



## **HB 21 closes loopholes and requires greater affordability for Housing Finance Corporations tax exemption**

In Texas' 89th Legislature, HB 21 significantly reformed Tax Exempt Private Partnerships (TEPPs) for affordable multifamily rental housing development. The bill, which was authored by Representative Gary Gates, amended tax exemptions in Chapter 394 of the Texas Local Government Code, which governs the operation of Housing Finance Corporations. This memo summarizes the issue's background, major changes made by the legislation, and next steps in TEPPs reform.

### **Background**

Housing Finance Corporations, or HFCs, are quasi-governmental development entities established by cities or counties. HFCs are tasked with producing affordable housing using a variety of tools and approaches, including the ability to provide a 100% property tax exemption for affordable housing production. After Public Facility Corporation tax exemptions were [reformed](#) in the 88th Legislature, a significant amount of the development activity that was previously being done under that tool shifted to HFCs since they were less regulated.

Observers began to [express particular concern](#) about so-called "traveling HFC" deals, where HFCs in places like Cameron County, Maverick County, and the City of Pleasanton (Atacosa County) took advantage of a loophole to take properties off the tax rolls halfway across the state in places like San Antonio, Houston, and Dallas, in exchange for a share of the revenue generated by the exemption. These deals did not receive any local approval or input from the places where the property was actually located. Observers were also skeptical that these properties were actually providing any below-market affordability.

HB 21 definitively ends the practice of "traveling HFCs," and further establishes standards under the tool for affordability, tenant protections, and compliance monitoring. Taken as a whole, HB 21 is intended to provide strong guidelines to ensure that taxpayers and low-income people receive a real public benefit in the form of meaningfully affordable housing in exchange for the 100% property tax exemption that properties receive under the tool. A measurable public benefit is necessary to justify eliminating a source of tax revenue that would otherwise be used by local governments to fund schools, roads, and other critical public services.

## Major changes under HB 21

	<b>Prior law</b>	<b>HB 21 changes</b>
<b>Area of operation</b>	Not mentioned in prior law.	HFCs may only authorize tax exempt deals within the geographic boundary of the entity or entities that created them, unless they have permission from the city where the property is located (or county, if in an unincorporated area) and any HFC authorized to operate in the area.
<b>Affordability requirements</b>	90% of units must be affordable to “persons of low and moderate income,” but HFCs can define what that means.	Provides two options to meet affordability requirements: <ul style="list-style-type: none"> <li>• Option 1: 10% of units must be affordable at 60% of area median income (AMI) and 40% of units must be affordable at 80% AMI.</li> <li>• Option 2: 10% of units must be affordable at 50% AMI and 40% of units must be affordable at 100% AMI.</li> </ul>
<b>Share of property tax savings that must go to lowering rents</b>	Not mentioned in prior law.	Requires that 50% of the property tax savings must go toward reducing rents for units at the property. If this requirement is not met, the shortfall must be returned to the impacted taxing entities. (Whereas prior PFC reform established a similar benefit test requirement for acquisition properties at underwriting, HB 21 establishes this requirement for <i>all</i> properties both at underwriting and <i>also</i> as an ongoing annual test.)
<b>Tenant protections</b>	Not mentioned in prior law.	Tax exempt properties must accept housing vouchers and must affirmatively market to voucher holders. The bill also establishes the right for tenants to organize, and modest “just cause” eviction protections.
<b>Compliance monitoring</b>	Not mentioned in prior law.	Charges the Texas Department of Housing and Community Affairs (TDHCA) with monitoring compliance of HFC tax exempt properties. An HFC (or the owner partnering with an HFC) must submit annual reports compiled by an independent third party auditor to the agency for review. An auditor may not produce audits for the same HFC for more than three years. The agency must publish audits as a public facing database. The bill establishes procedures for addressing noncompliance, including opportunities for corrective action.
<p><b>Applicability of new rules:</b> All HFC developments acquired on or after May 28th, 2025 are subject to the new rules. All existing HFC tax exempt properties must come into compliance with the affordability, tax benefit test, and tenant protection rules outlined above within 10 years (or when the property is refinanced or sold, if sooner). Existing “traveling HFC” properties have until January 1st, 2027 to receive approval by the city or county and any local HFC to continue receiving the exemption. Properties that also receive low-income housing tax credits (LIHTCs) are exempt from the new rules, as they are regulated by that program’s rules.</p>		

# The path forward for Tax Exempt Private Partnerships

HB 21 is an important step toward reigning in the abuses of multifamily property Tax Exempt Private Partnerships (TEPPs) in the state of Texas. However, more must be done to ensure these tools are working as intended to provide much needed low-income housing for Texans and giving the public an appropriate benefit.

## Monitoring the impact of HB 21

In the coming years, it will be critical to assess the impact of HB 21's changes to the HFC multifamily tax exemption. Reform elements that will need to be closely monitored include:

- *New activity*: What impact does HB 21 have on new HFC tax exempt activity, in terms of scale and level of affordability? Is the tool being used less frequently but leading to meaningful affordability when it is used?
- *Existing properties*: Using compliance monitoring records, can we establish for the first time the scale and extent of existing HFC tax exempt properties, and assess the level of affordability that they are providing?
- *Coming into compliance*: How are existing tax exempt properties positioning themselves to comply with the new rules by the relevant deadlines?
- *Annual benefit test*: What is the impact of the ongoing annual 50% benefit test? Some stakeholders argued that the ongoing benefit test would introduce unpredictability that would have a chilling effect on investment interest in these properties, but to what extent is that actually happening?

## A policy vision for Tax Exempt Private Partnerships as a whole

The HFC multifamily property tax exemption does not exist in isolation, but rather as one of several statutory TEPPs tools. The others are Public Facility Corporations, or PFCs (Local Government Code, Chapter 303) and Public Housing Authorities, or PHAs (Local Government Code, Chapter 392). Observers have accurately referred to regulating this ecosystem as a game of “whack-a-mole.”

Private development interest in TEPPs will naturally flow to the least regulated tool in pursuit of the highest financial return. Now that PFCs and HFCs have been reformed, the PHA exemption is the least regulated TEPPs tool. We expect a significant amount of activity in the coming years will gravitate to this exemption.

This is why there is an urgent need before the 90th Legislature to come to consensus on a policy vision for these tools, and to confirm a uniform policy approach for all TEPPs tools

These questions must be answered:

- How do we align these tools to achieve the ideal policy outcome of providing meaningful low-income affordability to meet the measurable need of Texas households? How do we ensure that this tool isn't being abused in ways that subsidize development that the market would otherwise produce or sustain with no subsidy?
- What is our expectation for the scale of the use of this tool, and can we agree that it is acceptable for this tool to produce less housing but deeper affordability when it is used?
- What does a good deal look like? What does a bad deal look like? Can we point to specific examples?

By answering these questions, we can structure a model policy to create uniformity and predictability for all TEPPs tools in Texas statute.