

By: Gates

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A BILL TO BE ENTITLED

# 1 AN ACT

2 relating to multifamily residential developments owned by public  
3 facility corporations.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 303.003, Local Government Code, is  
6 amended by adding Subdivisions (7-a) and (7-b) and amending  
7 Subdivision (11) to read as follows:

21 (11) "Sponsor" means a municipality, county, [school  
22 ~~district~~] housing authority or special district that causes a  
23 corporation to be created to act in accordance with this chapter.

24 SECTION 2. Section 303.0421(b), Local Government Code, is

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1 amended to read as follows:

2 (b) Notwithstanding Section 303.042(c) and subject to  
3 Subsections (c) and (d) of this section, an exemption under Section  
4 303.042(c) for a multifamily residential development to which  
5 Subsection (a) applies is available only if:

6 (1) the requirements under Sections [Section]  
7 303.0425, 303.0426 and 303.0427 are met;

10 (A) 10 percent of the units in the multifamily  
11 residential development are reserved for occupancy as lower income  
12 housing units, as defined under Section [303.0425](#); and

13 (B) 40 percent of the units in the multifamily  
14 residential development are reserved for occupancy as moderate  
15 income housing units, as defined under Section [303.0425](#);

16 (3) the corporation delivers to the presiding officer  
17 of the governing body of each taxing unit in which the development  
18 is to be located written notice of the development, at least 30 days  
19 before the date:

20 (A) the corporation takes action to approve a new  
21 multifamily residential development or the acquisition of an  
22 occupied multifamily residential development; and

23 (B) of any public hearing required to be held  
24 under this section:

25 (4) if a majority of the members of the board are not  
26 elected officials, the development is approved by the governing  
27 body of the municipality in which the development is located or, if

1 the development is not located in a municipality, the county in  
2 which the development is located;

3 (5) for ~~an occupied~~ a multifamily residential  
4 development ~~that is~~ acquired by a corporation ~~and not otherwise~~  
~~subject to a land use restriction agreement under Section 2306.185,~~  
~~Government Code~~ that was occupied at the time of acquisition or was  
occupied at any time within the two-year period preceding the date  
of the acquisition:

9 (A) at least 10 percent of the units in the  
10 development are reserved for occupancy as lower income housing  
11 units, as defined under Section 303.0425; at least 40 percent of the  
12 units in the development are reserved for occupancy as moderate  
13 income housing units, as defined under Section 303.0425; and not  
14 less than 15 percent of the total gross cost of acquiring the  
15 [existing] development, as shown in the settlement statement  
16 related to the acquisition, is expended on rehabilitating,  
17 renovating, reconstructing, or repairing the development, with  
18 initial expenditures and construction activities:

19 (i) beginning not later than the first  
20 anniversary of the date of the acquisition; and

21 (ii) finishing not later than the third  
22 anniversary of the date of the acquisition; or

23 (B) at least:

24 (i) 25 percent of the units in the  
25 development are reserved for occupancy as lower income housing  
26 units, as defined under Section 303.0425[, and the development is  
27 approved by the governing body of the municipality in which the

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1 ~~development is located or, if the development is not located in a~~  
2 ~~municipality, the county in which the development is located; and~~  
3 (ii) at least 25 percent of the units in the  
4 development are reserved for occupancy as moderate income housing  
5 units, as defined under Section 303.0425;

6 (6) [not less than 30 days before final approval of the  
7 ~~development:~~ (A) the corporation or corporation's sponsor  
8 conducts, or obtains from a professional entity that has experience  
9 underwriting affordable multifamily residential developments and  
10 does not have a financial interest in the applicable development,  
11 developer, or public facility user, an underwriting assessment of  
12 the proposed development that [allows the corporation to make a  
13 good faith determination that:] is dated within six months of the  
14 corporation's approval of the development:

[i] for an occupied multifamily residential development acquired by the corporation,] the total annual amount of rent reduction [on the income-restricted units provided] at the development will be not less than 60 percent of the estimated amount of the annual ad valorem taxes that would be imposed on the property [without an exemption under Section 303.042(c) for the second, third, and fourth years after the date of acquisition by the corporation, and] in the same tax year if the property did not have the income restrictions and did not have an exemption from those taxes under Section 303.042(c):

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8 [ (ii) for a newly constructed multifamily  
9 residential development, the development would not be feasible  
10 without the participation of the corporation; and]

11                           (8) [B] the corporation publishes on its Internet  
12 website a copy of the underwriting assessment described by  
13 [Paragraph A] Subdivision (6).

14 SECTION 3. Sections 303.0421(h) and 303.0421(i), Local  
15 Government Code, are repealed.

16 SECTION 4. Chapter 303, Local Government Code, is amended  
17 by adding Section 303.0422 to read as follows:

21            (a) This section does not apply to a multifamily development  
22 that:

1                   (3) receives financial assistance administered under  
2                   Subchapter 2306, Government Code.

3                   (b) An exemption under Section 303.042(c) does not apply in  
4                   a tax year to a multifamily residential development if the  
5                   difference in the rent charged for the income-restricted  
6                   residential units in the development in the immediately prior tax  
7                   year and the estimated maximum market rents that could be charged  
8                   for those units without the rent or income restrictions in such tax  
9                   year, as reported in the audit under Section 303.0426, is less than  
10                   60 percent of the amount of the ad valorem taxes that would have  
11                   been imposed on the property in the same prior tax year if the  
12                   property did not have the income restrictions and did not have an  
13                   exemption from those taxes under Section 303.042(c):

14                   (1) beginning with the first tax year after the tax  
15                   year in which the development first becomes occupied by one or more  
16                   residential tenants;

17                   (2) notwithstanding Subdivision (1), for an existing  
18                   multifamily residential development that is acquired by the  
19                   corporation, beginning with the third tax year after the tax year  
20                   that the corporation acquires the development; and

21                   (3) notwithstanding Subdivisions (1) and (2), for a  
22                   multifamily residential development owned by the corporation as of  
23                   September 1, 2025, beginning with the 2028 tax year.

24                   SECTION 5. Section 303.0426, Local Government Code, is  
25                   amended by adding Subsection (a-1) and (e-1) and amending Sections  
26                   303.0426(b), (c), (d), (e), (f), and (g) to read as follows:

27                   (a-1) This section does not apply to a multifamily

1 residential development that:

2                   (1) has at least 20 percent of its residential units

3 reserved for public housing units;

4                   (2) participates in the Rental Housing Assistance

5 Demonstration program administered by the United States Department

6 of Housing and Urban Development;

7                   (3) receives financial assistance administered under

8 Subchapter 2306, Government Code.

9                   (b) A public facility user of any [a] multifamily

10 residential development claiming an exemption under Section

11 303.042(c) [and to which Section 303.0421 applies] must annually

12 submit to the department and the chief appraiser of the appraisal

13 district in which the development is located an audit report for a

14 compliance audit, prepared at the expense of the public facility

15 user and conducted by an independent auditor or compliance expert

16 with an established history of providing similar audits on housing

17 compliance matters, to:

18                   (1) determine whether the public facility user and

19 development is in compliance with Sections 303.0421, 303.0422 and

20 303.0425, if applicable; and

21                   (2) identify the difference in the rent charged for

22 income-restricted residential units and the estimated maximum

23 market rents that could be charged for those units without the rent

24 or income restrictions.

25                   (c) Not later than the 60th day after the date of receipt of

26 the audit conducted under Subsection (b), the department shall

27 examine the audit report and publish a report summarizing the

1 findings of the audit. The report must:

2 (1) be made available on the department's Internet  
3 website;

4 (2) be issued to a public facility user that has an  
5 interest in a development that is the subject of an audit, the  
6 comptroller, the applicable corporation, the governing body of the  
7 corporation's sponsor, and, if the corporation's sponsor is a  
8 housing authority, the elected officials who appointed the housing  
9 authority's governing board; and

10 (3) describe in detail the nature of any failure to  
11 comply with the requirements in Sections 303.0421, 303.0422 and  
12 303.0425, if applicable.

13 (d) If an audit report submitted under Subsection (b)  
14 indicates noncompliance with Sections 303.0421(b)(2),  
15 303.0421(b)(5), 303.0422, or 303.0425:

16 (1) a public facility user[+] [~~(1)~~] must be given[+  
17 ~~(A)~~] written notice from the department or appropriate appraisal  
18 district that:

19 (A) [~~(i)~~] is provided not later than the 60th  
20 [~~45th~~] day after the date a report has been submitted under  
21 Subsection (b);

22 (B) [~~(ii)~~] specifies the reasons for  
23 noncompliance;

24 (C) [~~(iii)~~] for noncompliance with Section  
25 303.0425:

26 (i) contains at least one option for a  
27 corrective action to resolve the noncompliance; and

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20 (e) An exemption under Section 303.042(c) does not apply to  
21 a multifamily residential development owned by a public facility  
22 corporation for a tax year in which:

1    Subsection (d) and:

2                    (i) the department determines that public  
3    facility user or development is not in compliance with the  
4    requirements of Section 303.0425 and the matter is not resolved to  
5    the satisfaction of the department within 60 days after the date  
6    notice is received under Subsection (d); or

7                    (ii) the department determines that the  
8    development is not in compliance with the requirements of Sections  
9    303.0421(b)(2) or 303.0421(b)(5). [a multifamily residential  
10   development that is owned by a public facility corporation created  
11   under this chapter is determined by the department based on an audit  
12   conducted under Subsection (b) to not be in compliance with the  
13   requirements of Section 303.0421 or 303.0425.]

14                  (e-1) Notwithstanding Subsection (e), a public facility  
15   user and development is considered to be in compliance with:

16                  (1) Section 303.0425 to the extent the applicable  
17   notice required under Subsections (d)(1) and (d)(2) is not  
18   provided; and

19                  (2) Sections 303.0421 (b)(2) and (b)(5) to the extent  
20   the applicable notice required under Subsection (d)(1) is not  
21   provided.

22                  (f) Notwithstanding Subsection (g), the [The] initial audit  
23   report required by Subsection (b) is due not later than June 1 of  
24   the year following the first anniversary of:

25                  (1) the date of acquisition for an occupied  
26   multifamily residential development that is acquired by a  
27   corporation; or

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3 (g) An audit report required by this section is [Subsequent  
4 ~~audit reports following the issuance of the initial audit report~~  
5 ~~under Subsection (f) are]~~ due not later than June 1 of each year.

6 SECTION 6. Subchapter B, Chapter 303, Local Government  
7 Code, is amended by adding Section 303.0427 to read as follows:

8                   Sec. 303.0427. ADDITIONAL REQUIREMENT FOR BENEFICIAL TAX  
9                   TREATMENT APPLICABLE TO CERTAIN MULTIFAMILY RESIDENTIAL  
10                 DEVELOPMENTS. (a) In this section, "public facility user" has the  
11 meaning assigned by Section 303.0425.

20 SECTION 7. (a) This Act applies only to a tax imposed for a  
21 tax year beginning after the effective date of this Act.

22 (b) Sections 303.003 and 303.0421, Local Government Code,  
23 as amended by this Act, apply only to a multifamily residential  
24 development that is approved on or after the effective date of this  
25 Act by a public facility corporation or the sponsor of a public  
26 facility corporation. A multifamily residential development that  
27 was approved by a public facility corporation or the sponsor of a

1 public facility corporation before the effective date of this Act  
2 is governed by the law in effect on the date the development was  
3 approved by the corporation or sponsor, and the former law is  
4 continued in effect for that purpose.

5 (c) Notwithstanding subsection (b), Subdivision (1) of  
6 Subsection [303.0421](#)(b), as amended by this Act, applies to all  
7 multifamily residential developments, regardless of the date they  
8 were acquired or approved by a public facility corporation or  
9 sponsor of the public facility corporation.

10 (d) Section 303.0422, Local Government Code, as added by  
11 this Act, applies to all multifamily residential developments,  
12 regardless of the date they were acquired or approved by a public  
13 facility corporation or sponsor of the public facility corporation.

14 (e) Notwithstanding Section 10(d)(1), Chapter 1169 (H.B.  
15 2071), Acts of the 88th Legislature, Regular Session, 2023, Section  
16 [303.0426](#), Local Government Code, as amended by this Act, applies to  
17 all multifamily residential developments claiming an exemption  
18 under Section [303.042](#)(c), Local Government Code, regardless of when  
19 the developments were approved or acquired and regardless of  
20 whether Sections [303.0421](#), 303.0422 and [303.0425](#), Local Government  
21 Code, apply to those developments.

22 (f) Section 303.0427, Local Government Code, as added by  
23 this Act, applies to all multifamily residential developments  
24 claiming an exemption under Section [303.042](#)(c), Local Government  
25 Code, regardless of when the developments were approved or acquired  
26 and regardless of whether Sections [303.0421](#) and [303.0425](#), Local  
27 Government Code, apply to those developments.

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1 SECTION 6. This Act takes effect immediately if it receives  
2 a vote of two-thirds of all the members elected to each house, as  
3 provided by Section [39](#), Article III, Texas Constitution. If this  
4 Act does not receive the vote necessary for immediate effect, this  
5 Act takes effect September 1, 2025.