

By: Rosenthal

H.B. No. 1556

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

SECTION 2. Chapter 303, Local Government Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. REQUIREMENTS FOR BENEFICIAL TAX TREATMENT RELATED TO AFFORDABLE HOUSING

Sec. 303.201. DEFINITIONS. In this subchapter:

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

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

1 (3) "Developer" means a private entity that constructs
2 or rehabilitates a development.

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

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

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

12 Sec. 303.202. COMPLIANCE WITH SUBCHAPTER REQUIRED FOR
13 BENEFICIAL TAX TREATMENT FOR CERTAIN PUBLIC FACILITIES. (a)
14 Section 303.042(f) applies to a leasehold or other possessory
15 interest in a public facility only if the sponsor, the corporation,
16 the public facility user, and the housing development meet the
17 requirements of this subchapter, as applicable.

18 (b) The requirements prescribed by this subchapter apply
19 only to the application of taxes related to a leasehold or other
20 possessory interest in a public facility under Section 303.042(f)
21 and do not restrict the authority of a corporation to lease a public
22 facility to a private entity under terms other than the terms
23 described by this subchapter.

24 Sec. 303.203. SPONSOR GOALS; REQUEST FOR PROPOSALS. (a) A
25 sponsor shall identify goals for public facilities used for housing
26 developments and establish selection criteria based on the goals to
27 be used by corporations for scoring proposals from developers of

1 housing developments.

2 (b) A corporation must issue a request for proposals from
3 developers before the corporation enters into a lease agreement for
4 a public facility with a developer for the purpose of constructing
5 or rehabilitating a housing development.

6 Sec. 303.204. REHABILITATION REQUIREMENTS. If a developer
7 substantially rehabilitates an existing multifamily residential
8 property that is a public facility leased by the developer, the
9 original construction of the property must have been completed at
10 least 10 years before the date the developer begins rehabilitation
11 of the property.

12 Sec. 303.205. RESERVATION REQUIREMENTS. (a) A public
13 facility user must reserve:

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

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

20 (3) at least 20 percent of the affordable housing
21 units in the development for occupancy by individuals or families
22 participating in the housing choice voucher program if the
23 development is located:

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

27 (B) in the attendance zone of a high school with a

1 graduation rate of at least 85 percent; and

2 (C) in a census tract in which:

3 (i) fewer than 10 percent of the households
4 have a household income equal to or less than the federal poverty
5 line; and

6 (ii) the median income for households is
7 equal to or greater than 80 percent of area median income.

8 (b) The percentage of affordable housing units reserved in
9 each category of units in the housing development, based on the
10 number of bedrooms and bathrooms per unit, must be the same as the
11 percentage of affordable housing units reserved in the housing
12 development as a whole.

13 Sec. 303.206. RENT LIMITATIONS. The monthly rent charged
14 by a public facility user for an affordable housing unit may not
15 exceed:

16 (1) 30 percent of 80 percent of area median income,
17 minus an allowance for utility costs, if the individual or family
18 renting the unit earns more than 60 percent but not more than 80
19 percent of the area median income, adjusted for family size; and

20 (2) 30 percent of 60 percent of area median income,
21 minus an allowance for utility costs, if the individual or family
22 renting the unit earns not more than 60 percent of the area median
23 income, adjusted for family size.

24 Sec. 303.207. CALCULATION OF INCOME. In calculating the
25 income of an individual or family for an affordable housing unit,
26 the public facility user must consider the income of every
27 individual who will be living in the unit.

1 Sec. 303.208. PUBLIC FACILITY PROHIBITIONS. A public
2 facility user may not:

3 (1) refuse to rent an affordable housing unit to an
4 individual or family because the individual or family participates
5 in the housing choice voucher program; or

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

11 Sec. 303.209. HOUSING AUTHORITY DUTIES. A housing
12 authority that sponsors a corporation that leases a public facility
13 used as a housing development to a public facility user shall:

14 (1) publish information about the affordable housing
15 units in the housing development on its Internet website, if the
16 authority maintains a website; and

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

20 Sec. 303.210. REPORTS. (a) Not later than February 1 of
21 each year, a public facility user of a housing development must
22 submit to the chief appraiser of the appraisal district in which the
23 housing development is located an audit report for a compliance
24 audit conducted by an independent auditor to determine whether the
25 public facility user is in compliance with:

26 (1) all contracts and other agreements between the
27 public facility user and the sponsor or corporation relating to the

1 housing development; and

2 (2) all applicable state and local laws, including the
3 requirements of this subchapter.

4 (b) The sponsor of a corporation that leases a public
5 facility used as a housing development to a public facility user
6 shall submit an annual report to the department and to the
7 comptroller. The report must include:

8 (1) a copy of all contracts and other agreements
9 between the public facility user and the sponsor or corporation
10 relating to the housing development; and

11 (2) statistics describing the demographics of the
12 residents of the housing development, including incomes and family
13 sizes.

14 (c) The department and the comptroller shall each post a
15 copy of a report received under Subsection (b) on their respective
16 Internet websites.

17 (d) The governing board of the department shall adopt rules
18 and forms necessary to implement Subsection (b).

19 SECTION 3. Subchapter F, Chapter 303, Local Government
20 Code, as added by this Act, applies only to a leasehold or other
21 possessory interest in a public facility granted by a public
22 facility corporation to a public facility user, as defined by that
23 subchapter, on or after the effective date of this Act.

24 SECTION 4. As soon as practicable after the effective date
25 of this Act, the governing board of the Texas Department of Housing
26 and Community Affairs shall adopt rules as necessary to implement
27 Section 303.210(b), Local Government Code, as added by this Act.

1 SECTION 5. This Act takes effect September 1, 2023.