

By: Gates

H.B. No. 1590

A BILL TO BE ENTITLED

AN ACT

relating to multifamily residential developments owned by public facility corporations.

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

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

(7-a) "Rent" means any recurring fee or charge a tenant is required to pay as a condition of occupancy, including but not limited to, a fee or charge for the use of a common area or facility reasonably associated with a multifamily residential rental property. "Rent" does not include fees and charges for services or amenities which are optional for a tenant, such as pet fees and fees for storage or covered parking.

(7-b) "Rent reduction" means the difference between (i) the total rent charged during the tax year for the income-restricted units in the multifamily residential development, and (ii) the maximum total rent that could be charged during the tax year for the same units in the absence of any rent or income restrictions on such units.

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

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

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;

8 (2) for a development not covered under Subdivision
9 (5), at least:

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

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

(5) for ~~[an occupied]~~ a multifamily residential 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:

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

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

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

(B) at least:

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

~~development is located or, if the development is not located in a municipality, the county in which the development is located; and~~

(ii) at least 25 percent of the units in the development are reserved for occupancy as moderate income housing units, as defined under Section 303.0425;

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

(7) not less than 30 days before final approval of the development, the corporation or corporation's sponsor makes a good faith determination based on the underwriting assessment that

~~[(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):

1 (A) for occupied developments acquired by the
2 corporation, for each of the third, fourth, and fifth tax years
3 after the date of acquisition; and

4 (B) for other developments, for each of the
5 second, third, and fourth tax years after the development first
6 becomes occupied by one or more tenants while owned by the
7 corporation; and

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:

18 Sec. 303.0422. RENT REDUCTION REQUIREMENTS FOR
19 BENEFICIAL TAX TREATMENT RELATING TO CERTAIN MULTIFAMILY
20 RESIDENTIAL DEVELOPMENTS.

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

23 (1) has at least 20 percent of its residential units
24 reserved for public housing units;

25 (2) participates in the Rental Housing Assistance
26 Demonstration program administered by the United States Department
27 of Housing and Urban Development;

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) ~~[(1)]~~ is provided not later than the 60th
20 ~~[45th]~~ day after the date a report has been submitted under
21 Subsection (b);

22 (B) ~~[(1)]~~ specifies the reasons for
23 noncompliance;

24 (C) ~~[(1)]~~ for noncompliance with Section
25 [303.0425](#);

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

1 (ii)[(iv)] informs the public facility user
2 that failure to resolve the noncompliance will result in the loss of
3 an exemption under Section 303.042(c); and

4 (2) If the audit report indicates noncompliance for
5 noncompliance with Section 303.0425, a public facility user must
6 also be given:

7 (A)[(B)] 60 days after the date notice is
8 received under ~~[this]~~ subdivision (1), to resolve the matter that
9 is the subject of the notice; and

10 (B)[(C)] if a matter that is the subject of a
11 notice provided under ~~[this]~~ subdivision (1) is not resolved to the
12 satisfaction of the department and the appropriate appraisal
13 district during the period provided by Paragraph (A)[(B)], a second
14 notice that informs the public facility user of the loss of the
15 exemption under Section 303.042(c) due to noncompliance with
16 Section ~~[Sections 303.0421 and]~~ 303.0425. ~~[, and (2) is considered~~
17 ~~to be in compliance with Sections 303.0421 and 303.0425 if notice~~
18 ~~under Subdivision (1)(A) is not provided as specified by~~
19 ~~Subparagraph(i) of that paragraph.]~~

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:

23 (1) the department determines that the public facility
24 user for the development is not in compliance with the audit report
25 requirements of Subsection (b); or

26 (2) based on the audit conducted under Subsection (b),
27 the department complies with the applicable notice requirements in

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

1 (2) the date a new multifamily residential development
2 first becomes occupied by one or more tenants.

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](#).

12 (b) A multifamily residential development owned by a public
13 facility corporation to which Section [303.0426](#) applies is
14 ineligible for an exemption under Section [303.042](#)(c) unless the
15 corporation, the corporation's sponsor, or public facility user for
16 the development submits to the Texas Department of Housing and
17 Community Affairs and to the chief appraiser for each appraisal
18 district in which the exemption is sought a one-time exemption
19 application on a form promulgated by the comptroller.

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.