

BILL ANALYSIS

Senate Research Center
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S.B. 958
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Typically, when affordable housing developments are sold, the development is subject to a 180-day "Right of First Refusal" (ROFR) period, during which time community housing development organizations (CHDOs), qualified nonprofit organizations, and tenant organizations that will continue to operate the developments as affordable housing are the only eligible purchasers. This is reflective of the Texas Department of Housing and Community Affairs' (TDHCA) purpose of developing and retaining affordable housing on a long-term basis and keeping the property in the affordable housing "family." Currently, only CHDOs may purchase an offered property during the first 60 days of the ROFR. Public housing authorities (PHAs) are another type of entity with a mission to provide affordable housing on a long-term basis. When a PHA sponsors a low-income housing tax credit development, a tax credit partnership owns the actual building structure, but typically leases the land under the building from the PHA, or a public facility corporation established by the PHA.

These arrangements often allow the development to claim a 100 percent property tax exemption for the use of governmental land for a public purpose (affordable housing). Having this tax exemption helps the development maintain rents that remain affordable to low-income residents.

However, CDHOs and other parties are often not interested in purchasing these developments, because they are ground leaseholds only, and because the 100 percent property tax exemption is lost when ownership changes hands. As a result, under current law, these developments would typically not be sold until after the 180-day ROFR period lapses, leading to unnecessary administrative delays, and risks of interest rate spikes or other financing concerns.

S.B. 958 gives a PHA, during the first 60 days of an offer for sale of a facility, a right of first refusal to acquire the tax credit partnership's interest in a development when the PHA, or a public facility corporation created by the PHA, is the ground lessor.

As proposed, S.B. 958 amends current law relating to a right of first refusal applicable to the sale of housing developments that have received certain financial assistance administered by the Texas Department of Housing and Community Affairs.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2306.6726(b), Government Code, as follows:

(b) Authorizes the owner of a development subject to a right of first refusal under Section 2306.6725 (Sale of Low Income Housing Tax Credit Developments) to:

(1) during the first 60-day period after notice is provided under Subsection (a-1) (relating to requiring the Texas Department of Housing and Community Affairs to

provide certain notice of the developer's intent to sell), negotiate or enter into a purchase agreement only with a qualified entity that is:

(A) makes a nonsubstantive change;

(B) if the authority or the corporation owns the fee title to the development owner's leasehold estate: a public housing authority or a public facility corporation created by a public housing authority under Chapter 303 (Public Facility Corporations), Local Government Code; or

(C) creates this paragraph from existing text and makes a conforming change; and

(2)–(3) makes no changes to these subdivisions.

SECTION 2. Provides that Section 2306.6726, Government Code, as amended by this Act, applies to the sale of a development supported with an allocation of low income housing tax credits issued before, on, or after the effective date of this Act.

SECTION 3. Effective date: September 1, 2019.