond may not be issued unless approved by the Bond Review Board. In addition, the Bond Review Board shall enter into a memorandum of understanding with the department specifying the amount of bonds to be issued in each fiscal year. The department and the Bond Review Board shall review the memorandum of understanding annually to determine the specific amount of bonds to be issued in each fiscal year. The Bond Review Board may not approve a proposal to issue qualified 501(c)(3) bonds unless they meet the requirements of this section, including the memorandum of understanding, and all other laws that may apply.

(c) In addition to the requirements of Section 145 of the Internal Revenue Code of 1986 (26 U.S.C. Section 145), a qualified 501(c)(3) organization must:

(1) demonstrate to the department that the project is carefully and conservatively underwritten to:

(A) ensure that the project is well run, well maintained, and financially viable; and

(B) minimize the risk of the organization's default;

(2) ensure that at least 60 percent of the housing to be provided under the project is affordable housing provided to individuals and families of low and very low income and:

(A) at least 40 percent of the units in a multifamily development are affordable to individuals and families with incomes at or below 60 percent of the median family income, adjusted for family size; or

(B) at least 20 percent of the units in a multifamily development are affordable to individuals and families with incomes at or below 50 percent of the median family income, adjusted for family size; and

(3) enter into an agreement with the department in which the 501(c)(3) organization:

(A) agrees during the term of the agreement to reserve at least 60 percent of the housing to be provided under the project for individuals and families of low and very low income;

(B) ensures that the reserved housing will remain affordable to individuals and families of low and very low income during the term of the agreement;

(C) agrees to not discriminate against a tenant applicant solely because the applicant receives public rental assistance payments, except if at least 15 percent of the housing units provided under the project are occupied by tenants who receive public rental assistance payments; and

(D) agrees to restrict the rents charged on those units reserved for individuals and families of low and very low income at 30 percent of the area median income adjusted for family size and utility allowance, unless this requirement is waived or modified on a case-by-case basis by the board, and approved by the Bond Review Board, if both boards determine that the waiver or modification is necessary for an area of the state because the area's median income would prevent the construction of new affordable projects.

(d) Subsection (c)(3)(C) does not prohibit an organization from requiring a tenant applicant who receives public assistance to meet the organization's standard criteria for occupancy, including such criteria as satisfactory creditworthiness and lack of criminal history.

(e) The agreement provided for in Subsection (c)(3) may provide for the lease or sale of the project to a nonprofit corporation approved by the department subject to the conditions specified in Subsection (c).

(f) Neither the department nor the Texas State Affordable Housing Corporation may use state or federal money to provide for credit enhancement of a bond issued under this section unless the credit enhancement would facilitate the issuance of bonds for the purpose of financing the creation or preservation of affordable housing by 501(c)(3) nonprofit entities.

(g) In lieu of complying with the set-aside requirements specified in Subsection (c)(2), a qualified 501(c)(3) organization may comply with such other set-asides or restrictions as are approved by the Internal Revenue Service as a basis for the determination letter addressed to the qualified 501(c)(3) organization.

(h) For purposes of this section, "rural area" and "metropolitan area" shall be defined through the memorandum of understanding provided for in Subsection (b) of this section.

Added by Acts 1997, 75th Leg., ch. 980, Sec. 42, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 1.24, eff. Sept. 1, 2001.

Sec. 2306.359. ISSUANCE OF PRIVATE ACTIVITY BONDS. (a) In evaluating an application for an issuance of private activity bonds, the department shall score and rank the application using a point system based on criteria that are adopted by the department, including criteria:

(1) regarding:

(A) the income levels of tenants of the development, consistent with the funding priorities provided by Section 1372.0321;

(B) the rent levels of the units;

(C) the level of community support for the application;

(D) the period of guaranteed affordability for low income tenants;

(E) the cost per unit of the development;

(F) the size, quality, and amenities of the units;

(G) the services to be provided to tenants of the development;

(H) the commitment of development funding by local political subdivisions that enables additional units for individuals and families of very low income; and

(I) other criteria as developed by the board; and

(2) imposing penalties on applicants who have requested extensions of department deadlines relating to developments supported by an issuance of private activity bonds made in the application round preceding the current round.

(b) The department shall make available on its website details of the scoring system used by the department to score applications.

(c) The department shall underwrite the applications by determining:

(1) that the general contractor's profit, overhead, and general requirements are within the maximum limit published by the department;

(2) that the developer fee for the proposed project does not exceed the maximum amount allowed by the department; and

(3) if applicable, the amount of tax credits available to the proposed development.

(d) In adopting criteria for underwriting applications under this section, the department shall attach additional weight to criteria that will determine the maximum amount that can be awarded that will:

(1) result in an issuance of private activity bonds for developments serving the lowest income tenants; and

(2) produce the greatest number of high-quality units committed to remaining affordable to qualified tenants for extended periods.

Added by Acts 2003, 78th Leg., ch. 330, Sec. 15, eff. Sept. 1, 2003.

#### SUBCHAPTER Q. HOUSING FINANCE DIVISION BONDS: BOARD ACTION ON BONDS

Sec. 2306.371. BOARD AUTHORIZATION OF BONDS. Bonds issued by the department must be authorized by board resolution.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.372. DEPARTMENT PROCEDURES. In a resolution authorizing the issuance of department bonds, the board may prescribe the systems and procedures under which the department shall function.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.373. USE OF BOND PROCEEDS. The board may provide in a resolution authorizing the issuance of department bonds that part of the proceeds from the sale of the bonds may be used to:

(1) pay the costs and expenses of issuing the bonds;

(2) pay interest on the bonds during a period required by the board;

(3) pay or repay the department's operation and maintenance expenses to the extent and for the period specified in the resolution; and

(4) fund, increase, or restore any depletions of the reserve fund or of other reserves or funds for any purpose.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.374. FACSIMILE SIGNATURES AND SEALS. (a) The board may state in a resolution authorizing the issuance of an installment or series of bonds the extent to which the presiding officer of the board or any other officer may use a facsimile signature or facsimile seal instead of a manual signature or manually impressed seal to execute or attest the bonds and appurtenant coupons.

(b) An interest coupon may be signed by the facsimile signature of the presiding officer of the board.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.375. PERSONAL LIABILITY OF BOARD MEMBER OR DIRECTOR. A member of the board or the director is not liable personally for bonds issued or contracts executed by the department or for any other action taken in accordance with the powers and duties authorized by this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.  
Amended by Acts 1997, 75th Leg., ch. 980, Sec. 43, eff. Sept. 1, 1997.

SUBCHAPTER R. HOUSING FINANCE DIVISION BONDS: FORM; TERMS

Sec. 2306.391. FORM. The department's bonds may be issued as:

- (1) serial bonds;
- (2) term bonds; or
- (3) a combination of serial and term bonds as determined by the board.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.392. DENOMINATION. (a) The department's bonds may be issued:

- (1) in coupon form payable to bearer;
- (2) in fully registered form;
- (3) as coupon bonds payable to bearer but registrable as to principal alone or as to both principal and interest; or
- (4) in another form, including a registered uncertificated obligation not represented by written instruments, commonly known as a book-entry obligation.

(b) The department shall provide for the registration of ownership and transfer of a book-entry obligation under a system of books and records maintained by a bank serving as trustee, paying agent, or bond registrar.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.393. MANNER, PRICE, AND TERMS. The department's bonds may be sold in a manner, at a price, and under terms and conditions determined by the board under a contractual arrangement approved by the board.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.394. PLACE OF PAYMENT; MEDIUM OF EXCHANGE. (a) The department's bonds may be payable at a place inside or outside the United States.

(b) The bonds may be made payable in any currency or medium of exchange, including United States dollars and currencies of other nations.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.395. INTEREST ON BONDS. The department's bonds may be issued to bear interest at a rate determined by the board.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.396. MATURITY OF BONDS. The department's bonds may mature within a period determined by the board.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.397. REDEMPTION BEFORE MATURITY; CONVERSION. (a) Department bonds may be made redeemable before maturity.

(b) The board may provide and covenant for the:  
(1) conversion of one form of bond to another form;  
and

(2) reconversion of a bond to another form.  
(c) Except as provided by Subsection (d), a replacement, converted, or reconverted bond must be approved and registered as provided by Sections 2306.431 and 2306.432, under procedures established by the resolution authorizing the bonds.

(d) If the duty of replacement, conversion, or reconversion of a bond is imposed on a place of payment (paying agent) or a corporate trustee under a trust agreement or trust indenture, the replacement, converted, or reconverted bond does not need to be reapproved by the attorney general or reregistered by the comptroller as provided by Sections 2306.431 and 2306.432.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER S. HOUSING FINANCE DIVISION BONDS: SECURITY FOR BONDS

Sec. 2306.411. SECURITY FOR PAYMENT OF PRINCIPAL, INTEREST, AND REDEMPTION PREMIUM. (a) In addition to other security for the department's bonds authorized by this chapter, payment of the principal and interest and redemption premium, if any, on the department's bonds may be secured by a first or subordinate lien on and pledge of all or part of:

(1) the department's assets and real, personal, or mixed property, including:

(A) mortgages or other obligations securing the assets of property;  
(B) investments; and  
(C) trust agreements or trust indentures administered by one or more corporate trustees as allowed by the board; and

(2) the reserves or funds of the department.

(b) The form of a mortgage, trust agreement, or trust indenture securing department bonds must be authorized under the resolution authorizing the issuance of the bonds.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.  
Amended by Acts 1997, 75th Leg., ch. 980, Sec. 44, eff. Sept. 1, 1997.

Sec. 2306.412. VALIDITY OF LIENS AND PLEDGES. (a) A lien on or pledge of revenues, income, assets, reserves, funds, or other resources of the department, as authorized by this chapter, is valid and binding from the time of payment for and delivery of the bonds authorized by the board resolution creating or confirming the lien or pledge.

(b) A lien or pledge is fully effective as to revenues, income, assets, reserves, funds, or other resources on hand or later received, and those items are subject to the lien or pledge without physical delivery of the item or any further act.

(c) A lien or pledge is valid and binding against a party who has a claim in tort, contract, or otherwise against the department or another party, regardless of whether the party has notice of the lien or pledge.

(d) A resolution authorizing the issuance of department bonds or any other instrument creating or confirming a lien or pledge is not required to be filed or recorded, except that:

(1) the resolution or instrument must be filed in the department's records; and

(2) each department bond resolution must be submitted to the attorney general under Section 2306.431.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.  
Amended by Acts 1997, 75th Leg., ch. 980, Sec. 45, eff. Sept. 1, 1997.

#### SUBCHAPTER T. HOUSING FINANCE DIVISION BONDS: APPROVAL, REGISTRATION, AND EXECUTION

Sec. 2306.431. APPROVAL OF BONDS. (a) Bonds issued by the department and the appropriate proceedings authorizing the bonds' issuance shall be submitted to the attorney general for examination.

(b) The attorney general shall approve the bonds if the attorney general finds that the bonds have been authorized as provided by this chapter.

(c) Any bonds submitted by the department to the attorney general under this section must include a certification by the board that home mortgage loans made using the proceeds of the bonds do not include a mandatory arbitration requirement.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.  
Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 1.25, eff. Sept. 1, 2001.

Sec. 2306.432. REGISTRATION. On approval of the attorney general under Section 2306.431, the comptroller shall register the department's bonds.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.433. EXECUTION. Bonds authorized by Section 2306.352 shall be executed on the board's behalf as general obligations of the state as follows:

(1) the presiding officer of the board shall sign the bonds;

(2) the board shall impress its seal on the bonds;

(3) the governor shall sign the bonds; and

(4) the secretary of state shall attest the bonds and impress on them the state seal.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

#### SUBCHAPTER U. HOUSING FINANCE DIVISION BONDS: RIGHTS AND REMEDIES OF BONDHOLDERS AND PARTIES IN INTEREST

Sec. 2306.451. STATE PLEDGE REGARDING BONDHOLDER RIGHTS AND REMEDIES. (a) The state pledges to and agrees with the holders of bonds issued under this chapter that it will not limit or alter the rights vested in the department under this chapter to fulfill the terms of an agreement made with a bondholder or impair the rights and remedies of a bondholder until the following obligations are



fully discharged:

- (1) the bonds;
- (2) interest on the bonds;
- (3) interest on any unpaid installment of interest;

and

(4) all costs and expenses related to an action or proceeding by or on behalf of the holders.

(b) The department may include the state's pledge and agreement under Subsection (a) in an agreement with the holders of the department's bonds.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.452. PAYMENT ENFORCEABLE BY MANDAMUS. A writ of mandamus and any other legal or equitable remedy are available to a party in interest to require the department, the comptroller, or another party to carry out an agreement or to perform a function or duty under:

- (1) this chapter;
- (2) the Texas Constitution; or
- (3) the department's bond resolutions.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 8.76, eff. Sept. 1, 1997.

#### SUBCHAPTER V. HOUSING FINANCE DIVISION BONDS: OBLIGATIONS OF DEPARTMENT AND STATE

Sec. 2306.471. GENERAL OBLIGATION BONDS. General obligation bonds issued under Section 2306.352 and approved and registered under this chapter are general obligations of the state. Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.472. DEPARTMENT'S BONDS OTHER THAN GENERAL OBLIGATION BONDS NOT OBLIGATIONS OF THE STATE. Except for bonds authorized by the Texas Constitution and issued under Section 2306.352, the department's bonds:

- (1) are solely obligations of the department and are payable solely from funds of the housing finance division;
- (2) are not an obligation, debt, or liability of the state; and
- (3) do not create or constitute a pledge, giving, or lending of the faith, credit, or taxing power of the state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.473. STATE NOT OBLIGATED TO PAY; FAITH AND CREDIT NOT PLEDGED. A department bond not authorized by Section 2306.352 must contain a statement on the face of the bond that:

- (1) the state is not obligated to pay the principal or interest on the bond; and
- (2) the faith, credit, or taxing power of the state is not pledged, given, or loaned to payment of the bond's principal or interest.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

#### SUBCHAPTER W. HOUSING FINANCE DIVISION BONDS: MISCELLANEOUS PROVISIONS

Sec. 2306.491. BONDS NEGOTIABLE INSTRUMENTS. Notwithstanding any other statute, a bond and interest coupon issued and delivered by the department is a negotiable instrument under the Uniform Commercial Code, except that the bond may be registered or subject to registration under this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 46, eff. Sept. 1, 1997.

Sec. 2306.492. BONDS INCONTESTABLE. Department bonds are incontestable for any reason in a court or other forum after approval by the attorney general and registration by the comptroller and are valid and binding obligations for all purposes under the terms of the bonds.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.493. SIGNATURE OF FORMER OFFICER. If an officer whose manual or facsimile signature appears on a bond or whose facsimile signature appears on a coupon is not an officer at the time the bond is delivered, the signature is valid and sufficient for all purposes as if the officer had remained in office until delivery.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.494. BONDS NOT TAXABLE. The following are free from taxation or assessment by this state or a public agency:

- (1) department bonds issued under this chapter;

(2) interest and income from department bonds, including a profit from the sale of the bonds; and

(3) all fees, charges, gifts, grants, revenues, receipts, and other money received or pledged to pay or secure the payment of the department's bonds.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.495. AUTHORIZED INVESTMENTS. Bonds issued by the department under this chapter are legal and authorized investments for:

- (1) banks;
- (2) savings banks;
- (3) trust companies;
- (4) savings and loan associations;
- (5) insurance companies;
- (6) fiduciaries;
- (7) trustees;
- (8) guardians; or
- (9) sinking or other public funds of:
  - (A) this state;
  - (B) a municipality;
  - (C) a county;
  - (D) a school district; or
  - (E) another political subdivision or public agency of this state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.496. SECURITY FOR DEPOSIT OF FUNDS. Department bonds are eligible and lawful security for a deposit of public funds of the state or a public agency to the extent of the greater of the bonds' par or market value when accompanied by appurtenant unmatured interest coupons.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.497. MUTILATED, LOST, STOLEN, OR DESTROYED BONDS. The board may provide procedures for the replacement of a mutilated, lost, stolen, or destroyed bond or interest coupon.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.498. NO GAIN ALLOWED. (a) The director or a board member may not have or attempt to have a pecuniary interest in a transaction to which the department is a party for purposes of personal pecuniary gain.

(b) A board member or department employee may not purchase department bonds in the open secondary market for municipal securities.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

#### SUBCHAPTER X. INDIVIDUALS WITH SPECIAL NEEDS

Sec. 2306.511. DEFINITION. In this subchapter, "individual with special needs" means an individual who:

- (1) is considered to be an individual having a disability under a state or federal law;
- (2) is elderly;
- (3) is designated by the board as experiencing a unique need for decent, safe housing that is not being met adequately by private enterprise; or
- (4) is legally responsible for caring for an individual described by Subdivision (1), (2), or (3) and meets the income guidelines established by the board.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.512. SPECIAL NEEDS. The department may adopt a strategy to serve the needs of individuals with special needs.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.513. HOUSING FOR INDIVIDUALS WITH SPECIAL NEEDS. (a) The board shall adopt rules to achieve occupancy by individuals with special needs of at least five percent of the units in each multifamily housing development.

(b) Subsection (a) applies only to a multifamily housing development that contains at least 20 units and is financed by bonds issued under this chapter.

(c) If a survey that is conducted by the housing sponsor and verified by the housing finance division reveals that there is not sufficient need for housing for individuals with special needs in the area in which the development will be built or renovated to justify building or renovating and reserving at least five percent of the units for individuals with special needs, the department may, on a showing of good cause by the housing sponsor, lower the requirements to correspond to the amount of need found by the housing sponsor.

(d) Repealed by Acts 1995, 74th Leg., ch. 76, Sec. 5.78, eff. Sept. 1, 1995.

(e) Repealed by Acts 1997, 75th Leg., ch. 980, Sec. 54, eff. Sept. 1, 1997.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.78, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 980, Sec. 54, eff. Sept. 1, 1997.

Sec. 2306.514. CONSTRUCTION REQUIREMENTS FOR SINGLE FAMILY AFFORDABLE HOUSING. (a) If a person is awarded state or federal funds by the department to construct single family affordable housing for individuals and families of low and very low income, the affordable housing identified on the person's funding application must be constructed so that:

(1) at least one entrance door, whether located at the front, side, or back of the building:

(A) is on an accessible route served by a ramp or no-step entrance; and

(B) has at least a standard 36-inch door;

(2) on the first floor of the building:

(A) each interior door is at least a standard 32-inch door, unless the door provides access only to a closet of less than 15 square feet in area;

(B) each hallway has a width of at least 36 inches and is level, with ramped or beveled changes at each door threshold;

(C) each bathroom wall is reinforced for potential installation of grab bars;

(D) each electrical panel or breaker box, light switch, or thermostat is not higher than 48 inches above the floor; and

(E) each electrical plug or other receptacle is at least 15 inches above the floor; and

(3) each breaker box is located inside the building on the first floor.

(b) A person who builds single family affordable housing to which this section applies may obtain a waiver from the department of the requirement described by Subsection (a)(1)(A) if the cost of grading the terrain to meet the requirement is prohibitively expensive.

Added by Acts 1999, 76th Leg., ch. 1581, Sec. 1, eff. Sept. 1, 1999.

#### SUBCHAPTER Y. TEXAS STATE AFFORDABLE HOUSING CORPORATION

Sec. 2306.551. DEFINITION. In this subchapter, "corporation" means the Texas State Affordable Housing Corporation.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.66(d), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 47, eff. Sept. 1, 1997.

Sec. 2306.552. CREATION. (a) The existence of the Texas State Affordable Housing Corporation, or any similarly named corporation, begins on the date that the secretary of state issues the certificate of incorporation.

(b) The charter of the corporation must establish the corporation as nonprofit and specifically dedicate the corporation's activities to the public purpose authorized by this subchapter.

(c) The creation of the corporation does not limit or impair the rights, powers, and duties of the department under this chapter.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.66(d), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 47, eff. Sept. 1, 1997.

Sec. 2306.5521. SUNSET PROVISION. The Texas State Affordable Housing Corporation is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the corporation is abolished and this subchapter expires September 1, 2009.

Added by Acts 1997, 75th Leg., ch. 1169, Sec. 1.02, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1194, Sec. 2, eff. June 15, 2001; Acts 2003, 78th Leg., ch. 332, Sec. 8, eff. Sept. 1, 2003.

Sec. 2306.553. PURPOSES. (a) The public purpose of the corporation is to perform activities and services that the corporation's board of directors determines will promote the public health, safety, and welfare through the provision of adequate, safe, and sanitary housing primarily for individuals and families of low, very low, and extremely low income, for professional educators under the professional educators home loan program as

provided by Section 2306.562, for fire fighters, corrections officers, county jailers, public security officers, and peace officers under the fire fighter, law enforcement officer, and security officer home loan program as provided by Section 2306.5621, and for professional nursing program faculty members under the professional nursing program faculty member home loan program as provided by Section 2306.5622. The activities and services shall include engaging in mortgage banking activities and lending transactions and acquiring, holding, selling, or leasing real or personal property.

(b) The corporation's primary public purpose is to facilitate the provision of housing by issuing qualified 501(c)(3) bonds and qualified residential rental project bonds and by making affordable loans to individuals and families of low, very low, and extremely low income, to professional educators under the professional educators home loan program, to fire fighters, corrections officers, county jailers, public security officers, and peace officers under the fire fighter, law enforcement officer, and security officer home loan program, and to professional nursing program faculty members under the professional nursing program faculty member home loan program. The corporation may make first lien, single family purchase money mortgage loans for single family homes only to individuals and families of low, very low, and extremely low income if the individual's or family's household income is not more than the greater of 60 percent of the median income for the state, as defined by the United States Department of Housing and Urban Development, or 60 percent of the area median family income, adjusted for family size, as defined by that department. The corporation may make loans for multifamily developments if:

(1) at least 40 percent of the units in a multifamily development are affordable to individuals and families with incomes at or below 60 percent of the median family income, adjusted for family size; or

(2) at least 20 percent of the units in a multifamily development are affordable to individuals and families with incomes at or below 50 percent of the median family income, adjusted for family size.

(c) To the extent reasonably practicable, the corporation shall use the services of banks, community banks, savings banks, thrifts, savings and loan associations, private mortgage companies, nonprofit organizations, and other lenders for the origination of all loans contemplated by this subchapter and assist the lenders in providing credit primarily to individuals and families of low, very low, and extremely low income.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.66(d), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 47, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1041, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1194, Sec. 3, eff. June 15, 2001; Acts 2003, 78th Leg., ch. 332, Sec. 9, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1050, Sec. 2, eff. June 20, 2003; Acts 2005, 79th Leg., ch. 196, Sec. 5, eff. May 27, 2005; Acts 2005, 79th Leg., ch. 674, Sec. 10(b), 12, eff. June 17, 2005; Acts 2005, 79th Leg., ch. 728, Sec. 23.002(7), eff. Sept. 1, 2005.

Sec. 2306.554. BOARD OF DIRECTORS AND OFFICERS. (a) The board of directors of the corporation consists of five members appointed by the governor who represent any of the following areas:

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

(2) community banks with assets of \$200 million or less;

(3) large metropolitan banks with assets of more than \$1 billion;

(4) asset management companies;

(5) mortgage servicing companies;

(6) builders;

(7) real estate developers;

(8) real estate brokers;

(9) community or economic development organizations;

(10) private mortgage companies;

(11) nonprofit housing development companies;

(12) attorneys;

(13) investment bankers;

(14) underwriters;

(15) private mortgage insurance companies;

(16) appraisers;  
(17) property management companies;  
(18) financial advisors;  
(19) nonprofit foundations;  
(20) financial advisors; or  
(21) any other area of expertise that the governor finds necessary for the successful operation of the corporation.

(b) The governor shall designate the presiding officer of the corporation's board of directors from the members.

(c) A member of the corporation's board of directors is not entitled to compensation, but is entitled to reimbursement of travel expenses incurred by the member while conducting the business of the board to the same extent provided by the General Appropriations Act for a member of a state board.

(d) The corporation shall employ, for compensation to be determined by the corporation's board of directors, a qualified individual to serve as president of the corporation.

(e) The corporation may purchase, with corporation funds, liability insurance for each of the members of the corporation's board of directors, officers, and other employees of the corporation in an amount that the corporation's board of directors considers reasonably necessary to:

(1) insure against foreseeable liabilities; and  
(2) provide for all costs of defending against those liabilities, including, without limitation, court costs and attorney's fees.

(f) Appointments to the board of directors of the corporation shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.66(d), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 47, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1041, Sec. 2, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 332, Sec. 10, eff. Sept. 1, 2003.

Sec. 2306.5541. TERMS OF MEMBERS. The members of the board of directors of the corporation serve staggered six-year terms, with the terms of one or two members expiring on February 1 of each odd-numbered year.

Added by Acts 2003, 78th Leg., ch. 332, Sec. 11, eff. Sept. 1, 2003.

Sec. 2306.5542. REMOVAL OF MEMBERS. (a) It is a ground for removal from the board of directors of the corporation that a member:

(1) does not have at the time of taking office the qualifications required by Section 2306.554;

(2) does not maintain during service on the board of directors of the corporation the qualifications required by Section 2306.554;

(3) is ineligible for membership under Sections 2306.554 and 2306.5545;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the board of directors.

(b) The validity of an action of the board of directors of the corporation is not affected by the fact that it is taken when a ground for removal of a board member exists.

(c) If the president of the corporation has knowledge that a potential ground for removal exists, the president shall notify the presiding officer of the board of directors of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the president shall notify the next highest ranking officer of the board of directors, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 2003, 78th Leg., ch. 332, Sec. 11, eff. Sept. 1, 2003.

Sec. 2306.5543. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the corporation's board of directors may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.

(b) The training program must provide the person with

information regarding:

- (1) the legislation that created the corporation and the corporation's board of directors;
- (2) the programs operated by the corporation;
- (3) the role and functions of the corporation;
- (4) the rules of the corporation with an emphasis on the rules that relate to disciplinary and investigatory authority;
- (5) the current budget for the corporation;
- (6) the results of the most recent formal audit of the corporation;
- (7) the requirements of:
  - (A) the open meetings law, Chapter 551;
  - (B) the public information law, Chapter 552;
  - (C) the administrative procedure law, Chapter 2001; and
  - (D) other laws relating to public officials, including conflict-of-interest laws; and
- (8) any applicable ethics policies adopted by the corporation or the Texas Ethics Commission.

(c) A person appointed to the corporation's board of directors is entitled to reimbursement, to the same extent provided by the General Appropriations Act for a member of a state board, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Added by Acts 2003, 78th Leg., ch. 332, Sec. 11, eff. Sept. 1, 2003.

Sec. 2306.5545. CONFLICT OF INTEREST POLICIES. (a) The board of directors of the corporation shall develop and implement policies relating to employee conflicts of interest that are substantially similar to comparable policies that govern state employees.

(b) A person may not be a member of the corporation's board of directors and may not be a corporation employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), and its subsequent amendments, if:

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

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

(c) A person may not be a member of the corporation's board of directors or act as the general counsel to the board of directors or the corporation if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the corporation.

(d) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

Added by Acts 1997, 75th Leg., ch. 980, Sec. 47, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 332, Sec. 12, eff. Sept. 1, 2003.

Sec. 2306.5546. STANDARDS OF CONDUCT. The president of the corporation or the president's designee shall provide to members of the board of directors of the corporation and to corporation employees, as often as necessary, information regarding the requirements for office or employment under this subchapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Added by Acts 2003, 78th Leg., ch. 332, Sec. 13, eff. Sept. 1, 2003.

Sec. 2306.5547. DIVISION OF RESPONSIBILITY. The board of directors of the corporation shall develop and implement policies that clearly separate the policymaking responsibilities of the board of directors and the management responsibilities of the president and the staff of the corporation.

Added by Acts 2003, 78th Leg., ch. 332, Sec. 13, eff. Sept. 1, 2003.

Sec. 2306.5548. EQUAL EMPLOYMENT OPPORTUNITY POLICY. (a)

The president of the corporation or the president's designee shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.

(b) The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the corporation to avoid the unlawful employment practices described by Chapter 21, Labor Code; and

(2) an analysis of the extent to which the composition of the corporation's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.

(c) The policy statement must be:

(1) updated annually; and

(2) filed with the governor's office.

Added by Acts 2003, 78th Leg., ch. 332, Sec. 13, eff. Sept. 1, 2003.

Sec. 2306.555. POWERS. (a) The corporation has the powers provided for the department under this chapter.

(b) In addition to the powers granted by Subsection (a), the corporation has all rights and powers necessary to accomplish its public purpose, including the powers to:

(1) purchase, service, sell, lend on the security of, or otherwise transact in:

(A) mortgages, including federal mortgages and federally insured mortgages;

(B) mortgage loans;

(C) deeds of trust; and

(D) loans or other advances of credit secured by liens against manufactured housing;

(2) guarantee or insure timely payment of mortgage loans and loans or other advances of credit secured by liens against manufactured housing, provided that the corporation's liability on that guaranty or insurance is limited to the assets of a guaranty fund or self-insurance fund established and maintained by the corporation;

(3) make mortgage loans and loans or other advances of credit secured by liens against manufactured housing to individuals and families of low income;

(4) make mortgage loans to provide temporary or permanent financing or refinancing for housing or land developments, including refunding outstanding obligations, mortgages, or advances issued for those purposes;

(5) borrow, give security, pay interest or other return, or issue bonds or other obligations, including notes, debentures, or mortgage-backed securities, provided that each bond or other obligation issued by the corporation must contain a statement that the state is not obligated to pay the principal of or any premium or interest on the bond or other obligation and that the full faith and credit and the taxing power of the state are not pledged, given, or loaned to the payment;

(6) acquire, hold, invest, use, pledge, reserve, and dispose of its assets, revenues, income, receipts, funds, and money from every source and to select one or more depositories, inside or outside the state, subject to the terms of any resolution, indenture, or other contract under which any bonds or other obligations are issued or any guaranty or insurance is provided;

(7) establish, charge, and collect fees, charges, and penalties in connection with the programs, services, and activities of the corporation;

(8) procure insurance and pay premiums on insurance of any type, in amounts, and from insurers as the corporation's board of directors considers necessary and advisable to further the corporation's public purpose, including, subject to Section 2306.554(e), liability insurance for the members of the corporation's board of directors and the officers and other employees of the corporation;

(9) make, enter into, and enforce contracts, agreements, leases, indentures, mortgages, deeds, deeds of trust, security agreements, pledge agreements, credit agreements, and other instruments with any person, including a mortgage lender, servicer, housing sponsor, the federal government, or any public agency, on terms the corporation determines may be acceptable;

(10) own, rent, lease, or otherwise acquire, accept, or hold real, personal, or mixed property, or any interest in property, by purchase, exchange, gift, assignment, transfer, foreclosure, mortgage, sale, lease, or otherwise and hold, manage, operate, or improve real, personal, or mixed property, regardless of location;

(11) sell, lease, encumber, mortgage, exchange, donate, convey, or otherwise dispose of any or all of its properties or any interest in its properties, deeds of trust, or mortgage lien interest owned by it or under its control or custody, or in its possession, and release or relinquish any right, title, claim, lien, interest, easement, or demand, however acquired, including any equity or right of redemption in property foreclosed by it, by public or private sale, with or without public bidding;

(12) lease or rent any improvements, lands, or facilities from any person;

(13) request, accept, and use gifts, loans, donations, aid, guaranties, allocations, subsidies, grants, or contributions of any item of value to further its public purpose; and

(14) exercise the rights and powers of a nonprofit corporation incorporated under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes).

(c) In exercising the foregoing powers granted to it under this chapter, the corporation shall not actively compete with private lenders and shall not originate or make a loan that would be made under the same circumstances by a private lender on substantially the same or better terms within the submarket in which the loan is proposed to be made.

(d) All of the mortgage banking operations shall be dedicated to the furtherance of facilitating affordable housing finance primarily for the benefit of individuals and families of low, very low, and extremely low income who, generally, are not afforded housing finance options through conventional lending channels.

(e) The corporation may contract with the department and with bond counsel, financial advisors, underwriters, or other providers of professional or consulting services.

(f) The corporation shall pay its expenses from any available fund without resort to the general revenues of the state, except as specifically appropriated by the legislature.

(g) The department may not transfer any funds to the corporation to support the administration of the corporation or to subsidize its operations in any way. The department shall be fully compensated by the corporation for any property or employees that are shared by the corporation and the department, and it is the intent of the legislature that no employees be shared beyond the time at which such sharing is absolutely necessary. This subsection does not prohibit the corporation from receiving grants, loans, or other program funds of a kind that are available to other nonprofit corporations, or from using that portion of the program funds that are allowed for administration of the program for administrative purposes.

(h) Transfers of property from the department to the corporation shall be fully compensated.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.66(d), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 47, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1041, Sec. 3, eff. Sept. 1, 1999.

Sec. 2306.5551. BOARD DELEGATION OF AUTHORITY TO ISSUE BONDS OR OTHER OBLIGATIONS. (a) The board of directors of the corporation may delegate to a member of the board or to an employee of the corporation the authority to enter into a contract to issue bonds or other obligations for the corporation.

(b) The person to whom contract authority is delegated under this section shall report to the board as frequently as considered necessary by the board all of the person's activities relating to the issuance of bonds or other obligations.

Added by Acts 2001, 77th Leg., ch. 1194, Sec. 4, eff. June 15, 2001.

Sec. 2306.5552. TECHNICAL AND FINANCIAL ASSISTANCE PROVIDED TO NONPROFIT ORGANIZATIONS. The corporation shall supplement the technical and financial capacity of other appropriate nonprofit organizations to provide for the multifamily and single-family housing needs of individuals and families of low, very low, and extremely low income.

Added by Acts 2001, 77th Leg., ch. 1194, Sec. 4, eff. June 15, 2001.

Sec. 2306.5555. PUBLIC ACCESS. The board of directors of



the corporation shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board of directors and to speak on any issue under the jurisdiction of the corporation.

Added by Acts 1997, 75th Leg., ch. 980, Sec. 47, eff. Sept. 1, 1997.

Sec. 2306.556. EXEMPT FROM TAXATION AND REGISTRATION. (a) The corporation is exempt from all taxation by the state or a political subdivision of the state, including a municipality.

(b) A bond or other obligation issued by the corporation is an exempt security under The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes), and unless specifically provided otherwise, under any subsequently enacted securities act. Any contract, guaranty, or other document executed in connection with the issuance of the bond or other obligation is not an exempt security under that Act, and unless specifically provided otherwise, under any subsequently enacted securities act.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.66(d), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 47, eff. Sept. 1, 1997.

Sec. 2306.557. DISTRIBUTION OF EARNINGS. Any part of earnings remaining after payment of expenses and any establishment of reserves by the corporation's board of directors may not inure to any person except that the corporation shall use these excess earnings to further the corporation's new or existing affordable housing initiatives if the corporation's board of directors determines that sufficient provision has been made for the full payment of the expenses, bonds, and other obligations of the corporation and for any establishment of reserves by the corporation's board of directors.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.66(d), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 47, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1041, Sec. 4, eff. Sept. 1, 1999.

Sec. 2306.558. ALTERATION AND TERMINATION. (a) Subject to this subchapter and the prohibition on the impairment of contracts in the law of this state, the corporation's board of directors by written resolution may alter the structure, organization, programs, or activities of the corporation or terminate and dissolve the corporation.

(b) The corporation's board of directors shall dissolve the corporation if the board by resolution determines that:

(1) the purposes for which the corporation was formed have been substantially fulfilled; and

(2) all bonds and other obligations issued by the corporation and all guaranties and insurance and other contractual obligations have been fully paid or provision for that payment has been made.

(c) On dissolution, the title to funds and properties previously owned by the corporation shall be transferred to the department.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.66(d), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 47, eff. Sept. 1, 1997.

Sec. 2306.559. REPORTING REQUIREMENTS. (a) The corporation shall file an annual report of the financial activity of the corporation with the department. The corporation's board of directors shall submit the report to the governor, lieutenant governor, speaker of the house of representatives, comptroller, and Legislative Budget Board.

(b) The corporation shall file the report by the date established in the General Appropriations Act.

(c) The corporation shall prepare the report in accordance with generally accepted accounting principles.

(d) The report must include:

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

(2) a statement of functional expenses; and

(3) balance sheets for all funds.

(e) The corporation shall file quarterly performance reports with the department.

(f) Promptly on receipt, the corporation shall file with the Bond Review Board a report for the preceding fiscal year. The report must contain the status of all outstanding debts and obligations of the corporation, the status of collateral pledged as security for those debts and obligations, and a maturity and payment schedule for those debts and obligations.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.66(d), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 47, eff. Sept. 1, 1997.

Sec. 2306.560. AUDIT. (a) The corporation shall hire an independent certified public accountant to audit the corporation's books and accounts for each fiscal year. The corporation shall file a copy of the audit with the department and shall submit the audit report to the governor, lieutenant governor, speaker of the house of representatives, comptroller, Bond Review Board, State Auditor's Office, and Legislative Budget Board not later than the 30th day after the submission date established in the General Appropriations Act for the annual financial report.

(b) The corporation is subject to audit by the state auditor.

(c) The corporation shall submit budget and financial information to the legislative budget office as required by the director of the legislative budget office.

(d) All transfers of funds, personnel, or in-kind contributions from the department to the corporation must be reported to the Legislative Budget Board.

Added by Acts 1997, 75th Leg., ch. 980, Sec. 47, eff. Sept. 1, 1997.

Sec. 2306.561. LIABILITY. (a) The directors, officers, and employees of the corporation are not personally liable for bonds or other obligations issued or contracts, guaranties, or insurance executed by the corporation, or for any other action taken in accordance with the powers and duties authorized by this subchapter or in the good faith belief that that action was taken in accordance with the powers and duties authorized by this subchapter.

(b) The directors and officers of the corporation are immune from civil liability to the same extent that a volunteer who serves as an officer, director, or trustee of a charitable organization is immune from civil liability under Chapter 84, Civil Practice and Remedies Code.

(c) The civil liability of an employee of the corporation is limited to the same extent that the civil liability of an employee of a charitable organization is limited under Chapter 84, Civil Practice and Remedies Code.

(d) The limitations on liability contained in this section do not limit or impair the limitations on liability otherwise available to the corporation's directors, officers, and employees.

Added by Acts 1997, 75th Leg., ch. 980, Sec. 47, eff. Sept. 1, 1997.

Sec. 2306.562. PROFESSIONAL EDUCATORS HOME LOAN PROGRAM. (a) In this section:

(1) "Home" means a dwelling in this state in which a professional educator intends to reside as the professional educator's principal residence.

(2) "Mortgage lender" has the meaning assigned by Section 2306.004.

(3) "Professional educator" means a classroom teacher, full-time paid teacher's aide, full-time librarian, full-time counselor certified under Subchapter B, Chapter 21, Education Code, or full-time school nurse.

(4) "Program" means the professional educators home loan program.

(b) The corporation shall establish a program to provide eligible professional educators whose income does not exceed 115 percent of area median family income, adjusted for family size, with low-interest home mortgage loans.

(c) To be eligible for a loan under this section, a professional educator must:

(1) reside in this state on the application date; and

(2) be employed by a school district in this state on the application date.

(d) The corporation may contract with other agencies of the state or with private entities to determine whether applicants qualify as professional educators under this section or otherwise to administer all or part of this section.

(e) The board of directors of the corporation may set and collect from each applicant any fees the board considers reasonable and necessary to cover the expenses of administering the program.

(f) The board of directors of the corporation shall adopt rules governing:

(1) the administration of the program;

(2) the making of loans under the program;

(3) the criteria for approving mortgage lenders;

(4) the use of insurance on the loans and the homes financed under the program, as considered appropriate by the board to provide additional security for the loans;

(5) the verification of occupancy of the home by the professional educator as the professional educator's principal residence; and

(6) the terms of any contract made with any mortgage lender for processing, originating, servicing, or administering the loans.

(g) The corporation shall ensure that a loan under this section is structured in a way that complies with any requirements associated with the source of the funds used for the loan.

(h) In addition to funds set aside for the program under Section 1372.0221, the corporation may solicit and accept funding for the program from the following sources:

(1) gifts and grants for the purposes of this section;

(2) available money in the housing trust fund established under Section 2306.201, to the extent available to the corporation;

(3) federal block grants that may be used for the purposes of this section, to the extent available to the corporation;

(4) other state or federal programs that provide money that may be used for the purposes of this section; and

(5) amounts received by the corporation in repayment of loans made under this section.

(i) This section expires September 1, 2012.

Added by Acts 2001, 77th Leg., ch. 1194, Sec. 5, eff. June 15, 2001. Amended by Acts 2003, 78th Leg., ch. 332, Sec. 14, 15, eff. Sept. 1, 2003.

Sec. 2306.5621. FIRE FIGHTER AND LAW ENFORCEMENT OR SECURITY OFFICER HOME LOAN PROGRAM.

Text of section effective until September 1, 2014

(a) In this section:

(1) "Fire fighter" means a member of a fire department who performs a function listed in Section 419.021(3)(C), Government Code.

(2) "Home" means a dwelling in this state in which a fire fighter, corrections officer, county jailer, public security officer, or peace officer intends to reside as the fire fighter's or the officer's or jailer's principal residence.

(3) "Mortgage lender" has the meaning assigned by Section 2306.004.

(4) "Peace officer" has the meaning assigned by Section 1.07(a)(36), Penal Code.

(5) "Program" means the fire fighter, law enforcement officer, and security officer home loan program.

(6) "Corrections officer" means an officer employed by the Texas Department of Criminal Justice.

(7) "County jailer" has the meaning assigned by Section 1701.001, Occupations Code.

(8) "Public security officer" has the meaning assigned by Section 1701.001, Occupations Code.

(b) The corporation shall establish a program to provide eligible fire fighters, corrections officers, county jailers, public security officers, and peace officers with low-interest home mortgage loans.

(c) To be eligible for a loan under this section, at the time a person files an application for the loan, the person must:

(1) be a fire fighter, corrections officer, county jailer, public security officer, or peace officer;

(2) reside in this state; and

(3) have an income of not more than 115 percent of area median family income, adjusted for family size, or the maximum amount permitted by Section 143(f), Internal Revenue Code of 1986, whichever is greater.

(d) The corporation may contract with other agencies of the state or with private entities to determine whether applicants qualify as fire fighters, corrections officers, county jailers, public security officers, or peace officers under this section or otherwise to administer all or part of this section.

(e) The board of directors of the corporation may set and collect from each applicant any fees the board considers reasonable and necessary to cover the expenses of administering the program.

(f) The board of directors of the corporation shall adopt

rules governing:

- (1) the administration of the program;
- (2) the making of loans under the program;
- (3) the criteria for approving mortgage lenders;
- (4) the use of insurance on the loans and the homes financed under the program, as considered appropriate by the board to provide additional security for the loans;
- (5) the verification of occupancy of the home by the fire fighter, corrections officer, county jailer, public security officer, or peace officer as the fire fighter's or the officer's or jailer's principal residence; and
- (6) the terms of any contract made with any mortgage lender for processing, originating, servicing, or administering the loans.

(g) The corporation shall ensure that a loan under this section is structured in a way that complies with any requirements associated with the source of the funds used for the loan.

(h) In addition to funds set aside for the program under Section 1372.0222, the corporation may solicit and accept funding for the program from the following sources:

- (1) gifts and grants for the purposes of this section;
- (2) available money in the housing trust fund established under Section 2306.201, to the extent available to the corporation;
- (3) federal block grants that may be used for the purposes of this section, to the extent available to the corporation;
- (4) other state or federal programs that provide money that may be used for the purposes of this section; and
- (5) amounts received by the corporation in repayment of loans made under this section.

(h-1) To fund home mortgage loans for eligible fire fighters, corrections officers, county jailers, public security officers, and peace officers under this section, the corporation may use proceeds received from the sale of bonds, notes, or other obligations issued under the fire fighter and police officer home loan program as that program existed immediately before amendment of this section by the 79th Legislature, Regular Session, 2005, regardless of the eligibility standards for loans made under the fire fighter and police officer home loan program and regardless of when the corporation received the proceeds from those bonds, notes, or other obligations issued under that program.

(i) This section expires September 1, 2014.  
Added by Acts 2003, 78th Leg., ch. 1050, Sec. 3, eff. June 20, 2003. Renumbered from V.T.C.A., Government Code Sec. 2306.563 and amended by Acts 2005, 79th Leg., ch. 196, Sec. 1, eff. May 27, 2005; Acts 2005, 79th Leg., ch. 728, Sec. 23.001(42), eff. Sept. 1, 2005.

Sec. 2306.5622. PROFESSIONAL NURSING PROGRAM FACULTY MEMBER HOME LOAN PROGRAM.

Text of section effective until September 1, 2016

(a) In this section:

(1) "Graduate professional nursing program" and "undergraduate professional nursing program" have the meanings assigned by Section 54.221, Education Code.

(2) "Home" means a dwelling in this state in which a professional nursing program faculty member intends to reside as the faculty member's principal residence.

(3) "Mortgage lender" has the meaning assigned by Section 2306.004.

(4) "Professional nursing program faculty member" means a full-time member of the faculty of either an undergraduate or graduate professional nursing program.

(5) "Program" means the professional nursing program faculty member home loan program.

(b) The corporation shall establish a program to provide eligible professional nursing program faculty members with low-interest home mortgage loans.

(c) To be eligible for a loan under this section, at the time a person files an application for the loan, the person must:

- (1) be a faculty member of an undergraduate or graduate professional nursing program;
- (2) reside in this state; and
- (3) have an income of not more than 115 percent of area median family income, adjusted for family size.

(d) The corporation may contract with other agencies of the

state or with private entities to determine whether applicants qualify as professional nursing program faculty members under this section or otherwise to administer all or part of this section.

(e) The board of directors of the corporation may set and collect from each applicant any fees the board considers reasonable and necessary to cover the expenses of administering the program.

(f) The board of directors of the corporation shall adopt rules governing:

- (1) the administration of the program;
- (2) the making of loans under the program;
- (3) the criteria for approving mortgage lenders;
- (4) the use of insurance on the loans and the homes financed under the program, as considered appropriate by the board to provide additional security for the loans;

- (5) the verification of occupancy of the home by the professional nursing program faculty member as the professional nursing program faculty member's principal residence; and

- (6) the terms of any contract made with any mortgage lender for processing, originating, servicing, or administering the loans.

(g) The corporation shall ensure that a loan under this section is structured in a way that complies with any requirements associated with the source of the funds used for the loan.

(h) In addition to funds set aside for the program under Section 1372.0223, the corporation may solicit and accept funding for the program from the following sources:

- (1) gifts and grants for the purposes of this section;
- (2) available money in the housing trust fund established under Section 2306.201, to the extent available to the corporation;

- (3) federal block grants that may be used for the purposes of this section, to the extent available to the corporation;

- (4) other state or federal programs that provide money that may be used for the purposes of this section; and

- (5) amounts received by the corporation in repayment of loans made under this section.

(i) This section expires September 1, 2016.  
Added by Acts 2005, 79th Leg., ch. 674, Sec. 13, eff. June 17, 2005.

Sec. 2306.563. PUBLIC BENEFIT REQUIREMENT. (a) The corporation shall implement a requirement that a community housing development organization that receives an issuance of qualified 501(c)(3) bonds from the corporation to develop property must invest at least one dollar in projects and services that benefit income-eligible persons for each dollar of taxes that is not imposed on the property as a result of a property tax exemption received under Section 11.182, Tax Code.

(b) The projects and services must benefit income-eligible persons in the county in which the property supported with the tax exemption is located.

(c) The projects and services must consist of:

- (1) rent reduction;
- (2) capital improvement projects; or
- (3) social, educational, or economic development services.

(d) The corporation and the organization may determine on a case-by-case basis the specific projects and services in which the organization must invest under this section.

(e) The dollar-for-dollar public benefit requirement imposed by this section shall be reduced by an amount equal to each dollar that, in lieu of taxes, a community housing development organization pays to a taxing unit for which the property receives an exemption under Section 11.182, Tax Code.

(f) In implementing the public benefit requirement, the corporation shall adopt guidelines for reasonable rent reductions, capital improvement projects, and social, educational, and economic development services.

Added by Acts 2003, 78th Leg., ch. 332, Sec. 16, eff. Sept. 1, 2003.

Sec. 2306.564. REVIEW OF QUALIFIED 501(C)(3) BOND ISSUANCE POLICIES. (a) The corporation shall review annually its qualified 501(c)(3) bond issuance policies, including the public benefit requirement implemented under Section 2306.563.

(b) The corporation shall give to the secretary of state for publication in the Texas Register any proposed policy revisions and allow a reasonable period for public comment.

(c) The board of directors of the corporation must approve any change to the bond issuance policies.

Added by Acts 2003, 78th Leg., ch. 332, Sec. 16, eff. Sept. 1, 2003.

Sec. 2306.565. ISSUANCE OF QUALIFIED RESIDENTIAL RENTAL PROJECT BONDS; ALLOCATION OF BOND FUNDS. (a) The corporation shall direct the Bond Review Board on the issuance of the portion of state ceiling set aside for the corporation under Section 1372.0231(a).

(b) The board of directors of the corporation shall adopt guidelines governing the method by which the corporation identifies target areas for the allocation of qualified residential rental project bond funds. The guidelines must include a clear demonstration of local need and community support for a housing development.

(c) The corporation shall research the state's strategic housing needs by coordinating with the department and reviewing relevant needs assessment information, as required by Section 2306.566. The corporation shall also solicit information regarding housing needs from local and regional housing organizations.

(d) The board of directors of the corporation shall adopt criteria governing the method by which the corporation solicits proposals for housing developments in areas targeted by the corporation. The guidelines must state the criteria to be included in the corporation's requests for proposals. The requests for proposals must comply with any relevant federal requirements.

(e) The board of directors of the corporation shall adopt criteria governing the method by which the staff of the corporation scores and ranks applications for an allocation under this section that are received in response to a request for proposals. The criteria must include:

(1) the cost per unit of the housing development;

(2) the proposed rent for a unit; and

(3) the income ranges of individuals and families to be served by the housing development.

(f) The board of directors of the corporation shall identify housing developments with respect to which the board anticipates directing the Bond Review Board to allocate bond funds under this section, based on the highest scores received in the scoring and ranking process described by Subsection (e).

(g) After the board of directors of the corporation has identified housing developments under Subsection (f), the corporation shall hold public hearings, as required by federal law, on the housing developments identified by the board.

(h) Following the public hearings, the staff shall prepare final evaluations and recommendations for the board, incorporating any public comments received at the hearings. The board shall consider the staff's recommendations in making its final decisions regarding the allocation of bond funds for housing developments under this section and shall inform the Bond Review Board of those decisions.

(i) The corporation shall pay the department a reasonable fee for underwriting an application for an allocation of low income housing tax credits if the housing development proposed in the application is or will be supported by an allocation of bond funds under this section.

(j) The decisions made by the corporation regarding the allocation of bond funds under this section are not subject to the restrictions in Section 1372.0321, as added by Chapter 1367 or 1420, Acts of the 77th Legislature, Regular Session, 2001.

Added by Acts 2003, 78th Leg., ch. 332, Sec. 16, eff. Sept. 1, 2003.

Sec. 2306.566. COORDINATION REGARDING STATE LOW INCOME HOUSING PLAN. (a) The corporation shall review the needs assessment information provided to the corporation by the department under Section 2306.0722(b).

(b) The corporation shall develop a plan to meet the state's most pressing housing needs identified in the needs assessment information and provide the plan to the department for incorporation into the state low income housing plan.

(c) The corporation's plan must include specific proposals to help serve rural and other underserved areas of the state.

Added by Acts 2003, 78th Leg., ch. 332, Sec. 16, eff. Sept. 1, 2003.

Sec. 2306.567. COMPLIANCE INFORMATION. (a) The corporation shall provide to the department electronic copies of all compliance information compiled by the corporation.

(b) Before approving an application regarding a housing

development, the corporation shall consider any relevant compliance information in the department's database created under Section 2306.081.

Added by Acts 2003, 78th Leg., ch. 332, Sec. 16, eff. Sept. 1, 2003.

Sec. 2306.568. RECORD OF COMPLAINTS. (a) The corporation shall maintain a file on each written complaint filed with the corporation. The file must include:

- (1) the name of the person who filed the complaint;
- (2) the date the complaint is received by the corporation;
- (3) the subject matter of the complaint;
- (4) the name of each person contacted in relation to the complaint;
- (5) a summary of the results of the review or investigation of the complaint; and
- (6) an explanation of the reason the file was closed, if the corporation closed the file without taking action other than to investigate the complaint.

(b) The corporation shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the corporation's policies and procedures relating to complaint investigation and resolution.

(c) The corporation, at least quarterly until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

Added by Acts 2003, 78th Leg., ch. 332, Sec. 16, eff. Sept. 1, 2003.

Sec. 2306.569. EFFECTIVE USE OF TECHNOLOGY. The corporation's board of directors shall develop and implement a policy requiring the president of the corporation and corporation employees to research and propose appropriate technological solutions to improve the corporation's ability to perform its functions. The technological solutions must:

- (1) ensure that the public is able to easily find information about the corporation on the Internet;
- (2) ensure that persons who want to use the corporation's services are able to:
  - (A) interact with the corporation through the Internet; and
  - (B) access any service that can be provided effectively through the Internet; and
- (3) be cost-effective and developed through the corporation's planning processes.

Added by Acts 2003, 78th Leg., ch. 332, Sec. 16, eff. Sept. 1, 2003.

#### SUBCHAPTER Z. COLONIAS

Sec. 2306.581. DEFINITION. In this subchapter:

(1) "Colonia" means a geographic area located in a county some part of which is within 150 miles of the international border of this state and that:

(A) has a majority population composed of individuals and families of low income and very low income, based on the federal Office of Management and Budget poverty index, and meets the qualifications of an economically distressed area under Section 17.921, Water Code; or

(B) has the physical and economic characteristics of a colonia, as determined by the department.

(2) "Community action agency" means a political subdivision, combination of political subdivisions, or nonprofit organization that qualifies as an eligible entity under 42 U.S.C. Section 9902.

Added by Acts 1995, 74th Leg., ch. 1016, Sec. 1, eff. Sept. 1, 1995.

Sec. 2306.582. COLONIA SELF-HELP CENTERS: ESTABLISHMENT. (a) The department shall establish colonia self-help centers in El Paso, Hidalgo, Starr, and Webb counties, and in Cameron County to serve Cameron and Willacy counties. If the department determines it necessary and appropriate, the department may establish a self-help center in any other county if the county is designated as an economically distressed area under Chapter 17, Water Code, for purposes of eligibility to receive funds from the Texas Water Development Board.

(b) The department shall attempt to secure contributions, services, facilities, or operating support from the commissioners court of the county in which the self-help center is located to support the operation of the self-help center.

Added by Acts 1995, 74th Leg., ch. 1016, Sec. 1, eff. Sept. 1, 1995.

Sec. 2306.583. SELF-HELP CENTERS: DESIGNATION. (a) The department shall designate a geographic area for the services provided by each self-help center.

(b) In consultation with the colonia resident advisory committee and the appropriate self-help center, the department shall designate five colonias in each service area to receive concentrated attention from that center.

(c) In consultation with the colonia resident advisory committee and the appropriate self-help center, the department may change the designation of colonias made under Subsection (b).

Added by Acts 1995, 74th Leg., ch. 1016, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 2.04, eff. Sept. 1, 2001.

Sec. 2306.584. COLONIA RESIDENT ADVISORY COMMITTEE. (a) The board shall appoint not fewer than five persons who are residents of colonias to serve on the Colonia Resident Advisory Committee. The members of the advisory committee shall be selected from lists of candidates submitted to the board by local nonprofit organizations and the commissioners court of a county in which a self-help center is located.

(b) The board shall appoint one committee member to represent each of the counties in which self-help centers are located. Each committee member:

(1) must be a resident of a colonia in the county the member represents; and

(2) may not be a board member, contractor, or employee of or have any ownership interest in an entity that is awarded a contract under this subchapter.

Added by Acts 1995, 74th Leg., ch. 1016, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1234, Sec. 36, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1367, Sec. 1.27, eff. Sept. 1, 2001.

Sec. 2306.585. DUTIES OF COLONIA RESIDENT ADVISORY COMMITTEE. (a) The Colonia Resident Advisory Committee shall advise the board regarding:

(1) the needs of colonia residents;

(2) appropriate and effective programs that are proposed or are operated through the self-help centers; and

(3) activities that may be undertaken through the self-help centers to better serve the needs of colonia residents.

(b) The advisory committee shall meet before the 30th day preceding the date on which a contract is scheduled to be awarded for the operation of a self-help center and may meet at other times.

(c) The advisory committee shall advise the colonia initiatives coordinator as provided by Section 775.004.

Added by Acts 1995, 74th Leg., ch. 1016, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1234, Sec. 36, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1367, Sec. 1.27, eff. Sept. 1, 2001; Acts 2005, 79th Leg., ch. 351, Sec. 3, eff. June 17, 2005.

Sec. 2306.586. SELF-HELP CENTER: PURPOSE AND SERVICES. (a) The purpose of a self-help center is to assist individuals and families of low income and very low income to finance, refinance, construct, improve, or maintain a safe, suitable home in the colonias' designated service area or in another area the department has determined is suitable.

(b) A self-help center shall set a goal to improve the living conditions of residents in the colonias designated under Section 2306.583(a)(2) within a two-year period after a contract is awarded under this subchapter.

(c) A self-help center may serve individuals and families of low income and very low income by:

(1) providing assistance in obtaining loans or grants to build a home;

(2) teaching construction skills necessary to repair or build a home;

(3) providing model home plans;

(4) operating a program to rent or provide tools for home construction and improvement for the benefit of property owners in colonias who are building or repairing a residence or installing necessary residential infrastructure;

(5) helping to obtain, construct, access, or improve the service and utility infrastructure designed to service residences in a colonia, including potable water, wastewater disposal, drainage, streets, and utilities;



(6) surveying or platting residential property that an individual purchased without the benefit of a legal survey, plat, or record;

(7) providing credit and debt counseling related to home purchase and finance;

(8) applying for grants and loans to provide housing and other needed community improvements;

(9) providing other services that the self-help center, with the approval of the department, determines are necessary to assist colonia residents in improving their physical living conditions, including help in obtaining suitable alternative housing outside of a colonia's area;

(10) providing assistance in obtaining loans or grants to enable an individual or a family to acquire fee simple title to property that originally was purchased under a contract for a deed, contract for sale, or other executory contract; and

(11) providing monthly programs to educate individuals and families on their rights and responsibilities as property owners.

(d) A self-help center may not provide grants, financing, or mortgage loan services to purchase, build, rehabilitate, or finance construction or improvements to a home in a colonia if water service and suitable wastewater disposal are not available.

(e) Through a self-help center, a colonia resident may apply for any direct loan or grant program operated by the department. Added by Acts 1995, 74th Leg., ch. 1016, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1367, Sec. 2.05, eff. Sept. 1, 2001.

Sec. 2306.587. OPERATION OF SELF-HELP CENTER; MONITORING. (a) To operate a self-help center, the department shall, subject to the availability of revenue for that purpose, enter into a four-year contract directly with a local nonprofit organization, including a local community action agency that qualifies as an eligible entity under 42 U.S.C. Section 9902, or a local housing authority that has demonstrated the ability to carry out the functions of a self-help center under this subchapter.

(b) The department is solely responsible for contract oversight and for the monitoring of self-help centers under this subchapter.

(c) The department and the self-help centers may apply for and receive public or private gifts or grants to enable the centers to achieve their purpose.

Added by Acts 1995, 74th Leg., ch. 1016, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 2.06, eff. Sept. 1, 2001.

Sec. 2306.588. DEPARTMENT LIAISON TO SELF-HELP CENTERS. (a) The department shall designate appropriate staff in the department to act as liaison to the self-help centers to assist the centers in obtaining funding to enable the centers to carry out the centers' programs.

(b) The department shall make a reasonable effort to secure an adequate level of funding to provide the self-help centers with funds for low-interest mortgage financing, grants for self-help programs, a revolving loan fund for septic tanks, a tool-lending program, and other activities the department determines are necessary.

Added by Acts 1995, 74th Leg., ch. 1016, Sec. 1, eff. Sept. 1, 1995.

Sec. 2306.589. COLONIA SET-ASIDE FUND. (a) The department shall establish a fund in the department designated as the colonia set-aside fund. The department may contribute money to the fund from any available source of revenue that the department considers appropriate to implement the purposes of this subchapter, except that the department may not use federal community development block grant money authorized by Title I of the Housing and Community Development Act of 1974 (42 U.S.C. Section 5301 et seq.) unless the money is specifically appropriated by the legislature for that purpose.

(b) The department by rule shall provide that an application for assistance in paying for residential service lines, hookups, and plumbing improvements associated with being connected to a water supply or sewer service system may be submitted after construction of a water supply or sewer service system begins. The department shall approve or disapprove a timely application before construction of the water supply or sewer service is completed in

order to eliminate delay in hookups once construction is completed. The department and the Texas Water Development Board shall coordinate the application process for hookup funds under this subsection and under Subchapter L, Chapter 15, Water Code, and shall share information elicited by each agency's application procedure in order to avoid duplication of effort and to eliminate the need for applicants to complete different forms with similar information.

(c) The department may use money in the colonia set-aside fund for specific activities that assist colonias, including:

(1) the operation and activities of the self-help centers established under this subchapter;

(2) reimbursement of colonia resident advisory committee members for their reasonable expenses in the manner provided by Chapter 2110 or the General Appropriations Act; and

(3) funding for the provision of water and sewer service connections in accordance with Subsection (b).

(d) The department may review and approve an application for funding from the colonia set-aside fund that advances the policy and goals of the state in addressing problems in the colonias.

Added by Acts 1995, 74th Leg., ch. 1016, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1405, Sec. 1, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1367, Sec. 1.28, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1367, Sec. 2.07, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 330, Sec. 16, eff. Sept. 1, 2003.

Sec. 2306.590. COLONIA INITIATIVES ADVISORY COMMITTEE. (a) The Colonia Initiatives Advisory Committee is composed of seven members appointed by the governor as follows:

(1) one colonia resident;

(2) one representative of a nonprofit organization that serves colonia residents;

(3) one representative of a political subdivision that contains all or part of a colonia;

(4) one person to represent private interests in banking or land development;

(5) one representative of a nonprofit utility;

(6) one representative of an engineering consultant firm involved in economically distressed areas program projects under Subchapter K, Chapter 17, Water Code; and

(7) one public member.

(b) Each committee member, except the public member, must reside within 150 miles of the Texas-Mexico border.

(c) The secretary of state is an ex officio member of the committee.

(d) The committee shall:

(1) review the progress of colonia water and wastewater infrastructure projects managed by the Texas Water Development Board and the state agency responsible for administering the portion of the federal community development block grant nonentitlement program that addresses the infrastructure needs of colonias;

(2) present an update and make recommendations to the board and the Texas Water Development Board annually at the joint meeting required by Section 6.060(d), Water Code, regarding:

(A) efforts to ensure that colonia residents are connected to the infrastructure funded by state agencies;

(B) the financial, managerial, and technical capabilities of project owners and operators;

(C) the agencies' management of their colonia programs and the effectiveness of their policies regarding underperforming projects; and

(D) any other issues related to the effect of state-managed infrastructure programs on colonia residents;

(3) review public comments regarding the colonia needs assessment incorporated into the state low income housing plan under Section 2306.0721; and

(4) based on the public comments reviewed under Subdivision (3), recommend to the board new colonia programs or improvements to existing colonia programs.

Added by Acts 2001, 77th Leg., ch. 1234, Sec. 37, eff. Sept. 1, 2001.

Sec. 2306.591. MANUFACTURED HOMES INSTALLED IN COLONIAS. (a) For a manufactured home to be approved for installation and use as a dwelling in a colonia:

(1) the home must be a HUD-code manufactured home, as

defined by Section 1201.003, Occupations Code;

(2) the home must be habitable, as described by Section 1201.453, Occupations Code; and

(3) ownership of the home must be properly recorded with the manufactured housing division of the department.

(b) An owner of a manufactured home is not eligible to participate in a grant loan program offered by the department, including the single-family mortgage revenue bond program under Section 2306.142, unless the owner complies with Subsection (a).

Added by Acts 2005, 79th Leg., ch. 1284, Sec. 29, eff. June 18, 2005.

#### SUBCHAPTER AA. MANUFACTURED HOUSING DIVISION

Sec. 2306.6001. DEFINITIONS. In this subchapter:

(1) "Division" means the manufactured housing division.

(2) "Division director" means the executive director of the division.

(3) "Manufactured Housing Board" means the governing board of the division.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6002. REGULATION AND ENFORCEMENT. The department shall administer and enforce Chapter 1201, Occupations Code, through the division. The Manufactured Housing Board and the division director shall exercise authority and responsibilities assigned to them under that chapter.

Renumbered from Sec. 2306.601 and amended by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001; Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.784, eff. Sept. 1, 2003.

Sec. 2306.6003. MANUFACTURED HOUSING BOARD. (a) The Manufactured Housing Board is an independent entity within the department, is administratively attached to the department, and is not an advisory body to the department.

(b) The Manufactured Housing Board shall carry out the functions and duties conferred on the Manufactured Housing Board by this subchapter and by other law.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6004. MANUFACTURED HOUSING BOARD MEMBERSHIP. (a) The Manufactured Housing Board consists of five public members appointed by the governor.

(b) A person is eligible to be appointed as a public member of the Manufactured Housing Board if the person is a citizen of the United States and a resident of this state.

(c) A person may not be a member of the Manufactured Housing Board if the person or the person's spouse:

(1) is registered, certified, or licensed by a regulatory agency in the field of manufactured housing;

(2) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the division;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the division; or

(4) uses or receives a substantial amount of tangible goods, services, or money from the division other than compensation or reimbursement authorized by law for Manufactured Housing Board membership, attendance, or expenses.

(d) Appointments to the Manufactured Housing Board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6005. CONFLICT OF INTEREST. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a member of the Manufactured Housing Board and may not be a division employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of manufactured housing; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of manufactured housing.

(c) A person may not be a member of the Manufactured Housing Board or act as the general counsel to the Manufactured Housing Board or the division if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the division.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6006. TERMS; VACANCY. (a) The members of the Manufactured Housing Board serve staggered six-year terms, with the terms of one or two members expiring on January 31 of each odd-numbered year.

(b) A person may not serve two consecutive full six-year terms as a member of the Manufactured Housing Board.

(c) If a vacancy occurs during a member's term, the governor shall appoint a new member to fill the unexpired term.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6007. PRESIDING OFFICER. The governor shall designate a member of the Manufactured Housing Board as the presiding officer of the Manufactured Housing Board to serve in that capacity at the will of the governor.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6008. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the Manufactured Housing Board that a member:

(1) does not have at the time of taking office the qualifications required by Section 2306.6004(b);

(2) does not maintain during service on the Manufactured Housing Board the qualifications required by Section 2306.6004(b);

(3) is ineligible for membership under Section 2306.6004(c) or 2306.6005;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled Manufactured Housing Board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the Manufactured Housing Board.

(b) The validity of an action of the Manufactured Housing Board is not affected by the fact that it is taken when a ground for removal of a Manufactured Housing Board member exists.

(c) If the division director has knowledge that a potential ground for removal exists, the division director shall notify the presiding officer of the Manufactured Housing Board of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the division director shall notify the next highest ranking officer of the Manufactured Housing Board, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6009. REIMBURSEMENT. A Manufactured Housing Board member may not receive compensation, but may be reimbursed for actual travel expenses, including expenses for meals, lodging, and transportation. A Manufactured Housing Board member is entitled to reimbursement for transportation expenses as provided by the General Appropriations Act.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6010. MEETINGS. (a) The Manufactured Housing Board shall have regular meetings as the majority of the members may specify and special meetings at the request of the presiding officer, any two members, or the division director.

(b) Reasonable notice of all meetings shall be given as prescribed by Manufactured Housing Board rules.

(c) The presiding officer shall preside at all meetings of the Manufactured Housing Board. In the absence of the presiding officer, the members present shall select one of the members to preside at the meeting.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6011. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the Manufactured Housing Board may not vote, deliberate, or be counted as a member in attendance at a meeting of the Manufactured Housing Board until the person completes a training program that complies with this section.

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

(1) the legislation that created the division and the Manufactured Housing Board;

(2) the programs operated by the division;

(3) the role and functions of the division;

(4) the rules of the division, with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the division;

(6) the results of the most recent formal audit of the division;

(7) the requirements of:

(A) the open meetings law, Chapter 551;

(B) the public information law, Chapter 552;

(C) the administrative procedure law, Chapter 2001; and

(D) other laws relating to public officials, including conflict-of-interest laws; and

(8) any applicable ethics policies adopted by the division or the Texas Ethics Commission.

(c) A person appointed to the Manufactured Housing Board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6012. APPROPRIATIONS; DONATIONS. (a) The legislature shall separately appropriate money to the Manufactured Housing Board within the appropriations to the department for all matters relating to the operation of the division.

(b) The Manufactured Housing Board may accept gifts and grants of money or property under this subchapter and shall spend the money and use the property for the purpose for which the donation was made, except that the expenditure of money or use of property must promote the acceptance of HUD-Code manufactured homes as a viable source of housing for very low, low, and moderate income families.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6013. BUDGET; SHARING OF DEPARTMENT PERSONNEL, EQUIPMENT, AND FACILITIES. (a) The Manufactured Housing Board shall develop a budget for the operations of the department relating to the division.

(b) The Manufactured Housing Board shall reduce administrative costs by entering into an agreement with the department to enable the sharing of department personnel, equipment, and facilities.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6014. DIVISION DIRECTOR. (a) The Manufactured Housing Board shall employ the division director. The division director is the Manufactured Housing Board's chief executive and administrative officer.

(b) The division director is charged with administering, enforcing, and carrying out the functions and duties conferred on the division director by this subchapter and by other law.

(c) The division director serves at the pleasure of the Manufactured Housing Board.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6015. PERSONNEL. The division director may employ staff as necessary to perform the work of the division and may

prescribe their duties and compensation. Subject to applicable personnel policies and regulations, the division director may remove any division employee.

Added by Acts 1995, 74th Leg., ch. 978, Sec. 24, eff. Sept. 1, 1995. Renumbered from Sec. 2306.602 and amended by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6016. SEPARATION OF RESPONSIBILITIES. The Manufactured Housing Board shall develop and implement policies that clearly separate the policy-making responsibilities of the Manufactured Housing Board and the management responsibilities of the division director and staff of the division.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6017. STANDARDS OF CONDUCT. The division director or the division director's designee shall provide to members of the Manufactured Housing Board and to division employees, as often as necessary, information regarding the requirements for office or employment under this subchapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6018. EQUAL EMPLOYMENT OPPORTUNITY. (a) The division director or the division director's designee shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.

(b) The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the division to avoid the unlawful employment practices described by Chapter 21, Labor Code; and

(2) an analysis of the extent to which the composition of the division's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.

(c) The policy statement must:

(1) be updated annually;

(2) be reviewed by the state Commission on Human Rights for compliance with Subsection (b)(1); and

(3) be filed with the governor's office.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6019. STATE EMPLOYEE INCENTIVE PROGRAM. The division director or the division director's designee shall provide to division employees information and training on the benefits and methods of participation in the state employee incentive program under Subchapter B, Chapter 2108.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6020. RULES. (a) The Manufactured Housing Board shall adopt rules as necessary to implement this subchapter and to administer and enforce the manufactured housing program through the division. Rules adopted by the Manufactured Housing Board are subject to Chapter 2001.

(b) The Manufactured Housing Board may not adopt rules restricting competitive bidding or advertising by a person regulated by the division except to prohibit false, misleading, or deceptive practices by that person.

(c) The Manufactured Housing Board may not include in the rules to prohibit false, misleading, or deceptive practices by a person regulated by the division a rule that:

(1) restricts the use of any advertising medium;

(2) restricts the person's personal appearance or the use of the person's voice in an advertisement;

(3) relates to the size or duration of an advertisement used by the person; or

(4) restricts the use of a trade name in advertising by the person.

Added by Acts 1995, 74th Leg., ch. 978, Sec. 24, eff. Sept. 1, 1995. Renumbered from Sec. 2306.603 and amended by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6021. PUBLIC PARTICIPATION. The Manufactured

Housing Board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the Manufactured Housing Board and to speak on any issue under the jurisdiction of the division.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6022. COMPLAINTS. (a) The division shall maintain a file on each written complaint filed with the division. The file must include:

- (1) the name of the person who filed the complaint;
- (2) the date the complaint is received by the division;
- (3) the subject matter of the complaint;
- (4) the name of each person contacted in relation to the complaint;
- (5) a summary of the results of the review or investigation of the complaint; and
- (6) an explanation of the reason the file was closed, if the division closed the file without taking action other than to investigate the complaint.

(b) The division shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the division's policies and procedures relating to complaint investigation and resolution.

(c) The division, at least quarterly until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

(d) Unless otherwise confidential by law, the records of a license holder or other person that are required or obtained by the division or its agents or employees in connection with the investigation of a complaint are subject to the requirements of Chapter 552.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6023. SANCTIONS AND PENALTIES. (a) The Manufactured Housing Board shall adopt rules relating to the administrative sanctions that may be enforced against a person regulated by the division. If the person violates a law relating to the regulation of manufactured housing or a rule or order adopted or issued by the Manufactured Housing Board relating to the program, the division director may:

- (1) issue a written reprimand to the person that specifies the violation;
- (2) revoke or suspend the person's certificate of registration; or
- (3) place on probation a person whose certificate of registration has been suspended.

(b) In addition to or in lieu of a sanction imposed under Subsection (a) of this section, the Manufactured Housing Board may assess an administrative penalty in an amount not to exceed \$1,000 for each violation.

(c) If a suspension is probated, the division director may require the person to report regularly to the division director on matters that are the basis of the probation.

(d) If the division director proposes to suspend or revoke a certificate of registration or the division director proposes to assess an administrative penalty against a person regulated by the division, the person is entitled to a hearing before a hearing officer appointed by the division director. The Manufactured Housing Board by rule shall prescribe the procedures by which a decision to suspend or revoke a certificate of registration or to assess an administrative penalty are made and are appealable.

(e) In determining the amount of an administrative penalty assessed under this section, the Manufactured Housing Board shall consider:

- (1) the seriousness of the violation;
- (2) the history of previous violations;
- (3) the amount necessary to deter future violations;
- (4) efforts made to correct the violation; and
- (5) any other matters that justice may require.

(f) If, after investigation of a possible violation and the facts surrounding that possible violation, the division director determines that a violation has occurred, the division director

shall issue a preliminary report stating the facts on which the conclusion that a violation occurred is based, recommending that an administrative penalty under this section be imposed on the person charged, and recommending the amount of that proposed penalty. The division director shall base the recommended amount of the proposed penalty on the seriousness of the violation determined by consideration of the factors set forth in Subsection (e).

(g) Not later than the 14th day after the date on which the preliminary report is issued, the division director shall give written notice of the violation to the person charged. The notice shall include:

- (1) a brief summary of the charges;
- (2) a statement of the amount of the penalty recommended; and
- (3) a statement of the right of the person charged to a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(h) Not later than the 20th day after the date on which the notice is received, the person charged may accept the determination of the division director made under Subsection (f), including the recommended penalty, or make a written request for a hearing on that determination.

(i) If the person charged with the violation accepts the determination of the division director, the division director shall issue an order approving the determination and ordering that the person pay the recommended penalty.

(j) If the person charged fails to respond in a timely manner to the notice or if the person requests a hearing, the division director shall set a hearing, give written notice of the hearing to the person, and designate a hearings examiner to conduct the hearing. The hearings examiner shall make findings of fact and conclusions of law and shall promptly issue to the Manufactured Housing Board a proposal for decision as to the occurrence of the violation and a recommendation as to the amount of the proposed penalty if a penalty is determined to be warranted. Based on the findings of fact and conclusions of law and the recommendations of the hearings examiner, the Manufactured Housing Board by order may find that a violation has occurred and may assess a penalty, or may find that no violation has occurred.

(k) The division director shall give notice of the Manufactured Housing Board's order to the person charged. The notice must include:

- (1) separate statements of the findings of fact and conclusions of law;
- (2) the amount of any penalty assessed;
- (3) a statement of the right of the person charged to judicial review of the Manufactured Housing Board's order; and
- (4) any other information required by law.

(l) Not later than the 30th day after the date on which the decision is final, the person charged shall:

- (1) pay the penalty in full; or
- (2) if the person files a petition for judicial review contesting the fact of the violation, the amount of the penalty, or both the fact of the violation and the amount of the penalty:

(A) forward the amount assessed to the division for deposit in an escrow account;

(B) in lieu of payment into escrow, post with the division a supersedeas bond for the amount of the penalty, in a form approved by the division director and effective until judicial review of the decision is final; or

(C) without paying the amount of the penalty or posting the supersedeas bond, pursue the judicial review.

(m) A person charged with a penalty who is financially unable to comply with Subsection (l)(2) is entitled to judicial review if the person files with the court, as part of the person's petition for judicial review, a sworn statement that the person is unable to meet the requirements of that subsection.

(n) If the person charged does not pay the penalty and does not pursue judicial review, the division or the attorney general may bring an action for the collection of the penalty.

(o) Judicial review of the order of the Manufactured Housing Board assessing the penalty is subject to the substantial evidence rule and shall be instituted by filing a petition with a Travis County district court.



(p) If, after judicial review, the penalty is reduced or not assessed, the division director shall remit to the person charged the appropriate amount, plus accrued interest if the penalty has been paid, or shall execute a release of the bond if a supersedeas bond has been posted. The accrued interest on amounts remitted by the division director under this subsection shall be paid at a rate equal to the rate charged on loans to depository institutions by the New York Federal Reserve Bank, and shall be paid for the period beginning on the date that the assessed penalty is paid to the division director and ending on the date the penalty is remitted.

(q) A penalty collected under this section shall be deposited in the state treasury to the credit of the general revenue fund.

(r) All proceedings conducted under this section and any review or appeal of those proceedings are subject to Chapter 2001.

(s) If it appears that a person is in violation of, or is threatening to violate, any provision of Chapter 1201, Occupations Code, or a rule or order related to the administration and enforcement of the manufactured housing program, the attorney general or the division director may institute an action for injunctive relief to restrain the person from continuing the violation and for civil penalties not to exceed \$1,000 for each violation and not exceeding \$250,000 in the aggregate. A civil action filed under this subsection shall be filed in district court in Travis County. The attorney general and the division director may recover reasonable expenses incurred in obtaining injunctive relief under this subsection, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition expenses.

Added by Acts 1995, 74th Leg., ch. 978, Sec. 24, eff. Sept. 1, 1995. Renumbered from Sec. 2306.604 and amended by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1276, Sec. 14A.785, eff. Sept. 1, 2003.

#### SUBCHAPTER BB. TEXAS YOUTHWORKS PROGRAM

Sec. 2306.621. DEFINITION. In this subchapter, "sustainable construction or rehabilitation" means long-lasting, energy-efficient construction or rehabilitation that reduces the energy costs of conventional construction or rehabilitation by not less than 20 percent.

Added by Acts 1997, 75th Leg., ch. 1209, Sec. 1, eff. Sept. 1, 1997.

Sec. 2306.622. TEXAS YOUTHWORKS PROGRAM. (a) The Texas Youthworks Program is created in the department to:

(1) promote economic self-sufficiency of disadvantaged or at-risk youth by providing the youth with opportunities to acquire job skills while performing community service activities; and

(2) create opportunities for communities to restore abandoned properties and historic areas, enhance public places, and increase the availability of affordable, energy-efficient housing for individuals and families of low and very low income.

(b) The department shall administer the program and may designate personnel as necessary to administer the program.

Added by Acts 1997, 75th Leg., ch. 1209, Sec. 1, eff. Sept. 1, 1997.

Sec. 2306.623. RULES. The board shall adopt rules as necessary to implement the program, including rules for auditing and accountability.

Added by Acts 1997, 75th Leg., ch. 1209, Sec. 1, eff. Sept. 1, 1997.

Sec. 2306.624. FUNDING. (a) The program is funded by available money identified by the department or other state agencies.

(b) The department may accept gifts, grants, and other donations for operation of the program.

Added by Acts 1997, 75th Leg., ch. 1209, Sec. 1, eff. Sept. 1, 1997.

Sec. 2306.625. GRANTS. The director may award grants under the program to eligible entities for projects that meet the requirements of this subchapter.

Added by Acts 1997, 75th Leg., ch. 1209, Sec. 1, eff. Sept. 1, 1997.

Sec. 2306.626. ELIGIBLE PARTICIPANTS. (a) To be eligible to receive a grant, an entity must use the grant for a project that provides services specified in Section 2306.627 to participants 16 years of age or older but younger than 24 years of age who are not attending high school and have not received a high school diploma or high school equivalency certificate or who are attending high school or a program leading to a high school equivalency certificate but are at risk of dropping out of high school or the

program.

(b) In addition to the requirements of Subsection (a), a participant must also be:

- (1) a member of a household that receives public assistance and earns not more than 80 percent of the area median income;
- (2) errant or homeless or a potential ward of the Texas Department of Criminal Justice or Texas Youth Commission;
- (3) referred by another state agency; or
- (4) educationally disadvantaged, as defined by board rule.

Added by Acts 1997, 75th Leg., ch. 1209, Sec. 1, eff. Sept. 1, 1997.

Sec. 2306.627. SERVICES TO PARTICIPANTS. (a) A project for which a grant is received under the program shall provide a participant in the project with:

(1) integrated job and education training divided between:

(A) practical, hands-on work experience at project sites; and

(B) if the participant has not received a high school diploma or high school equivalency certificate, academic and project-based instruction designed to result in the attainment of a high school diploma or high school equivalency certificate;

(2) direct access to counseling and support services, including assessment and orientation services, life-skills training, peer tutoring, gang prevention techniques, parenting and child-care skills, and medical and legal screening and referrals;

(3) direct access to leadership training designed to develop ethics, citizenship, personal responsibility, critical thinking, and decision-making, problem-solving, and negotiation skills;

(4) direct access to assistance in making the transition from training to economic self-sufficiency, including career counseling, job placement, personal finance, home buyer education, and follow-up services;

(5) a training stipend in an amount determined by board rule for a period not to exceed two years that is conditioned on the participant's demonstrating improved job performance and personal responsibility; and

(6) an opportunity to earn scholarship awards for college tuition.

(b) A stipend provided under Subsection (a)(5) does not count as income for purposes of determining the eligibility of the participant or the participant's household for any form of public assistance.

Added by Acts 1997, 75th Leg., ch. 1209, Sec. 1, eff. Sept. 1, 1997.

Sec. 2306.628. COMMUNITY BENEFIT. A project for which a grant is received under the program shall provide at least one of the following services to a community in which the project is located:

(1) acquisition, rehabilitation, or construction of energy-efficient, affordable housing for elderly individuals, veterans of the United States armed forces, former participants in the Peace Corps, VISTA, or AmeriCorps program, or individuals and families of low and very low income;

(2) transitional housing for individuals who are homeless or who have mental or physical disabilities; or

(3) sustainable construction or rehabilitation in low-income neighborhoods of historic properties, community facilities, cultural districts, or parks owned by public or nonprofit agencies.

Added by Acts 1997, 75th Leg., ch. 1209, Sec. 1, eff. Sept. 1, 1997.

Sec. 2306.629. ADVISORY BOARD; PARTICIPANT COUNCIL. An entity that is awarded a grant for a project under the program shall establish:

(1) an advisory board for the project that includes senior staff of the entity operating the project, area employers, industrial leaders, and participants in the project; and

(2) a participant council to provide comments and suggestions regarding project policies.

Added by Acts 1997, 75th Leg., ch. 1209, Sec. 1, eff. Sept. 1, 1997.

Sec. 2306.630. GRANT APPLICATION. (a) Subject to Subsection (b), the following entities may apply to receive a grant for an eligible project under this subchapter:

(1) a private, nonprofit, tax-exempt organization

listed in Section 501(c)(3), Internal Revenue Code of 1986 (26 U.S.C. Section 501(c)(3));

(2) a public agency that operates a community-based youth employment training program;

(3) a community housing development organization certified by the state;

(4) an educational facility approved by the Texas Youth Commission;

(5) a corps-based community service organization;

(6) an open-enrollment charter school approved by the Texas Education Agency; or

(7) another entity authorized by board rule.

(b) To be eligible to receive a grant, an applicant must demonstrate that the applicant has at least three years of successful experience operating programs that benefit disadvantaged or at-risk youth.

(c) A grant application for a proposed project must be filed with the department in a form prescribed by the director. An application must include:

(1) a statement of the amount of money requested;

(2) a description of the proposed project;

(3) a description of the applicant's qualifications, including the applicant's experience with youth, law enforcement agencies, and educational and community groups;

(4) if applicable, a list of proposed sites for construction or rehabilitation of housing or other buildings;

(5) if applicable, a description of proposed sustainable construction or rehabilitation activities, including an implementation schedule;

(6) a description of the applicant's proposed procedures for recruiting and selecting participants in the project;

(7) a proposed budget, including procedures for auditing and accountability;

(8) if applicable, a description of proposed financing for property acquisition, rehabilitation, or construction;

(9) a list of relevant contracts or other arrangements between the applicant and public agencies that will facilitate implementation of the project;

(10) a list of prospective donations, grants, or in-kind contributions for the project that will supplement money received through the grant; and

(11) a certification of the applicant's compliance with:

(A) state and federal fair housing laws;

(B) the Civil Rights Act of 1964 (42 U.S.C. Section 2000a et seq.);

(C) the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.);

(D) the federal Rehabilitation Act of 1973 (29 U.S.C. Section 701 et seq.); and

(E) the Age Discrimination in Employment Act of 1967 (29 U.S.C. Section 621 et seq.).

(d) In awarding a grant under the program, the director:

(1) may give preference to an applicant who has experience in providing the services proposed to be provided under the project; and

(2) shall give preference to an applicant who can document the existence of matching contributions from other sources and support from local organizations, community leaders, and elected officials.

Added by Acts 1997, 75th Leg., ch. 1209, Sec. 1, eff. Sept. 1, 1997.

Sec. 2306.631. OTHER FUNDING SOURCES REQUIRED. The department may not provide more than 75 percent of the money budgeted for a project.

Added by Acts 1997, 75th Leg., ch. 1209, Sec. 1, eff. Sept. 1, 1997.

Sec. 2306.632. LIMIT ON ADMINISTRATIVE EXPENSE. Not more than 15 percent of the money awarded under the program for a project may be used for administrative costs associated with the project.

Added by Acts 1997, 75th Leg., ch. 1209, Sec. 1, eff. Sept. 1, 1997.

Sec. 2306.633. ANNUAL REPORT. (a) The director shall report to the governor and the legislature at the end of each fiscal year on the status of the program.

(b) The annual report must include for that fiscal year:

(1) the number of grants awarded;

- (2) the total amount of grants awarded;
- (3) the geographical distribution of grants awarded;
- (4) the number of youth and other persons participating in projects funded by grants;
- (5) the number of youth and other persons who secured permanent jobs at the conclusion of participation in projects funded by grants; and
- (6) the number of housing units constructed or rehabilitated through projects funded by grants.

Added by Acts 1997, 75th Leg., ch. 1209, Sec. 1, eff. Sept. 1, 1997.

SUBCHAPTER CC. EMERGENCY NUTRITION AND TEMPORARY EMERGENCY RELIEF PROGRAM

Sec. 2306.651. DEFINITIONS. In this subchapter:

(1) "Applicant" means the commissioners court of a county, the governing body of another political subdivision, or a nonprofit organization.

(2) "Nonprofit organization" means a private, nonprofit, tax-exempt corporation under Section 501(c)(3), Internal Revenue Code of 1986 (26 U.S.C. Section 501(c)(3)).

(3) "Program" means a system of providing temporary emergency relief to needy persons.

Added by Acts 1997, 75th Leg., ch. 980, Sec. 48, eff. Sept. 1, 1997.

Sec. 2306.652. TEMPORARY EMERGENCY RELIEF PROGRAM. (a) The department shall establish a temporary emergency relief program to assist counties, in cooperation with other public entities and nonprofit organizations, in meeting the needs of individuals and families for temporary emergency relief.

(b) The department shall establish the emergency nutrition program as part of the temporary emergency relief program established under this subchapter to meet the unmet need for emergency food assistance. The department shall administer the emergency nutrition program in the same fashion and under the same procedures as govern the administration of the temporary emergency relief program.

Added by Acts 1997, 75th Leg., ch. 980, Sec. 48, eff. Sept. 1, 1997.

Sec. 2306.653. APPLICATION. (a) A county may apply to the department for a grant-in-aid to establish and administer a program under this subchapter.

(b) If a county declines to act, the department may accept applications from other political subdivisions or from nonprofit organizations. The political subdivision or nonprofit organization must first notify the county judge of its intention to submit an application for a grant-in-aid.

(c) An application submitted under this section must provide evidence that a county requires assistance and that the applicant has consulted with public entities, nonprofit organizations, voluntary associations, representatives of low-income persons, and other groups involved in providing assistance to needy persons.

(d) The department shall adopt rules establishing the criteria for determining whether an applicant qualifies under this subchapter. The department may approve only one program for each county.

(e) A decision by a county to administer a program under this subchapter remains in effect until the county notifies the department that the county no longer wants to participate in the program. If a county decides to discontinue its participation, the department may choose an applicant as an alternative participant as prescribed by Subsection (b) of this section and by department rules.

(f) The department shall develop standards and procedures for the program that permit all counties in the state to participate.

Added by Acts 1997, 75th Leg., ch. 980, Sec. 48, eff. Sept. 1, 1997.

Sec. 2306.654. LOCAL ALLOCATION. (a) State funds provided to a local applicant under this subchapter may not be used for local administrative costs.

(b) An allocation to a county from the program established by Section 2306.652 shall be based on the county's demonstrated need for the money. The formula used by the department to allocate the money shall include:

(1) the number of unemployed persons in the county during the most recent 12-month period for which data is available compared to the number of unemployed people in the state during that same 12-month period; and

(2) the number of people at or below the poverty line in the county during the most recent 12-month period for which data is available compared to the number of people at or below the poverty line in the state during that same 12-month period.

Added by Acts 1997, 75th Leg., ch. 980, Sec. 48, eff. Sept. 1, 1997.

Sec. 2306.655. LOCAL PLAN; DISBURSEMENT. (a) An applicant must submit to the department a plan for providing emergency relief.

(b) The plan must contain a description of the target population, the eligibility criteria for receipt of services, the nature and scope of benefits to be provided, methods of administration, and a budget.

(c) The plan must also show evidence of consultation with the entities listed in Section 2306.653(c).

(d) On certification by the department that the applicant qualifies under this subchapter, the department shall disburse money available for that purpose to the applicant to be used to establish a program in the affected county.

Added by Acts 1997, 75th Leg., ch. 980, Sec. 48, eff. Sept. 1, 1997.

Sec. 2306.656. ELIGIBILITY FOR ASSISTANCE. (a) Each county, political subdivision, or nonprofit organization approved by the department for establishing a program shall establish its own criteria for persons eligible to receive benefits under the program and shall include the criteria in the plan for providing emergency relief submitted to the department.

(b) Before establishing eligibility and the frequency and duration of benefits provided under the program, the county, political subdivision, or nonprofit organization shall allow adequate notice and opportunity for public comment, including comments from entities listed in Section 2306.653(c).

(c) A county, political subdivision, or nonprofit organization may not set the eligibility level at less than 75 percent of the federal poverty level based on the federal Office of Management and Budget poverty index in effect at the time the plan is submitted to the department.

(d) Assistance to persons eligible to participate in a program authorized by this subchapter shall be provided through vouchers and purchased services in accordance with the approved plan submitted to the department. The assistance may include the provision of utilities, food, housing, and clothing to needy persons.

(e) Records pertaining to a program under this subchapter are subject to audit by the department, an auditor approved by the department, or the state auditor.

Added by Acts 1997, 75th Leg., ch. 980, Sec. 48, eff. Sept. 1, 1997.

Sec. 2306.657. REPORTS AND PUBLIC NOTICES. (a) As part of the annual report required by Section 2306.072, Government Code, the director shall include a written report describing and analyzing the operation of programs under this subchapter.

(b) A county, political subdivision, or nonprofit organization funded under this subchapter shall assure the department that information is provided to the public regarding eligibility for and the nature of a program operated under this subchapter.

Added by Acts 1997, 75th Leg., ch. 980, Sec. 48, eff. Sept. 1, 1997.

Sec. 2306.658. RELATIONSHIP TO FEDERAL LAW. (a) If a federal law or regulation is changed without making a provision for temporary waivers to allow compliance with state law and, as a result of this change, there is insufficient time to comply with all the procedures required by this subchapter, the agency or entity affected may act so as to comply with federal law and shall comply with the applicable procedures required by this subchapter as soon as possible.

(b) If a federal statute or court order conflicts with this subchapter, the federal law or court order prevails over this subchapter.

Added by Acts 1997, 75th Leg., ch. 980, Sec. 48, eff. Sept. 1, 1997.

#### SUBCHAPTER DD. LOW INCOME HOUSING TAX CREDIT PROGRAM

Sec. 2306.6701. PURPOSE. The department shall administer the low income housing tax credit program to:

(1) encourage the development and preservation of appropriate types of rental housing for households that have difficulty finding suitable, affordable rental housing in the private marketplace;

(2) maximize the number of suitable, affordable

residential rental units added to the state's housing supply;

(3) prevent losses for any reason to the state's supply of suitable, affordable residential rental units by enabling the rehabilitation of rental housing or by providing other preventive financial support under this subchapter; and

(4) provide for the participation of for-profit organizations and provide for and encourage the participation of nonprofit organizations in the acquisition, development, and operation of affordable housing developments in urban and rural communities.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.

Sec. 2306.6702. DEFINITIONS. (a) In this subchapter:

(1) "Applicant" means any person or affiliate of a person who files an application with the department requesting a housing tax credit allocation.

(2) "Application" means an application filed with the department by an applicant and includes any exhibits or other supporting materials.

(3) "Application log" means a form containing at least the information required by Section 2306.6709.

(4) "Application round" means the period beginning on the date the department begins accepting applications and continuing until all available housing tax credits are allocated, but not extending past the last day of the calendar year.

(5) "At-risk development" means a development that:

(A) 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:

(i) Sections 221(d)(3) and (5), National Housing Act (12 U.S.C. Section 1715l);

(ii) Section 236, National Housing Act (12 U.S.C. Section 1715z-1);

(iii) Section 202, Housing Act of 1959 (12 U.S.C. Section 1701q);

(iv) Section 101, Housing and Urban Development Act of 1965 (12 U.S.C. Section 1701s);

(v) 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;

(vi) the Section 8 Housing Assistance Program for the Disposition of HUD-Owned Projects administered by the United States Department of Housing and Urban Development;

(vii) Sections 514, 515, and 516, Housing Act of 1949 (42 U.S.C. Sections 1484, 1485, and 1486); or

(viii) Section 42, Internal Revenue Code of 1986 (26 U.S.C. Section 42); and

(B) is subject to the following conditions:

(i) the stipulation to maintain affordability in the contract granting the subsidy is nearing expiration; or

(ii) the federally insured mortgage on the development is eligible for prepayment or is nearing the end of its term.

(6) "Development" means a proposed qualified low income housing project, as defined by Section 42(g), Internal Revenue Code of 1986 (26 U.S.C. Section 42(g)), that consists of one or more buildings containing multiple units, that is financed under a common plan, and that is owned by the same person for federal tax purposes, including a project consisting of multiple buildings that:

(A) are located on scattered sites; and

(B) contain only rent-restricted units.

(7) "Development owner" means any person or affiliate of a person who owns or proposes a development or expects to acquire control of a development under a purchase contract approved by the department.

(8) "Housing tax credit" means a tax credit allocated under the low income housing tax credit program.

(9) "Land use restriction agreement" means an agreement between the department, the development owner, and the development owner's successors in interest that encumbers the

development with respect to the requirements of this subchapter and the requirements of Section 42, Internal Revenue Code of 1986 (26 U.S.C. Section 42).

(10) "Qualified allocation plan" means a plan adopted by the board under this subchapter that:

(A) provides the threshold, scoring, and underwriting criteria based on housing priorities of the department that are appropriate to local conditions;

(B) consistent with Section 2306.6710(e), gives preference in housing tax credit allocations to developments that, as compared to the other developments:

(i) when practicable and feasible based on documented, committed, and available third-party funding sources, serve the lowest income tenants per housing tax credit; and

(ii) produce for the longest economically feasible period the greatest number of high quality units committed to remaining affordable to any tenants who are income-eligible under the low income housing tax credit program; and

(C) provides a procedure for the department, the department's agent, or another private contractor of the department to use in monitoring compliance with the qualified allocation plan and this subchapter.

(11) "Related party" means the following individuals or entities:

(A) the brothers, sisters, spouse, ancestors, and descendants of a person within the third degree of consanguinity, as determined by Chapter 573;

(B) a person and a corporation, if the person owns more than 50 percent of the outstanding stock of the corporation;

(C) two or more corporations that are connected through stock ownership with a common parent possessing more than 50 percent of:

(i) the total combined voting power of all classes of stock of each of the corporations that can vote;

(ii) the total value of shares of all classes of stock of each of the corporations; or

(iii) the total value of shares of all classes of stock of at least one of the corporations, excluding, in computing that voting power or value, stock owned directly by the other corporation;

(D) a grantor and fiduciary of any trust;

(E) a fiduciary of one trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

(F) a fiduciary of a trust and a beneficiary of the trust;

(G) a fiduciary of a trust and a corporation if more than 50 percent of the outstanding stock of the corporation is owned by or for:

(i) the trust; or

(ii) a person who is a grantor of the trust;

(H) a person or organization and an organization that is tax-exempt under Section 501(a), Internal Revenue Code of 1986 (26 U.S.C. Section 501), and that is controlled by that person or the person's family members or by that organization;

(I) a corporation and a partnership or joint venture if the same persons own more than:

(i) 50 percent of the outstanding stock of the corporation; and

(ii) 50 percent of the capital interest or the profits' interest in the partnership or joint venture;

(J) an S corporation and another S corporation if the same persons own more than 50 percent of the outstanding stock of each corporation;

(K) an S corporation and a C corporation if the same persons own more than 50 percent of the outstanding stock of each corporation;

(L) a partnership and a person or organization owning more than 50 percent of the capital interest or the profits' interest in that partnership; or

(M) two partnerships, if the same person or organization owns more than 50 percent of the capital interests or profits' interests.

(12) "Rural area" means an area that is located:

(A) outside the boundaries of a primary

metropolitan statistical area or a metropolitan statistical area;

(B) within the boundaries of a primary metropolitan statistical area or a metropolitan statistical area, if the statistical area has a population of 20,000 or less and does not share a boundary with an urban area; or

(C) in an area that is eligible for funding by the Texas Rural Development Office of the United States Department of Agriculture.

(13) "Rural development agency" means the state agency designated by the legislature as primarily responsible for rural area development in the state.

(14) "Set-aside" means a reservation of a portion of the available housing tax credits to provide financial support for specific types of housing or geographic locations or serve specific types of applicants as permitted by the qualified allocation plan on a priority basis.

(15) "Threshold criteria" means the criteria used to determine whether the development satisfies the minimum level of acceptability for consideration established in the department's qualified allocation plan.

(16) "Unit" means any residential rental unit in a development consisting of an accommodation, including a single room used as an accommodation on a non-transient basis, that contains complete physical facilities and fixtures for living, sleeping, eating, cooking, and sanitation.

(b) For purposes of Subsection (a)(11), the constructive ownership provisions of Section 267, Internal Revenue Code of 1986 (26 U.S.C. Section 267), apply. The board may lower in the qualified allocation plan the percentages described by Subsection (a)(11).

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 330, Sec. 17, eff. Sept. 1, 2003.

Sec. 2306.67021. APPLICABILITY OF SUBCHAPTER. Except as provided by Section 2306.6703, this subchapter does not apply to the allocation of housing tax credits to developments financed through the private activity bond program.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.

Sec. 2306.67022. QUALIFIED ALLOCATION PLAN; MANUAL. The board annually shall adopt a qualified allocation plan and a corresponding manual to provide information regarding the administration of and eligibility for the low income housing tax credit program.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.

Sec. 2306.6703. INELIGIBILITY FOR CONSIDERATION. (a) An application is ineligible for consideration under the low income housing tax credit program if:

(1) at the time of application or at any time during the two-year period preceding the date the application round begins, the applicant or a related party is or has been:

(A) a member of the board; or

(B) the director, a deputy director, the director of housing programs, the director of compliance, the director of underwriting, or the low income housing tax credit program manager employed by the department;

(2) the applicant proposes to replace in less than 15 years any private activity bond financing of the development described by the application, unless:

(A) the applicant proposes to maintain for a period of 30 years or more 100 percent of the development units supported by housing tax credits as rent-restricted and exclusively for occupancy by individuals and families earning not more than 50 percent of the area median income, adjusted for family size; and

(B) at least one-third of all the units in the development are public housing units or Section 8 project-based units;

(3) the applicant proposes to construct a new development that is located one linear mile or less from a development that:

(A) serves the same type of household as the new development, regardless of whether the developments serve families, elderly individuals, or another type of household;

(B) has received an allocation of housing tax



credits for new construction at any time during the three-year period preceding the date the application round begins; and

(C) has not been withdrawn or terminated from the low income housing tax credit program; or

(4) the development is located in a municipality or, if located outside a municipality, a county that has more than twice the state average of units per capita supported by housing tax credits or private activity bonds, unless the applicant:

(A) has obtained prior approval of the development from the governing body of the appropriate municipality or county containing the development; and

(B) has included in the application a written statement of support from that governing body referencing this section and authorizing an allocation of housing tax credits for the development.

(b) Subsection (a)(3) does not apply to a development:

(1) that is using:

(A) federal HOPE VI funds received through the United States Department of Housing and Urban Development;

(B) locally approved funds received from a public improvement district or a tax increment financing district;

(C) funds provided to the state under the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. Section 12701 et seq.); or

(D) funds provided to the state and participating jurisdictions under the Housing and Community Development Act of 1974 (42 U.S.C. Section 5301 et seq.);

(2) that is located in a county with a population of less than one million;

(3) that is located outside of a metropolitan statistical area; or

(4) that a local government where the project is to be located has by vote specifically allowed the construction of a new development located within one linear mile or less from a development under Subsection (a).

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 330, Sec. 18, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1106, Sec. 1, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 728, Sec. 8.021, eff. Sept. 1, 2005.

Sec. 2306.6704. PREAPPLICATION PROCESS. (a) To prevent unnecessary filing costs, the department by rule shall establish a voluntary preapplication process to enable a preliminary assessment of an application proposed for filing under this subchapter.

(b) The department shall award in the application evaluation process described by Section 2306.6710 an appropriate number of points as an incentive for participation in the preapplication process established under this section.

(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 organizations on record with the state or county in which the development is to be located and whose boundaries contain the proposed development 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 that body;

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

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

(c) The department shall reject and return to the applicant any application assessed by the department under this section that fails to satisfy the threshold criteria required by the board in the qualified allocation plan.

(d) If feasible under Section 2306.67041, an application under this section must be submitted electronically.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 330, Sec. 19, eff. Sept. 1, 2003.

Sec. 2306.67041. ON-LINE APPLICATION SYSTEM. (a) The department and the Department of Information Resources shall cooperate to evaluate the feasibility of an on-line application system for the low income housing tax credit program to provide the following functions:

(1) filing of preapplications and applications on-line;

(2) posting of on-line preapplication or application status and the application log detailing the status of, and department's evaluations and scores pertaining to, those applications; and

(3) posting of comments from applicants and the public regarding a preapplication or application.

(b) The department shall determine the process for allowing access to on-line preapplications and applications, information related to those applications, and department decisions relating to those applications.

(c) In the application cycle following the date any on-line application system becomes operational, the department shall require use of the system for submission of preapplications and applications under this subchapter.

(d) The department shall publish a status report on the implementation of the on-line application on the department's website not later than January 1, 2002.

(e) Before the implementation of the on-line application system, the department may implement the requirements of Section 2306.6717 in any manner the department considers appropriate. Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.

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

(1) a description of:

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

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

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

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

(ii) rents, operating subsidies, and 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 development; or

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

zoning is denied;

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

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

(B) a relocation plan outlining:

(i) relocation requirements; and

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

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

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

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

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

(A) any neighborhood organizations on record with the state or county in which the development is to be located and whose boundaries contain the proposed development site;

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

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

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

(E) the state senator and state representative of the district containing the development.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 330, Sec. 20, eff. Sept. 1, 2003.

Sec. 2306.67055. MARKET ANALYSIS. (a) A market analysis submitted in conjunction with an application for housing tax credits must:

(1) be prepared by a market analyst approved by the department; and

(2) include an assessment of other developments that are supported by housing tax credits within the market area.

(b) The department, through the qualified allocation plan, shall develop:

(1) a process for approving market analysts; and

(2) a methodology for determining the market area to be examined in a market analysis.

Added by Acts 2003, 78th Leg., ch. 330, Sec. 21, eff. Sept. 1, 2003.

Sec. 2306.6706. ADDITIONAL APPLICATION REQUIREMENT: NONPROFIT SET-ASIDE ALLOCATION. (a) In addition to the information required by Section 2306.6705, an application for a housing tax credit allocation from the nonprofit set-aside, as defined by Section 42(h)(5), Internal Revenue Code of 1986 (26 U.S.C. Section 42(h)(5)), must contain the following written, detailed information with respect to each development owner and each general partner of a development owner:

(1) Internal Revenue Service documentation of designation as a Section 501(c)(3) or 501(c)(4) organization;

(2) evidence that one of the exempt purposes of the nonprofit organization is to provide low income housing;

(3) a description of the nonprofit organization's participation in the construction or rehabilitation of the development and in the ongoing operations of the development;

(4) evidence that the nonprofit organization prohibits a member of its board of directors, other than a chief staff member serving concurrently as a member of the board, from receiving material compensation for service on the board;

(5) a third-party legal opinion stating that the nonprofit organization is not affiliated with or controlled by a for-profit organization and the basis for that opinion;

(6) a copy of the nonprofit organization's most recent audited financial statement;

(7) a list of the names and home addresses of members of the board of directors of the nonprofit organization;

(8) a third-party legal opinion stating that the

nonprofit organization is eligible under Subsection (b) for a housing tax credit allocation from the nonprofit set-aside and the basis for that opinion; and

(9) evidence that a majority of the members of the nonprofit organization's board of directors principally reside:

(A) in this state, if the development is located in a rural area; or

(B) not more than 90 miles from the development in the community in which the development is located, if the development is not located in a rural area.

(b) To be eligible for a housing tax credit allocation from the nonprofit set-aside, a nonprofit organization must:

(1) control a majority of the development;

(2) if the organization's application is filed on behalf of a limited partnership, be the managing general partner; and

(3) otherwise meet the requirements of Section 42(h)(5), Internal Revenue Code of 1986 (26 U.S.C. Section 42(h)(5)).

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.

Sec. 2306.6707. ADDITIONAL APPLICATION REQUIREMENT: DISCLOSURE OF INTERESTED PERSONS. (a) The applicant must disclose in the application the names of any persons, including affiliates of those persons and related parties, providing developmental or operational services to the development, including:

(1) a development owner;

(2) an architect;

(3) an attorney;

(4) a tax professional;

(5) a property management company;

(6) a consultant;

(7) a market analyst;

(8) a tenant services provider;

(9) a syndicator;

(10) a real estate broker or agent or a person receiving a fee in connection with services usually provided by a real estate broker or agent;

(11) at the time the application is submitted, the owners of the property on which the development is located;

(12) a developer; and

(13) a builder or general contractor.

(b) For each person described by Subsection (a), the application must disclose any company name, company contact person, address, and telephone number.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.

Sec. 2306.6708. APPLICATION CHANGES OR SUPPLEMENTS. (a) Except as provided by Subsection (b), an applicant may not change or supplement an application in any manner after the filing deadline.

(b) This section does not prohibit an applicant from:

(1) at the request of the department, clarifying information in the application or correcting administrative deficiencies in the application; or

(2) amending an application after allocation of housing tax credits in the manner provided by Section 2306.6712.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.

Sec. 2306.6709. APPLICATION LOG. (a) In a form prescribed by the department, the department shall maintain for each application an application log that tracks the application from the date of its submission.

(b) The application log must contain at least the following information:

(1) the names of the applicant and related parties;

(2) the physical location of the development, including the relevant region of the state;

(3) the amount of housing tax credits requested for allocation by the department to the applicant;

(4) any set-aside category under which the application is filed;

(5) the score of the application in each scoring category adopted by the department under the qualified allocation plan;

(6) any decision made by the department or board

regarding the application, including the department's decision regarding whether to underwrite the application and the board's decision regarding whether to allocate housing tax credits to the development;

(7) the names of persons making the decisions described by Subdivision (6), including the names of department staff scoring and underwriting the application, to be recorded next to the description of the applicable decision;

(8) the amount of housing tax credits allocated to the development; and

(9) a dated record and summary of any contact between the department staff, the board, and the applicant or any related parties.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.

Sec. 2306.6710. EVALUATION AND UNDERWRITING OF APPLICATIONS. (a) In evaluating an application, the department shall determine whether the application satisfies the threshold criteria required by the board in the qualified allocation plan. The department shall reject and return to the applicant any application that fails to satisfy the threshold criteria.

(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 written statements from any neighborhood organizations on record with the state or county in which the development is to be located and whose boundaries contain the proposed development site;

(C) the income levels of tenants of the development;

(D) the size and quality of the units;

(E) the commitment of development funding by local political subdivisions;

(F) the level of community support for the application, evaluated on the basis of written statements from state elected officials;

(G) the rent levels of the units;

(H) the cost of the development by square foot; and

(I) the services to be provided to tenants of the development; and

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

(c) The department shall publish in the qualified allocation plan details of the scoring system used by the department to score applications.

(d) The department shall underwrite the applications ranked under Subsection (b) beginning with the applications with the highest scores in each region described by Section 2306.111(d) and in each set-aside category described in the qualified allocation plan. Based on application rankings, the department shall continue to underwrite applications until the department has processed enough applications satisfying the department's underwriting criteria to enable the allocation of all available housing tax credits according to regional allocation goals and set-aside categories. To enable the board to establish an applications waiting list under Section 2306.6711, the department shall underwrite as many additional applications as the board considers necessary to ensure that all available housing tax credits are allocated within the period required by law. The department shall underwrite an application to determine the financial feasibility of the development and an appropriate level of housing tax credits. In

determining an appropriate level of housing tax credits, the department shall evaluate the cost of the development based on acceptable cost parameters as adjusted for inflation and as established by historical final cost certifications of all previous housing tax credit allocations for:

(1) the county in which the development is to be located;

(2) if certifications are unavailable under Subdivision (1), the metropolitan statistical area in which the development is to be located; or

(3) if certifications are unavailable under Subdivisions (1) and (2), the uniform state service region in which the development is to be located.

(e) In scoring applications for purposes of housing tax credit allocations, the department shall award, consistent with Section 42, Internal Revenue Code of 1986 (26 U.S.C. Section 42), preference points to a development that will:

(1) when practicable and feasible based on documented, committed, and available third-party funding sources, serve the lowest income tenants per housing tax credit, if the development is to be located outside a qualified census tract; and

(2) produce for the longest economically feasible period the greatest number of high quality units committed to remaining affordable to any tenants who are income-eligible under the low income housing tax credit program.

(f) In evaluating the level of community support for an application under Subsection (b)(1)(F), the department shall award:

(1) positive points for positive written statements received;

(2) negative points for negative written statements received; and

(3) zero points for neutral statements received.

(g) In awarding points under Subsection (f), the department shall give equal weight to each written statement received.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 330, Sec. 22, eff. Sept. 1, 2003.

Sec. 2306.6711. ALLOCATION OF HOUSING TAX CREDITS. (a) The director shall provide the application scores to the board before the 30th day preceding the date the board begins to issue commitments for housing tax credits in the allocation round.

(b) Not later than the deadline specified in the qualified allocation plan, the board shall issue commitments for available housing tax credits based on the application evaluation process provided by Section 2306.6710. The board may not allocate to an applicant housing tax credits in any unnecessary amount, as determined by the department's underwriting policy and by federal law, and in any event may not allocate to the applicant housing tax credits in an amount greater than \$2 million in a single application round.

(c) Concurrently with the initial issuance of commitments for housing tax credits under Subsection (b), the board shall establish a waiting list of additional applications ranked by score in descending order of priority based on set-aside categories and regional allocation goals.

(d) The board shall issue commitments for housing tax credits with respect to applications on the waiting list as additional credits become available.

(e) Not later than the 120th day after the date of the initial issuance of commitments for housing tax credits under Subsection (b), the department shall provide to an applicant who did not receive a commitment under that subsection an opportunity to meet and discuss with the department the application's deficiencies and scoring.

(f) The board may allocate housing tax credits to more than one development in a single community, as defined by department rule, in the same calendar year only if the developments are or will be located more than one linear mile apart. This subsection applies only to communities contained within counties with populations exceeding one million.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 330, Sec. 23, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1106, Sec. 2, eff. Sept. 1, 2003.

Sec. 2306.6712. AMENDMENT OF APPLICATION SUBSEQUENT TO

ALLOCATION BY BOARD. (a) If a proposed modification would materially alter a development approved for an allocation of a housing tax credit, the department shall require the applicant to file a formal, written amendment to the application on a form prescribed by the department.

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

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

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

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

(d) Material alteration of a development includes:

(1) a significant modification of the site plan;  
(2) a modification of the number of units or bedroom mix of units;

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

(4) a reduction of three percent or more in the square footage of the units or common areas;

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

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

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

(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) 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).

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.

Sec. 2306.6713. HOUSING TAX CREDIT AND OWNERSHIP TRANSFERS. (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 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.

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

(1) a list of the names of transferees and related parties; and

(2) detailed information describing the experience and financial capacity of transferees and related parties.

(e) The development owner shall certify to the director that the tenants in the development have been notified in writing of the transfer before the 30th day preceding the date of submission of the transfer request to the department.

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

(1) the transferee's past compliance with all aspects of the low income housing tax credit program, including land use restriction agreements; and

(2) the sufficiency of the transferee's experience with developments supported with housing tax credit allocations. Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.

Sec. 2306.6714. AT-RISK DEVELOPMENT SET-ASIDE. (a) The department shall set aside for at-risk developments not less than 15 percent of the housing tax credits available for allocation in the calendar year.

(b) Any amount of housing tax credits set aside under this section that remains after the initial allocation of housing tax credits is available for allocation to any eligible applicant as provided by the qualified allocation plan.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.

Sec. 2306.6715. APPEAL. (a) In a form prescribed by the department in the qualified allocation plan, an applicant may appeal the following decisions made by the department in the application evaluation process provided by Section 2306.6710:

(1) a determination regarding the application's satisfaction of threshold and underwriting criteria;

(2) the scoring of the application; and

(3) a recommendation as to the amount of housing tax credits to be allocated to the application.

(b) An applicant may not appeal a decision made under Section 2306.6710 regarding an application filed by another applicant.

(c) An applicant must file a written appeal authorized by this section with the department not later than the seventh day after the date the department publishes the results of the application evaluation process provided by Section 2306.6710. In the appeal, the applicant must specifically identify the applicant's grounds for appeal, based on the original application and additional documentation filed with the original application.

(d) The director shall respond in writing to the appeal not later than the 14th day after the date of receipt of the appeal. If the applicant is not satisfied with the director's response to the appeal, the applicant may appeal directly in writing to the board, provided that an appeal filed with the board under this subsection must be received by the board before:

(1) the seventh day preceding the date of the board meeting at which the relevant allocation decision is expected to be made; or

(2) the third day preceding the date of the board meeting described by Subdivision (1), if the director does not respond to the appeal before the date described by Subdivision (1).

(e) Board review of an appeal under Subsection (d) is based on the original application and additional documentation filed with the original application. The board may not review any information not contained in or filed with the original application. The decision of the board regarding the appeal is final.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.

Sec. 2306.6716. FEES. (a) A fee charged by the department for filing an application may not be excessive and must reflect the department's actual costs in processing the application, providing copies of documents to persons connected with the application process, and making appropriate information available to the public through the department's website.

(b) The department shall publish each year an updated schedule of application fees that specifies the amount to be charged at each stage of the application process.

(c) In accordance with the fee schedule, the department shall refund the balance of any fees collected for an application that is withdrawn by the applicant or that is not fully processed by the department. The department must provide the refund to the applicant not later than the 30th day after the date the last official action is taken with respect to the application.

(d) The department shall develop a sliding scale fee schedule for applications that encourages increased participation by community housing development organizations in the low income housing tax credit program.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 330, Sec. 24, eff. Sept. 1, 2003.

Sec. 2306.6717. PUBLIC INFORMATION AND HEARINGS. (a)



Subject to Section 2306.67041, the department shall make the following items available on the department's website:

(1) as soon as practicable, any proposed application submitted through the preapplication process established by this subchapter;

(2) before the 30th day preceding the date of the relevant board allocation decision, except as provided by Subdivision (3), the entire application, including all supporting documents and exhibits, the application log, a scoring sheet providing details of the application score, and any other document relating to the processing of the application;

(3) not later than the third working day after the date of the relevant determination, the results of each stage of the application process, including the results of the application scoring and underwriting phases and the allocation phase;

(4) before the 15th day preceding the date of board action on the amendment, notice of an amendment under Section 2306.6712 and the recommendation of the director and monitor regarding the amendment; and

(5) an appeal filed with the department or board under Section 2306.6715 or 2306.6721 and any other document relating to the processing of the appeal.

(b) The department shall make available on the department's website information regarding the low income housing tax credit program, including notice regarding public hearings, meetings, the opening and closing dates for applications, submitted applications, and applications approved for underwriting and recommended to the board, and shall provide that information to:

(1) locally affected community groups;

(2) local and state elected officials;

(3) local housing departments;

(4) any appropriate newspapers of general or limited circulation that serve the community in which the development is to be located;

(5) nonprofit and for-profit organizations;

(6) on-site property managers of occupied developments that are the subject of applications for posting in prominent locations in those developments; and

(7) any other interested persons and community groups that request the information.

(c) The department shall hold at least three public hearings in different regions of the state to receive public comments on applications and on other issues relating to the low income housing tax credit program.

(d) Notwithstanding any other provision of this section, the department may treat the financial statements of any applicant as confidential and may elect not to disclose those statements to the public.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 330, Sec. 25, eff. Sept. 1, 2003.

Sec. 2306.6718. ELECTED OFFICIALS. (a) The department shall provide written notice of the filing of an application to the following elected officials:

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

(2) the chief executive officer of the political subdivision containing the development described in the application.

(b) The department shall provide the elected officials with an opportunity to comment on the application during the application evaluation process provided by Section 2306.6710 and shall consider those comments in evaluating applications under that section.

(c) A member of the legislature who represents the community containing the development may hold a community meeting at which the department shall provide appropriate representation.

(d) If the department receives written notice from the mayor or county judge of an affected municipality or county opposing an application, the department must contact the mayor or county judge and offer to conduct a physical inspection of the development site and consult with the mayor or county judge before the application is scored.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.

Sec. 2306.6719. MONITORING OF COMPLIANCE. (a) The department may contract with an independent third party to monitor a development during its construction or rehabilitation and during its operation for compliance with:

(1) any conditions imposed by the department in connection with the allocation of housing tax credits to the development; and

(2) appropriate state and federal laws, as required by other state law or by the board.

(b) The department may assign department staff other than housing tax credit division staff to perform the relevant monitoring functions required by this section in the construction or rehabilitation phase of a development.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.

Sec. 2306.6720. ENFORCEABILITY OF APPLICANT REPRESENTATIONS. Each representation made by an applicant to secure a housing tax credit allocation is enforceable by the department and the tenants of the development supported with the allocation.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.

Sec. 2306.6721. DEBARMENT FROM PROGRAM PARTICIPATION. (a) The board by rule shall adopt a policy providing for the debarment of a person from participation in the low income housing tax credit program as described by this section.

(b) The department may debar a person from participation in the program on the basis of the person's past failure to comply with any condition imposed by the department in connection with the allocation of housing tax credits.

(c) The department shall debar a person from participation in the program if the person:

(1) materially violates any condition imposed by the department in connection with the allocation of housing tax credits;

(2) is debarred from participation in federal housing programs by the United States Department of Housing and Urban Development; or

(3) is in material noncompliance with or has repeatedly violated a land use restriction agreement regarding a development supported with a housing tax credit allocation.

(d) A person debarred by the department from participation in the program may appeal the person's debarment to the board.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.

Sec. 2306.6722. DEVELOPMENT ACCESSIBILITY. Any development supported with a housing tax credit allocation shall comply with the accessibility standards that are required under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), and specified under 24 C.F.R. Part 8, Subpart C.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.

Sec. 2306.6723. COORDINATION WITH RURAL DEVELOPMENT AGENCY. (a) The department shall jointly administer with the rural development agency any set-aside for rural areas to:

(1) ensure the maximum use and optimum geographic distribution of housing tax credits in rural areas; and

(2) provide for information sharing, efficient procedures, and fulfillment of development compliance requirements in rural areas.

(b) The rural development agency shall assist in developing all threshold, scoring, and underwriting criteria applied to applications eligible for the rural area set-aside. The criteria must be approved by that agency.

(c) To ensure that the rural area set-aside receives a sufficient volume of eligible applications, the department shall fund and, with the rural development agency, shall jointly implement outreach, training, and rural area capacity building efforts as directed by the rural development agency.

(d) The department and the rural development agency shall jointly adjust the regional allocation of housing tax credits described by Section 2306.111 to offset the under-utilization and over-utilization of multifamily private activity bonds and other housing resources in the different regions of the state.

(e) From application fees collected under this subchapter,

the department shall reimburse the rural development agency for any costs incurred by the agency in carrying out the functions required by this section.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.

Sec. 2306.6724. DEADLINES FOR ALLOCATION OF LOW INCOME HOUSING TAX CREDITS. (a) Not later than September 30 of each year, the department shall prepare and submit to the board for adoption the qualified allocation plan required by federal law for use by the department in setting criteria and priorities for the allocation of tax credits under the low income housing tax credit program.

(b) The board shall adopt and submit to the governor the qualified allocation plan not later than November 15.

(c) The governor shall approve, reject, or modify and approve the qualified allocation plan not later than December 1.

(d) An applicant for a low income housing tax credit to be issued a commitment during the initial allocation cycle in a calendar year must submit an application to the department not later than March 1.

(e) The board shall review the recommendations of department staff regarding applications and shall issue a list of approved applications each year in accordance with the qualified allocation plan not later than June 30.

(f) The board shall issue final commitments for allocations of housing tax credits each year in accordance with the qualified allocation plan not later than July 31.

Added by Acts 1997, 75th Leg., ch. 980, Sec. 49, eff. Sept. 1, 1997. Renumbered from Sec. 2306.671 and amended by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.

Sec. 2306.6725. SCORING OF APPLICATIONS. (a) In allocating low income housing tax credits, the department shall score each application using a point system based on criteria adopted by the department that are consistent with the department's housing goals, including criteria addressing the ability of the proposed project to:

(1) provide quality social support services to residents;

(2) demonstrate community and neighborhood support as defined by the qualified allocation plan;

(3) consistent with sound underwriting practices and when economically feasible, serve individuals and families of extremely low income by leveraging private and state and federal resources, including federal HOPE VI grants received through the United States Department of Housing and Urban Development;

(4) serve traditionally underserved areas;

(5) remain affordable to qualified tenants for an extended, economically feasible period; and

(6) comply with the accessibility standards that are required under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), and specified under 24 C.F.R. Part 8, Subpart C.

(b) The department shall provide appropriate incentives as determined through the qualified allocation plan to reward applicants who agree to:

(1) equip the property that is the basis of the application with energy saving devices that meet the standards established by the state energy conservation office or to provide to a qualified nonprofit organization or tenant organization a right of first refusal to purchase the property at the minimum price provided in, and in accordance with the requirements of, Section 42(i)(7), Internal Revenue Code of 1986 (26 U.S.C. Section 42(i)(7)); and

(2) locate the development in a census tract in which there are no other existing developments supported by housing tax credits.

(c) On awarding tax credit allocations, the board shall document the reasons for each project's selection, including an explanation of:

(1) all discretionary factors used in making its determination; and

(2) the reasons for any decision that conflicts with the recommendations of department staff under Section 2306.6731.

(d) For each scoring criterion, the department shall use a range of points to evaluate the degree to which a proposed project satisfies the criterion. The department may not award a number of points for a scoring criterion that is disproportionate to the

degree to which a proposed project complies with that criterion. Added by Acts 1997, 75th Leg., ch. 980, Sec. 49, eff. Sept. 1, 1997. Renumbered from Sec. 2306.672 and amended by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 330, Sec. 26, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1106, Sec. 3, eff. Sept. 1, 2003.

Sec. 2306.6726. SALE OF CERTAIN LOW INCOME HOUSING TAX CREDIT PROPERTY. (a) Not later than two years before the expiration of the compliance period, a recipient of a low income housing tax credit who agreed to provide a right of first refusal under Section 2306.6725 and who intends to sell the property shall notify the department of the recipient's intent to sell. The recipient shall notify qualified nonprofit organizations and tenant organizations of the opportunity to purchase the property.

(b) The recipient may:

(1) during the first six-month period after notifying the department, negotiate or enter into a purchase agreement only with a qualified nonprofit organization that is also a community housing development organization as defined by the federal home investment partnership program;

(2) during the second six-month period after notifying the department, negotiate or enter into a purchase agreement with any qualified nonprofit organization or tenant organization; and

(3) during the year before the expiration of the compliance period, negotiate or enter into a purchase agreement with the department or any qualified nonprofit organization or tenant organization approved by the department.

(c) Notwithstanding an agreement under Section 2306.6725, a recipient of a low income housing tax credit may sell property to which the tax credit applies to any purchaser after the expiration of the compliance period if a qualified nonprofit organization or tenant organization does not offer to purchase the property at the minimum price provided by Section 42(i)(7), Internal Revenue Code of 1986 (26 U.S.C. Section 42(i)(7)), and the department declines to purchase the property.

(d) In this section, "compliance period" has the meaning assigned by Section 42(i)(1), Internal Revenue Code of 1986 (26 U.S.C. Section 42(i)(1)).

Added by Acts 1997, 75th Leg., ch. 980, Sec. 49, eff. Sept. 1, 1997. Renumbered from Sec. 2306.673 and amended by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.

Sec. 2306.6727. DEPARTMENT PURCHASE OF LOW INCOME HOUSING TAX CREDIT PROPERTY. The board by rule may develop and implement a program to purchase low income housing tax credit property that is not purchased by a qualified nonprofit organization or tenant organization. The department may not purchase low income housing tax credit property if the board finds that the purchase is not in the best interest of the state.

Added by Acts 1997, 75th Leg., ch. 980, Sec. 49, eff. Sept. 1, 1997. Renumbered from Sec. 2306.674 by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.

Sec. 2306.6728. DEPARTMENT POLICY AND PROCEDURES REGARDING RECIPIENTS OF CERTAIN FEDERAL HOUSING ASSISTANCE. (a) The department by rule shall adopt a policy regarding the admittance to low income housing tax credit properties of income-eligible individuals and families receiving assistance under Section 8, United States Housing Act of 1937 (42 U.S.C. Section 1437f).

(b) The policy must provide a reasonable minimum income standard that is not otherwise prohibited by this chapter and that is to be used by owners of low income housing tax credit properties and must place reasonable limits on the use of any other factors that impede the admittance of individuals and families described by Subsection (a) to those properties, including credit histories, security deposits, and employment histories.

(c) The department by rule shall establish procedures to monitor low income housing tax credit properties that refuse to admit individuals and families described by Subsection (a). The department by rule shall establish enforcement mechanisms with respect to those properties, including a range of sanctions to be imposed against the owners of those properties.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.30, eff. Sept. 1, 2001.

Sec. 2306.6729. QUALIFIED NONPROFIT ORGANIZATION. (a) A qualified nonprofit organization may compete in any low income housing tax credit allocation pool, including:

(1) the nonprofit allocation pool;  
(2) the rural projects/prison communities allocation pool; and  
(3) the general projects allocation pool.

(b) A qualified nonprofit organization submitting an application under this subchapter must have a controlling interest in a project proposed to be financed with a low income housing tax credit from the nonprofit allocation pool.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.30, eff. Sept. 1, 2001.

Sec. 2306.6730. ACCESSIBILITY REQUIRED. A project to which a low income housing tax credit is allocated under this subchapter shall comply with the accessibility standards that are required under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), as amended, and specified under 24 C.F.R. Part 8, Subpart C. Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.

Sec. 2306.6731. ALLOCATION DECISION; REEVALUATION. (a) Department staff shall provide written, documented recommendations to the board concerning the financial or programmatic viability of each application for a low income housing tax credit before the board makes a decision relating to the allocation of tax credits. The board may not make without good cause an allocation decision that conflicts with the recommendations of department staff.

(b) Regardless of project stage, the board must reevaluate a project that undergoes a substantial change between the time of initial board approval of the project and the time of issuance of a tax credit commitment for the project. The board may revoke any tax credit commitment issued for a project that has been unfavorably reevaluated by the board under this subsection.

Added by Acts 1997, 75th Leg., ch. 980, Sec. 49, eff. Sept. 1, 1997. Renumbered from Sec. 2306.675 and amended by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.

Sec. 2306.6733. REPRESENTATION BY FORMER BOARD MEMBER OR OTHER PERSON. (a) A former board member or a former director, deputy director, director of housing programs, director of compliance, director of underwriting, or low income housing tax credit program manager employed by the department may not:

(1) for compensation, represent an applicant for an allocation of low income housing tax credits or a related party before the second anniversary of the date that the board member's, director's, or manager's service in office or employment with the department ceases;

(2) represent any applicant or related party or receive compensation for services rendered on behalf of any applicant or related party regarding the consideration of a housing tax credit application in which the former board member, director, or manager participated during the period of service in office or employment with the department, either through personal involvement or because the matter was within the scope of the board member's, director's, or manager's official responsibility; or

(3) for compensation, communicate directly with a member of the legislative branch to influence legislation on behalf of an applicant or related party before the second anniversary of the date that the board member's, director's, or manager's service in office or employment with the department ceases.

(b) A person commits an offense if the person violates this section. An offense under this section is a Class A misdemeanor.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.

Sec. 2306.6734. MINORITY-OWNED BUSINESSES. (a) The department shall require a person who receives an allocation of housing tax credits to attempt to ensure that at least 30 percent of the construction and management businesses with which the person contracts in connection with the development are minority-owned businesses.

(b) A person who receives an allocation of housing tax credits must report to the department not less than once in each 90-day period following the date of allocation regarding the percentage of businesses with which the person has contracted that qualify as minority-owned businesses.

(c) In this section:

(1) "Minority-owned business" means a business entity at least 51 percent of which is owned by members of a minority group or, in the case of a corporation, at least 51 percent of the shares

of which are owned by members of a minority group, and that is managed and controlled by members of a minority group in its daily operations.

(2) "Minority group" includes:

- (A) women;
- (B) African Americans;
- (C) American Indians;
- (D) Asian Americans; and
- (E) Mexican Americans and other Americans of Hispanic origin.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.

SUBCHAPTER EE. BUILDER INCENTIVE PARTNERSHIP PROGRAM  
Sec. 2306.701. DEFINITIONS. In this subchapter:

(1) "Builder" means a person who builds or develops a housing subdivision.

(2) "Cooperative purchase agreement" means an agreement described by Section 2306.703.

(3) "Corporation" means the Texas State Affordable Housing Corporation.

(4) "Cost plus profit structure" means a profit structure that sets a fixed monetary profit due for the sale of a home as opposed to a profit structure that sets a variable amount of profit due for the sale of a home that is based on a percentage of the sale price of the home.

(5) "Program" means the builder incentive partnership program developed under this subchapter.

Added by Acts 1999, 76th Leg., ch. 1421, Sec. 1, eff. Sept. 1, 1999.

Sec. 2306.702. BUILDER INCENTIVE PARTNERSHIP PROGRAM. (a) The department shall develop and maintain a builder incentive partnership program that:

(1) provides for the development of affordable housing subdivisions in this state; and

(2) does not encourage the further growth of colonias in this state.

(b) To accomplish the goals of this subchapter, the department shall:

(1) determine geographic areas that are in need of affordable housing;

(2) provide for affordable housing development projects in those areas by entering into a partnership agreement with:

(A) an eligible builder or developer; and

(B) housing assistance agencies or other nonprofit entities that provide housing assistance to low and very low income homebuyers; and

(3) work with the corporation, the builder or developer, or housing assistance agencies or other nonprofit entities that provide housing assistance to low and very low income homebuyers to obtain housing assistance for homebuyers who purchase homes built under the program.

Added by Acts 1999, 76th Leg., ch. 1421, Sec. 1, eff. Sept. 1, 1999.

Sec. 2306.703. COOPERATIVE PURCHASE AGREEMENT. (a) The department shall negotiate and conclude a cooperative purchase agreement with a housing assistance agency or other nonprofit entity for each project under the program.

(b) Under the cooperative purchase agreement for a specific project under the program, a housing assistance agency or other nonprofit entity must agree:

(1) to use funds that the department may provide or funds maintained by the agency or entity from other sources to guarantee a negotiated portion of the purchase price of a negotiated number of houses to be built under the project; and

(2) at the option of the builder, to purchase homes built under the project at cost if the homes do not have a qualified purchaser within 30 days of the date of completion of the construction.

(c) The department may provide alternative or additional conditions under the cooperative purchase agreement as necessary to accomplish the purposes of this subchapter.

Added by Acts 1999, 76th Leg., ch. 1421, Sec. 1, eff. Sept. 1, 1999.

Sec. 2306.704. BUILDER PARTNERSHIP AGREEMENT. (a) Under a partnership agreement for a specific project, the department and the builder must agree to:

(1) the terms of a cooperative purchase agreement

between the department and a housing assistance agency or other nonprofit entity that provides housing assistance to low and very low income homebuyers;

(2) the type, style, and number of houses to be built under the partnership, within the specifications required by Section 2306.707;

(3) the types of housing assistance to be applied for eligible low and very low income homebuyers who purchase homes built under the program; and

(4) any other term that the department determines appropriate.

(b) The builder shall market the homes built under the program to individuals and families who qualify for housing assistance under department programs in the same manner in which private housing development projects are marketed to the general public.

(c) The department may not enter into a partnership agreement for a specific project with a builder unless the builder agrees to issue the builder's standard warranties for materials and labor to the first owner-occupant of a home purchased under this program.

Added by Acts 1999, 76th Leg., ch. 1421, Sec. 1, eff. Sept. 1, 1999.

Sec. 2306.705. COST PLUS PROFIT STRUCTURE. (a) The builder in the partnership agreement may require homebuyers to purchase a home under a cost plus profit structure.

(b) If a builder requires a cost plus profit structure, the department and the builder must agree in the partnership agreement to a reasonable profit for the builder for each type of home built under the program.

(c) For the purposes of the partnership agreement and housing finance assistance by the department or the corporation, the profit set under the cost plus profit structure for a home built under the program is part of the purchase price of the home.

Added by Acts 1999, 76th Leg., ch. 1421, Sec. 1, eff. Sept. 1, 1999.

Sec. 2306.706. FUNDING. (a) The department and the corporation may not spend state money to fund the guaranteed purchase agreement required by this subchapter.

(b) The department and the corporation shall cooperate to identify sources of funds that are appropriate for the program.

Added by Acts 1999, 76th Leg., ch. 1421, Sec. 1, eff. Sept. 1, 1999.

Sec. 2306.707. HOUSING STANDARDS. (a) The department shall establish and maintain standards for the homes built under the program. The standards must include:

(1) the minimum quality of construction and amenities required;

(2) a cost not to exceed \$70,000;

(3) a style and type of home that can accommodate additional construction, but that is flexible enough to serve one family; and

(4) other criteria that the department may provide.

(b) The department may require the construction of a specific number of homes to be determined by the department that must meet access standards, including:

(1) 32-inch wide doors;

(2) 36-inch wide hallways;

(3) light switches 15 inches from the floor; and

(4) at least one entrance to the home without steps.

Added by Acts 1999, 76th Leg., ch. 1421, Sec. 1, eff. Sept. 1, 1999.

Sec. 2306.708. HOMEBUYER PROGRAMS. (a) The department and the corporation shall cooperate to identify:

(1) private lenders to provide private market-rate mortgages for low and very low income homebuyers who purchase homes under the program; and

(2) housing assistance programs for low and very low income homebuyers who do not qualify for private market-rate mortgages.

(b) The department and the corporation shall provide other housing assistance for low and very low income homebuyers as necessary to accomplish the purposes of this subchapter.

Added by Acts 1999, 76th Leg., ch. 1421, Sec. 1, eff. Sept. 1, 1999.

Sec. 2306.709. SUSTAINABLE BUILDING. To encourage the use of sustainable products and techniques in the construction of affordable housing, the department in cooperation with the corporation, governmental entities, and nonprofit organizations involved in the development and promotion of sustainable

construction, shall assist builders in identifying information on sustainable building resources and techniques.

Added by Acts 1999, 76th Leg., ch. 1421, Sec. 1, eff. Sept. 1, 1999.

Sec. 2306.710. RULEMAKING AUTHORITY. The department may adopt rules necessary to accomplish the purposes of this subchapter.

Added by Acts 1999, 76th Leg., ch. 1421, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER FF. OWNER-BUILDER LOAN PROGRAM

Sec. 2306.751. DEFINITION. In this subchapter, "owner-builder" means a person, other than a person who owns or operates a construction business:

(1) who:

(A) owns or purchases a piece of real property through a warranty deed or a warranty deed and deed of trust; or

(B) is purchasing a piece of real property under a contract for deed entered into before January 1, 1999; and

(2) who undertakes to make improvements to that property.

Added by Acts 1999, 76th Leg., ch. 1548, Sec. 1, eff. Aug. 30, 1999.

Sec. 2306.752. OWNER-BUILDER LOAN PROGRAM. (a) To provide for the development of affordable housing in this state, the department, through the colonia self-help centers established under Subchapter Z or a nonprofit organization certified by the department as a nonprofit owner-builder housing program, shall make loans for owner-builders to enable them to:

(1) purchase or refinance real property on which to build new residential housing;

(2) build new residential housing; or

(3) improve existing residential housing.

(b) The department may adopt rules necessary to accomplish the purposes of this subchapter.

Added by Acts 1999, 76th Leg., ch. 1548, Sec. 1, eff. Aug. 30, 1999.

Sec. 2306.753. OWNER-BUILDER ELIGIBILITY. (a) Subject to this section, the department shall establish eligibility requirements for an owner-builder to receive a loan under this subchapter. The eligibility requirements must establish a priority for loans made under this subchapter to owner-builders with an annual income, as determined under Subsection (b)(1), of less than \$17,500.

(b) To be eligible for a loan under this subchapter, an owner-builder:

(1) may not have an annual income that exceeds 60 percent, as determined by the department, of the greater of the state or local median family income, when combined with the income of any person who resides with the owner-builder;

(2) must have resided in this state for the preceding six months;

(3) must have successfully completed an owner-builder education class under Section 2306.756; and

(4) must agree to:

(A) provide at least 60 percent of the labor necessary to build the proposed housing by working through a state-certified owner-builder housing program; or

(B) provide an amount of labor equivalent to the amount required under Paragraph (A) in connection with building housing for others through a state-certified nonprofit owner-builder housing program.

(c) The department may select nonprofit owner-builder housing programs to certify the eligibility of owner-builders to receive a loan under this subchapter. A nonprofit housing assistance organization selected by the department shall use the eligibility requirements established by the department to certify the eligibility of an owner-builder for the program.

(d) At least two-thirds of the dollar amount of loans made under this subchapter in each fiscal year must be made to borrowers whose property is located in a county that is eligible to receive financial assistance under Subchapter K, Chapter 17, Water Code.

Added by Acts 1999, 76th Leg., ch. 1548, Sec. 1, eff. Aug. 30, 1999.

Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 2.08, eff. Sept. 1, 2001.

Sec. 2306.754. AMOUNT OF LOAN; LOAN TERMS. (a) The department may establish the minimum amount of a loan under this subchapter, but a loan may not exceed \$30,000.

(b) If it is not possible for an owner-builder to purchase necessary real property and build adequate housing for \$30,000, the



owner-builder must obtain the amount necessary that exceeds \$30,000 from one or more local governmental entities, nonprofit organizations, or private lenders. The total amount of loans made by the department and other entities to an owner-builder under this subchapter may not exceed \$60,000.

- (c) A loan made by the department under this subchapter:
- (1) may not exceed a term of 30 years;
  - (2) may bear interest at a fixed rate of not more than three percent or bear interest in the following manner:
    - (A) no interest for the first two years of the loan;
    - (B) beginning with the second anniversary of the date the loan was made, interest at the rate of one percent a year;
    - (C) beginning on the third anniversary of the date the loan was made and ending on the sixth anniversary of the date the loan was made, interest at a rate that is one percent greater than the rate borne in the preceding year; and
    - (D) beginning on the sixth anniversary of the date the loan was made and continuing through the remainder of the loan term, interest at the rate of five percent; and
  - (3) may be secured by a lien on the real property, including a lien that is subordinate to a lien that secures a loan made under Subsection (b) and that is greater than the department's lien.

(d) If an owner-builder is purchasing real property under a contract for deed, the department may not disburse any portion of a loan made under this subchapter until the owner-builder:

- (1) fully completes the owner-builder's obligation under the contract and receives a deed to the property; or
- (2) refinances the owner-builder's obligation under the contract and converts the obligation to a note secured by a deed of trust.

Added by Acts 1999, 76th Leg., ch. 1548, Sec. 1, eff. Aug. 30, 1999. Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 2.09, eff. Sept. 1, 2001.

Sec. 2306.755. NONPROFIT OWNER-BUILDER HOUSING PROGRAMS. (a) The department may certify nonprofit owner-builder housing programs operated by a tax-exempt organization listed under Section 501(c)(3), Internal Revenue Code of 1986, to:

- (1) qualify potential owner-builders for loans under this subchapter;
- (2) provide owner-builder education classes under Section 2306.756;
- (3) assist owner-builders in building housing; and
- (4) originate or service loans made under this subchapter.

(b) The department by rule shall adopt procedures for the certification of nonprofit owner-builder housing programs under this section.

Added by Acts 1999, 76th Leg., ch. 1548, Sec. 1, eff. Aug. 30, 1999. Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 2.10, eff. Sept. 1, 2001.

Sec. 2306.756. OWNER-BUILDER EDUCATION CLASSES. (a) A state-certified nonprofit owner-builder housing program shall offer owner-builder education classes to potential owner-builders. A class under this section must provide information on:

- (1) the financial responsibilities of an owner-builder under this subchapter, including the consequences of an owner-builder's failure to meet those responsibilities;
- (2) the building of housing by owner-builders;
- (3) resources for low-cost building materials available to owner-builders; and
- (4) resources for building assistance available to owner-builders.

(b) A nonprofit owner-builder housing program may charge a potential owner-builder who enrolls in a class under this section a reasonable fee not to exceed \$50 to offset the program's costs in providing the class.

Added by Acts 1999, 76th Leg., ch. 1548, Sec. 1, eff. Aug. 30, 1999.

Sec. 2306.757. LOAN PRIORITY FOR WAIVER OF LOCAL GOVERNMENT FEES. In making loans under this subchapter, the department shall give priority to loans to owner-builders who will reside in counties or municipalities that agree in writing to waive capital recovery fees, building permit fees, inspection fees, or other fees related to the building of the housing to be built with the loan

proceeds.

Added by Acts 1999, 76th Leg., ch. 1548, Sec. 1, eff. Aug. 30, 1999.

Sec. 2306.758. FUNDING. (a) The department shall solicit gifts and grants to make loans under this subchapter.

(b) The department may also make loans under this subchapter from:

(1) available funds in the housing trust fund established under Section 2306.201;

(2) federal block grants that may be used for the purposes of this subchapter; and

(3) the owner-builder revolving loan fund established under Section 2306.7581.

(c) In a state fiscal year, the department may use not more than 10 percent of the revenue available for purposes of this subchapter to enhance the ability of tax-exempt organizations described by Section 2306.755(a) to implement the purposes of this chapter.

Added by Acts 1999, 76th Leg., ch. 1548, Sec. 1, eff. Aug. 30, 1999. Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 2.11, eff. Sept. 1, 2001.

Sec. 2306.7581. OWNER-BUILDER REVOLVING LOAN FUND. (a) The department shall establish an owner-builder revolving loan fund in the department for the sole purpose of funding loans under this subchapter.

Text of subsec. (a-1) effective until Aug. 31, 2010

(a-1) Each state fiscal year the department shall transfer at least \$3 million to the owner-builder revolving fund from money received under the federal HOME Investment Partnerships program established under Title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. Section 12701 et seq.), from money in the housing trust fund, or from money appropriated by the legislature to the department. This subsection expires August 31, 2010.

(b) The department shall deposit money received in repayment of a loan under this subchapter to the owner-builder revolving loan fund.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 2.12, eff. Sept. 1, 2001.

Sec. 2306.759. REPORTING DUTIES. The department shall:

(1) prepare a report that evaluates the repayment history of owner-builders who receive loans under this subchapter, including for each owner-builder:

(A) the owner-builder's income;

(B) the date on which the owner-builder completed building or improving the residential housing for which the loan was made;

(C) the county in which the residential housing is located;

(D) the identity of the owner-builder housing program through which the housing was constructed; and

(E) a description of the type of construction or improvement made; and

(2) deliver a copy of the report to the governor, the lieutenant governor, and the speaker of the house of representatives not later than November 15, 2000.

Added by Acts 1999, 76th Leg., ch. 1548, Sec. 1, eff. Aug. 30, 1999.

SUBCHAPTER GG. COLONIA MODEL SUBDIVISION PROGRAM

Sec. 2306.781. DEFINITION. In this subchapter, "program" means the colonia model subdivision program established under this subchapter.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 2.13, eff. Sept. 1, 2001.

Sec. 2306.782. ESTABLISHMENT OF PROGRAM. The department shall establish the colonia model subdivision program to promote the development of new, high-quality, residential subdivisions that provide:

(1) alternatives to substandard colonias; and

(2) housing options affordable to individuals and families of extremely low and very low income who would otherwise move into substandard colonias.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 2.13, eff. Sept. 1, 2001.

Sec. 2306.783. COLONIA MODEL SUBDIVISION REVOLVING LOAN FUND. (a) The department shall establish a colonia model subdivision revolving loan fund in the department. Money in the

fund may be used only for purposes of the program.

(a-1) The department may transfer money into the colonia model subdivision revolving fund using any available source of revenue.

(a-2) On application, the department may provide a loan under this subchapter through an eligible political subdivision using money from the portion of community development block grant that is set aside under federal law to provide financial assistance to colonias. In a state fiscal year, the department may not provide loans under this subchapter using more than \$2 million from the set-aside for colonias.

(a-3) Subsections (a-1) and (a-2) and this subsection expire August 31, 2010.

(b) The department shall deposit money received in repayment of loans under this subchapter to the colonia model subdivision revolving loan fund.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 2.13, eff. Sept. 1, 2001.

Sec. 2306.784. SUBDIVISION COMPLIANCE. Any subdivision created with assistance from the colonia model subdivision revolving loan fund must fully comply with all state and local laws, including any process established under state or local law for subdividing real property.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 2.13, eff. Sept. 1, 2001.

Sec. 2306.785. PROGRAM LOANS. (a) The department may make loans under the program only to:

(1) colonia self-help centers established under Subchapter Z; and

(2) community housing development organizations certified by the department.

(b) A loan made under the program may be used only for the payment of:

(1) costs associated with the purchase of real property;

(2) costs of surveying, platting, and subdividing or resubdividing real property;

(3) fees, insurance costs, or recording costs associated with the development of the subdivision;

(4) costs of providing proper infrastructure necessary to support residential uses;

(5) real estate commissions and marketing fees; and

(6) any other costs as the department by rule determines to be reasonable and prudent to advance the purposes of this subchapter.

(c) A loan made by the department under the program may not bear interest and may not exceed a term of 36 months.

(d) The department may offer a borrower under the program one loan renewal for each subdivision.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 2.13, eff. Sept. 1, 2001.

Sec. 2306.786. ADMINISTRATION OF PROGRAM; RULES. (a) In administering the program, the department by rule shall adopt:

(1) any subdivision standards in excess of local standards the department considers necessary;

(2) loan application procedures;

(3) program guidelines; and

(4) contract award procedures.

(b) The department shall adopt rules to:

(1) ensure that a borrower under the program sells real property under the program only to an individual borrower, nonprofit housing developer, or for-profit housing developer for the purposes of constructing residential dwelling units; and

(2) require a borrower under the program to convey real property under the program at a cost that is affordable to:

(A) individuals and families of extremely low income; or

(B) individuals and families of very low income.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 2.13, eff. Sept. 1, 2001.

#### SUBCHAPTER HH. AFFORDABLE HOUSING PRESERVATION

Sec. 2306.801. DEFINITION. In this subchapter, "federally subsidized" means receiving financial assistance through a federal program administered by the Secretary of Housing and Urban Development or the Secretary of Agriculture under which housing

assistance is provided on the basis of income, including a program under:

(1) Section 221(d), National Housing Act (12 U.S.C. Section 1715l(d));

(2) Section 236, National Housing Act (12 U.S.C. Section 1715z-1);

(3) Section 202, Housing Act of 1959 (12 U.S.C. Section 1701q);

(4) Section 101, Housing and Urban Development Act of 1965 (12 U.S.C. Section 1701s);

(5) Section 514, 515, or 516, Housing Act of 1949 (42 U.S.C. Section 1484, 1485, or 1486); or

(6) Section 8, United States Housing Act of 1937 (42 U.S.C. Section 1437f).

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 3.05, eff. Sept. 1, 2001.

Sec. 2306.802. MULTIFAMILY HOUSING PRESERVATION CLASSES. The department shall establish two classes of priorities of developments to preserve multifamily housing. The classes, in order of descending priority, are:

(1) Class A, which includes any federally subsidized multifamily housing development at risk because the contract granting a federal subsidy with a stipulation to maintain affordability is nearing expiration or because the government-insured mortgage on the property is eligible for prepayment or near the end of its mortgage term; and

(2) Class B, which includes any other multifamily housing development with low income use or rental affordability restrictions.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 3.05, eff. Sept. 1, 2001.

Sec. 2306.803. AT-RISK MULTIFAMILY HOUSING: IDENTIFICATION, PRIORITIZATION, AND PRESERVATION. (a) The department shall determine the name and location of and the number of units in each multifamily housing development that is at risk of losing its low income use restrictions and subsidies and that meets the requirements of a Class A priority described by Section 2306.802.

(b) The department shall maintain an accurate list of those developments on the department's website.

(c) The department shall develop cost estimates for the preservation and rehabilitation of the developments in priority Class A.

(d) The department shall contact owners of developments assigned a Class A priority under this section and shall attempt to negotiate with those owners to ensure continued affordability for individuals and families of low income under the federal housing assistance program for those developments.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 3.05, eff. Sept. 1, 2001.

Sec. 2306.804. USE OF HOUSING PRESERVATION RESOURCES. (a) To the extent possible, the department shall use available resources for the preservation and rehabilitation of the multifamily housing developments identified and listed under Section 2306.803.

(b) To the extent possible, the department shall allocate low income housing tax credits to applications involving the preservation of developments assigned a Class A priority under Section 2306.803 and in both urban and rural communities in approximate proportion to the housing needs of each uniform state service region.

(c) The department shall give priority to providing financing or funding to a buyer who is supported or approved by an association of residents of the multifamily housing development.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 3.05, eff. Sept. 1, 2001.

Sec. 2306.805. HOUSING PRESERVATION INCENTIVES PROGRAM. (a) The department shall establish and administer a housing preservation incentives program to provide incentives through loan guarantees, loans, and grants to political subdivisions, housing finance corporations, public housing authorities, for-profit organizations, and nonprofit organizations for the acquisition and rehabilitation of multifamily housing developments assigned a Class A or Class B priority under Section 2306.803.

(b) A loan issued by a lender participating in the program

must be fully underwritten by the department.

(c) Consistent with the requirements of federal law, the department may guarantee loans issued under the program by obtaining a Section 108 loan guarantee from the United States Department of Housing and Urban Development under the Housing and Community Development Act of 1974 (42 U.S.C. Section 5308).

(d) Grants under this program may include direct subsidies offered as an equity contribution to enable an owner to acquire and rehabilitate a Class A or Class B priority property described by Section 2306.802. Grants may also be offered to provide consultation and technical assistance services to a nonprofit organization seeking to acquire and rehabilitate a Class A or Class B priority property.

(e) A housing development that benefits from the incentive program under this section is subject to the requirements concerning:

(1) long-term affordability and safety prescribed by Section 2306.185; and

(2) tenant and manager selection prescribed by Section 2306.269.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 3.05, eff. Sept. 1, 2001.

Sec. 2306.806. APPROVAL OF OFFICE OF RURAL COMMUNITY AFFAIRS. The department must obtain the approval of the executive director of the Office of Rural Community Affairs to guarantee loans as described by Section 2306.805(c).

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 3.06, eff. Sept. 1, 2001.

#### SUBCHAPTER II. MULTIFAMILY HOUSING DEVELOPMENTS: PRESERVATION OF AFFORDABILITY

Sec. 2306.851. APPLICATION. (a) This subchapter applies only to a property owner of a multifamily housing development that is insured or assisted under a program under Section 8, United States Housing Act of 1937 (42 U.S.C. Section 1437f), or that is:

(1) insured or assisted under a program under:

(A) Section 221(d)(3), National Housing Act (12 U.S.C. Section 1715l);

(B) Section 236, National Housing Act (12 U.S.C. Section 1715z-1); or

(C) Section 514, 515, or 516, Housing Act of 1949 (42 U.S.C. Section 1484, 1485, or 1486); and

(2) financed by a mortgage that is eligible for prepayment at the option of the property owner.

(b) This subchapter does not apply to the disposal of property because of:

(1) a governmental taking by eminent domain or negotiated purchase;

(2) a foreclosure action;

(3) a transfer by gift, devise, or operation of law;

or

(4) a sale to a person who would be entitled to an interest in the property if the property owner died intestate.

(c) This subchapter does not apply to property included in a restructuring program with a participating administrative entity designated by the United States Department of Housing and Urban Development.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 3.07, eff. Sept. 1, 2001.

Sec. 2306.852. PROPERTY OWNER RESTRICTION. Except as provided by this subchapter, a property owner to whom this subchapter applies may not sell, lease, or otherwise dispose of a multifamily housing development described by Section 2306.851(a) or take any other action if that action will cause the disruption or discontinuance of:

(1) the development's federal insurance or assistance;

or

(2) the provision of low income housing assistance to residents of the development.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 3.07, eff. Sept. 1, 2001.

Sec. 2306.853. NOTICE OF INTENT. (a) A property owner of a multifamily housing development may take an action, sell, lease, or otherwise dispose of the development subject to the restriction under Section 2306.852 if the property owner provides notice by mail of the owner's intent to the residents of the development and

to the department.

(b) The notice required by Subsection (a) must indicate, as applicable, that the property owner intends to prepay a mortgage under a program described by Section 2306.851(a)(1) or that a contract formed under a program under Section 8, United States Housing Act of 1937 (42 U.S.C. Section 1437f), will expire.

(c) The property owner shall provide the notice required by Subsection (a) before the 90th day preceding the date of mortgage prepayment or contract expiration, as applicable, and as otherwise required by federal law.

(d) The notice required by this section is sufficient if the notice meets the requirements of Section 8(c)(8), United States Housing Act of 1937 (42 U.S.C. Section 1437f(c)(8)).

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 3.07, eff. Sept. 1, 2001.

#### SUBCHAPTER KK. INTERAGENCY COUNCIL FOR THE HOMELESS

Sec. 2306.901. DEFINITION. In this subchapter, "council" means the Texas Interagency Council for the Homeless.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.80(a), eff. Sept. 1, 1995. Renumbered from V.T.C.A., Government Code Sec. 2307.001 and amended by Acts 2001, 77th Leg., ch. 432, Sec. 3, eff. Sept. 1, 2001. Renumbered from V.T.C.A., Government Code Sec. 2306.781 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(88), eff. Sept. 1, 2003.

Sec. 2306.902. ADVISORY ROLE. (a) The Texas Interagency Council for the Homeless serves as an advisory committee to the department. The council may recommend policies to the board. The board must provide written justification for not accepting council recommendations and must consider council recommendations in preparing its low income housing plan under Section 2306.0721.

(b) The council is not subject to Chapter 2110.  
Added by Acts 2001, 77th Leg., ch. 432, Sec. 3, eff. Sept. 1, 2001. Renumbered from V.T.C.A., Government Code Sec. 2306.782 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(88), eff. Sept. 1, 2003.

Sec. 2306.903. MEMBERSHIP. (a) The Texas Interagency Council for the Homeless is composed of:

(1) one representative from each of the following agencies, appointed by the administrative head of that agency:

(A) the Texas Department of Health;  
(B) the Texas Department of Human Services;  
(C) the Texas Department of Mental Health and  
Mental Retardation;

(D) the Texas Department of Criminal Justice;  
(E) the Texas Department on Aging;  
(F) the Texas Rehabilitation Commission;  
(G) the Texas Education Agency;  
(H) the Texas Commission on Alcohol and Drug  
Abuse;

(I) the Department of Protective and Regulatory  
Services;

(J) the Health and Human Services Commission;  
(K) the Texas Workforce Commission;  
(L) the Texas Youth Commission; and  
(M) the Texas Veterans Commission;

(2) two representatives from the department, one each from the community affairs division and the housing finance division, appointed by the director; and

(3) three members representing service providers to the homeless, one each appointed by the governor, the lieutenant governor, and the speaker of the house of representatives.

(b) A member of the council serves at the pleasure of the appointing official or until termination of the member's employment with the entity the member represents.

(c) A member of the council must have:

(1) administrative responsibility for programs for the homeless or related services provided by the agency that the member represents; and

(2) authority to make decisions for and commit resources of the agency, subject to the approval of the administrative head of the agency.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.80(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 6.32, eff. Sept. 1, 1997. Renumbered from V.T.C.A., Government Code Sec. 2307.002 and amended by Acts 2001, 77th Leg., ch. 432, Sec. 3, eff. Sept. 1, 2001. Renumbered from V.T.C.A., Government Code Sec. 2306.783 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(88), eff. Sept.

1, 2003. Amended by Acts 2003, 78th Leg., ch. 1310, Sec. 68, eff. June 20, 2003.

Sec. 2306.904. OPERATION OF COUNCIL. (a) The members of the council shall annually elect one member to serve as presiding officer.

(b) The council shall meet at least quarterly.

(c) An action taken by the council must be approved by a majority vote of the members present.

(d) The council may select and use advisors.

(e) The department shall provide clerical and advisory support staff to the council.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.80(a), eff. Sept. 1, 1995. Renumbered from V.T.C.A., Government Code Sec. 2307.003 by Acts 2001, 77th Leg., ch. 432, Sec. 3, eff. Sept. 1, 2001. Renumbered from V.T.C.A., Government Code Sec. 2306.784 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(88), eff. Sept. 1, 2003.

Sec. 2306.905. DUTIES OF COUNCIL. The council shall:

(1) survey current resources for services for the homeless in this state;

(2) initiate an evaluation of the current and future needs for the services;

(3) assist in coordinating and providing statewide services for all homeless individuals in this state;

(4) increase the flow of information among separate providers and appropriate authorities;

(5) develop guidelines to monitor the provision of services for the homeless and the methods of delivering those services;

(6) provide technical assistance to the housing finance division of the department in assessing the need for housing for individuals with special needs in different localities;

(7) coordinate with the Texas Workforce Commission, local workforce development boards, homeless shelters, and public and private entities to provide homeless individuals information on services available to assist them in obtaining employment and job training;

(8) establish a central resource and information center for the homeless in this state; and

(9) ensure that local or statewide nonprofit organizations perform the duties under this section that the council is unable to perform.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.80(a), eff. Sept. 1, 1995. Renumbered from V.T.C.A., Government Code Sec. 2307.004 and amended by Acts 2001, 77th Leg., ch. 432, Sec. 3, eff. Sept. 1, 2001. Renumbered from V.T.C.A., Government Code Sec. 2306.785 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(88), eff. Sept. 1, 2003.

Sec. 2306.906. DUTIES OF STATE AGENCY COUNCIL MEMBERS. (a) Each agency represented on the council shall report to the department a standard set of performance data, as determined by the department, on the agency's outcomes related to homelessness.

(b) Each agency shall contribute resources to the council.

Added by Acts 2001, 77th Leg., ch. 432, Sec. 3, eff. Sept. 1, 2001. Renumbered from V.T.C.A., Government Code Sec. 2306.786 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(88), eff. Sept. 1, 2003.

Sec. 2306.907. PUBLIC HEARINGS. (a) The council may hold, throughout the state, public hearings on homelessness issues.

(b) The department shall provide to the secretary of state for publication in the Texas Register a notice of the hearings and shall provide for the notice to be given in other appropriate sources, which may include:

(1) a newsletter published by a nonprofit organization addressing the problem of homelessness; or

(2) a local newspaper.

Added by Acts 2001, 77th Leg., ch. 432, Sec. 3, eff. Sept. 1, 2001. Renumbered from V.T.C.A., Government Code Sec. 2306.787 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(88), eff. Sept. 1, 2003.

Sec. 2306.908. REPORT. The council shall submit annually a progress report to the governing bodies of the agencies represented on the council.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.80(a), eff. Sept. 1, 1995. Renumbered from V.T.C.A., Government Code Sec. 2307.005 by Acts 2001, 77th Leg., ch. 432, Sec. 3, eff. Sept. 1, 2001. Renumbered from V.T.C.A., Government Code Sec. 2306.788 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(88), eff. Sept. 1, 2003.

Sec. 2306.909. GIFTS AND GRANTS. The council may accept

gifts and grants from a public or private source for use in carrying out the council's duties under this subchapter.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.80(a), eff. Sept. 1, 1995. Renumbered from V.T.C.A., Government Code Sec. 2307.008 and amended by Acts 2001, 77th Leg., ch. 432, Sec. 3, eff. Sept. 1, 2001. Renumbered from V.T.C.A., Government Code Sec. 2306.789 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(88), eff. Sept. 1, 2003.

SUBCHAPTER LL. MIGRANT LABOR HOUSING FACILITIES

Sec. 2306.921. DEFINITIONS. In this subchapter :

(1) "Facility" means a structure, trailer, or vehicle, or two or more contiguous or grouped structures, trailers, or vehicles, together with the land appurtenant.

(2) "Migrant agricultural worker" means an individual who:

(A) is working or available for work seasonally or temporarily in primarily an agricultural or agriculturally related industry; and

(B) moves one or more times from one place to another to perform seasonal or temporary employment or to be available for seasonal or temporary employment.

(3) "Migrant labor housing facility" means a facility that is established, operated, or used for more than three days as living quarters for two or more seasonal, temporary, or migrant families or three or more seasonal, temporary, or migrant workers, whether rent is paid or reserved in connection with the use of the facility.

(4) "Person" means an individual, association, partnership, corporation, or political subdivision.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 3, eff. Sept. 1, 1993. Renumbered from V.T.C.A., Health & Safety Code Sec. 146.001 by Acts 1995, 74th Leg., ch. 76, Sec. 17.01(19), eff. Sept. 1, 1995. Transferred from V.T.C.A., Health & Safety Code Sec. 147.001 and amended by Acts 2005, 79th Leg., ch. 60, Sec. 1, eff. Sept. 1, 2005.

Sec. 2306.922. LICENSE REQUIRED. A person may not establish, maintain, or operate a migrant labor housing facility without obtaining a license from the department.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 3, eff. Sept. 1, 1993. Renumbered from V.T.C.A., Health & Safety Code Sec. 146.002 by Acts 1995, 74th Leg., ch. 76, Sec. 17.01(19), eff. Sept. 1, 1995. Transferred from V.T.C.A., Health & Safety Code Sec. 147.002 and amended by Acts 2005, 79th Leg., ch. 60, Sec. 1, eff. Sept. 1, 2005.

Sec. 2306.923. LICENSE APPLICATION; APPLICATION INSPECTION. (a) To receive a migrant labor housing facility license, a person must apply to the department according to rules adopted by the board and on a form prescribed by the board.

(b) The application must be made not later than the 45th day before the intended date of operation of the facility.

(c) The application must state:

(1) the location and ownership of the migrant labor housing facility;

(2) the approximate number of persons to be accommodated;

(3) the probable periods of use of the facility; and

(4) any other information required by the board.

(d) The application must be accompanied by the license fee.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 3, eff. Sept. 1, 1993. Renumbered from V.T.C.A., Health & Safety Code Sec. 146.003 by Acts 1995, 74th Leg., ch. 76, Sec. 17.01(19), eff. Sept. 1, 1995. Transferred from V.T.C.A., Health & Safety Code Sec. 147.003 and amended by Acts 2005, 79th Leg., ch. 60, Sec. 1, eff. Sept. 1, 2005.

Sec. 2306.924. INSPECTION. The department shall inspect the migrant labor housing facility not later than the 30th day after the date of receipt of a complete application and the fee.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 3, eff. Sept. 1, 1993. Renumbered from V.T.C.A., Health & Safety Code Sec. 146.004 by Acts 1995, 74th Leg., ch. 76, Sec. 17.01(19), eff. Sept. 1, 1995. Transferred from V.T.C.A., Health & Safety Code Sec. 147.004 and amended by Acts 2005, 79th Leg., ch. 60, Sec. 1, eff. Sept. 1, 2005.

Sec. 2306.925. FAILURE TO MEET STANDARDS; REINSPECTION. (a) If a migrant labor housing facility for which a license application is made does not meet the reasonable minimum standards of construction, sanitation, equipment, and operation required by rules adopted under this subchapter, the department at the time of inspection shall give the license applicant the reasons that the facility does not meet those standards. The applicant may



request the department to reinspect the facility not later than the 60th day after the date on which the reasons are given.

(b) If a facility does not meet the standards on reinspection, the applicant must submit a new license application as provided by Section 2306.923.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 3, eff. Sept. 1, 1993. Renumbered from V.T.C.A., Health & Safety Code Sec. 146.005 by Acts 1995, 74th Leg., ch. 76, Sec. 17.01(19), eff. Sept. 1, 1995. Transferred from V.T.C.A., Health & Safety Code Sec. 147.005 and amended by Acts 2005, 79th Leg., ch. 60, Sec. 1, eff. Sept. 1, 2005.

Sec. 2306.926. LICENSE ISSUANCE; TERM; NOT TRANSFERABLE. (a) The department shall issue a license to establish, maintain, and operate a migrant labor housing facility if the facility meets the standards of construction, sanitation, equipment, and operation required by rules adopted under this subchapter.

(b) The license expires on the first anniversary of the date of issuance.

(c) The license issued under this subchapter is not transferable.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 3, eff. Sept. 1, 1993. Renumbered from V.T.C.A., Health & Safety Code Sec. 146.006 by Acts 1995, 74th Leg., ch. 76, Sec. 17.01(19), eff. Sept. 1, 1995. Transferred from V.T.C.A., Health & Safety Code Sec. 147.006 and amended by Acts 2005, 79th Leg., ch. 60, Sec. 1, eff. Sept. 1, 2005.

Sec. 2306.927. LICENSE POSTING. A person who holds a license issued under this subchapter shall post the license in the migrant labor housing facility at all times during the maintenance or operation of the facility.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 3, eff. Sept. 1, 1993. Renumbered from V.T.C.A., Health & Safety Code Sec. 146.007 by Acts 1995, 74th Leg., ch. 76, Sec. 17.01(19), eff. Sept. 1, 1995. Transferred from V.T.C.A., Health & Safety Code Sec. 147.007 and amended by Acts 2005, 79th Leg., ch. 60, Sec. 1, eff. Sept. 1, 2005.

Sec. 2306.928. INSPECTION OF FACILITIES. An authorized representative of the department, after giving or making a reasonable attempt to give notice to the operator of a migrant labor housing facility, may enter and inspect the facility during reasonable hours and investigate conditions, practices, or other matters as necessary or appropriate to determine whether a person has violated this subchapter or a rule adopted under this subchapter.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 3, eff. Sept. 1, 1993. Renumbered from V.T.C.A., Health & Safety Code Sec. 146.008 by Acts 1995, 74th Leg., ch. 76, Sec. 17.01(19), eff. Sept. 1, 1995. Transferred from V.T.C.A., Health & Safety Code Sec. 147.008 and amended by Acts 2005, 79th Leg., ch. 60, Sec. 1, eff. Sept. 1, 2005.

Sec. 2306.929. FEE. The board shall set the license fee in an amount not to exceed \$250.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 3, eff. Sept. 1, 1993. Renumbered from V.T.C.A., Health & Safety Code Sec. 146.009 by Acts 1995, 74th Leg., ch. 76, Sec. 17.01(19), eff. Sept. 1, 1995. Transferred from V.T.C.A., Health & Safety Code Sec. 147.009 and amended by Acts 2005, 79th Leg., ch. 60, Sec. 1, eff. Sept. 1, 2005.

Sec. 2306.930. SUSPENSION OR REVOCATION OF LICENSE. (a) The department may suspend or revoke a license for a violation of this subchapter or a rule adopted under this subchapter.

(b) Chapter 2001 and department rules for holding a contested case hearing govern the procedures for the suspension or revocation of a license issued under this subchapter.

(c) A hearing conducted under this section must be held in the county in which the affected migrant labor housing facility is located.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 3, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995. Renumbered from V.T.C.A., Health and Safety Code Sec. 146.010 by Acts 1995, 74th Leg., ch. 76, Sec. 17.01(19), eff. Sept. 1, 1995. Transferred from V.T.C.A., Health & Safety Code Sec. 147.010 and amended by Acts 2005, 79th Leg., ch. 60, Sec. 1, eff. Sept. 1, 2005.

Sec. 2306.931. ENFORCEMENT; ADOPTION OF RULES. (a) The department shall enforce this subchapter.

(b) The board shall adopt rules to protect the health and safety of persons living in migrant labor housing facilities.

(c) The board by rule shall adopt standards for living

quarters at a migrant labor housing facility, including standards relating to:

- (1) construction of the facility;
- (2) sanitary conditions;
- (3) water supply;
- (4) toilets;
- (5) sewage disposal;
- (6) storage, collection, and disposal of refuse;
- (7) light and air;
- (8) safety requirements;
- (9) fire protection;
- (10) equipment;
- (11) maintenance and operation of the facility; and
- (12) any other matter appropriate or necessary for the

protection of the health and safety of the occupants.

(d) An employee or occupant of a migrant labor housing facility who uses the sanitary or other facilities furnished for the convenience of employees or occupants shall comply with the rules adopted under Subsection (b) or (c).

(e) The board by rule shall adopt minimum standards for issuing, revoking, or suspending a license issued under this subchapter.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 3, eff. Sept. 1, 1993. Renumbered from V.T.C.A., Health & Safety Code Sec. 146.011 by Acts 1995, 74th Leg., ch. 76, Sec. 17.01(19), eff. Sept. 1, 1995. Transferred from V.T.C.A., Health & Safety Code Sec. 147.011 and amended by Acts 2005, 79th Leg., ch. 60, Sec. 1, eff. Sept. 1, 2005.

Sec. 2306.932. INJUNCTIVE RELIEF. (a) A district court for good cause shown in a hearing and on application by the department, a migrant agricultural worker, or the worker's representative may grant a temporary or permanent injunction to prohibit a person, including a person who owns or controls a migrant labor housing facility, from violating this subchapter or a rule adopted under this subchapter.

(b) A person subject to a temporary or permanent injunction under Subsection (a) may appeal to the supreme court as in other cases.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 3, eff. Sept. 1, 1993. Renumbered from V.T.C.A., Health & Safety Code Sec. 146.012 by Acts 1995, 74th Leg., ch. 76, Sec. 17.01(19), eff. Sept. 1, 1995. Transferred from V.T.C.A., Health & Safety Code Sec. 147.012 and amended by Acts 2005, 79th Leg., ch. 60, Sec. 1, eff. Sept. 1, 2005.

Sec. 2306.933. CIVIL PENALTY. (a) A person who violates this subchapter or a rule adopted under this subchapter is subject to a civil penalty of \$200 for each day that the violation occurs.

(b) The county attorney for the county in which the violation occurred, or the attorney general, at the request of the department, shall bring an action in the name of the state to collect the penalty.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 3, eff. Sept. 1, 1993. Renumbered from V.T.C.A., Health & Safety Code Sec. 146.013 by Acts 1995, 74th Leg., ch. 76, Sec. 17.01(19), eff. Sept. 1, 1995. Transferred from V.T.C.A., Health & Safety Code Sec. 147.013 and amended by Acts 2005, 79th Leg., ch. 60, Sec. 1, eff. Sept. 1, 2005.