

BILL ANALYSIS

Senate Research Center

S.B. 113
By: West
Local Government
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

A community land trust (CLT) is an important tool for expanding homeownership opportunities for low-income and moderate-income families, especially in areas with rapidly rising property values. A CLT operates by building homes (typically on vacant lots) and selling them to income-eligible families. The CLT, which is a nonprofit organization, maintains ownership of the land and leases the land to the family under a long-term ground lease (typically 99 years). The ground lease restricts the resale of the home to another income-eligible family and caps the resale price of the home to preserve the long-term affordability of the home. The ground lease also ensures proper upkeep and use of the property.

Under current law, there is confusion as to how central appraisal districts should appraise community land trust homes and land for purposes of assessing property taxes, which makes it difficult for nonprofit housing developers to ever develop CLT projects because they are unable to estimate what the property taxes will be on CLT homes. S.B. 113 requires the use of the income method in appraising community land trust property and the same capitalization rate that the chief appraiser uses to appraise other rent-restricted properties.

Finally, the bill clarifies that subsidiaries of a CLT qualify for the CLT tax exemption. This allows CLTs to set up a subsidiary to own the land, such as a limited liability company or a limited partnership, which is a common practice in the real estate industry.

S.B. 113 amends current law relating to community land trusts.

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 373B.003, Local Government Code, as follows:

Sec. 373B.003. NATURE OF TRUST. Requires a community land trust created or designated under Section 373B.002 (Creation or Designation) to be a nonprofit organization that is:

(1) makes no changes to this subdivision; and

(2) organized as:

(A) a nonprofit corporation that is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed, rather than certified, as an exempt organization under Section 501(c)(3) of that code;

(B) a limited partnership of which a nonprofit corporation described by Paragraph (A) controls 100 percent of the general partner interest; or

(C) a limited liability company for which a nonprofit corporation described by Paragraph (A) serves as the only member.

Makes nonsubstantive changes.

SECTION 2. Amends Section 23.21, Tax Code, by amending Subsections (c) and (d) and adding Subsection (c-1), as follows:

(c) Requires the chief appraiser, in appraising land, rather than in appraising land or a housing unit, that is leased by a community land trust created or designated under Section 373B.002, Local Government Code, to a family meeting certain income-eligibility standards to use the income method of appraisal as described by Section 23.012 (Income Method of Appraisal) to determine the appraised value of the property. Requires the chief appraiser to use that method regardless of whether the chief appraiser considers that method to be the most appropriate method of appraising the property. Requires the chief appraiser, in appraising the property, to:

(1) take into account the uses and limitations applicable to the property, including the terms of the lease applicable to the property, for purposes of computing the actual rental income from the property and projecting future rental income; and

(2) use the same capitalization rate that the chief appraiser uses to appraise other rent-restricted properties.

Deletes existing text requiring the chief appraiser to take into account the extent to which the use and limitation reduce the property's market value. Makes nonsubstantive changes.

(c-1) Requires the chief appraiser, in appraising a housing unit that is leased by a community land trust created or designated under Section 373B.002, Local Government Code, to a family meeting the income-eligibility standards established by Section 373B.006 (Qualifications of Purchasers or Lessees of Housing Units), Local Government Code, under regulations or restrictions limiting the amount that the family may be required to pay for the rental or lease of the property, to use the income method of appraisal as described by Section 23.012 to determine the appraised value of the property. Requires the chief appraiser to use that method regardless of whether the chief appraiser considers that method to be the most appropriate method of appraising the property. Requires the chief appraiser, in appraising the property, to:

(1) take into account the uses and limitations applicable to the property, including the terms of the lease applicable to the property, for purposes of computing the actual rental income from the property and projecting future rental income; and

(2) use the same capitalization rate that the chief appraiser uses to appraise other rent-restricted properties.

(d) Prohibits the chief appraiser, for a housing unit acquired from and located on land owned by a community land trust and leased by the housing unit owner, if the sale of the housing unit is subject to an eligible land use restriction, from appraising the housing unit in a tax year for an amount that exceeds the price for which the housing unit may be sold under the eligible land use restriction in that tax year. Defines "eligible land use restriction" for this subsection.

SECTION 3. Amends Section 26.10, Tax Code, by amending Subsection (a) and adding Subsection (d), as follows:

(a) Provides that, if the appraisal roll shows that a property is eligible for taxation for only part of a year because an exemption, other than a residence homestead exemption or an exemption described by Subsection (d), applicable on January 1 of that year

terminated during the year, the tax due against the property is calculated by using a certain formula.

(d) Provides that Subsection (a) does not apply to an exemption for land received by an organization under Section 11.181 (Charitable Organizations Improving Property for Low-Income Housing), 11.182 (Community Housing Development Organizations Improving Property for Low-Income and Moderate-Income Housing: Property Previously Exempt), or 11.1825 (Organizations Constructing or Rehabilitating Low-Income Housing: Property Not Previously Exempt) that terminated during the year because of the sale by the organization of a housing unit located on the land if:

(1) the housing unit is sold to a family meeting the income-eligibility standards established by Section 373B.006, Local Government Code;

(2) the organization retains title to the land on which the housing unit is located; and

(3) before the date on which the housing unit is sold, the organization is designated a community land trust by the governing body of a municipality or county as provided by Section 373B.002, Local Government Code.

SECTION 4. Provides that this Act applies only to ad valorem taxes imposed for a tax year that begins on or after the effective date of this Act.

SECTION 5. Effective date: September 1, 2021.