

CHAPTER 712

H.B. No. 1225

An Act relating to the continuation of procedures for the allocation of the state ceiling on certain housing bonds.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Sections 1-3 and 5-7, Chapter 852, Acts of the 67th Legislature, Regular Session, 1981 (Article 12691-8, Vernon's Texas Civil Statutes), are amended to read as follows:
Sec. 1. DEFINITIONS. In this Act:

- (1) "Calendar year" means a calendar year during which housing bonds are issued.
- (2) "Executive director" means the executive director of the Texas Department of Community Affairs of the State of Texas.
- (3) [(2)] "Housing bonds" means bonds that are issued by the Texas Housing Agency or a housing finance corporation and that are subject to the state ceiling imposed by Section 103A, Internal Revenue Code of 1954, as amended (26 U.S.C. Section 103A).
- (4) [(3)] "Housing finance corporation" means a corporation created under the Texas Housing Finance Corporations Act (Article 12691-7, Vernon's Texas Civil Statutes).
- (5) [(4)] "Local population" means the population in the local governmental unit or units on whose behalf the housing finance corporation is created as determined in the *most recent* [1980] decennial census. If two local governmental units which overlap have created housing finance corporations that have the power to issue bonds to provide financing for home mortgages, prior to the sale of housing bonds by either corporation there shall be excluded from the population of the larger local governmental unit that portion of the population of any smaller local governmental unit having a population as determined in the *most recent* [1980] decennial census of 20,000 or more which is within the larger local governmental unit, unless the smaller local governmental unit assigns its authority to issue bonds prior to [September 1, 1981, or] June 1 of a calendar year [of 1982 or 1983], based upon its population, to the larger local governmental unit.
- (6) [(5)] "Local share" means the product which results from multiplying the state ceiling by 70 percent.
- (7) [(6)] "State ceiling" means the state ceiling imposed on housing bonds for each calendar year by Section 103A, Internal Revenue Code of 1954, as amended (26 U.S.C. Section 103A).
- (8) [(7)] "State population" means the population of the state as determined by the *most recent* [1980] decennial census.
- (9) [(8)] "State share" means the product which results from multiplying the state ceiling by 30 percent.

Sec. 2. DETERMINATION OF STATE CEILING. The state ceiling shall be determined for each calendar year by the board of directors of the Texas Housing Agency on or before [July 1, 1981, and on or before] February 1 of each [the] calendar year [years 1982 and 1983] based upon such evidence as the board of directors shall determine.

Sec. 3. ALLOCATION OF STATE CEILING. (a) There is hereby allocated to the Texas Housing Agency for each [the] calendar year [years 1981, 1982, and 1983,] the state share of the state ceiling.

(b) Subject to the receipt of a reservation certificate there is hereby allocated jointly to housing finance corporations and the Texas Housing Agency each [the] calendar year [years 1981, 1982, and 1983,] the local share of the state ceiling.

(c) The allocation made by Subsection (b) of this section is not available to the Texas Housing Agency in a calendar year until it has exhausted its allocation under Subsection (a) of this section for that year.

Sec. 5. RESERVATION OF LOCAL SHARE. (a) Upon the determination of the state ceiling in each calendar year, a housing finance corporation or the Texas Housing Agency in accordance with the terms of Section 3 of this Act, may reserve a portion of the local share by filing a reservation request; ~~accompanied by a bond purchase contract executed by the issuer and the purchaser of such bonds;~~ with the executive director. Such reservation request must be on such forms as the executive director may prescribe and must contain the following information: (i) identify the issuer of the bonds; (ii) identify the ~~series of~~ bonds which are the subject of the reservation request ~~[bond purchase contract]; and (iii) [state the execution date of the bond purchase contract; and, (iv)]~~ state the aggregate principal amount of the bonds. *No more than one reservation request may be filed on behalf of the same local population during each calendar year unless the reservation issued with respect to a prior reservation request filed on behalf of such local population during such year has lapsed or has been exhausted, as provided by Section 5(c) of this Act.*

(b) Prior to ~~[September 1, 1981, and] June 1 of each calendar year [1982 and 1983],~~ the maximum amount of the local share which may be reserved by a housing finance corporation may not exceed \$100 times the local population of such housing finance corporation, except (i) if the local population is 200,000 or more but less than 300,000, the maximum amount of the local share which may be reserved prior to the foregoing dates may not exceed \$150 times the local population, (ii) if the local population is 100,000 or more but less than 200,000, the maximum amount of the local share which may be reserved prior to the foregoing dates may not exceed \$200 times the local population, and (iii) if the local population is less than 100,000, the maximum amount of the local share which may be reserved prior to the foregoing dates may not exceed \$300 times the local population. In each calendar year following the applicable dates set forth in the preceding sentence, reservation of the local share shall not be restricted other than as otherwise provided by the laws of the State of Texas.

(c) Any reservation of a portion of the local share shall lapse and no longer be effective upon the expiration of 90 ~~[45]~~ days following the date of *issuance of* ~~[filing]~~ the reservation certificate by ~~[request with]~~ the executive director, if prior thereto the issuer has failed for whatever reason to file with the executive director a certificate evidencing that the bonds for which the reservation was filed have been delivered and paid for along with the final official statement or disclosure document relating to the housing bonds.

Sec. 6. RESERVATION CERTIFICATE. (a) Upon the filing of a reservation request complying with Section 5 of this Act *and to the extent that the local share of the state ceiling has not been exhausted,* the executive director shall promptly issue a reservation certificate. *In each calendar year, the [The] executive director shall issue certificates according to the date upon [order in] which the requests are filed in such calendar year.* If two or more reservation requests are filed on the same date, certificates shall be issued *according to the following categories of priority: (i) the first category of priority shall include reservation requests filed by housing finance corporations which filed reservation requests on behalf of the same local population during the 30-day period immediately following the determination of the state ceiling in the previous calendar year, but which did not receive a reservation certificate during such year due to the exhaustion of the local share of the state ceiling; (ii) the second category of priority shall include reservation requests not included in the first category of priority; and (iii) within each category of priority, certificates shall be issued in [the order of the date of execution of the bond purchase contracts. If both the date of filing of the requests and the date of execution of the bond purchase contracts are the same, the executive director shall issue certificates in] an order determined by lot, unless otherwise agreed by the affected housing finance corporations or the Texas Housing Agency. The executive director shall certify in connection with each reservation certificate that the issue of bonds that is the subject of the certificate meets the volume limitation requirements of Section 103A(g) of the Internal Revenue Code of 1954.*

(b) Each reservation certificate must contain the following information: (i) the local share; (ii) the name of the issuer; (iii) the amount and identity of the bonds to ~~[sold by the issuer under the bond purchase contract of]~~ which the certificate applies; and (iv) ~~[the date of execution of the bond purchase contract; and (v)]~~ the aggregate amount of the local share reserved by all issuers in the current calendar year for which reservation requests have been received and certificates have been issued which have not expired, including the bonds for which the certificate was issued.

Sec. 7. SPECIFICATION OF FORMS; FILING FEE. The executive director may prescribe forms for use in connection with any filing required under this Act *and may also establish procedures for the collection of a fee for the issuance of reservation certificates which shall not exceed \$1,000 per certificate.*

SECTION 2. This Act takes effect January 1, 1986.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on May 2, 1985, by a non-record vote; House concurred in Senate amendments to H.B. No. 1225 on May 26, 1985, by a non-record vote; passed by the Senate, with amendments, on May 24, 1985, by the following vote: Yeas 29, Nays 0.

Approved: June 14, 1985

Effective: January 1, 1986