87R2511 SMT-D

By:  Rosenthal H.B. No. 1286

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 Section 303.0425 are met.

SECTION 2.  Subchapter B, Chapter 303, Local Government Code, is amended by adding Section 303.0425 to read as follows:

Sec. 303.0425.  REQUIREMENTS FOR BENEFICIAL TAX TREATMENT RELATING TO CERTAIN PUBLIC FACILITIES. (a) In this section:

(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.

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

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

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

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

(b)  Section 303.042(f) applies to a leasehold or other possessory interest in a public facility only if the sponsor, the corporation, the public facility user, and the housing development meet the requirements of this section, as applicable. The requirements prescribed by this section apply only to the application of taxes related to a leasehold or other possessory interest in a public facility under Section 303.042(f) and do not restrict the authority of a corporation to lease a public facility to a private entity under terms other than the terms described by this section.

(c)  A sponsor shall identify goals for public facilities used for housing developments and establish selection criteria based on the goals to be used by corporations for scoring proposals from developers of housing developments. A corporation must issue a request for proposals from developers before the corporation enters into a lease agreement for a public facility with a developer for the purpose of constructing or rehabilitating a housing development.

(d)  If a developer substantially rehabilitates an existing multifamily residential property that is a public facility leased by the developer, the original construction of the property must have been completed at least 10 years before the date the developer begins rehabilitation of the property.

(e)  A public facility user must reserve:

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

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

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

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

(B)  in the attendance zone of a high school with a graduation rate of at least 85 percent; and

(C)  in a census tract in which:

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

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

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

(g)  The monthly rent charged by a public facility user for an affordable housing unit may not exceed:

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

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

(h)  In calculating the income of an individual or family for an affordable housing unit, the public facility user must consider the income of every individual who will be living in the unit.

(i)  A public facility user may not:

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

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

(j)  A housing authority that sponsors a corporation that leases a public facility used as a housing development to a public facility user shall:

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

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

(k)  Not later than February 1 of each year, a public facility user of a housing development must submit to the chief appraiser of the appraisal district in which the housing development is located an audit report for a compliance audit conducted by an independent auditor to determine whether the public facility user is in compliance with:

(1)  all contracts and other agreements between the public facility user and the sponsor or corporation relating to the housing development; and

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

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

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

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

(m)  The department and the comptroller shall each post a copy of a report received under Subsection (l) on its respective Internet website.

(n)  The governing board of the department shall adopt rules and forms necessary to implement Subsection (l).

SECTION 3.  Section 303.0425, Local Government Code, as added by this Act, applies only to a leasehold or other possessory interest in a public facility granted by a public facility corporation to a public facility user, as defined by that section, on or after the effective date of this Act.

SECTION 4.  As soon as practicable after the effective date of this Act, the governing board of the Texas Department of Housing and Community Affairs shall adopt rules as necessary to implement Section 303.0425(l), Local Government Code, as added by this Act.

SECTION 5.  This Act takes effect September 1, 2021.