LEGAL UPDATES

PUBLISHED: JUNE 28, 2023

Texas Legislature Revises Law Governing Public Facility Corporations

Service

Public Law

Professional

SANDY HELLUMS-GOMEZ
HOUSTON:
713.525.6222
DALLAS:
214.999.6100
SANDY.GOMEZ@
HUSCHBLACKWELL.COM

On June 18, 2023, HB 2071—the Texas legislature's solution to perceived abuses of property tax incentives related to Public Facility Corporations (PFCs)—took effect. The law amends Local Government Code Chapter 303, which provides local governmental entities a mechanism to address lack of affordable housing. Under Chapter 303, "sponsor" entities can create a PFC that, in exchange for contracting with developers to create mixed-income housing, can provide a 100% property tax exemption. The 2023 revisions set out more rigorous requirements for multifamily housing developments to qualify for the PFC exemption. In addition, there are new reporting requirements, expiration provisions, and heightened tenant protections.

Before HB 2071, PFCs were not required to remain in their own jurisdictions, leading them to claim full tax exemptions for properties located in counties other than their sponsor county. For example, the Williamson County Commissioners Court earlier this year called for increased regulation after a Travis County-created PFC claimed a full tax exemption on property wholly located in Williamson County. Opponents argued PFCs operating outside of their sponsor boundaries placed an undue burden on local residents and businesses, forcing them to compensate for the lack of funding from the exempted entities. Critics also claimed that a 2015 amendment extending the tax exemption to privately controlled leasehold interests unintentionally allowed entities to claim tax breaks without having to disclose whether affordable housing was actually provided.

Through HB 2071, the legislature seeks to remedy these issues by adding provisions that increase accountability and heighten standards for PFC-owned developments to receive tax breaks. The new law's requirements only apply to

© 2026 HUSCH BLACKWELL LLP. ALL RIGHTS RESERVED

PFC-owned multifamily residential developments that do not 1) have at least 20% of their residential units reserved for public housing units; 2) participate in the Rental Assistance Demonstration Program; 3) receive financial assistance from a tax-exempt bond; or 4) receive financial assistance from the Low Income Housing Tax Credit Program.

Some of the new provisions require:

a PFC to only operate, own, or finance multifamily residential developments that are located inside the sponsor's area of operation or boundaries;

the development to reserve certain amounts of units for lower- and moderate-income housing units;

mandatory public hearings and advanced notice to approve or acquire developments in certain circumstances;

city or county approval, as applicable, when the majority of PFC board members are not elected and in other limited instances;

for occupied developments, either renovations or repairs to the development or reservation of lower-income housing units and additional approvals;

annual audit reports and an assessment published on the PFC's website ensuring that rent reduction is at least 60% of the taxes that the property would otherwise have to pay for the second through fourth years after acquiring the development;

certain tenants' rights, including participating in the housing choice voucher program and protection against retaliation for protected activities;

active marketing of available units to participants of the housing choice voucher program and notifying local housing authorities; and

new tax exemption expiration periods based on the type of development if not in compliance and extended by the deadline.

The new requirements only apply to developments approved and taxes imposed on or after May 19, 2023.

What this means to you

© 2026 HUSCH BLACKWELL LLP. ALL RIGHTS RESERVED

HB 2071 imposes additional restrictions for PFCs to qualify for tax exemptions and provides oversight to ensure that PFCs comply with these provisions. It also implements a two-year study of this program to estimate the anticipated loss in state revenue. By requiring periodic reports and threatening to withdraw tax exemptions if PFCs do not meet these guidelines, many believe that these measures will eliminate abuses of the system while continuing to incentivize affordable housing developments. PFC-owned developments that previously had few doubts on qualifying for the 100% tax exemption would do well to ensure new developments under HB 2071's purview comply with the new law's requirements.

Contact us

If you have questions related to HB 2071 or other issues pertaining to public facility corporations or tax incentives, please contact Kate David, Sandy Hellums-Gomez, Russell Roden, Ben Stephens, Logan Leal, or your Husch Blackwell attorney.

This content was written with the assistance of Husch Blackwell Summer Associate Melissa Alter.

© 2026 HUSCH BLACKWELL LLP. ALL RIGHTS RESERVED