

BILL ANALYSIS

Senate Research Center
87R5927 JAM-D

S.B. 591
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Local Government
3/17/2021
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Affordable housing projects in Texas are intended to utilize public-private partnerships whereby property and sales taxes are reduced or entirely waived for private developers, who, in turn, provide the public benefit of housing at rental rates affordable to Texans who are most economically disadvantaged. While these are laudable goals, the need for improvement has been recognized by a 2020 study by The University of Texas School of Law Entrepreneurship and Community Development Clinic.

Under current law, public finance corporations (PFCs) too often make the sole decision to grant tax breaks to developers to develop affordable housing, leaving all other affected taxing entities without a say in removing taxable properties from their tax rolls. This shifts the remainder of the tax burden to other property owners, residents, and businesses.

What's more, current minimum requirements for these tax exemptions fall short in achieving the true public benefit of affordability the State of Texas intends to gain in proportion to such generous tax breaks, requiring only half of affordable multifamily units be affordable to those earning a full 80 percent of median family income (MFI). Finally, refusal to accept federal housing vouchers is also permissible under current law for these tax-exempt affordable housing developments.

S.B. 591 would address these issues by: (1) requiring the governing bodies of affected taxing entities, prior to the PFC granting tax exemption, to adopt a resolution approving the development; (2) requiring an additional 25 percent of units in multifamily affordable housing units be reserved for families and individuals earning up to 30 percent and 60 percent of the area median family income, at 12.5 percent of the total units, respectively; and (3) prohibit refusal to rent to an individual or family based on participation in the federal Section 8 Housing Choice Voucher Program.

As proposed, S.B. 591 amends current law relating to requirements for beneficial tax treatment related to a leasehold or other possessory interest in a public facility used to provide affordable housing.

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 303.042, Local Government Code, by amending Subsection (d) and adding Subsection (d-1), as follows:

- (d) Provides that an exemption under Section 303.042 (Taxation) for a multifamily residential development which is owned by a public facility corporation created by a housing authority under Chapter 303 (Public Facility Corporations) and which does not have at least 20 percent of its units reserved for public housing units, applies only if:

(1) Makes a nonsubstantive change.

(2) a resolution approving the development is adopted by the governing body of each governmental unit authorized by law to impose taxes on the property containing the development; and

(3) Creates this subdivision from existing text; at least:

(A) creates this paragraph from existing text and makes a nonsubstantive change;

(B) 12.5 percent of the units in the multifamily residential development are reserved for occupancy by individuals and families earning less than 60 percent of the area median family income; and

(C) 12.5 percent of the units in the multifamily residential development are reserved for occupancy by individuals and families earning less than 30 percent of the area median family income.

(d-1) Prohibits the operator of a multifamily residential development described by Subjection (d) from basing any refusal to rent a unit to an individual or family on the individual's or family's participation in the federal Section 8 Housing Choice Voucher Program.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2021.