

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 7, 2019

TO: Honorable Dustin Burrows, Chair, House Committee on Ways & Means

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: SB335 by West (Relating to community land trusts.), As Engrossed

Passage of the bill would increase in the amount of property that may be eligible for a community land trust exemption. As a result, taxable property values could be reduced and the related costs to the Foundation School Fund could be increased through the operation of the school finance formulas.

The bill would amend Chapter 373B of the Local Government Code, regarding community land trusts, to add as alternative requirements for a community land trust created to acquire and hold land for the benefit of developing and preserving long-term affordable housing in the city or county that the trust may be organized as:

- a limited partnership of which a specified type of nonprofit corporation that is exempt from federal income taxation (a 501(c)(3) corporation) controls 100 percent of the general partner interest; or
- a limited liability company for which a 501(c)(3) corporation serves as the only member.

The bill would amend Chapter 11 of the Tax Code, regarding property tax exemptions, to provide that once adopted by a taxing unit, a community land trust exemption would continue to apply to property until officially rescinded.

The bill would amend Chapter 23 of the Tax Code, regarding property tax appraisal methods and procedures, to require a chief appraiser to use the income method of appraisal as described, to determine the appraised value of certain community land trust property regardless of whether the chief appraiser considers that method to be the most appropriate method for appraising the property. In appraising the property, the chief appraiser would be required to:

- take into account the uses and limitations applicable to the property for purposes of computing the actual rental income from the property and projecting future rental income; and
- use the same capitalization rate that the chief appraiser uses to appraise other rent-restricted properties.

If a sale of certain community land trust housing units is subject to an eligible land use restriction, the chief appraiser may not appraise the housing unit for an amount that exceeds the price for which the housing unit may be sold under the eligible land use restrictions. "Eligible land use restriction" means an agreement or restrictive covenant applicable to a housing unit that:

- is recorded in the real property records;
- has a term of at least 40 years;
- restricts the price for which the housing unit may be sold to a price that is or may be less than the

market value of the housing unit; and
- restricts the sale of the housing unit to a family meeting the specified income-eligibility standards.

The bill would amend Chapter 26 of the Tax Code, regarding property tax assessment, to except from the proration for exemptions which are in effect for only part of a year because the exemption terminated during the year because of the sale by the organization of a housing unit located on the land:

- an exemption for land received by a charitable organization improving property for low-income housing (Section 11.181 of the Tax Code);
- a community housing development organization improving property for low income and moderate income housing (Section 11.182 of the Tax Code); and
- an organization constructing or rehabilitating low-income housing (Section 11.1825 of the Tax Code)

The exception would apply to these organizations only in certain specified circumstances. Otherwise, the proration would apply.

The bill may increase the amount of property that may be eligible for a property tax exemption by increasing the specified entities that may qualify as a community land trust.

The bill would restrict a chief appraiser's choices regarding:

- the appraisal method used by requiring an income method;
- the method for calculating the income and capitalization rate used in the appraisal;
- consideration of land use restrictions.

The bill's proposed increase in the amount of property that may be eligible for a community land trust exemption and appraisal restrictions would create a cost to local taxing units, and to the state through the school finance formulas.

The number and value of additional community land trust exemptions that would be granted under the bill's provisions are unknown. Similarly, the amount of value reduction that would be caused by the proposed appraisal restrictions is unknown. Consequently, the cost of the bill cannot be estimated.

The bill would take effect September 1, 2019.

Local Government Impact

Passage of the bill would increase in the amount of property that may be eligible for a community land trust exemption. As a result, taxable property values and the related ad valorem tax revenue for units of local government could be reduced.

Source Agencies: 304 Comptroller of Public Accounts, 332 Department of Housing and Community Affairs

LBB Staff: WP, KK, AF, SD, SJS, LCO