

**AUGUST 2024**

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The University of Texas at Austin  
School of Law

# **GIVE ME A (TAX) BREAK**

Considerations for Affordable and Workforce Housing Transactions Utilizing  
Public Facility Corporations (PFCs)

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## **Public Facility Corporation (PFC) Basics**

- Governed by Chapter 303 Texas Local Government Code
- Can only be formed by certain sponsors
  - Political subdivisions, (some) taxing entities, housing authorities, special districts
- General Powers
  - Nonprofit Corporation+
- Purposes
  - Own and finance “public facilities”
- Examples
  - Public-private partnerships

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## Let's Talk About Housing and Taxes

- Property taxes are the highest operating expense for multifamily projects in Texas
  - Represent 40% - 50% of annual op ex
  - Growing as a result of migration and increases in property values
- Effect on overall ability to finance projects
  - Increased interest rates
  - Increased insurance and building supplies
  - Lowest number of market rate starts in years

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## Property Tax Exemptions (generally)

- Public-private partnerships can eliminate the tax burden
- There are several entities that can partner with private developers to confer a property tax exemption:
  - Public Facility Corporations
  - Housing Finance Corporations
  - Housing Authorities
- Each is governed by a different statute and structuring is slightly different for each

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## Property Tax Exemptions

- Public-private partnerships can eliminate the tax burden
  - PFC: Texas Local Government Code 303.042(c)

“Subject to Section 303.0421(h), a corporation is engaged exclusively in performance of charitable functions and is exempt from taxation by this state or a municipality or other political subdivision of this state. Bonds issued by a corporation under this chapter, a transfer of the bonds, interest on the bonds, and a profit from the sale or exchange of the bonds are exempt from taxation by this state or a municipality or other political subdivision of this state.”

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## Property Tax Exemptions

- Public-private partnerships can eliminate the tax burden
  - HFC: Texas Local Government Code 394.905:

“The housing finance corporation, all property owned by it, the income from the property, all bonds issued by it, the income from the bonds, and the transfer of the bonds are exempt, as public property used for public purposes, from license fees, recording fees, and all other taxes imposed by this state or any political subdivision of this state....”

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