

- SUBJECT:** Continuing property tax exemptions for low-income housing in foreclosure
- COMMITTEE:** Local Government Ways and Means — favorable, without amendment
- VOTE:** 5 ayes — Hill, Creighton, Puente, Quintanilla, Villarreal
0 nays
2 absent — Elkins, C. Howard
- WITNESSES:** For — Anthony McKiernan, MBIA Insurance Corp; (*Registered, but did not testify*: Matt Hull, Texas Association of Community Development Corporations; Joanne Taylor, MBIA Insurance Corp.)
Against — None
- BACKGROUND:** Tax Code, sec. 11.182(b), (f), and (j) provides tax exemptions for any land, building, or tangible personal property owned and used to acquire, build, repair, sell, or rent property for an organization that:
- is organized as a Community Housing Development Organization (CHDO);
 - meets the requirements of a charitable organization provided by Tax Code sec. 11.18(e) and (f);
 - owns the property for the purpose of building or repairing housing on the property to sell without profit to a low-income or moderate-income individual or family satisfying the organization’s eligibility requirements;
 - engages exclusively in the building, repair, and sale or rental of housing for these purposes; and
 - received an exemption by meeting these criteria for property for any part of the 2003 tax year.
- CHDOs remain eligible for an exemption on 50 percent of the appraised value of property used to provide low-income housing if they meet the standards set forth in Tax Code, sec. 11.1825.

DIGEST:

HB 2089 would add Tax Code, sec. 11.182(k) to provide that the tax exemptions on a property authorized under sec. 11.182(b) or (f) could be extended in the event of a foreclosure sale if the organization that purchased the property submitted evidence within 30 days of the sale that it met the standards under which the exemption originally was granted. The exemption would be subject to annual continuation so long as the purchasing organization remained eligible under the original qualifying standards.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007.

SUPPORTERS
SAY:

HB 2089 would correct an oversight put into place by a bill that created a new tax exemption in 2003. Prior to the 2004 tax year, Tax Code sec. 11.182 provided exemptions on property taxes associated with low-income housing if the property was owned by an organization meeting certain standards. Through the enactment of HB 3546 by Hamric in 2003, the 78th Legislature created a new tax exemption under sec. 11.1825 and discontinued the exemptions issued under sec. 11.182. Properties that qualified under the discontinued statute were allowed to continue receiving an exemption provided the organizations that owned them remained eligible under the original criteria.

HB 3546 also included a provision under sec. 11.825(t) that allowed for the continuation of a tax exemption for property used to maintain low-income housing in the event of a foreclosure. This continuation, however, did not apply to the grandfathered exemptions sanctioned by Tax Code sec. 11.182, which can have significant ramifications for renters living in low-income housing developments and financiers of such developments. Organizations that constructed or restored properties when the retired exemption was available did so with the assumption that it could be renewed indefinitely. Bonds, tax credits, grants, and other types of financing in these cases were conditioned on the provision of tax exemptions from the state. In the event that the sponsor of a development with a tax exemption is unable to make payments and goes into foreclosure, a future owner would find it prohibitively difficult to maintain the low-income units on the property.

The current inability to extend grandfathered tax exemptions to new owners upon sale at foreclosure threatens both the residents living at the

properties and the bonding authorities that financed the development. Purchasers of foreclosed property with the sec. 11.182 exemption currently can either repay the bonds and other financing in a property and dispense with the low-income housing requirements or keep the financing in the property and retain the low-income housing units on the property. In the first case, low-income residents could be displaced from their homes; in the second case, a new owner would be obligated to charge low rents without tax assistance from the state.

HB 2089 would provide a simple solution to this problem by allowing purchasers of exempt and foreclosed property the option to retain the exemption if they were willing and able to meet the statutory requirements of sec. 11.182. The bill would rely on administrative procedures already in place at appraisal districts and would not create any additional statutory obligations or exemptions from standards. Fixing the oversight in sec. 11.182 would be a solid, preventive measure to provide the best possible outcome for both bonding authorities and low-income residents in the unlikely event of a foreclosure sale.

OPPONENTS
SAY:

No apparent opposition

NOTES:

The companion bill, SB 426 by West, passed the Senate on March 28 on the Local and Uncontested Calendar and was reported favorably, without amendment, by the House Local Government Ways and Means Committee on April 10, making it eligible to be considered in lieu of HB 2089.