

# PROPOSED RULES

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Proposed rules include new rules, amendments to existing rules, and repeals of existing rules. A state agency shall give at least 30 days' notice of its intention to adopt a rule before it adopts the rule. A state agency shall give all interested persons a reasonable opportunity to submit data, views, or arguments, orally or in writing (Government Code, Chapter 2001).

**Symbols in proposed rule text.** Proposed new language is indicated by underlined text. [Square brackets and strikethrough] indicate existing rule text that is proposed for deletion. "(No change)" indicates that existing rule text at this level will not be amended.

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## TITLE 10. COMMUNITY DEVELOPMENT

### PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

#### CHAPTER 1. ADMINISTRATION

##### SUBCHAPTER A. GENERAL POLICIES AND PROCEDURES

###### 10 TAC §1.4

The Texas Department of Housing and Community Affairs (the Department) proposes amending 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.4, Protest Procedures for Contractors. The purpose of the amended section is to make several minor changes to bring this rule into greater compliance with the rules of the Texas Comptroller of Public Accounts found at 34 TAC Chapter 20, Subchapter F, Division 3.

Tex. Gov't Code §2001.0045(b) does not apply to the amendment because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson has determined that, for the first five years the amendment would be in effect:

1. The amended section does not create or eliminate a government program but relates to minor revisions to bring the rule into greater compliance with the Comptroller's rules on the same subject.

2. The amended section does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.

3. The amended section does not require additional future legislative appropriations.

4. The amended section will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The amended section is not creating a new regulation.

6. The amended section will not expand, limit, or repeal an existing regulation.

7. The amended section will not increase or decrease the number of individuals subject to the rule's applicability.

8. The amended section will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated the amended section and determined that it will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The amended section does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the amended section as to its possible effects on local economies and has determined that for the first five years the amended section would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the amended section is in effect, the public benefit anticipated as a result of the new section would be greater consistency between the Department's rule and the Comptroller's rule on the same subject. There will not be economic costs to individuals required to comply with the amended section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the amended section is in effect, enforcing or administering the section does not have any foreseeable implications related to costs or revenues of the state or local governments.

REQUEST FOR PUBLIC COMMENT AND INFORMATION RELATED TO COST, BENEFIT OR EFFECT. The Department requests comments on the proposed amended section and also requests information related to the cost, benefit, or effect of the proposed amended section, including any applicable data, research, or analysis from any person required to comply with the rule or any other interested person. The public comment period will be held February 6, 2026 to March 8, 2026, to receive input on the proposed action. Comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston at [brooke.boston@tdhca.state.tx.us](mailto:brooke.boston@tdhca.state.tx.us). ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local (Central) time, March 8, 2026.

**STATUTORY AUTHORITY.** The amended section is proposed pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the amended section affects no other code, article, or statute.

**§1.4. Protest Procedures for Contractors.**

(a) Purpose. The purpose of this rule provides for the Department's compliance with 34 TAC Chapter 20, Subchapter F, Division 3, the rules of the Texas Comptroller of Public Accounts addressing procurement, which require state agencies to adopt protest procedures consistent with the Comptroller's procedures.

(b) Definitions. The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) **Board**--The Governing Board of the Department.

(2) **Department**--The Texas Department of Housing and Community Affairs.

(3) **Interested Parties**-- All vendors who have submitted bids or proposals for the contract involved. A list of interested parties is available upon request from the Department.

(4) **Protest**--A written objection submitted to the Department by any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation, evaluation, or award of a procurement contract by the Department.

(c) These procedures are for Department procurements only. Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with a solicitation, evaluation, or award may formally protest to the Department's Purchasing Officer.

(d) To be considered timely, the Protest must be filed in accordance with the requirements of 34 TAC §20.535(b).

(e) To be considered complete, the Protest must be in writing, signed by an authorized representative, notarized, and contain:

(1) a specific identification of the statutory or regulatory provision(s) that the Person submitting the Protest alleges to have been violated;

(2) a specific description of each action [act made by the Department] that the Person submitting the Protest alleges to have been violated specified in the statutory or regulatory provision(s) identified in paragraph (1) of this Subsection;

(3) a precise statement of the relevant facts including:

(A) sufficient documentation to establish that the Protest has been timely filed;

(B) a description of the adverse impact to the Department and [or] the state; and

(C) a description of the resulting adverse impact to the protesting vendor;

(4) a statement of the argument and authorities that the Person submitting the Protest offers in support of the Protest;

(5) an explanation of the subsequent action the Person submitting the Protest is requesting; and

(6) except for a Protest that concerns the solicitation documents or actions associated with the publication of solicitation documents, a statement confirming that copies of the Protest have been mailed or delivered to other identifiable Interested Parties.

(f) The Purchasing Officer shall have the initial authority to settle and resolve the Dispute concerning the solicitation or award of a contract. The Purchasing Officer may dismiss the Protest if it is not timely filed or does not meet the requirements of this section. The Purchasing Officer may solicit written responses to the Protest from other Interested Parties.

(g) If the Protest is not resolved by mutual agreement, the Purchasing Officer will provide a written recommendation to the Department's Executive Director.

(h) The Executive Director shall issue a final written determination on the Protest within 15 calendar days after receipt of the Purchasing Officer's recommendation in accordance with the requirements of 34 TAC §20.537(c).

(i) In the alternative, the Executive Director may, in his or her discretion, refer the matter to the Department's Governing Board for their consideration at a regularly scheduled meeting. The decision of the Board shall be final.

(j) A protesting party may appeal the determination of the Executive Director under Subsection (h) [(g)] of this section to the Department's Governing Board. An appeal of the Executive Director's determination must be in writing and received by the Purchasing Officer not later than 10 calendar days after the date the Executive Director sent written notice of their determination. The scope of the appeal shall be limited to review of the Executive Director's determination. The protesting party must mail or deliver to all other interested parties a copy of the appeal, which must contain a certified statement that such copies have been provided.

(1) The appeal will be presented for consideration at the next regularly scheduled meeting of the Governing Board. The decision of the Governing Board shall be final.

(2) An appeal that is not filed timely shall not be considered unless good cause for delay is shown in writing relating to issues that are significant to agency procurement practices or procedures, or the Department's General Counsel makes such a determination.

(k) All documents collected by the Department as part of a solicitation, evaluation, and/or award of a contract shall be retained with the procurement file according to Department's Records Retention Schedule.

(l) The Department reserves all of its rights under 34 TAC §20.536. The Department may award a solicitation or award without delay, in spite of a timely filed Protest, to protect the best interests of the state.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on January 22, 2026.

TRD-202600228

Bobby Wilkinson

Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: March 8, 2026

For further information, please call: (512) 475-3959



**10 TAC §1.5**

The Texas Department of Housing and Community Affairs (the Department) proposes amending 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.5, Waiver Applicability in the Case of State or Federally Declared Disasters. The purpose of the amended section is to make several minor changes to provide greater clarity around when the Executive Director can waive rules when there have been state or federal regulatory waivers in response to state or federal disasters.

Tex. Gov't Code §2001.0045(b) does not apply to the amendment because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

**a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.**

Mr. Bobby Wilkinson has determined that, for the first five years the amendment would be in effect:

1. The amended section does not create or eliminate a government program but relates to minor revisions to make the rule more clear.
2. The amended section does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The amended section does not require additional future legislative appropriations.
4. The amended section will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The amended section is not creating a new regulation.
6. The amended section will not expand, limit, or repeal an existing regulation.
7. The amended section will not increase or decrease the number of individuals subject to the rule's applicability.
8. The amended section will not negatively or positively affect the state's economy.

**b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.**

The Department has evaluated the amended section and determined that it will not create an economic effect on small or micro-businesses or rural communities.

**c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043.** The amended section does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

**d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).**

The Department has evaluated the amended section as to its possible effects on local economies and has determined that for the first five years the amended section would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

**e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5).** Mr. Wilkinson has determined that, for each year of the first five years the amended section is in effect, the public benefit anticipated as a result of the new section would be a more clear rule. There will not be economic costs to individuals required to comply with the amended section.

**f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4).** Mr. Wilkinson also has determined that for each year of the first five years the amended section is in effect, enforcing or administering the section does not have any foreseeable implications related to costs or revenues of the state or local governments.

**REQUEST FOR PUBLIC COMMENT AND INFORMATION RELATED TO COST, BENEFIT OR EFFECT.** The Department requests comments on the proposed amended section and also requests information related to the cost, benefit, or effect of the proposed amended section, including any applicable data, research, or analysis from any person required to comply with the rule or any other interested person. The public comment period will be held February 6, 2026 to March 8, 2026, to receive input on the proposed action. Comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston at [brooke.boston@tdhca.state.tx.us](mailto:brooke.boston@tdhca.state.tx.us). ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local (Central) time, March 8, 2026.

**STATUTORY AUTHORITY.** The amended section is proposed pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the amended section affects no other code, article, or statute.

**§1.5. Waiver Applicability in the Case of State or Federally Declared Disasters.**

(a) When the federal government has provided the Department a waiver, suspension, or contract amendment of a federal programmatic regulation, federal statute, or contract term in response to a state or federally declared disaster, and the requirement waived, suspended, or amended had been codified in this title, the Executive Director or designee may waive, suspend, or modify the rule within this title, if:

(1) the Executive Director or designee has determined that not doing so may negatively affect the health, safety, or welfare of program recipients;

(2) such waiver, suspension, or modification to the rule within this title is clearly related to the federally provided waiver, suspension, or modification; and

(3) such waiver or suspension would not have negatively affected the selection of an awardee who has received a competitive award of Department resources.

(b) When the state government has provided the Department a waiver or suspension of a state statute in response to a state or federally declared disaster, and the requirement waived or suspended had been codified in this title, the Executive Director or designee may waive, suspend, or modify the rule within this title, if:

(1) the Executive Director or designee has determined that not doing so may negatively affect the health, safety, or welfare of program recipients;

(2) such waiver, suspension, or modification to the rule within this title must be clearly related to the state provided waiver or suspension;

(3) such waiver or suspension would not have negatively affected the selection of an awardee who has received a competitive award of Department resources; and

(4) the Executive Director or designee has determined that doing so is not inconsistent with any applicable federal statute, regulations or contract requirements.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on January 22, 2026.

TRD-202600229

Bobby Wilkinson  
Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: March 8, 2026

For further information, please call: (512) 475-3959



## 10 TAC §1.23

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of 10 TAC Chapter 1, Subchapter A, General Policies and Procedures, §1.23, State of Texas Low Income Housing Plan and Annual Report (SLIHP). The purpose of the proposed repeal is to eliminate an outdated rule while adopting a new updated rule under separate action, in order to adopt by reference the 2026 SLIHP.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

### a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the proposed repeal would be in effect:

1. The proposed repeal does not create or eliminate a government program, but relates to the repeal, and simultaneous adoption by reference the 2026 SLIHP, as required by Tex. Gov't Code §2306.0723.

2. The proposed repeal does not require a change in work that would require the creation of new employee positions, nor is the proposed repeal significant enough to reduce work load to a degree that any existing employee positions are eliminated.

3. The proposed repeal does not require additional future legislative appropriations.

4. The proposed repeal does not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The proposed repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.

6. The proposed action will repeal an existing regulation, but is associated with a simultaneous readoption in order to adopt by reference the 2026 SLIHP.

7. The proposed repeal will not increase or decrease the number of individuals subject to the rule's applicability.

8. The proposed repeal will not negatively or positively affect this state's economy.

### b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated this proposed repeal and determined that the proposed repeal will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The proposed repeal does not contemplate nor authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

### d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the proposed repeal as to its possible effects on local economies and has determined that for the first five years the proposed repeal would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the proposed repeal is in effect, the public benefit anticipated as a result of the repealed section would be an updated more germane rule that will adopt by reference the 2026 SLIHP. There will not be economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the proposed repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

**REQUEST FOR PUBLIC COMMENT.** The 30-day public comment period for the rule will be held Friday, February 6, 2026, to Sunday, March 8, 2026, to receive input on the proposed repealed section. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Housing Resource Center, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, or email [info@tdhca.texas.gov](mailto:info@tdhca.texas.gov). ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local (Central) time, Sunday, March 8, 2026.

**STATUTORY AUTHORITY.** The proposed repeal is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the proposed repealed section affects no other code, article, or statute.

### *§1.23. State of Texas Low Income Housing Plan and Annual Report (SLIHP).*

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on January 21, 2026.

TRD-202600212

Bobby Wilkinson  
Executive Director  
Texas Department of Housing and Community Affairs  
Earliest possible date of adoption: March 8, 2026  
For further information, please call: (512) 475-3959



## 10 TAC §1.23

The Texas Department of Housing and Community Affairs (the Department) proposes new 10 TAC Chapter 1, Subchapter A, General Policies and Procedures, §1.23 State of Texas Low Income Housing Plan and Annual Report (SLIHP). The purpose of the proposed new section is to provide compliance with Tex. Gov't Code §2306.0723 and to adopt by reference the 2026 SLIHP, which offers a comprehensive reference on statewide housing needs, housing resources, and strategies for funding allocations. The 2026 SLIHP reviews TDHCA's housing programs, current and future policies, resource allocation plans to meet state housing needs, and reports on performance during the preceding state fiscal year (September 1, 2024, through August 31, 2025).

Tex. Gov't Code §2001.0045(b) does not apply to the rule proposed for action because it is exempt under item (c)(9) because it is necessary to implement legislation. Tex. Gov't Code §2306.0721 requires that the Department produce a state low income housing plan, and Tex. Gov't Code §2306.0722 requires that the Department produce an annual low income housing report. Tex. Gov't Code §2306.0723 requires that the Department consider the annual low income housing report to be a rule. This rule provides for adherence to that statutory requirement. Further no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the proposed new rule would be in effect:

1. The proposed new rule does not create or eliminate a government program, but relates to the adoption, by reference, of the 2026 SLIHP, as required by Tex. Gov't Code §2306.0723.

2. The proposed new rule does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.

3. The proposed new rule changes do not require additional future legislative appropriations.

4. The proposed new rule changes will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The proposed new rule is not creating a new regulation, except that it is replacing a rule being repealed simultaneously to provide for revisions.

6. The proposed new rule will not expand, limit, or repeal an existing regulation.

7. The proposed new rule will not increase or decrease the number of individuals subject to the rule's applicability.

8. The proposed new rule will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002. The Department, in drafting this proposed rule, has attempted to reduce any adverse economic effect on small or micro-business or rural communities while remaining consistent with the statutory requirements of Tex. Gov't Code §2306.0723.

1. The Department has evaluated this rule and determined that none of the adverse effect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.

2. There are no small or micro-businesses subject to the proposed rule for which the economic impact of the rule is projected to be null. There are no rural communities subject to the proposed rule for which the economic impact of the rule is projected to be null.

3. The Department has determined that because the proposed rule will adopt by reference the 2025 SLIHP, there will be no economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The proposed rule does not contemplate nor authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the rule as to its possible effects on local economies and has determined that for the first five years the rule will be in effect the proposed rule has no economic effect on local employment because the proposed rule will adopt by reference the 2026 SLIHP; therefore, no local employment impact statement is required to be prepared for the rule.

Tex. Gov't Code §2001.022(a) states that this "impact statement must describe in detail the probable effect of the rule on employment in each geographic region affected by this rule..." Considering that the proposed rule will adopt by reference the 2026 SLIHP there are no "probable" effects of the new rule on particular geographic regions.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new section will be an updated and more germane rule that will adopt by reference the 2026 SLIHP, as required by Tex. Gov't Code §2306.0723. There will not be any economic cost to any individuals required to comply with the new section because the adoption by reference of prior year SLIHP documents has already been in place through the rule found at this section being repealed.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new section is in effect, enforcing or administering the new section does not have any foreseeable implications related to costs or revenues of the state or local governments because the new rule will adopt by reference the 2026 SLIHP.

REQUEST FOR PUBLIC COMMENT AND INFORMATION RELATED TO COST, BENEFIT OR EFFECT. The Department requests comments on the rule and also requests information related to the cost, benefit, or effect of the proposed rule, including

any applicable data, research, or analysis from any person required to comply with the proposed rule or any other interested person. The 30-day public comment period for the rule will be held Friday, February 6, 2026, to Sunday, March 8, 2026, to receive input on the new proposed section. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Housing Resource Center, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or email info@tdhca.texas.gov. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local (Central) time, Sunday, March 8, 2026.

**STATUTORY AUTHORITY.** The new section is proposed pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the proposed new section affects no other code, article, or statute.

**§1.23. State of Texas Low Income Housing Plan and Annual Report (SLIHP).**

The Texas Department of Housing and Community Affairs (TDHCA or the Department) adopts by reference the 2026 State of Texas Low Income Housing Plan and Annual Report (SLIHP). The full text of the 2026 SLIHP may be viewed at the Department's website: [www.tdhca.texas.gov](http://www.tdhca.texas.gov). The public may also receive a copy of the 2026 SLIHP by contacting the Department's Housing Resource Center at (512) 475-3976.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on January 21, 2026.

TRD-202600213

Bobby Wilkinson

Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: March 8, 2026

For further information, please call: (512) 475-3959



## CHAPTER 27. TEXAS FIRST TIME HOMEBUYER PROGRAM RULE

### 10 TAC §§27.1 - 27.9

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of 10 TAC Chapter 27, Texas First Time Homebuyer Program Rule, §§27.1 - 27.9. The purpose of the proposed repeal is to eliminate an outdated rule while adopting a new updated rule under separate action.

Tex. Gov't Code §2001.0045(b) does not apply to the rule proposed for repeal because there are no costs associated with the repeal.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOVT CODE §2001.0221.

1. Robert Wilkinson, Executive Director, has determined that, for the first five years the repeal will be in effect, the repeal does not create or eliminate a government program, but relates to the repeal, and simultaneous proposed adoption making changes

to the rule governing the Texas First Time Homebuyer Program Rule.

2. The repeal does not require a change in work that will require the creation of new employee positions, nor will the repeal reduce work load to a degree that any existing employee positions are eliminated.

3. The repeal does not require additional future legislative appropriations.

4. The repeal does not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.

6. The action will repeal an existing regulation, but is associated with a simultaneous readoption making changes to the existing procedures for the Texas First time Homebuyer Program.

7. The repeal will not increase or decrease the number of individuals subject to the rule's applicability.

8. The repeal will not negatively or positively affect this state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOVT CODE §2006.002.

The Department has evaluated this repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOVT CODE §2007.043. The repeal does not contemplate nor authorize a taking by the Department, therefore no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOVT CODE §2001.024(a)(6).

The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal will be in effect there will be no economic effect on local employment; therefore no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOVT CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repealed section would be an updated rule that better protects the Department's liens on applicable properties. There will be no economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOVT CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

**REQUEST FOR PUBLIC COMMENT.** The Department requests comments on the repeal. The public comment period will be held February 6, 2026, to March 8, 2026, to receive input on the proposed actions. Comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston at [brooke.boston@tdhca.texas.gov](mailto:brooke.boston@tdhca.texas.gov). ALL COMMENTS

AND INFORMATION MUST BE RECEIVED BY 5:00 p.m.,  
Austin local (Central) time, March 8, 2026.

STATUTORY AUTHORITY. The repeal is proposed pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the proposed repealed sections affect no other code, article, or statute.

§27.1. *Purpose.*

§27.2. *Definitions.*

§27.3. *Restrictions on Residences Financed and Applicant.*

§27.4. *Occupancy and Use Requirements.*

§27.5. *Application Procedure and Requirements for Commitments by Mortgage Lenders.*

§27.6. *Criteria for Approving Participating Mortgage Lenders.*

§27.7. *Resale of the Residence.*

§27.8. *Conflicts with Bond Indentures and Applicable Law.*

§27.9. *Waiver.*

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on January 22, 2026.

TRD-202600226

Bobby Wilkinson

Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: March 8, 2026

For further information, please call: (512) 475-3959



## 10 TAC §§27.1 - 27.9

The Texas Department of Housing and Community Affairs (the Department) proposes new 10 TAC Chapter 27, Texas First Time Homebuyer Program Rule, consisting of 10 TAC §§27.1 - 27.9. The purpose of the proposed new rules is to make changes that address lien status for homes purchased under the program. There have recently been instances where the Department's lien status on loans in the portfolio has been jeopardized by lien holders with smaller liens; when those lien holders pursue foreclosure it puts the Department's larger loan at risk of non-repayment.

To prevent this from occurring a policy has been drafted in the rule that specifies that a loan made by the Department must be: 1) first lien if it is the largest loan; or 2) the Department may accept a subordinate lien position if the original principal amount of the leveraged Mortgage Loan is at least 55% of the combined repayable or amortized loans (however, liens related to other subsidized funds provided in the form of grants and non-amortizing mortgage loans, such as deferred payment or forgivable loans, must be subordinate to the Department's mortgage); and 3) For real property encumbered by deed restrictions governed by a property owners' association or homeowners' association, the association shall subordinate its assessment liens in the deed restrictions to the Department's Mortgage Loan.

Tex. Gov't Code §2001.0045(b) does not apply to the rule being adopted, because it meets the exceptions described under items (c)(4) and (9) of that section. The rules relate to a program through which the Department accesses federal bond authority to provide affordable housing opportunities to low income Texans under Treasury Regulations §143. The rule also ensures compliance with Tex. Gov't Code, Subchapter MM, Texas First-Time Homebuyer Program. Even though excepted, it should be noted that no costs are associated with this action that would have prompted a need to be offset.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Robert Wilkinson, Executive Director, has determined that, for the first five years the new rule will be in effect:

1. The new rule does not create or eliminate a government program, but relates to the readoption of this rule which makes changes to the rules that govern the Texas First Time Homebuyer Program.

2. The new rule does not require a change in work that would require the creation of new employee positions, nor will it reduce work load to a degree that eliminates any existing employee positions.

3. The new rule changes do not require additional future legislative appropriations.

4. The new rule will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The new rule is not creating a new regulation, except that it is replacing a rule being repealed simultaneously to provide for revisions.

6. The rule will not limit, expand or repeal an existing regulation but merely revises a rule.

7. The new rule does not increase or decrease the number of individuals to whom this rule applies; and

8. The new rule will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

1. The Department has evaluated this rule and determined that none of the adverse effect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.

2. This rule relates to the general program guidelines for the First Time Homebuyer Program. The beneficiaries of this program are individual households, therefore no small or micro-businesses are subject to the rule.

3. The Department has determined that because this rule relates only to a revision to a rule that applies to a program for which individual households are the beneficiaries, there will be no economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The new rule does not contemplate

nor authorize a taking by the Department, therefore no Takings Impact Assessment is required.

**d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).**

The Department has evaluated the rule as to its possible effects on local economies and has determined that for the first five years the rule will be in effect the new rule has no economic effect on local employment because this rule relates to homebuyer assistance to individual households, not limited to any given community or area within the state; therefore no local employment impact statement is required to be prepared for the rule.

Texas Gov't Code §2001.022(a) states that this "impact statement must describe in detail the probable effect of the rule on employment in each geographic region affected by this rule..." Considering that the rule relates only to the continuation of the rules in place there are no "probable" effects of the new rule on particular geographic regions.

**e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5).** Mr. Wilkinson has determined that, for each year of the first five years the new sections are in effect, the public benefit anticipated as a result of the proposed new rule will be a more updated rule better protecting the Department's lien status. There will be no economic cost to any individuals required to comply with the proposed new rule because the activities described by the rule has already been in existence.

**f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4).** Mr. Wilkinson also has determined that for each year of the first five years the new sections are in effect, enforcing or administering the new sections does not have any foreseeable implications related to costs or revenues of the state or local governments as this rule relates only to a process that already exists and is not being significantly revised.

**REQUEST FOR PUBLIC COMMENT AND INFORMATION RELATED TO COST, BENEFIT OR EFFECT.** The Department requests comments on the rule and also requests information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis from any person required to comply with the proposed rule or any other interested person. The public comment period will be held February 6, 2026, to March 8, 2026, to receive input on the proposed actions. Comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston at brooke.boston@tdhca.texas.gov. ALL COMMENTS AND INFORMATION MUST BE RECEIVED BY 5:00 p.m., Austin local (Central) time, March 8, 2026.

**STATUTORY AUTHORITY.** The rules are proposed pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the proposed new sections affect no other code, article, or statute.

**§27.1. Purpose.**

**(a)** The purpose of the Texas First Time Homebuyer Program is to facilitate the origination of single-family Mortgage Loans for eligible first time Homebuyers, and to make available down payment and closing cost assistance to eligible Homebuyers. The Texas First Time Homebuyer Program is administered in accordance with Texas Government Code, Chapter 2306. Chapter 20 of this title (relating to the Single Family Programs Umbrella Rule) does not apply to the activities under this chapter, except if these activities are combined with activities subject to Chapter 20 of this title.

**(b)** Assistance under this Program is dependent, in part, on the availability of funds. The Department may cease offering all or a part of the assistance available under the program at any time and in its sole discretion.

**§27.2. Definitions.**

The following words and terms, when used in this chapter, shall have the following meanings unless the context or the Participation Packet indicates otherwise. Other definitions may be found in Texas Government Code, Chapter 2306; Chapter 1 of this title (relating to Administration); and Chapter 2 of this title (relating to Enforcement).

**(1) Applicable Median Family Income--**The Department's determination, as permitted by Texas Government Code, §2306.123, of the median income of an individual or family for an area using a source or methodology acceptable under federal law or rule. The Applicable Median Family Income, as updated from time to time, may be found on the Department's website in the "Combined Income and Purchase Price Limits Table."

**(2) Applicant--**A person or persons applying for financing of a Mortgage Loan under the Program.

**(3) Areas of Chronic Economic Distress--**Those areas in the state, whether one or more, designated from time to time as areas of chronic economic distress by the state and approved by the U.S. Secretaries of Treasury and Housing and Urban Development, respectively, pursuant to §143(j) of the Code.

**(4) Average Area Purchase Price--**With respect to a Residence financed under the Program, the average purchase price of single-family residences in the statistical area in which the Residence is located which were purchased during the most recent twelve (12) month period for which statistical information is available, as determined in accordance with §143(e) of the Code.

**(5) Code--**The Internal Revenue Code of 1986, as amended from time to time.

**(6) Contract for Deed Exception--**The exception for certain Mortgage Loan eligibility requirements, as provided in the Master Mortgage Origination Agreement, available with respect to a principal residence owned under a contract for deed by a person whose family income is not more than 50% of the area's Applicable Median Family Income.

**(7) Federal Housing Administration--**A division of the U.S. Department of Housing and Urban Development, also known as FHA.

**(8) First Time Homebuyer--**A person who has not owned a home during the three (3) years preceding the date on which an application under this program is filed. A person will be considered to have owned a home if the person had a present ownership interest in a home during the three (3) years preceding the date on which the application was filed. In the event there is more than one person applying with respect to a home, each Applicant must separately meet this three year requirement.

**(9) Homebuyer--**An Applicant that is approved by the Program and purchases a Residence.

**(10) Master Mortgage Origination Agreement--**The contract between the Department and a Mortgage Lender, together with any amendments thereto, setting forth certain terms and conditions relating to the origination and sale of Mortgage Loans by the Mortgage Lender and the financing of such Mortgage Loans by the Department.

(11) Mortgage Lender--the entity, as defined in §2306.004 of the Tex. Gov't Code, that is participating in the Program and signatory to the Master Mortgage Origination Agreement.

(12) Participation Packet--The application submitted to the Department by the proposed Mortgage Lender to participate in the Program.

(13) Program--The Texas First Time Homebuyer Program.

(14) Purchase Price Limit--The Purchase Price Limits published and updated from time to time in the "Combined Income and Purchase Price Limits Table" found on the Department's website equal to 90% of the Average Area Purchase Price, subject to certain exceptions for Targeted Area Loans.

(15) Qualified Veteran Exemption to First Time Homebuyer Requirement--A qualified veteran who has not previously received financing as a First Time Homebuyer through a single family mortgage revenue bond program is exempt from the requirement to be a First Time Homebuyer. The veteran must certify that he or she has not previously obtained a Mortgage Loan financed by single family mortgage revenue bonds, and is utilizing the veteran exception set forth in §143(d)(2)(D) of the IRS Code. Qualified veterans must also complete a worksheet evidencing qualification as a veteran and provide copies of discharge papers.

(16) Regulations--The applicable proposed, temporary or final Treasury Regulations promulgated under the Code or, to the extent applicable to the Code, under the Internal Revenue Code of 1954, as such regulations may be amended or supplemented from time to time.

(17) Residence--A dwelling in Texas in which an Applicant intends to reside as the Applicant's principal living space. This is intended to have the same meaning as Home as defined in §2306.1071 of the Tex. Gov't Code.

(18) Rural Housing Service--A division of the United States Department of Agriculture, also known as RHS.

(19) Targeted Area--A qualified census tract, as determined in accordance with §6(a)103A-(2)(b)(4) of the Regulations or any successor regulations thereto, or an Area of Chronic Economic Distress. Applicants purchasing in Targeted Areas may have higher income and purchase price limits as set forth in the "Combined Income and Purchase Price Limits Table" found on the Department's website.

(20) Targeted area exemption to First time Homebuyer Requirement--Applicants purchasing homes in targeted areas financed through the program are exempt from the requirement to be a First Time Homebuyer and income and purchase price limits may be higher as found in the "Combined Income and Purchase Price Limits Table" located on the Department's website.

(21) United States Department of Veterans Affairs--Also known as VA.

### §27.3. Restrictions on Residences Financed and Applicant.

(a) Type of Residence and Number of Units. To be eligible for assistance under the Program an Applicant must apply with respect to a Residence that is either a new or existing single family residence, new or existing condominium or townhome, or manufactured housing that has been converted to real property in accordance with the Texas Occupations Code, Chapter 1201 or FHA guidelines, as required by the Department. A duplex may be financed under the Program as long as one unit of the duplex is occupied by the Applicant as his or her Residence, and the duplex was first occupied for residential purposes at least five years prior to the closing of the Mortgage Loan.

(b) Homebuyer Education. Each Applicant must complete a Department approved pre-purchase homebuyer education course.

(c) Income Limits. An Applicant applying for a Mortgage Loan must meet Applicable Median Family Income requirements.

(d) Down Payment Assistance. An Applicant meeting the Applicable Median Family Income requirements in subsection (c) of this section may qualify for down payment and closing cost assistance in connection with the Mortgage Loan on a first come, first served basis, subject to availability of funds.

(e) Residential Property Standards. The Residence must meet all standards required by the State of Texas, local jurisdiction, and as required by the Federal Mortgage Lender.

#### (f) Lien Position Requirements.

(1) A Mortgage Loan made by the Department shall be secured by a first lien on the real property if the Department's Mortgage Loan is the largest Mortgage Loan secured by the real property; or

(2) The Department may accept a subordinate lien position if the original principal amount of the leveraged Mortgage Loan is at least 55% of the combined repayable or amortized loans; however, liens related to other subsidized funds provided in the form of grants and non-amortizing Mortgage Loans, such as deferred payment or Forgivable Loans, must be subordinate to the Department's payable Mortgage Loan; and

(3) For real property encumbered by deed restrictions governed by a property owners' association or homeowners' association, the association shall subordinate its assessment liens in the deed restrictions to the Department's Mortgage Loan.

### §27.4. Occupancy and Use Requirements.

(a) Occupancy requirement. The Homebuyer must occupy the property within a reasonable time (not to exceed 60 days) after the date of closing as his or her Residence.

(b) Use for a business. Homebuyer may not use more than 15% of the Residence in a trade or business (including childcare services) on a regular basis for compensation. If the Residence is to be used, in part, for a trade or business, a schematic drawing from an appraiser must be provided.

(c) Homebuyer may not use the Residence, or any part thereof, as an investment property, rental property, vacation or second home, or recreational home, and shall continue to occupy the Residence as Homebuyer's principal living space, unless waived by the Executive Director or their designee, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Homebuyer's control.

### §27.5. Application Procedure and Requirements for Commitments by Mortgage Lenders.

(a) An Applicant seeking assistance under the Program must first contact a participating Mortgage Lender. A list of participating Mortgage Lenders may be obtained on the Department's website or by contacting the Department.

(b) Applicant shall complete an application with a participating Mortgage Lender.

(c) Application Fees. Fees that may be collected by the Mortgage Lender from the Applicant relating to a Mortgage Loan include:

(1) an appropriate, as determined by the Department, origination fee and/or buyer/seller points; and

(2) all usual and reasonable settlement or financing costs that are permitted to be so collected by FHA, RHS, VA, Freddie Mac

or Fannie Mae, as applicable, and other applicable laws, but only to the extent such charges do not exceed the usual and reasonable amounts charged in the area in which the Residence is located. Such usual and reasonable settlement or financing costs shall include an application fee as determined by the Department, the total estimated costs of a credit report on the Applicants and an appraisal of the property to be financed with the Mortgage Loan, title insurance, survey fees, credit reference fees, legal fees, appraisal fees and expenses, credit report fees, FHA insurance premiums, private Mortgage guaranty insurance premiums, VA guaranty fees, VA funding fees, RHS guaranty fees, hazard or flood insurance premiums, abstract fees, tax service fees, recording or registration fees, escrow fees, and file preparation fees.

(d) The Department will determine from time to time, a schedule of fees and charges necessary for expenses and reserves of the housing finance division as set forth in a Board resolution.

(e) The Mortgage Lender must register the Mortgage Loan in accordance with the Department's published procedures.

#### §27.6. Criteria for Approving Participating Mortgage Lenders.

(a) To be approved by the Department for participation in the program, a Mortgage Lender must meet the requirements in the Participation Packet to be a qualified Mortgage Lender as specified by:

- (1) FHA;
- (2) RHS;
- (3) VA; or

(4) be a lender currently participating in the conventional home lending market for loans originated in accordance with Fannie Mae's and/or Freddie Mac's requirements.

(b) As a condition for participation in the Program, a qualified Mortgage Lender must:

(1) agree to originate Mortgage Loans and assign those loans and related Mortgages and servicing to the Department's master servicer;

(2) originate, process, underwrite, close and fund originated loans; and

(3) be an approved Mortgage Lender with the Program's master servicer.

#### §27.7. Resale of the Residence.

Mortgage Loans that are financed with the proceeds of tax-exempt bonds, or for which a Mortgage Credit Certificate has been or will be issued, will be subject to federal income tax recapture provisions. Assumption of a Mortgage Loan is allowed under the Program if the new owner meets the Program requirements at the time of the sale of the Residence.

#### §27.8. Conflicts with Bond Indentures and Applicable Law.

All assistance provided under the Program is funded through or facilitated by the Department's mortgage revenue bond indentures and is subject to changes in the mortgage revenue bond indentures and applicable law. If there is a conflict between this chapter and any bond indenture or applicable law regarding the use of the funds from mortgage revenue bonds, the mortgage revenue bond indenture or applicable law shall control.

#### §27.9. Waiver.

The Board, in its discretion and within the limits of federal and state law, may waive any one or more of the rules governing this Program, except 10 TAC §27.8 (relating to Conflicts with Bond Indentures and

Applicable Law), if the Board finds that waiver is appropriate to fulfill the purposes or polices of Texas Government Code, Chapter 2306.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on January 22, 2026.

TRD-202600227

Bobby Wilkinson

Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: March 8, 2026

For further information, please call: (512) 475-3959



## CHAPTER 28. TAXABLE MORTGAGE PROGRAM

### 10 TAC §§28.1 - 28.9

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of 10 TAC Chapter 28, Taxable Mortgage Program, §§28.1 - 28.9. The purpose of the proposed repeal is to eliminate an outdated rule while adopting a new updated rule under separate action.

Tex. Gov't Code §2001.0045(b) does not apply to the rule proposed for repeal because there are no costs associated with the repeal.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOVT CODE §2001.0221.

1. Robert Wilkinson, Executive Director, has determined that, for the first five years the repeal will be in effect, the repeal does not create or eliminate a government program, but relates to the repeal, and simultaneous proposed adoption making changes to the rule governing the Taxable Mortgage Program.

2. The repeal does not require a change in work that will require the creation of new employee positions, nor will the repeal reduce work load to a degree that any existing employee positions are eliminated.

3. The repeal does not require additional future legislative appropriations.

4. The repeal does not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.

6. The action will repeal an existing regulation, but is associated with a simultaneous readoption making changes to the existing procedures for the Taxable Mortgage Program.

7. The repeal will not increase or decrease the number of individuals subject to the rule's applicability.

8. The repeal will not negatively or positively affect this state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOVT CODE §2006.002.

The Department has evaluated this repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOVT CODE §2007.043. The repeal does not contemplate nor authorize a taking by the Department, therefore no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOVT CODE §2001.024(a)(6).

The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal will be in effect there will be no economic effect on local employment; therefore no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOVT CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repealed section would be an updated rule that better protects the Department's liens on applicable properties. There will be no economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOVT CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

**REQUEST FOR PUBLIC COMMENT.** The Department requests comments on the repeal. The public comment period will be held February 6, 2026, to March 8, 2026, to receive input on the proposed action. Comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston at brooke.boston@tdhca.texas.gov. ALL COMMENTS AND INFORMATION MUST BE RECEIVED BY 5:00 p.m., Austin local (Central) time, March 8, 2026.

**STATUTORY AUTHORITY.** The repeal is proposed pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the proposed repealed sections affect no other code, article, or statute.

§28.1. *Purpose.*

§28.2. *Definitions.*

§28.3. *Restrictions on Residences Financed and Applicant.*

§28.4. *Occupancy and Use Requirements.*

§28.5. *Application Procedure and Requirements for Commitments by Mortgage Lenders.*

§28.6. *Criteria for Approving Participating Mortgage Lenders.*

§28.7. *Resale of the Residence.*

§28.8. *Conflicts with Bond Indentures and Applicable Law.*

§28.9. *Waiver.*

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on January 22, 2026.

TRD-202600224

Bobby Wilkinson  
Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: March 8, 2026

For further information, please call: (512) 475-3959



## **10 TAC §§28.1 - 28.9**

The Texas Department of Housing and Community Affairs (the Department) proposes new 10 TAC Chapter 28, Taxable Mortgage Program Rule, §§28.1 - 28.9. The purpose of the proposed new rules are to make changes that address lien status for homes purchased under the program. There have recently been instances where the Department's lien status on loans in the portfolio has been jeopardized by lien holders with smaller liens; when those lien holders pursue foreclosure it puts the Department's larger loan at risk of non-repayment.

To prevent this from occurring a policy has been drafted in the rule that specifies that a loan made by the Department must be: 1) first lien if it is the largest loan; or 2) the Department may accept a subordinate lien position if the original principal amount of the leveraged Mortgage Loan is at least 55% of the combined repayable or amortized loans (however, liens related to other subsidized funds provided in the form of grants and non-amortizing mortgage loans, such as deferred payment or forgivable loans, must be subordinate to the Department's mortgage); and 3) For real property encumbered by deed restrictions governed by a property owners' association or homeowners' association, the association shall subordinate its assessment liens in the deed restrictions to the Department's Mortgage Loan.

Tex. Gov't Code §2001.0045(b) does apply to the rule being adopted and no exceptions apply. However, no costs are associated with this action that would have prompted a need to be offset.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

### **a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOVT CODE §2001.0221.**

Mr. Robert Wilkinson, Executive Director, has determined that, for the first five years the proposed new rule will be in effect:

1. The new rules do not create or eliminate a government program, but relates to the readoption of this rule which makes changes to the rules that govern the Taxable Mortgage Program.
2. The new rules do not require a change in work that would require the creation of new employee positions, nor will it reduce work load to a degree that eliminates any existing employee positions.
3. The new rules do changes do not require additional future legislative appropriations.
4. The new rules will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The new rules are not creating a new regulation, except that it is replacing a rule being repealed simultaneously to provide for revisions.

6. The rules will not limit, expand or repeal an existing regulation but merely revises a rule.

7. The new rules do not increase or decrease the number of individuals to whom this rule applies; and

8. The new rules will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

1. The Department has evaluated these rules and determined that none of the adverse affect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.

2. These rules relate to the general program guidelines for the Taxable Mortgage Program. The beneficiaries of this program are individual households, therefore no small or micro-businesses are subject to the rules.

3. The Department has determined that because the rule relates only to a revision to a rule that applies to a program for which individual households are the beneficiaries, there will be no economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The new rules do not contemplate nor authorize a taking by the Department, therefore no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the rules as to its possible effects on local economies and has determined that for the first five years the rules will be in effect the new rules have no economic effect on local employment because the rules relates to homebuyer assistance to individual households, not limited to any given community or area within the state; therefore no local employment impact statement is required to be prepared for these rules.

Texas Gov't Code §2001.022(a) states that this "impact statement must describe in detail the probable effect of the rule on employment in each geographic region affected by this rule..." Considering that the rule relates only to the continuation of the rules in place there are no "probable" effects of the new rule on particular geographic regions.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the new sections are in effect, the public benefit anticipated as a result of the proposed new rule will be a more updated rule reflecting transparent compliant regulations. There will be no economic cost to any individuals required to comply with the proposed new rule because the activities described by the rule has already been in existence.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new sections are in effect, enforcing or administering the new sections does not have any foreseeable implications related to costs or revenues of the state or local governments as these rules relates only to a process that already exists and is not being significantly revised.

REQUEST FOR PUBLIC COMMENT AND INFORMATION RELATED TO COST, BENEFIT OR EFFECT. The Department

requests comments on the rules and also requests information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis from any person required to comply with the proposed rules or any other interested person. The public comment period will be held February 6, 2026, to March 8, 2026, to receive input on the proposed actions. Comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston at brooke.boston@tdhca.texas.gov. ALL COMMENTS AND INFORMATION MUST BE RECEIVED BY 5:00 p.m., Austin local (Central) time, March 8, 2026.

STATUTORY AUTHORITY. The new rules are proposed pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the proposed new sections affect no other code, article, or statute.

§28.1. Purpose.

(a) The purpose of the Taxable Mortgage Program is to facilitate the origination of single-family mortgage loans and to refinance existing Mortgage Loans for eligible Homebuyers and in both cases to make down payment and closing cost assistance available to eligible Homebuyers. Chapter 20 of this title (relating to the Single Family Programs Umbrella Rule) does not apply to the activities under this chapter, except if these activities are combined with activities subject to Chapter 20 of this title.

(b) Assistance under this program is dependent, in part, on the availability of funds. The Department may cease offering all or a part of the assistance available under the program at any time and in its sole discretion.

§28.2. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings unless the context or the Participation Packet indicates otherwise. Other definitions may be found in Texas Government Code, Chapter 2306; Chapter 1 of this title (relating to Administration); and Chapter 2 of this title (relating to Enforcement).

(1) Applicable Median Family Income--The Department's determination, as permitted by Texas Government Code, §2306.123, of the median income of an individual or family for an area using a source or methodology acceptable under federal law or rule. The Applicable Median Family Income, as updated from time to time, may be found on the Department's website in the "Combined Income and Purchase Price Limits Table."

(2) Applicant--A person or persons applying for financing of a Mortgage Loan under the Program.

(3) Areas of Chronic Economic Distress--Those areas in the state, whether one or more, designated from time to time as areas of chronic economic distress by the state and approved by the U.S. Secretaries of Treasury and Housing and Urban Development, respectively, pursuant to §143(j) of the Code.

(4) Code--The Internal Revenue Code of 1986, as amended from time to time.

(5) Department Designated Areas of Special Need--Geographic areas designated by the Department from time to time as areas of special need.

(6) Federal Housing Administration--A division of the U.S. Department of Housing and Urban Development, also known as FHA.

(7) Homebuyer--An Applicant that is approved by the Program and purchases a Residence.

(8) Master Mortgage Origination Agreement--The contract between the Department and a Mortgage Lender, together with any amendments thereto, setting forth certain terms and conditions relating to the origination and sale of Mortgage Loans by the Mortgage Lender and the financing of such Mortgage Loans by the Department.

(9) Mortgage Lender--The entity, as defined in §2306.004 of the Texas Government Code, participating in the Program and signatory to the Master Mortgage Origination Agreement.

(10) Participation Packet--The application submitted to the Department by the proposed Mortgage Lender to participate in the Program.

(11) Program--The Taxable Mortgage Program.

(12) Regulations--The applicable proposed, temporary or final Treasury Regulations promulgated under the Code or, to the extent applicable to the Code, under the Internal Revenue Code of 1954, as such regulations may be amended or supplemented from time to time.

(13) Residence--A dwelling in Texas in which an Applicant intends to reside as the Applicant's principal living space. Has the same meaning as Home in Chapter 2306 of the Texas Government Code.

(14) Rural Housing Service--A division of the United States Department of Agriculture, also known as RHS.

(15) Targeted Area--A qualified census tract, as determined in accordance with §6(a)103A-(2)(b)(4) of the Regulations or any successor regulations thereto, or an Area of Chronic Economic Distress, or a Department Designated Area of Special Need. Applicants purchasing in Targeted Areas may have higher income limits as set forth in the "Combined Income and Purchase Price Limits Table" found on the Department's website.

(16) United States Department of Veterans Affairs--Also known as VA.

### §28.3. Restrictions on Residences Financed and Applicant.

(a) Type of Residence and Number of Units. To be eligible for assistance under the Program an Applicant must apply with respect to a Residence that is either a new or existing single family residence, new or existing condominium or townhome, or manufactured housing that has been converted to real property in accordance with the Texas Occupations Code, Chapter 1201 or FHA guidelines, as required by the Department. A duplex may be financed under the Program as long as one unit of the duplex is occupied by the Applicant as his or her Residence, and the duplex was first occupied for residential purposes at least five years prior to the closing of the Mortgage Loan.

(b) Homebuyer Education. Each Applicant must complete a Department approved pre-purchase homebuyer education course.

(c) Income Limits. An Applicant applying for a Mortgage Loan must meet Applicable Median Family Income requirements.

(d) Down Payment Assistance. An Applicant meeting the Applicable Median Family Income requirements in subsection (c) of this section may qualify for down payment and closing cost assistance in connection with the Mortgage Loan on a first come, first served basis, subject to availability of funds.

(e) Residential Property Standards. The Residence must meet all standards required by the State of Texas, local jurisdiction, and as required by the Mortgage Lender.

(f) Lien Position Requirements.

(1) A Mortgage Loan made by the Department shall be secured by a first lien on the real property if the Department's Mortgage Loan is the largest Mortgage Loan secured by the real property; or

(2) The Department may accept a subordinate lien position if the original principal amount of the leveraged Mortgage Loan is at least 55% of the combined repayable or amortized loans; however, liens related to other subsidized funds provided in the form of grants and non-amortizing Mortgage Loans, such as deferred payment or Forgivable Loans, must be subordinate to the Department's payable Mortgage Loan; and

(3) For real property encumbered by deed restrictions governed by a property owners' association or homeowners' association, the association shall subordinate its assessment liens in the deed restrictions to the Department's Mortgage Loan.

### §28.4. Occupancy and Use Requirements.

(a) Occupancy requirement. The Homebuyer must occupy the property within a reasonable time (not to exceed 60 days) after the date of closing as his or her Residence.

(b) Use for a business. Homebuyer may not use more than 15% of the Residence in a trade or business (including childcare services) on a regular basis for compensation. If the Residence is to be used, in part, for a trade or business, a schematic drawing from an appraiser must be provided.

(c) Homebuyer may not use the Residence, or any part thereof, as an investment property, rental property, vacation or second home, or recreational home, and shall continue to occupy the Residence as Homebuyer's principal living space, unless waived by the Executive Director or their designee, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Homebuyer's control.

### §28.5. Application Procedure and Requirements for Commitments by Mortgage Lenders.

(a) An Applicant seeking assistance under the Program must first contact a participating Mortgage Lender. A list of participating Mortgage Lenders may be obtained on the Department's website or by contacting the Department.

(b) Applicant shall complete an application with a participating Mortgage Lender.

(c) Application Fees. Fees that may be collected by the Mortgage Lender from the Applicant relating to a Mortgage Loan include:

(1) an appropriate, as determined by the Department, origination fee and/or buyer/seller points; and

(2) all usual and reasonable settlement or financing costs that are permitted to be so collected by FHA, RHS, VA, Freddie Mac or Fannie Mae, as applicable, and other applicable laws, but only to the extent such charges do not exceed the usual and reasonable amounts charged in the area in which the Residence is located. Such usual and reasonable settlement or financing costs shall include an application fee as determined by the Department, the total estimated costs of a credit report on the Applicants and an appraisal of the property to be financed with the Mortgage Loan, title insurance, survey fees, credit reference fees, legal fees, appraisal fees and expenses, credit report fees, FHA insurance premiums, private Mortgage guaranty insurance premiums, VA guaranty fees, VA funding fees, RHS guaranty fees, hazard or flood insurance premiums, abstract fees, tax service fees, recording or registration fees, escrow fees, and file preparation fees.

(d) The Department will determine from time to time a schedule of fees and charges necessary for expenses and reserves of the housing finance division as set forth in a Board resolution.

(e) The Mortgage Lender must register the Mortgage Loan in accordance with the Department's published procedures.

**§28.6. Criteria for Approving Participating Mortgage Lenders.**

(a) To be approved by the Department for participation in the program, a Mortgage Lender must meet the requirements in the Participation Packet to be a qualified Mortgage Lender as specified by:

- (1) FHA;
- (2) RHS;
- (3) VA; or

(4) be a lender currently participating in the conventional home lending market for loans originated in accordance with Fannie Mae's and/or Freddie Mac's requirements.

(b) As a condition for participation in the Program, a qualified Mortgage Lender must:

(1) agree to originate Mortgage Loans and assign those loans and related Mortgages and servicing to the Department's master servicer;

(2) originate, process, underwrite, close and fund originated loans; and

(3) be an approved Mortgage Lender with the Program's master servicer.

**§28.7. Resale of the Residence.**

Mortgage Loans that are financed with the proceeds of tax-exempt bonds, or for which a Mortgage Credit Certificate has been or will be issued, will be subject to federal income tax recapture provisions. Assumption of a Mortgage Loan is allowed under the Program if the new owner meets the Program requirements at the time of the sale of the Residence.

**§28.8. Conflicts with Bond Indentures and Applicable Law.**

All assistance provided under the Program is funded through or facilitated by the Department's mortgage revenue bond indentures and is subject to changes in the mortgage revenue bond indentures and applicable law. If there is a conflict between this chapter and any bond indenture or applicable law regarding the use of the funds from mortgage revenue bonds, the mortgage revenue bond indenture or applicable law shall control.

**§28.9. Waiver.**

The Board, in its discretion and within the limits of federal and state law, may waive any one or more of the rules governing this Program, except 10 TAC §28.8 (relating to Conflicts with Bond Indentures and Applicable Law), if the Board finds that waiver is appropriate to fulfill the purposes or polices of Texas Government Code, Chapter 2306, or for good cause, as determined by the Board.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on January 22, 2026.

TRD-202600225

Bobby Wilkinson

Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: March 8, 2026

For further information, please call: (512) 475-3959



## **TITLE 22. EXAMINING BOARDS**

### **PART 22. TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY**

#### **CHAPTER 501. RULES OF PROFESSIONAL CONDUCT**

##### **SUBCHAPTER A. GENERAL PROVISIONS**

###### **22 TAC §501.51**

The Texas State Board of Public Accountancy (Board) proposes an amendment to §501.51 concerning Preamble and General Principle.

###### **Background, Justification and Summary**

The AICPA establishes best practices standards for attest services. The proposed rule revision makes it clear that a licensee is required to follow the AICPA's published standards.

###### **Fiscal Note**

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

###### **Public Benefit**

The adoption of the proposed rule amendment will clarify that when a national standard is referenced by the Board the licensee will recognize that following the standard is a requirement.

###### **Probable Economic Cost and Local Employment Impact**

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

###### **Small Business, Rural Community and Micro-Business Impact Analysis**

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

###### **Government Growth Impact Statement**

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

## Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

## Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on March 9, 2026.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

## Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

## *§501.51. Preamble and General Principals.*

(a) These rules of professional conduct were promulgated under the Public Accountancy Act, which directs the Texas State Board of Public Accountancy to promulgate rules of professional conduct "in order to establish and maintain high standards of competence and integrity in the practice of public accountancy and to ensure that the conduct and competitive practices of licensees serve the purposes of the Act and the best interest of the public." The provisions of Chapter 501 of this title (relating to Rules of Professional Conduct) will control over any interpretation used by a national accounting organization.

(b) The services usually and customarily performed by those in the public, industry, or government practice of accountancy involve a high degree of skill, education, trust, and experience which are professional in scope and nature. The use of professional designations carries an implication of possession of the competence associated with a profession. The public, in general, and the business community, in particular, rely on this professional competence by placing confidence in reports and other services of accountants. The public's reliance, in turn, imposes obligations on persons utilizing professional designations to their clients, employers and to the public in general. These obligations include maintaining independence in fact and in appearance, while in the client practice of public accountancy, continuously improving professional skills, observing GAAP and GAAS, when required, promoting sound and informative financial reporting, holding the affairs of

clients and employers in confidence, upholding the standards of the public accountancy profession, and maintaining high standards of personal and professional conduct in all matters.

(c) The board has an underlying duty to the public to ensure that these obligations are met in order to achieve and maintain a vigorous profession capable of attracting the bright minds essential to adequately serving the public interest.

(d) These rules recognize the First Amendment rights of the general public as well as licensees and do not restrict the availability of accounting services. However, public accountancy, like other professional services, cannot be commercially exploited without the public being harmed. While information as to the availability of accounting services and qualifications of licensees is desirable, such information should not be transmitted to the public in a misleading fashion.

(e) The rules are intended to have application to all kinds of professional services performed in the practice of public accountancy, including services found at §501.52(22) of this chapter (relating to Definitions).

(f) Finally, these rules also recognize the duty of certified public accountants to refrain from committing acts discreditable to the profession. These acts, whether or not related to the accountant's practice, impact negatively upon the public's trust in the profession.

(g) In the interpretation and enforcement of these rules, the board may consider relevant interpretations, rulings, and opinions issued by the boards of other jurisdictions and appropriate committees of professional organizations, but will not be bound thereby.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on January 22, 2026.

TRD-202600232

J. Randel (Jerry) Hill  
General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: March 8, 2026

For further information, please call: (512) 305-7842



## SUBCHAPTER C. RESPONSIBILITIES TO CLIENTS

### 22 TAC §501.75

The Texas State Board of Public Accountancy (Board) proposes an amendment to §501.75 concerning Confidential Client Communications.

#### Background, Justification and Summary

The Public Accountancy Act requires licensees to maintain the confidentiality of client information without the client's permission. For clarity the Board is requiring the licensee to only share confidential information with a third party with the client's written permission and the proposed revision identifies examples of who the licensee's authorized representative may be.

#### Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in

effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

#### Public Benefit

The adoption of the proposed rule amendment will help to eliminate the question of when a client has authorized the release of confidential client information to a third party and who may act on behalf of the licensee.

#### Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

#### Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

#### Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

#### Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

#### Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on March 9, 2026.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board

may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

#### Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

#### *§501.75. Confidential Client Communications.*

(a) Except by written permission of the client or the authorized representatives of the client, a person or any partner, member, officer, shareholder, or employee of a person shall not voluntarily disclose to a third party, including contractors, subcontractors, subsidiaries, and/or affiliates, within or outside the United States of America engaged in connection with the provision of professional services and/or services for internal, administrative and/or regulatory compliance purposes, information communicated [to him] by the client relating to, and in connection with, professional accounting services or professional accounting work rendered to the client [by the person]. Such information shall be deemed confidential. The following includes, but is not limited to, examples of authorized representatives:

(1) the authorized representative of a successor entity becomes the authorized representative of the predecessor entity when the predecessor entity ceases to exist and no one exists to give permission on behalf of the predecessor entity; and

(2) an executor/administrator of the estate of a deceased client possessing an order signed by a judge is an authorized representative of the estate.

(b) The provisions contained in subsection (a) of this section do not prohibit the disclosure of information required to be disclosed:

(1) by the professional standards for reporting on the examination of a financial statement and identified in Chapter 501, Subchapter B of this title (relating to Professional Standards);

(2) by applicable federal laws, federal government regulations, including requirements of the PCAOB;

(3) under a summons or subpoena under the provisions of the Internal Revenue Code of 1986 and its subsequent amendments, a summons under the provisions of the Securities Act of 1933 (15 U.S.C. Section 77a et seq.) and its subsequent amendments, or a summons under the provisions of the Securities Exchange Act of 1934 (15 U.S.C. Section 78a et seq.) and its subsequent amendments, the Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes), Texas Revised Civil Statutes Annotated;

(4) under a court order signed by a judge if the court order:

- (A) is addressed to the license holder;
- (B) mentions the client by name; and
- (C) requests specific information concerning the client.

(5) by the public accounting profession in reporting on the examination of financial statements;

(6) by a congressional or grand jury subpoena;

(7) in investigations or proceedings conducted by the board;

(8) in ethical investigations conducted by a private professional organization of certified public accountants;

(9) in a peer review; or

(10) in the course of a practice review by another CPA or CPA firm for a potential acquisition in conjunction with a prospective purchase, sale, or merger of all or part of a member's practice if both firms enter into a written nondisclosure agreement with regard to all client information shared between the firms.

(c) The provisions contained in subsection (a) of this section do not prohibit the disclosure of information already made public, including information disclosed to others not having a confidential communications relationship with the client or authorized representative of the client.

(d) A person in the client practice of public accountancy shall take all reasonable measures to maintain the confidentiality of the client records and shall immediately upon becoming aware of the loss of, or loss of control over, the confidentiality of those records notify the client affected in writing of the date and time of the loss if known. Loss includes a cybersecurity breach or other incident exposing the records to a third party or parties, without the client's consent or the loss of the client records or the loss of control over the client records. Persons have a responsibility to maintain a back-up system in order to be able to immediately identify and notify clients of a loss.

(e) Interpretive comment. The definition of a successor entity as referenced in subsection (a)(1) of this section does not include the purchaser of all assets of an entity.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on January 22, 2026.

TRD-202600233

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: March 8, 2026

For further information, please call: (512) 305-7842



## CHAPTER 505. THE BOARD

### 22 TAC §505.10

The Texas State Board of Public Accountancy (Board) proposes an amendment to §505.10 concerning Board Committees.

#### Background, Justification and Summary

Continuing Professional Education (CPE) is a prerequisite to licensing. Therefore, the issues addressed by the CPE committee are a part of the licensing process and can be easily addressed through one committee. The staff is therefore recommending the combining of the two committee responsibilities into Licensing Committee and eliminating the CPE Committee as a stand-alone committee. The staff is also proposing the requirement for a semi-annual meeting of the Peer Assistance Committee. The staff has found that a semi-annual meeting is not needed to receive a report on the issues and activities of the committee. This

committee will meet on an as-needed basis if this rule is adopted and eliminate the cost of resources and expenses in an unnecessary meeting.

#### Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, or to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

#### Public Benefit

The adoption of the proposed rule amendment will eliminate the CPE Committee and the costs and resources needed to maintain that committee. It will also eliminate the requirement for a semi-annual meeting of the Peer Assistance Committee.

#### Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

#### Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

#### Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

#### Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

#### Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on March 9, 2026.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

#### Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

#### §505.10. Board Committees.

(a) Committee appointments. Appointments to standing committees and ad hoc committees shall be considered annually by the board's presiding officer to assist in carrying out the functions of the board under the provisions of the Act. Committee appointments shall be made by the presiding officer for a term of two years but may be terminated at any point by the presiding officer. Committee members may be re-appointed at the discretion of the presiding officer. The board's presiding officer shall be an ex officio member of each standing committee and ad hoc committee and chair of the executive committee.

(b) Committee actions. The actions of the committees are recommendations only and are not binding until ratification by the board at a regularly scheduled meeting.

(c) Committee meetings. Committee meetings shall be held at the call of the committee chair, and a report to the board at its next regularly scheduled meeting shall be made by such chair or, in the absence of the chair, by another board member serving on the committee.

(d) Vacancies. If for any reason a vacancy occurs on a committee, the board's presiding officer may appoint a replacement in accordance with subsection (a) of this section.

(e) Standing committee structure and charge to committees. The standing committees shall consist of policy-making committees and working committees comprised of the following individuals and shall be charged with the following responsibilities.

(1) The executive committee shall be a policy-making committee comprised of the board's presiding officer, assistant presiding officer, secretary, treasurer, immediate past presiding officer of the board if still serving on the board, and at least one other officer elected by the board. The executive committee shall also be the board's audit committee. The executive committee may act on behalf of the full board in matters of urgency, or when a meeting of the full board is not feasible; the executive committee's actions are subject to full board ratification at its next regularly scheduled meeting. The functions of the executive committee shall be to advise, consult with, and make recommendations to the board concerning matters requested by the board's presiding officer, including:

- (A) the board's budget and finances;
- (B) litigation;

(C) emergency suspensions pursuant to §519.12 of this title (relating to Emergency Suspension);

(D) emergency rulemaking pursuant to §2001.034 of the Administrative Procedure Act;

(E) amendments to the Act;

(F) responses/positions relating to papers, reports, and other submissions from national or international associations or boards;

(G) legislative oversight, including, but not limited to, budget, performance measures, proposed changes in legislation affecting the board, and computer utilization; and

(H) special issues.

[2) The CPE committee shall be a working committee comprised of at least two board members, one of whom shall serve as chair, assisted by at least two non-board members who shall serve in an advisory capacity. The committee shall make recommendations to the board regarding:]

[(A) the mandatory CPE program in accordance with Chapter 523 of this title (relating to Continuing Professional Education);]

[(B) investigations of sponsor compliance with the terms of the sponsor agreements, including the related recordkeeping requirements;]

[(C) the results of monitoring CPE courses for the purpose of evaluating the facilities, course content as presented, and the adequacy of the course presenter(s);

[(D) any significant deficiencies observed in carrying out subparagraphs (B) and (C) of this paragraph; and]

[(E) make recommendations to the board's policy-making committees (the executive committee and the rules committee) concerning proposed changes in board rules, opinions, and policies related to the mandatory CPE program as it relates to licensees and to relations with sponsors of CPE.]

(2) [3)] The qualifications committee shall be a working committee comprised of at least two board members, one of whom shall serve as chair, assisted by at least two non-board members who shall serve in an advisory capacity. The committee shall make recommendations to the board regarding:

(A) the educational qualifications of an applicant for the UCPAE in accordance with Chapter 511, Subchapter C of this title (relating to Educational Requirements) and courses that may be used to meet the education requirements to take the examination;

(B) the administration, security, discipline, and other aspects of the conduct of the UCPAE in Texas;

(C) the work experience qualifications of an applicant for the CPA certificate in accordance with §§511.121 - 511.124 of this title (relating to Experience Requirements); and

(D) recommendations to the board's policy-making committees (the executive committee and the rules committee) concerning proposed changes in board rules, opinions, and policies relating to the qualifications process.

(3) [4)] The licensing committee shall be a working committee comprised of at least two board members, one of whom shall serve as chair, assisted by at least two non-board members who shall serve in an advisory capacity. The committee shall make recommendations to the board regarding:

(A) applications for certification, registration, and licensure;

(B) where applicable, the equivalency examination measuring the professional competency of an applicant for a CPA certificate by reciprocity; [and]

(C) the mandatory CPE program in accordance with Chapter 523 of this title (relating to Continuing Professional Education); [recommendations to the board's policy-making committees (the executive committee and the rules committee) concerning proposed changes in board rules, opinions, and policies as they relate to the licensing process;]

(D) investigations of sponsor compliance with the terms of the sponsor agreements, including the related recordkeeping requirements;

(E) the results of monitoring CPE courses for the purpose of evaluating the facilities, course content as presented, and the adequacy of the course presenter(s);

(F) any significant deficiencies observed in carrying out subparagraphs (D) and (E) of this paragraph; and

(G) make recommendations to the board's policy-making committees (the executive committee and the rules committee) concerning proposed changes in board rules, opinions, and policies as it relates to the licensing program and as it relates to the mandatory CPE program and relations with sponsors of CPE.

(4) [(5)] The behavioral enforcement committee shall be a working committee comprised of at least two board members, one of whom shall serve as chair, assisted by at least two non-board members who shall serve in an advisory capacity. The committee shall:

(A) review requests or applications for reinstatement of any certificate, registration, or license which the committee recommended and the board revoked, suspended, or refused to renew;

(B) investigate complaints involving alleged violations of the Act and the board's rules, primarily concerning behavioral issues, and based upon its findings, make recommendations to the board or authorize the staff to offer an agreed consent order, or in the alternative, to litigate the findings of Act or rule violations;

(C) follow up on board orders to ensure [insure] that licensees and certificate holders and others adhere to sanctions prescribed by or agreements with the board; and

(D) make recommendations to the board's policy-making committees (the executive committee and the rules committee) concerning proposed changes in board rules, opinions, and policies related to the behavioral restraints of the rules and the Act.

(5) [(6)] The technical standards review committee shall be a working committee comprised of at least two board members, one of whom shall serve as chair, assisted by at least three non-board members who shall serve in an advisory capacity. The committee shall:

(A) review requests or applications for reinstatement of any certificate, registration, or license which the committee recommended and the board revoked, suspended, or refused to renew;

(B) investigate complaints from any source involving alleged violations of the Act and the board's rules, primarily concerning technical issues and based upon its findings, make recommendations to the board or authorize the staff to offer an agreed consent order, or in the alternative, to litigate the findings of Act or rule violations;

(C) follow up on board orders to ensure [insure] that licensees or certificate holders and others adhere to sanctions prescribed by or agreements with the board; and

(D) make recommendations to the board's policy-making committees (the executive committee and the rules committee) concerning proposed changes in board rules, opinions, and policies related to enforcement of technical standards.

(6) [(7)] The peer review committee shall be a working committee comprised of at least two board members, one of whom shall serve as chair, assisted by at least two non-board members who shall serve in an advisory capacity. The committee shall:

(A) conduct a periodic review of firms in accordance with Chapter 527 of this title (relating to Peer Review);

(B) refer to the technical standards review committee firms with deficient reviews for which educational rehabilitation has not been effective; and

(C) make recommendations to the board's policy-making committees (the executive committee and the rules committee) concerning proposed changes in board rules, opinions, and policies relating to the peer review program.

(7) [(8)] The board rules committee shall be a policy-making committee comprised of at least three board members, one of whom shall serve as chair. The committee shall make recommendations to the board concerning the board's rules, opinions, and policies. All working committees shall refer proposed changes to the board's rules, opinions, and policies to the rules committee for consideration for recommendation to the board.

(8) [(9)] The peer assistance oversight committee shall be a working committee comprised of at least two board members, one of whom shall serve as chair, assisted by at least two non-board members who shall serve in an advisory capacity. The committee shall oversee the peer assistance program administered by the TXCPA as required under the Texas Health and Safety Code, §467.001(1)(B), and ensure [insure] that the minimum criteria as set out by the Department of State Health Services are met. It shall make recommendations to the board and the TXCPA regarding modifications to the program and, if warranted, refer cases to other board committees for consideration of disciplinary or remedial action by the board. The committee shall report to the board as needed, [on a semi-annual basis,] by case number, on the status of the program.

(9) [(10)] The constructive enforcement committee shall be a working committee comprised of at least two board members, one of whom shall serve as chair, assisted by non-board CPA members. At least one Committee member shall be a public member of the board. The committee shall approve the constructive enforcement program, coordinate its activities with board committees and staff, and supervise the training of constructive enforcement advisory committee members. A staff attorney of the board shall supervise the day to day administration of the constructive enforcement program and activities of the committee's non-board members on behalf of the committee chairman. The committee shall:

(A) investigate matters forwarded to the committee from any other board committee or board staff in accordance with board instruction and policy;

(B) prepare, as appropriate, investigative reports regarding each referred matter;

(C) inform referring board committees or board staff of the results of its investigations;

(D) inform the appropriate committee when possible violations of board rules and the Act are observed; and

(E) make recommendations to the board's policy-making committees (the executive committee and the rules committee) concerning proposed changes in board rules, opinions, and policies relating to the constructive enforcement program.

(f) Ad hoc advisory committees. Ad hoc advisory committees may be established by the board's presiding officer and members and advisory members appointed as appropriate.

(g) Policy guidelines. All advisory committee members performing any duties utilizing board facilities and/or who have access to board records, shall conform and adhere to the standards, board rules, and personnel policies of the board as described in its personnel manual and to the laws of the State of Texas governing state employees.

(h) Conflicts of interest. To avoid a conflict of interest or the appearance of a conflict of interest, no committee member may provide a report or expert testimony for or otherwise advocate on behalf of a complainant or a respondent in a disciplinary matter pending before the board while serving on a standing committee of the board.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on January 22, 2026.

TRD-202600234

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: March 8, 2026

For further information, please call: (512) 305-7842



## CHAPTER 518. UNAUTHORIZED PRACTICE OF PUBLIC ACCOUNTANCY

### 22 TAC §518.2

The Texas State Board of Public Accountancy (Board) proposes an amendment to §518.2 concerning Cease and Desist Orders.

#### Background, Justification and Summary

No person shall offer accounting services in Texas or hold themselves out to be a CPA or an accountant or to suggest they have an expertise in accounting unless they are licensed by the Board as a CPA. To prevent the unlicensed practice of public accountancy the Board no longer issues Cease and Desist Orders. Instead, the board will take a non-licensee ignoring the Board's efforts to obtain compliance with state law to state district court to seek an injunction. This is an expedited method to achieve compliance with state law and eliminates the unnecessary step of the Cease and Desist Order.

#### Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

#### Public Benefit

The adoption of the proposed rule amendment will clarify the Board's process.

#### Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

#### Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

#### Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

#### Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

#### Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on March 9, 2026.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

## Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

### *§518.2. Agreed Consent Orders [Cease and Desist Orders].*

[(a)] Whenever the board, through its executive director, determines that a person is engaging in an act or practice that constitutes the practice of public accountancy without a license issued under the Act, the board, through its executive director, [after notice and an opportunity for a hearing, may issue a cease and desist order prohibiting the person from engaging in that activity. The executive director] and the person under investigation may agree to an Agreed Consent Order [a cease and desist order at any time; however, such an agreed cease and desist order must be ratified by the board].

(1) The executive director may refer an investigation to the Constructive Enforcement Committee for its consideration before taking any action. In such cases, the Constructive Enforcement Committee may recommend that staff dismiss the matter without further action, instruct staff to investigate the matter further or recommend that staff offer the person under investigation an Agreed Consent Order [a cease and desist order].

(2) The executive director may enlist the aid of the members of the Constructive Enforcement Advisory Committee in gathering evidence during investigations of the unauthorized practice of public accountancy.

[(b) A hearing under this rule shall be conducted in the manner of a contested case pursuant to the Act, the Administrative Procedure Act, the board's rules and SOAH's rules.]

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on January 22, 2026.

TRD-202600235

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: March 8, 2026

For further information, please call: (512) 305-7842



## 22 TAC §518.3

The Texas State Board of Public Accountancy (Board) proposes an amendment to §518.3 concerning Cease and Desist Orders.

### Background, Justification and Summary

No person shall offer accounting services in Texas or hold themselves out to be a CPA or an accountant or to suggest they have an expertise in accounting unless they are licensed by the Board as a CPA. To prevent the unlicensed practice of public accountancy the Board no longer issues Cease and Desist Orders. Instead, the board will take a non-licensee ignoring the Board's efforts to obtain compliance with state law to state district court to seek an injunction. This is an expedited method to achieve

compliance with state law and eliminates the unnecessary step of the Cease and Desist Order.

### Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

### Public Benefit

The adoption of the proposed rule amendment will clarify the Board's authority.

### Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

### Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

### Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

### Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

### Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on March 9, 2026.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small busi-

nesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

#### Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

#### *§518.3. Agreed Consent Order Violations [Cease and Desist Orders].*

(a) Whenever the board, through its executive director, determines that a person subject to an Agreed Consent Order [a cease and desist order] issued by the board has violated that order, the board, through its executive director, after notice and an opportunity for a hearing, may assess an administrative penalty, [after consulting with the board's presiding officer,] against the person in violation in accordance with the guidelines contained in §518.6 of this chapter (relating to Administrative Penalty Guidelines for the Unauthorized Practice of Public Accountancy) and Subchapter L of the Act, as amended.

(b) The board staff acting through the executive director will advise [offer] the person found in violation of an Agreed Consent Order that he has 20 days to request a hearing in writing, as required by §901.554 of the Act (relating to Penalty to be Paid or Hearing Requested) [a cease and desist order].

[(1) The agreed consent order will act as the preliminary report as required by §901.553 of the Act (relating to Report and Notice of Violation and Penalty), including findings of fact to support the administrative penalty as well as the amount of the penalty to be imposed.]

[(2) Board staff will advise the person found in violation of a cease and desist order that he has 20 days to either sign the agreed consent order or to request a hearing in writing, as required by §901.554 of the Act (relating to Penalty to be Paid or Hearing Requested).]

[(3) If the person found to be in violation of a cease and desist order signs the agreed consent order, then the agreed consent order will be presented to the board for its consideration. If the board ratifies the agreed consent order, then it will issue a board order.]

(c) If the board, through its executive director, determines that a person subject to an Agreed Consent Order [a cease and desist order issued by the board] has violated that order, the [board, through its] executive director [and after consulting with the board's presiding officer,] may seek to enjoin the person in violation in state district court.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on January 22, 2026.

TRD-202600236

J. Randel (Jerry) Hill  
General Counsel  
Texas State Board of Public Accountancy  
Earliest possible date of adoption: March 8, 2026  
For further information, please call: (512) 305-7842



#### 22 TAC §518.4

The Texas State Board of Public Accountancy (Board) proposes an amendment to §518.4 concerning Injunctive Relief and Penalties.

#### Background, Justification and Summary

No person shall offer accounting services in Texas or hold themselves out to be a CPA or an accountant or to suggest they have an expertise in accounting unless they are licensed by the Board as a CPA. To prevent the unlicensed practice of public accountancy the Board no longer issues Cease and Desist Orders. Instead, the board will take a non-licensee ignoring the Board's efforts to obtain compliance with state law to state district court to seek an injunction. This is an expedited method to achieve compliance with state law and eliminates the unnecessary step of the Cease and Desist Order.

#### Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

#### Public Benefit

The adoption of the proposed rule amendment will clarify the Board's authority.

#### Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

#### Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

#### Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed

rule's applicability; and does not positively or adversely affect the state's economy.

#### Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

#### Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on March 8, 2026.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

#### Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

#### *§518.4. Injunctive Relief and Penalties.*

(a) Whenever the executive director has determined that evidence supports a person(s) has or is engaging in an act(s) that violates §§901.451, 901.452, 901.453, 901.454 or 901.456 of the Act (relating to Use of Title or Abbreviation for "Certified Public Accountant"; Use of Title or Abbreviation for "Public Accountant"; Use of Other Titles or Abbreviations; Title Used by Certain Out-of-State or Foreign Accountants; and Reports on Financial Statements; Use of Name or Signature on Certain Documents) or any combination of these sections of the Act, the executive director may, pursuant to §901.604 of the Act (relating to Single Act as Evidence of Practice), seek the issuance of an injunction and the assessment of penalties against that person(s) in state district court on behalf of the board.

(b) Penalties will be determined in accordance with the guidelines in §518.6 of this chapter (relating to Administrative Penalty Guidelines for the Unauthorized Practice of Public Accountancy).

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on January 22, 2026.

TRD-202600237

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: March 8, 2026

For further information, please call: (512) 305-7842



#### 22 TAC §518.5

The Texas State Board of Public Accountancy (Board) proposes an amendment to §518.5 concerning Unlicensed Entities.

#### Background, Justification and Summary

The unlicensed practice of public accountancy includes the use of restricted terms such as accountant or accountancy and is not permitted.

#### Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

#### Public Benefit

The adoption of the proposed rule amendment will make it clear that the unauthorized practice of public accountancy includes the offer to provide accounting services.

#### Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

#### Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

#### Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

#### Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

#### Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on March 9, 2026.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

#### Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

#### §518.5. Unlicensed Entities

(a) An unlicensed entity is permitted to state that it has an ownership interest and a business affiliation with a registered CPA firm provided each such statement complies with subsection (b) of this section.

(b) In any letterhead, or in any advertising or promotional statements by an unlicensed entity that refers to accounting, auditing or attest services or any derivative terms associated with those services, there must be a statement that such services are only performed by the affiliated registered CPA firm. This statement must be included in conspicuous proximity to the name of the unlicensed entity and be printed in type not less bold than that contained in the body of the letterhead, advertisement or promotional statement. If the advertisement is in audio format, the statement must be clearly declared in each such presentation.

(c) An unlicensed entity using restricted terms and/or performing attest services is in the unauthorized practice of public accountancy and in violation of the Act and the board's rules except a firm authorized to practice in this state pursuant to §901.461 of the Act (relating to Practice by Certain Out-of-State Firms).

(d) Interpretative Comment: This section clarifies that the mere mention of a business and ownership affiliation with a registered CPA firm on the letterhead, or in advertising or promotional statements, of an unlicensed entity does not violate the Act when done in compliance with the provisions of this section. This section also clarifies that the letterhead, advertising or promotional statements

of the unlicensed entity may refer to accounting, auditing or attest services, or any derivative terms associated with those services, without violating §901.453 of the Act (relating to Use of Other Titles or Abbreviations). It also clarifies that all attest services must still be performed exclusively by registered CPA firms in accordance with the Act and all board rules. The definition of "attest services" is set forth in §501.52 of this title (relating to Definitions).

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on January 22, 2026.

TRD-202600238

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: March 8, 2026

For further information, please call: (512) 305-7842



#### 22 TAC §518.6

The Texas State Board of Public Accountancy (Board) proposes an amendment to §518.6 concerning Administrative Penalty Guidelines for the Unauthorized Practice of Public Accountancy.

#### Background, Justification and Summary

No person shall offer accounting services in Texas or hold themselves out to be a CPA or an accountant or to suggest they have an expertise in accounting unless they are licensed by the Board as a CPA. To prevent the unlicensed practice of public accountancy the Board no longer issues Cease and Desist Orders. Instead, the board will take a non-licensee ignoring the Board's efforts to obtain compliance with state law to state district court to seek an injunction. This is an expedited method to achieve compliance with state law and eliminates the unnecessary step of the Cease and Desist Order.

#### Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

#### Public Benefit

The adoption of the proposed rule amendment will make it clear that the board does not assess administrative penalties for the unauthorized practice of public accountancy.

#### Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

#### Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on

small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

#### Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

#### Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

#### Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on March 9, 2026.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

#### Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

#### *§518.6. Administrative Penalty Guidelines for the Unauthorized Practice of Public Accountancy.*

(a) [The board has the sole discretion in determining if a penalty will be assessed as well as the amount of the penalty.] If a penalty is assessed, the penalty will be in accordance with the following guidelines:

(1) an unlicensed individual who uses terms restricted for use by CPAs in violation of §§901.451, 901.452, 901.453 or 901.454 of the Act (relating to Use of Title or Abbreviation for "Certified Public Accountant"; Use of Title or Abbreviation for "Public Accountant"; Use of Other Titles or Abbreviations; and Title Used by Certain Out-of-State or Foreign Accountants) shall pay a penalty of no less than \$1,000.00 and no more than \$5,000.00 for a first offense; and no less than \$5,000.00 and no more than \$25,000.00 for two or more offenses;

(2) an unlicensed entity that uses terms restricted for use by licensed firms in violation of §901.351(a) of the Act (relating to Firm License Required) shall pay a penalty of no less than \$5,000.00 and no more than \$10,000.00 for a first offense; and no more than \$25,000.00 for two or more offenses;

(3) an unlicensed individual who asserts an expertise in accounting through use of the term "accounting service" or any variation of that term shall pay a penalty of no less than \$1,000.00 and no more than \$5,000.00 for a first offense; and no more than \$25,000.00 for two or more offenses;

(4) an unlicensed entity that asserts an expertise in accounting through use of the term "accounting service" or any variation of that term shall pay a penalty of no less than \$5,000.00 and no more than \$10,000.00 for a first offense; and no more than \$25,000.00 for two or more offenses;

(5) an unlicensed individual who claims to provide attest services shall pay a penalty of no less than \$5,000.00 and no more than \$25,000.00;

(6) an unlicensed entity that claims to provide attest services shall pay a penalty of no less than \$5,000.00 and no more than \$25,000.00;

(7) an unlicensed individual who claims to be a CPA shall pay a penalty of no less than \$5,000.00 and no more than \$25,000.00; and

(8) an unlicensed entity that claims to be a CPA firm shall pay a penalty of no less than \$5,000.00 and no more than \$25,000.00.

(b) An offense is counted as a second or more offense when the person has been notified in writing by the board that the person's actions violate the Public Accountancy Act and the person fails to correct the violation(s) within the time required in the written notification.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on January 22, 2026.

TRD-202600239

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: March 8, 2026

For further information, please call: (512) 305-7842



#### CHAPTER 520. PROVISIONS FOR THE ACCOUNTING STUDENTS SCHOLARSHIP PROGRAM

#### 22 TAC §520.2

The Texas State Board of Public Accountancy (Board) proposes an amendment to §520.2 concerning Definitions.

#### Background, Justification and Summary

Student Aid Index is a Department of Education term used in student aid for funding education and is more comprehensive in determining the amount of financial aid a student may be eligible for than simply family's contribution to a student.

#### Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

#### Public Benefit

The adoption of the proposed rule amendment will be consistent with student aid guidelines.

#### Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

#### Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

#### Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

#### Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

#### Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his

attention at (512) 305-7854, no later than noon on March 9, 2026.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

#### Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

#### §520.2. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) Cost of attendance--An estimate of the expenses incurred by a typical financial aid student in attending a particular college or university. It includes direct educational costs (tuition, fees, books, and supplies) as well as indirect costs (room and board, transportation, and personal expenses - to include the UCPAE fee paid to NASBA).

(2) Student Aid Index [Expected family contribution]--The amount of discretionary income that should be available to a student from his or her resources and that of his or her family, as determined by the US Department of Education [Definition of Expected Family Contribution].

(3) Financial need--The cost of attendance at a particular public or private institution of higher education less the expected family contribution. The cost of attendance and family contribution are to be determined in accordance with board guidelines.

(4) Gift Aid--Educational funds from state, federal, and other sources, such as grants, that do not require repayment from present or future earnings. Assistantships and work-study programs are not considered to be gift aid.

(5) Half-time student--For undergraduates, not in their final semester, who are enrolled or are expected to be enrolled for the equivalent of at least six but not more than nine semester credit hours. For graduate students, not in their final semester, who are enrolled or are expected to be enrolled for the equivalent of 4.5 but not more than six semester credit hours.

(6) Institution--Public and private or independent institutions of higher education as defined in Texas Education Code, §61.003.

(7) NASBA--The National Association of State Boards of Accountancy.

(8) Period of enrollment--The term or terms within the current state fiscal year (September 1 - August 31) for which the student

was enrolled in an approved institution and met all the eligibility requirements for an award through the program described in this chapter.

(9) Program Officer--The individual named by each participating institution's chief executive officer to serve as agent for the board. The program officer has primary responsibility for all ministerial acts required by the program, including maintenance of all records and preparation and submission of reports reflecting program transactions. Unless otherwise indicated by the administration, the director of student financial aid shall serve as program officer.

(10) Resident of Texas--A resident of the State of Texas as determined in accordance with 19 TAC Part 1, Chapter 21, Subchapter B (relating to Determination of Resident Status). Nonresident students who are eligible to pay resident tuition rates are not residents of Texas.

(11) UCPAE fee--The exam cost paid by the applicant to NASBA to take a section of the UCPAE.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on January 22, 2026.

TRD-202600240

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: March 8, 2026

For further information, please call: (512) 305-7842



## 22 TAC §520.3

The Texas State Board of Public Accountancy (Board) proposes an amendment to §520.3 concerning Institutions for the Accounting Students Scholarship Program.

### Background, Justification and Summary

Eliminates the reference to board rule 511.60 which is no longer applicable and references course concentration as described in the recent revisions to the Public Accountancy Act.

### Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

### Public Benefit

The adoption of the proposed rule amendment will be consistent with U.S. Department of Education student assistance terms.

### Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

### Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

### Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

### Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

### Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on March 9, 2026.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

### Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

*§520.3. Institutions for the Accounting Students Scholarship Program.*

(a) Eligibility.

(1) Any college or university defined as a public, private or independent institution of higher education by Texas Education Code,

§61.003 that offers the courses required by §511.57 and §511.58 of this title (relating to Courses in an Accounting Concentration to Take the UCPAE and Related Business Subjects) [§§511.57, 511.58 and 511.60 of this title (relating to Qualified Accounting Courses to take the UCPAE, Definitions of Related Business Subjects to take the UCPAE and Qualified Accounting Courses Prior to January 1, 2024 to take the UCPAE)], is eligible to participate in the accounting students scholarship program.

(2) No institution may, on the grounds of race, color, national origin, gender, religion, age or disability exclude a student from participation in or deny the benefits of the program described in this chapter.

(3) Each participating institution must follow the Civil Rights Act of 1964, Title VI (Public Law 88-353) in avoiding discrimination in admissions.

(b) Approval.

(1) Each approved institution must enter into an agreement with the board, the terms of which shall be prescribed by the executive director.

(2) An institution must be approved by April 1 in order for qualified students enrolled in that institution to be eligible to receive scholarships in the following fiscal year beginning September 1st.

(c) Responsibilities.

(1) Probation Notice. If the institution is placed on public probation by its accrediting agency, it must immediately advise scholarship recipients of this condition and maintain evidence in each student's file to demonstrate that the student was so informed.

(2) Disbursements to Students.

(A) The institution must maintain records to prove the disbursement of program funds to the student or the crediting of such funds to the student's school account.

(B) If the executive director has reason to believe that an institution has disbursed funds for unauthorized purposes, the institution will be notified and offered an opportunity for a hearing pursuant to the applicable procedures outlined in Chapter 519 of this title (relating to Practice and Procedure) and the rules of procedure of SOAH. Thereafter, if the board determines that funds have been improperly disbursed, the institution shall become responsible for restoring the funds to the board. No further disbursements of scholarship funds shall be permitted to students at that institution until the funds have been repaid.

(d) Reporting.

(1) All institutions must meet board reporting requirements. Such reporting requirements shall include reports specific to allocation of scholarship funds as well as progress and year-end reports.

(2) Penalties for Late Reports.

(A) The executive director may penalize an institution by reducing its allocation of funds in the following year by up to 10 percent for each progress report that is postmarked or submitted electronically more than a week (seven (7) calendar days) late.

(B) The executive director may assess more severe penalties against an institution if any report is received by the board more than one-month (thirty (30) calendar days) after its due date. The maximum penalty for a single year is 30 percent of the school's allocation. If penalties are invoked two consecutive years, the institution may be penalized an additional 20 percent.

(3) If the executive director determines that a penalty is appropriate, the institution will be notified by certified mail, addressed to the program officer. Within 21 days from the date that the program officer receives the written notice, the institution must submit a written response appealing the board's decision, or the penalty shall become final and no longer subject to an appeal. An appeal under this section will be conducted in accordance with the rules provided in the applicable sections of Chapter 519 of this title and the procedural rules of SOAH.

(e) Program Reviews. If selected for such by the board, participating institutions must submit to program reviews of activities related to the accounting students scholarship program.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on January 22, 2026.

TRD-202600241

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: March 8, 2026

For further information, please call: (512) 305-7842



## 22 TAC §520.4

The Texas State Board of Public Accountancy (Board) proposes an amendment to §520.4 concerning Eligible Students for the Accounting Students Scholarship Program.

### Background, Justification and Summary

Replaces family contribution with the student aid index which is a conventional student aid term and clarifies that the cumulative grade point average is tied to student aid.

### Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

### Public Benefit

The adoption of the proposed rule amendment provides clarifying language consistent with Department of Education student loan assistance.

### Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

### Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses be-

cause the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

#### Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

#### Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

#### Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on March 9, 2026.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

#### Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

#### *§520.4. Eligible Students for the Accounting Students Scholarship Program.*

##### (a) To receive funds:

(1) an undergraduate student majoring in accounting must be enrolled at least half-time at an approved institution in Texas that is participating in the scholarship program, and attending consecutive semesters or in the final semester of the degree; or

(2) a graduate student majoring in accounting must be enrolled at least half-time or in the final semester of the degree at an approved institution in Texas that is participating in the scholarship program.

##### (b) To receive funds, a student must:

(1) maintain satisfactory academic progress in the program of study as defined by the institution;

(2) have completed at least 15 semester hours of upper-level accounting coursework;

(3) sign a written statement confirming the intent to take the examination conducted by or pursuant to the authority of the board for the purpose of obtaining a certificate of certified public accountant in Texas;

(4) agree to pay on demand all scholarship funds received if the student does not take at least one part of the exam within three years of submitting the application of intent, unless the executive director grants an extension of the three-year requirement upon a showing of good cause;

(5) agree that failure to comply with paragraph (4) of this subsection may cause the board to take measures necessary to enforce the repayment of the scholarship including bringing a civil suit in state district court;

(6) confirm that the applicant submitted an Application of Intent and has not met the educational requirements for certification in Texas;

(7) maintain a cumulative grade point average to receive student aid, as determined by the institution, that is equal to or greater than the grade point average required by the institution for graduation;

(8) be a resident of Texas; and

(9) have a statement on file with the institution of higher education indicating the student is registered with the Selective Service System as required by federal law or is exempt from Selective Service registration under federal law.

(c) In selecting recipients, the Program Officer shall consider at a minimum the following factors relating to each applicant:

(1) the applicant's financial need, which may be based on but not limited to the cost of the applicant attending school less Student Aid Index [family contribution] and any gift aid (an award may not exceed the applicant's need nor be less than the amount calculated in accordance with the formula provided institutions in the application instructions);

(2) scholastic ability and performance as measured by the student's cumulative college grade point average as determined by the institution in which the student is enrolled; and

(3) ethnic or racial minority status.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on January 22, 2026.

TRD-202600242

J. Randel (Jerry) Hill  
General Counsel  
Texas State Board of Public Accountancy  
Earliest possible date of adoption: March 8, 2026  
For further information, please call: (512) 305-7842



## **TITLE 31. NATURAL RESOURCES AND CONSERVATION**

### **PART 10. TEXAS WATER DEVELOPMENT BOARD**

#### **CHAPTER 378. OUTDOOR WARNING SIREN SYSTEMS**

##### **31 TAC §§378.1 - 378.3**

The Texas Water Development Board (TWDB) proposes new 31 Texas Administrative Code (TAC) §§378.1 - 378.3 relating to outdoor warning siren systems.

##### **BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE PROPOSED AMENDMENT.**

This rulemaking implements relevant provisions of Senate Bill 3, 89th Second Called Session (SB 3). SB 3 (codified as Texas Water Code, Chapter 16, Subchapter M) tasks the TWDB with two main responsibilities related to outdoor warning siren systems in flash flood-prone areas. The first task is to identify each area within the 30 counties included in the governor's July 2025 flood disaster declaration that has a history of consistent or severe flooding and warrants the installation, maintenance, and operation of one or more outdoor warning sirens. Second, the TWDB must facilitate development of best management practices and guidance for the operation of an outdoor warning siren in a flash flood-prone area of the state, including related to backup power sources.

##### **SECTION BY SECTION DISCUSSION OF PROPOSED AMENDMENTS.**

###### **Section 378.1. Definitions.**

This section provides for the definitions to be used in this Chapter. Both "Flash flood-prone area" and "outdoor warning siren" are proposed to be defined in the same manner as those terms are defined in Texas Water Code §16.501, as passed in SB 3. The TWDB also proposes to include definitions of "executive administrator" and "TWDB" for clarity.

###### **Section 378.2. Identification of Flash Flood-Prone Areas.**

This section describes the process by which the TWDB will identify flash flood-prone areas within the July 2025 flood disaster declaration. The TWDB proposes to include a process whereby the Executive Administrator will develop a recommendation and then propose the recommendation for the Board's consideration in an open meeting.

###### **Section 378.3. Best Management Practices and Guidance.**

This section provides that the TWDB will facilitate development of best management practices and guidance for outdoor warning sirens. Texas Water Code §16.502 requires certain governmental entities to install, maintain, and operate outdoor warning sirens in accordance with the guidance developed by the TWDB. The TWDB will develop the specific details of the best manage-

ment practices and guidance in a separate guidance document. As provided in Texas Water Code §16.502, the TWDB may not approve financial assistance, other than financial assistance for an outdoor warning siren, for a county or municipality until the county or municipality certifies to the board that it is in compliance with Texas Water Code §16.502, related to the installation of outdoor warning sirens.

##### **FISCAL NOTE: COSTS TO STATE AND LOCAL GOVERNMENTS (Texas Government Code §2001.024(a)(4))**

Georgia Sanchez, Chief Financial Officer, has determined that there will be no fiscal implications for state or local governments as a result of the proposed rulemaking. For the first five years these rules are in effect, there is no expected additional cost to state or local governments resulting from their administration.

These rules are not expected to result in reductions in costs to either state or local governments. There is no change in costs for state or local governments imposed by this rule because the requirements included are imposed by statute, not this rule. These rules are not expected to have any impact on state or local revenues. The rules do not require any increase in expenditures for state or local governments as a result of administering these rules. Additionally, there are no foreseeable implications relating to state or local governments' costs or revenue resulting from these rules.

Because these rules will not impose a cost on regulated persons, the requirement included in Texas Government Code, §2001.0045 to repeal a rule does not apply. Furthermore, the requirement in §2001.0045 does not apply because these are necessary to implement legislation.

Any costs local governmental entities may incur to meet the requirements of installing, maintaining, or operating outdoor warning sirens are imposed by the requirements of the statute.

The TWDB invites public comment regarding this fiscal note. Written comments on the fiscal note may be submitted to the contact person at the address listed under the Submission of Comments section of this preamble.

##### **PUBLIC BENEFITS AND COSTS (Texas Government Code §2001.024(a)(5))**

Georgia Sanchez also has determined that for each year of the first five years the proposed rulemaking is in effect, the public will benefit from the rulemaking as it implements SB 3 and provides standards for certain local governments to follow when installing, maintaining and operating outdoor warning sirens in flash flood-prone areas. Georgia Sanchez also has determined that for each year of the first five years the proposed rulemaking is in effect, the rules will not impose an economic cost on persons required to comply with the rule as these requirements are imposed by statute.

##### **ECONOMIC AND LOCAL EMPLOYMENT IMPACT STATEMENT (Texas Government Code §§2001.022, 2006.002); REGULATORY FLEXIBILITY ANALYSIS (Texas Government Code §2006.002)**

The TWDB has determined that a local employment impact statement is not required because the proposed rule does not adversely affect a local economy in a material way for the first five years that the proposed rule is in effect because it will impose no new requirements on local economies. The TWDB also has determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities as

a result of enforcing this rulemaking. The TWDB also has determined that there is no anticipated economic cost to persons who are required to comply with the rulemaking as proposed. Therefore, no regulatory flexibility analysis is necessary.

#### DRAFT REGULATORY IMPACT ANALYSIS DETERMINATION (Texas Government Code §2001.0225)

The TWDB reviewed the proposed rulemaking in light of the regulatory analysis requirements of Texas Government Code §2001.0225 and determined that the rulemaking is not subject to Texas Government Code §2001.0225, because it does not meet the definition of a "major environmental rule" as defined in the Administrative Procedure Act. A "major environmental rule" is defined as a rule with the specific intent to protect the environment or reduce risks to human health from environmental exposure, a rule that may adversely affect in a material way the economy or a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. The intent of the rulemaking is to implement legislation.

Even if the proposed rule were a major environmental rule, Texas Government Code §2001.0225 still would not apply to this rulemaking because Texas Government Code §2001.0225 only applies to a major environmental rule, the result of which is to: (1) exceed a standard set by federal law, unless the rule is specifically required by state law; (2) exceed an express requirement of state law, unless the rule is specifically required by federal law; (3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or (4) adopt a rule solely under the general powers of the agency instead of under a specific state law. This rulemaking does not meet any of these four applicability criteria because it: (1) does not exceed any federal law; (2) does not exceed an express requirement of state law; (3) does not exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; and (4) is not proposed solely under the general powers of the agency, but Texas Water Code §16.502. Therefore, this proposed rule does not fall under any of the applicability criteria in Texas Government Code §2001.0225.

The TWDB invites public comment regarding this draft regulatory impact analysis determination. Written comments on the draft regulatory impact analysis determination may be submitted to the contact person at the address listed under the Submission of Comments section of this preamble.

#### TAKINGS IMPACT ASSESSMENT (Texas Government Code §2007.043)

The TWDB evaluated this proposed rule and performed an analysis of whether it constitutes a taking under Texas Government Code, Chapter 2007. The specific purpose of this rule is to implement SB 3. The proposed rule would substantially advance this stated purpose by providing standards for certain local governments to follow when installing, maintaining, and operating outdoor warning sirens in flash flood-prone areas.

The TWDB's analysis indicates that Texas Government Code, Chapter 2007 does not apply to this proposed rule because this is an action that is reasonably taken to fulfill an obligation mandated by state law, which is exempt under Texas Government Code §2007.003(b)(4). The TWDB is the agency that is charged with implementing SB 3.

Nevertheless, the TWDB further evaluated this proposed rule and performed an assessment of whether it constitutes a taking under Texas Government Code Chapter 2007. Promulgation and enforcement of this proposed rule would be neither a statutory nor a constitutional taking of private real property. Specifically, the subject proposed regulation does not affect a landowner's rights in private real property because this rulemaking does not burden, restrict, or limit the owner's right to property and reduce its value by 25% or more beyond that which would otherwise exist in the absence of the regulation. In other words, this rule requires certain governmental entities to install outdoor warning sirens without burdening or restricting or limiting a landowner's right to property and reducing its value by 25% or more. Therefore, the proposed rule does not constitute a taking under Texas Government Code, Chapter 2007.

#### GOVERNMENT GROWTH IMPACT STATEMENT (Texas Government Code §2001.0221)

The TWDB reviewed the proposed rulemaking in light of the government growth impact statement requirements of Texas Government Code §2001.0221 and has determined, for the first five years the proposed rule would be in effect, the proposed rule will not: (1) create or eliminate a government program; (2) require the creation of new employee positions or the elimination of existing employee positions; (3) require an increase or decrease in future legislative appropriations to the agency; (4) require an increase or decrease in fees paid to the agency; (5) create a new regulation; (6) expand, limit, or repeal an existing regulation; (7) increase or decrease the number of individuals subject to the rule's applicability; or (8) positively or adversely affect this state's economy.

The requirements included in this rulemaking are imposed by state statute, not the rules themselves.

#### SUBMISSION OF COMMENTS (Texas Government Code §2001.024(a)(7))

Written comments on the proposed rulemaking may be submitted by mail to Office of General Counsel, Texas Water Development Board, P.O. Box 13231, Austin, Texas 78711-3231, by email to [rulescomments@twdb.texas.gov](mailto:rulescomments@twdb.texas.gov), or by fax to (512) 475-2053. If sent via email, all public comments should be sent directly to [rulescomments@twdb.texas.gov](mailto:rulescomments@twdb.texas.gov). Please do not submit comments through any third-party forms or websites. Receipt of third-party submissions cannot be guaranteed. Comments will be accepted until 5:00 p.m. of the 31st day following publication in the *Texas Register*. Include "Chapter 378" in the subject line of any comments submitted.

The best management practices and guidance will be posted separately on the TWDB website for public comment at a later date.

#### STATUTORY AUTHORITY (Texas Government Code §2001.024(a)(3))

The new rules are proposed under the authority of Texas Water Code §6.101, which provides the TWDB with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State, and also under the authority of Texas Water Code §16.502. This new rules are proposed under the authority of Senate Bill 3, passed during the 89th Second Called Texas Legislative Session.

This rulemaking affects Water Code, Chapter 16, Subchapter M. §378.1. Definitions.

The following words and terms, when used in this chapter, will have the following meanings unless the context clearly indicates otherwise.

(1) Executive Administrator--The executive administrator of the TWDB or a designated representative.

(2) Flash flood-prone area--An area of this state included in the disaster declaration issued by the governor under Section 418.014, Government Code, in response to the July 2025 Hill Country floods.

(3) Outdoor warning siren--A system that produces a sound designed to alert a person who is outdoors of an imminent disaster and encourage that person to immediately seek shelter or move to higher ground and includes sensors, gages, and all other components essential to the function of the system.

(4) TWDB--Texas Water Development Board.

§378.2. Identification of Flash Flood-Prone Areas.

(a) The Executive Administrator will identify each area in a flash flood-prone area that:

(1) has a history of consistent or severe flooding; and

(2) based on the history under Subdivision (1) and any other factor the TWDB considers relevant, warrants the installation, maintenance, and operation of one or more outdoor warning sirens.

(b) The Executive Administrator will develop a recommended identification of the areas required in subsection (a) of this section and then present the recommendation to the governing body of the TWDB for consideration in an open meeting.

§378.3. Best Management Practices and Guidance.

(a) The TWDB will facilitate the development of best management practices and guidance:

(1) for the operation of an outdoor warning siren in a flash flood-prone area of this state; and

(2) for an outdoor warning siren installed, maintained, or operated in a flash flood-prone area, including guidance that an outdoor warning siren be equipped with a backup power source that is different from the siren's primary power source.

(b) Each municipality, county, or other governmental entity required to install, maintain, and operate one or more outdoor warning sirens in accordance with Texas Water Code §16.502(c) must do so in accordance with the TWDB guidance on outdoor warning siren systems.

(c) The TWDB may not approve financial assistance, other than financial assistance for an outdoor warning siren, for a county or municipality until the county or municipality certifies to the board that it is in compliance with Texas Water Code §16.502.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on January 22, 2026.

TRD-202600231

Georgia Sanchez

Chief Financial Officer

Texas Water Development Board

Earliest possible date of adoption: March 8, 2026

For further information, please call: (512) 475-2053



## **TITLE 34. PUBLIC FINANCE**

### **PART 1. COMPTROLLER OF PUBLIC ACCOUNTS**

#### **CHAPTER 1. CENTRAL ADMINISTRATION**

##### **SUBCHAPTER A. PRACTICE AND PROCEDURES**

###### **DIVISION 1. GENERAL PROCEDURAL PROVISIONS**

###### **34 TAC §1.12**

The Comptroller of Public Accounts proposes amendments to §1.12, concerning position letter. The amendments implement Senate Bill 266, 89th Legislature, 2025 and House Bill 1937, 89th Legislature, 2025, effective May 24, 2025.

Senate Bill 226 repealed Tax Code, §111.105(e) (Tax Refund: Hearing), which authorized the comptroller to issue a "notice of demand" that all evidence to support a refund claim be produced by a specific date in the notice, and that any evidence produced after the specified date could not be considered in an administrative hearing. Section 1.12(c), which largely mirrors the statutory language in authorizing the notice of demand for documentation, is deleted to conform with the repeal of Tax Code, §111.105(e). The last sentence of §1.12(e), which refers to calculating the date to respond to the notice of demand in subsection (c), is also deleted to conform with the repeal of Tax Code, §111.105(e).

Subsequent subsections are renumbered accordingly.

Brad Reynolds, Chief Revenue Estimator, has determined that during the first five years that the proposed amendments are in effect, the amended rule: will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; will not increase or decrease the number of individuals subject to the rule's applicability; and will not positively or adversely affect this state's economy. This proposal amends an existing rule.

Mr. Reynolds also has determined that the proposed amendments would benefit the public by conforming the rule to the current statute. This rule is proposed under Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses or rural communities. The proposed rule amendments would have no fiscal impact on the state government, units of local government, or individuals. There would be no anticipated economic cost to the public.

You may submit comments on the proposal or information related to the cost, benefit, or effect of the proposal, including any applicable data, research or analysis, to James D. Arbogast, Chief Counsel for Hearings and Tax Litigation, P.O. Box 13528 Austin, Texas 78711, or to the email address: james.arbogast@cpa.texas.gov. The comptroller must receive your comments or other information no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The amendments are proposed under Tax Code, §111.002 (Comptroller's Rules, Compliance, Forfeiture), which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of Tax Code, Title 2 (State Taxation).

This section implements Tax Code, §111.105(e) (Tax Refund: Hearing).

**§1.12. Position Letter.**

(a) **Contents of Position Letter.** The Tax Hearings Attorney will review the Statement of Grounds, documentary evidence, and any additional evidence received from the taxpayer and issue a Position Letter to the taxpayer. The Position Letter will accept or reject, in whole or in part, each contention of the taxpayer, and state the AHS's position on all disputed issues raised by the taxpayer, such as taxability, penalty and interest waiver, and whether the taxpayer is an individual or entity liable for the assessment of tax at issue.

(b) **Selection form.** The Position Letter will include a selection form for the taxpayer to accept or reject the Position Letter. See §1.13 of this title (relating to Taxpayer's Acceptance or Rejection of Position Letter, and Reply to Position Letter).

{(e) **Notice of demand.** Pursuant to Tax Code, §111.105(e), the Tax Hearings Attorney may issue with the Position Letter a written notice of demand that all documentary evidence to support facts or contentions related to a taxpayer's claim for refund be produced before the expiration of a specified date in the notice. The specified date may not be less than 180 days from the date of the original refund claim, and not less than 60 days from the date of the notice. The deadline to respond to the notice of demand may be extended by the Tax Hearings Attorney. A taxpayer who fails to produce the requested documents by the specified date may not introduce in evidence any of the documents that were not timely produced. The assigned ALJ cannot consider in SOAH proceedings documents that were not timely produced. This section is only applicable to the administrative hearing and has no effect on a judicial proceeding pending under Tax Code, Chapter 112. See Tax Code, §111.105(e). The agency may also issue a notice of demand pursuant to Tax Code, §111.105(e) at other stages of the contested case process before or after the issuance of a Position Letter.}

(c) [(d)] **Taxpayer's option to set a Position Letter deadline.** After a contested case is assigned, the Tax Hearings Attorney will issue an introductory letter providing contact information and other information concerning the hearings process. If the Tax Hearings Attorney does not issue the Position Letter within 60 days after the date of the introductory letter, the taxpayer may submit a written request to the Tax Hearings Attorney to issue a Position Letter within 45 days of the receipt of the request. The Tax Hearings Attorney will issue a Position Letter within the 45-day deadline, obtain an agreed extension of the deadline to issue the Position Letter, or confer with the taxpayer concerning the docketing of the case at SOAH consistent with §1.20 of this title (relating to Docketing Oral and Written Submission Hearings).

(d) [(e)] **Modification or amendment of the Position Letter.** If the Position Letter is modified or amended, the taxpayer must accept or reject the modified or amended Position Letter, in whole or in part, within 45 days after the day the modified or amended Position Letter is dated, unless an extension is granted. [If the Position Letter includes a Notice of Demand consistent with subsection (e) of this section, the date to respond to the Notice of Demand will correspond to the date, including any extension thereof, by which the taxpayer must accept or reject the modified or amended Position Letter.]

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on January 23, 2026.

TRD-202600266

Jenny Burleson  
Director, Tax Policy  
Comptroller of Public Accounts  
Earliest possible date of adoption: March 8, 2026  
For further information, please call: (512) 475-2220



**34 TAC §1.22**

The Comptroller of Public Accounts proposes amendment to §1.22, concerning discovery. The amendment implements Senate Bill 266, 89th Legislature, 2025 and House Bill 1937, 89th Legislature, 2025, effective May 24, 2025.

Prior to amendment by Senate Bill 266, Tax Code, §111.0041(c) (Records; Burden to Produce and Substantiate Claims), required taxpayers to produce "contemporaneous" records and supporting documentation to substantiate and enable verification of the taxpayer's claim related to the amount of tax, penalty, or interest to be assessed, collected, or refunded in an administrative or judicial proceeding. Senate Bill 266 substituted the word "sufficient" for "contemporaneous" in that section. The amendment to §1.22 likewise substitutes "sufficient" for "contemporaneous" in order to conform the rule to the statute.

Brad Reynolds, Chief Revenue Estimator, has determined that during the first five years that the proposed amendment is in effect, the amended rule: will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; will not increase or decrease the number of individuals subject to the rule's applicability; and will not positively or adversely affect this state's economy. This proposal amends an existing rule.

Mr. Reynolds also has determined that the proposed amendment would benefit the public by conforming the rule to the current statute. This rule is proposed under Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses or rural communities. The proposed rule amendment would have no fiscal impact on the state government, units of local government, or individuals. There would be no anticipated economic cost to the public.

You may submit comments on the proposal or information related to the cost, benefit, or effect of the proposal, including any applicable data, research or analysis, to James D. Arbogast, Chief Counsel for Hearings and Tax Litigation, P.O. Box 13528, Austin, Texas 78711-3528, or james.arbogast@cpa.texas.gov. The comptroller must receive your comments or other information no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The amendments are proposed under Tax Code, §111.002 (Comptroller's Rules, Compliance, Forfeiture), which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of Tax Code, Title 2 (State Taxation).

The amendments implement Tax Code, 111.0041(c)(Records; Burden to Produce and Substantiate Claims).

**§1.22. Discovery.**

(a) Discovery conducted during a contested case does not modify Tax Code recordkeeping or disclosure requirements. The Tax Code requires a taxpayer to maintain and produce sufficient [contemporaneous] records and supporting documents appropriate

to the tax or fee for which the taxpayer is responsible. A taxpayer is required to produce documents and information concerning the transactions in question to substantiate and enable verification of the taxpayer's contentions concerning the amount of tax, penalty, or interest to be assessed, collected, or refunded in a contested case. Nothing in this section modifies any statute or any section of this title requiring a taxpayer to keep records and documentation, or to provide information to the comptroller. General Tax Code sections governing a taxpayer's obligations to maintain or produce records and documents include, but are not limited to, Tax Code, §111.0041 ("Records; Burden to Produce and Substantiate Claims") and Tax Code, §111.105 ("Tax Refund; Hearing"). The Tax Code may also impose a duty to keep records or provide information specific to a certain tax or fee; see, for example, Tax Code, §171.205 ("Additional Information Required by Comptroller," relating to franchise tax) and Tax Code, §151.025 ("Records Required to Be Kept," relating to sales tax).

(b) Informal exchange of information encouraged. Before SOAH acquires jurisdiction over a contested case (see 1 TAC §155.51), the parties are encouraged to informally request and exchange documents and other information to narrow and define the disputed issues and reach an agreed resolution of the contested case before the case is docketed at SOAH. See §1.31 of this title (relating to Resolution Agreements).

(c) Formal discovery. Discovery in a contested case may begin when SOAH acquires jurisdiction. See 1 TAC §155.251(a) and §1.20 of this title (relating to Docketing Oral and Written Submission Hearings). Discovery shall be conducted under the SOAH Rules of Procedure governing discovery. See 1 TAC §§155.251, 155.253, 155.255, 155.257, and 155.259.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on January 23, 2026.

TRD-202600267  
Jenny Burleson  
Director, Tax Policy  
Comptroller of Public Accounts  
Earliest possible date of adoption: March 8, 2026  
For further information, please call: (512) 475-2220



### 34 TAC §1.26

The Comptroller of Public Accounts proposes amendment to §1.26, concerning burden and standard of proof in contested cases. The amendment implements Senate Bill 266, 89th Legislature, 2025 and House Bill 1937, 89th Legislature, 2025, effective May 24, 2025.

Prior to amendment by Senate Bill 266, Tax Code, §111.0041(c) (Records; Burden to Produce and Substantiate Claims), required taxpayers to produce "contemporaneous" records and supporting documentation to substantiate and enable verification of the taxpayer's claim related to the amount of tax, penalty, or interest to be assessed, collected, or refunded in an administrative or judicial proceeding. Senate Bill 266 substituted the word "sufficient" for "contemporaneous" in that section. The amendment to §1.26 likewise substitutes "sufficient" for "contemporaneous" in order to conform the rule to the statute.

Brad Reynolds, Chief Revenue Estimator, has determined that during the first five years that the proposed amendment is in effect, the amended rule: will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; will not increase or decrease the number of individuals subject to the rule's applicability; and will not positively or adversely affect this state's economy. This proposal amends an existing rule.

Mr. Reynolds also has determined that the proposed amendment would benefit the public by conforming the rule to the current statute. This rule is proposed under Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses or rural communities. The proposed rule amendment would have no fiscal impact on the state government, units of local government, or individuals. There would be no anticipated economic cost to the public.

You may submit comments on the proposal or information related to the cost, benefit, or effect of the proposal, including any applicable data, research or analysis, to James D. Arbogast, Chief Counsel for Hearings and Tax Litigation, P.O. Box 13528 Austin, Texas 78711, or to the email address: [james.arbogast@cpa.texas.gov](mailto:james.arbogast@cpa.texas.gov). The comptroller must receive your comments or other information no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The amendments are proposed under Tax Code, §111.002 (Comptroller's Rules, Compliance, Forfeiture), which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of Tax Code, Title 2 (State Taxation).

The amendments implement Tax Code, 111.0041(c)(Records; Burden to Produce and Substantiate Claims).

#### §1.26. Burden and Standard of Proof in Contested Cases.

(a) General rule. Pursuant to Tax Code, §111.0041, the taxpayer must produce sufficient [contemporaneous] records and supporting documentation appropriate to the tax or fee for the transactions in question to substantiate and enable verification of the taxpayer's claim related to the amount of tax, penalty, or interest to be assessed, collected, or refunded.

(b) The AHS has the burden to prove by clear and convincing evidence:

(1) liability for the additional penalty under Tax Code, §111.061(b); and

(2) personal liability for fraudulent tax evasion under Tax Code, §111.0611.

(c) The taxpayer has the burden to prove by clear and convincing evidence that the taxpayer or a transaction qualifies for an exemption or a deduction tantamount to an exemption.

(d) The AHS has the burden to prove by a preponderance of the evidence that an exclusion from an exemption applies.

(e) In all other cases, the taxpayer has the burden of proof by a preponderance of the evidence.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on January 23, 2026.

TRD-202600268

Jenny Burleson  
Director, Tax Policy  
Comptroller of Public Accounts

Earliest possible date of adoption: March 8, 2026  
For further information, please call: (512) 475-2220



## CHAPTER 20. STATEWIDE PROCUREMENT AND SUPPORT SERVICES

### SUBCHAPTER C. PROCUREMENT METHODS AND CONTRACT FORMATION DIVISION 3. SPECIAL CONTRACTING METHODS

#### 34 TAC §20.231

The Comptroller of Public Accounts proposes amendments to §20.231, concerning multiple awards contracts procedure. The comptroller amends §20.231 to implement Government Code, Chapter 2156, Subchapter E, added by House Bill 4748, 89th Legislature, 2025, effective September 1, 2025. The comptroller amends the title of §20.231 to match the title of the new subchapter, "Multiple Award Purchasing Procedure."

The comptroller amends subsection (a) to align with Government Code, Chapter 2156, Subchapter E. The term "multiple award contract procedure" is replaced with "multiple award purchasing procedure," which is the term used in Government Code, Chapter 2156, Subchapter E. The phrase "in the best interest of the state" is replaced with "necessary to ensure adequate delivery, service, or product compatibility," which is the legal standard used in Government Code, §2156.202. The term "bidder" is replaced with "anticipated respondent," to reflect that Government Code, §2156.204 allows the multiple award purchasing procedure to be used in conjunction with an invitation for bids, request for proposals, or request for offers. Subsection (a), as amended, allows an agency to consider any relevant facts in its determination of whether multiple awards are necessary in accordance with Government Code, §2156.202. It specifies that the need to maintain a continuous supply of essential items is one fact that supports the use of the multiple award purchasing procedure.

The comptroller amends subsection (b) to require that a solicitation disclose the agency's intent to issue multiple awards to and identify the agency's criteria for selection of respondents to award. This amendment implements Government Code, §2156.203, which requires disclosure of intent and criteria for multiple awards in each solicitation for a multiple award contract.

The comptroller amends subsection (c) to allow multiple awards on invitations for bids, requests for proposals, and requests for offers. Government Code, §2156.204 explicitly allows the multiple award purchasing procedure to be used in conjunction with each of these methods. Subsection (c) as amended, no longer addresses documentation of the basis for determining awards. That subject is covered in new subsection (d).

The comptroller adds subsection (d) to provide that each awardee must provide or be capable of providing the best value to the state, in accordance with the applicable statutory

standards. This implements Government Code, §2156.204(b). Because of that best value requirement, subsection (d) further provides that agencies shall not award contracts based on minimum qualifications that do not establish best value. Finally, subsection (d) requires agencies to create and retain documentation of their compliance with the best value requirement for multiple contract awards.

The comptroller adds subsection (e) to address small orders under multiple award contracts. Subsection (e) states that agencies must document that such orders obtain best value for the state. However, the amended rule does not require an agency to document the best value determination for each small order. Instead, it is sufficient to document a best value ordering procedure. This subsection achieves compliance with Government Code, §2156.205, while reducing administrative burdens consistent with the policy of Government Code, §2155.132(e)(1).

The comptroller adds subsection (f) to address large orders under multiple award contracts. Subsection (f) states that an agency shall evaluate each contemplated order to determine whether it provides the best value to the state and document its determination in the contract file. This subsection implements Government Code, §2156.205.

The comptroller adds subsection (g) to describe one method of determining best value when ordering under multiple award contracts. Subsection (g) states that an agency may conduct secondary competition under a multiple award contract by notifying qualified contractors of the scope of work to be ordered, and inviting them to submit proposals. Subsection (g) gives agencies discretion to order from the contractor that offers the best value, or to cancel the secondary competition. This subsection implements Government Code, §2156.205, and provides flexibility for agencies to respond to emergent facts and circumstances, such as changes to their budgets or priorities.

Brad Reynolds, Chief Revenue Estimator, has determined that during the first five years that the proposed amendments are in effect, the amended rule: will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; will not increase or decrease the number of individuals subject to the rule's applicability; and will not positively or adversely affect this state's economy. This proposal amends an existing rule.

Mr. Reynolds also has determined that the proposed rule amendments would have no significant fiscal impact on the state government, units of local government, or individuals. The proposed amendments would benefit the public by improving the clarity and implementation of the section. There would be no anticipated economic cost to the public. The proposed amendments would have no fiscal impact on small businesses or rural communities.

An online public hearing will be held to receive comments on the proposed amendment. There is no physical location for this meeting. The meeting will be held at 10:00 a.m. on Tuesday, February 10, 2026. To access the online public meeting by web browser, please enter the following URL into your browser: <https://txcpa.webex.com/txcpa/j.php?MTID=mc5da036d94cb39fac7c45cfeacf72d09>. To join the meeting by computer or cell phone using the Webex app, use the access code 24868453987 and password SPDRULES. Persons interested in providing comments at the public hearing

may contact Mr. Gerard MacCrossan, Comptroller of Public Accounts, at Gerard.MacCrossan@cpa.texas.gov or by calling (512) 463-4468 by February 9, 2026.

You may submit comments on the proposal or information related to the cost, benefit, or effect of the proposal, including any applicable data, research or analysis, to Gerard MacCrossan, Statewide Procurement Division, P.O. Box 13528 Austin, Texas 78711 or to the email address: Gerard.MacCrossan@cpa.texas.gov. The comptroller must receive your comments or other information no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The amendments are proposed under Government Code, §2156.0012 (Authority to Adopt Rules), which provides the comptroller with the authority to adopt rules to efficiently and effectively administer Government Code, Chapter 2156 (Purchasing Methods).

The amendments implement Government Code Chapter 2156, Subchapter E, added by House Bill 4748, 89th Legislature, 2025, effective September 1, 2025.

*§20.231. Multiple Award Purchasing [Contracts] Procedure.*

(a) The comptroller or a state agency may use the multiple award purchasing [contract] procedure only after the director or the agency's purchasing director has made a written determination that its use is necessary to ensure adequate delivery, service, or product compatibility [in the best interest of the state]. In arriving at a determination, the director or the agency may [will] consider any relevant facts, including [the following factors]:

- (1) the quality, availability, and reliability of the supplies, materials, equipment, or service and their adaptability to the particular use required;
- (2) the ability, capacity, and skill of the anticipated respondents [bidder];
- (3) the sufficiency of the anticipated respondents' [bidder's] financial resources;
- (4) the anticipated respondents' [bidder's] ability to provide maintenance, repair parts, and service;
- (5) the compatibility with existing equipment;
- (6) the need for flexibility in evaluating new products on a large scale before becoming contractually committed for all use; and
- (7) the need to maintain a continuous supply of essential items. [any other relevant factors.]

(b) When the comptroller or a state agency intends to use the multiple award purchasing procedure, the solicitation shall disclose that intent and identify the criteria it will use to select respondents for award. [When the director or procuring state agency's purchasing director finds that one or more of the above factors is important to the contract and that objective specifications for those factors cannot be prepared, the director or agency's purchasing director may determine that the multiple award contract procedure will serve the best interest of the state.]

(c) A solicitation using the multiple award purchasing procedure must be an invitation for bids [Bids on multiple award invitations will be evaluated as are other bids] under §20.207 [§20.207(b)] of this title (relating to Competitive Sealed Bidding), a request for proposals under §20.208 of this title (relating to Competitive Sealed Proposals), or a request for offers under §20.222 of this title (relating to Methods for Procuring Automated Information Systems, including Request for Offers Method). [except that more than one award may be made. The basis for determining awards shall be reasonably related to the factors relied upon in using the multiple award contract procedure and shall be disclosed in the bid invitation.]

(d) The comptroller or a state agency may award multiple contracts under this section only if each awardee provides or is capable of providing the best value to the state, in accordance with standards provided in Government Code, Chapters 2155, 2156, 2157, and 2158, as applicable. A contract award shall not be made to a vendor on the basis of minimum qualifications that do not establish best value. The comptroller or state agency shall document compliance with this requirement in the contract file.

(e) For orders under multiple award contracts that do not exceed the threshold for small purchases in §20.211 of this title (relating to Small Purchases), the comptroller or a state agency shall document how ordering will obtain best value for the state. For example, the comptroller or state agency may describe its way of placing orders in the contract, a memorandum, or a procedure document.

(f) For orders under multiple award contracts that exceed the threshold for small purchases in §20.211 of this title, the comptroller or a state agency shall evaluate each contemplated order to determine whether it provides the best value to the state. The comptroller or state agency shall document its determination and retain the documentation in the contract file.

(g) The comptroller or a state agency may conduct secondary competition under a multiple award contract if necessary to determine which contractor provides the best value to the state. To conduct secondary competition, the comptroller or a state agency shall notify the qualified contractors of the scope of work to be ordered and invite them to submit proposals. The comptroller or state agency shall select the proposal that offers the best value to the state, or else use its discretion to cancel the secondary competition.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on January 23, 2026.

TRD-202600280

Don Neal

General Counsel, Operations and Support Legal Services  
Comptroller of Public Accounts

Earliest possible date of adoption: March 8, 2026

For further information, please call: (512) 475-2220

