**BILL ANALYSIS**

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| Senate Research Center | C.S.S.B. 867 |
| 89R26212 JAM-D | By: Bettencourt |
|  | Local Government |
|  | 4/30/2025 |
|  | Committee Report (Substituted) |

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

S.B. 867 addresses Local Government Code, Chapter 394 which relates to the creation and operation of housing finance corporations (HFCs). HFCs can partner with a multifamily or contemplate the building of a multifamily complex to exempt property taxes. In return for receiving this exemption, under current law, the property is to set aside a number of units to rent to tenants who are at or below 80 percent of the average median income (AMI). HFCs are currently providing the property tax exemption to properties within their territorial jurisdiction and non-territorial jurisdiction. Some HFCs, such as Cameron County HFC, Pecos HFC, and Pleasanton HFC, have exempted property taxes on properties around Texas. Currently, as the law stands, if the market rents of the subject property are already below the targeted rents based on 80 percent AMI, the property may suffer no loss to the rental income but yet still receive 100 percent tax exemption.

S.B. 867 provides geographic limitations on where HFCs can operate and certain restrictions that must be met for favorable tax treatment under the Local Government Code, such as reducing rent to qualified residents and complying with audit requirements. When an HFC participates in the purchasing of an existing complex, 15 percent of the acquisition cost must be put into the property to rehabilitate it.

S.B. 867 would mandate units for low- and moderate-income families to be designated, obtain the local municipality's approval if the property is located in the municipality and the county's approval in which the property is located, and require that the total amount of rent reduction that is below the prevailing market rate for the subject property to total at least 60 percent of the actual tax savings. Protections are also added for renters benefitting from the program by requiring each HFC to conduct a compliance audit through an independent auditor or compliance expert for certain multifamily residential developments and submit them to the Texas Department of Housing and Community Affairs and the chief appraiser of the local appraisal district. The audit requirements would apply to all pre-existing and future HFCs. Within three years, existing properties would be required to come into compliance with the new standards established in S.B. 867.

(Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 867 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 7 (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 occupied by, rather than 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 whose adjusted gross income meets certain requirements.

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 RECORD 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 Section 394.032(d), Local Government Code, to authorize a housing finance corporation, subject to certain provisions of the Local Government Code, to enter into contracts to perform services for certain housing finance corporation individuals or entities and to make a nonsubstantive change.

SECTION 4. Amends Section 394.037, Local Government Code, by adding Subsection (a-1) to provide that a housing finance corporation is authorized to only issue bonds under this chapter for a purpose described by Subsection (a) (relating to authorizing a housing finance corporation to issue defray bonds to certain costs) to finance or support a residential development or home that is located or will be constructed within the boundaries of the local government that formed the corporation under 394.011 (Application for Incorporation) or Section 394.012 (Application for Incorporation of, and Other Special Provisions for, Joint Corporation).

SECTION 5. Amends Section 394.039, Local Government Code, to authorize a housing finance corporation to perform certain transactions, including, subject to certain provisions of the Local Government Code, purchasing, receiving, leasing, or otherwise acquiring, owning, holding, improving, using, or dealing in and with real or personal property or interests in that property, wherever the property is located, as required by the purposes of the corporation or as donated to the corporation.

SECTION 6. 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, subject to the geographic limitations of Section 394.037(a-1), to issue bonds to finance a multifamily residential development to be owned, financed, or supported by the housing finance corporation if 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.

(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, financed, or supported 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 7. Amends Subchapter Z, Local Government Code, by adding Section 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," "moderate income housing unit," "multifamily residential development," and "rent."

(b) Provides that this section does not apply to a multifamily residential development that receives financial assistance administered 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 for a multifamily residential development owned, financed, or supported by a housing finance corporation is available only if the other requirements of this chapter are satisfied and if:

(1) subject to Subdivision (2), at least 10 percent of the units in the development are reserved for occupancy as lower income housing units and 40 percent of the units in the development are reserved for occupancy as moderate income housing units;

(2) certain requirements are met for a development that is acquired by a housing finance corporation and that is occupied at acquisition or was occupied at any time within the two-year period preceding the date of the acquisition;

(3) the income-restricted residential units in the development have the same access to community amenities and programs as residential units that are not income-restricted;

(4) the percentage of lower and moderate 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;

(5) the monthly rent charged per unit does not exceed certain amounts;

(6) the housing finance corporation, the housing finance corporation user, and the development, including any individual or entity associated with or acting on behalf of the corporation, user, or development, do not take certain actions;

(7) the housing finance corporation, the housing finance corporation user, or the development causes to be published on the Internet website of the development information about the development's policies regarding tenant participation in the housing choice voucher program;

(8) any housing finance corporation or housing finance corporation user that owns the development affirmatively markets available residential units directly to individuals and families participating in the housing choice voucher program and notifies local housing authorities of the development's acceptance of tenants in the housing choice voucher program; and

(9) each lease agreement for a residential unit in the development provides that:

(A) the housing finance corporation, the housing finance corporation user, and the development are prohibited from retaliating 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;

(B) the housing finance corporation, the housing finance corporation user, and the development are authorized to only choose to not renew the lease if the tenant committed certain violations or failed to provide certain required information; and

(C) to not renew the lease, the housing finance corporation, the housing finance corporation user, or the development are required to serve a written notice of proposed nonrenewal on the tenant not later than the 30th day before the effective date of nonrenewal.

(d) Requires the housing finance corporation, the housing finance corporation user, or the development, in calculating the income of an individual or family for a lower or moderate income housing unit, to use the definition of annual income described in 24 C.F.R. Section 5.609 for the applicable fair market rent area with an imputed family size of one person per bedroom plus one person, as defined and 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 lower or moderate income housing unit.

(e) Authorizes a housing finance corporation, the housing finance corporation user, or development 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). Authorizes a housing finance corporation, housing finance corporation user, or development 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-year period following the date of the acquisition, regardless of whether the development complies with the conditions prescribed by Subsection (c), if the development comes into compliance with Subsection (c) not later than the second anniversary of 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 and to which Section 394.9026 applies to annually submit to the Texas Department of Housing and Community Affairs (TDHCA) an audit report for a compliance audit, prepared at the expense of the corporation or user and conducted by an independent auditor or compliance expert with an established history of providing similar audits on housing compliance matters, that:

(1) states whether the corporation or user is in compliance with the requirements imposed for the exemption by Section 394.9026; and

(2) 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:

(1) be made available on TDHCA's Internet website;

(2) be issued to any housing finance corporation or housing finance corporation user that owns the development that is the subject of an audit, the Comptroller of Public Accounts of the State of Texas, and the governing body of the housing finance corporation's sponsoring local government or governments; and

(3) describe in detail the nature of any failure to comply with the requirements of Section 394.9026.

(d) Requires any housing finance corporation or housing finance corporation user that owns the development, 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 that the notice:

(1) for a finding of noncompliance with any provision of Section 394.9026, contain at least one option for a corrective action to resolve each instance of noncompliance;

(2) give a period of 60 days after the date of receipt of the notice to resolve the matter that is the subject of the notice; and

(3) inform the housing finance corporation or housing finance corporation user that failure to resolve the noncompliance within the period provided by Subdivision (2) will result in the loss of the ad valorem tax exemption under Section 394.905.

(e) Requires TDHCA, if a matter that is the subject of a notice provided under Subsection (d) is not resolved to the satisfaction of TDHCA during the period provided by that subsection, to give a housing finance corporation or housing finance corporation user a second written notice that informs the chief appraiser of the appraisal district in which the development is located, the housing finance corporation, and the housing finance corporation user of the loss of the ad valorem tax exemption for the development due to noncompliance with Section 394.9026.

(f) Provides that a housing finance corporation or housing finance corporation user is considered to be in compliance with Section 394.9026 if notice under Subsection (d) is not provided before the 121st day after the date the report was submitted under Subsection (b).

(g) Provides that the initial audit report required by Subsection (b) is due not later than June 1 of the year following the first anniversary of 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.

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

(i) Provides that TDHCA is:

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

(2) 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;

(3) authorized to extend any deadline imposed under this section for good cause shown, as determined by TDHCA; and

(4) authorized to adopt rules necessary to implement this section and Section 394.9026.

(j) 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.

SECTION 8. Amends Section 394.903, Local Government Code, as follows:

Sec. 394.903. New heading: LOCATION OF RESIDENTIAL DEVELOPMENTS; TRANSFER OF SITES. (a) Requires that a residential development subject to, rather than covered by this chapter, be located within the boundaries of the local government that formed the housing finance corporation that owns, finances, or supports the development.

(b) Provides that the residential development site is subject to the requirements of this chapter. Deletes existing text authorizing the site to be located wholly or partly inside or outside the local government.

SECTION 9. 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, financed, or supported 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) Creates this subsection from existing text and makes no further changes.

(c) Provides that a residential development is exempt from ad valorem taxes imposed by this state or any political subdivision of this state only if any applicable requirements of Section 394.9026 are met and if:

(1) the residential development is located within the boundaries of the local government that formed the housing finance corporation;

(2) the board of directors of the housing finance corporation has adopted a resolution approving the multifamily residential development;

(3) before approval of the board of directors under Subdivision (2), the housing finance corporation or a sponsoring local government of the corporation:

(A) conducts, or obtains from a professional entity that has experience underwriting affordable residential developments and does not have a financial interest in the applicable development or any applicable housing finance corporation user, an underwriting assessment of the proposed development that is dated not earlier than the 180th day before the date of the board resolution;

(B) based on the underwriting assessment, makes a good faith determination that:

(i) for a development that is acquired by a housing finance corporation and that is occupied at acquisition or was occupied at any time within the two-year period preceding the date of the acquisition, the annual public benefit at the development will be not less than 60 percent of the amount of estimated ad valorem 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 under Subsection (a) for each of the third, fourth, and fifth tax years after the tax year that the corporation acquires the development; and

(ii) for a newly constructed development not described by Subparagraph (i), the development would not be feasible if the property did not receive an exemption from ad valorem taxes under Subsection (a); and

(C) publishes on its Internet website a copy of the underwriting assessment required by this subsection; and

(4) the housing finance corporation submits to TDHCA and to the chief appraiser for each appraisal district in which the exemption is sought a one-time project information form on a form promulgated by the comptroller.

(d) Requires that, for purposes of Subsection (c)(3)(B)(i), not less than 50 percent of the annual public benefit required under that subparagraph be attributable to rent reduction.

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

(1) the corporation or user is not in compliance with Section 394.9026 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 user has not timely submitted the audit report required by Section 394.9027.

(f) 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 District), 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.

(g) Provides that Subsections (c)(3), (c)(4), (d), and (e) do not apply to a multifamily residential development that receives financial assistance administered under Subchapter DD, Chapter 2306, Government Code.

(h) Defines "housing finance corporation user," "public benefit," and "rent reduction."

SECTION 10. Repealer: Section 394.005 (Application of Chapter to Property in Certain Municipalities), Local Government Code.

SECTION 11. (a) Makes application of Section 394.037(a-1), Local Government Code, as added by this Act, prospective.

(b) 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.

(c) Provides that, subject to Subsections (d) and (e) of this section, Sections 394.9026 and 394.9027, Local Government Code, as added by this Act, apply to all multifamily residential developments that do not receive financial assistance administered under Subchapter DD, Chapter 2306, Government Code, and are claiming an ad valorem tax exemption under Section 394.905, Local Government Code, as amended by this Act, regardless of when the developments were approved or acquired.

(d) Makes application of Section 394.9026(g), Local Government Code, as added by this Act, prospective.

(e) Requires that 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, notwithstanding Section 394.9027(b) or (g), Local Government Code, as added by this Act, be submitted by the later of the date established by Section 394.9027(g), Local Government Code, as added by this Act or June 1, 2026.

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

(g) Provides that Section 394.905(c), Local Government Code, as added by this Act, applies only to a multifamily residential development that does not receive financial assistance administered under Subchapter DD, Chapter 2306, Government Code, and that is acquired by a housing finance corporation on or after the effective date of this Act.

(h) Provides that a multifamily residential development that is owned, financed, or supported by a housing finance corporation on September 1, 2025, does not receive financial assistance administered under Subchapter DD, Chapter 2306, Government Code, and is located outside an area in which the corporation is authorized to engage in residential development under Section 394.903, Local Government Code, as amended 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.

(i) 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 12. Effective date: upon passage or September 1, 2025.