

## **BILL ANALYSIS**

Senate Research Center  
87R5140 JAM-F

S.B. 403  
By: Johnson  
Local Government  
4/16/2021  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Texas Department of Housing and Community Affairs (TDHCA) administers a low-income housing tax credit (LIHTC) program that allows housing developers to receive a federal tax credit in exchange for building low-income rental housing projects. Typically, when LIHTC developments are sold, the development is subject to a 180-day "Right of First Refusal" (ROFR) period. During the ROFR, to retain affordable housing on a long-term basis, only entities that will continue to operate the property as affordable housing are eligible to purchase the development.

Public housing authorities (PHAs) are another type of entity that provides affordable housing on a long-term basis. When a PHA sponsors an LIHTC development through a partnership, the partnership owns the actual building structure but leases the land under the building from the PHA, or a public facility corporation established by the PHA. These arrangements may include substantial equity investment by the PHA while still being able to raise equity for the development through the sale of the tax credits.

Other parties are typically not interested in purchasing these developments since they are ground leaseholds only and the tax exemption erodes when ownership changes hands. As a result, the developments would typically not be sold until after the 180-day ROFR period lapses, leading to needless administrative delays and risks of interest rate spikes or other financing concerns.

S.B. 403 permits a PHA, during the first 60 days of the ROFR, to acquire the partnership's interest in a development in the limited instance where the PHA, or a public facility corporation created by the PHA, is the ground lessor. Allowing these developments to be acquired in the first 60 days of the 180-day ROFR period streamlines the sales process for PHAs and eliminates a needless bureaucratic delay.

S.B. 403 is supported by the Texas Chapter of the National Association of Housing and Redevelopment Officials.

As proposed, S.B. 403 amends current law relating to a right of first refusal applicable to the sale of housing developments that have received certain financial assistance administered by the Texas Department of Housing and Community Affairs.

### **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 2306.6726(b), Government Code, as follows:

(b) Authorizes the owner of a development subject to a right of first refusal under Section 2306.6725 (Scoring of Applications) to:

(1) during the first 60-day period after notice is provided under Subsection (a-1) (relating to providing notice of an owner's intent to sell certain low income

housing developments), negotiate or enter into a purchase agreement only with certain qualified entities, including if the authority or the corporation that owns the fee title to the development owner's leasehold estate is a public housing authority, or a public facility corporation created by a public housing authority under Chapter 303 (Public Facility Corporations), Local Government Code. Makes conforming changes.

(2) and (3) Makes no changes to these subdivisions.

SECTION 2. Provides that Section 2306.6726, Government Code, as amended by this Act, applies to the sale of a development supported with an allocation of low income housing tax credits issued before, on, or after the effective date of this Act.

SECTION 3. Effective date: September 1, 2021.