

CHAPTER 650

S.B. No. 969

An Act relating to the provision of housing for the elderly and to the powers and duties of the Texas Housing Agency, corporations organized under the Texas Housing Finance Corporations Act, and the Texas Department on Aging; creating a special fund and prescribing its use; amending Section 2, Texas Housing Agency Act by adding Section 10A and adding Subdivision (z) to Section 2 and amending the Texas Housing Finance Corporations Act, as amended, by amending Sections 2 and 14 and Subsection A, Section 7 and adding Section 13A (Articles 1269I-6 and 1269I-7, Vernon's Texas Civil Statutes), and adding Subsection (g) to Section 101.022, Human Resources Code, as amended.

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

SECTION 1. Section 2, Texas Housing Agency Act (Article 1269I-6, Vernon's Texas Civil Statutes), is amended by adding Subdivision (z) to read as follows:

“(z) ‘Elderly individual’ means an individual 60 years of age or older.”

SECTION 2. The Texas Housing Agency Act (Article 1269I-6, Vernon's Texas Civil Statutes) is amended by adding Section 10A to read as follows:

"Section 10A. HOUSING FOR ELDERLY. (a) The agency shall adopt rules to achieve occupancy of at least five percent of the units in a multifamily housing development by elderly individuals of low income or by families of low or moderate income in which an elderly individual is head of the household. This provision applies only to a multifamily housing development that contains at least 20 units and is financed by bonds issued under this Act.

"(b) If a survey conducted by the housing sponsor and verified by the agency reveals that there is not sufficient need for housing for elderly individuals of low income or for families of low or moderate income in which an elderly individual is head of the household, 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 elderly individuals or for families in which an elderly individual is head of the household, the agency 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.

"(c) The agency shall cooperate with the Texas Department on Aging to implement this section and shall reimburse the department for the costs of:

"(1) assessing the need for housing for elderly individuals or for families in which an elderly individual is head of the household in different localities;

"(2) setting standards relating to the design and construction of housing for elderly individuals;

"(3) providing planning assistance to builders; and

"(4) publicizing the availability of the housing program to potential developers and residents.

"(d) The agency and the Texas Department on Aging shall determine the procedure for paying for the services provided by the Texas Department on Aging."

SECTION 3. Section 2, Texas Housing Finance Corporations Act, as amended (Article 1269I-7, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 2. **DEFINITIONS.** Wherever used in this Act, unless a different meaning clearly appears in the context, the following terms, whether used in the singular or plural, shall be given the following respective interpretations:

"(1) 'Bonds' means the revenue bonds authorized under this Act and includes notes and any and all other limited obligations payable as provided hereunder.

"(2) 'City' means any city or town of this state presently existing or hereafter created, whether existing or created by general law or pursuant to a home-rule charter.

"(3) 'Corporation' means any public nonprofit corporation organized pursuant to the provisions of this Act.

"(4) 'County' means any county of the State of Texas.

"(5) 'Development costs' means and includes the sum total of all reasonable or necessary costs incidental to the providing, acquisition, construction, reconstruction, rehabilitation, repair, alteration, improvement, and extension of a residential development, including, without limitation, the following: the cost of studies and surveys; plans and specifications; architectural and engineering services; financial advisory, mortgage banking and administrative services; underwriting fees; legal, accounting, marketing, and other special services relating to residential development or incurred in connection with the issuance and sale of bonds; necessary application and other fees to federal, state, and local government agencies for any requisite approvals for construction, for assisted financing or otherwise; financing, acquisition, demolition, construction, equipment, and site development of new and rehabilitated buildings; the relocation of utilities, public ways, and parks; the construction of recreational, cultural, and commercial facilities; rehabilitation, reconstruction, repair, or remodeling of existing buildings and all other necessary and incidental expenses, including trustee and rating agency fees and an initial bond and interest reserve together with interest on bonds issued to finance a residential development to a date 12 months subsequent to the estimated date of completion; any premiums for mortgage insurance or insurance with respect to bonds; and such other expenses as the corporation may deem appropriate to effectuate the purposes of this Act.

"(6) 'Economically depressed or blighted area' means: (i) an area that has been determined by the issuer to be a qualified census tract or an area of chronic economic distress pursuant to the requirements of Section 103A, Internal Revenue Code of 1954 (26 U.S.C. Sec. 103A), or (ii) an area established within a city that has a substantial number of substandard, slum, deteriorated, or deteriorating structures, that suffers from a high relative rate of unemployment, or (iii) that has been designed and included in a tax increment district created under Chapter 695, Acts of the 66th Legislature, Regular Session, 1979 (Article 1066d, Vernon's Texas Civil Statutes). To establish an economically depressed or blighted area, pursuant to the provisions of (ii) or (iii) of this subsection, the governing body of the city must hold a public hearing and find that the area substantially impairs or arrests the sound growth of the city, or that it constitutes an economic or

social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use. The governing body of a city holding such a hearing must give notice as provided by Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), except that notice must be published not less than 10 days before the day of the hearing.

“(7) ‘Elderly individual’ means an individual 60 years of age or older.

“(8) ‘Federally assisted new communities’ shall mean those federally assisted areas which have received or will receive assistance in the form of loan guarantees under Title X of the National Housing Act and a portion of the federally assisted area has received grants under Section 107(a)(1) of the Housing and Community Development Act of 1974, as amended.

“(9) ‘Governing body’ means, with reference to a local governmental unit, as herein defined, the council, commission, commissioners court, or similar body charged by law with the governance of a local governmental unit.

“(10) ‘Home’ means real property and improvements thereon located within a local governmental unit (but as to a county, not within a city within the county without approval of the governing body of the city if the population of the city exceeds 20,000 as determined by the corporation’s rules or regulations, resolutions relating to the issuance of bonds, or financing documents relating to such issuance) consisting of not more than four connected dwelling units, including but not limited to condominium units, owned by one mortgagor who occupies or intends to occupy one of such units.

“(11) ‘Home mortgage’ means an interest-bearing loan to a mortgagor, or a participation therein, for the purpose of purchasing, improving, or constructing a home, evidenced by a promissory note, secured by a mortgage, mortgage deed, deed of trust, or other instrument which constitutes a lien on such home, and which is guaranteed or insured by the United States or any agency, department, or instrumentality thereof, or by any private mortgage insurance or surety company, to the extent that such loan exceeds 80 percent of the lesser of (i) the appraised value of the home at the time of its making or (ii) the sales price of such home. Such guaranty or insurance shall not be required on home mortgages if the principal of and interest on the corporation’s bonds issued to make or purchase such home mortgages or to make loans to lending institutions are guaranteed or insured by an agency, department or instrumentality of the United States government or any insurance or surety company authorized to issue municipal bond insurance.

“(12) ‘Lending institution’ means any bank, trust company, savings bank, national banking association, savings and loan association, building and loan association, mortgage banker, mortgage company, credit union, life insurance company, or other financial institution or governmental agency which customarily provides service or otherwise aids in the financing of mortgages on single family residential housing or multifamily residential housing located in the local governmental unit, or any holding company for any of the foregoing.

“(13) ‘Local governmental unit’ means any city or county.

“(14) ‘Mortgagor’ means a person or persons of low or moderate income whose adjusted gross aggregate income, together with the adjusted gross aggregate income of all persons who intend to reside with such person or persons in one dwelling unit, did not, for the immediately preceding taxable year, exceed the maximum amount established as constituting moderate income by the corporation’s rules or regulations, resolutions relating to the issuance of bonds, or financing documents relating to such issuance. In economically depressed or blighted areas or in federally assisted new communities located within a home-rule city, ‘mortgagor’ may include:

“(A) a person or persons whose adjusted gross aggregate income exceeds the amount constituting moderate income if at least 90 percent of the total mortgage amount available under a home mortgage revenue bond issue is designated for persons of low or moderate income; or

“(B) a person or persons permitted to be a mortgagor under Section 103A of the Internal Revenue Code of 1954, as amended, as it applies to those areas or communities.

“(15) ‘Person’ means any individual, partnership, copartnership, firm, company, corporation, lending institution, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or its legal representative, agent, or assigns, but shall, when used with reference to a mortgagor or owner of a home, mean a natural person or a trust for the benefit of such natural person.

“(16) ‘Residential development’ means the acquisition, construction, reconstruction, rehabilitation, repair, alteration, improvement, or extension of any land, interest in land, building, structure, facility, system, fixture, improvement, addition, appurtenance, machinery, or equipment or any combination thereof, all real and personal property deemed necessary in connection therewith, and all real and personal property or improvements functionally related and subordinate thereto, substantially (at least 90 percent) for use by or intended to be occupied substantially (at least 90 percent) by persons of low and moderate income whose adjusted gross

income, together with the adjusted gross income of all persons who intend to reside with such persons in one dwelling unit, did not, for the immediately preceding taxable year, exceed the maximum amount established as constituting moderate income by the corporation's rules or regulations, resolutions relating to the issuance of bonds, or financing documents relating to such issuance, for the purpose of obtaining decent, safe, and sanitary housing, and in connection therewith nonhousing facilities which are an integral part of or functionally related to such residential development. Any such residential development shall be located within the local governmental unit."

SECTION 4. Subsection A, Section 7, Texas Housing Finance Corporations Act, as amended (Article 12691-7, Vernon's Texas Civil Statutes), is amended to read as follows:

"A. *A copy of the articles of incorporation shall be delivered to the Texas Department on Aging.* Duplicate originals of the articles of incorporation shall be delivered to the secretary of state. If the secretary of state finds that the articles of incorporation conform to this Act, he shall, when a fee of \$25 has been paid:

"(1) endorse on each duplicate original the word 'Filed,' and the month, day, and year of the filing thereof;

"(2) file one of such duplicate originals in his office;

"(3) issue a certificate of incorporation to which he shall affix the other duplicate original."

SECTION 5. The Texas Housing Finance Corporations Act, as amended (Article 12691-7, Vernon's Texas Civil Statutes), is amended by adding Section 13A to read as follows:

"Section 13A. **HOUSING FOR ELDERLY.** (a) *Except as provided by Subsection (b) of this section, each corporation shall require that not less than five percent of the units in a multifamily residential development containing at least 20 units and financed by bonds issued under this Act be built or renovated and be reserved for the lifetime of the development for occupation by elderly individuals of low income or families of low or moderate income in which an elderly individual is head of the household.*

"(b) *A corporation may, instead of requiring that a development reserve five percent of its units for elderly individuals or for families in which an elderly individual is head of the household, collect a fee equal to one-tenth percent of the total principal amount of the loan made for that development. The corporation shall collect the fee from the person receiving the loan at the time the loan is delivered. Immediately after receiving the fee, the corporation shall remit the fee to the Texas Department on Aging. The department shall deposit all funds received under this section to the credit of a special account in the General Revenue Fund. Funds in the special account may be used only to assist elderly individuals, or families in which an elderly individual is head of the household, to obtain housing.*

"(c) *If a corporation requires a reservation under Subsection (a) of this section, the design engineer for a bond-financed development must certify to the corporation that the units in the development built or renovated and reserved for elderly individuals or for families in which an elderly individual is head of the household meet standards set by the Texas Department on Aging for elderly individuals.*

"(d) *Each governing body of a local governmental unit authorizing, sponsoring, or otherwise participating in the creation of a corporation created under this Act shall cooperate with the Texas Department on Aging to implement this section and shall submit to the department an annual report regarding the number of developments financed under this Act, the number of units reserved for the elderly or for families in which an elderly individual is head of the household, the amount of fees collected, and other information required by the department.*"

SECTION 6. Section 14, Texas Housing Finance Corporations Act, as amended (Article 12691-7, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 14. **BONDS OF CORPORATION.** The exercise of any or all powers granted by this Act may be authorized and the bonds may be authorized to be issued under this Act for the purposes set forth in this Act, by resolution of the board of directors of the corporation, which shall take effect immediately upon adoption. The bonds shall bear interest at such rate or rates as authorized by the provisions of Chapter 3, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 717k-2, Vernon's Texas Civil Statutes), may be payable at such times, may be in one or more series, may bear such date or dates, may mature at such time or times, may be payable in such medium of payment at such place or places, may carry such registration privileges, may be subject to such terms of redemption at such premiums, may be executed in such manner, may contain such terms, covenants, and conditions, and may be in such form, either coupon or registered, as such resolution may provide. The bonds may be sold at public or private sale in such manner and upon such terms as may be provided in such resolution. Pending the preparation of definitive bonds, interim receipts, or certificates in such form and with such provisions as may be provided in such resolution, may be issued to the purchaser

or purchasers of bonds sold pursuant to this Act. *A corporation shall notify the Texas Department on Aging of each bond issuance and shall deliver to the department a copy of each certificate of resolution authorizing the issuance and any other information required by the department.*"

SECTION 7. Section 101.022, Human Resources Code, as amended, is amended by adding Subsection (g) to read as follows:

"(g) The department shall cooperate with the Texas Housing Agency to provide affordable housing for elderly individuals and for families in which an elderly individual is head of the household in accordance with the Texas Housing Agency Act (Article 12691-6, Vernon's Texas Civil Statutes) and shall:

"(1) assess the need for housing for elderly individuals and for families in which an elderly individual is head of the household in different localities;

"(2) set standards relating to the design and construction of housing for elderly individuals;

"(3) provide planning assistance to builders; and

"(4) publicize the availability of the housing program to potential developers and residents."

SECTION 8. The Texas Department on Aging shall conduct a preliminary study to determine the need for housing for the elderly and for families in which an elderly individual is head of the household and the location of the greatest amount of need. The department shall complete the study and report the results to the Texas Housing Agency not later than January 1, 1986.

SECTION 9. All funds deposited during the 1986-1987 fiscal biennium to the credit of the special account established by Section 13A, Texas Housing Finance Corporations Act (Article 12691-7, Vernon's Texas Civil Statutes), as added by this Act, are appropriated to the Texas Department on Aging to assist elderly individuals to obtain housing.

SECTION 10. Section 10A, Texas Housing Agency Act (Article 12691-6, Vernon's Texas Civil Statutes), as added by this Act, and Section 13A, Texas Housing Finance Corporations Act (Article 12691-7, Vernon's Texas Civil Statutes), as added by this Act, apply only to housing developments financed by bonds issued as a result of an official decision to issue bonds by the agency or a corporation that occurs on or after January 1, 1986.

SECTION 11. This Act takes effect September 1, 1985.

SECTION 12. 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 the Senate on April 25, 1985, by the following vote: Yeas 30, Nays 0; Senate concurred in House amendment on May 24, 1985, by the following vote: Yeas 30, Nays 0; passed the House, with amendment, on May 23, 1985, by a non-record vote.

Approved: June 14, 1985

Effective: September 1, 1985