

1-1 By: Walle, Campos, Morales Shaw H.B. No. 1931  
 1-2 (Senate Sponsor - Bettencourt)  
 1-3 (In the Senate - Received from the House April 19, 2021;  
 1-4 May 6, 2021, read first time and referred to Committee on Local  
 1-5 Government; May 24, 2021, reported adversely, with favorable  
 1-6 Committee Substitute by the following vote: Yeas 7, Nays 0;  
 1-7 May 24, 2021, sent to printer.)

1-8 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-9 Bettencourt	X			
1-10 Menéndez	X			
1-11 Eckhardt			X	
1-12 Gutierrez			X	
1-13 Hall	X			
1-14 Nichols	X			
1-15 Paxton	X			
1-16 Springer	X			
1-17 Zaffirini	X			

1-19 COMMITTEE SUBSTITUTE FOR H.B. No. 1931 By: Bettencourt

1-20 A BILL TO BE ENTITLED  
 1-21 AN ACT

1-22 relating to certain public facilities used to provide affordable  
 1-23 housing.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Section 303.021, Local Government Code, is  
 1-26 amended by adding Subsection (c) to read as follows:

1-27 (c) A corporation or a sponsor may finance, own, or operate  
 1-28 a multifamily residential development in the jurisdictional  
 1-29 boundaries of the sponsor if the corporation or sponsor complies  
 1-30 with all applicable provisions of this chapter.

1-31 SECTION 2. Section 303.042, Local Government Code, is  
 1-32 amended by amending Subsections (d) and (f) and adding Subsections  
 1-33 (d-1) and (d-2) to read as follows:

1-34 (d) This subsection applies only to a multifamily  
 1-35 residential development that is owned by a corporation created  
 1-36 under this chapter by a housing authority and that does not have at  
 1-37 least 20 percent of its units reserved for public housing units,  
 1-38 participate in the Rental Assistance Demonstration program  
 1-39 administered by the United States Department of Housing and Urban  
 1-40 Development, or receive financial assistance administered under  
 1-41 Chapter 1372, Government Code, or Subchapter DD, Chapter 2306,  
 1-42 Government Code. Notwithstanding Subsections (a) and (b), an [An]  
 1-43 exemption under this section for a multifamily residential  
 1-44 development [which is owned by a public facility corporation  
 1-45 created by a housing authority under this chapter and which does not  
 1-46 have at least 20 percent of its units reserved for public housing  
 1-47 units,] applies only if:

1-48 (1) the housing authority:

1-49 (A) provides notice of the development to the  
 1-50 governing body of each municipality or county for which the  
 1-51 authority was created; and

1-52 (B) holds a public hearing, at a [regular]  
 1-53 meeting of the authority's governing body, to approve the  
 1-54 development; [and]

1-55 (2) at least 50 percent of the units in the multifamily  
 1-56 residential development are reserved for occupancy by individuals  
 1-57 and families earning less than 80 percent of the area median  
 1-58 [family] income;

1-59 (3) the requirements under Sections 303.0425 and  
 1-60 303.0426 are met; and

1-61 (4) for an occupied multifamily residential  
 1-62 development that is acquired by a corporation:

2-1 (A) the governing body of each municipality or  
2-2 county for which the authority was created approves a resolution of  
2-3 "no objection" for the development; and

2-4 (B) a sum of not less than 50 percent of the total  
2-5 gross cost of the existing project in its entirety is expended on  
2-6 rehabilitating, renovating, reconstructing, or repairing the  
2-7 project.

2-8 (d-1) This subsection applies only to a multifamily  
2-9 residential development that is owned by a corporation created  
2-10 under this chapter by a sponsor other than a housing authority and  
2-11 that does not have at least 20 percent of its units reserved for  
2-12 public housing units, participate in the Rental Assistance  
2-13 Demonstration program administered by the United States Department  
2-14 of Housing and Urban Development, or receive financial assistance  
2-15 administered under Chapter 1372, Government Code, or Subchapter DD,  
2-16 Chapter 2306, Government Code. Notwithstanding Subsections (a) and  
2-17 (b), an exemption under this section for a multifamily residential  
2-18 development applies only if:

2-19 (1) at least 50 percent of the units in the multifamily  
2-20 residential development are reserved for occupancy by individuals  
2-21 and families earning less than 80 percent of the area median income;

2-22 (2) before constructing or acquiring the development,  
2-23 the corporation provides notice of the construction or acquisition  
2-24 to the governing body of each sponsor for which the corporation was  
2-25 created unless at least one elected member of the governing body of  
2-26 the sponsor serves on the board of directors of the corporation; and

2-27 (3) the requirements under Section 303.0426 are met.

2-28 (d-2) This subsection applies to a multifamily residential  
2-29 development that is owned by a corporation created by any sponsor  
2-30 under this chapter. Notwithstanding Subsections (a), (b), (d), and  
2-31 (d-1), an exemption under this section for an occupied multifamily  
2-32 residential development that is acquired by the corporation applies  
2-33 only if the development comes into compliance with the requirements  
2-34 of Subsection (d) or (d-1), as applicable, not later than the first  
2-35 anniversary of the date of the acquisition.

2-36 (f) Notwithstanding Subsections (a) and (b), during  
2-37 the period [~~of time~~] that a corporation owns a particular public  
2-38 facility that provides multifamily housing:

2-39 (1) [~~r~~] a leasehold or other possessory interest in  
2-40 the real property of the public facility granted by the corporation  
2-41 shall be treated in the same manner as a leasehold or other  
2-42 possessory interest in real property granted by an authority under  
2-43 Section 379B.011(b); and

2-44 (2) the materials used by a person granted a  
2-45 possessory interest described by Subdivision (1) to improve the  
2-46 real property of the public facility shall be exempt from all sales  
2-47 and use taxes because the materials are for the benefit of the  
2-48 corporation.

2-49 SECTION 3. Subchapter B, Chapter 303, Local Government  
2-50 Code, is amended by adding Sections 303.0425 and 303.0426 to read as  
2-51 follows:

2-52 Sec. 303.0425. ADDITIONAL REQUIREMENTS FOR BENEFICIAL TAX  
2-53 TREATMENT RELATING TO CERTAIN PUBLIC FACILITIES OWNED BY  
2-54 CORPORATIONS CREATED BY HOUSING AUTHORITIES. (a) In this section:

2-55 (1) "Developer" means a private entity that constructs  
2-56 a development.

2-57 (2) "Housing choice voucher program" means the housing  
2-58 choice voucher program under Section 8, United States Housing Act  
2-59 of 1937 (42 U.S.C. Section 1437f).

2-60 (3) "Lower income housing unit" means a residential  
2-61 unit reserved for occupancy by an individual or family earning not  
2-62 more than 60 percent of the area median income, adjusted for family  
2-63 size.

2-64 (4) "Public facility user" means a public-private  
2-65 partnership entity or a developer or other private entity that has  
2-66 an ownership interest or a leasehold or other possessory interest  
2-67 in a public facility used to provide multifamily housing.

2-68 (b) The requirements prescribed by this section do not apply  
2-69 to a multifamily residential development that is:

2-70 (1) owned by a corporation that was not created by a  
2-71 housing authority; or

3-1 (2) owned by a corporation created by a housing  
3-2 authority and:  
3-3 (A) in which at least 20 percent of the units are  
3-4 reserved for public housing units;  
3-5 (B) that participates in the Rental Assistance  
3-6 Demonstration program administered by the United States Department  
3-7 of Housing and Urban Development; or  
3-8 (C) that receives financial assistance  
3-9 administered under Chapter 1372, Government Code, or Subchapter DD,  
3-10 Chapter 2306, Government Code.  
3-11 (c) A corporation must use an open, transparent, and  
3-12 competitive process for selecting a developer for the purpose of  
3-13 constructing a housing development.  
3-14 (d) At least 10 percent of the units in the development must  
3-15 be reserved as lower income housing units. A unit may not be used to  
3-16 satisfy the reservation required under this subsection if every  
3-17 tenant in the unit is:  
3-18 (1) a part-time or full-time student at an institution  
3-19 of higher education;  
3-20 (2) under the age of 24; and  
3-21 (3) ineligible for housing assistance under Section 8,  
3-22 United States Housing Act of 1937 (42 U.S.C. Section 1437f).  
3-23 (e) The percentage of lower income housing units reserved in  
3-24 each category of units in the housing development, based on the  
3-25 number of bedrooms and bathrooms per unit, must be the same as the  
3-26 percentage of lower income housing units reserved in the housing  
3-27 development as a whole.  
3-28 (f) The monthly rent charged for a lower income housing unit  
3-29 may not exceed:  
3-30 (1) 30 percent of 60 percent of the area median income,  
3-31 adjusted for family size; or  
3-32 (2) if the unit is occupied by a participant in the  
3-33 housing choice voucher program, the payment standard used by the  
3-34 housing authority that administers the voucher for the unit.  
3-35 (g) In calculating the income of an individual or family for  
3-36 a lower income housing unit, the public facility user must consider  
3-37 the income of every individual who will be living in the unit.  
3-38 Sec. 303.0426. ADDITIONAL REQUIREMENTS FOR BENEFICIAL TAX  
3-39 TREATMENT RELATING TO CERTAIN PUBLIC FACILITIES OWNED BY  
3-40 CORPORATIONS CREATED BY ANY SPONSOR. (a) In this section, "housing  
3-41 choice voucher program," "lower income housing unit," and "public  
3-42 facility user" have the meanings assigned by Section 303.0425.  
3-43 (b) The requirements prescribed by this section do not apply  
3-44 to a multifamily residential development owned by a corporation:  
3-45 (1) in which at least 20 percent of the units are  
3-46 reserved for public housing units;  
3-47 (2) that participates in the Rental Assistance  
3-48 Demonstration program administered by the United States Department  
3-49 of Housing and Urban Development; or  
3-50 (3) that receives financial assistance administered  
3-51 under Chapter 1372, Government Code, or Subchapter DD, Chapter  
3-52 2306, Government Code.  
3-53 (c) A public facility user may not:  
3-54 (1) refuse to rent a residential unit to an individual  
3-55 or family because the individual or family participates in the  
3-56 housing choice voucher program; or  
3-57 (2) use a financial or minimum income standard that  
3-58 requires an individual or family participating in the housing  
3-59 choice voucher program to have a monthly income of more than 250  
3-60 percent of the individual's or family's share of the total monthly  
3-61 rent payable for a unit.  
3-62 (d) A corporation that owns or leases to a public facility  
3-63 user a public facility used as a multifamily residential  
3-64 development shall publish on its Internet website information about  
3-65 the development's:  
3-66 (1) compliance with the requirements of this section;  
3-67 and  
3-68 (2) policies regarding tenant participation in the  
3-69 housing choice voucher program.  
3-70 (e) A public facility user shall:  
3-71 (1) affirmatively market available residential units

4-1 directly to individuals and families participating in the housing  
4-2 choice voucher program; and  
4-3 (2) notify local housing authorities of any available  
4-4 units in the development.  
4-5 (f) Not later than April 1 of each year, a public facility  
4-6 user of a multifamily residential development must:  
4-7 (1) submit to the chief appraiser of the appraisal  
4-8 district in which the development is located an audit report for a  
4-9 compliance audit conducted by an independent auditor or compliance  
4-10 expert to determine whether the public facility user is in  
4-11 compliance with the requirements of this section; and  
4-12 (2) submit to the comptroller a report that includes,  
4-13 for each housing development:  
4-14 (A) the name of the development;  
4-15 (B) the street address and municipality or county  
4-16 in which the development is located;  
4-17 (C) the name of the developer;  
4-18 (D) the total number of residential units,  
4-19 reported by bedroom size;  
4-20 (E) the total number of lower income housing  
4-21 units, reported by bedroom size, level of income restriction, and  
4-22 rent;  
4-23 (F) the total number of residential units,  
4-24 reported by bedroom size, level of income restriction, and rent,  
4-25 that are not lower income housing units but that are reserved for  
4-26 occupancy by an individual or family earning less than 80 percent of  
4-27 the area median income;  
4-28 (G) the number of residential units rented by  
4-29 individuals and families who participate in the housing choice  
4-30 voucher program, reported by bedroom size;  
4-31 (H) the race, ethnicity, and age of all  
4-32 occupants, if available; and  
4-33 (I) if not previously submitted in a report to  
4-34 the comptroller, or if amended since the previous submission:  
4-35 (i) a copy of the ground lease; and  
4-36 (ii) a copy of the partnership agreement  
4-37 for the public facility.  
4-38 (g) The reports submitted under Subsection (f) are public  
4-39 information and subject to disclosure under Chapter 552, Government  
4-40 Code, except that information containing tenant names, unit  
4-41 numbers, or other identifying information may be redacted. The  
4-42 comptroller shall post a copy of the report received under  
4-43 Subsection (f)(2) on its Internet website.  
4-44 (h) Each lease agreement for a unit in a multifamily  
4-45 residential development subject to this section must provide that:  
4-46 (1) the landlord may not retaliate against the tenant  
4-47 or the tenant's guests by taking an action because the tenant  
4-48 established, attempted to establish, or participated in a tenant  
4-49 organization;  
4-50 (2) the landlord may only choose to not renew the lease  
4-51 if the tenant:  
4-52 (A) is in material noncompliance with the lease,  
4-53 including nonpayment of rent after the required cure period;  
4-54 (B) committed one or more substantial violations  
4-55 of the lease;  
4-56 (C) failed to provide required information on the  
4-57 income, composition, or eligibility of the tenant's household; or  
4-58 (D) committed repeated minor violations of the  
4-59 lease that:  
4-60 (i) disrupt the livability of the property;  
4-61 (ii) adversely affect the health and safety  
4-62 of any person or the right to quiet enjoyment of the leased premises  
4-63 and related project facilities;  
4-64 (iii) interfere with the management of the  
4-65 project; or  
4-66 (iv) have an adverse financial effect on  
4-67 the project, including the repeated failure of the tenant to pay  
4-68 rent in a timely manner;  
4-69 (3) to not renew the lease, the landlord must serve a  
4-70 written notice of proposed nonrenewal on the tenant at least 30 days  
4-71 before the effective date of nonrenewal; and

5-1 (4) any written notice of a proposed nonrenewal that  
5-2 is required to be provided under Subdivision (3) must specify the  
5-3 date of the proposed nonrenewal.

5-4 (i) A tenant may not waive the protections provided by  
5-5 Subsection (h).

5-6 (j) A public facility corporation must be given:  
5-7 (1) written notice of an instance of noncompliance  
5-8 with this section; and

5-9 (2) 90 days after the day notice is received under  
5-10 Subdivision (1) to cure the matter that is the subject of the  
5-11 notice.

5-12 (k) Notwithstanding any other law, an occupied multifamily  
5-13 residential development that is acquired by a public facility  
5-14 corporation is eligible for an exemption under Section 303.042(d-2)  
5-15 for the one-year period following the date of the acquisition  
5-16 regardless of whether the development complies with the other  
5-17 requirements of that section or with this section, as applicable.

5-18 SECTION 4. Section 392.005(c), Local Government Code, is  
5-19 amended to read as follows:

5-20 (c) An exemption under this section for a multifamily  
5-21 residential development which is owned by [~~(i) a public facility~~  
5-22 ~~corporation created by a housing authority under Chapter 303, (ii)]~~  
5-23 a housing development corporation~~[,]~~ or [~~(iii)]~~ a similar entity  
5-24 created by a housing authority, other than a public facility  
5-25 corporation created by a housing authority under Chapter 303, and  
5-26 which does not have at least 20 percent of its units reserved for  
5-27 public housing units, applies only if:

5-28 (1) the authority holds a public hearing, at a regular  
5-29 meeting of the authority's governing body, to approve the  
5-30 development; and

5-31 (2) at least 50 percent of the units in the multifamily  
5-32 residential development are reserved for occupancy by individuals  
5-33 and families earning less than 80 percent of the area median family  
5-34 income.

5-35 SECTION 5. (a) Section 303.042(d), Local Government Code,  
5-36 as amended by this Act, applies only to a multifamily residential  
5-37 development that is approved by a housing authority on or after the  
5-38 effective date of this Act. A multifamily residential development  
5-39 that is approved by a housing authority before the effective date of  
5-40 this Act is governed by the law in effect on the date the  
5-41 development was approved by the housing authority, and the former  
5-42 law is continued in effect for that purpose.

5-43 (b) Section 303.042(d-1), Local Government Code, as added  
5-44 by this Act, applies only to a multifamily residential development  
5-45 that is approved by a public facility corporation on or after the  
5-46 effective date of this Act. A multifamily residential development  
5-47 that is approved by a public facility corporation before the  
5-48 effective date of this Act is governed by the law in effect on the  
5-49 date the development was approved by the public facility  
5-50 corporation, and the former law is continued in effect for that  
5-51 purpose.

5-52 (c) Section 303.042(d-2), Local Government Code, as added  
5-53 by this Act, applies only to a multifamily residential development  
5-54 that is acquired by a public facility corporation on or after the  
5-55 effective date of this Act. A multifamily residential development  
5-56 that is acquired by a public facility corporation before the  
5-57 effective date of this Act is governed by the law in effect on the  
5-58 date the development was acquired by the public facility  
5-59 corporation, and the former law is continued in effect for that  
5-60 purpose.

5-61 SECTION 6. This Act takes effect September 1, 2021.

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