

- SUBJECT:** Restricting tax exemptions for multifamily housing developments
- COMMITTEE:** Urban Affairs — committee substitute recommended
- VOTE:** 7 ayes — Carter, Burnam, Callegari, Ehrhardt, Hill, E. Jones, Najera
2 nays — Bailey, Edwards
- SENATE VOTE:** On final passage, May 2 — voice vote
- WITNESSES:** (*On House companion bill, HB 2116:*)
For — Nancy Ashworth, BH Management Services and Apartment Association of Southeast Texas; David Mintz, Texas Apartment Association; Reymundo Ocañas, Texas Association of Community Development Corporations; *Registered but did not testify:* John Henneberger, Texas Low Income Housing Information Service

Against — Frank Anderson, Orange City Housing Authority; Melvin L. Braziel and Jim Plummer, San Antonio Housing Authority; Ulysses Hobbs, Jr.
- BACKGROUND:** Public housing authorities and local housing corporations are governmental entities created by cities and counties to provide affordable housing and housing assistance to low-income individuals and families.

Housing authorities are authorized by statute to create nonprofit subsidiary corporations called public facility corporations (PFCs) to help the housing authorities develop, finance, and manage affordable housing. Under the Public Facility Corporation Act (Local Government Code, chapter 303), PFCs have broad powers to acquire, build, rehabilitate, repair, equip, and furnish public facilities at the lowest possible borrowing costs.

PFCs, local housing authorities, and local housing corporations may issue bonds to finance the costs of providing affordable housing. Property owned by PFCs, housing authorities, or local housing corporations is exempt from taxation.

The U.S. Department of Housing and Urban Development (HUD) provides aid to local housing agencies that maintain developments with “public housing units” that are reserved for individuals and families with very low incomes, defined as 30 percent or less of the area median family income (AMFI). By contrast, federal “Section 8” vouchers are granted to individuals and can be used at any rental property.

DIGEST:

CSSB 929 would require multifamily residential developments owned by PFCs or other corporations created by housing authorities to meet certain affordability criteria to be exempt from taxes. These developments would be exempt from taxation only if either:

- ! 20 percent of their units were reserved as public housing units, or
- ! at least 50 percent of the units were reserved for individuals and families earning less than 80 percent of the AMFI and the development had been approved at a public hearing held by the entity at a regular meeting of the entity’s governing board.

Multifamily residential developments financed by local housing corporation-issued bonds would have to reserve at least 50 percent of the units for individuals and families earning less than 80 percent of the AMFI. The local governing body could waive this requirement following a public hearing.

The bill would take effect August 31, 2002, and would apply only to a multifamily residential development that was developed as a result of an official decision to issue bonds that occurred on or after that date.

SUPPORTERS
SAY:

CSSB 929 would ensure that multifamily residential developments created by PFCs, housing authorities, and housing corporations fulfill their purpose of providing affordable housing to low-income individuals and families by placing specific affordability requirements on these properties. Housing agencies’ properties are exempt from taxation because these entities fulfill an important public purpose of providing affordable housing to low-income individuals and families that the private market generally would not provide. Some of these housing agencies, however, have been developing properties in which all or nearly all of the units are rented at market rates. Housing agencies should receive tax exemptions on their properties only if they actually provide affordable housing.

Nearly all other state and federal housing programs require that housing developed through these programs meet set criteria for assisting low-income people. For example, the Low Income Housing Tax Credit program — one of the most popular affordable housing programs of the Texas Department of Housing and Community Affairs — requires that recipients of these tax credits reserve at least 40 percent of their units for individuals and families who earn 60 percent or less of the AMFI or 20 percent of their units for people and families who make 50 percent or less of the AMFI. Requiring similar criteria for multifamily residential developments developed by PFCs, housing authorities, and housing corporations would be appropriate.

If housing agencies want to develop multifamily residential developments with market-rate rents to provide a stream of income to help them fund affordable housing properties, they should be able to do so. Those properties, however, should not receive tax exemptions that allow them to compete unfairly with private-sector housing.

The bill's proposed affordability criteria are not too high. Allowing 80 percent of a property's units to be set at market rates would provide ample revenue to cover the cost of the reserved units. Housing agencies also would have the option of creating developments in which 50 percent of the units were reserved for individuals and families that earned 80 percent or less of the AMFI, leaving 50 percent of the units to cover the cost easily.

CSSB 929 would not reduce local autonomy to determine what developments best met the needs of their citizens. The bill would allow the local governing board to waive the affordability criteria for a local housing corporation.

Although promoting desegregation is important, there is no reason why housing agencies cannot create desegregated units in nonminority areas that also are affordable.

**OPPONENTS
SAY:**

The affordability criteria proposed in CSSB 929 are too high. To create self-sustaining properties, housing agencies must balance their affordable housing units with market-rate units in order to cover the costs of providing the low-rent units. If 20 percent of the housing units in a property had to be reserved for individuals and families who earned only 30 percent of the AMFI or less,

housing agencies could not set rents high enough to recover their costs while holding rents at rates that people were willing to pay. Allowing these housing agencies to reserve 50 percent of their units for individuals and families who earned 80 percent of the AMFI instead would not be the solution, since these agencies ought to provide housing for the very neediest families.

Lowering the criterion to 15 percent would allow these properties to be self-sustaining while still providing housing to the very lowest-income people. This change would be appropriate when compared to other housing program criteria. For example, the Low Income Housing Tax Credit program requires that 20 percent of a property's units be reserved for individuals and families who earn 50 percent or less of the AMFI. If the AMFI for property residents is to be lowered to 30 percent or less, the percentage of units dedicated to those people also should be lowered.

CSSB 929 would reduce local autonomy. Local governments should be able to decide what developments would best meet the needs of their citizens, whether created by PFCs, housing authorities, or housing corporations.

Funding for housing agencies has been declining. By creating some market-rate properties, these agencies can create a stream of income to help them fund affordable housing properties. Limiting this ability could decrease the number of affordable housing properties that these agencies could afford to develop.

Providing affordable housing is not the only important function of housing agencies. These agencies also must comply with desegregation orders from HUD that are still in effect in many Texas counties. These orders require agencies to provide housing that results in the relocation of minorities into non-impacted areas (areas in which the majority of residents are not minorities). Placing further restrictions on these agencies would make it harder for them to meet this requirement.

OTHER
OPPONENTS
SAY:

CSSB 929 would not go far enough. The vast majority — 80 percent — of a development's units would not have to fulfill any affordability purpose. The other criterion would not require developments to provide any housing to the neediest Texans. Since many apartment dwellers have median incomes

slightly below the AMFI already, this criterion would require almost no difference between these properties and market-rate properties.

NOTES:

The committee substitute raised from 15 percent to 20 percent the portion of a development's units that would have to be reserved as public housing units for a property to be exempt from taxation.