

House Bill 1931
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

No equivalent provision.

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

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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 in the jurisdictional boundaries of the sponsor 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 have at least 20 percent of its units reserved for public housing units,] applies only if:

(1) the housing authority:

(A) provides notice of the development to the governing body of each municipality or county for which the authority was created; and

(B) holds a public hearing, at a [regular] meeting of the

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authority's governing body, to approve the development; ~~and~~
(2) at least 50 percent of the units in the multifamily residential development are reserved for occupancy by individuals and families earning less than 80 percent of the area median ~~family~~ income;
(3) the requirements under Sections 303.0425 and 303.0426 are met; and
(4) for an occupied multifamily residential development that is acquired by a corporation:
(A) the governing body of each municipality or county for which the authority was created approves a resolution of "no objection" for the development; and
(B) a sum of not less than 50 percent of the total gross cost of the existing project in its entirety is expended on rehabilitating, renovating, reconstructing, or repairing the project.

(d-1) This subsection applies only to a multifamily residential development that is owned by a corporation created under this chapter by a sponsor other than 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 exemption under this section for a multifamily residential development applies only if:
(1) at least 50 percent of the units in the multifamily residential development are reserved for occupancy by individuals and families earning less than 80 percent of the

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area median income;

(2) before constructing or acquiring the development, the corporation provides notice of the construction or acquisition to the governing body of each sponsor for which the corporation was created unless at least one elected member of the governing body of the sponsor serves on the board of directors of the corporation; and

(3) the requirements under Section 303.0426 are met.

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

(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.

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

(1) [;] 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); and

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

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

(2) "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).

(3) "Housing development" means a development constructed or rehabilitated to provide multifamily housing.

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

(5) "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 public facility user meets the requirements of this section. The requirements prescribed by this section apply only to the application of taxes related to a leasehold or other possessory

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

Sec. 303.0425. ADDITIONAL REQUIREMENTS FOR BENEFICIAL TAX TREATMENT RELATING TO CERTAIN PUBLIC FACILITIES OWNED BY CORPORATIONS CREATED BY HOUSING AUTHORITIES.

(a) In this section:

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

(2) "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).

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

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

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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 public facility user may not:

(1) refuse to rent a residential unit in a housing development 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 a residential unit.

(d) A public facility user must reserve at least 10 percent of

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

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

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

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

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

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

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

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the residential units in a housing development for individuals or families participating in the housing choice voucher program.

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

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

(2) under the age of 24; and

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

(f) The percentage of lower income housing development, 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 lower income housing units reserved in the housing development as a whole.

(g) The monthly rent charged for a lower income housing unit may not exceed:

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

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

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

No equivalent provision.

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

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

(2) under the age of 24; and

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

(e) The percentage of lower income 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 lower income housing units reserved in the housing development as a whole.

(f) The monthly rent charged for a lower income housing unit may not exceed:

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

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

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

Sec. 303.0426. ADDITIONAL REQUIREMENTS FOR BENEFICIAL TAX TREATMENT RELATING TO

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CERTAIN PUBLIC FACILITIES OWNED BY CORPORATIONS CREATED BY ANY SPONSOR. (a) In this section, "housing choice voucher program," "lower income housing unit," and "public facility user" have the meanings assigned by Section 303.0425.

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

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

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

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

(c) A public facility user may not:

(1) refuse to rent a residential 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 a unit.

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

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

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

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(e) A public facility user shall:

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

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

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

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

(2) submit to the comptroller a report that includes, for each housing development:

(A) the name of the development;

(B) the street address and municipality or county in which the development is located;

(C) the name of the developer;

(D) the total number of residential units, reported by bedroom size;

(E) the total number of lower income housing units, reported by bedroom size, level of income restriction, and rent;

(F) the total number of residential units, reported by bedroom size, level of income restriction, and rent, that are not lower income housing units but that are reserved for occupancy by an individual or family earning less than 80 percent of the area median income;

(G) the number of residential units rented by individuals and families who participate in the housing choice voucher program, reported by bedroom size;

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(H) the race, ethnicity, and age of all occupants, if available; and
(I) if not previously submitted in a report to the comptroller, or if amended since the previous submission:
(i) a copy of the ground lease; and
(ii) a copy of the partnership agreement for the public facility.
(g) The reports submitted under Subsection (f) are public information and subject to disclosure under Chapter 552, Government Code, except that information containing tenant names, unit numbers, or other identifying information may be redacted. The comptroller shall post a copy of the report received under Subsection (f)(2) on its Internet website.
(h) Each lease agreement for a unit in a multifamily residential development subject to this section must provide that:
(1) the landlord may not retaliate against the tenant or the tenant's guests by taking an action because the tenant established, attempted to establish, or participated in a tenant organization;
(2) the landlord may only choose to not renew the lease if the tenant:
(A) is in material noncompliance with the lease, including nonpayment of rent after the required cure period;
(B) committed one or more substantial violations of the lease;
(C) failed to provide required information on the income, composition, or eligibility of the tenant's household; or
(D) committed repeated minor violations of the lease that:
(i) disrupt the livability of the property;
(ii) adversely affect the health and safety of any person or the right to quiet enjoyment of the leased premises and related project facilities;
(iii) interfere with the management of the project; or

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

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

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

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

(j) A public facility corporation must be given:

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

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

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

No equivalent provision.

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

(c) An exemption under this section for a multifamily residential development which is owned by ~~[(i) a public facility corporation created by a housing authority under Chapter 303, (ii)]~~ a housing development corporation~~]~~ or ~~[(iii)]~~ a similar entity created by a housing authority, other than a public facility corporation created by a housing

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authority under Chapter 303, and which does not have at least 20 percent of its units reserved for public housing units, applies only if:

- (1) the authority holds a public hearing, at a regular meeting of the authority's governing body, to approve the development; and
- (2) at least 50 percent of the units in the multifamily residential development are reserved for occupancy by individuals and families earning less than 80 percent of the area median family income.

No equivalent provision.

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

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

(c) Section 303.042(d-2), Local Government Code, as added by this Act, applies only to a multifamily residential

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development that is acquired by a public facility corporation on or after the effective date of this Act. A multifamily residential development that is acquired by a public facility corporation before the effective date of this Act is governed by the law in effect on the date the development was acquired by the public facility corporation, and the former law is continued in effect for that purpose.

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.

No equivalent provision.

SECTION 4. This Act takes effect September 1, 2021.

SECTION 6. Same as House version.