**BILL ANALYSIS**

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| Senate Research Center | H.B. 21 |
|  | By: Gates et al. (Bettencourt) |
|  | Local Government |
|  | 5/12/2025 |
|  | Engrossed |

**AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

H.B. 21 amends current law relating to housing finance corporations and authorizes a fee.

**RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Department of Housing and Community Affairs in SECTION 9 (Section 394.9027, Local Government Code) of this bill.

**SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 394.004, Local Government Code, as follows:

Sec. 394.004. APPLICATION OF CHAPTER TO CERTAIN RESIDENTIAL DEVELOPMENTS. Provides that Chapter 394 (Housing Finance Corporations in Municipalities and Counties) applies only to a residential development at least 90 percent of which is for use by or is intended to be occupied by households of low and moderate income whose adjusted gross income did not for the preceding tax year exceed the maximum amount constituting moderate income as defined under the housing finance corporation's rules, resolutions relating to the issuance of bonds, or financing documents relating to the issuance of bonds. Deletes existing text providing that this chapter applies only to certain households intended to be occupied by persons of low and moderate income whose adjusted gross income, together with the adjusted gross income of all persons who intend to reside with those persons in one dwelling unit, did not exceed a certain amount.

SECTION 2. Amends Subchapter A, Chapter 394, Local Government Code, by adding Section 394.0045, as follows:

Sec. 394.0045. APPLICABILITY OF OPEN MEETINGS AND OPEN RECORDS LAWS. (a) Provides that Chapter 551 (Open Meetings), Government Code, applies to actions and proceedings under this chapter.

(b) Provides that Chapter 552 (Public Information), Government Code, applies to all records of a housing finance corporation.

SECTION 3. Amends the heading to Section 394.031, Local Government Code, to read as follows:

Sec. 394.031. EXERCISE OF POWERS; AREA OF OPERATION.

SECTION 4. Amends Section 394.031, Local Government Code, by adding Subsections (c), (d), and (e), as follows:

(c) Provides that, subject to Subsection (d), the area in which a housing finance corporation is authorized to own real property for residential development or engage in residential development is limited to:

(1) for a housing finance corporation sponsored by a municipality under Section 394.011 (Application for Incorporation), the boundaries of the municipality that sponsored the corporation;

(2) for a housing finance corporation sponsored by a county under Section 394.011, the boundaries of the county that sponsored the corporation; or

(3) for a housing finance corporation sponsored by more than one local government under Section 394.012 (Application for Incorporation of, and Other Special Provisions for, Joint Corporation) the boundaries of each municipal sponsor of the corporation and the boundaries of each county sponsor of the corporation.

(d) Provides that a housing finance corporation is authorized to own real property for residential development or engage in residential development outside an area described by Subsection (c) only if a resolution or order, as applicable, approving that ownership or development in the outside area is adopted by the governing bodies of:

(1) each municipality that contains any part of the outside area in which the corporation proposes to own real property for residential development or engage in residential development;

(2) for a residential development or home located in the unincorporated area of a county, each county that contains any part of the outside area in which the corporation proposes to own real property for residential development or engage in residential development; and

(3) any housing finance corporation sponsored by a municipality or county described by Subdivision (1) or (2), as applicable.

(e) Provides that Section 394.031 (Exercise of Powers) does not prohibit or limit a housing finance corporation from owning real property outside an area described by Subsection (c) or (d) if the property is not owned for purposes of residential development.

SECTION 5. Amends Section 394.032(e), Local Government Code, to delete existing text authorizing a housing finance corporation to delegate to the Texas Department of Housing and Community Affairs (TDHCA) the authority to act on its behalf within and outside the jurisdiction of the housing finance corporation.

SECTION 6. Amends Section 394.037, Local Government Code, by adding Subsection (a-1), as follows:

(a-1) Provides that a housing finance corporation is authorized to issue bonds under this chapter for a purpose described by Subsection (a) (relating to authorizing a housing finance corporation to issue bonds to defray, in whole or in part, certain costs) only to finance or support a residential development or home that is located or will be constructed:

(1) within the boundaries of a local government in which a housing finance corporation is permitted to own real property for residential development or engage in residential development under Section 394.031(c); or

(2) outside the boundaries of a local government described by Subdivision (1) if a resolution or order, as applicable, approving the issuance of bonds is adopted by the governing body of each municipality that contains any part of the residential development or home and for a residential development or home located in the unincorporated area of a county, each county that contains any part of the residential development or home.

SECTION 7. Amends Section 394.039, Local Government Code, as follows:

Sec. 394.039. SPECIFIC POWERS RELATING TO FINANCIAL AND PROPERTY TRANSACTIONS. Authorizes a housing finance corporation, subject to Sections 394.031(c), (d), and (e), to:

(1)-(2) makes no changes to these subdivisions;

(3) purchase, receive, lease, or otherwise acquire, own, hold, improve, use, or deal in and with real or personal property or interests in that property, as required by the purposes of the corporation or as donated to the corporation, rather than wherever the property is located, as required by the purposes of the corporation or as donated to the corporation; and

(4) makes no changes to this subdivision.

SECTION 8. Amends Section 394.9025, Local Government Code, as follows:

Sec. 394.9025. MULTIFAMILY RESIDENTIAL DEVELOPMENT. (a) Authorizes a housing finance corporation, following a public hearing by the governing body of the applicable local government, subject to the geographic limitations of Section 394.037(a-1), to issue bonds to finance a multifamily residential development to be owned by the housing finance corporation if certain criteria are met, including if the units in the multifamily residential development are reserved in the manner provided by Section 394.9026(c)(1). Makes nonsubstantive changes.

(b) Authorizes a housing finance corporation, following a public hearing by the governing body of the applicable local government, subject to the geographic limitations of Section 394.037(a-1), to issue bonds to finance a multifamily residential development to be owned by the housing finance corporation in accordance with Section 394.004 if the housing finance corporation receives approval of the governing body of the local government.

SECTION 9. Amends Subchapter Z, Chapter 394, Local Government Code, by adding Sections 394.9026 and 394.9027, as follows:

Sec. 394.9026. ADDITIONAL CONDITIONS FOR BENEFICIAL AD VALOREM TAX TREATMENT RELATING TO CERTAIN MULTIFAMILY RESIDENTIAL DEVELOPMENTS. (a) Defines "housing choice voucher program," "housing finance corporation user," "lower income housing unit," "maximum market rent," "middle income housing unit," "moderate income housing unit," "multifamily residential development," "rent," "rent reduction," and "very low income housing unit."

(b) Provides that this section does not apply to a multifamily residential development that is the recipient of a low income housing tax credit allocated under Subchapter DD (Low Income Housing Tax Credit Program), Chapter 2306 (Texas Department of Housing and Community Affairs), Government Code.

(c) Provides that, subject to Subsection (g), an ad valorem tax exemption under Section 394.905 (Exemption From Taxation) for a multifamily residential development owned by a housing finance corporation is available only if the other requirements of this chapter are satisfied and if certain criteria are met.

(d) Requires the housing finance corporation user, in calculating the income of an individual or family for a very low, lower, moderate, or middle income housing unit, to use the definition of annual income described in 24 C.F.R. Section 5.609, as implemented by the United States Department of Housing and Urban Development. Provides that, if the income of a tenant exceeds an applicable limit at the time of the renewal of a lease agreement for a residential unit, the provisions of Section 42(g)(2)(D), Internal Revenue Code of 1986, apply in determining whether the unit is authorized to still qualify as a very low, lower, moderate, or middle income housing unit.

(e) Authorizes a housing finance corporation user to require an individual or family participating in the housing choice voucher program to pay the difference between the monthly rent for the applicable unit and the amount of the monthly voucher if the amount of the voucher is less than the rent.

(f) Prohibits a tenant from waiving the protections provided by Subsection (c)(9) (relating to the required provisions of each lease agreement for an income-restricted residential unit for an ad valorem tax exemption). Authorizes a housing finance corporation user to adopt tenant protections that are more protective of tenants than the tenant protections provided by Subsection (c)(9).

(g) Provides that a multifamily residential development that is acquired by a housing finance corporation and is occupied on the date of the acquisition is eligible for an ad valorem exemption under Section 394.905 for the two tax years following the date of the acquisition, regardless of whether the development complies with the conditions prescribed by certain provisions, if the development comes into compliance with those provisions not later than the end of the second tax year after the date of the acquisition.

Sec. 394.9027. AUDIT REQUIREMENTS FOR CERTAIN MULTIFAMILY RESIDENTIAL DEVELOPMENTS. (a) Defines "department" and "housing finance corporation user."

(b) Requires a housing finance corporation or housing finance corporation user that claims an ad valorem tax exemption for a multifamily residential development under Section 394.905 to annually submit to TDHCA an audit report for a compliance audit, prepared at the expense of the housing finance corporation user and conducted by an independent auditor or compliance expert with an established history of providing similar audits on housing compliance matters, that states whether the corporation is in compliance with the requirements imposed for the exemption by Section 394.9026 and identifies the difference in the rent charged for income-restricted residential units and the estimated maximum market rents that could be charged for those units without the income restrictions.

(c) Requires TDHCA, not later than the 60th day after the date of receipt of the audit conducted under Subsection (b), to examine the audit report and publish a report summarizing the findings of the audit. Requires that the report meet certain criteria.

(d) Requires a housing finance corporation user, the associated housing finance corporation, and the chief appraiser of the appraisal district in which the development is located, if an audit report submitted under Subsection (b) indicates noncompliance with Section 394.9026, to be given written notice from TDHCA that is provided not later than the 120th day after the date a report has been submitted under Subsection (b) and specifies the reasons for noncompliance. Requires a housing finance corporation user and the associated housing finance corporation, for a finding of noncompliance with any provision of Section 394.9026(c), to be given:

(1) additional written notice that includes certain information;

(2) a period of 180 days after the date notice is received under Subdivision (1) to resolve the matter that is the subject of the notice; and

(3) if a matter that is the subject of a notice provided under this subdivision is not resolved to the satisfaction of TDHCA during the period provided by Subdivision (2), a second notice that informs the housing finance corporation of the loss of the ad valorem tax exemption for the development due to noncompliance with Section 394.9026.

(e) Provides that the initial audit report required by Subsection (b) is due not later than June 1 of the tax year following the date of acquisition for an existing multifamily residential development that is acquired by a housing finance corporation or the date a newly constructed multifamily residential development first becomes occupied by one or more tenants.

(f) Provides that subsequent audit reports following the issuance of the initial audit report under Subsection (e) are due not later than June 1 of each year.

(g) Authorizes TDHCA to extend the deadline for submitting any audit required under this section for good cause shown, as determined by TDHCA.

(h) Prohibits an independent auditor or compliance expert from preparing an audit under Subsection (b) for more than three consecutive tax years for the same housing finance corporation. Provides that, after the third consecutive audit, the independent auditor or compliance expert is authorized to prepare an audit only after the second anniversary of the preparation of the third consecutive audit.

(i) Provides that TDHCA:

(1) is required to adopt forms and reporting standards for the auditing process;

(2) is authorized to charge a fee for the submission of an audit report under this section in a reasonable amount necessary to cover the expenses of administering this section; and

(3) is required to adopt rules necessary to implement this section and Section 394.9026.

(j) Requires that rules adopted under Subsection (i)(3) include administrative processes and a process by which a housing finance corporation user is authorized to appeal a finding of noncompliance made under this section or a loss of a tax exemption due to a finding of noncompliance with Section 394.9026 or any other provision of this chapter.

(k) Provides that an audit conducted under Subsection (b) is subject to disclosure under Chapter 552, Government Code, except that information containing tenant names, unit numbers, or other tenant identifying information is authorized to be redacted.

(l) Provides that this section does not apply to a multifamily residential development during any period that the development is the recipient of a low income housing tax credit allocated under Subchapter DD, Chapter 2306, Government Code.

SECTION 10. Amends Section 394.903, Local Government Code, as follows:

Sec. 394.903. New heading: TRANSFER OF RESIDENTIAL DEVELOPMENT SITES. Authorizes a local government, subject to Sections 394.031(c) and (d), to transfer any residential development site to a housing finance corporation by sale or lease. Deletes existing text requiring a residential development covered by this chapter to be located within the local government. Deletes existing text authorizing the site to be located wholly or partly inside or outside the local government. Makes nonsubstantive changes.

SECTION 11. Amends Section 394.905, Local Government Code, as follows:

Sec. 394.905. New heading: EXEMPTION FROM TAXES AND FEES. (a) Creates this subsection from existing text. Provides that, subject to compliance with the requirements of this chapter, a housing finance corporation and all property owned by the corporation, the income from that property, all bonds issued by the corporation, the income from those bonds, and the transfer of those bonds are exempt, as public property used for public purposes, from license fees, recording fees, and all other taxes imposed by this state or any political subdivision of this state. Makes nonsubstantive changes.

(b) Provides that a multifamily residential development owned by a housing finance corporation is eligible for an exemption from ad valorem taxes, and the materials used to improve the applicable property are eligible for an exemption from sales and use taxes, only if certain criteria are met.

(c) Provides that, notwithstanding Subsections (a) and (b), and subject to Section 394.9027, a multifamily residential development owned by a housing finance corporation or a housing finance corporation user is not entitled to an ad valorem tax exemption for any given tax year in which:

(1) the corporation or the housing finance corporation user is not in compliance with any provisions of Section 394.9026(c) and the notice requirements in Section 394.9027(d) have been fulfilled and the noncompliance is not resolved to the satisfaction of TDHCA within the period provided by Section 394.9027(d)(2); or

(2) the corporation or the housing finance corporation user has not timely submitted the audit report required by Section 394.9027.

(d) Provides that Subsection (a) does not apply to ad valorem taxes imposed on a multifamily residential development by:

(1) a conservation or reclamation district created under Section 52 (Restrictions on Lending Credit or Making Grants by Political Corporations or Political Subdivisions; Authorized Bonds; Investment of Funds), Article III (Legislative Department), or Section 59 (Conservation and Development of Natural Resources; Development of Parks and Recreational Facilities; Conservation and Reclamation Districts; Indebtedness and Taxation Authorized), Article XVI (General Provisions), Texas Constitution, that provides water, sewer, or drainage service to the development, unless the applicable corporation has entered into a written agreement with the district to make a payment to the district in lieu of taxation, in the amount specified in the agreement; or

(2) an emergency services district created under Chapter 775 (Emergency Services Districts), Health and Safety Code, unless the applicable corporation has entered into a written agreement with the district to make a payment to the district in lieu of taxation, in the amount specified in the agreement.

(e) Provides that certain provisions do not apply to a multifamily residential development that is owned by a housing finance corporation and the recipient of a low income housing tax credit allocated under Subchapter DD, Chapter 2306, Government Code.

(f) Creates this subsection from existing text and makes no further changes.

SECTION 12. Repealer: Section 394.005 (Application of Chapter to Property in Certain Municipalities), Local Government Code.

SECTION 13. (a) Makes application of Sections 394.031(c) and (d), Local Government Code, as added by this Act, and Section 394.903, Local Government Code, as amended by this Act, subject to Subsection (i) of this section, prospective.

(b) Makes Section 394.037(a-1), Local Government Code, as added by this Act, and Section 394.9025, Local Government Code, as amended by this Act, prospective.

(c) Makes application of Section 394.9026, Local Government Code, as added by this Act, and Section 394.905, Local Government Code, as amended by this Act, prospective.

(d) Provides that, subject to Subsections (e) and (f) of this section, Sections 394.9026 and 394.9027, Local Government Code, as added by this Act, apply to all multifamily residential developments claiming an exemption under Section 394.905, Local Government Code, regardless of when the developments were approved or acquired.

(e) Provides that a multifamily residential development that was acquired by a housing finance corporation before the effective date of this Act is not eligible for an exemption under Section 394.905, Local Government Code, as amended by this Act, unless the housing finance corporation that owns the development and any housing finance corporation user, as defined by Section 394.9026, Local Government Code, as added by this Act, associated with the development come into compliance:

(1) not later than January 1, 2026, with certain provisions of Section 394.9026(c), Local Government Code, as added by this Act; and

(2) with certain provisions of Sections 394.9026(c), Local Government Code, as added by this Act, not later than the earlier of:

(A) the end of the 10th tax year following the effective date of this Act; or

(B) the end of the first tax year following a tax year in which:

(i) existing mortgage indebtedness of the development is refinanced;

(ii) title to the development is conveyed; or

(iii) a sale, conveyance, transfer or assignment, or series of sales, conveyances, transfers or assignments, results in a change in a majority of the beneficial ownership interests of any housing finance corporation user associated with the development.

(f) Requires that, notwithstanding Section 394.9027(b) or (f), Local Government Code, as added by this Act, the initial audit report required to be submitted under Section 394.9027(b), Local Government Code, as added by this Act, for a multifamily residential development that was acquired by a housing finance corporation before the effective date of this Act be submitted by the later of the date established by Section 394.9027(e), Local Government Code, as added by this Act or June 1, 2026.

(g) Provides that, subject to Subsections (e), (h), and (i) of this section, Section 394.905, Local Government Code, as amended by this Act, applies to all multifamily residential developments owned by a housing finance corporation, regardless of when the developments were approved or acquired.

(h) Makes application of Sections 394.905(b)(1), (2), and (3) and (d), Local Government Code, as added by this Act, prospective.

(i) Provides that a residential development that is owned by a housing finance corporation on September 1, 2025, and is located outside an area in which the corporation is authorized to own real property or engage in residential development under Section 394.031(c), Local Government Code, as added by this Act, is not eligible for an ad valorem tax exemption under Section 394.905, Local Government Code, as amended by this Act, after January 1, 2027, unless the corporation obtains the appropriate resolutions or orders required under Section 394.031(d), Local Government Code, as added by this Act, before that date.

(j) Requires TDHCA, not later than January 1, 2026, to adopt rules necessary to implement Section 394.9027(i), Local Government Code, as added by this Act.

SECTION 14. Effective date: upon passage or September 1, 2025.