

By: Bettencourt

S.B. No. 591

A BILL TO BE ENTITLED

AN ACT

relating to certain public facilities used to provide affordable housing.

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

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

(c) A corporation or a sponsor may finance, own, or operate a multifamily residential development if the corporation or sponsor complies with all applicable provisions of this chapter.

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

(d) This subsection applies only to a multifamily residential development that is owned by a corporation created under this chapter by a housing authority and that does not have at least 20 percent of its units reserved for public housing units, participate in the Rental Assistance Demonstration program administered by the United States Department of Housing and Urban Development, or receive financial assistance administered under Chapter 1372, Government Code, or Subchapter DD, Chapter 2306, Government Code. Notwithstanding Subsections (a) and (b), an [An] exemption under this section for a multifamily residential development ~~[which is owned by a public facility corporation created by a housing authority under this chapter and which does not~~

1 ~~have at least 20 percent of its units reserved for public housing~~
2 ~~units,~~] applies only if:

3 (1) the housing authority holds a public hearing, at a
4 ~~[regular]~~ meeting of the authority's governing body, to approve the
5 development; ~~[and]~~

6 (2) at least 50 percent of the units in the multifamily
7 residential development are reserved for occupancy by individuals
8 and families earning less than 80 percent of the area median
9 ~~[family]~~ income;

10 (3) the requirements under Sections 303.0425 and
11 303.0426 are met; and

12 (4) for an occupied multifamily residential
13 development that is acquired by a corporation:

14 (A) the governing body of each municipality or
15 county for which the sponsor of the corporation was created
16 approves a resolution of "no objection" for the development; and

17 (B) a sum of not less than 50 percent of the total
18 gross cost of the existing project in its entirety is expended on
19 rehabilitating, renovating, reconstructing, or repairing the
20 project.

21 (d-1) This subsection applies only to a multifamily
22 residential development that is owned by a corporation created
23 under this chapter by a sponsor other than a housing authority and
24 that does not have at least 20 percent of its units reserved for
25 public housing units, participate in the Rental Assistance
26 Demonstration program administered by the United States Department
27 of Housing and Urban Development, or receive financial assistance

1 administered under Chapter 1372, Government Code, or Subchapter DD,
2 Chapter 2306, Government Code. Notwithstanding Subsections (a) and
3 (b), an exemption under this section for a multifamily residential
4 development applies only if:

5 (1) at least 50 percent of the units in the multifamily
6 residential development are reserved for occupancy by individuals
7 and families earning less than 80 percent of the area median income;
8 and

9 (2) the requirements under Section 303.0426 are met.

10 (d-2) This subsection applies to a multifamily residential
11 development that is owned by a corporation created by any sponsor
12 under this chapter. Notwithstanding Subsections (a), (b), (d), and
13 (d-1), an exemption under this section for an occupied multifamily
14 residential development that is acquired by the corporation applies
15 only if the development comes into compliance with the requirements
16 of Subsection (d) or (d-1), as applicable, not later than the first
17 anniversary of the date of the acquisition.

18 (f) Notwithstanding Subsections (a) and (b), during
19 the period ~~[of time]~~ that a corporation owns a particular public
20 facility that provides multifamily housing:

21 (1) [7] a leasehold or other possessory interest in
22 the real property of the public facility granted by the corporation
23 shall be treated in the same manner as a leasehold or other
24 possessory interest in real property granted by an authority under
25 Section 379B.011(b); and

26 (2) the materials used by a person granted a
27 possessory interest described by Subdivision (1) to improve the

1 real property of the public facility shall be exempt from all sales
2 and use taxes because the materials are for the benefit of the
3 corporation.

4 SECTION 3. Subchapter B, Chapter 303, Local Government
5 Code, is amended by adding Sections 303.0425 and 303.0426 to read as
6 follows:

7 Sec. 303.0425. ADDITIONAL REQUIREMENTS FOR BENEFICIAL TAX
8 TREATMENT RELATING TO CERTAIN PUBLIC FACILITIES OWNED BY
9 CORPORATIONS CREATED BY HOUSING AUTHORITIES. (a) In this section:

10 (1) "Developer" means a private entity that constructs
11 a development.

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

15 (3) "Lower income housing unit" means a residential
16 unit reserved for occupancy by an individual or family earning not
17 more than 60 percent of the area median income, adjusted for family
18 size.

19 (4) "Public facility user" means a public-private
20 partnership entity or a developer or other private entity that has
21 an ownership interest or a leasehold or other possessory interest
22 in a public facility used to provide multifamily housing.

23 (b) The requirements prescribed by this section do not apply
24 to a multifamily residential development that is:

25 (1) owned by a corporation that was not created by a
26 housing authority; or

27 (2) owned by a corporation created by a housing

1 authority and:

2 (A) in which at least 20 percent of the units are
3 reserved for public housing units;

4 (B) that participates in the Rental Assistance
5 Demonstration program administered by the United States Department
6 of Housing and Urban Development; or

7 (C) that receives financial assistance
8 administered under Chapter 1372, Government Code, or Subchapter DD,
9 Chapter 2306, Government Code.

10 (c) A corporation must use an open, transparent, and
11 competitive process for selecting a developer for the purpose of
12 constructing a housing development.

13 (d) At least 10 percent of the units in the development must
14 be reserved as lower income housing units. A unit may not be used to
15 satisfy the reservation required under this subsection if every
16 tenant in the unit is:

17 (1) a part-time or full-time student at an institution
18 of higher education;

19 (2) under the age of 24; and

20 (3) ineligible for housing assistance under Section 8,
21 United States Housing Act of 1937 (42 U.S.C. Section 1437f).

22 (e) The percentage of lower income housing units reserved in
23 each category of units in the housing development, based on the
24 number of bedrooms and bathrooms per unit, must be the same as the
25 percentage of lower income housing units reserved in the housing
26 development as a whole.

27 (f) The monthly rent charged for a lower income housing unit

1 may not exceed:

2 (1) 30 percent of 60 percent of the area median income,
3 adjusted for family size; or

4 (2) if the unit is occupied by a participant in the
5 housing choice voucher program, the payment standard used by the
6 housing authority that administers the voucher for the unit.

7 (g) In calculating the income of an individual or family for
8 a lower income housing unit, the public facility user must consider
9 the income of every individual who will be living in the unit.

10 Sec. 303.0426. ADDITIONAL REQUIREMENTS FOR BENEFICIAL TAX
11 TREATMENT RELATING TO CERTAIN PUBLIC FACILITIES OWNED BY
12 CORPORATIONS CREATED BY ANY SPONSOR. (a) In this section, "housing
13 choice voucher program," "lower income housing unit," and "public
14 facility user" have the meanings assigned by Section 303.0425.

15 (b) The requirements prescribed by this section do not apply
16 to a multifamily residential development owned by a corporation:

17 (1) in which at least 20 percent of the units are
18 reserved for public housing units;

19 (2) that participates in the Rental Assistance
20 Demonstration program administered by the United States Department
21 of Housing and Urban Development; or

22 (3) that receives financial assistance administered
23 under Chapter 1372, Government Code, or Subchapter DD, Chapter
24 2306, Government Code.

25 (c) A public facility user may not:

26 (1) refuse to rent a residential unit to an individual
27 or family because the individual or family participates in the

1 housing choice voucher program; or

2 (2) use a financial or minimum income standard that
3 requires an individual or family participating in the housing
4 choice voucher program to have a monthly income of more than 250
5 percent of the individual's or family's share of the total monthly
6 rent payable for a unit.

7 (d) A corporation that owns or leases to a public facility
8 user a public facility used as a multifamily residential
9 development shall publish on its Internet website information about
10 the development's:

11 (1) compliance with the requirements of this section;
12 and

13 (2) policies regarding tenant participation in the
14 housing choice voucher program.

15 (e) A public facility user shall:

16 (1) affirmatively market available residential units
17 directly to individuals and families participating in the housing
18 choice voucher program; and

19 (2) notify local housing authorities of any available
20 units in the development.

21 (f) Not later than April 1 of each year, a public facility
22 user of a multifamily residential development must:

23 (1) submit to the chief appraiser of the appraisal
24 district in which the development is located an audit report for a
25 compliance audit conducted by an independent auditor or compliance
26 expert to determine whether the public facility user is in
27 compliance with the requirements of this section; and

1 (2) submit to the comptroller a report that includes,
2 for each housing development:
3 (A) the name of the development;
4 (B) the street address and municipality or county
5 in which the development is located;
6 (C) the name of the developer;
7 (D) the total number of residential units,
8 reported by bedroom size;
9 (E) the total number of lower income housing
10 units, reported by bedroom size, level of income restriction, and
11 rent;
12 (F) the total number of residential units,
13 reported by bedroom size, level of income restriction, and rent,
14 that are not lower income housing units but that are reserved for
15 occupancy by an individual or family earning less than 80 percent of
16 the area median income;
17 (G) the number of residential units rented by
18 individuals and families who participate in the housing choice
19 voucher program, reported by bedroom size;
20 (H) the race, ethnicity, and age of all
21 occupants, if available; and
22 (I) if not previously submitted in a report to
23 the comptroller, or if amended since the previous submission:
24 (i) a copy of the ground lease; and
25 (ii) a copy of the partnership agreement
26 for the public facility.
27 (g) The reports submitted under Subsection (f) are public

1 information and subject to disclosure under Chapter 552, Government
2 Code, except that information containing tenant names, unit
3 numbers, or other identifying information may be redacted. The
4 comptroller shall post a copy of the report received under
5 Subsection (f)(2) on its Internet website.

6 (h) Each lease agreement for a unit in a multifamily
7 residential development subject to this section must provide that:

8 (1) the landlord may not retaliate against the tenant
9 or the tenant's guests by taking an action because the tenant
10 established, attempted to establish, or participated in a tenant
11 organization;

12 (2) the landlord may only choose to not renew the lease
13 if the tenant:

14 (A) is in material noncompliance with the lease,
15 including nonpayment of rent after the required cure period;

16 (B) committed one or more substantial violations
17 of the lease;

18 (C) failed to provide required information on the
19 income, composition, or eligibility of the tenant's household; or

20 (D) committed repeated minor violations of the
21 lease that:

22 (i) disrupt the livability of the property;

23 (ii) adversely affect the health and safety
24 of any person or the right to quiet enjoyment of the leased premises
25 and related project facilities;

26 (iii) interfere with the management of the
27 project; or

1 (iv) have an adverse financial effect on
2 the project, including the repeated failure of the tenant to pay
3 rent in a timely manner;

4 (3) to not renew the lease, the landlord must serve a
5 written notice of proposed nonrenewal on the tenant at least 30 days
6 before the effective date of nonrenewal; and

7 (4) any written notice of a proposed nonrenewal that
8 is required to be provided under Subdivision (3) must specify the
9 date of the proposed nonrenewal.

10 (i) A tenant may not waive the protections provided by
11 Subsection (h).

12 (j) A public facility corporation must be given:

13 (1) written notice of an instance of noncompliance
14 with this section; and

15 (2) 90 days after the day notice is received under
16 Subdivision (1) to cure the matter that is the subject of the
17 notice.

18 (k) Notwithstanding any other law, an occupied multifamily
19 residential development that is acquired by a public facility
20 corporation is eligible for an exemption under Section 303.042(d-2)
21 for the one-year period following the date of the acquisition
22 regardless of whether the development complies with the other
23 requirements of that section or with this section, as applicable.

24 SECTION 4. Section 392.005(c), Local Government Code, is
25 amended to read as follows:

26 (c) An exemption under this section for a multifamily
27 residential development which is owned by [~~(i) a public facility~~

1 ~~corporation created by a housing authority under Chapter 303, (ii)]~~
2 a housing development corporation~~[,]~~ or [~~(iii)]~~ a similar entity
3 created by a housing authority, other than a public facility
4 corporation created by a housing authority under Chapter 303, and
5 which does not have at least 20 percent of its units reserved for
6 public housing units, applies only if:

7 (1) the authority holds a public hearing, at a regular
8 meeting of the authority's governing body, to approve the
9 development; and

10 (2) at least 50 percent of the units in the multifamily
11 residential development are reserved for occupancy by individuals
12 and families earning less than 80 percent of the area median family
13 income.

14 SECTION 5. (a) Section 303.042(d), Local Government Code,
15 as amended by this Act, applies only to a multifamily residential
16 development that is approved by a housing authority on or after the
17 effective date of this Act. A multifamily residential development
18 that is approved by a housing authority before the effective date of
19 this Act is governed by the law in effect on the date the
20 development was approved by the housing authority, and the former
21 law is continued in effect for that purpose.

22 (b) Section 303.042(d-1), Local Government Code, as added
23 by this Act, applies only to a multifamily residential development
24 that is approved by a public facility corporation on or after the
25 effective date of this Act. A multifamily residential development
26 that is approved by a public facility corporation before the
27 effective date of this Act is governed by the law in effect on the

1 date the development was approved by the public facility
2 corporation, and the former law is continued in effect for that
3 purpose.

4 (c) Section 303.042(d-2), Local Government Code, as added
5 by this Act, applies only to a multifamily residential development
6 that is acquired by a public facility corporation on or after the
7 effective date of this Act. A multifamily residential development
8 that is acquired by a public facility corporation before the
9 effective date of this Act is governed by the law in effect on the
10 date the development was acquired by the public facility
11 corporation, and the former law is continued in effect for that
12 purpose.

13 SECTION 6. This Act takes effect September 1, 2021.