

By: Rosenthal

H.B. No. 1286

A BILL TO BE ENTITLED

AN ACT

1
2 relating to requirements for beneficial tax treatment related to a
3 leasehold or other possessory interest in a public facility used to
4 provide affordable housing.

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

6 SECTION 1. Section 303.042(f), Local Government Code, is
7 amended to read as follows:

8 (f) Notwithstanding Subsections (a) and (b), during the
9 period of time that a corporation owns a particular public
10 facility, a leasehold or other possessory interest in the real
11 property of the public facility granted by the corporation shall
12 be treated in the same manner as a leasehold or other possessory
13 interest in real property granted by an authority under Section
14 379B.011(b) if the requirements under Section 303.0425 are met.

15 SECTION 2. Subchapter B, Chapter 303, Local Government
16 Code, is amended by adding Section 303.0425 to read as follows:

17 Sec. 303.0425. REQUIREMENTS FOR BENEFICIAL TAX TREATMENT
18 RELATING TO CERTAIN PUBLIC FACILITIES. (a) In this section:

19 (1) "Affordable housing unit" means a residential unit
20 reserved for occupancy by an individual or family earning not more
21 than 80 percent of the area median income, adjusted for family size.

22 (2) "Department" means the Texas Department of Housing
23 and Community Affairs.

24 (3) "Developer" means a private entity that constructs

1 or rehabilitates a development.

2 (4) "Housing choice voucher program" means the housing
3 choice voucher program under Section 8, United States Housing Act
4 of 1937 (42 U.S.C. Section 1437f).

5 (5) "Housing development" means a development
6 constructed or rehabilitated to provide multifamily housing that
7 includes affordable housing units.

8 (6) "Public facility user" means a developer or other
9 private entity that has a leasehold or other possessory interest in
10 a public facility used to provide multifamily housing.

11 (b) Section 303.042(f) applies to a leasehold or other
12 possessory interest in a public facility only if the sponsor, the
13 corporation, the public facility user, and the housing development
14 meet the requirements of this section, as applicable. The
15 requirements prescribed by this section apply only to the
16 application of taxes related to a leasehold or other possessory
17 interest in a public facility under Section 303.042(f) and do not
18 restrict the authority of a corporation to lease a public facility
19 to a private entity under terms other than the terms described by
20 this section.

21 (c) A sponsor shall identify goals for public facilities
22 used for housing developments and establish selection criteria
23 based on the goals to be used by corporations for scoring proposals
24 from developers of housing developments. A corporation must issue a
25 request for proposals from developers before the corporation enters
26 into a lease agreement for a public facility with a developer for
27 the purpose of constructing or rehabilitating a housing

1 development.

2 (d) If a developer substantially rehabilitates an existing
3 multifamily residential property that is a public facility leased
4 by the developer, the original construction of the property must
5 have been completed at least 10 years before the date the developer
6 begins rehabilitation of the property.

7 (e) A public facility user must reserve:

8 (1) at least 50 percent of the total units in a housing
9 development as affordable housing units;

10 (2) at least 50 percent of the affordable housing
11 units in the development for occupancy by individuals or families
12 earning not more than 60 percent of area median income, adjusted for
13 family size; and

14 (3) at least 20 percent of the affordable housing
15 units in the development for individuals or families participating
16 in the housing choice voucher program if the development is
17 located:

18 (A) in the attendance zone of an elementary
19 school that has passed accountability standards adopted by the
20 Texas Education Agency for the most recent school year available;

21 (B) in the attendance zone of a high school with a
22 graduation rate of at least 85 percent; and

23 (C) in a census tract in which:

24 (i) fewer than 10 percent of the households
25 have a household income equal to or less than the federal poverty
26 line; and

27 (ii) the median income for households is

1 equal to or greater than 80 percent of area median income.

2 (f) The percentage of affordable housing units reserved in
3 each category of units in the housing development, based on the
4 number of bedrooms and bathrooms per unit, must be the same as the
5 percentage of affordable housing units reserved in the housing
6 development as a whole.

7 (g) The monthly rent charged by a public facility user for
8 an affordable housing unit may not exceed:

9 (1) 30 percent of 80 percent of area median income,
10 minus an allowance for utility costs, if the individual or family
11 renting the unit earns more than 60 percent but not more than 80
12 percent of the area median income, adjusted for family size; and

13 (2) 30 percent of 60 percent of area median income,
14 minus an allowance for utility costs, if the individual or family
15 renting the unit earns not more than 60 percent of the area median
16 income, adjusted for family size.

17 (h) In calculating the income of an individual or family for
18 an affordable housing unit, the public facility user must consider
19 the income of every individual who will be living in the unit.

20 (i) A public facility user may not:

21 (1) refuse to rent an affordable housing unit to an
22 individual or family because the individual or family participates
23 in the housing choice voucher program; or

24 (2) use a financial or minimum income standard that
25 requires an individual or family participating in the housing
26 choice voucher program to have a monthly income of more than 250
27 percent of the individual's or family's share of the total monthly

1 rent payable for an affordable housing unit.

2 (j) A housing authority that sponsors a corporation that
3 leases a public facility used as a housing development to a public
4 facility user shall:

5 (1) publish information about the affordable housing
6 units in the housing development on its Internet website, if the
7 authority maintains a website; and

8 (2) provide information about the affordable housing
9 units directly to individuals and families participating in the
10 authority's housing choice voucher program.

11 (k) Not later than February 1 of each year, a public
12 facility user of a housing development must submit to the chief
13 appraiser of the appraisal district in which the housing
14 development is located an audit report for a compliance audit
15 conducted by an independent auditor to determine whether the public
16 facility user is in compliance with:

17 (1) all contracts and other agreements between the
18 public facility user and the sponsor or corporation relating to the
19 housing development; and

20 (2) all applicable state and local laws, including the
21 requirements of this section.

22 (l) The sponsor of a corporation that leases a public
23 facility used as a housing development to a public facility user
24 shall submit an annual report to the department and to the
25 comptroller. The report must include:

26 (1) a copy of all contracts and other agreements
27 between the public facility user and the sponsor or corporation

1 relating to the housing development; and
2 (2) statistics describing the demographics of the
3 residents of the housing development, including incomes and family
4 sizes.

5 (m) The department and the comptroller shall each post a
6 copy of a report received under Subsection (1) on its respective
7 Internet website.

8 (n) The governing board of the department shall adopt rules
9 and forms necessary to implement Subsection (1).

10 SECTION 3. Section 303.0425, Local Government Code, as
11 added by this Act, applies only to a leasehold or other possessory
12 interest in a public facility granted by a public facility
13 corporation to a public facility user, as defined by that section,
14 on or after the effective date of this Act.

15 SECTION 4. As soon as practicable after the effective date
16 of this Act, the governing board of the Texas Department of Housing
17 and Community Affairs shall adopt rules as necessary to implement
18 Section 303.0425(1), Local Government Code, as added by this Act.

19 SECTION 5. This Act takes effect September 1, 2021.