

1-1 By: Bettencourt S.B. No. 591
 1-2 (In the Senate - Filed February 5, 2021; March 11, 2021,
 1-3 read first time and referred to Committee on Local Government;
 1-4 April 1, 2021, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 9, Nays 0; April 1, 2021,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 591 By: Bettencourt

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to certain public facilities used to provide affordable
 1-22 housing.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 303.021, Local Government Code, is
 1-25 amended by adding Subsection (c) to read as follows:

1-26 (c) A corporation or a sponsor may finance, own, or operate
 1-27 a multifamily residential development if the corporation or sponsor
 1-28 complies with all applicable provisions of this chapter.

1-29 SECTION 2. Section 303.042, Local Government Code, is
 1-30 amended by amending Subsections (d) and (f) and adding Subsections
 1-31 (d-1) and (d-2) to read as follows:

1-32 (d) This subsection applies only to a multifamily
 1-33 residential development that is owned by a corporation created
 1-34 under this chapter by a housing authority and that does not have at
 1-35 least 20 percent of its units reserved for public housing units,
 1-36 participate in the Rental Assistance Demonstration program
 1-37 administered by the United States Department of Housing and Urban
 1-38 Development, or receive financial assistance administered under
 1-39 Chapter 1372, Government Code, or Subchapter DD, Chapter 2306,
 1-40 Government Code. Notwithstanding Subsections (a) and (b), an [An]
 1-41 exemption under this section for a multifamily residential
 1-42 development [which is owned by a public facility corporation
 1-43 created by a housing authority under this chapter and which does not
 1-44 have at least 20 percent of its units reserved for public housing
 1-45 units,] applies only if:

1-46 (1) the housing authority holds a public hearing, at a
 1-47 ~~[regular]~~ meeting of the authority's governing body, to approve the
 1-48 development; ~~[and]~~

1-49 (2) at least 50 percent of the units in the multifamily
 1-50 residential development are reserved for occupancy by individuals
 1-51 and families earning less than 80 percent of the area median
 1-52 ~~[family]~~ income;

1-53 (3) the requirements under Sections 303.0425 and
 1-54 303.0426 are met; and

1-55 (4) for an occupied multifamily residential
 1-56 development that is acquired by a corporation:

1-57 (A) the governing body of each municipality or
 1-58 county for which the sponsor of the corporation was created
 1-59 approves a resolution of "no objection" for the development; and

1-60 (B) a sum of not less than 50 percent of the total

2-1 gross cost of the existing project in its entirety is expended on
 2-2 rehabilitating, renovating, reconstructing, or repairing the
 2-3 project.

2-4 (d-1) This subsection applies only to a multifamily
 2-5 residential development that is owned by a corporation created
 2-6 under this chapter by a sponsor other than a housing authority and
 2-7 that does not have at least 20 percent of its units reserved for
 2-8 public housing units, participate in the Rental Assistance
 2-9 Demonstration program administered by the United States Department
 2-10 of Housing and Urban Development, or receive financial assistance
 2-11 administered under Chapter 1372, Government Code, or Subchapter DD,
 2-12 Chapter 2306, Government Code. Notwithstanding Subsections (a) and
 2-13 (b), an exemption under this section for a multifamily residential
 2-14 development applies only if:

2-15 (1) at least 50 percent of the units in the multifamily
 2-16 residential development are reserved for occupancy by individuals
 2-17 and families earning less than 80 percent of the area median income;
 2-18 and

2-19 (2) the requirements under Section 303.0426 are met.

2-20 (d-2) This subsection applies to a multifamily residential
 2-21 development that is owned by a corporation created by any sponsor
 2-22 under this chapter. Notwithstanding Subsections (a), (b), (d), and
 2-23 (d-1), an exemption under this section for an occupied multifamily
 2-24 residential development that is acquired by the corporation applies
 2-25 only if the development comes into compliance with the requirements
 2-26 of Subsection (d) or (d-1), as applicable, not later than the first
 2-27 anniversary of the date of the acquisition.

2-28 (f) Notwithstanding Subsections (a) and (b), during
 2-29 the period [~~of time~~] that a corporation owns a particular public
 2-30 facility that provides multifamily housing:

2-31 (1) [~~r~~] a leasehold or other possessory interest in
 2-32 the real property of the public facility granted by the corporation
 2-33 shall be treated in the same manner as a leasehold or other
 2-34 possessory interest in real property granted by an authority under
 2-35 Section 379B.011(b); and

2-36 (2) the materials used by a person granted a
 2-37 possessory interest described by Subdivision (1) to improve the
 2-38 real property of the public facility shall be exempt from all sales
 2-39 and use taxes because the materials are for the benefit of the
 2-40 corporation.

2-41 SECTION 3. Subchapter B, Chapter 303, Local Government
 2-42 Code, is amended by adding Sections 303.0425 and 303.0426 to read as
 2-43 follows:

2-44 Sec. 303.0425. ADDITIONAL REQUIREMENTS FOR BENEFICIAL TAX
 2-45 TREATMENT RELATING TO CERTAIN PUBLIC FACILITIES OWNED BY
 2-46 CORPORATIONS CREATED BY HOUSING AUTHORITIES. (a) In this section:

2-47 (1) "Developer" means a private entity that constructs
 2-48 a development.

2-49 (2) "Housing choice voucher program" means the housing
 2-50 choice voucher program under Section 8, United States Housing Act
 2-51 of 1937 (42 U.S.C. Section 1437f).

2-52 (3) "Lower income housing unit" means a residential
 2-53 unit reserved for occupancy by an individual or family earning not
 2-54 more than 60 percent of the area median income, adjusted for family
 2-55 size.

2-56 (4) "Public facility user" means a public-private
 2-57 partnership entity or a developer or other private entity that has
 2-58 an ownership interest or a leasehold or other possessory interest
 2-59 in a public facility used to provide multifamily housing.

2-60 (b) The requirements prescribed by this section do not apply
 2-61 to a multifamily residential development that is:

2-62 (1) owned by a corporation that was not created by a
 2-63 housing authority; or

2-64 (2) owned by a corporation created by a housing
 2-65 authority and:

2-66 (A) in which at least 20 percent of the units are
 2-67 reserved for public housing units;

2-68 (B) that participates in the Rental Assistance
 2-69 Demonstration program administered by the United States Department

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

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

5-1 date of the proposed nonrenewal.

5-2 (i) A tenant may not waive the protections provided by
5-3 Subsection (h).

5-4 (j) A public facility corporation must be given:

5-5 (1) written notice of an instance of noncompliance
5-6 with this section; and

5-7 (2) 90 days after the day notice is received under
5-8 Subdivision (1) to cure the matter that is the subject of the
5-9 notice.

5-10 (k) Notwithstanding any other law, an occupied multifamily
5-11 residential development that is acquired by a public facility
5-12 corporation is eligible for an exemption under Section 303.042(d-2)
5-13 for the one-year period following the date of the acquisition
5-14 regardless of whether the development complies with the other
5-15 requirements of that section or with this section, as applicable.

5-16 SECTION 4. Section 392.005(c), Local Government Code, is
5-17 amended to read as follows:

5-18 (c) An exemption under this section for a multifamily
5-19 residential development which is owned by [~~(i) a public facility~~
5-20 ~~corporation created by a housing authority under Chapter 303, (ii)]~~
5-21 ~~a housing development corporation[~~r~~] or [~~(iii)] a similar entity~~~~
5-22 ~~created by a housing authority, other than a public facility~~
5-23 ~~corporation created by a housing authority under Chapter 303, and~~
5-24 ~~which does not have at least 20 percent of its units reserved for~~
5-25 ~~public housing units, applies only if:~~

5-26 (1) the authority holds a public hearing, at a regular
5-27 meeting of the authority's governing body, to approve the
5-28 development; and

5-29 (2) at least 50 percent of the units in the multifamily
5-30 residential development are reserved for occupancy by individuals
5-31 and families earning less than 80 percent of the area median family
5-32 income.

5-33 SECTION 5. (a) Section 303.042(d), Local Government Code,
5-34 as amended by this Act, applies only to a multifamily residential
5-35 development that is approved by a housing authority on or after the
5-36 effective date of this Act. A multifamily residential development
5-37 that is approved by a housing authority before the effective date of
5-38 this Act is governed by the law in effect on the date the
5-39 development was approved by the housing authority, and the former
5-40 law is continued in effect for that purpose.

5-41 (b) Section 303.042(d-1), Local Government Code, as added
5-42 by this Act, applies only to a multifamily residential development
5-43 that is approved by a public facility corporation on or after the
5-44 effective date of this Act. A multifamily residential development
5-45 that is approved by a public facility corporation before the
5-46 effective date of this Act is governed by the law in effect on the
5-47 date the development was approved by the public facility
5-48 corporation, and the former law is continued in effect for that
5-49 purpose.

5-50 (c) Section 303.042(d-2), Local Government Code, as added
5-51 by this Act, applies only to a multifamily residential development
5-52 that is acquired by a public facility corporation on or after the
5-53 effective date of this Act. A multifamily residential development
5-54 that is acquired by a public facility corporation before the
5-55 effective date of this Act is governed by the law in effect on the
5-56 date the development was acquired by the public facility
5-57 corporation, and the former law is continued in effect for that
5-58 purpose.

5-59 SECTION 6. This Act takes effect September 1, 2021.

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