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| BILL ANALYSIS |

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| C.S.H.B. 21 |
| By: Gates |
| Intergovernmental Affairs |
| Committee Report (Substituted) |

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| **BACKGROUND AND PURPOSE**  The Texas Housing Finance Corporations Act provides for the formation of housing finance corporations (HFCs) by municipalities and counties for the purpose of providing decent, safe, and sanitary housing at affordable prices to residents of local governments. Multifamily residential developments owned by HFCs are intended to be occupied at least 90 percent by persons of low and moderate income. The bill author has informed the committee that under the act, a private developer can partner with an HFC to acquire an existing multifamily residential development or construct a new one and obtain an indefinite tax exemption for the property. However, the bill author has also informed the committee that HFCs are currently operating outside the territorial jurisdiction of their sponsoring entities, allowing private developers to use HFCs as a tool to pull property off the tax rolls anywhere in the state without a corresponding public benefit to local taxpayers or renters. C.S.H.B. 21 seeks to ensure that an HFC provides a public benefit to its community in the form of actual affordable housing in multifamily residential developments by establishing geographic limitations on an HFC's area of operation, establishing additional affordability requirements that must be met for favorable tax treatment, requiring an annual independent compliance audit, and establishing a distinction between an HFC and an HFC user to increase transparency around such developments. |
| **CRIMINAL JUSTICE IMPACT**  It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision. |
| **RULEMAKING AUTHORITY**  It is the committee's opinion that rulemaking authority is expressly granted to the Texas Department of Housing and Community Affairs in SECTION 9 of this bill. |
| **ANALYSIS**  C.S.H.B. 21 amends the Local Government Code to revise the Texas Housing Finance Corporations Act by clarifying the area of operation in which a housing finance corporation (HFC) may exercise its powers and by imposing additional conditions for beneficial property tax treatment for certain multifamily residential developments.  **Applicability of Texas Housing Finance Corporations Act**  C.S.H.B. 21 changes the residential development to which the act applies from a development at least 90 percent of which is for use by or is 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 for the preceding tax year exceed the maximum amount constituting moderate income under the HFC's rules, resolutions relating to the issuance of bonds, or financing documents relating to the issuance of bonds to a development that is occupied by or is intended to be occupied by persons of very low, low, moderate, and middle income in accordance with the requirements of the act.  **HFC Area of Operation**  C.S.H.B. 21 establishes the area of operation in which an HFC may own real property for residential development or engage in residential development under the act is limited to the following:   * for an HFC sponsored by a municipality, the boundaries of the municipality; * for an HFC sponsored by a county, the boundaries of the county; or * for an HFC sponsored by more than one local government, the boundaries of each municipal sponsor and the boundaries of each county sponsor.   The bill restricts an HFC from owning real property for residential development or engaging in residential development outside those areas unless a resolution or order, as applicable, approving that ownership or development is adopted by the governing bodies of the following:   * each municipality that contains any part of the outside area in which the HFC proposes to own real property for residential development or engage in residential development; * 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 * any HFC sponsored by such a municipality or county, as applicable.   These provisions expressly do not prohibit or limit an HFC from owning real property outside those areas if the property is not owned for purposes of residential development.  C.S.H.B. 21 establishes that these provisions relating to an HFC's area of operation apply only to the ownership of real property that is acquired by an HFC on or after the bill's effective date. The ownership of real property acquired by an HFC before that date, and the authority of an HFC to own that property or to engage in residential development with respect to that real property in an area outside the areas described above is governed by the law in effect on the date the property was acquired by the HFC, and the former law is continued in effect for that purpose. A residential development that is owned by an HFC on September 1, 2025, and is located outside the area in which the HFC is authorized to own real property or engage in residential development is not eligible for a property tax exemption under the bill's provisions after January 1, 2027, unless the HFC obtains the appropriate resolutions or orders from the governing bodies of each applicable municipality, county, or HFC before that date.  C.S.H.B. 21 removes the specification that the authorization for an HFC to delegate to the Texas Department of Housing and Community Affairs (TDHCA) the authority to act on the HFC's behalf in the financing, refinancing, acquisition, leasing, ownership, improvement, and disposal of home mortgages or residential developments is with respect to such actions within and outside the jurisdiction of the HFC.  C.S.H.B. 21 restricts the issuance of bonds by HFCs under the act for purposes of defraying certain costs to financing or supporting residential developments or homes that are located or will be constructed as follows:   * within the boundaries of a local government in which an HFC is permitted to own real property for residential development or engage in residential development under the bill's provisions relating to an HFC's area of operation; or * outside the boundaries of such a local government if a resolution or order, as applicable, approving the issuance of bonds is adopted by the governing bodies of the following:   + 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.   This restriction applies only to bonds issued on or after the bill's effective date. Bonds issued before that date are governed by the law in effect on the date the bonds were issued, and the former law is continued in effect for that purpose.  C.S.H.B. 21 removes the specification that the authorization for an HFC to 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 HFC or as donated to the corporation, applies wherever the property is located. The bill subjects statutory provisions regarding the specific powers of an HFC relating to financial and property transactions to the bill's provisions relating to an HFC's area of operation.  C.S.H.B. 21 revises the authorization for an HFC to issue bonds to finance a multifamily residential development to be owned by the HFC if at least 50 percent of the units are reserved as income-restricted by changing the applicable income threshold for occupancy of those units from individuals and families earning less than 80 percent of the area median family income to individuals and families earning less than 100 percent of the area median family income. The bill specifies that the requisite public hearing preceding issuance of such bonds is a public hearing by the governing body of the applicable local government. These provisions apply only to bonds issued on or after the bill's effective date. Bonds issued before that date are governed by the law in effect on the date the bonds were issued, and the former law is continued in effect for that purpose.  **Additional Conditions for Beneficial Property Tax Treatment**  Affordability and Other Conditions  C.S.H.B. 21 conditions the availability of the property tax exemption for an HFC with respect to a multifamily residential development owned by an HFC on the development satisfying the following affordability requirements:   * at least:   + 10 percent of the units in the development are reserved as lower income housing units for occupancy by an individual or family earning not more than 60 percent of the area median income (AMI), adjusted for family size, as defined by HUD, and at least 40 percent of the units in the development are reserved as moderate income housing units for occupancy by an individual or family earning not more than 80 percent of the AMI, adjusted for family size, as defined by HUD; or   + 10 percent of the units in the development are reserved as very low income housing units for occupancy by an individual or family earning not more than 50 percent of the AMI, adjusted for family size, as defined by HUD, and at least 40 percent of the units in the development are reserved as middle income housing units for occupancy by an individual or family earning not more than 100 percent of the AMI, adjusted for family size, as defined by HUD; * the rent reduction at the development in the preceding tax year was:   + 60 percent or more of the amount of the estimated property taxes that would have been imposed on the applicable property in the same preceding tax year if the property did not receive the applicable exemption, beginning with:     - for a multifamily residential development that is acquired by the HFC, the third tax year after the tax year that the HFC acquires the development; and     - for a newly constructed multifamily residential development other than such a development that is acquired by the HFC, the first tax year after the tax year in which the development first achieves an occupancy rate of 90 percent; or   + less than 60 percent of the amount of estimated property taxes beginning with the applicable tax year, but the HFC user paid to the Texas Permanent School Fund Corporation for the applicable tax year an amount equal to the rent reduction shortfall that exists based on the difference between the reduction of less than 60 percent and a reduction by 60 percent or more; * the income-restricted residential units in the development have the same unit finishes and equipment and access to community amenities and programs as residential units that are not income-restricted; * the percentage of very low, lower, moderate, and middle income housing units reserved in each category of income-restricted residential units in the development, based on the number of bedrooms per unit, is the same as the percentage of each category of income-restricted residential units reserved in the development as a whole; * the monthly rent charged per unit does not exceed the following:   + for a very low income housing unit, 30 percent of 50 percent of the adjusted AMI, adjusted for family size, as defined by HUD;   + for a lower income housing unit, 30 percent of 60 percent of that AMI, adjusted for family size;   + for a moderate income housing unit, 30 percent of 80 percent of that AMI, adjusted for family size; or   + for a middle income housing unit, 30 percent of 100 percent of that AMI, adjusted for family size; * the HFC user and the development do not:   + refuse to rent a residential unit to an individual or family due to their participation in the federal Section 8 voucher program; or   + use a financial or minimum income standard that requires an individual or family participating in the 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; * the HFC user causes to be published on the development's website information about the development's policies regarding tenant participation in the federal Section 8 voucher program; and * the HFC user for the development affirmatively markets available residential units directly to individuals and families participating in the federal Section 8 voucher program and notifies local housing authorities of the development's acceptance of tenants in the program.   The bill specifies that the definition of annual income described under federal HUD regulations is the definition to be used in calculating income for an income-restricted unit and provides for the application of certain federal law to determine whether a tenant whose income exceeds an applicable limit at the time of lease renewal still qualifies. The bill authorizes an HFC user to require an individual or family participating in the federal Section 8 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.  Additional Conditions for Development Acquired by an HFC  C.S.H.B. 21 establishes that a development that is acquired by an HFC and is occupied on the date of the acquisition is eligible for the tax exemption for the two tax years following the acquisition date, regardless of whether the development complies with the bill's additional conditions for the exemption, if the development comes into compliance with those conditions not later than the end of the second tax year after the acquisition date.  Conditions Relating to Tenant Protections  C.S.H.B. 21 further conditions the availability of the exemption on each lease agreement for an income-restricted residential unit in the development by providing for the following:   * 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; * the landlord may only choose to not renew the lease if the tenant:   + committed one or more substantial violations of the lease;   + failed to provide required information on the income, composition, or eligibility of the tenant's household; or   + committed repeated minor violations of the lease that disrupt the livability of the property, adversely affect the health and safety of any person or the right to quiet enjoyment of the leased premises and related development facilities, interfere with the management of the development, or have an adverse financial effect on the development, including the failure of the tenant to pay rent in a timely manner; and * to not renew the lease, the landlord must serve a written notice of proposed nonrenewal on the tenant not later than the 30th day before the effective date of nonrenewal.   The bill prohibits a tenant from waiving these tenant protections and authorizes an HFC user to adopt protections that are more protective of tenants than those provided by the bill.  Definitions  C.S.H.B. 21 defines "housing finance corporation user" for purposes of these provisions, and for purposes of the bill's provisions relating to audit requirements, as an HFC or, for a multifamily residential development that is not owned directly by an HFC, a public-private partnership entity or a developer or other person or entity that has an ownership interest or a leasehold or other possessory interest in multifamily residential development financed or supported by an HFC. The bill defines the following terms for purposes of these provisions:   * "housing choice voucher program" as the housing choice voucher program under Section 8 of the United States Housing Act of 1937; * "lower income housing unit" as 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, as defined by HUD; * "middle income housing unit" as a residential unit reserved for occupancy by an individual or family earning not more than 100 percent of the area median income, adjusted for family size, as defined by HUD; * "moderate income housing unit" as 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, as defined by HUD; * "multifamily residential development" as any residential development consisting of four or more residential units intended for occupancy as rentals, regardless of whether the units are attached or detached; * "rent" as any recurring fee or charge a tenant is required to pay as a condition of occupancy, including a fee or charge for the use of a common area or facility reasonably associated with residential rental property, but not including fees and charges for services or amenities that are optional for a tenant, such as pet fees and fees for storage or covered parking; * "rent reduction" as the projected difference between the rent charged for an income-restricted unit and the maximum market rate rent that could be charged for that same unit without the income restrictions; and * "very low income housing unit" as a residential unit reserved for occupancy by an individual or family earning not more than 50 percent of the area median income, adjusted for family size, as defined by HUD.   Applicability Provisions  C.S.H.B. 21 establishes that its provisions regarding the additional conditions for beneficial property tax treatment do not apply to a multifamily residential development that is the recipient of a tax credit allocated under the state low income housing tax credit program. Those provisions also apply only to a tax imposed for a tax year that begins on or after the bill's effective date and apply to all multifamily residential developments claiming an exemption, regardless of when the developments were approved or acquired.  C.S.H.B. 21 requires a multifamily residential development that was acquired by an HFC before the bill's effective date to do the following:   * not later than January 1, 2026, come into compliance with the additional conditions for beneficial property tax treatment relating to:   + rent reduction;   + tenants participating in the federal Section 8 voucher program; and   + tenant protections; and * not later than January 1, 2027, come into compliance with the additional conditions for beneficial property tax treatment relating to:   + percentage of units in the development reserved as income-restricted;   + quality of and access to amenities and programs of income-restricted units;   + the number of income-restricted units in each income category, based on the number of bedrooms per unit; and   + the rent caps for each category of income-restricted units.   **Audit Requirements for Certain Multifamily Residential Developments**  C.S.H.B. 21 requires an HFC or HFC user that claims a property tax exemption for a multifamily residential development under the Texas Housing Finance Corporations Act to annually submit to TDHCA an audit report for a compliance audit, prepared at the expense of the HFC user and conducted by an independent auditor or compliance expert with an established history of providing similar audits on housing compliance matters, that as follows:   * states whether the HFC is in compliance with the bill's additional conditions for beneficial property tax treatment; 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 rent or income restrictions.   The bill requires TDHCA to examine the audit report and publish a report summarizing the findings of the audit not later than the 60th day after the date of receipt of the audit. The report must describe in detail the nature of any failure to comply with the bill's additional conditions for beneficial property tax treatment, be made available on TDHCA's website, and be issued to the following:   * the HFC that owns or is associated with the development that is the subject of an audit; * the HFC user of the development; * the comptroller of public accounts; and * the governing body of the HFC's sponsoring local government or governments.   The initial audit report 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 an HFC or the date a newly constructed multifamily residential development first becomes occupied by one or more tenants. For a multifamily residential development that was acquired by an HFC before the bill's effective date, the initial report must be submitted by the later of the following:   * June 1, 2026; or * June 1 of the tax year following:   + the date of acquisition for an existing multifamily residential development that is acquired by an HFC; or   + the date a newly constructed multifamily residential development first becomes occupied by one or more tenants.   Subsequent audit reports are due not later than June 1 of each year. The bill authorizes TDHCA to extend the deadline for submitting the audit for good cause shown, as determined by TDHCA.  C.S.H.B. 21 does the following with respect to an audit report that indicates noncompliance with the bill's additional conditions for beneficial property tax treatment:   * requires the HFC user, the associated HFC, and the chief appraiser of the appraisal district in which the development is located to be given written notice from TDHCA that is provided not later than the 120th day after the date a report has been submitted and that specifies the reasons for noncompliance; and * for a finding of noncompliance relating to the additional conditions, requires the HFC user and the associated HFC to be given the following:   + additional written notice that otherwise complies with the notice requirements for TDHCA, contains at least one option for a corrective action to resolve the noncompliance, and informs the HFC user and associated HFC that failure to resolve the noncompliance within the required period will result in the loss of the property tax exemption;   + a period of 180 days after the date notice is received to resolve the matter that is the subject of the notice; and   + if a matter that is the subject of a notice is not resolved to the satisfaction of TDHCA during that 180-day period, a second notice that informs the HFC of the loss of the property tax exemption due to noncompliance, as applicable.   C.S.H.B. 21 prohibits an independent auditor or compliance expert from preparing an audit for more than three consecutive tax years for the same HFC. After the third consecutive audit, the auditor or expert may prepare an audit only after the second anniversary of the preparation of the third consecutive audit. The bill requires TDHCA to adopt forms and reporting standards for the auditing process and authorizes TDHCA to charge a reasonable fee for the submission of an audit report to cover the expenses of administering the bill's audit requirements. The bill establishes that an audit conducted under the bill's provisions is subject to disclosure under state public information law, except that tenant identifying information may be redacted.  C.S.H.B. 21 requires TDHCA to adopt rules as necessary to implement the audit requirements and the bill's additional conditions for beneficial property tax treatment not later than January 1, 2026. The rules must include administrative processes and a process by which an HFC user may appeal a finding of noncompliance made under these provisions or a loss of a tax exemption due to a finding of noncompliance with the additional conditions or any other provision of the Texas Housing Finance Corporations Act.  C.S.H.B. 21 provides the following with respect to the bill's provisions relating to the audit requirements:   * the provisions apply to all multifamily residential developments claiming a property tax exemption under the act, regardless of when the developments were approved or acquired; and * the provisions do 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 the state low income housing tax credit program.   **Transfer of Residential Development Sites**  C.S.H.B. 21 removes the requirement for a residential development covered by the Texas Housing Finance Corporations Act to be located within an applicable local government. With respect to the authorization for a local government to transfer any residential development site to an HFC by sale or lease, the bill does the following:   * subjects the authorization to the bill's provisions relating to an HFC's area of operation; and * removes the provision establishing that the site may be located wholly or partly inside or outside the local government.   **HFC Property Exemption From Taxes and Fees**  C.S.H.B. 21 subjects the exemption for an HFC, all property owned by the HFC, the income from that property, all bonds issued by the HFC, the income from those bonds, and the transfer of those bonds from license fees, recording fees, and all other taxes imposed by the state or any political subdivision of the state to compliance with the requirements of the Texas Housing Finance Corporations Act, as revised by the bill.  C.S.H.B. 21 makes a multifamily residential development owned by an HFC eligible for a property tax exemption and makes the materials used to improve the applicable property eligible for an exemption from sales and use taxes only if the following conditions are met:   * the property is located in an area in which the HFC is authorized to own real property or engage in residential development under the bill's area of operation provisions; * the board of directors of the HFC has adopted a resolution approving the development; * before such approval by the board of directors, the HFC or a sponsoring local government of the HFC does the following:   + conducts, or obtains from a professional entity that has experience underwriting affordable residential developments and does not have a financial interest in the HFC or the applicable development, developer, or investors, an underwriting assessment of the proposed development that is dated not earlier than 180 days before the date of the board resolution;   + based on the underwriting assessment, makes a good faith determination that the annual rent reduction at the development under the bill's provisions will be not less than 60 percent of the amount of estimated property taxes that would be imposed on the property in the same tax year if the applicable property did not receive an exemption from those taxes as follows:     - for a development that is acquired by the HFC, each of the third, fourth, and fifth tax years after the tax year that the HFC acquires the development; and     - for a newly constructed development other than such a development acquired by the HFC, each of the first, second, and third tax years after the tax year in which the development first achieves an occupancy rate of 90 percent; and   + publishes on its website a copy of the underwriting assessment required by these provisions; and * the HFC submits to TDHCA and to the chief appraiser for each appraisal district in which the exemption is sought a one-time exemption application on a form promulgated by the comptroller.   These provisions, except for the provision relating to the submission of the application by the HFC to TDHCA and each applicable chief appraiser, apply only to multifamily residential developments that are acquired by an HFC on or after the bill's effective date  C.S.H.B. 21 establishes that a multifamily residential development owned by an HFC or an HFC user is not entitled to a property tax exemption for any given tax year in which the following circumstances apply:   * the HFC or the HFC user is not in compliance with any of the bill's additional conditions for beneficial property tax treatment, the bill's notice requirements related to that noncompliance have been fulfilled, and the noncompliance is not resolved to the satisfaction of TDHCA within the required period; or * the HFC or the HFC user has not timely submitted the audit report required under the bill's provisions.   The bill exempts a multifamily residential development that is owned by an HFC and is the recipient of a low income housing tax credit allocated under the state low income housing tax credit program from these provisions and the bill's provisions restricting eligibility to the property tax exemption with respect to the following:   * the requirement for an HFC or its sponsoring local government to conduct or obtain an underwriting assessment of the proposed development, make the requisite good faith determination with respect to the applicable annual rent reduction, and publish a copy of the underwriting assessment online; and * the requirement for the HFC to submit to TDHCA and to the chief appraiser for each appraisal district in which the exemption is sought a one-time exemption application of a form promulgated by the comptroller.   C.S.H.B. 21 establishes that the exemption from taxes for an HFC, all property owned by it, the income from the property, all bonds issued by it, the income from the bonds, and the transfer of the bonds does not apply to property taxes imposed on a multifamily residential development by a conservation or reclamation district created under specified provisions of the Texas Constitution that provides water, sewer, or drainage service to the development, unless the applicable HFC 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. This provision applies only to multifamily residential developments that are acquired by an HFC on or after the bill's effective date.  C.S.H.B. 21 establishes that its provisions relating to tax and fee exemptions for multifamily residential developments apply to all multifamily residential developments owned by an HFC regardless of when the developments were approved or acquired, except as otherwise provided. The bill also establishes that those provisions apply only to a tax year that begins on or after the bill's effective date.  **Applicability of Open Meetings and Open Records Laws**  C.S.H.B. 21 makes state open meetings law applicable to actions and proceedings under the Texas Housing Finance Corporations Act and makes state public information law applicable to all HFC records.  **Repealed Provision**  C.S.H.B. 21 repeals Section 394.005, Local Government Code, which makes the Texas Housing Finance Corporations Act inapplicable to property located within a municipality with more than 20,000 inhabitants as determined by an HFC's rules, resolutions relating to the issuance of bonds, and financing documents relating to the issuance of bonds, unless the governing body of the municipality approves the application of the act to that property. |
| **EFFECTIVE DATE**  On passage, or, if the bill does not receive the necessary vote, September 1, 2025. |
| **COMPARISON OF INTRODUCED AND SUBSTITUTE**  While C.S.H.B. 21 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.  Whereas the introduced changed the residential development to which the Texas Housing Finance Corporations Act applies from a residential development at least 90 percent of which is for use by or is intended to be occupied by persons of low and moderate income meeting certain gross income requirements to a residential development that is occupied by such persons, the substitute changes the development to which the act applies from a residential development at least 90 percent of which is for use by or is intended to be occupied by persons of low and moderate income meeting certain gross income requirements to a residential development that is occupied by or is intended to be occupied by persons of very low, low, moderate, and middle income.  Whereas the introduced established the area of operation in which an HFC may exercise its powers under the act, the substitute establishes the area of operation in which an HFC may own real property for residential development or engage in residential development under the act. With respect to those areas of operation, the substitute replaces references to municipal jurisdictional boundaries and to unincorporated areas of counties, as in the introduced, with references to municipal and county boundaries, as applicable. The substitute omits provisions of the introduced that did the following:   * restricted an HFC from exercising its powers outside those areas of operation unless a resolution or order, as applicable, approving that exercise of power is adopted by the governing body of each sponsoring local government and by the governing bodies of each municipality and county that contains any part of the outside area in which the HFC proposes to operate, as applicable; and * established that those provisions apply only to the exercise of power by an HFC made on or after the bill's effective date.   However, the substitute includes provisions absent from the introduced that do the following:   * restrict an HFC from owning real property for residential development or engaging in residential development outside those areas unless a resolution or order, as applicable, approving that ownership or development is adopted by the governing bodies of each applicable municipality and county and of any HFC sponsored by such a municipality or county; * establish that those provisions expressly do not prohibit or limit an HFC from owning real property outside those areas if the property is not owned for purposes of residential development; and * establish that those provisions apply only to the ownership of real property that is acquired by an HFC on or after the bill's effective date and that the ownership of real property acquired by an HFC before that date, and the authority of an HFC to own that property or to engage in residential development with respect to that real property in an area outside the areas authorized is governed by the law in effect on the date the property was acquired by the HFC, and the former law is continued in effect for that purpose.   The substitute revises the provisions of the introduced that restrict the issuance of bonds by HFCs under the act for purposes of defraying certain costs to financing or supporting residential developments or homes as follows:   * includes as an authorized purpose for issuing bonds financing or supporting residential developments or homes that will be constructed, which the introduced did not include; and * revises the area within which an applicable development or home is located, from inside the boundaries of the sponsoring municipality or county or of at least one sponsoring local government, as in the introduced, to within the boundaries of a local government in which an HFC is permitted to own real property for residential development or engage in residential development under the bill's provisions or outside such boundaries on approval by the governing bodies of each municipality and county that contains any part of the residential development or home.   The substitute includes a provision absent from the introduced subjecting statutory provisions regarding the specific powers of an HFC relating to financial and property transactions to the bill provisions relating to an HFC's area of operation.  The substitute includes a provision absent from the introduced that does the following with respect to the authorization for an HFC to issue bonds to finance a multifamily residential development to be owned by the HFC if at least 50 percent of the units are reserved as income-restricted:   * specifies that the requisite public hearing preceding issuance of such bonds is a public hearing by the governing body of the applicable local government; and * changes the applicable income threshold for occupancy of the reserved income-restricted units from individuals and families earning less than 80 percent of the area median family income to individuals and families earning less than 100 percent of the area median family income.   The substitute replaces references to a property-based tax, as in the introduced, with references to a property tax with respect to provisions establishing additional conditions for beneficial property tax treatment relating to certain multifamily residential developments. The substitute revises the provision from the introduced that conditions the availability of the property tax exemption for an HFC with respect to a multifamily residential development on the development satisfying those additional conditions by specifying that the development is owned by an HFC. Additionally, the substitute revises those requisite conditions as follows:   * with respect to the requirement for at least 10 percent of the units in the development to be reserved as lower income housing units and for at least 40 percent of the units to be reserved as moderate income housing units, the substitute does the following, whereas the introduced did not:   + gives the option to have at least 10 percent of the units reserved as very low income housing units and to have at least 40 percent of the units reserved as middle income housing units as an alternative to that requirement;   + provides for those units to be reserved in the same amount as other income-restricted units; and   + provides for the monthly rent charged per each of those categories of units; * includes a condition absent from the introduced that rent reduction at the development in the preceding tax year meet certain thresholds; * includes a condition absent from the introduced for the income-restricted residential units in the development to have the same unit finishes and equipment and access to community amenities and programs as residential units that are not income-restricted; * replaces the entity that may not refuse to rent a residential unit as applicable or use a certain income standard for certain purposes from the HFC that owns the development, as in the introduced, to the HFC user and the development; * replaces the requirement from the introduced for the HFC to publish on its website information about the development's compliance with the bill's additional conditions and the development's policies regarding tenant participation in the federal Section 8 voucher program with a requirement for the HFC user to cause to be published on the development's website information about the development's policies regarding tenant participation in the program; and * changes the entity that must affirmatively market available units from the HFC that owns the development, as in the introduced, to the HFC user for the development.   The substitute replaces the entity authorized to require an individual or family participating in the federal Section 8 voucher program to pay the difference between the monthly rent for the applicable unit and the amount of the monthly voucher as applicable from an HFC, as in the introduced, to an HFC user.  The substitute omits the provisions from the introduced that did the following:   * provided for the underwriting assessment of a proposed development among the additional conditions for beneficial property tax treatment; and * required a development that is acquired by an HFC to meet the following conditions to be eligible for the exemption:   + the development is occupied or has been occupied within the two-year period preceding the date of the acquisition;   + the development is not subject to a land use restriction agreement to ensure long-term affordability and safety of multifamily residential developments;   + not less than 15 percent of the total gross cost of the existing development, as shown in the settlement statement, is expended on rehabilitating, renovating, reconstructing, or repairing the development, with initial expenditures and construction activities beginning not later than the first anniversary of the date of the acquisition and finishing not later than the third anniversary of that date; or   + at least 25 percent of the units are reserved for occupancy as lower income housing units and the development is approved by the governing body of the municipality or county in which the development is located, as applicable.   The introduced included provisions that establish that a development that is acquired by an HFC, that is occupied or was occupied within the two-year period preceding the date of the acquisition, and that is not otherwise subject to a land use restriction agreement to ensure long-term affordability and safety of multifamily residential developments is eligible for the tax exemption as follows, which the substitute does not include:   * for the one-year period following the date of the acquisition, regardless of whether the development complies with the bill's conditions relating to the issuance of bonds to an HFC; and * for a year following that one-year period only if the development comes into compliance with those conditions not later than the first anniversary of the date of the acquisition.   Instead, the substitute establishes that a development that is acquired by an HFC and is occupied on the date of the acquisition is eligible for the tax exemption for the two tax years following the acquisition date, regardless of whether the development complies with the bill's additional conditions for the exemption, if the development comes into compliance with those conditions not later than the end of the second tax year after the acquisition date, which the introduced did not do. The substitute also omits the corresponding procedural provision that appeared in the introduced.  The substitute revises the provision from the introduced that further conditions the availability of the exemption on each lease agreement for a residential unit in the development providing for certain components by specifying that the conditions are for each lease agreement for an income-restricted residential unit.  The substitute omits the provision from the introduced that defined the term "property-based tax exemption." The substitute includes definitions for the following terms, which did not appear in the introduced:   * "housing finance corporation user"; * "middle income housing unit"; * "multifamily residential development"; * "rent reduction"; and * "very low income housing unit."   The substitute revises the definition of "rent" that appeared in the introduced by specifying that the definition does not include fees and charges for services or amenities that are optional for a tenant, such as pet fees and fees for storage or covered parking.  With respect to the requirement for an HFC that claims a property tax exemption to submit a certain audit report for a compliance audit prepared at the expense of the HFC, the substitute also requires an HFC user to do so and specifies that the report is prepared at the expense of the HFC user, whereas the introduced did not. The substitute omits the introduced version's requirement for the audit report to be submitted to the chief appraiser of the appraisal district in which the development is located. Whereas the introduced required the audit to determine whether the HFC is in compliance with certain provisions of the bill, the substitute requires the audit only to determine whether the HFC is in compliance with the bill's additional conditions for beneficial property tax treatment.  The substitute replaces the requirement for the report to be issued to an HFC that has an interest in a development that is the subject of an audit, as in the introduced, with a requirement for the report to be issued to the HFC that owns or is associated with the development that is the subject of an audit. The substitute also requires the report to be issued to the HFC user of the development, whereas the introduced did not.  The substitute replaces the provision of the introduced establishing that the initial audit report is due not later than June 1 of the year following the first anniversary of the date of acquisition for an occupied multifamily residential development that is acquired by an HFC or the first anniversary of the date a new multifamily residential development first becomes occupied by one or more tenants with a provision establishing that the report is due not later than June 1 of the year following the date of acquisition for an existing multifamily residential development that is acquired by an HFC or the date a newly constructed multifamily residential development first becomes occupied by one or more tenants. The substitute also includes a provision absent from the introduced that authorizes TDHCA to extend the deadline for submitting the audit for good cause shown, as determined by TDHCA.  The substitute revises the procedures established in the introduced relating to a submitted audit report that indicates noncompliance as follows:   * changes the required recipient of written notice of the noncompliance from the HFC, as in the introduced, to the HFC user, the associated HFC, and the applicable chief appraiser; * extends the deadline by which notice of the noncompliance must be provided to those recipients from the 90th day after the report has been submitted, as in the introduced, to the 120th day after that date; * requires an HFC user and the associated HFC to be given additional written notice for a finding of noncompliance with the bill's additional conditions for beneficial property tax treatment, which the introduced did not require; * extends the period after receiving the notice within which the noncompliance may be resolved from 60 days after receipt of the notice, as in the introduced, to 180 days after receipt of the notice; * omits a provision of the introduced that established an HFC is considered to be compliant if notice of noncompliance is not provided in the required manner and by the deadline; and * omits a provision of the introduced that establishes a property tax exemption does not apply for a tax year in which a multifamily residential development owned by an HFC is determined by TDHCA to be noncompliant based on an audit.   The substitute specifies that the prohibition in the introduced against an independent auditor or compliance expert preparing an audit for more than three consecutive years for the same HFC applies to more than three consecutive tax years.  The substitute replaces the authorization from the introduced for TDHCA to adopt rules as necessary to implement the audit requirements with a requirement for TDHCA to adopt those rules and to adopt rules to implement the bill's additional conditions for beneficial property tax treatment. The substitute also includes provisions absent from the introduced that do the following:   * require the rules to include administrative processes and a process by which an HFC user may appeal a finding of noncompliance or a loss of a tax exemption due to a finding of noncompliance with the additional conditions or any other provision of the Texas Housing Finance Corporations Act; and * establishes that the audit requirement provisions do 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 the state low income housing tax credit program.   While both the introduced and substitute remove the requirement for a residential development covered by the Texas Housing Finance Corporations Act to be located within the applicable local government and remove the provision establishing that a residential development site transferred by a local government to an HFC by sale or lease may be located wholly or partly inside or outside the local government, the versions differ as follows:   * the introduced specified that the transferred site location is subject to the requirements of the act, which the substitute does not specify; and * the substitute includes a provision absent from the introduced subjecting the authorization for the local government to transfer any residential development site to an HFC by sale or lease to the bill's provisions relating to an HFC's area of operation.   The substitute omits the provisions from the introduced that provided conditions for the existing exemption under the Texas Housing Finance Corporations Act from taxes and certain fees imposed on all property owned by an HFC, the income from the property, all bonds issued by the HFC, the income from the bonds, and the transfer of the bonds.  The substitute includes a provision absent from the introduced subjecting the exemption for an HFC, all property owned by the HFC, the income from that property, all bonds issued by the HFC, the income from those bonds, and the transfer of those bonds from license fees, recording fees, and all other taxes imposed by the state or any political subdivision of the state to compliance with the requirements of the Texas Housing Finance Corporations Act, as revised by the bill. The substitute omits a specification from the introduced that the exemption applied notwithstanding any other law.  The substitute includes provisions absent from the introduced that make a multifamily residential development owned by an HFC eligible for a property tax exemption, make the materials used to improve the applicable property eligible for an exemption from sales and use taxes only if certain conditions are met, and provides for those conditions. The substitute also includes provisions absent from the introduced establishing the circumstances in which a multifamily residential development owned by an HFC or an HFC user is not entitled to a property tax exemption for any given tax year. The substitute establishes that certain of those provisions do not apply to a development that is owned by an HFC and is the recipient of a low income housing tax credit allocated under the state low income housing tax credit program, whereas the introduced did not.  The substitute includes a provision absent from the introduced establishing that the exemption from taxes for an HFC, all property owned by it, the income from the property, all bonds issued by it, the income from the bonds, and the transfer of the bonds does not apply to property taxes imposed on a multifamily residential development by a conservation or reclamation district that provides water, sewer, or drainage service to the development, unless the applicable HFC 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.  The substitute revises provisions establishing applicability of the bill's provisions as follows:   * the substitute makes the bill's provisions relating to additional conditions for a tax exemption and the audit requirement applicable to all multifamily residential developments claiming an exemption, regardless of when the developments were approved or acquired, whereas the introduced made only certain of those provisions applicable to a multifamily residential development owned by an HFC on or after the bill's effective date, regardless of the date the development was acquired by the HFC; * the introduced made provisions relating to the tax and fee exemption for an HFC and additional eligibility conditions for the exemption applicable to a tax or fee imposed for a tax year or calendar year, respectively, that begins on or after the bill's effective date, whereas the substitute makes those provisions applicable only to a tax for a tax year that begins on or after that date; * the substitute requires a multifamily residential development that was acquired by an HFC before the bill's effective date to come into compliance with certain additional conditions for beneficial property tax treatment not later than January 1, 2026, and to come into compliance with certain other conditions not later than January 1, 2027, which the introduced did not require; and * the substitute makes a residential development that is owned by an HFC on September 1, 2025, and is located outside the area of operation authorized by the bill ineligible for a property tax exemption after January 1, 2027, unless the HFC obtains the appropriate resolutions or orders to own real property or engage in residential development outside that area, which the introduced did not do. |