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.

TITLE 1. ADMINISTRATION

PART 2. TEXAS ETHICS COMMISSION

CHAPTER 12. SWORN COMPLAINTS

SUBCHAPTER G. OTHER ENFORCEMENT ACTIONS

1 TAC §12.100

The Texas Ethics Commission (the commission) proposes new Ethics Commission Rule 12.100, regarding Informal Notice of Apparent Violation.

The proposed rule would create a new subchapter of Chapter 12 of the TEC Rules, which relates to enforcement.

Subsection (a) allows but does not require commission staff to notify a person if staff is notified of an "apparent" violation of law under the TEC's jurisdiction. The rule would provide clear authority for staff to contact the person responsible for an alleged violation with the goal of resolving the problem without needing a sworn complaint. If the alleged violator, in response to notice of an apparent violation, corrects an inaccurate report, files a missing report, or corrects signage lacking a disclosure statement it would vindicate the voting public's informational interest.

Limiting the authority to send notices of an apparent violation to 60 days before an election would limit staff's authority to cases where there would not be time to resolve a sworn complaint before the election. However, the authority does not necessarily need a temporal limit. Sworn complaints can be time-consuming for all parties and having a way to provide notice and encourage correction whenever staff become aware of it would support compliance with the law while saving time.

Subsection (b) is meant to ensure accountability for staff and the alleged violator. The rule requires staff to report the notices made since the last meeting to the commissioners. This information allows the commissioners to direct staff to alter their notice practices for any reason (e.g. too many, too few, too close to an election, appearance of bias etc.).

The rule also provides certainty to the alleged violator that his or her response, if any, will be reported to the commissioners who can then act, such as issuing a sworn complaint depending on the severity of the alleged violation and lack of action taken to remedy it.

This subsection makes clear that discussion about the notices and responses to the notices are confidential because it involves the contemplation of a sworn complaint.

Amanda Arriaga, General Counsel, has determined that for the first five-year period the proposed new rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the proposed new rule.

The General Counsel has also determined that for each year of the first five years the proposed new rule is in effect the public benefit will be to allow alleged violators to correct their violation before a sworn complaint is filed. There will not be an effect on small businesses, microbusinesses or rural communities. There is no anticipated economic cost to persons who are required to comply with the proposed new rule.

The General Counsel has determined that during the first five years that the proposed new rule is in effect, it will not: create or eliminate a government program; require the creation of new employee positions or the elimination of existing employee positions; require an increase or decrease in future legislative appropriations to the agency; require an increase or decrease in fees paid to the agency; increase or decrease the number of individuals subject to the rule's applicability; or positively or adversely affects this state's economy.

The Texas Ethics Commission invites comments on the proposed new rule from any member of the public. A written statement should be emailed to public_comment@ethics.state.tx.us, or mailed or delivered to James Tinley, Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070. A person who wants to offer spoken comments to the commission concerning the proposed new rule may do so at any commission meeting during the agenda item relating to the proposed new rule. Information concerning the date, time, and location of commission meetings is available by telephoning (512) 463-5800 or on the Texas Ethics Commission's website at www.ethics.state.tx.us.

The new rule is proposed under Texas Government Code §571.062, which authorizes the commission to adopt rules to administer Chapter 571 of the Government Code.

The proposed new rule affects Subchapter E of Chapter 571 of the Government Code.

§12.100. Informal Notice of Apparent Violation.

(a) Beginning the 60th day before an election and running until election day, if the commission is notified of an apparent violation of a law or rule administered and enforced by the commission, the executive director may notify the person responsible for the apparent violation and encourage the person to file a corrected report or otherwise remedy the apparent violation.

(b) The executive director shall report to the commission at its next regular meeting the notices provided by the executive director under this section since its last regular meeting.

(c) Discussions between commissioners and Commission staff and documents gathered related to the report under subsection (b) of this section are confidential under Section 12.15 of this chapter (relating

to Commission Initiated Complaint) and Sections 571.139 and 571.140 of the Government Code.

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

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Amanda Arriaga
General Counsel
Texas Ethics Commission
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CHAPTER 16. FACIAL COMPLIANCE REVIEWS AND AUDITS

1 TAC §§16.1, 16.3 - 16.9, 16.12

The Texas Ethics Commission (the TEC) proposes amendments to Chapter 16 in TEC Rules, regarding Facial Compliance Reviews and Audits.

Specifically, the TEC proposes amendments to §16.1 regarding Definitions, §16.3 regarding Corrected or Amended Report Filed During a Facial Compliance Review; Late Fines, §16.4. Additional Documents and Information Submitted in Response to a Facial Compliance Review; Timeliness, §16.5. Commission Initiated Preliminary Review or Audit Resulting from a Facial Compliance Review, §16.5. Commission Initiated Preliminary Review or Audit Resulting from a Facial Compliance Review, §16.7. Supporting Documentation in Response to Audit; Timeliness, §16.8. Complete Audit Report, §16.9. Representation by Attorney, and §16.12. Facial Review of Total Amount of Political Contributions Maintained.

State law requires state agencies to "review and consider for readoption each of its rules … not later than the fourth anniversary of the date on which the rule takes effect and every four years after that date." Tex. Gov't Code § 2001.039. The law further requires agencies to "readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule under this section." *Id*.

The TEC is continuing its comprehensive review with a review of the TEC's rules regarding facial compliance reviews and audits, which are codified in Chapter 16. The proposed amendments seek to shorten, simplify, and reorganize the rules to eliminate surplusage and improve clarity on procedures for facial compliance reviews and audits. Amanda Arriaga, General Counsel, has determined that for the first five-year period the proposed amended rules are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the proposed amended rules.

The General Counsel has also determined that for each year of the first five years the proposed amended rules are in effect, the public benefit will be consistency and clarity in the TEC's rules regarding procedures for facial compliance reviews and audits. There will not be an effect on small businesses, microbusinesses or rural communities. There is no anticipated economic cost to persons who are required to comply with the proposed amended rules.

The General Counsel has determined that during the first five years that the proposed amended rules are in effect, they will not: create or eliminate a government program; require the creation of new employee positions or the elimination of existing employee positions; require an increase in future legislative appropriations to the agency; require an increase or decrease in fees paid to the agency; expand, limit, or repeal an existing regulation; create a new regulation; increase or decrease the number of individuals subject to the rules' applicability; or positively or adversely affect this state's economy.

The TEC invites comments on the proposed amended rules from any member of the public. A written statement should be emailed to public_comment@ethics.state.tx.us, or mailed or delivered to James Tinley, Executive Director, Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070. A person who wants to offer spoken comments to the Commission concerning the proposed amended rules may do so at any Commission meeting during the agenda item relating to the proposed amended rules. Information concerning the date, time, and location of Commission meetings is available by telephoning (512) 463-5800 or on the TEC's website at www.ethics.state.tx.us.

The amended rules are proposed under Texas Government Code §571.062, which authorizes the commission to adopt rules to administer Chapter 571 of the Government Code.

The proposed amended rules affect Section 571.069 of the Government Code.

§16.1. Definitions.

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

(1) Deficiency--An error, omission, inaccuracy, or violation of a law or rule administered and enforced by the Commission [~~commission~~] that is apparent on the face of a statement or report filed with the Commission. [~~commission~~]

(2) Compliance review report--A report sent to a filer detailing deficiencies in a report that is the subject of a facial compliance review.

(3) Facial compliance review--A review conducted under §[~~section~~] 571.069 of the Government Code of the information [~~disclosed~~] on a report, randomly selected in accordance with §16.2 of this chapter (relating to Random Selection), filed with the Commission [~~commission~~] for facial completeness, accuracy, reliability, and compliance with the law.

(4) Report--A personal financial statement, lobby registration, lobby activities report, or campaign finance report filed with the Commission [~~commission~~].

§16.3. Corrected or Amended Report Filed During a Facial Compliance Review; Late Fines.

(a) A correction filed for the report that is subject to the facial compliance review will not be subject to a late fine if:

(1) The correction is filed not later than the 30th day after the date the filer receives the compliance review report;

(2) The corrected information complies with the law; and

(3) The original report was filed in good faith and without an intent to mislead or misrepresent the information contained in the report.

(b) A late fine will not be assessed for corrections filed to correct reporting errors made in any report filed prior to the report that is subject to the facial compliance review if:

(1) The filer learned of the errors through the facial compliance review;

(2) The correction is filed not later than the 30th day after the date the filer receives the compliance review report;

(3) The corrections comply with the law; and

(4) The original report was filed in good faith and without an intent to mislead or misrepresent the information contained in the report.

(c) A correction filed in accordance with this section will not be considered a prior late offense for purposes of determining the waiver or reduction of a fine under chapter 18 of this title (relating to General Rules Concerning Reports).

§16.4. Additional Documents and Information Submitted in Response to a Facial Compliance Review; Timeliness.

(a) The Commission [~~commission~~] may request from a filer documentation and other information used by the filer to compile a report that is subject to a facial compliance review.

(b) Documentation and other information requested by the Commission [~~commission~~] is timely submitted if received by the Commission [~~commission~~] not later than the 30th day after the date the filer receives the request for additional documentation.

§16.5. Commission Initiated Preliminary Review or Audit Resulting from a Facial Compliance Review.

(a) The Commission [~~commission~~] may initiate a preliminary review as authorized by §571.124 of the Government Code or perform a complete audit of a report that is subject to a facial compliance review under §571.069 of the Government Code if:

(1) a correction is not resubmitted to the Commission [~~commission~~] in accordance with §16.3 of this title (relating to Corrected or Amended Report Filed During a Facial Compliance Review; Late Fines) [~~16.2~~];

(2) documentation or other information requested by the Commission [~~commission~~] during a facial compliance review is not submitted to the Commission [~~commission~~] in accordance with §16.4 of this title (relating to Additional Documents and Information Submitted in Response to a Facial Compliance Review; Timeliness) [~~16.3~~]; or

(3) the Commission [~~commission~~] has determined by a vote of at least six Commission [~~commission~~] members that the correction filed in response to a compliance review report, does not comply with the law.

§16.6. Notice of Audit of Report.

The Commission [~~commission~~] shall notify a filer that the Commission [~~commission~~] will perform a complete audit of a report that is the subject of a facial compliance review not later than the seventh day after the date the Commission [~~commission~~] votes to initiate the audit.

§16.7. Supporting Documentation in Response to Audit; Timeliness.

(a) A filer must submit to the Commission [~~commission~~], upon request and where applicable, supporting documentation in the possession, custody, or control of the filer or filer's agents that contains information necessary for filing the report that is subject to the audit, such as:

(1) bank statements;

(2) cancelled checks;

(3) receipts;

(4) credit card statements;

(5) invoices;

(6) loan documents;

(7) books or ledgers;

(8) employee timesheets and payroll records;

(9) certificates of formation or other business documents; and

(10) real property records.

(b) A filer must submit to the Commission [~~commission~~] the supporting documentation in response to an audit not later than the 30th calendar [~~business~~] day from the date the filer receives notice of the audit.

§16.8. Complete Audit Report.

(a) Commission staff must complete a draft audit report not later than the 30th day after the Commission [~~commission~~] receives from the filer the documentation requested under §16.7 of this chapter (relating to supporting Documentation in Response to Audit; Timeliness) [~~16.6~~].

(b) The filer must have an opportunity to confer and object in writing to any findings in the draft audit report before it is submitted to the Commission [~~commission~~] for approval.

(c) Commission staff must consider the filer's objections before submitting the draft audit report to the Commission [~~commission~~] for approval.

(d) Upon approval of an audit, the Commission [~~commission~~] shall send to the filer a final audit report that includes:

(1) a notification that the Commission [~~commission~~] has determined the report that was subject to the audit complies with the law; or

(2) required corrective actions that the filer must take to cure any deficiency found in the report that is subject to the audit.

(e) A filer must correct or amend a report to correct all deficiencies identified in a complete audit report not later than the 30th day from the date the filer receives the complete audit report.

§16.9. Representation by Attorney.

(a) A filer has the right to be represented by an attorney retained by the filer during a facial compliance review or an audit initiated by the Commission [~~commission~~] as a result of a facial compliance review.

(b) A letter of representation must be submitted to the Commission [~~commission~~] if the filer is represented by an attorney.

§16.12. Facial Review of Total Amount of Political Contributions Maintained.

(a) In this section "expected total political contributions maintained" for a report subject to review is the total amount of political contributions maintained disclosed on the previous report and all monetary political contributions, loans, and credits, less all expenditures from political contributions disclosed on the report that is subject to review, excluding the purchase of investments that can be readily converted to cash.

(b) When there is a difference greater than the threshold set by §20.50(c) of this title (relating to Total Political Contributions Maintained) between the total amount of political contributions maintained

disclosed in a report and the expected total political contributions maintained, the Commission [~~commission~~] may request from the filer the bank statement showing the balance as of the last day of the reporting period for each account in which political contributions are maintained.

[~~(c) Producing the requested bank statements that show the total amount of political contributions was accurately reported in the report that is subject to review is sufficient to end the review of the total amount of political contributions maintained as disclosed in the report.~~]

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

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Amanda Arriaga
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Texas Ethics Commission
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CHAPTER 18. GENERAL RULES CONCERNING REPORTS

1 TAC §18.31

The Texas Ethics Commission (the TEC) proposes amendments to TEC rules in Chapter 18. Specifically, the TEC proposes amendments to §18.31, regarding Adjustments to Reporting Thresholds.

Section 571.064(b) of the Government Code requires the TEC to annually adjust reporting thresholds upward to the nearest multiple of $10 in accordance with the percentage increase for the previous year in the Consumer Price Index for Urban Consumers published by the Bureau of Labor Statistics of the United States Department of Labor. The laws under the TEC's authority that include reporting thresholds are Title 15 of the Election Code (campaign finance law), Chapter 305 of the Government Code (lobby law), Chapter 572 of the Government Code (personal financial statements), Chapters 302 and 303 of the Government Code (speaker election, governor for a day, and speaker's reunion day ceremony reports), and section 2155.003 of the Government Code (reporting requirements applicable to the comptroller).

The TEC first adopted adjustments to reporting thresholds in 2019, which were effective on January 1, 2020. These new adjustments, if adopted, will be effective on January 1, 2027, to apply to contributions and expenditures that occur on or after that date.

Amanda Arriaga, General Counsel, has determined that for the first five-year period the rule amendment is in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the proposed amended rule.

The General Counsel has also determined that for each year of the first five years the proposed amended rule is in effect, the public benefit will be consistency and clarity in the TEC's rules that set out reporting thresholds. There will not be an effect on small businesses, microbusinesses or rural communities. There is no anticipated economic cost to persons who are required to comply with the proposed amended rule.

The General Counsel has determined that during the first five years that the proposed amended rule is in effect, they will: not create or eliminate a government program; not require the creation of new employee positions or the elimination of existing employee positions; require an increase in future legislative appropriations to the agency; require an increase or decrease in fees paid to the agency; expand, limit, or repeal an existing regulation; not increase or decrease the number of individuals subject to the rules' applicability; or not positively or adversely affect this state's economy.

The TEC invites comments on the proposed amended rule from any member of the public. A written statement should be emailed to public_comment@ethics.state.tx.us, or mailed or delivered to James Tinley, Executive Director, Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070. A person who wants to offer spoken comments to the TEC concerning the proposed amended rule may do so at any Commission meeting during the agenda item relating to the proposed amended rule. Information concerning the date, time, and location of Commission meetings is available by telephoning (512) 463-5800 or on the TEC's website at www.ethics.state.tx.us.

The amendments are proposed under Texas Government Code §571.062, which authorizes the TEC to adopt rules to administer Title 15 of the Election Code, and Texas Government Code §571.064, which requires the TEC to annually adjust reporting thresholds in accordance with that statute.

The proposed amended rule affects Title 15 of the Election Code.

§18.31. Adjustments to Reporting Thresholds.

(a) Pursuant to section 571.064 of the Government Code, the reporting thresholds are adjusted as follows:

Figure 1: 1 TAC §18.31(a)
[~~Figure 1: 1 TAC §18.31(a)~~]
Figure 2: 1 TAC §18.31(a)
[~~Figure 2: 1 TAC §18.31(a)~~]
Figure 3: 1 TAC §18.31(a)
[~~Figure 3: 1 TAC §18.31(a)~~]
Figure 4: 1 TAC §18.31(a)
[~~Figure 4: 1 TAC §18.31(a)~~]
Figure 5: 1 TAC §18.31(a) (No change.)

(b) The changes made by this rule apply only to conduct occurring on or after the effective date of this rule.

(c) The effective date of this rule is January 1, 2027 [~~2026~~].

(d) In this section:

(1) "CEC" means county executive committee;

(2) "DCE" means direct campaign expenditure-only filer;

(3) "GPAC" means general-purpose political committee;

(4) "MPAC" means monthly-filing general-purpose political committee;

(5) "PAC" means political committee;

(6) "PFS" means personal financial statement;

(7) "SPAC" means specific-purpose political committee; and

(8) "TA" means treasurer appointment.

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

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Amanda Arriaga
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Texas Ethics Commission
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CHAPTER 20. REPORTING CONTRIBUTIONS AND EXPENDITURES

The Texas Ethics Commission (the TEC) proposes amendments to Chapter 20 in TEC Rules, regarding Reporting Contributions and Expenditures.

Specifically, the TEC proposes amendments to §20.50 regarding Total Political Contributions Maintained in Subchapter B regarding General Reporting Rules.

The TEC also proposes amendments to §20.211 regarding Reporting Pledges, §20.213 regarding Reporting Loans, §20.220 regarding Additional Disclosure for the Texas Comptroller of Public Accounts, §20.223 regarding Form and Contents of Special Pre-election Report, §20.227 regarding Contents of Special Session Report, and §20.235 regarding Contents of Annual Report in Subchapter C regarding Reporting Requirements.

The TEC also proposes amendments to §20.343 regarding Contents of Dissolution Report in Subchapter E regarding Reports by a General-Purpose or Specific-Purpose Committee.

The TEC also proposes amendments to §20.577 regarding Reporting Schedule for a Candidate for State Chair, and §20.579 regarding Candidates for County Chair in Certain Counties in Subchapter I regarding Reports by a Candidate or a Committee Supporting or Opposing a Candidate for State or County Party Chair.

State law requires state agencies to "review and consider for readoption each of its rules … not later than the fourth anniversary of the date on which the rule takes effect and every four years after that date." Tex. Gov't Code § 2001.039. The law further requires agencies to "readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule under this section." *Id*.

The TEC completed its comprehensive review of Chapter 20 in 2025. After that review, TEC noticed some additional small changes that needed to be made.

Amanda Arriaga, General Counsel, has determined that for the first five-year period the proposed amended rules are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the proposed amended rules.

The General Counsel has also determined that for each year of the first five years the proposed amended rules are in effect, the public benefit will be consistency and clarity in the TEC's rules regarding procedures for reporting contributions and expenditures in campaign finance reports. There will not be an effect on small businesses, microbusinesses or rural communities. There is no anticipated economic cost to persons who are required to comply with the proposed amended rules.

The General Counsel has determined that during the first five years that the proposed amended rules are in effect, they will not: create or eliminate a government program; require the creation of new employee positions or the elimination of existing employee positions; require an increase in future legislative appropriations to the agency; require an increase or decrease in fees paid to the agency; expand, limit, or repeal an existing regulation; create a new regulation; increase or decrease the number of individuals subject to the rules' applicability; or positively or adversely affect this state's economy.

The TEC invites comments on the proposed amended rules from any member of the public. A written statement should be emailed to public_comment@ethics.state.tx.us, or mailed or delivered to James Tinley, Executive Director, Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070. A person who wants to offer spoken comments to the Commission concerning the proposed amended rules may do so at any Commission meeting during the agenda item relating to the proposed amended rules. Information concerning the date, time, and location of Commission meetings is available by telephoning (512) 463-5800 or on the TEC's website at www.ethics.state.tx.us.

SUBCHAPTER B. GENERAL REPORTING RULES

1 TAC §20.50

The amended rule is proposed under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The proposed amended rule affects Title 15 of the Election Code.

§20.50. Total Political Contributions Maintained.

(a) For purposes of Election Code §254.031(a)(8) and §254.0611(a)(1), the total amount of political contributions maintained in one or more accounts includes the following:

(1) The balance on deposit in banks, savings and loan institutions and other depository institutions;

(2) The present value of any investments that can be readily converted to cash, such as certificates of deposit, money market accounts, stocks, bonds, treasury bills, etc.; and

(3) The balance of political contributions accepted and held in any online fundraising account over which the filer can exercise control by making a withdrawal, expenditure, or transfer.

(b) For purposes of Election Code §254.031(a)(8) and §254.0611(a)(1), the total amount of political contributions maintained includes personal funds that the filer intends to use for political expenditures only if the funds have been deposited in an account in which political contributions are held as permitted by Election Code §253.0351(c).

(c) For purposes of Election Code §254.031(a-1), the difference between the total amount of political contributions maintained that is disclosed in a report and the correct amount is a de minimis error if the difference does not exceed $2,500.[~~:~~

~~[(1) $7,500; or]~~

~~[(2) the lesser of 10% of the amount disclosed or $20,000.]~~

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

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Texas Ethics Commission
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SUBCHAPTER C. REPORTING REQUIREMENTS

1 TAC §§20.211, 20.213, 20.220, 20.223, 20.227, 20.235

The amended rules are proposed under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The proposed amended rules affect Title 15 of the Election Code.

§20.211. Reporting Pledges.

Each report must include for each person from whom the candidate accepted a pledge or pledges to provide more than the threshold amount in money or goods or services worth more than the threshold amount:

(1) the full name of the person making the pledge;

(2) the address of the person making the pledge;

(3) the amount of each pledge;

(4) the date each pledge was accepted; [~~and~~]

(5) a description of any goods or services pledged; and

(6) the total of all pledges accepted during the period for the threshold amount and less from a person.

§20.213. Reporting Loans.

(a) Each report must include [~~for each person making a loan or loans to the candidate for campaign purposes if the total amount loaned by the person during the reporting period is more than the threshold amount~~]:

(1) the full name of the person or financial institution making the loan;

(2) the address of the person or financial institution making the loan;

(3) the amount of the loan;

(4) the date of the loan;

(5) the interest rate;

(6) the maturity date;

(7) the collateral for the loan, if any; and

(8) if the loan has guarantors:

(A) the full name of each guarantor;

(B) the address of each guarantor;

(C) the principal occupation of each guarantor;

(D) the name of the employer of each guarantor; and

(E) the amount guaranteed by each guarantor.

(b) the total amount of loans accepted during the period for the threshold amount and less from persons other than financial institutions engaged in the business of making loans for more than one year, except for a loan reported under subsection (a) of this section.

§20.220. Additional Disclosure for the Texas Comptroller of Public Accounts.

(a) For purposes of this section and §2155.003(e) of the Government Code, the term "vendor" means:

(1) a person who, during the comptroller's term of office, bids on or receives a contract under the comptroller's purchasing authority that was transferred to the comptroller by §2151.004 of the Government Code; and

(2) an employee or agent of a person described by paragraph (1) of this section who communicates directly with the chief clerk, or an employee of the Texas Comptroller of Public Accounts who exercises discretion in connection with the vendor's bid or contract, about a bid or contract.

(b) Each report filed by the comptroller or a specific-purpose committee created to support the comptroller, shall include:

(1) for each vendor whose aggregate campaign contributions equal or exceed the threshold amount during the reporting period, a notation that:

(A) the contributor was a vendor during the reporting period or during the 12-month period preceding the last day covered by the report; and

(B) if the vendor is an individual, includes the name of the entity that employs or that is represented by the individual; and

(2) for each political committee directly established, administered, or controlled by a vendor whose aggregate campaign contributions equal or exceed the threshold amount [~~$610~~] during the reporting period, a notation that the contributor was a political committee directly established, administered, or controlled by a vendor during the reporting period or during the 12-month period preceding the last day covered by the report.

§20.223. Form and Contents of Special Pre-Election Report.

(a) A special pre-election report shall be filed electronically as required by §254.036, Election Code, unless the report is exempt from electronic filing. A special pre-election report that is exempt from electronic filing under §254.036(c), Election Code, is not required to be on a form prescribed by the Commission.

(b) In this section [~~subsection~~] "filer" means the candidate, general-purpose committee, or specific-purpose committee filing the report.

(c) A special pre-election report shall include the following information:

(1) the name of the filer;

(2) either:

(A) the office sought by the filer; or

(B) the full name of the campaign treasurer;

(3) the name of the person making the contribution or contributions that triggered the requirement to file a special pre-election report;

(4) the address of the person making the contribution or contributions;

(5) the amount of each contribution;

(6) the date each contribution was accepted; and

(7) a description of any in-kind contribution.

(d) A general-purpose committee making direct campaign expenditures must also include:

(1) the full name and address of the person or persons to whom each direct campaign expenditure is made;

(2) the date of each direct campaign expenditure;

(3) a description of the goods or services for which each direct campaign expenditure was made; and

(4) the identification of the candidates or group of candidates benefiting from the direct campaign expenditure.

§20.227. Contents of Special Session Report.

A special session report shall include the following information:

(1) the filer's name;

(2) the filer's address;

(3) either:

(A) the office sought by the filer; or

(B) the full name of the campaign treasurer;

(4) if the filer is a specific-purpose committee:

(A) for each candidate supported or opposed by the specific-purpose committee:

(i) the full name of the candidate;

(ii) the office sought by the candidate; and

(iii) an indication of whether the committee supports or opposes the candidate;

(B) for each officeholder supported or opposed by the committee:

(i) the full name of the officeholder;

(ii) the office held by the officeholder; and

(iii) an indication of whether the committee supports or opposes the officeholder;

(5) the date each contribution was accepted;

(6) the full name of each person making a contribution;

(7) the address of each person making a contribution;

(8) the amount of each contribution accepted during the reporting period;

(9) a description of any in-kind contribution accepted during the reporting period; and

(10) an affidavit, executed by the candidate, stating: "I swear, or affirm, that the accompanying report is true and correct and includes all information required to be reported by me under Title 15, Election Code."

§20.235. Contents of Annual Report.

In addition to the information required by §254.202 of the Election Code, an annual report of unexpended contributions shall include the following information:

(1) for each payment made by the candidate from unexpended political contributions, unexpended interest or other income earned from political contributions, or assets purchased with political contributions or interest or other income earned from political contributions during the previous year:

(A) the full name of each person to whom a payment was made;

(B) the address of each person to whom a payment was made;

(C) the date of each payment;

(D) the nature of the goods or services for which the payment was made; and

(E) the amount of each payment.[;]

(2) the full name of each person to whom a payment from unexpended political contributions, unexpended interest or other income earned from political contributions, or assets purchased with political contributions or interest or other income earned from political contributions was made.

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

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Amanda Arriaga
General Counsel
Texas Ethics Commission
Earliest possible date of adoption: July 19, 2026
For further information, please call: (512) 463-5800

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SUBCHAPTER E. REPORTS BY A GENERAL-PURPOSE OR SPECIFIC-PURPOSE COMMITTEE

1 TAC §20.343

The amended rule is proposed under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The proposed amended rule affects Title 15 of the Election Code.

§20.343. Contents of Dissolution Report.

A dissolution report must contain:

(1) the information described in §254.121 of the Election Code; and

(2) the following sworn statement, signed by the political ~~specific-purpose~~ committee's campaign treasurer, and properly notarized: "I, the undersigned campaign treasurer, do not expect the occurrence of any further reportable activity by this political [~~specific-purpose~~] committee for this or any other campaign or election for which reporting under the Election Code is required. I declare that all of the information required to be reported by me has been reported. I understand that designating a report as a dissolution report terminates the appointment of campaign treasurer. I further understand that a political [~~specific-purpose~~] committee may not make or authorize political expenditures or accept political contributions without having an appointment of campaign treasurer on file."

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

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SUBCHAPTER I. REPORTS BY A CANDIDATE OR A COMMITTEE SUPPORTING OR OPPOSING A CANDIDATE FOR STATE OR COUNTY PARTY CHAIR

1 TAC §20.577, §20.579

The amended rules are proposed under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The proposed amended rules affect Title 15 of the Election Code.

§20.577. Reporting Schedule for a Candidate for State Chair.

(a) A filer is required to file only the reports listed in this section and is not required to file any other reports required by candidates for public office under Subchapter C of this chapter (relating to Reporting Requirements).

(b) A filer is required to file semiannual reports as provided by this subsection.

(1) One semiannual report is due no earlier than July 1 and no later than July 15.

(A) The period covered by a report under this paragraph begins on the later of the following dates, as applicable:

(i) January 1;

(ii) the first day after the period covered by the last report required by this subchapter; or

(iii) the day the state chair's campaign treasurer appointment was filed, if this is the first report filed under this subchapter.

(B) The period covered by the report under this paragraph ends on June 30.

(2) One semiannual report is due no earlier than January 1 and no later than January 15.

(A) The period covered by a report under this paragraph begins on the later of the following dates, as applicable:

(i) July 1;

(ii) the first day after the period covered by the last report required by this subchapter; or

(iii) the day the state chair's campaign treasurer appointment was filed, if this is the first report filed under this subchapter.

(B) The period covered by the report under this paragraph ends on December 31.

(3) One pre-election report not earlier than the 39th day before the convening of the state convention and not later than the 30th day before the convening of the state convention. The report shall cover the period that begins on either the day the filer filed a campaign treasurer appointment with the Commission or the first day after the period covered by the last report required to be filed, as applicable, and ends on the 40th day before the convening.

(4) One pre-election report not earlier than the ninth day before the convening of the state convention and not later than the eighth day before the convening of the state convention. The report must cover the period that begins on either the day [~~after~~] the filer filed a campaign treasurer appointment with the Commission or the first day after the period covered by the last report required to be filed, as applicable, and ends on the 10th day before the convening.

§20.579. Candidates and Committees Supporting or Opposing Candidates for County Chair in Certain Counties.

(a) In addition to the semiannual reports due to be filed with the Commission by January 15 and July 15 under §20.577(b) of this chapter (relating to Reporting Schedule for a Candidate for State Chair), a candidate for county chair covered by this section who has an opponent whose name appears on the ballot in an election, or a committee supporting or opposing a candidate for county chair, shall file the following two reports with the Commission for each primary election except as provided by subsection (d) of this section.

(1) The first report shall be filed not later than the 30th day before primary election day. The report covers the period beginning the day the candidate's campaign treasurer appointment is filed or the first day after the period covered by the last report required to be filed under this subchapter, as applicable, and continuing through the 40th day before primary election day.

(2) The second report shall be filed not later than the eighth day before election day. The report covers the period beginning the 39th day before primary election day and continuing through the 10th day before primary election day.

(b) A candidate who has declared the intention to file reports in accordance with §20.205 of this chapter (relating to Modified Reporting) and who remains eligible to file under the modified schedule is not required to file special pre-election reports.

(c) In addition to other required reports, a filer covered by this section who is in a runoff election shall file one report with the Commission for the runoff election. The runoff election report shall be filed not later than the eighth day before runoff election day. The report covers the period beginning the ninth day before primary election day and continuing through the tenth day before runoff election day.

(d) Except as provided by §254.036(c) of the Election Code, each report filed with the Commission under this section must be filed by electronic transfer, using computer software provided by the Commission or computer software that meets Commission specifications for a standard file format.

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

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TITLE 10. COMMUNITY DEVELOPMENT

PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

CHAPTER 6. COMMUNITY AFFAIRS PROGRAMS

SUBCHAPTER A. GENERAL PROVISIONS

10 TAC §6.2

The Texas Department of Housing and Community Affairs (the Department) proposes amendments to 10 Texas Administrative Code Chapter 6, Community Affairs Programs, §6.2, Definitions. The purpose of the proposed amendment is to remove unnecessary language, improve clarity and provide greater regulatory efficiency.

Tex. Gov't Code §2001.0045(b) does not apply to the rule proposed for action because it was determined that 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. Robert Wilkinson, Executive Director, has determined that, for the first five years the amended rule would be in effect:

1. The amended rule does not create or eliminate a government program.

2. The amended 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 workload to a degree that eliminates any existing employee positions.

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

4. The amended 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 amended rule is not creating a new regulation.

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

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

8. The amended 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 has evaluated the amendment and determined that the action 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 rule 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 rule as to its possible effects on local economies and has determined that for the first five years the amended rule will be in effect the rule has no economic effect on local employment because the rule relates only to programs and processes which have already been in effect for existing Subrecipients; therefore, no local employment impact statement is required to be prepared for the amended rules.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Robert Wilkinson, Executive Director, has determined that, for each year of the first five years the amended rule is in effect, the public benefit anticipated as a result of the new rule will be improved regulatory efficiency and greater clarity. There will not be any economic costs to any individuals required to comply with the amended rule because the rule has already been in place.

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 rule is in effect, enforcing or administering the new rule does not have any foreseeable implications related to costs or revenues of the state or local governments because the amended rule relates only to programs and processes which have already been in effect for existing subrecipients.

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 action, 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 from June 19, 2026 to July 20, 2026. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, or by email to brooke.boston@tdhca.texas.gov. ALL COMMENTS AND INFORMATION MUST BE RECEIVED BY 5:00 p.m. Central time, July 20, 2026.

STATUTORY AUTHORITY. The rule action 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.

§6.2. Definitions.

(a) To ensure a clear understanding of the terminology used in the context of the CSBG, LIHEAP, and DOE-WAP programs of the Community Affairs Division, a list of terms and definitions has been compiled as a reference. Any capitalized terms not specifically defined in this section or any section referenced in this chapter shall have the meaning as defined in Chapter 2306 of the Tex. Gov't Code, Chapter 1 of this title (relating to Administration), Chapter 2 of this title (relating to Enforcement), or applicable federal regulations.

(b) The words and terms in this chapter shall have the meanings described in this subsection unless the context clearly indicates otherwise. Refer to Subchapters B, C, and D of this chapter for program specific definitions.

(1) Affiliate--An entity related to an Applicant that controls by contract or by operation of law the Applicant or has the power to

control the Applicant or a third entity that controls, or has the power to control both the Applicant and the entity. Examples include but are not limited to entities submitting under a common application, or instrumentalities of a unit of government. This term also includes any entity that is required to be reported as a component entity under Generally Accepted Accounting Standards, is required to be part of the same Single Audit as the Applicant, is reported on the same IRS Form 990, or is using the same federally approved indirect cost rate.

(2) Awarded Funds--The amount of funds or proportional share of funds committed by the Department's Board to a Subrecipient or Service Area.

(3) Categorical Eligible/Eligibility--A method where a Subrecipient must deem a Household to be eligible for LIHEAP or DOE benefits if that Household includes at least one member that receives assistance under specific federal programs as identified in this chapter or by Contract.

(4) Child--Household member not exceeding 18 years of age.

[(5) Code of Federal Regulations (CFR)--The codification of the general and permanent rules and regulations of the federal government as adopted and published in the Federal Register.]

(5) [(6)] Community Action Agencies (CAAs)--Private Nonprofit Organizations and Public Organizations that carry out the Community Action Program[, which was established by the 1964 Economic Opportunity Act to fight poverty by empowering the poor in the United States].

(6) [(7)] Community Services Block Grant (CSBG)--An HHS-funded program. [which provides funding for CAAs and other Eligible Entities that seek to address poverty at the community level.]

(7) [(8)] Comprehensive Energy Assistance Program (CEAP)--A LIHEAP-funded program. [to assist low-income Households, in meeting their immediate home energy needs.]

(8) [(9)] Concern--A policy, practice or procedure that has not yet resulted in a Finding or Deficiency, but if not changed will or may result in a Finding or Deficiency.

(9) [(10)] Contract--The executed written agreement between the Department and a Subrecipient performing an activity related to a program that describes performance requirements and responsibilities assigned by the document, for which the first day of the Contract Term is the point at which program funds may be considered by a Subrecipient for Expenditure, unless otherwise directed in writing by the Department.

[(11) Contract System--A web-based data collection platform which allows Subrecipients of Community Services programs to sign and view Contracts and submit performance and financial reports online.]

(10) [(12)] Contract Term--The period of Expenditure under a Contract.

[(13) Contracted Funds--The gross amount of funds Obligated by the Department to a Subrecipient as reflected in a Contract.]

(11) [(14)] Cost Reimbursement--A Contract sanction whereby reimbursement of costs incurred by the Subrecipient is made only after the Department has conducted such review as it deems appropriate as more fully described in §2.201 of this Title (relating to Cost Reimbursement). [, which may be complete or limited, such as on a sampling basis, and approved backup documentation provided by the Subrecipient to support such costs. Such a review and approval does not serve as a final approval and all uses of advanced funds remain subject to review in connection with future or pending reviews, monitoring, or audits and in no way serves to constrain or limit them.]

(12) [(15)] Declaration of Income Statement (DIS)--A Department-approved form used only when it is not possible for an applicant to obtain third party or firsthand verification of income.

(13) [(16)] Deficiency--Consistent with the CSBG Act, a Deficiency exists when an Eligible Entity has failed to comply with the terms of an agreement or a State plan, or to meet a State requirement. The Department's determination of a Deficiency may be based on the Eligible Entity's failure to provide CSBG services, or to meet appropriate standards, goals, and other requirements established by the State, including performance objectives, or as provided for in §2.203(b) of this title (relating to Termination and Reduction of Funding for CSBG Eligible Entities). A Finding, Observation, or Concern that is not corrected, or is repeated, may become a Deficiency.

(14) [(17)] Deobligate/Deobligation--The partial or full removal of Contracted Funds from a Subrecipient. [Partial Deobligation is the removal of some portion of the full Contracted Funds from a Subrecipient, leaving some remaining balance of Contracted Funds to be administered by the Subrecipient. Full Deobligation is the removal of the full amount of Contracted Funds from a Subrecipient. This definition does not apply to CSBG non-Discretionary funds.]

(15) [(18)] Department of Energy (DOE)--Federal department that provides funding for a weatherization assistance program.

(16) [(19)] Department of Health and Human Services (HHS)--Federal department that provides funding for CSBG and LIHEAP [energy assistance and weatherization].

(17) [(20)] Discretionary Funds--CSBG funds, excluding the 90% of the state's annual allocation that is designated for statewide allocation to CSBG Eligible Entities under §6.203 of this subchapter (relating to Formula for Distribution of CSBG Funds) and state administrative funds, maintained by the Department, at its discretion, for CSBG allowable uses as authorized by the CSBG Act.

(18) [(21)] Dwelling Unit--A house, including a stationary mobile home, an apartment, a group of rooms, or a single room occupied as separate living quarters.

(19) [(22)] Elderly Person--

(A) For CSBG, a person who is 55 years of age or older; and

(B) For CEAP and WAP, a person who is 60 years of age or older.

(20) [(23)] Eligible Entity--Those local organizations in existence and designated by the federal and state government to administer programs created under the Federal Economic Opportunity Act of 1964. This includes CAAs, limited-purpose agencies, and units of local government. [The CSBG Act defines an Eligible Entity as an organization that was an Eligible Entity on the day before the enactment of the Coats Human Services Reauthorization Act of 1998 (October 27, 1998), or is designated by the Governor to serve a given area of the state and that has a tripartite board or other mechanism specified by the state for local governance.]

(21) [(24)] Emergency--defined as:

(A) A Natural Disaster;

(B) A significant home energy supply shortage or disruption;

(C) Significant increase in the cost of home energy, as determined by the Secretary of HHS;

(D) A significant increase in home energy disconnections reported by a utility, a state regulatory agency, or another agency with necessary data;

(E) A significant increase in participation in a public benefit program such as the food stamp program carried out under the Supplemental Nutrition Assistance Program (SNAP) Food and Nutrition Act of 2008 [~~Food Stamp Act of 1977 (7 U.S.C. §§2011, et seq.)~~], SSI [~~the national program to provide supplemental security income carried out under Title XVI of the Social Security Act (42 U.S.C. §§1381, et seq.) or the state temporary assistance for needy families program carried out under Part A of Title IV of the Social Security Act~~] (42 U.S.C. §§601, et seq.), as determined by the head of the appropriate federal agency;

(F) A significant increase in unemployment, layoffs, or the number of Households with an individual applying for unemployment benefits, as determined by the Secretary of Labor; or

(G) An event meeting such criteria as the Secretary of HHS, at the discretion of the Secretary of HHS, may determine to be appropriate.

(22) [~~(25)~~] Expenditure--Funds that have been accrued or remitted for purposes of the award.

(23) [~~(26)~~] Extended Foster Care--The Texas Department of Family Services program as identified in 40 TAC §700.346 or successor regulation.

(24) [~~(27)~~] Families with Young Children--A Household that includes a Child age five or younger. For LIHEAP-WAP only, a Family with Young Children also includes a Household that has a pregnant woman.

(25) [~~(28)~~] Federal Poverty Income Guidelines--The official poverty income guidelines as issued by HHS annually.

(26) [~~(29)~~] Finding--A Subrecipient's material failure to comply with rules, regulations, the terms of the Contract or to provide services under each program to meet appropriate standards, goals, and other requirements established by the Department or funding source (including performance objectives). [~~A Finding impacts the organization's ability to achieve the goals of the program and jeopardizes continued operations of the Subrecipient.~~] Findings include the identification of an action or failure to act that results or may result in disallowed costs.

(27) [~~(30)~~] Gross Annual Income--Defined as the total amount of non-excluded income earned annually before taxes or any deductions for all Household members 18 years of age and older.

(28) [~~(31)~~] High Energy Burden--A Household whose energy burden exceeds 11% of their Gross Annual Income, determined by dividing a Household's annual home energy costs by the Household's Gross Annual Income.

(29) [~~(32)~~] High Energy Consumption--A Household that is billed more than $1000 annually for related fuel costs for heating and cooling their Dwelling Unit.

(30) [~~(33)~~] Household--An individual or group of individuals, excluding unborn Children, who are living together as one economic unit. For DOE WAP this includes all persons living in the Dwelling Unit. For CSBG/LIHEAP it includes these persons customarily purchasing residential energy in common or making undesignated payments for energy. In CSBG/LIHEAP a live-in aide, or a Renter with a separate lease that includes a separate bill for utilities is not considered a Household member.

(31) [~~(34)~~] Inverse Ratio of Population Density Factor--The number of square miles of a county divided by the number of poverty Households of that county.

(32) [~~(35)~~] Low Income Household--Defined as:

(A) For DOE WAP, a Household whose total combined annual income is at or below 200% of the Federal Poverty Income guidelines, or a Household who is Categorically Eligible;

(B) For CEAP and LIHEAP-WAP, a Household whose total combined annual income is at or below 150% of the Federal Poverty Income guidelines, or a Household who is Categorically Eligible; and

(C) For CSBG, a Household whose total combined annual income is at or below 125% of the Federal Poverty Income guidelines.

(33) [~~(36)~~] Low Income Home Energy Assistance Program (LIHEAP)--An HHS funded program. [~~which serves Low Income Households who seek assistance for their home energy bills and/or weatherization services.~~]

(34) [~~(37)~~] Means Tested Veterans Program--A program whereby applicants who meet certain Veterans Affairs requirements, [~~including but not limited to income and net worth limits set by Congress,~~] receive payments from the U.S. Department of Veterans Affairs.

(35) [~~(38)~~] Mixed Status Household--A Household that contains one or more members that are U.S. Citizens, U.S. Nationals, or Qualified Aliens, and one or more members that are Unqualified Aliens.

(36) [~~(39)~~] Monthly Performance and Expenditure Report--Two separate but linked reports indicating a Subrecipient's or Eligible Entity's performance and financial information, due to the Department on or before the fifteenth day of each month of the Contract Term following the reporting month. If the fifteenth falls on a weekend or holiday, the reports must still be entered on or before the fifteenth. The data the Department collects is subject to change based on changes required by DOE or HHS.

(37) [~~(40)~~] Obligation--Funds become obligated upon approval of an award to Subrecipient by the Department's Governing Board, unless the Department does not receive sufficient funding from the cognizant federal entity.

(38) [~~(41)~~] Observation--A notable policy, practice or procedure observed through the course of monitoring.

[~~(42) Office of Management and Budget (OMB)--Office within the Executive Office of the President of the United States that oversees the performance of federal agencies and administers the federal budget.~~]

(39) [~~(43)~~] Office of Management and Budget (OMB) Circulars--Instructions and information issued by OMB to Federal agencies that set forth principles and standards for determining costs for federal awards and establish consistency in the management of grants for federal funds, as more fully [~~. Uniform cost principles and administrative requirements for local governments and for nonprofit organizations, as well as audit standards for governmental organizations and other organizations expending federal funds are~~] set forth in 2 CFR Part 200, unless different provisions are required by statute or approved by OMB.

[~~(44) Outreach--The method used by a Subrecipient that attempts to identify customers who are in need of services, alerts these customers to service provisions and benefits, and helps them use the~~

services that are available. Outreach is utilized to locate, contact and engage potential customers.]

[(45) Performance Statement--A document which identifies the services to be provided by a Subrecipient.]

(40) [(46)] Person with a Disability--Any individual who is:

(A) An individual described in 29 U.S.C. §701 or has a disability under 42 U.S.C. §§12131 - 12134;

(B) Disabled as defined in 42 U.S.C. §1382(a)(3)(A), 42 U.S.C. §423, or in 42 U.S.C. §15001;

(C) Receiving benefits under 38 U.S.C. Chapter 11 or 15; or

(D) An individual with a disability as defined in §1.202(4).

(41) [(47)] Population Density--The number of persons residing within a given geographic area of the state.

(42) [(48)] Private Nonprofit Organization--An organization described in §501(c) of the Internal Revenue Code (the Code) of 1986 and which is exempt from taxation under subtitle A of the Code and that is not a Public Organization.

(43) [(49)] Production Schedule--The estimated monthly and quarterly performance targets and Expenditures for a Contract Term. The Production Schedule must be signed by the applicable approved signatory and approved by the Department in writing.

(44) [(50)] Program Year--January 1 through December 31 of each calendar year for CSBG and LIHEAP; July 1 through June 30 of each calendar year for DOE WAP.

(45) [(51)] Public Organization--A unit of government, as established by the Legislature of the State of Texas. Includes, but may not be limited to, cities, counties, and councils of governments.

(46) [(52)] Qualified Alien--A person that is not a U.S. Citizen or a U.S. National and is described at 8 U.S.C. §1641(b) and (c).

(47) [(53)] Referral--The documented process of providing information to a customer Household about an agency, program, or professional person that can provide the service(s) needed by the customer.

(48) [(54)] Reobligate/Reobligation--The reallocation of Deobligated funds to other Subrecipients or back to the Department for allowable uses.

(49) [(55)] Service Area--The geographical area where a Subrecipient must provide services under a Contract.

(50) [(56)] Single Audit--The audit required by OMB, 2 CFR Part 200, Subpart F, or Tex. Gov't Code, Chapter 783 [738], Uniform Grant and Contract Management, as reflected in an audit report.

(51) [(57)] State--The State of Texas or the Department, as indicated by context.

(52) [(58)] Subcontractor--A person or an organization with whom the Subrecipient contracts with to provide services.

(53) [(59)] Subrecipient--An organization that receives federal funds passed through the Department to operate the CSBG, CEAP, DOE WAP, and/or LIHEAP program(s).

[(60) Supplemental Security Income (SSI)--A means tested program run by the Social Security Administration.]

(54) [(61)] System for Award Management (SAM)--Combined federal database that includes the Excluded Parties List System (EPLS).

(55) [(62)] Systematic Alien Verification for Entitlements (SAVE)--Automated intergovernmental database that allows authorized users to verify the immigration status of applicants.

[(63) Texas Administrative Code (TAC)--A compilation of all state agency rules in Texas.]

(56) [(64)] Texas Grant Management Standards (TxGMS) and Uniform Assurances--The standardized set of financial management procedures and Assurances established by Tex. Gov't Code Chapter 783 for Contracts executed on or after January 1, 2022, and as further described in Chapter 1 Subchapter D of this title (relating to Uniform Guidance for Recipients of Federal and State Funds). [The term "Assurance" refers to a statement of compliance with federal or state law that is required of a local government as a condition for the receipt Contract funds to promote the efficient use of public funds in local government and in programs requiring cooperation among local, state, and Federal agencies. This includes all Public Organizations.] In addition, Tex. Gov't Code Chapter 2105, subjects Subrecipients of federal block grants (as defined therein) to the Texas Grant Management Standards and Uniform Assurances.

(57) [(65)] Uniform Grant Management Standards (UGMS)--The standardized set of financial management procedures and definitions established by Tex. Gov't Code Chapter 783 for Contracts executed before January 1, 2022, to promote the efficient use of public funds by requiring consistency among grantor agencies in their dealings with grantees, and by ensuring accountability for the expenditure of public funds. State agencies are required to adhere to these standards when administering grants and other financial assistance agreements with cities, counties and other political subdivisions of the state. This includes all Public Organizations. In addition, Tex. Gov't Code Chapter 2105, subjects Subrecipients of federal block grants (as defined therein) to the Uniform Grant and Contract Management Standards.

[(66) United States Code (U.S.C.)--A consolidation and codification by subject matter of the general and permanent laws of the United States.]

(58) [(67)] Unqualified Alien--A person that is not a U.S. Citizen, U.S. National, or a Qualified Alien.

(59) [(68)] Vendor Agreement--An agreement between the Subrecipient and energy vendors that contains assurances regarding fair billing practices, delivery procedures, and pricing for business transactions involving LIHEAP beneficiaries.

(60) [(69)] Vulnerable Populations--Elderly persons, Persons with a Disability, and Households with a Child at or below the age of five.

(61) [(70)] Weatherization Assistance Program (WAP)--DOE and LIHEAP funded program. [designed to reduce the energy cost burden of Low Income Households through the installation of energy efficient weatherization materials and education in energy use.]

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

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Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
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For further information, please call: (512) 475-3959

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CHAPTER 8. PROJECT RENTAL ASSISTANCE PROGRAM RULE

10 TAC §§8.1 - 8.6

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of 10 TAC Chapter 8, Project Rental Assistance (PRA) Program Rule. 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. GOV'T 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 Section 811 PRA 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 workload 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 811 PRA 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. GOV'T 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. GOV'T 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. GOV'T 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. GOV'T 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 reflects current policies. There will be no 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 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 June 19, 2026, to July 20, 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, July 20, 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.

§8.1. Purpose.
§8.2. Definitions.
§8.3. Participation as a Proposed Development.
§8.4. Qualification Requirements for Existing Developments.
§8.5. Disposition of Conflicts with other Department Rules.
§8.6. Program Regulations and 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 June 4, 2026.

TRD-202602295
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Earliest possible date of adoption: July 19, 2026
For further information, please call: (512) 475-3959

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10 TAC §§8.1 - 8.6

The Texas Department of Housing and Community Affairs (the Department) proposes new 10 TAC Chapter 8, 811 PRA Program Rule, §§8.1 - 8.6. The purpose of the proposed new rule is to make changes that will update the policies of the 811 Project

Rental Assistance (PRA) Program. Some of the sections of this chapter had not been updated in four years and this action refreshes the policies to bring them up to date with current practices. Changes being made include removing reference to outdated materials or regulations; removing reference to Historically Underutilized Businesses; updating requirements for Existing Developments primarily to update time periods (for instance, as it relates to the age of a prior award this was updated from 2002 to 2012); removing redundancies; and adding clarifications to improve readability.

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. 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 policies that govern the 811 PRA 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 workload to a degree that eliminates any existing employee positions.

3. The new rule does 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 811 PRA Program. The beneficiaries of this program are individual households residing at multifamily properties in major metropolitan areas, 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 rental assistance provided to specific properties housing individual households in specific metropolitan areas. 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 rule is in effect, the public benefit anticipated as a result of the proposed new rule will be a more updated rule reflecting transparent policies. There will be no economic cost to any individuals required to comply with the proposed new rule because the activities described by the rule have 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 rule is in effect, enforcing or administering the new rule 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 June 19, 2026, to July 20, 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, July 20, 2026.

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

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

§8.1. Purpose.

The purpose of the Section 811 Project Rental Assistance Program (811 PRA Program) is to provide federally funded project-based rental assistance to participating multifamily properties on behalf of extremely

low-income persons with disabilities linked with long term services provided through a formalized partnership with other state of Texas agencies that provide health and human services.

§8.2. Definitions.

Terms defined in this chapter apply to the 811 PRA Program administered by the Department. Any capitalized terms not specifically mentioned in this section or any section referenced in this document shall have the meaning ascribed to them in or for the purposes of the Program Requirements or in Chapters 1, 2, 10, or 11 of the Texas Administrative Code, as applicable.

(1) Assisted Units--Rental units made available to or occupied by an Eligible Tenant in Eligible Multifamily Properties receiving assistance under 42 U.S.C. §8013(b)(3)(A).

(2) Contract Rent--The total amount of rent specified in the Rental Assistance Contract (RAC) as payable to the Owner for the Assisted Unit.

(3) Cooperative Agreement--The Section 811 Project Rental Assistance Program Cooperative Agreement including all exhibits and attachments thereto, by and between the Department as "Grantee" and HUD, entered into as a condition to and in consideration of the Department's participation in the Section 811 Project Rental Assistance Program.

(4) Eligible Applicant--An Extremely Low-Income Person with Disabilities, between the ages of 18 and 61 and who meets the requirements of the Target Population, and Extremely Low Income Families, which includes at least one Person with a Disability, who is between the ages of 18 and 61 and who meets the requirements of the Target Population, at the time of referral. The Person with a Disability must be eligible for community-based, long-term care services as provided through Medicaid waivers, Medicaid state plan options, comparable state funded services or other appropriate services related to the type of disability(ies) targeted under the Inter-Agency Partnership Agreement.

(5) Eligible Families or Eligible Family--Shall have the same meaning as Eligible Tenant.

(6) Eligible Multifamily Property or Eligible Multifamily Properties--Any new or existing property owned by a private or public nonprofit, or for-profit entity with at least five (5) housing units and as specifically identified in a Participation Agreement.

(7) Eligible Tenant--An Eligible Applicant, also referred to as an Eligible Family, who is being referred to available Assisted Units in accordance with the Inter-Agency Partnership Agreement and for whom community-based, long-term care services are available at the time of referral. Such services are voluntary; referral shall not be based on willingness to accept such services. Eligible Tenant also means an Extremely Low-Income Person with a Disability, between the ages of 18 and 61 at the time of referral, who meets the requirements of the Target Population and Extremely Low-Income Families, which includes at least one Person with a Disability, who is between the ages of 18 and 61 at the time of admission and who meets the requirements of the Target Population.

(8) Enterprise Income Verification System (EIV)--A HUD web-based application which provides Owners with employment, unemployment and Social Security benefit information for tenants participating in U.S. Department of Housing and Urban Development assisted housing programs.

(9) Existing Development--For purposes of 811 PRA Program participation, an awarded property within the Department's Multifamily Program portfolio that is not actively applying for a multifamily award at the time, and is being considered to serve as the Eligible Multifamily Property for 811 Program purposes as part of an Applicant's or an Affiliate's current multifamily application.

(10) Extremely Low-Income--A household whose annual income does not exceed 30% of the median income for the area, as determined by HUD's Extremely-Low Income Limit: families whose incomes do not exceed the higher of the Federal Poverty Level; or 30% of Area Median Income, as determined by HUD, with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 30% of the median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes. HUD's income exclusions, as defined under 24 CFR §5.609 (as amended), apply in determining income eligibility and Eligible Tenant's rent.

(11) HUD--The U. S. Department of Housing and Urban Development.

(12) Inter-Agency Partnership Agreement--The Inter-Agency Partnership Agreement between TDHCA and State Health and Human Services Medicaid Agency(ies) including the Department of Family Protective Services that provides a formal structure for collaboration in implementation of TDHCA's 811 PRA Program to provide housing for Extremely Low-Income Persons with Disabilities.

(13) Multifamily Rules--Chapters 10, 11, 12, and/or 13 of this Title, as applicable.

(14) Owner--The entity that owns the Eligible Multifamily Property. Additionally, Owner means the entity named as such in the Property Agreement, its successors, and assigns.

(15) Participation Agreement--(Also known as Property Agreement) Agreement to be executed by the Owner and the Department reflecting the agreement of participation in the 811 PRA Program with regards to a given number of assisted housing units on a certain multifamily rental housing property.

(16) Person with Disability or Persons with Disabilities--Shall have the same meaning as defined under 42 U.S.C. §8013(k)(2) and 24 CFR §891.305.

(17) 811 PRA Program--The Department's Section 811 Project Rental Assistance Program under Section 811 of the Cranston-Gonzales National Affordable Housing Act (42 U.S.C. §8013(b)(3)(A)), as amended by the Frank Melville Supportive Housing Investment Act of 2010 (Public Law 111-374) designed to provide permanent supportive housing for Extremely Low-Income persons with disabilities receiving long term supports and services in the community.

(18) Program Requirements--Means but is not limited to: the Participation Agreement; Tex. Gov't Code Ann. Chapter 2306; the applicable state program rules under Title 10, Chapters 1, 2, and 8 of the Texas Administrative Code;; the Cooperative Agreement; HUD Notice 2013-24 issued on August 23, 2013; Section 811 of the Cranston-Gonzales National Affordable Housing Act (42 U.S.C. §8013(b)(3)(A)), as amended by the Frank Melville Supportive Housing Act of 2010 (Public Law 111-374; Consolidated and Further Continuing Appropriations Act of 2012 (Public Law 112-55); Notice of Funding Availability (NOFA) for Fiscal Year 2012 Section 811 Project Rental Assistance Program published on May 15, 2012; NOFA for Fiscal Year 2013 Section 811 Project Rental Assistance Program published on March 4, 2014; NOFA for Fiscal Year 2019 Project Rental Assistance Section 811 Program for Persons with Disabilities published on October 8, 2019; Notice of Funding Opportunity (NOFO) for Fiscal Year 2023 published on October 12, 2023; and Technical Corrections to any preceding NOFAs or NOFO; and all laws applicable to the Program.

(19) Proposed Development--The Development proposed to be awarded funds or an allocation as part of a Multifamily application.

(20) Rental Assistance Contract (RAC)--The HUD contract (form HUD-92235-PRA and form HUD-92237-PRA) by and between the Department and the Owner of the Eligible Multifamily Property which sets forth additional terms, conditions and duties of the Parties with respect to the Eligible Multifamily Property and the Assisted Units.

(21) Rental Assistance Payments--The payment made by the Department to Owners as provided in the Rental Assistance Contract. Where the Assisted Units are leased to an Eligible Tenant, the payment is the difference between the Contract Rent and the Tenant Rent. An additional payment is made to the Eligible Tenant when the Utility Allowance is greater than the Total Tenant Payment. A vacancy payment may be made to the Owner when an Assisted Unit is vacant, in accordance with the RAC and other Program Requirements.

(22) Target Population--The specific group or groups of Eligible Applicants and Eligible Tenants described in the Department's Inter-Agency Partnership Agreement who are intended to be solely served or to be prioritized under the Department's Program.

(23) Tenant Rent--The rent as defined in 24 CFR Part 5.

(24) Total Tenant Payment--The payment as defined in 24 CFR Part 5.

(25) Use Agreement--An agreement by and between the Department and Owner in the form prescribed by HUD under Exhibit 10 of the Cooperative Agreement (form HUD-92238-PRA) encumbering the Eligible Multifamily Property with restrictions and guidelines under the Program for operating Assisted Units during a minimum thirty (30) year period, to be recorded in the official public property records in the county where the Eligible Multifamily Property is located.

§8.3. Participation as a Proposed Development.

(a) To the extent that Applications under Department's rules or NOFAs allow for and/or require use of a Proposed Development to participate in the 811 PRA Program, the Proposed Development must satisfy the following criteria:

(1) Unless the Development is also proposing to use any federal funding subject to 24 CFR Part 35 or has received federal funding after September 15, 2023 that meets the current requirements in 24 CFR Part 35, the Development must not be originally constructed before 1978;

(2) The Development must be located in one of the following areas: Austin-Round Rock MSA, Brownsville-Harlingen MSA, Corpus Christi MSA; Dallas-Fort Worth-Arlington MSA; El Paso MSA; Houston-The Woodlands-Sugar Land MSA; McAllen-Edinburg-Mission MSA; or San Antonio-New Braunfels MSA; and

(3) No new construction of structures shall be located in the mapped 500-year floodplain or in the 100-year floodplain according to FEMA's Flood Insurance Rate Maps (FIRM). Rehabilitation Developments that have previously received HUD funding or obtained HUD insurance do not have to follow subparagraphs (A) - (C) of this paragraph. Except for sites located in coastal high hazard areas (V Zones) or regulatory floodways, existing structures are eligible in these areas, but must meet the following requirements:

(A) The existing structures must be flood-proofed or must have the lowest habitable floor and utilities elevated above both the 500-year floodplain and the 100-year floodplain.

(B) The project must have an early warning system and evacuation plan that includes evacuation routing to areas outside of the applicable floodplains.

(C) Existing structures in the 100-year floodplain must obtain flood insurance under the National Insurance Program. No activities or projects located within the 100-year floodplain may be assisted in a community that is not participating in or has been suspended from the National Flood Insurance Program.

(b) The following requirements must be satisfied for the Units that participate in the 811 PRA Program. Failure for a Unit to meet these requirements does not make the entire Development ineligible, rather only those Units.

(1) Units in the Development are not eligible for Section 811 assistance if they have an existing or proposed project-based or an operating housing subsidy attached to them or if they have received any form of long-term operating subsidy within six months prior to receiving Section 811 Rental Assistance Payments.

(2) Units with an existing or proposed 62 or up age restriction are not eligible.

(3) Units with an existing or proposed limitation for persons with disabilities are not eligible. A Development having a preference for Persons with Disabilities, or a use restriction for Special Needs Populations, which could include but is not limited to Persons with Disabilities, is not a Unit limitation for purposes of this item.

(4) Units with an existing or proposed occupancy restriction for households at 30% or below are not eligible, unless there are no other Units at the Development.

(c) Developments cannot exceed the integration requirements of the Department and HUD. Properties that are exempt from §1.15 of this title (relating to the Department's Integrated Housing Rule) are not exempt from HUD's Integration Requirement maximum of 25%. The maximum number of units a Development can exclusively set aside or have an occupancy preference for persons with disabilities, including Section 811 PRA units is 25% of the total units in the Eligible Multifamily Property.

(d) Section 811 PRA units must be dispersed throughout the Development.

§8.4. Qualification Requirements for Existing Developments.

Eligible Existing Developments must meet all of the requirements in §8.3 of this chapter (relating to Participation as a Proposed Development). In addition, the Existing Development must meet the following requirements:

(1) The Development received an award (tax credit, direct loan, etc.) under a Department administered program in or after 2012, or has been otherwise approved by the Department in writing;

(2) The Development has at least 5 housing units;

(3) For Developments that were placed in service on or before January 1, 2024, the most current vacancy report as reflected in CMTS evidences that the Development maintained at least 85% physical occupancy for a period of at least 3 consecutive months;

(4) For Developments that have received a UPCS inspection, the Development received a UPCS score of at least 80 on its most recent Department REAC inspection and all compliance issues associated with that inspection have been resolved; or for Developments whose most recent Department inspection is an NSPIRE inspection, the Development must have received a NSPIRE score of at least 75 and all compliance issues associated with that inspection must have been resolved;

(5) The Development is operating in accordance with the accessibility requirements of Section 504, the Rehabilitation Act of 1973 (29 U.S.C. Section 794), as specified under 24 C.F.R. Part 8, Subpart C, or operating under the 2010 ADA standards with the exceptions listed in "Nondiscrimination on the Basis of Disability in Federally Assisted Programs and Activities" *Federal Register* 79 FR 29671; and

(6) The Development is not Transitional Housing as defined in Chapter 11 of this title.

§8.5. Disposition of Conflicts with Other Department Rules.

To the extent that any conflicts arise between this rule and the rules provided in the Multifamily Rules for the 811 Units, the federal requirements for the 811 Units will prevail, after which the requirements of the other Multifamily Rules will take precedence over this chapter.

§8.6. Program Regulations and Requirements.

(a) Participation in the 811 PRA Program may be incentivized through the Department's Rules and NOFAs. Once committed to participate in the 811 PRA Program in a submitted Multifamily Application, a Development must not accept a fund source that would prevent it from participating in the 811 PRA Program.

(b) An Existing Development that is already participating in the 811 PRA Program is eligible to have an additional commitment of 811 PRA Units as long as the integrated housing requirements as noted in §8.3(c) of this chapter (relating to Participation as a Proposed Development) are not violated.

(c) The types (e.g., accessible, one bedroom, first floor, etc.) and the specific number of Assisted Units (e.g., units 101, 201, etc.) will be "floating" (flexible) and dependent on the needs of the Department and the availability of the Assisted Units on the Eligible Multifamily Property.

(d) Occupancy Requirements. Owner is required to follow all applicable Program Requirements including but not limited to the following occupancy requirements found in HUD Handbook 4350.3 REV-1 and all applicable HUD Housing Notices as amended or superseded from time to time.

(e) Use Agreements. The Owner must execute the Use Agreement at the execution of the RAC and comply with the following:

(1) Use Agreement must be properly recorded according to local laws in the official public records on the Eligible Multifamily Property. The Owner shall provide to the Department within 30 days of its receipt of the recorded Use Agreement, a copy of the executed, recorded Use Agreement.

(2) From the date the Property Agreement is entered into, the Owner shall not enter into any future use agreements or other subsidy programs that would diminish the number of Assisted Units that can be placed on the Eligible Multifamily Property.

(3) The Department will enforce the provisions of the Use Agreement and RAC consistent with HUD's internal control and fraud monitoring requirements.

(f) TRACS & EIV, Reporting, Tenant Certifications and Compliance.

(1) TRACS & EIV Systems. The Owner shall have appropriate methods to access the Tenant Rental Assistance Certification System (TRACS) and the EIV System. The Owner shall be responsible for ensuring Program information is entered into these systems. TRACS is the only system by which an Eligible Multifamily Property can request Project Rental Assistance payments.

(2) Tenant Certification. The Owner shall transmit Eligible Tenant's certification and recertification data, transmit voucher data, and communicate errors electronically in a form consistent with HUD reporting requirements for HUD Secure Systems.

(3) Compliance Reviews. The Department's Compliance Division will conduct a monitoring review in conjunction with the review of any other Department administered housing program layered with the Development. If the Development is layered with Housing Tax Credits and has exceeded the 15-year Federal Compliance Period, monitoring reviews of the Program will still be conducted at least every three years.

(4) The Department will review the Property's Tenant Selection Plan and Criteria, as defined by and in accordance with §10.802 of this chapter (relating to Written Policies and Procedures).

(g) Tenant Selection and Screening.

(1) Target Population. The Department will screen Eligible Applicants for compliance with the Department's Target Population criteria and do an initial screening for Program Requirements. The Inter-Agency Partnership Agreement describes the specific Target Populations eligible for the Department's Program. The Target Populations may be revised, with HUD approval.

(2) Tenant Eligibility and Selection. The Owner is responsible for the ultimate eligibility determination and selection of an Eligible Tenant and will comply with the following:

(A) The Owner must accept referrals of an Eligible Tenant from the Department and retain copies of all applications received. The Owner is responsible for notifying the prospective Eligible Tenant and the Department in writing regarding any denial of a prospective Eligible Tenant's application to an Eligible Multifamily Property and the reason for said denial. In the notice of denial, the Owner is responsible for notifying the Eligible Tenant of the right to dispute a denial, as outlined in HUD Handbook 4350.3. The results of the dispute must be sent to the Eligible Tenant and the Department in writing.

(B) The Owner is responsible for determining the age of the qualifying member of the Eligible Families. The Eligible Family member must be at least 18 years of age and under the age of 62 at the time of referral.

(C) The Owner is responsible for criminal background screening as required by HUD Handbook 4350.3.

(D) Verification of Income, Assets, and Deductions. The Owner is responsible for determining income of Eligible Families. The Owner shall verify income through the Enterprise Income Verification (EIV) System per HUD Handbook 4350.3 and HUD Notices. The Owner must certify an Eligible Tenant and Eligible Families at least annually and verify their income. Use of the EIV system as third party verification is not acceptable for the Housing Tax Credit or Multifamily Direct Loan Program.

(h) Rental Assistance Contracts.

(1) Applicability. If requested by the Department, the Owner shall enter into a RAC. Not all properties with an Owner Participation Agreement will have a RAC, but when notified by the Department, the Eligible Multifamily Property must enter into a RAC(s) and begin serving referred Eligible Applicants.

(2) Notice. The Department will provide written notice to the Owner if and when it intends to enter into a RAC with the Owner.

(3) Assisted Units. The Department will determine the number of Units (up to the maximum listed in the Property Agreement) to place in the RAC(s) which may be fewer than the number of Units identified in the Property Agreement.

(4) The Department will designate the bedroom composition of the Assisted Units, as required by the RAC. However, based on an actual Eligible Tenant, bedroom composition may fluctuate.

(5) If no additional applicants are referred to the Development, the Department may begin a RAC amendment to reduce the number of Assisted Units. An Owner who has an amended, executed RAC must continue to notify the Department of units that become vacant that are committed under the Agreement.

(6) Amendments. The Owner agrees to amend the RAC(s) upon request of the Department. Some examples of such requests are amendments that may either increase or decrease the total number of Assisted Units or increase or decrease the associated bedroom sizes. Multiple amendments to the RAC may occur over time. The total number of Assisted Units in the RAC will not exceed the number of Assisted Units committed in the Participation Agreement, unless by request of the Owner.

(7) Contract Term. The Department will specify the effective date of the RAC. During the first year of the RAC and with approval from HUD, the Owner may request to align the anniversary date of the RAC with existing federal or state housing programs layered on the Eligible Multifamily Property.

(8) Rent Increase. Owners must submit a written request to the Department 30 days prior to the anniversary date of the RAC to request an annual increase.

(9) Utility Allowance. The RAC will identify the Department approved Utility Allowance used for the Assisted Units for the Eligible Multifamily Property. The Owner must notify the Department if there are changes to the Utility Allowance calculation methodology being used.

(10) Termination. Although the Department has discretion to terminate a RAC due to good cause, an Owner cannot opt-out of a RAC.

(11) Transfer of Eligible Multifamily Property. The RAC survives a foreclosure, assignment, sale in lieu of foreclosure, or sale of the Eligible Multifamily Property, to the extent allowed by law. Additionally:

(A) The RAC shall be assigned to new owner by contractual agreement or by the new owner's consent to comply with the RAC, or both as applicable;

(B) Rental Assistance Payments will continue uninterrupted in accordance with the terms of the RAC; and

(C) Voluntary and involuntary transfers or conveyances of property must adhere to the ownership transfer process in §10.406 of this title (relating to Ownership Transfers (§2306.6713)).

(i) Advertising and Affirmative Marketing.

(2) Affirmative Marketing. The Department and its service partners are responsible for affirmatively marketing the Program to Eligible Applicants in accordance with HUD's requirements.

(3) At any time, the Department may choose to advertise the Eligible Multifamily Property, even if the Eligible Multifamily Property has not yet entered into a RAC.

(j) Leasing Activities.

(1) Segregation of Assisted Units. The Owner must take actions or adopt procedures to ensure that the Assisted Units are not segregated to one area of a building (such as on a particular floor or part of a floor in a building) or in certain sections within the Eligible Multifamily Property.

(2) Form of Lease. The Owner will use the HUD Section 811 PRA Model Lease (HUD-92236-PRA), Exhibit 11 of the Cooperative Agreement and any Department approved Addendums, for all Eligible Families once a RAC is signed. The initial lease will be for not less than one year.

(3) Communication. Owners are required to document in writing all communication between the Eligible Tenant and the Owner, or Owner-designated agent regarding applications, notifications, evictions, complaints, non-renewals and move outs.

(4) Lease Renewals and Changes. The Owner must notify the Department of renewals of leases with Eligible Families and any changes to the terms of the lease.

(5) Development Policies. Upon the execution of the RAC, the Owner is required to submit to the Section 811 Program Administrator for review the following Development Policies: Tenant Selection Plan (which also must be in compliance with 10 TAC §10.802 relating to Written Policies and Procedures), House Rules, EIV Policies and Termination Notices. Owner must provide updates to the Department whenever they are revised, and must self-certify against a provided checklist that they remain compliant. Review by the Department may be based on sampling or risk-based. Notification of review and any noncompliance will be submitted to the Compliance Division for issuance through the Compliance Monitoring and Tracking System (CMTS). The Owner will have 90 days to correct any noncompliance, unless a shorter period is required federally or for health and safety reasons.

(k) Rent.

(1) Tenant Rent Payment. The Owner will determine the Tenant Rent payment of the Eligible Tenant, based on HUD Handbook 4350.3 and HUD Notices, and is responsible for collecting the Tenant Rent payment.

(2) Utility Reimbursement. The Owner is responsible for remitting any Tenant Rent payment due to the Eligible Tenant if the Utility Allowance exceeds the Total Tenant Payment no later than the 5th day of each month, beginning 30 days after initial move in.

(3) Rent Increase. Owner must provide the Eligible Tenant with at least 30 days notice before increasing rent, in accordance with HUD Handbook 4350.3.

(4) Rent Restrictions. Owner will comply with the following rent restrictions:

(A) If a Unit at the Development has a Department enforced rent restriction that is equal to or lower than Fair Market Rent (FMR), the initial rent is the maximum Department enforced rent restriction for that Unit, not to exceed the 60% Area Median Family Income limit.

(B) If there is no existing Department enforced rent restriction on the Unit, or the existing Department enforced rent restriction is higher than FMR, the Department will work with the Owner to conduct a market analysis of the Eligible Multifamily Property to support that a rent higher than FMR is attainable.

(C) After the signing of the original RAC, upon request from the Owner to the Department, Rents may be adjusted on the anniversary date of the RAC.

(D) Adjustments may not result in higher rents charged for an Assisted Unit as compared to a non-assisted unit. The calculation or methodology used for the annual increase amount will be identified in the Eligible Multifamily Property's RAC.

(E) Owner can submit a request for a rent increase or to change the contract anniversary date using HUD Form 92458.

(l) Vacancy; Household Changes; Transfers; Eviction.

(1) Holding Assisted Units. Once an Owner signs a RAC, the Eligible Multifamily Property must hold an available Assisted Unit for 60 days from when the Owner notifies the Department of the available Unit while a qualified Eligible Applicant is referred by the Department and the applicant applies for and moves into the Assisted Unit.

(2) Notification. Owner will notify the Department of determination of ineligibility or the termination of any participating Eligible Families or any member of a participating Eligible Family.

(3) Initial Lease-up. Owners of a newly constructed, acquired and/or rehabilitated Eligible Multifamily Property must notify the Department no later than 180 days before the Eligible Multifamily Property will be available for initial move-in. Failure to reserve the agreed upon number of Assisted Units for Eligible Families will be cited as noncompliance, be referred for administrative penalties, and be considered possible grounds for Debarment.

(4) Vacancy. Upon execution of the RAC, the Owner must notify the Department of any vacancy of an Assisted Unit at the Eligible Multifamily Property as soon as possible, not to exceed seven calendar days from when the Owner becomes aware of the eligible Unit availability. Once the Department acknowledges receipt of the notice, the Department will notify the Owner within three business days if the Unit is acceptable and submit a referral. If the qualifying Eligible Tenant vacates the Assisted Unit, the Department will determine if the remaining family member(s) is eligible for continued assistance from the Program.

(5) Vacancy Payment. The Department may provide vacancy payments that cannot exceed 80% of the Contract Rent for up to 60 days from the effective date of the RAC. After the 60 days, the Owner may lease the Assisted Unit to a non-Eligible Tenant. Developments without an executed RAC are not eligible for vacancy payments.

(6) Household Changes. Owner will notify the Department of any changes in family composition in an Assisted Unit within three business days. If the change results in the Assisted Unit being smaller or larger than is appropriate for the Eligible Family size, the Owner must refer to the Department's written policies regarding family size, unit transfers and waitlist management. If the Department discovers the Eligible Family is ineligible for the size of the Assisted Unit, the Owner will be notified but Rental Assistance Payments will not be reduced or terminated until the Eligible Family can be transferred to an appropriate sized Assisted Unit.

(7) Transfers. Owner must notify the Department if the Eligible Family requests a transfer to another Assisted Unit within the Development. The Department will determine if the Eligible Family qualifies for the unit transfer, if the new Unit is eligible as an Assisted Unit and then notify the Owner. If the Department determines the Eligible Family is ineligible for the size of the Assisted Unit, the Department will notify the Owner and Rental Assistance Payments will not be reduced or terminated until the Eligible Family can be transferred to an appropriate sized Assisted Unit.

(8) Notice to Vacate and Nonrenewal. Owners are required to notify the Department at least three calendar days prior to issuing a Notice to Vacate or a Notice of Non-Renewal to the Eligible Family. Notices must be in compliance with HUD Handbook 4350.3 8-13(B)(2) and HUD Notices. A copy of the applicable Notice must be submitted via email to 811info@tdhca.texas.gov.

(A) Owner is required to notify the Department within seven calendar days of when the Development is notified that the Eligible Family will vacate or in the event that the Eligible Family vacates without notice, upon discovery that the Assisted Unit is vacant. Notification of vacancy must be submitted to 811info@tdhca.texas.gov.

(B) Upon move out, Owner must submit a move out disposition to the Department to ensure proper processing of the security deposit per HUD Handbook 4350.3 6-18.

(m) Construction Standards, Inspections, Repair and Maintenance, and Accessibility.

(1) Construction Standards. Upon execution of a RAC, the Eligible Multifamily Property shall be required to conform to National Standards for the Physical Standards of Real Estate (NSPIRE) which are uniform national standards established by HUD for housing that is decent, safe, sanitary, and in good repair. The site, building exterior, building systems, dwelling units and common areas of the Eligible Multifamily Property, as more specifically described in 24 CFR §5.703, must be inspected in any physical inspection of the property.

(2) Inspection. Prior to occupancy, the Eligible Tenant must be given the opportunity to be present for the move-in unit inspection.

(3) Repair and Maintenance. Owner will perform all repair and maintenance functions, including ordinary and extraordinary maintenance; will replace capital items; and will maintain the premises and equipment, appurtenant thereto, in good repair, safe and sanitary condition consistent with HUD and Department requirements.

(4) Accessibility. Owner must ensure that the Eligible Multifamily Property meets or exceeds the accessibility requirements under 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973; the Fair Housing Act Design Manual; Titles II and III of the Americans with Disabilities Act (42 U.S.C. §§12131 - 12189), as implemented by the U.S. Department of Justice regulations at 28 CFR Parts 35 and 36; and the Federal Fair Housing Act as implemented by HUD at 24 CFR Part 100. However, Assisted Units can consist of a mix of accessible units for those persons with physical disabilities and non-accessible units for those persons without physical disabilities.

(n) Owner Training. The Owner is required to train all property management staff engaging with Eligible Families on the requirements of the Program. Owner training must include, but is not limited to, the HUD Handbook 4350.3 and the information provided on the Department's 811 Program webpage..

(o) Reporting Requirements. Owner shall submit to the Department such reports on the operation and performance of the Program as required by the Participation Agreement and as may be required by the Department. Owner shall provide the Department with all reports necessary for the Department's compliance with 24 CFR Part 5, or any other federal or state law or regulation.

(p) Environmental Laws and Regulations.

(1) Compliance with Laws and Regulations. Owner must comply with, as applicable, any federal, state, or local law, statute, ordinance, or regulation, whether now or hereafter in effect, pertaining to health, industrial hygiene, or the environmental conditions on, under, or about the Land or the Improvements.

(2) Environmental Review. The environmental effects of each activity carried out with funds provided under this Agreement must be assessed in accordance with the provisions of the Program Requirements, National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. §432 et seq.). Each such activity must have an environmental

review completed and support documentation prepared in accordance with §11.305 of this title (relating to complying with the NEPA, including screening for vapor encroachment following American Society for Testing and Materials (ASTM) 2600-10.

(q) Labor Standards.

(1) Every contract for the construction (rehabilitation, adaptive reuse, or new construction) of housing that includes 12 or more units assisted with Program funds must contain provisions in accordance with Davis-Bacon Regulations.

(2) Every contract involving the employment of mechanics and laborers of said construction shall be subject to the provisions, as applicable, of the Contract Work Hours and Safety Standards Act, as amended (40 U.S.C. §§3701 to 3708), Copeland (Anti-Kickback) Act (40 U.S.C. §3145), the Fair Labor Standards Act of 1938, as amended (29 U.S.C. §201, et seq.) and Davis-Bacon and Related Acts (40 U.S.C. §§3141 - 3148).

(3) If more housing units are constructed than the anticipated 11 or fewer housing units, it is the Owner's responsibility to ensure that all the housing units will comply with these federal labor standards and requirements under the Davis-Bacon Act as supplemented by the U.S. Department of Labor regulations ("Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction" at 29 CFR Part 5).

(4) Structuring the proposed assistance for the rehabilitation or construction of housing under this Agreement to avoid the applicability of the Davis-Bacon Act is prohibited.

(5) Construction contractors and subcontractors must comply with regulations issued under federal laws, regulations pertaining to labor standards, including but not limited to "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction" at 29 CFR Part 5, HUD Federal Labor Provisions (HUD form 4010).

(r) Lead-Based Paint. Housing assisted with Program funds is subject to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4821 - 4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. §§4851 - 4856), and implementing regulations Title X of the 1992 Housing and Community Development Act at 24 CFR Part 35, (including subparts A, B, J, K, M and R). Owner shall also comply with the Lead: Renovation, Repair, and Painting Program Final Rule, 40 CFR Part 745 and Response to Children with Environmental Intervention Blood Lead Levels. Failure to comply with the lead-based paint requirements may be subject to sanctions and penalties pursuant to 24 CFR §35.170.

(s) Limited English Proficiency. The Owner must take reasonable steps to ensure that persons with Limited English Proficiency have meaningful access to the program and activities. Meaningful access may entail providing language assistance services, including oral and written translation, where necessary.

(t) Procurement of Recovered Materials. Owner, its subrecipients, and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired by the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

(u) Drug-Free Workplace. Owner will follow the Drug-Free Workplace Act of 1988 (41 U.S.C §701, et seq.) and HUD's implementing regulations at 2 CFR Part 2429. Owner affirms by executing the Certification Regarding Drug-Free Workplace Requirements attached hereto as Addendum B, that it is implementing the Drug-Free Workplace Act of 1988.

(v) Fair Housing, Nondiscrimination, and Equal Access.

(1) Fair Housing Poster. The Owner is required to place a fair housing poster (HUD-928.1 and HUD-9281.A) provided by the Department in the leasing office, online, or anywhere else rental activities occur pursuant to 24 CFR §200.620(e). A copy of the poster in Spanish and in English can be found at http://www.tdhca.state.tx.us/section-811-pra/participating-agents.htm.

(2) Nondiscrimination Laws. Owner shall ensure that no person shall, on the grounds of race, color, religion, sex, disability, familial status, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any Program or activity funded in whole or in part with funds provided under this Agreement. Owner shall follow Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. §2000d et seq.), the Age Discrimination Act of 1975 (42 U.S.C. §6101 et seq.) and its implementing regulations at 24 CFR Part 146, Titles II and III of the Americans with Disabilities Act (42 U.S.C. §§12131 - 12189; 47 U.S.C. §§155, 201, 218 and 255) as implemented by U.S. Department of Justice at 28 CFR Parts 35 and 36, Section 527 of the National Housing Act (12 U.S.C. §1701z-22), the Equal Credit Opportunity Act (15 U.S.C. §1691 et seq.), the Equal Opportunity in Housing (Executive Order 11063 as amended by Executive Order 12259) and its implementing regulations at 24 CFR Part 107 and The Fair Housing Act (42 U.S.C. §3601 et seq.), as implemented by HUD at 24 CFR Part 100-115.

(3) Affirmatively Furthering Fair Housing. By Owner's execution of the Agreement and pursuant to Section 808(e)(5) of the Fair Housing Act, Owner agrees to use funds in a manner that follows the State of Texas' "Analysis of Impediments" or "Assessment of Fair Housing", as applicable and as amended, and will maintain records in this regard.

(4) Protections for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking. Subpart L of 24 CFR part 5 shall apply to the Assisted Units in Eligible Multifamily Properties.

(w) Security of Confidential Information.

(1) Systems Confidentiality Protocols. Owner must undertake customary and industry standard efforts to ensure that the systems developed and utilized under this Agreement protect the confidentiality of every Eligible Applicant's and Eligible Tenant's personal and financial information, both electronic and paper, including credit reports, whether the information is received from the Eligible Applicants, Tenants or from another source. Owner must undertake customary and industry standard efforts so that neither they nor their systems vendors disclose any Eligible Applicant's or Tenant's personal or financial information to any third party, except for authorized personnel in accordance with this Agreement.

(2) Protected Health Information. If Owner collects or receives documentation for disability, medical records or any other medical information in the course of administering the Program, Owner shall comply with the Protected Health Information state and federal laws and regulations, as applicable, under §1.24 of this title (relating to Information Security and Privacy Requirements), Chapter 181 of the Texas Health and Safety Code, the Health Insurance Portability and Ac-

countability Act of 1996 (HIPAA) (Pub. L. 104-191, 110 Stat. 1936, enacted August 21, 1996), and the HIPAA Privacy Rules (45 CFR Part 160 and Subparts A and E of 45 CFR Part 164).

(x) Real Property Acquisition and Relocation. Except as otherwise provided by federal statute, HUD-assisted programs or projects are subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act or URA) (42 U.S.C. §4601), and the government wide implementing regulations issued by the U.S. Department of Transportation at 49 CFR Part 24. The Uniform Act's protections and assistance apply to acquisitions of real property and displacements resulting from the acquisition, rehabilitation, or demolition of real property for federal or federally assisted programs or projects. With certain limited exceptions, real property acquisitions for a HUD-assisted program or project must comply with 49 CFR Part 24, Subpart B. To be exempt from the URA's acquisition policies, real property acquisitions conducted without the threat or use of eminent domain, commonly referred to as voluntary acquisitions, the Owner must satisfy the applicable requirements of 49 CFR §24.101(b)(1) - (5). Evidence of compliance with these requirements must be maintained by the Owner. The URA's relocation requirements remain applicable to any tenant who is displaced by an acquisition that meets the requirements of 49 CFR §24.101(b)(1) - (5). The relocation requirements of the Uniform Act, and its implementing regulations at 49 CFR Part 24, cover any person who moves permanently from real property or moves personal property from real property as a direct result of acquisition, rehabilitation, or demolition for a program or project receiving HUD assistance. While there are no statutory provisions for temporary relocation under the URA, the URA regulations recognize that there are circumstances where a person will not be permanently displaced but may need to be moved from a project for a short period of time. Appendix A of the URA regulation (49 CFR §24.2(a)(9)(ii)(D)) explains that any tenant who has been temporarily relocated for a period beyond one year must be contacted by the displacing agency and offered URA relocation assistance.

(y) Dispute Resolution; Conflict Management.

(1) Eligible Tenant Disputes. The Owner or Owner's representative is required to participate in a Dispute Resolution process, as required by HUD, to resolve an appeal of an Eligible Tenant dispute with the Owner.

(2) Agreement Disputes. In accordance with Tex. Gov't Code 2306.082, it is the Department's policy to encourage the use of appropriate alternative dispute resolution procedures (ADR) under the Governmental Dispute Resolution Act and the Negotiated Rulemaking Act (Chapters 2009 and 2006 respectively, Tex. Gov't Code), to assist in the fair and expeditious resolution of internal and external disputes involving the Department and the use of negotiated rulemaking procedures for the adoption of Department rules. As described in Chapter 154, Civil Practices and Remedies Code, ADR procedures include mediation. Except as prohibited by the Department's ex parte communications policy, the Department encourages informal communications between Department staff and the Owner, to exchange information and informally resolve disputes. If at any time the Owner would like to engage the Department in an ADR procedure, the Owner may send a proposal to the Department's Dispute Resolution Coordinator. For additional information on the Department's ADR policy, see the Department's Alternative Dispute Resolution and Negotiated Rulemaking at §1.17 of this title (relating to Alternative Dispute Resolution). The Department also has administrative appeals processes to fairly and expeditiously resolve the types of disputes discussed in §1.7 (relating to Appeals Process).

(3) Conflict Management. The purpose of the Conflict Management process is to address any concerns that Owner or Owner's agent or representative may have with an Eligible Family. At any time, an Eligible Family may choose to give consent to their Section 811 service coordinator to work directly with the property manager of the Eligible Multifamily Property. However, such consent cannot be made a condition of tenancy.

(z) Deadlines.

Figure: 10 TAC §8.6(z)

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 June 4, 2026.

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Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Earliest possible date of adoption: July 19, 2026
For further information, please call: (512) 475-3959

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CHAPTER 10. UNIFORM MULTIFAMILY RULES

SUBCHAPTER G. AFFIRMATIVE MARKETING REQUIREMENTS AND WRITTEN POLICIES AND PROCEDURE

10 TAC §10.801

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of 10 TAC Chapter 10, Subchapter G, §10.801 Affirmative Marketing Requirements. The purpose of the proposed repeal is to eliminate an outdated rule and replace it simultaneously with a new rule that clarifies when Affirmative Marketing Plans are required and reduces administrative burden on the Department and some development owners.

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.

1. Mr. Robert Wilkinson has determined that, for the first five years the repeal would be in effect:

2. The repeal does not create or eliminate a government program but relates to changes to an existing activity: the affirmative marketing requirements associated with developments in the Department's portfolio.

3. The repeal does not require a change in work that creates new employee positions, nor does it create savings that would allow for a reduction in employee positions.

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

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

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

7. The repeal is not considered to expand an existing regulation.

8. The repeal does not increase the number of individuals subject to the rule's applicability.

9. The repeal 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 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. GOV'T CODE §2007.043. The repeal 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 repeal as to its possible effects on local economies and has determined that for the first five years the 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 repeal is in effect, the public benefit anticipated as a result of the changed sections would be an updated and more germane rule. 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 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 of the rule. The public comment period will be held June 19, 2026 to July 20, 2026, to receive input on the proposed action. 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 Jeremy.stremler@tdhca.texas.gov. ALL COMMENTS AND INFORMATION MUST BE RECEIVED BY 5:00 p.m. Central Daylight Time July 20, 2026.

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

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

§10.801. Affirmative Marketing 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 June 4, 2026.

TRD-202602297

Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
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For further information, please call: (512) 475-3959

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10 TAC §10.801

The Texas Department of Housing and Community Affairs (the Department) proposes new 10 TAC Chapter 10, Subchapter G, §10.801 Affirmative Marketing Requirements. The purpose of the proposed new section is to clarify when Affirmative Marketing Plans are required and to reduce administrative burden on the Department and some development owners.

Tex. Gov't Code §2001.0045(b) does not apply to the proposed rule because there are no additional costs associated with this action. No additional funds will be needed to implement this rule.

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

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

Mr. Robert Wilkinson has determined that, for the first five years the new sections would be in effect:

1. The rule does not create or eliminate a government program but relates to changes to an existing activity: the affirmative marketing requirements associated with Developments in the Department's portfolio.

2. The rule does not require a change in work that creates new employee positions, nor does it create savings that would allow for a reduction in employee positions.

3. The rule will not require additional future legislative appropriations.

4. The 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 rule is not creating a new regulation.

6. The rule does expand on an existing regulation.

7. The rule does not increase the number of individuals subject to the rule's applicability.

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

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 new section and determined that it will not create an economic effect on small or micro-businesses or rural communities.

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

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

The Department has evaluated the new section as to its possible effects on local economies and has determined that for the first five years the new 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.

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 would be a rule compliant with the federal regulations for the HOME Program. There will not be economic costs to individuals required to comply with the new section.

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 sections will have no economic costs.

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 from June 19, 2026 to July 20, 2026. 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 by email to Jeremy.stremler@tdhca.texas.gov. ALL COMMENTS AND INFORMATION MUST BE RECEIVED BY 5:00 p.m. Central Daylight Time, July 20, 2026.

STATUTORY AUTHORITY. The rule action 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.

§10.801. Affirmative Marketing Requirements.

(a) Applicability. Compliance with this section is required for all federally or state- funded Developments with five or more total units to further the objectives of Title VIII of the Civil Rights Act of 1968. This section does not apply to the Tax Exempt Bond Program or Low Income Housing Tax Credit Program, with the following exceptions:

(1) To the extent required under the LURA;

(2) For affirmatively marketing to Persons with Disabilities; and

(3) To the extent that federal funds are in a Development's financing sources or provide operating assistance.

(b) General. A Development with five or more total Units must affirmatively market the Units to promote equal housing choice for prospective tenants, regardless of race, color, religion, sex, national origin, familial status, or disability and must develop and carry out an Affirmative Fair Housing Marketing Plan (or Affirmative Marketing Plan) to provide for marketing strategies and documentation of outreach efforts to prospective applicants identified as "least likely to apply." To determine the "least likely to apply" populations, a Development Owner is encouraged to use the TDHCA provided tool and simplified form, but at a minimum the Owner must document the method or methods used to determine which populations are least likely to apply. All Affirmative Marketing Plans must provide for affirmative marketing to Persons with Disabilities. Although not related to Affirmative Marketing requirements in this section, some Developments may be required by their LURAs to market units specifically to veterans or other populations as part of their regular marketing activities. If a Development has included veterans in the Development's Affirmative Marketing Plan it will not be cited as noncompliance the first time the Development's Affirmative Marketing Plan is reviewed, but the Development will be directed to revise the Affirmative Marketing Plan to not include this subpopulation in the plan.

(c) Plan format. A Development Owner must prepare, have in its onsite records, and submit to the Department upon request, a written Affirmative Marketing Plan. Owners are encouraged to use the simplified form provided by TDHCA on its website.

(d) Marketing and Outreach.

(1) The plan must identify the outreach efforts to the "least likely to apply" populations through specific media, organizations, or community contacts that work with least likely to apply populations or work in areas where least likely to apply populations live. The outreach efforts identified in the Affirmative Marketing Plan must be performed by the Development at least once per calendar year.

(2) To the extent that advertisements and/or marketing materials are utilized for the Development, those materials must contain:

(A) The Fair Housing logo;

(B) The contact information for the individual who can assist if reasonable accommodations are needed in order to complete the application process; and

(C) Property contact information must be provided in both English and Spanish.

(e) Timeframes.

(1) An Owner must begin its affirmative marketing efforts for each of the identified populations least likely to apply at least six months prior to the anticipated date the first building is to be available for occupancy.

(2) Once every five years, Owners must determine if there have been any changes to the "least likely to apply" populations by utilizing the TDHCA provided tool or a written process with equivalent information. In addition, owners must determine if current advertising sources still exist, and if the outreach that has been performed is still the most applicable. If the Owner determines that the plan does not need to be updated, the backup used to make this determination must be dated and maintained and may be reviewed by Department staff during reviews of the Affirmative Marketing Plan. If there have been changes to the least likely to apply populations or if the community contacts and advertising outlets no longer exist, the plan must be updated.

(f) Recordkeeping. Owners must maintain records of each Affirmative Marketing Plan and specific outreach efforts completed for the greater of three years or the recordkeeping requirement identified in the LURA.

(g) Exception to Affirmative Marketing. If the Development has closed its waitlist, Affirmative Marketing is not required. Affirmative Marketing is required as long as the Owner is accepting applications, has an open waitlist, or is marketing prior to the building being ready for occupancy as required under subsection (e)(1) of this section.

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

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Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
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For further information, please call: (512) 475-3959

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CHAPTER 23. SINGLE FAMILY HOME PROGRAM

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of 10 TAC Chapter 23, Single Family HOME Program, Subchapter B, Availability of Funds, Application Requirements, Review and Award Procedures, General Administrative Requirements, and Resale and Recapture of Funds, §§23.20 - 23.29 and Subchapter F, Single Family Development Program, §23.60 and §23.61. The purpose of the proposed repeal is to eliminate the current rule while replacing it with a more current version of the rule.

Tex. Gov't Code §2001.0045(b) does not apply to the rule proposed for action because it was determined that 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. Robert Wilkinson, Executive Director, has determined that, for the first five years the repeal would be in effect:

1. The repeal does not create or eliminate a government program but relates to how the Department will reallocate financial assistance.

2. The repeal 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 workload to a degree that eliminates any existing employee positions.

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

4. The repeal will 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 repeal will not expand or contract the applicability of an existing regulation.

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 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 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. GOV'T CODE §2007.043. The repeal 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 repeal as to its possible effects on local economies and has determined that for the first five years the 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 repeal is in effect, the public benefit anticipated as a result of the repealed and new sections would be an updated and more germane rule. 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 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 public comment period will be held June 19, 2026, through July 20, 2026, to receive input on the proposed action. Comments may be submitted to the Texas Department of Housing and Community Affairs, Abigail Versyp at abigail.versyp@tdhca.texas.gov. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, July 20, 2026.

SUBCHAPTER B. AVAILABILITY OF FUNDS, APPLICATION REQUIREMENTS, REVIEW AND AWARD PROCEDURES, GENERAL ADMINISTRATIVE REQUIREMENTS, AND RESALE AND RECAPTURE OF FUNDS

10 TAC §§23.20 - 23.29

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 action affects no other code, article, or statute.

§23.20. Availability of Funds and Regional Allocation Formula.
§23.21. Application Forms and Materials and Deadlines.
§23.22. Application Review Process.
§23.23. General Threshold Criteria.
§23.24. Contract Benchmarks and Limitations.
§23.25. Reservation System Participant (RSP) Agreement.
§23.26. General Administrative Requirements.

§23.27. Project Cost Limitations.
§23.28. Design and Quality Requirements.
§23.29. Resale and Recapture Provisions.

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 June 4, 2026.

TRD-202602305
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Earliest possible date of adoption: July 19, 2026
For further information, please call: (512) 475-3959

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SUBCHAPTER F. SINGLE FAMILY DEVELOPMENT PROGRAM

10 TAC §23.60, §23.61

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 action affects no other code, article, or statute.

§23.60. Single Family Development (SFD) General Requirements.
§23.61. Single Family Development (SFD) Administrative 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 June 4, 2026.

TRD-202602306
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Earliest possible date of adoption: July 19, 2026
For further information, please call: (512) 475-3959

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CHAPTER 23. SINGLE FAMILY HOME PROGRAM

The Texas Department of Housing and Community Affairs (the Department) proposes new 10 TAC Chapter 23, Single Family HOME Program, Subchapter B, Availability of Funds, Application Requirements, Review and Award Procedures, General Administrative Requirements, and Resale and Recapture of Funds, §§23.20 - 23.29 and Subchapter F, Single Family Development Program, §§23.60 - 23.61. The purpose of the proposed rules is to make clarifying updates, to update threshold requirements for necessary cash reserves to operate HOME Program activities, and to update the requirements for the Single Family Development Program to reduce administrative burden and align with existing loan closing procedures.

Tex. Gov't Code §2001.0045(b) does not apply to the rules proposed for action because it was determined that no costs are associated with this action, and therefore no costs warrant being offset. While the requirements for cash reserves are increased, these reserves are utilized to pay costs temporarily prior to reimbursement by the Department.

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. Robert Wilkinson has determined that, for the first five years the new section would be in effect:

1. The new sections do not create or eliminate a government program but relates to how the Department will reallocate financial assistance.

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

3. The new sections do not require additional future legislative appropriations.

4. The new sections 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 sections do not create a new regulation, except that it is replacing a section being repealed simultaneously to provide for revisions.

6. The new sections will not expand or contract an existing regulation.

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

8. The new sections 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 new section and determined that the action 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 new 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 new section as to its possible effect on local economies and has determined that for the first five years the new 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 rules.

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 would be an updated and clearer rules. There will not be economic costs to individuals required to comply with the new 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 new rules are in effect, enforcing or administering the rules do 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 action 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 rules action or any other interested person. The public comment period will be held June 19, 2026, through July 20, 2026, to receive input on the proposed action. Comments may be submitted to the Texas Department of Housing and Community Affairs, Abigail Versyp, ATTN: Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or by email to abigail.versyp@tdhca.texas.gov. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, July 20, 2026.

SUBCHAPTER B. AVAILABILITY OF FUNDS, APPLICATION REQUIREMENTS, REVIEW AND AWARD PROCEDURES, GENERAL ADMINISTRATIVE REQUIREMENTS, AND RESALE AND RECAPTURE OF FUNDS

10 TAC §§23.20 - 23.29

STATUTORY AUTHORITY. The proposed new sections are made 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.

§23.20. Availability of Funds and Regional Allocation Formula.

Funds made available through an open Application cycle and subject to regional allocation formula shall be made available to each region and subregion for a time period to be specified in the applicable NOFA, after which the funds remaining shall collapse and be made available statewide.

§23.21. Application Forms and Materials and Deadlines.

(a) The Department will produce an Application to satisfy the Department's requirements to be qualified to administer HOME activities. The Application will be available on the Department's website.

(b) The Department must receive all Applications by the deadline specified in the NOFA.

§23.22. Application Review Process.

(a) Contract award review process for open Application cycles. An Application received by the Department in response to an open Application cycle NOFA will be assigned a "Received Date." An Application will be prioritized for review based on its "Received Date." Application acceptance dates may be staggered under an open Application cycle to prioritize Applications which propose to serve areas identified in Tex. Gov't Code §2306.127 as priority for certain communities. An Application with outstanding administrative deficiencies under this section, may be suspended from further review until all administrative deficiencies have been cured or addressed to the Department's satisfaction. Applications that have completed the review process may be presented to the Board for approval with priority over Applications that continue to have administrative deficiencies at the time Board materials are prepared, regardless of "Received Date." If all funds available under a NOFA are awarded, all remaining Applicants will be notified and the remaining Applications will not be processed.

(b) Reservation System Participant review process. An Application for a Reservation System Participant (RSP) Agreement shall be reviewed and if approved under Chapter 1, Subchapter C of this Title, as amended or superseded, concerning Previous Participation Review of Department Awards, and not denied under this section, will be drafted and processed in the order in which it was accepted to be executed and made effective.

(c) Administrative deficiency review process. The administrative deficiency process allows staff to request that an Applicant provide clarification, correction, or non-material missing information to resolve inconsistencies in the original Application or to assist staff in evaluating the Application. Staff will request such information via a deficiency notice. Staff will send the deficiency notice via an email or if an email address is not provided in the Application, by facsimile to the Applicant. Responses must be submitted electronically to the Department. A review of the Applicant's response may reveal that issues initially identified as an administrative deficiency are actually determined to be beyond the scope of an administrative deficiency process, meaning that they are in fact matters of a material nature not susceptible to being resolved. Department staff may, in good faith, provide an Applicant confirmation that an administrative deficiency response has been received or that such response is satisfactory. Communication from staff that the response was satisfactory does not establish any entitlement to points, eligibility status, or to any presumption of having fulfilled any requirements. Final determination regarding the sufficiency of documentation submitted to cure an administrative deficiency as well as the distinction between material and non-material missing information are reserved for the Executive Director or authorized designee, and Board, as applicable.

(d) An Applicant may not change or supplement any part of an Application in any manner after submission to the Department, and may not add any set-asides, except in response to a direct request from the Department to remedy an administrative deficiency or by amendment of an Application after the Board approval of a HOME award. An administrative deficiency may not be cured if it would, in the Department's determination, substantially change an Application, or if the Applicant provides any new unrequested information to cure the deficiency.

(e) The time period for responding to a deficiency notice commences on the first day following the deficiency notice date. If an administrative deficiency is not resolved to the satisfaction of the Department by 5:00 p.m., central time, on the 14th day following the date of the deficiency notice, the application may be terminated. The Department may accept a corrected Board Resolution submitted after the deficiency deadline on the condition that the corrected Board Resolution resolves the deficiencies to the satisfaction of the Department, but the Board Resolution must be received and deemed satisfactory by the Department before the RSP Agreement or Contract start date. Applicants that have been terminated may reapply.

§23.23. General Threshold Criteria.

General Threshold. All Applicants and Applications to administer a HOME Program award from the Department must submit or comply with the following:

(1) An Applicant certification of compliance with state rules promulgated by the Department, and federal laws, rules and guidance governing the HOME Program as provided in the Application.

(2) A Resolution from the Applicant's direct governing body which includes:

(A) Authorization of the submission of the Application specifying the NOFA under which funds are requested for Contract award Applications;

(B) Commitment and amount of cash reserves, if applicable, for use during the Contract or RSP Agreement term;

(C) Source of funds for Match obligation and Match amount to be contributed as a percentage of Direct Activity Costs, if applicable;

(D) Title of the person authorized to represent the organization and who also has signature authority to execute a Contract and grant agreement or loan documents, as applicable, unless otherwise stated; and

(E) Date that the resolution was passed by the governing body, which must be within six months preceding Application submission for Reservation System Participation Agreement Applications, and no earlier than the date of the Department's Governing Board approval of the NOFA for Contract award Applications.

(3) An Applicant must be registered in the System for Award Management (SAM) and have a current Unique Entity Identification (UEID) number.

(4) Service Area. Applicants must include the Service Area proposed for the Contract or RSP Agreement for all Activity types. Administrators must state whether the Service Area is limited to only certain cities within any county in the proposed Service Area.

(A) The Service Area for TBRA must include the entire rural or urban area of a county as identified in the Application, excluding Participating Jurisdictions. However, Service Areas must include Participating Jurisdictions as applicable if the Agreement includes access to the Persons with Disabilities set-aside; or

(B) The Service Area may be limited to the boundaries of the jurisdiction of the Applicant if the Applicant for TBRA is a unit of local government.

(5) Match. The Department shall use population figures from the most recently available U.S. Census Bureau's American Community Survey (ACS) as of the date of submission of the Application to determine the applicable Match for cities with a population of less than 5,000 persons. The Department shall use the population figures from the most recent Population Estimates from the U.S. Census Bureau's QuickFacts for all counties and for cities with a population that exceeds 5,000 persons. The Department may incentivize or provide preference to Applicants committing to provide additional Match above the requirement of this paragraph. Such incentives may be established as selection criteria in the NOFA.

(A) Excluding Applications under the disaster relief and persons with disabilities set-asides, Match shall be required for Homeowner Reconstruction Assistance (HRA), Homebuyer Assistance with New Construction (HANC), and Single Family Development (SFD) based on the tiers described in clauses (i) and (ii) of this subparagraph:

(i) Zero percent of Direct Activity Costs, exclusive of Match, is required as Match when:

(I) the Service Area includes the entire unincorporated area of a county and where the population of Administrator's Service Area is less than or equal to 20,000 persons; or

(II) When the Service Area does not include the entire unincorporated area of a county and the population of the Administrator's Service Area is less than or equal to 3,000 persons.

(ii) One percent of Direct Activity Costs, exclusive of Match, is required as Match for every 1,000 in population to a maximum of 25 percent.

(B) Applicants that charge customary fees related to the construction of single-family housing must waive all fees that otherwise apply to any HOME Activity. These fee waivers must be reported as Match, regardless of whether Match is otherwise required based on population and activity type. Applicants must submit their schedule of fees related to construction, if applicable, with their Application for a Contract or Reservation System Participation Agreement.

(6) Cash Reserve Threshold Requirements. Documentation, as described in subparagraphs (A) and (B) of this paragraph, must be submitted at the time of Application that demonstrates that the Applicant has at least $100,000 in cash reserves if the Application includes construction Activities, and at least $50,000 in cash reserves if the Application is for Tenant-Based Rental Assistance only. The cash reserves may be utilized to facilitate administration of the program, and to ensure the capacity to cover costs prior to reimbursement or costs determined to be ineligible for reimbursement. The amount of the cash reserve commitment must be included in the Applicant's resolution. To meet this requirement, Applicants must submit:

(A) financial statements indicating adequate local unrestricted cash or cash equivalents to utilize as cash reserves and a letter from the Applicant's bank(s) or financial institution(s) indicating that current account balances are sufficient; or

(B) evidence of an available line of credit or equivalent tool in an amount equal to or exceeding the requirement in this paragraph.

(7) Applications proposing development using the Community Housing Development Organization (CHDO) set-aside must submit an Application for CHDO certification. Applicants must meet the requirement for CHDO certification as defined in §13.2 of this Title (relating to Definitions).

(8) In addition to the requirements in §1.21 (relating to Action by Department if Outstanding Balances Exist), Applicants with closed unresolved findings in accordance with 10 TAC §20.14(h) which include questioned costs in excess of $5,000 from a monitoring that occurred within three years from the date of Application submission are ineligible until questioned costs have been repaid.

(9) Other Threshold and/or Selection criteria for this Activity may be outlined in the NOFA.

(10) An Application must be substantially complete when received by the Department. An Application will be terminated if an entire tab of the Application is missing; has excessive omissions of documentation from the threshold or selection criteria or uniform Application documentation; or is so unclear, disjointed, or incomplete that a thorough review cannot reasonably be performed by the Department, as determined by the Department. Such Application will be terminated without being processed as an administrative deficiency. To the extent that a review was able to be performed, specific reasons for the Department's termination will be included in the notification sent to the Applicant but, because of the suspended review, may not include an all-inclusive list of deficiencies in the Application.

§23.24. Contract Benchmarks and Limitations.

(a) Contract Award Funding Limits. Limits on the total amount of a Contract award will be established in the NOFA.

(b) Contract Award Terms. Homeowner Reconstruction Assistance awards will have a Contract term of not more than 21 months, exclusive of any applicable affordability period or loan term. Single Family Development awards will have a Contract term of not more than 36 months, exclusive of any applicable affordability period or loan term. Tenant-Based Rental Assistance awards will have a Contract term of not more than 36 months.

(c) Contract Award Benchmarks. Administrators must have attained environmental clearance for the contractually required number of Households served within six months of the effective date of the Contract. Contract Administrators must submit to the Department complete Activity setup information for the Commitment of Funds of all contractually required Activities in accordance with the requirements herein within twelve months from the effective date of the Contract. All remaining funds will be deobligated and reallocated in accordance with Chapter 1 of this Title relating to Reallocation of Financial Assistance.

(d) Voluntary deobligation. The Administrator may fully deobligate funds in the form of a written request signed by the signatory, or successor thereto, of the Contract. The Administrator may partially deobligate funds under a Contract in the form of a written request from the signatory if the letter also deobligates the associated number of targeted Households, funds for administrative costs, and Match and the partial deobligation would not have impacted the award of the Contract. Voluntary deobligation that occurs within twelve months from the effective date of a Contract does not limit an Administrator's ability to participate in an open application cycle.

(e) The Department may request information regarding the performance or status under a Contract prior to a Contract benchmark or at various times during the term of a Contract. Administrator must respond within the time limit stated in the request. Prolonged or repeated failure to respond may result in suspension of funds and ultimately in termination of the Contract by the Department.

(f) Pre-Contract Costs.

(1) The Administrator may be reimbursed for eligible administrative and Activity soft costs incurred before the effective date of the Contract in accordance with 24 CFR §92.212 and at the sole discretion of the Department.

(2) A Developer may be reimbursed for Predevelopment Costs as defined in this Chapter for an Activity funded under Single Family Development.

(3) In no event will the Department reimburse expenses incurred more than six months prior to Governing Board approval of the Administrator's award.

(g) Amendments to Contract awards will be processed in accordance with Chapter 20 of this Title, relating to Single Family Programs Umbrella Rule.

§23.25. Reservation System Participant (RSP) Agreement.

(a) Terms of Agreement. The term of an RSP Agreement will not exceed 36 months. Execution of an RSP Agreement does not guarantee the availability of funds under a reservation system. Reservations submitted under an RSP agreement will be subject to the provisions of this Chapter in effect as of the date of submission by the Administrator.

(b) Limits on Number of Reservations. Except for Activities submitted under the Disaster set-aside, RSP Administrators may have no more than five Reservations per county within the RSP's Service Area submitted to the Department for approval at any given time, except that Tenant-Based Rental Assistance Reservations submitted for approval under an RSP Agreement is limited to 30 at any given time.

(c) Extremely Low-Income Households. Except for Households submitted under the Disaster set-aside, each RSP will be required to serve at least one extremely low-income Household out of every four Households submitted and approved for assistance. For purposes of this subsection, extremely low-income is defined as families that are either at or below 30 percent AMFI for the county in which they will reside or have an income that is lower than the statewide 30 percent income limit without adjustments to HUD limits.

(d) Match. Administrators must meet the Match requirement per Activity approved for assistance. Match may not be transferred from one Activity to another Activity.

(e) Completion of Construction. For Activities involving construction, construction must be complete within 12 months from the Commitment of Funds for the Activity, unless amended in accordance with subsection (g) of this section.

(f) Household commitment contract term. The term of a Household commitment contract may not exceed 12 months, except that the Household commitment contract term for Tenant-Based Rental Assistance may not exceed 24 months. Household commitment contracts may commence after the end date of an RSP Agreement only in cases when the Administrator has submitted a Reservation on or before the termination date of the RSP Agreement.

(g) Amendments to Household commitment contracts may be considered by the Department provided the approval does not conflict with the federal regulations governing use of these funds, or impact federally imposed obligation or expenditure deadlines.

(1) The Executive Director's authorized designee may approve an amendment that extends the term of a Household commitment contract by not more than six months, except that the term of a Household commitment contract for Tenant-Based Rental Assistance may not be extended to exceed a total Household commitment contract term of 24 months.

(2) The Executive Director's authorized designee may approve one or more amendments to a Household commitment contract to:

(A) extend the Construction Completion Date by not more than six months;

(B) extend the term of rental subsidy up to a total term of 24 months;

(C) extend the draw period by not more than three months after the Construction Completion Date or termination of rental subsidy; or

(D) to increase Activity funds within the limitations set forth in this Chapter.

(3) The Executive Director may approve amendments to a Household commitment contract, except amendments to extend the contract term of a Household Commitment contract by more than 12 months.

(h) Pre-agreement costs. The Administrator may be reimbursed for eligible administrative and Activity soft costs incurred before the effective date of the RSP Agreement in accordance with 24 CFR §92.212 and at the sole discretion of the Department. In no event will the Department reimburse expenses incurred more than six months prior to the effective date of the RSP Agreement.

(i) Administrator must remain in good standing with the Department, the state of Texas, and HUD. If an Administrator is not in good standing, participation in the Reservation System will be suspended and may result in termination of the RSP Agreement.

§23.26. General Administrative Requirements.

Unless otherwise provided in this Chapter, the Administrator or Developer must comply with the requirements described in paragraphs (1) - (22) of this section, for the administration and use of HOME funds:

(1) Complete training, as applicable.

(2) Provide all applicable Department Housing Contract System access request information and documentation requirements.

(3) Establish and maintain sufficient records at its regular place of business and make available for examination by the Department, HUD, the U.S. General Accounting Office, the U.S. Comptroller, the State Auditor's Office of Texas, the Comptroller of Public Accounts, or any of their duly authorized representatives, throughout the applicable record retention period.

(4) For non-Single Family Development Contracts, develop and establish written procurement procedures that comply with federal, state, and local procurement requirements including:

(A) Develop and comply with written procurement selection criteria and committees, including appointment of a procurement officer to manage any bid process;

(B) Develop and comply with a written code of conduct governing employees, officers, or agents engaged in administering HOME funds;

(C) Ensure consultant or any procured service provider does not participate in or direct the process of procurement for services. A consultant cannot assist in their own procurement before or after an award is made;

(D) Ensure that procedures established for procurement of building construction contractors do not include requirements for the provision of general liability insurance coverage in an amount to exceed the value of the contract and do not give preference for contractors in specific geographic locations;

(E) Ensure that building construction contractors are procured in accordance with State and Federal regulations for single family HOME Activities;

(F) Ensure that professional service providers (consultants) are procured using an open competitive procedure and are not procured based solely on the lowest priced bid; and

(G) Ensure that any Request for Proposals or Invitation for Bid include:

(i) an equal opportunity disclosure and a notice that bidders are subject to search for listing on the Excluded Parties List;

(ii) bidders' protest rights and an outline of the procedures bidders must take to address procurement related disputes;

(iii) a conflict of interest disclosure;

(iv) a clear and accurate description of the technical requirements for the material, product, or service to be procured. The description must include complete, adequate, and realistic specifications;

(v) for sealed bid procedures, disclose the date, time and location for public opening of bids and indicate a fixed-price contract;

(vi) must not have a term of services greater than five years; and

(vii) for competitive proposals, disclose the specific election/evaluation criteria.

(5) To the extent that a set of architectural plans are generated and used by an Administrator or Developer for more than one Single Family Housing Unit, the Department will reimburse only for the first time a set of architectural plans is used, unless any subsequent site specific fees are paid to a Third Party architect or licensed engineer for the reuse of the plans on that subsequent specific site, as demonstrated by a contract with the third-party.

(6) In instances where a potential prohibited conflict of interest exists, follow procedures to submit required documentation to the Department sufficient to submit an exception request to HUD for any conflicts prohibited by 24 CFR §92.356. The request submitted to the Department must include a disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict by newspaper publication, a description of how the public disclosure was made, and an attorney's opinion that the conflict does not violate state or local law. No HOME funds will be committed to or reserved to assist a Household impacted by the conflict of interest regulations until HUD has granted an exception to the conflict of interest provisions.

(7) Perform environmental clearance procedures, as required, before acquiring any Property or before performing any construction activities, including demolition, or before the occurrence of the loan closing, if applicable.

(8) Develop and comply with written Applicant intake and selection criteria for program eligibility that promote and comply with Fair Housing requirements and the State's One Year Action Plan.

(9) Complete Applicant intake and Applicant selection. Notify each Applicant Household in writing of either acceptance or denial of HOME assistance within 60 days following receipt of the intake application.

(10) Determine the income eligibility of a Household using the "Annual Income" as defined at 24 CFR §5.609, by using the list of income included in HUD Handbook 4350.3 (or most recent version), and excluding from income those items listed in HUD's Updated List of Federally Mandated Exclusions from Income. The Single Family HOME Program will implement the applicable requirements of the Housing Opportunity Through Modernization Act (HOTMA) not later than January 1, 2027.

(11) Complete an updated income eligibility determination of a Household if the date of certification is more than six months prior to the Date of Assistance.

(12) For single family Activities involving construction, perform initial inspection in accordance with Chapter 20 of this Title (relating to Single Family Programs Umbrella Rule). Property inspections must include photographs of the front, back, and side elevations of the housing unit and at least one picture of each of the kitchen, family room, each bedroom and each bathroom. The inspection must be signed and dated by the inspector and the Administrator. The photographs submitted with the initial inspection should evidence the deficiencies noted on the initial inspection and must clearly show the entire property, including other buildings located on the property.

(13) Submit a substantially complete request for the Commitment or Reservation of Funds, loan closing preparation, and for disbursements. Administrators must upload all required information and verification documentation in the Housing Contract System. Requests determined to be substantially incomplete will not be reviewed and may be disapproved by the Department. Expenses for which reimbursement is requested must be documented as incurred. If the Department identifies administrative deficiencies during review, the Department will allow a cure period of 14 calendar days beginning at the start of the

first day following the date the Administrator or Developer is notified of the deficiency. If any administrative deficiencies remain after the cure period, the Department, in its sole discretion, may disapprove the request. Disapproved requests will not be considered sufficient to meet the performance benchmark and shall not constitute a Reservation of Funds.

(14) Submit signed program documents timely as may be required for the completion of a Commitment or Reservation of Funds, and for closing preparation of the loan or grant documents. Department reserves the right to cancel or terminate Activities when program documents are not executed timely, in the Department's sole and reasonable discretion.

(15) Not proceed or allow a contractor to proceed with construction, including demolition, on any Activity or development without first completing the required environmental clearance procedures, preconstruction conference and receiving notice to proceed, if applicable, and execution of grant agreement or loan closing with the Department, whichever is applicable.

(16) Submit any Program Income received by the Administrator or Developer to the Department within 14 days of receipt; any fund remittance to the Department, including refunds, must include a written explanation of the return of funds, the Contract number, name of Administrator or Developer, Activity address and Activity number, and must be sent to the Department's accounting division.

(17) Submit required documentation for project completion reports no later than 60 days after the completion of the Activity, unless this term is extended though amendment.

(18) For Contract awards, submit certificate of Contract Completion within 14 days of the Department's request.

(19) Submit to the Department reports or information regarding the operations related to HOME funds provided by the Department.

(20) Submit evidence with the final draw for construction related activities that the builder has provided a one-year warranty specifying at a minimum that materials and equipment used by the contractor will be new and of good quality unless otherwise required, the work will be free from defects other than those inherent in the work as specified, and the work will conform to the requirements of the contract documents.

(21) Provide the Household all warranty information for work performed by the builder and any materials purchased for which a manufacturer or installer's warranty is included in the price.

(22) If required by state or federal law, place the appropriate bonding requirement in any contract or subcontract entered into by the Administrator or Developer in connection with a HOME award. Failure to include the bonding requirement in subcontracts may result in termination of the RSP Agreement.

§23.27. Project Cost Limitations.

(a) Direct Activity Costs for construction, exclusive of Match funds, are limited to the amounts described in this section; however, not more than once per year, the Board in its sole discretion, may increase or decrease by up to five percent of the limitation for Direct Activity Costs. Total Activity costs may not exceed HUD Subsidy Limits. Dollar amounts in a Household commitment contract are set at the time of Contract execution and may not be adjusted through this process. Current limit amounts under this section will be reflected on the Department's website.

(b) Reconstruction and New Construction of site-built housing: the lesser of $150 per square foot of conditioned space or $175,000; or for Households of five or more Persons that require a four-bedroom unit, the lesser of $150 per square foot of conditioned space, or $200,000; and

(c) Direct Activity Costs for acquisition and placement of a unit of Manufactured Housing, including demolition or removal of existing housing and exclusive of Match funds, is limited to $125,000.

(d) Direct Activity Costs for conversion of a Contract for Deed, including closing costs paid from HOME funds, is limited to $40,000.

(e) In addition to the Direct Activity Costs allowable under subsections (b) and (c) of this section, additional funds in the amount of $15,000 may be used to pay for each of the following, as applicable:

(1) Necessary environmental mitigation as identified during the Environmental review process or abatement of hazardous conditions on the site other than those identified during the Environmental review process that would preclude the entire assisted property from meeting required property standards;

(2) Installation of an aerobic septic system; and

(3) Homeowner requests for accessibility features for a household member who is a person with disabilities.

(f) Activity soft costs eligible for reimbursement for Activities of the following types are limited to:

(1) Acquisition or refinance in conjunction with New Construction of site-built housing or placement of an MHU: no more than $2,500 per housing unit;

(2) Replacement with an MHU: no more than $10,000 per housing unit;

(3) Reconstruction or New Construction of site-built housing: $15,000 per housing unit; and

(4) For HRA, reasonable and necessary third-party costs incurred in connection with required housing counseling, appraisals, title reports or insurance, tax certificates, recording fees, surveys, and first year hazard and flood insurance.

(g) Project Cost Limitations for Tenant-Based Rental Assistance Activities are limited as described in Subchapter E of this Chapter.

(h) Projects Costs must not exceed the federal subsidy limit, unless waived by HUD.

(i) Unless waived by HUD, the purchase price of acquired property and the post-improvement value of the unit may not exceed the limitations set forth in 24 CFR §92.254. Compliance with the purchase price limitation must be evidenced prior to loan closing with an as-built appraisal.

(j) Administrative Cost Limitations.

(1) Funds for administrative costs are limited to no more than five percent of the Direct Activity Costs, exclusive of Match funds, for HRA.

(2) Funds for administrative costs are limited to no more than eight percent of the Direct Activity Costs, exclusive of Match funds, for CFD and HANC.

(3) For TBRA, Administrators must select one method under which funds for administrative costs and Activity soft costs may be reimbursed prior to execution of an RSP agreement or at Application for an award of funds. All costs must be reasonable and customary for the Administrator's Service Area. Applicants and Administrators may

choose from one of the following options, and in any case funds for Administrative costs may be increased by an additional one percent of Direct Activity Costs if Match is provided in an amount equal to five percent or more of Direct Activity Costs:

(A) Funds for Administrative costs are limited to four percent of Direct Activity Costs, excluding Match funds, and Activity soft costs are limited to $1,200 per Household assisted. Activity soft costs may reimburse expenses for costs related to determining Household income eligibility, including revisions, and conducting property standards inspections. All costs must be reasonable and customary for the Administrator's Service Area; or

(B) Funds for Administrative costs are limited to ten percent of Direct Activity Costs, excluding Match funds, and Administrator may not be reimbursed for Activity soft costs.

§23.28. Design and Quality Requirements.

(a) Each Single Family Housing Unit constructed with HOME funds must meet the design and quality requirements as described in paragraphs (1) - (6) of this subsection, and plans must be certified by a licensed architect or engineer:

(1) Current applicable International Residential Code, local codes, ordinances, and zoning ordinances in accordance with 24 CFR §92.251(a);

(2) Requirements in Chapters 20 and 21 of this Title;

(3) Units must Include the following amenities: Wired with RG-6 COAX or better and CAT3 phone cable or better to each bedroom and living room; Blinds or window coverings for all windows; Disposal and Energy-Star or equivalently rated dishwasher (must only be provided as an option to each Household); Oven/Range; and Exhaust/vent fans (vented to the outside) in bathrooms. The living room and each bedroom must contain at least one ceiling lighting fixture and wiring must be capable of supporting ceiling fans. Paved off-street parking for each unit to accommodate at least one mid-sized car and access to on-street parking for a second car must be present;

(4) Each Single Family Housing Unit must contain complete physical facilities and fixtures for living, sleeping, eating, cooking, and sanitation;

(5) Each bedroom must be no less than 100 square feet; have a length or width no less than 8 feet; be self-contained with a door; have at least one window that provides exterior access; and have at least one closet that is not less than two feet deep and three feet wide and high enough to contain at least five feet of hanging space; and

(6) An exception to paragraphs (3) - (5) of this subsection may be requested by the Household and approved by the Division Director prior to submission of the Activity. A request for an exception must include the specific feature or design requirement for which the exception is requested, and must include justification for the exception.

(b) Units selected by Households assisted under the Tenant-Based Rental Assistance Program must be inspected for compliance with Housing Quality Standards, as established by HUD before occupancy and any subsequent inspection when the Commitment is on or before October 1, 2026. Thereafter, rental units must be inspected using the National Standards for the Physical Inspection of Real Estate, as modified for the HOME program.

§23.29. Resale and Recapture Provisions.

(a) Recapture is the primary method the Department will use to recoup HOME funds under 24 CFR §92.254(a)(5)(ii).

(b) To ensure continued affordability, the Department has established the recapture provisions described in paragraphs (1) - (4) of this subsection and further defined in 24 CFR §92.254(a)(5)(ii).

(1) In the event that a federal affordability period is required and the assisted property is rented, leased, or no member of the Household has it as the Principal Residence, the entire HOME investment is subject to recapture. The Department will include any loan payments previously made when calculating the amount subject to recapture. Loan forgiveness is not the same thing as loan payments for purposes of this subsection.

(2) In the event that a federal affordability period is required and the assisted property is sold, including through a short sale, deed in lieu of foreclosure, or foreclosure, prior to the end of the affordability period, the Department will recapture the available amount of net proceeds based on the requirements of 24 CFR §92.254, and as outlined in the State's One Year Action Plan.

(3) The Household can sell the unit to any willing buyer at any price. In the event of sale to a qualified low-income purchaser of a HOME-assisted unit, the qualified low-income purchaser may assume the existing HOME loan and assume the recapture obligation entered into by the original buyer if no additional HOME assistance is provided to the low-income purchaser. In cases in which the subsequent homebuyer needs HOME assistance in excess of the balance of the original HOME loan, the HOME subsidy (the direct subsidy as described in 24 CFR §92.254) to the original homebuyer must be recaptured. A separate HOME subsidy must be provided to the new homebuyer, and a new affordability period must be established based on that assistance to the buyer.

(4) If there are no net proceeds from the sale, no repayment will be required of the Household and the balance of the loan shall be forgiven as outlined in the State's applicable One Year Action Plan.

(c) The Department has established the resale provisions described in paragraphs (1) - (7) of this subsection, only in the event that the Department must impose the resale provisions of 24 CFR §92.254(a)(i).

(1) Resale is defined as the continuation of the affordability period upon the sale or transfer, rental or lease, refinancing, and no member of the Household is occupying the property as their Principal Residence.

(2) In the event that a federal affordability period is required and the assisted property is rented or leased, or no member of the Household has it as the Principal Residence, the HOME investment must be repaid.

(3) In the event that a federal affordability period is required and the assisted property is sold or transferred in lieu of foreclosure to a qualified low-income buyer at an affordable price, the HOME loan balance shall be transferred to the subsequent qualified buyer and the affordability period shall remain in force to the extent allowed by law.

(4) The resale provisions shall remain in force from the date of loan closing until the expiration of the required affordability period.

(5) The Household is required to sell the home at an affordable price to a reasonable range of low-income homebuyers that will occupy the home as their Principal Residence. Affordable to a reasonable range of low-income buyers is defined as targeting Households that have income between 70 and 80 percent AMFI and meet all program requirements.

(A) The seller will be afforded a fair return on investment defined as the sum of down payment and closing costs paid from the initial seller's cash at purchase, closing costs paid by the seller at sale, the principal payments only made by the initial homebuyer in excess of the amount required by the loan, and any documented capital improvements in excess of $500.

(B) Fair return on investment is paid to the seller at sale once first mortgage debt is paid and all other conditions of the initial written agreement are met. In the event there are no funds for fair return, then fair return does not exist. In the event there are partial funds for fair return, then the appropriate partial fair return shall remain in force.

(6) The appreciated value is the affordable sales price less first mortgage debt less fair return.

(A) If appreciated value is zero, or less than zero, then no appreciated value exists.

(B) The initial homebuyer's investment of down payment and closing costs divided by the Department's HOME investment equals the percentage of appreciated value that shall be paid to the initial homebuyer or persons as otherwise directed by law. The balance of appreciated value shall be paid to the Department.

(7) The property qualified by the initial Household will be encumbered with a lien for the full affordability period.

(d) In the event the housing unit transfers by devise, descent, or operation of law upon the death of the assisted homeowner, forgiveness of installment payments under the loan may continue until maturity or the penalty amount for noncompliance under the conditional grant agreement may be waived, if the new Household qualifies for assistance in accordance with this subchapter. If the new Household does not qualify for assistance in accordance with this Chapter, forgiveness of installment payments will cease and repayment of scheduled payments under the loan will commence and continue until maturity or payment of a penalty amount under the conditional grant agreement may be required in accordance with the terms of the conditional grant agreement.

(e) Forgiveness of installment payments under the loan may continue until maturity or the penalty amount under conditional grant agreement may be waived by the Department if the housing unit is sold by the decedent's estate to a purchasing Household that qualifies for assistance in accordance with this Chapter.

(f) Grants subject to conditional grant agreements are not subject to the entire penalty amount in the event the property is no longer the Principal Residence of any Household member.

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

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Bobby Wilkinson
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Texas Department of Housing and Community Affairs
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SUBCHAPTER F. SINGLE FAMILY DEVELOPMENT PROGRAM

10 TAC §23.60, §23.61

STATUTORY AUTHORITY. The proposed new sections are made 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.

§23.60. Single Family Development (SFD) General Requirements.

(a) Program funds under this subchapter may be used for the Development of new single family housing for homeownership that complies with affordability requirements as defined at 24 CFR §92.254. Direct Activity Costs, exclusive of Match funds, are limited to the amounts described in §23.27 of this Title (relating to Project Cost Limitations.

(b) In addition to the requirements of Chapter 1, Subchapter B of this Title and Subchapter B of this Chapter, Applicants for an award of Single Family Development funds must submit a proposed development plan. The proposed development plan must be consistent with the requirements of this Chapter, all other federal and state rules, and include:

(1) a floor plan and front exterior elevation for each proposed unit which reflects the exterior building composition;

(2) a FEMA Issued Flood Map that identifies the location of the proposed site(s) evidencing that the housing unit(s) will be outside of the 100-year floodplain;

(3) letters from local utility providers, on company letterhead, confirming each site has access to the following services: water and wastewater, sewer, electricity, garbage disposal and natural gas, if applicable;

(4) evidence that the site is zoned appropriately for the proposed housing, including a map with the site and zoning notated, or a letter from the local jurisdiction stating that the site is zoned for single family residential construction;

(5) documentation of site control of each proposed lot: A recorded warranty deed with corresponding executed settlement statement; or a contract or option for the purchase of the proposed lots that is valid for at least 180 days from the date of application submission;

(6) an "as vacant" appraisal of at least one of the proposed lots if the Applicant has an Identity of Interest with the seller or current owner of the property; or any of the proposed property is part of a newly developed or under-development subdivision in which at least three other third-party sales cannot be evidenced. The purchase price of any lot in which the current owner has an Identity of Interest must not exceed the appraised value of the vacant lot at the time of Activity submission. The appraised value of the lot may be included in the sales price for the homebuyer transaction;

(7) A title commitment to issue a title policy that evidences the property will transfer with no tax lien, child support lien, mechanic's or materialman's lien or any other restrictions or encumbrances that impair the good and marketable nature of title to the ownership interest and that the definition of Homeownership will be met. A title commitment must include the complete legal description, copies of covenants, conditions and restrictions, easements, and any supplements. The effective date of the title commitment must be no more than 60 days prior to the date of project submission. Commitments that expire prior to execution of closing must be updated at closing and must not have any adverse changes in order to close;

(8) Identification of Lead-Based Paint (LBP) if site remediation is needed;

(9) A subdivision plat that includes each proposed site on which housing is to be developed;

(10) An Elected Officials and Neighborhood Organizations form, including evidence of request for neighborhood organizations submitted at least 14 days prior to the Application submission date;

(11) a commitment, term sheet, or letter of interest/intent for each non-TDHCA source of funds to be provided for either interim construction or permanent mortgage financing for the Development;

(12) a completed market assessment demonstrating demand;

(13) a budget that includes the amount of Activity funds specifying the acquisition cost, construction costs, contractor fees, and developer fees, as applicable. A maximum of five percent of hard construction costs for contingency items, proposed Match to be provided, evidence that Activity Cost limitations are not exceeded, and evidence that any duplication of benefit is addressed; and

(14) required certifications as described in the Application.

(c) The Department may prioritize Applications or otherwise incentivize Applications that:

(1) include other lenders that commit to provide some or all of the permanent purchase money financing for the purchase of Single Family Housing Units developed with funds provided under this subchapter; or

(2) include a self-help component as defined in the Notice of Funding Availability.

(d) Program funds under this subchapter are only eligible to be administered by a CHDO certified as such by the Department if administered utilizing the CHDO set-aside. A separate grant for CHDO operating expenses may be awarded to CHDOs that receive a Contract award if funds are provided for this purpose in the NOFA. A CHDO may not receive more than one grant of CHDO operating funds in an amount not to exceed $50,000 within any one year period, and may not draw more than $25,000 in CHDO operating funds in any twelve month period from any source, including CHDO operating funds from other HOME Participating Jurisdictions.

(e) Direct Activity Costs are limited to the costs described in §23.27 of this Title (relating to Project Cost Limitations).

(f) Developer fees (including consulting fees) are limited to 15 percent of the total hard construction costs. For self-help housing, total hard construction costs include the value of donated labor and materials calculated in accordance with Match requirements for the HOME Program, except that the source of the donated labor is not limited to parties eligible to provide Match. The developer fee will be reduced by one percent per month or partial month that the construction period exceeds the original term of the construction period financing.

(g) General Contractor Fees are limited to 15 percent of the total hard construction costs. The General Contractor is defined as one who contracts for the construction of an entire development Activity, rather than a portion of the work. The General contractor hires subcontractors, such as plumbing contractors, electrical contractors, etc., coordinates all work, and is responsible for payment to the subcontractors. A prime subcontractor will also be treated as a General Contractor, and any fees payable to the prime subcontractor will be treated as fees to the General Contractor, in the scenarios described in paragraphs (1) and (2) of this subsection:

(1) Any subcontractor, material supplier, or equipment lessor receiving more than 50 percent of the contract sum in the construction contract will be deemed a prime subcontractor; or

(2) If more than 75 percent of the contract sum in the construction contract is subcontracted to three or fewer subcontractors, material suppliers, and equipment lessors, such parties will be deemed prime subcontractors.

(h) Construction period financing for each unit shall be structured as a zero percent interest loan with a 24-month term. The maximum construction loan amount may not exceed the total development cost less developer fees/profit, closing costs associated with the permanent mortgage financing, and ineligible Activity costs.

(i) Prior to the expiration of the interim construction loan term, the property must be sold to a qualified homebuyer. If the housing unit is not sold to an eligible homebuyer within 12 months of the Construction Completion Date, additional funding, closings, and draws on the award will cease and the Department will require the Applicant to repay any outstanding construction debt in full.

(j) In the instance that the total development cost equals more than 100 percent of the appraised value, the portion of the development cost that exceeds 100 percent of the appraised value may be granted to the Developer to buy down the purchase price. Reasonable and customary seller closing costs may be included in the interim construction loan and deducted from the developer fee at the time of sale to a qualified homebuyer.

(k) Direct assistance to a qualified homebuyer may be provided by the Department, and must comply with requirements of Chapter 20 of this Title (relating to Single Family Programs Umbrella Rule):

(1) A fully amortizing, repayable loan with a term up to 30 years may be provided by the Department and will initially be evaluated at zero percent interest. The Department's loan amount will not exceed the total HOME funded portion of the development cost combined with reasonable and customary buyer's closing costs paid with HOME funds. Should the estimated housing payment, including all funding sources, be less than the minimum required housing payment for the minimum term, the Department may charge an interest rate to the homebuyer such that the total estimated housing payment is no less than the required minimum housing payment. In no instance shall the interest rate charged to the homebuyer exceed five percent, and such result may deem the applicant as overqualified for assistance.

(A) The total Mortgage Loan may include costs incurred for the total development cost and Mortgage Loan Closing Costs, exclusive of Match funds.

(B) The total Debt-to-Income Ratio shall not exceed the limitations set forth in Chapter 20 of this Title.

(C) The minimum required housing payment shall be no less than 15 percent of the household's Qualifying Income.

(2) Down payment and closing costs assistance is limited to the lesser of down payment required by a third-party lender and reasonable and customary buyer's closing costs, or the amount required to ensure affordability of the permanent financing. Down payment and closing cost assistance may not exceed ten percent of the total development cost and shall be structured as a five-year deferred, forgivable loan with a subordinate lien, in accordance with the required federal affordability period.

(3) A first lien mortgage not provided by the Department must meet the mortgage financing requirements outlined in Chapter 20 of this Title.

(l) Earnest money is limited to no more than $1,000, which may be credited to the homebuyer at closing, but may not be reimbursed as cash.

(m) If a Household should become ineligible or otherwise cease participation and a replacement Household is not located within 90 days of the end of the construction period, all additional funding, closings, and draws on the award will cease and the Department will require the Applicant to repay any outstanding construction debt in full.

(n) The Division Director may approve the use of alternative floor plans or lots from those included in the approved Application, provided the requirements of this section can still be met and such changes do not materially affect the total budget.

(o) To ensure affordability, the Department will impose resale or recapture provisions established in this Chapter.

§23.61. Single Family Development (SFD) Administrative Requirements.

(a) Interim Construction Loan Closing. Interim construction loan closing must occur not more than 18 months from the date of Contract execution. Prior to closing the interim construction loan, the Developer must submit:

(1) Construction contracts, and other construction documents, including verification of adequate builder's risk insurance, that are necessary, in the Department's sole determination, to ensure applicable property standard requirements will be met at completion;

(2) Site-specific appraisal, which includes post construction improvements prepared by a licensed real estate appraiser;

(3) Site-specific survey that meets the requirements of Chapter 20 of this Title (relating to Single Family Programs Umbrella Rule);

(4) Verification of environmental clearance; and

(5) Title commitments that expire prior to execution of closing must be updated at closing and must not have any adverse changes in order to close.

(b) Disbursement of interim construction loan funds. The Developer must comply with the requirements described in paragraphs (1) - (8) of this subsection, for a request for disbursement of funds to reimburse eligible costs incurred. Submission of documentation related to the Developer compliance with requirements described in paragraphs (1) - (8) of this subsection may be required with a request for disbursement:

(1) Within 90 days after the interim construction loan closing date, the Developer must submit to the Department the original recorded interim construction loan documents. Failure to submit these documents within 90 days after the loan closing date will result in the Department withholding payment for disbursement requests;

(2) An interim construction binder advance endorsement not older than the date of the last disbursement of funds or 45 days, whichever is later;

(3) If required or applicable, a maximum of 50 percent of Direct Activity Costs for an Activity may be drawn before providing evidence of Match. Thereafter, each Developer must provide evidence of Match, including the date of provision, in accordance with the percentage of Activity funds disbursed;

(4) Property inspections, including photographs of the front, back, and side elevations of the housing unit and at least one picture of each of the kitchen, family room, each bedroom and each bathroom with date and property address reflected on each photo. The inspection must be signed and dated by the inspector and Developer;

(5) Certification that its fiscal control and fund accounting procedures are adequate to assure the proper disbursal of, and accounting for, funds provided, no Person that would benefit from the award of HOME funds has provided a source of Match or has satisfied the Applicant's cash reserve obligation or made promises in connection therewith; that each request for disbursement of HOME funds is for the actual cost of providing a service and that the service does not violate any conflict of interest provisions;

(6) Original, executed, legally enforceable loan documents containing remedies adequate to enforce any applicable affordability requirements. Original documents must evidence that such agreements have been recorded in the real property records of the county in which the housing unit is located and the original documents must be returned, duly certified as to recordation by the appropriate county official;

(7) Expenditures must be allowable and reasonable in accordance with federal, state, and local rules and regulations. The Department shall determine the reasonableness for expenditures submitted for reimbursement. The Department may request Developer to make modifications to the disbursement request and is authorized to modify the disbursement procedures set forth herein and to establish such additional requirements for payment of HOME funds to Developer as may be necessary or advisable for compliance with all Program Requirements; and

(8) Include the withholding of ten percent of hard construction costs for retainage. Retainage will be held until at least 40 days after the Construction Completion Date.

(c) Sale to a Qualified Homebuyer. Not less than nine months prior to the expiration of the interim construction loan and no more than nine months after the Construction Completion Date, Developer must submit documentation to the Department evidencing a pending sale to a qualified homebuyer. Documentation submitted must include:

(1) Head of Household name and address of housing unit for which assistance is being requested;

(2) A copy of the Household's intake application on a form prescribed by the Department;

(3) Certification of the income eligibility of the Household signed by the Developer and all Household members aged 18 or over that includes the date of the income eligibility determination. All documentation used to determine the income of the Household must be provided;

(4) Executed sales contract and documentation that the first lien mortgage meets the eligibility requirements;

(5) If applicable, documentation to address or resolve any potential conflict of interest, Identity of Interest, duplication of benefit, or floodplain mitigation;

(6) A title commitment to issue a title policy that evidences the property will transfer with no tax lien, child support lien, mechanic's or materialman's lien or any other restrictions or encumbrances that impair the good and marketable nature of title to the ownership interest and that the definition of Homeownership will be met. A title commitment must include the complete legal description, copies of covenants, conditions and restrictions, easements, and any supplements. The effective date of the title commitment must be no more than 60 days prior to the date of submission. Commitments that expire prior to execution of closing must be updated at closing and must not have any adverse changes in order to close;

(7) A down date endorsement to the mortgagee policy issued to the homebuyer dated at least 40 days after the Construction Completion Date; and

(8) Any other documentation necessary to evidence that the Activity meets the program requirements.

(d) Table funding requests must be submitted to the Department with complete documentation no later than 28 days prior to the anticipated loan closing date. Such a request must include a draft settlement statement, title company payee identification information, the Developer's authorization for disbursement of funds to the title company, request letter from title company to the Comptroller of Public Accounts with bank account wiring instructions, and invoices for costs being paid at closing

(e) For costs associated with insurance policies, including title policies and homeowner's insurance policies, charged as Activity costs, evidence of payment of the cost must be submitted with the retainage request.

(f) Final Activity disbursement. Within 90 days after the homebuyer loan closing date, the Developer must submit to the Department:

(1) the original recorded deed of trust and transfer of lien, if applicable. Failure to submit these documents within 90 days after the loan closing date will result in the Department withholding disbursement of the Developer Fee; and

(2) documentation required for Activity completion reports.

(g) The final request for disbursement under the Contract must be submitted to the Department with support documentation no later than 60 days after the termination date of the Contract, in order to remain in compliance with Contract and eligible for future funding. The Department shall not be obligated to pay for costs incurred or performances rendered after the termination date of a Contract.

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

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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. The purpose of the proposed repeal is to eliminate an outdated rule while adopting a new updated rule under separate action. The new updated rule retitles the chapter and now incorporates the Taxable Mortgage Program (TMP) into the rule, previously found in Chapter 28. Under separate action Chapter 28 is being proposed for repeal as its rules will now be covered by Chapter 27.

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. GOV'T 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 new rule 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 workload 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. GOV'T 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. GOV'T 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. GOV'T 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. GOV'T 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 a more efficient rule that governs both the FTHB Program and TMP. There will be no 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 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 June 19, 2026, to July 20, 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, July 20, 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.

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Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Earliest possible date of adoption: July 19, 2026
For further information, please call: (512) 475-3959

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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 and Taxable Mortgage Program Rules. The purpose of the new chapter is to retitle the chapter and now incorporate the Taxable Mortgage Program (TMP) into the rules, previously found in Chapter 28. Under separate action Chapter 28 is being proposed for repeal as its rules will now be covered in this Chapter.

Tex. Gov't Code §2001.0045(b) does not apply to the rules 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 rules also ensure 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 rules will be in effect:

1. The new rules do not create or eliminate a government program, but relate to adding the TMP rules into this chapter.

2. The new rules do not require a change in work that would require the creation of new employee positions, nor will they reduce workload to a degree that eliminates any existing employee positions.

3. The new rule 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 they are replacing a rule being repealed simultaneously to provide for revisions.

6. The rules do expand the existing regulation, but simultaneously are repealing a regulation in Chapter 28.

7. The new rules do not increase or decrease the number of individuals to whom the rules apply; 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 the rules and determined that none of the adverse effect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.

2. The rules relate to the general program guidelines for the First Time Homebuyer Program and 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 rules relate only to a revision to a rule that applies to programs 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 their 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 these rules relate 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 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 rules relate only to the continuation of the

rules in place there are no "probable" effects of the new rules 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 rules will be a rule with greater clarity and in which redundancy among several chapters is now removed. There will be no economic cost to any individuals required to comply with the proposed new rules because the activities described by the rules have 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 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 June 19, 2026, to July 20, 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, July 20, 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.

§27.1. Purpose.

(a) The purpose of the Texas First Time Homebuyer Program (FTHB) and Taxable Mortgage Program (TMP) is to facilitate the origination of single-family Mortgage Loans and/or to refinance existing Mortgage Loans for eligible Homebuyers, and to make available down payment and closing cost assistance to eligible Homebuyers. The FTHB 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 these Programs is dependent, in part, on the availability of funds. The Department may cease offering all or a part of the assistance available under the programs 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 FTHB Program or TMP.

(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 FTHB 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--In the administration of the FTHB Program, the exception for certain Mortgage Loan eligibility requirements under the FTHB Program or TMP, 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--In the administration of the FTHB Program, a person who has not owned a home during the three (3) years preceding the date on which an application under the program is filed. A person, as defined in §2306.1071 of the Tex. Gov't Code, will be considered to have owned a home if the person had a present ownership interest in a primary residence during the three (3) years preceding the date on which an application under this program is filed. In the event there is more than one person applying for financing of a Mortgage Loan under the FTHB Program, each Applicant must separately meet this three year requirement.

(9) Homebuyer--An Applicant that is approved by either of the Programs 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 under the FTHB Program and TMP.

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

(12) Mortgage Loan--As defined in §2306.004 of the Tex. Gov't Code.

(13) Participation Packet--The application submitted to the Department by the proposed Mortgage Lender to participate in either or both of the Programs.

(14) Programs--The Texas First Time Homebuyer (FTHB) Program and the Taxable Mortgage Program (TMP).

(15) Purchase Price Limit--In the administration of the FTHB Program, 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.

(16) Qualified Veteran Exemption to First Time Homebuyer Requirement--In the administration of the FTHB Program, 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.

(17) 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.

(18) 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.

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

(20) 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 in the case of the TMP a Department Designated Area of Special Need. 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.

(21) Targeted Area Exemption to First time Homebuyer Requirement--In the administration of the FTHB Program, 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.

(22) 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 Programs a Residence must be 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 and applicable agency guidelines, as required by the Department. A duplex may be financed under the Programs 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 financed under the FTHB Program or TMP 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 financed under the FTHB Program or TMP 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 agency guidelines and 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.

§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/primary residence, unless waived by the Executive Director or their designee for good cause.

(d) In the event the Homebuyer is in violation of this section, the deferred principal balance is due in full pursuant to the Mortgage Loan.

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

(a) An Applicant seeking assistance under either of the Programs 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 a Uniform Residential Loan Application (URLA) with a participating Mortgage Lender for the purpose of obtaining a Mortgage Loan.

(c) 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 permitted by FHA, RHS, VA, Freddie Mac, or Fannie Mae, as applicable, and otherwise permitted by applicable law, provided such charges

do not exceed the usual and reasonable amounts charged in the area in which the Residence is located. Such settlement or financing costs may include Department-approved fees, application fees, credit report fees, credit reference fees, appraisal fees and expenses, property inspection fees, title insurance, survey fees, legal fees, escrow fees, recording or registration fees, tax service fees, abstract fees, file preparation fees, FHA insurance premiums, private mortgage guaranty insurance premiums, VA guaranty fees, VA funding fees, RHS guaranty fees, hazard or flood insurance premiums, and other customary settlement or financing charges associated with the origination of the Mortgage Loan.

(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.

(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 either or both of the Programs, 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 either or both of the Programs, 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 Programs if the new owner meets the Programs' requirements at the time of the sale of the Residence.

§27.8. Conflicts with Bond Indentures and Applicable Law.

All assistance provided under the Programs 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 these Programs, except 10 TAC §27.8, if the Board finds that waiver is appropriate for good cause to fulfill the purposes or policies of Texas Government Code, Chapter 2306, 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.

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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 unnecessary rule while ensuring the administration of the Taxable Mortgage Program is still addressed in rule, which will be in Chapter 27, as being proposed 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. GOV'T 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 of a duplicative regulation that can be covered sufficiently by another chapter, Chapter 27, which is being proposed with revisions under a separate action.

2. The repeal does not require a change in work that will require the creation of new employee positions, nor will the repeal reduce workload 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.

6. The action will repeal an existing regulation, but the program covered by the rule is not being eliminated; it is merely now being addressed under another section of Texas Administrative Code.

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. GOV'T 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. GOV'T 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. GOV'T 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. GOV'T 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 a more efficient rule that governs both the FTHB Program and TMP under Chapter 27 (taking place under separate action). There will be no 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 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 June 19, 2026, to July 20, 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, July 20, 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 June 4, 2026.

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CHAPTER 29. TEXAS SINGLE FAMILY NEIGHBORHOOD STABILIZATION PROGRAM RULE

10 TAC §§29.1 - 29.4

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of 10 TAC Chapter 29, Texas Single Family Neighborhood Stabilization Program Rule. The purpose of the proposed repeal is to remove an obsolete rule that related to a program activity no longer performed by the Department.

Tex. Gov't Code §2001.0045(b) does not apply to the rule proposed for action because it was determined that 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. Robert Wilkinson has determined that, for the first five years the repeal would be in effect:

1. The repeal does not create or eliminate a government program, but removes a regulation for a program activity that is no longer in operation.

2. The repeal 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 workload to a degree that eliminates any existing employee positions.

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

4. The repeal will 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.

6. The action will improve regulatory efficiency by repealing an obsolete regulation.

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 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 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. GOV'T CODE §2007.043. The repeal 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 repeal as to its possible effects on local economies and has determined that for the first five years the 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 repeal is in effect, the public benefit anticipated as a result of the changed section would be improved regulatory efficiency by removing an unnecessary rule. 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 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 public comment period will be held June 19, 2026 to July 20, 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 MUST BE RECEIVED BY 5:00 p.m., Austin local time, July 20, 2026.

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

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

§29.1. Purpose.

§29.2. Definitions.

§29.3. General Provisions.

§29.4. Reassignment of Funds.

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

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TITLE 16. ECONOMIC REGULATION

PART 4. TEXAS DEPARTMENT OF LICENSING AND REGULATION

CHAPTER 121. BEHAVIOR ANALYST

The Texas Department of Licensing and Regulation (Department) proposes amendments to existing rules at 16 Texas Administrative Code (TAC), Chapter 121, Subchapter A, §121.10; Subchapter B, §§121.20 - 121.22, 121.25, and 121.26; Subchapter C, §§121.65, 121.67, and 121.68; Subchapter D, §§121.70 - 121.75; Subchapter E, §§121.76 - 121.81; Subchapter F, §121.85; and Subchapter G, §121.90 and §121.95; and new rules at new Subchapter H, §121.100, regarding the Behavior Analyst program. These proposed changes are referred to as the "proposed rules."

EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The rules under 16 TAC, Chapter 121, implement Texas Occupations Code, Chapter 506, Behavior Analysts.

The proposed rules are necessary to implement the statutory changes made by Senate Bill (SB) 2075, 89th Legislature, Regular Session (2025), specifically, Section 18. The proposed rules amend and correct outdated terminology, simplify and clarify commonly used terms, explain new ethical requirements related to the use of artificial intelligence systems, and update the complaint process.

These changes are also necessary to implement technical clean-up changes and other changes recommended by Department staff during the Department's 4-year rule review, and also from recommendations generated during discussions between the Department and members of the Behavior Analyst Advisory Board regarding the use of artificial intelligence systems by behavior analysts.

The proposed rules are necessary to ensure consistency with plain language principles, to recognize the Qualified Applied Behavior Analysis Credentialing Board as a certifying entity, to change the advisory board presiding officer's term from one year to two years, to describe the ethical requirements imposed on behavior analysis licensees who use artificial intelligence systems to provide service to their clients, and to update the complaint process to reflect the Department's exclusive use of an on-line complaint intake system.

Advisory Board Recommendations

The proposed rules were presented to and discussed by the Behavior Analyst Advisory Board at its meeting on May 5, 2026.

First Change to the Proposed Rules:

The proposed rules presented to the Advisory Board included a proposed amendment to §121.73, Reporting Requirements. Specifically, the proposed rules amended §121.73(c)(1) to require that client records must be maintained for a minimum of seven years following the termination of behavior analysis services, rather than six years. The Advisory Board recommended leaving the record retention period at six years. In response, the Department has removed the proposed amendment.

Second Change to the Proposed Rules:

The proposed rules presented to the Advisory Board included a proposed amendment to §121.73, Reporting Requirements. Specifically, the proposed rules amended §121.73(c)(2) to require that minor client records must be maintained for a minimum of seven years following the termination of behavior analysis services if the minor client terminated behavior analysis services before reaching the age of 22. The Advisory Board recommended leaving the record retention period at six years and removing the new proposed language regarding termination of services by a minor client. In response, the Department has removed both proposed amendments.

The Advisory Board voted and recommended that the proposed rules with changes be published in the *Texas Register* for public comment.

SECTION-BY-SECTION SUMMARY

Subchapter A. General Provisions

The proposed rules add new rules for §121.10. Definitions. The proposed rules add definitions for "Artificial intelligence system (AI)," "Deidentified," and "Qualified Applied Behavior Analysis Credentialing Board (QABA)." These new definitions are used extensively throughout the remainder of Ch. 121, especially in the new proposed subsection §121.751, License Holder Responsibilities Related to the Use of AIs (see below). The proposed rules also amend and renumber §121.10 to accommodate these new rules.

Subchapter B. Licensing Requirements

The proposed rules amend §121.20, Applications; §121.21, Behavior Analyst Licensing Requirements; §121.22, Assistant Behavior Analyst Licensing Requirements; §121.25, Continuing Education; and §121.26. Renewal.

The proposed rules under subsection §121.20(c)(1) amend and correct outdated terminology by changing "college work" to "course work." The proposed rules under subsection §121.20(c)(8), §121.21(a)(1) and (3), §121.22(a)(1) and (4), §121.25(a), and § 121.26(c)(2) amend and correct outdated terminology by referring generally to behavior analyst certifications issued by certifying entities, rather than specifically to the Behavior Analyst Certification Board (BACB). This amendment reflects the Department's approval of the Qualified Applied Behavior Analysis Credentialing Board (QABA) as a certifying entity alongside the BACB.

The proposed rules amend and correct outdated terminology in rule §121.25 by changing "shall" to "must."

Subchapter C. Behavior Analyst Advisory Board

The proposed rules amend §121.65, Membership; §121.67, Terms, Vacancies; and §121.68, Officers. The proposed rules amend §121.68(a) in accordance with SB 2075, 89th Legislature, Regular Session (2025) to change the advisory board presiding officer's term from one year to two years.

The proposed rules amend and correct outdated terminology in rules §121.65 and §121.67, by changing "shall" to "is," "shall include" to "is as follows," and "shall be" to "is."

Subchapter D. Responsibilities of License Holder

The proposed rules amend §121.70, Administrative Practice Responsibilities of License Holders; §121.71, Professional Services Practice Responsibilities of License Holders; §121.72, Display of License; §121.73, Reporting Requirements; §121.74, Reporting Requirements; and §121.75, Code of Ethics.

The proposed rules under subsection §121.71(a)(4) and §121.75(a) amend and correct outdated terminology by referring generally to behavior analyst certifications issued by certifying entities. This amendment reflects the Department's approval of the QABA as a certifying entity alongside the BACB.

The proposed rules amend and correct outdated terminology in rules §§121.70, 121.71, 121.72, 121.73, 121.74, and 121.75 by changing "shall" to "must."

The proposed rules add new rules to §121.75, Code of Ethics. Specifically, new (b)(12) - (14) require license holders to obtain a client's written consent before using client data for research or for use by artificial intelligence (AI) and require license holders to document unauthorized disclosures of the client's data, including disclosures caused by any breach of an AI system. The proposed rules also amend and renumber §121.75(b) to accommodate these new rules.

Subchapter E. Telehealth

The proposed rules amend §121.76, Definitions Relating to Telehealth; §121.77, Service Delivery Models; §121.78, Technology and Equipment Requirements; §121.79, License Holder Responsibilities for Providing Telehealth Services and Using Telehealth; §121.80, Use of Facilitators with Telehealth; and §121.81, Client Contacts and Communications.

The proposed rules amend and correct outdated terminology in rules §§121.76, 121.77, 121.78, 121.79, 121.80, and 121.81 by repealing "shall," changing "shall be" to "is," and changing "shall" to "must."

Subchapter F. Fees

The proposed rules amend §121.85, Fees. The proposed rules amend and correct outdated terminology in rule §121.85(b)(1) and (2) by repealing "application and initial" from the description of the licensing fees for behavior analysts and assistant behavior analysts, as the fee is the same for both applicants and for the initial licensure.

Subchapter G. Enforcement

The proposed rules amend §121.90, Basis for Disciplinary Action; and §121.95, Complaints.

The proposed rules under subsection §121.90(b) amend and correct outdated terminology by referring generally to behavior analyst certifications issued by certifying entities. This amendment reflects the Department's approval of the QABA as a certifying entity alongside the BACB.

The proposed rules under subsection §121.95(a) amend the Department's complaint intake process by requiring the Department to list a web address, mailing address, and business number for the purpose of accepting complaints. This amendment is necessary because the Department no longer accepts complaints via telephone, as its complaint intake process is now exclusively online or by postal mail.

The proposed rules amend and correct outdated terminology in rule §121.95 by changing "shall list with" to "will provide," and "shall" to "must."

Subchapter H. License Holder Responsibilities Related to the Use of AIs

The proposed rules add a new subchapter, Subchapter H, License Holder Responsibilities Related to the Use of AIs.

The proposed rules add new subsection, §121.100, License Holder Responsibilities Related to the Use of AIs. New (a) prohibits license holders from using AI as the sole basis for treatment design, assessment, implementation, reports, or evaluations. New (b) requires license holders to personally review any AI-generated or AI-assisted treatment materials. New (c) requires that any restrictive or punishment-based procedures suggested by AI require the license holder to ensure that less intrusive methods are not viable, that the benefits of the restrictive or punishment-based procedures outweigh risks of harm, and to document the rationale for this decision in the client's file. New (d) requires license holders not to use AI to treat clients if the use of AI would be beyond their training or their scope of licensure. New (e) requires that all AI-derived information must be verified by the license holder and based on accurate evidence and requires the license holder to document this verification in the client's file. New (f) requires that license holders must explain the evidence behind any AI-driven changes to a client's treatment plan to their client in clear, understandable language and requires the license holder to document this explanation in the client's file. Finally, new (g) requires that all AI-influenced modifications to a client's treatment plan are based on evidence personally confirmed by the license holder.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

Tony Couvillon, Senior Policy Research and Budget Analyst, has determined that for each year of the first five years the proposed rules are in effect, there are no estimated additional costs or reductions in costs to state or local government as a result of enforcing or administering the proposed rules.

Mr. Couvillon has determined that for each year of the first five years the proposed rules are in effect, there will be an increase in revenue. Specifically, in December 2024 the department approved an additional certifying entity. Since December 2024, TDLR has licensed an additional 50 behavior analysts and 25 assistant behavior analysts certified by this new entity. With a behavior analyst license fee of $165 and an assistant license fee of $110, there was a revenue increase of $11,000 in FY 2025. It is anticipated that the additional revenue in the next five years will be approximately the same from the licensure of additional applicants.

Mr. Couvillon has determined that for each year of the first five years the proposed rules are in effect, there is no estimated loss in revenue to the state or local government as a result of enforcing or administering the proposed rules.

LOCAL EMPLOYMENT IMPACT STATEMENT

Because Mr. Couvillon has determined that the proposed rules will not affect a local economy, the agency is not required to prepare a local employment impact statement under Texas Government Code §2001.022.

PUBLIC BENEFITS

Mr. Couvillon also has determined that for each year of the first five-year period the proposed rules are in effect, the proposed rules will benefit behavior analysts who obtained their education and training through department-approved certifying entities other than the one previous certifying entity and thereby increase the number of behavior analysts available to serve the public. The proposed rule is intended to serve a growing industry whose licensee population has grown an average of 19% each year for the last 5 years. Also, the proposed rules' amendments to the web address requirement reflect the Department's shift to an online complaint process, which will make filing complaints easier. The changes implemented by the proposed rules also are intended to incorporate current department processes and will benefit behavior analysts and their clients by making the rules easier to understand. Finally, the rules address data integrity and regulate the use of AI in the behavior analysis profession by adding definitions, ethics requirements, and additional requirements for license holders regarding AI.

PROBABLE ECONOMIC COSTS TO PERSONS REQUIRED TO COMPLY WITH PROPOSAL

Mr. Couvillon has determined that for each year of the first five-year period the proposed rules are in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rules. License holders should incur no costs to comply with the AI ethics requirements and unauthorized disclosure notification requirement; if any license holder does incur a cost, it will be minimal.

FISCAL IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

There will be no adverse economic effect on small businesses, micro-businesses, or rural communities as a result of the proposed rules. Because the agency has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities, preparation of an Economic Impact Statement and a Regulatory Flexibility Analysis, as detailed under Texas Government Code §2006.002, is not required.

ONE-FOR-ONE REQUIREMENT FOR RULES WITH A FISCAL IMPACT

The proposed rules do not have a fiscal note that imposes a cost on regulated persons, including another state agency, a special district, or a local government. Therefore, the agency is not required to take any further action under Texas Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT

Pursuant to Texas Government Code §2001.0221, the agency provides the following Government Growth Impact Statement for the proposed rules. For each year of the first five years the proposed rules will be in effect, the agency has determined the following:

1. The proposed rules do not create or eliminate a government program.

2. Implementation of the proposed rules does not require the creation of new employee positions or the elimination of existing employee positions.

3. Implementation of the proposed rules does not require an increase or decrease in future legislative appropriations to the agency.

4. The proposed rules do not require an increase or decrease in fees paid to the agency.

5. The proposed rules create a new regulation.

The proposed rules create a new regulation by creating responsibilities for license holders relating to the use of AI.

6. The proposed rules expand, limit, or repeal an existing regulation.

The proposed rules expand an existing regulation by adding use of AI consent requirements and unauthorized disclosure notification requirements to the code of ethics and requiring TDLR to list its web address for the purpose of filing complaints.

7. The proposed rules increase or decrease the number of individuals subject to the rules' applicability.

The proposed rules increase the number of individuals subject to the rule's applicability by making individuals certified by an additional department-approved certifying entity eligible to become licensed.

8. The proposed rules do not positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT

The Department has determined that no private real property interests are affected by the proposed rules and the proposed rules do not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, the proposed rules do not constitute a taking or require a takings impact assessment under Texas Government Code §2007.043.

PUBLIC COMMENTS AND INFORMATION RELATED TO THE COST, BENEFIT, OR EFFECT OF THE PROPOSED RULES

The Department is requesting public comments on the proposed rules and information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis. Any information that is submitted in response to this request must include an explanation of how and why the submitted information is specific to the proposed rules. Please do not submit copyrighted, confidential, or proprietary information.

Comments on the proposed rules and responses to the request for information may be submitted electronically on the Department's website at https://ga.tdlr.texas.gov:1443/form/BHV_Rule_Making; by facsimile to (512) 475-3032; or by mail to Monica Nuñez, Legal Assistant, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711. The deadline for comments is 30 days after publication in the *Texas Register*.

SUBCHAPTER A. GENERAL PROVISIONS

16 TAC §121.10

STATUTORY AUTHORITY

The proposed rules are proposed under Texas Occupations Code, Chapters 51 and 506, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposed rules are those set forth in Texas Occupations Code, Chapters 51 and 506. No other statutes, articles, or codes are affected by the proposed rules.

The legislation that enacted the statutory authority under which the proposed rules are proposed to be adopted is SB 2075, 89th Legislature, Regular Session (2025).

§121.10. Definitions.

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

(1) - (5) (No change.)

(6) Artificial intelligence system (AI)--Has the meaning assigned to it by Texas Business and Commerce Code §551.001(1).

(7) [~~(6)~~] Authorized representative--A person or entity that is legally authorized to represent the interests of a client and perform functions including making decisions about behavior analysis services.

(8) [~~(7)~~] Behavior Analyst Certification Board (BACB)--A certifying entity for persons practicing behavior analysis.

(9) [~~(8)~~] Client--A person who is:

(A) - (C) (No change.)

(10) [~~(9)~~] Commission--The Texas Commission of Licensing and Regulation.

(11) [~~(10)~~] Department--The Texas Department of Licensing and Regulation.

(12) Deidentified--Information that cannot reasonably identify, relate to, describe, be capable of being associated with, or be linked, directly or indirectly, to a particular client.

(13) [~~(11)~~] Direct observation--A method of data collection that consists of observing the object of study in a particular situation or environment.

(14) [~~(12)~~] Executive director--The executive director of the department.

(15) [~~(13)~~] Indirect supervision--Supervision of a person who performs behavior analysis services but which does not occur when services are being provided to a client. This may include behavioral skills training and delivery of performance feedback; modeling technical, professional, and ethical behavior; guiding behavioral case conceptualization, problem-solving, and decision-making repertoires; review of written materials such as behavior programs, data sheets, or reports; oversight and evaluation of the effects of behavioral service delivery; and ongoing evaluation of the effects of supervision.

(16) [~~(14)~~] License--A license issued under the Act authorizing a person to use the title "licensed behavior analyst" or "licensed assistant behavior analyst" or to practice behavior analysis.

(17) [~~(15)~~] License holder--A person who has been issued a license in accordance with the Act to use the title "licensed behavior analyst" or "licensed assistant behavior analyst" or to practice behavior analysis.

(18) [~~(16)~~] Multiple relationship--A personal, professional, business, or other type of interaction by a license holder with a client or with a person or entity involved with the provision of behavior analysis services to a client that is not related to, or part of, the behavior analysis services.

(19) Qualified Applied Behavior Analysis Credentialing Board (QABA)--A certifying entity for persons practicing behavior analysis.

(20) [~~(17)~~] Service agreement--A signed written contract for behavior analysis services. A service agreement includes responsibilities and obligations of all parties and the scope of behavior analysis services to be provided. A service agreement may be identified by other terms including treatment agreement, Memorandum of Understanding (MOU), or Individualized Education Program (IEP).

(21) [~~(18)~~] Supervision--Supervision of a person who performs behavior analysis services, and may include both direct and indirect supervision. A license holder may engage in direct supervision

or indirect supervision in-person and on-site, through telehealth, or in another manner approved by the license holder's certifying entity.

(22) [~~(19)~~] Telehealth--See definitions in Subchapter E. Telehealth.

(23) [~~(20)~~] Treatment plan--A written behavior change program for an individual client. A treatment plan includes consent, objectives, procedures, documentation, regular review, and exit criteria. A treatment plan may be identified by other terms including Behavior Intervention Plan, Behavior Support Plan, Positive Behavior Support Plan, or Protocol.

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

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Deanne Rienstra
General Counsel
Texas Department of Licensing and Regulation
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SUBCHAPTER B. LICENSING REQUIREMENTS

16 TAC §§121.20 - 121.22, 121.25, 121.26

STATUTORY AUTHORITY

The proposed rules are proposed under Texas Occupations Code, Chapters 51 and 506, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposed rules are those set forth in Texas Occupations Code, Chapters 51 and 506. No other statutes, articles, or codes are affected by the proposed rules.

The legislation that enacted the statutory authority under which the proposed rules are proposed to be adopted is SB 2075, 89th Legislature, Regular Session (2025).

§121.20. Applications.

(a) - (b) (No change.)

(c) Upon request, the department may require an applicant to submit additional information or documentation for evaluation of an applicant's qualifications, including the following:

(1) official transcripts of all relevant course [~~college~~] work or educational programs demonstrating successful completion and degrees earned as applicable to the requirements under the Act and §121.21 and §121.22;

(2) - (7) (No change.)

(8) documentation demonstrating passage of the [~~Board Certified Behavior Analyst examination or the Board Certified Assistant Behavior Analyst examination, as applicable, or an equivalent~~] examination in applied behavior analysis offered by the certifying entity;

(9) - (11) (No change.)

(d) (No change.)

(e) An applicant must [~~shall~~] not submit to the department any examination-related materials or information, including examination questions, specifications, forms, or scoring sheets, except as provided in subsection (c)(8).

(f) - (g) (No change.)

§121.21. Behavior Analyst Licensing Requirements.

(a) To qualify for licensure as a behavior analyst, a person must:

(1) hold current certification as a behavior analyst or the equivalent certification issued by a certifying entity approved by the department;

[~~(1) hold current certification as a Board Certified Behavior Analyst or a Board Certified Behavior Analyst-Doctoral or equivalent, issued by the Behavior Analyst Certification Board or other certifying entity approved by the department;~~]

(2) (No change.)

(3) meet the educational requirements of the certifying entity for the behavior analyst certification or equivalent certification issued by a certifying entity approved by the department.

[~~(3) meet the educational requirements of the certifying entity for the Board Certified Behavior Analyst, the Board Certified Behavior Analyst-Doctoral, or an equivalent standard of the certifying entity approved by the department.~~]

(b) - (e) (No change.)

§121.22. Assistant Behavior Analyst Licensing Requirements.

(a) To qualify for licensure as an assistant behavior analyst, a person must:

(1) hold current certification as an assistant behavior analyst certification or the equivalent certification issued by a certifying entity approved by the department [~~a Board Certified Assistant Behavior Analyst or equivalent, issued by the Behavior Analyst Certification Board or other certifying entity approved by the department~~];

(2) - (3) (No change.)

(4) meet the educational requirements of the certifying entity for the assistant behavior analyst certification or the equivalent certification issued by a certifying entity approved by the department [~~Board Certified Assistant Behavior Analyst or an equivalent standard of the certifying entity approved by the department~~].

(b) - (e) (No change.)

§121.25. Continuing Education.

(a) An applicant must [~~shall~~] meet the continuing education requirements of the certifying entity[~~, including the continuing education requirements for the Board Certified Behavior Analyst, Board Certified Behavior Analyst-Doctoral, or Board Certified Assistant Behavior Analyst, as applicable, to become qualified to apply for a behavior analysis license~~].

(b) License holders must [~~shall~~] comply with the continuing education requirements imposed by the certifying entity.

(c) License holders must [~~shall~~] verify completion of continuing education requirements upon request.

(d) (No change.)

§121.26. Renewal.

(a) - (b) (No change.)

(c) To renew a license, a license holder must:

(1) (No change.)

(2) provide [~~a current certification number from the BACB or~~] evidence of certification by a certifying entity approved by the department;

(3) - (4) (No change.)

(d) - (g) (No change.)

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

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SUBCHAPTER C. BEHAVIOR ANALYST ADVISORY BOARD

16 TAC §§121.65, 121.67, 121.68

STATUTORY AUTHORITY

The proposed rules are proposed under Texas Occupations Code, Chapters 51 and 506, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposed rules are those set forth in Texas Occupations Code, Chapters 51 and 506. No other statutes, articles, or codes are affected by the proposed rules.

The legislation that enacted the statutory authority under which the proposed rules are proposed to be adopted is SB 2075, 89th Legislature, Regular Session (2025).

§121.65. Membership.

(a) The Behavior Analyst Advisory Board is [~~shall be~~] appointed under and governed by the Act and this subchapter. The advisory board is established under the authority of Occupations Code, §506.101.

(b) The advisory board is [~~shall be~~] composed of nine members appointed by the presiding officer of the commission with the approval of the commission. The composition of the advisory board is as follows [~~shall include~~]:

(1) - (4) (No change.)

(c) (No change.)

§121.67. Terms; Vacancies.

(a) The term of office of each member of the advisory board is [~~shall be~~] six years. Members shall serve after expiration of their term until a replacement is appointed.

(b) - (c) (No change.)

§121.68. Officers.

(a) The presiding officer of the commission shall designate a member of the advisory board as the presiding officer of the advisory board to serve for a term of two years [~~one year~~].

(b) (No change.)

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

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SUBCHAPTER D. RESPONSIBILITIES OF LICENSE HOLDER

16 TAC §§121.70 - 121.75

STATUTORY AUTHORITY

The proposed rules are proposed under Texas Occupations Code, Chapters 51 and 506, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposed rules are those set forth in Texas Occupations Code, Chapters 51 and 506. No other statutes, articles, or codes are affected by the proposed rules.

The legislation that enacted the statutory authority under which the proposed rules are proposed to be adopted is SB 2075, 89th Legislature, Regular Session (2025).

§121.70. Administrative Practice Responsibilities of License Holders.

(a) Licenses issued by the department remain the property of the department and must [~~shall~~] be surrendered to the department on demand.

(b) A license holder must [~~shall~~]:

(1) - (11) (No change.)

§121.71. Professional Services Practice Responsibilities of License Holders.

(a) A license holder must [~~shall~~]:

(1) enter into a service agreement with a client, as defined in §121.10, when behavior analysis services are to be provided;

(A) A behavior analyst must [~~shall~~] describe the services to be delivered in a service agreement that may include the following activities: consultation, assessment, training, treatment design, treatment implementation, and treatment evaluation.

(B) A behavior analyst must [~~shall~~] create a written treatment plan when the service agreement provides for delivering treatment to an individual.

(C) (No change.)

(2) - (3) (No change.)

(4) comply with all applicable requirements of the license holder's certifying entity [~~,including the BACB *Ethics Code for Behavior Analysts*~~,] when entering into service agreements and providing behavior analysis services.

(b) (No change.)

(c) If any requirement of a license holder's certifying entity conflicts with a requirement of the commission rules such that the license holder cannot reasonably comply with both requirements, the license holder must [~~shall~~] comply with the requirement of the certifying entity.

§121.72. Display of License.

(a) A license holder must [~~shall~~] display the current original license certificate issued by the department in the primary location of practice, if any, or in the license holder's business office.

(b) In the absence of a primary location of practice or business office, or when the license holder is employed in multiple locations, the license holder must [~~shall~~] carry a current license identification card issued by the department.

(c) A license holder must [~~shall~~] not:

(1) - (2) (No change.)

§121.73. Reporting Requirements.

(a) A license holder must [~~shall~~] maintain legible and accurate records of behavior analysis services rendered.

(1) (No change.)

(2) A license holder must [~~shall~~] comply with all laws, rules, and certifying entity requirements governing the maintenance of client records, including client confidentiality requirements, regardless of the state where the records of any client within this state are maintained.

(3) Records created as a result of treatment in a school setting must [~~shall~~] be maintained as part of the student's permanent school record.

(b) A license holder practicing in an educational setting, school, learning center, or clinic must [~~shall~~] comply with the record-keeping requirements of the service setting or with the retention requirements of the certifying entity, if the latter are more stringent.

(c) Records must [~~shall~~] be maintained for a minimum of the longer of:

(1) - (3) (No change.)

§121.74. Reporting Requirements.

(a) A license holder must [~~shall~~] report the following in a manner prescribed by the department within ten days:

(1) - (8) (No change.)

(b) A license holder must [~~shall~~] report a change in name or contact information to the department within thirty days after the change in a manner prescribed by the department.

§121.75. Code of Ethics.

(a) Individuals certified to provide behavior analysis services by a department-approved certifying entity [~~certified by the BACB~~] are required to comply with the ethical standards of that certifying entity [~~the BACB *Ethics Code for Behavior Analysts*~~].

(1) The department may consult the requirements of the certifying entity [~~or the BACB *Ethics Code for Behavior Analysts*~~] in the application and enforcement of the ethical standards included in this section.

(2) (No change.)

(b) A license holder must [~~shall~~] comply with the following ethical standards when providing behavior analysis services. A license holder must [~~shall~~]:

(1) - (8) (No change.)

(9) not guarantee, directly or by implication, the results of any behavior analysis services, except that a reasonable statement of prognosis may be made. A license holder must [~~shall~~] not mislead clients to expect results that cannot be predicted from reliable evidence.

(10) - (11) (No change.)

(12) obtain written consent from a client to use the client's confidential or personal data and/or information:

(A) for any of the following purposes:

(i) using AI for client treatment design, assessment, treatment implementation, report generation, usage in marketing materials, or the evaluation of a treatment plan;

(ii) providing the client's confidential or personal data for the purpose of training AI; or

(iii) research.

(13) if the AI utilized by the license holder is controlled by the license holder's employer, the license holder must document in the client's file the date that a copy of the client's written consent was provided to the employer.

(14) if the license holder knows that a client's protected health information has been disclosed without authorization:

(A) record the name(s) of the person or entity to whom the information was disclosed;

(B) notify the client of the unauthorized disclosure; and

(C) maintain proof of the client's notification in the client's record.

(15) [~~(12)~~] document any confidential or personal information disclosed, the person or entity to whom it was disclosed, and the justification for disclosure in a client's record if a license holder reveals such information about a client without authorization.

(16) [~~(13)~~] if requested, provide an explanation of the charges for behavior analysis services previously made on a bill or statement in writing and in plain language.

(17) [~~(14)~~] if requested, accurately represent and describe any product created or recommended by a license holder that is used or will be used in providing behavior analysis services to a client.

(18) [~~(15)~~] not offer to pay or agree to accept any remuneration directly or indirectly, overtly or covertly, in cash or in kind, to or from any person, firm, association of persons, partnership, or corporation for securing or soliciting clients or patronage.

(19) [~~(16)~~] not overcharge a client or third party.

(20) [~~(17)~~] not over treat a client.

(21) [~~(18)~~] terminate a professional relationship when it is reasonably clear that a client is not benefitting from the services being provided or when it is reasonably clear that a client no longer needs the services.

(22) [~~(19)~~] seek to identify competent, dependable referral sources for clients and must [~~shall~~] refer when requested or appropriate.

(23) [~~(20)~~] not sell, barter, or offer to sell or barter a license.

(24) [~~(21)~~] refrain from practicing behavior analysis if, due to illness or use of alcohol, drugs or medications, narcotics, chemicals or other substances, or from mental or physical conditions, a license holder is incapable of practicing with reasonable skill and safety to clients in the provision of behavior analysis services.

(25) [~~(22)~~] refrain from engaging in sexual contact, including intercourse or kissing, sexual exploitation, or therapeutic deception, with a client. Sexual contact and sexual intercourse mean the activities and behaviors described in Penal Code, §21.01. Sexual exploitation means a pattern, practice, or scheme of conduct, which may include sexual contact, that can reasonably be construed as being for the purposes of sexual arousal or gratification or sexual abuse of any person. Therapeutic deception means a representation by a license holder that sexual contact with, or sexual exploitation by, the license holder is consistent with, or part of, the behavior analysis services being provided to a client.

(26) [~~(23)~~] refrain from participating in inappropriate or exploitative multiple relationships. Inappropriate or exploitative multiple relationships are prohibited.

(c) Information used by a license holder in any advertisement or announcement must [~~shall~~] not contain information that is false, inaccurate, misleading, incomplete, out of context, deceptive or not readily verifiable. Advertising includes, but is not limited to, any announcement of services, letterhead, business cards, commercial products, and billing statements. False, misleading, or deceptive advertising or advertising not readily subject to verification includes advertising that:

(1) - (6) (No change.)

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

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SUBCHAPTER E. TELEHEALTH

16 TAC §§121.76 - 121.81

STATUTORY AUTHORITY

The proposed rules are proposed under Texas Occupations Code, Chapters 51 and 506, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposed rules are those set forth in Texas Occupations Code, Chapters 51 and 506. No other statutes, articles, or codes are affected by the proposed rules.

The legislation that enacted the statutory authority under which the proposed rules are proposed to be adopted is SB 2075, 89th Legislature, Regular Session (2025).

§121.76. Definitions Relating to Telehealth.

Unless the context clearly indicates otherwise, the following words and terms, when used in this subchapter, [~~shall~~] have the following meanings.

(1) - (8) (No change.)

§121.77. Service Delivery Models.

(a) (No change.)

(b) A provider must [~~shall~~] not provide services by correspondence only, e.g., mail, email, or facsimile, although these may be used as adjuncts to telehealth.

§121.78. Technology and Equipment Requirements.

(a) A provider must [~~shall~~] use only telecommunications technology, as defined in this subchapter, to provide telehealth services. Modes of communication that do not utilize such telecommunications technology, including analog telephone, mail, email, or facsimile may be used only as adjuncts.

(b) A provider may [~~shall~~] utilize telecommunications technology and other equipment only if:

(1) - (3) (No change.)

(4) the quality of electronic transmissions is [~~shall be~~] adequate for the provision of an individualized client's telehealth service.

(c) A provider must [~~shall~~] ensure that communications occur without a change in the form or content of the information, as sent and received, other than through encoding or encryption of a transmission itself for purposes of and to protect the transmission.

§121.79. License Holder Responsibilities for Providing Telehealth Services and Using Telehealth.

(a) (No change.)

(b) Licensure and Scope of Practice.

(1) An individual must [~~shall~~] not provide telehealth services to a client in the State of Texas, unless the individual is licensed by the department and qualifies as a provider, as that term is defined in this subchapter, or is otherwise legally authorized to do so.

(2) - (3) (No change.)

(c) Competence and Standard of Practice; Code of Ethics.

(1) A provider must [~~shall~~] be competent in both the type of services provided and the methodology and equipment used to provide the service.

(2) A provider must [~~shall~~] comply with the code of ethics and scope of practice requirements in this chapter when providing telehealth services.

(3) The scope, nature, and quality of the services provided via telehealth must [~~shall~~] be the same as the services provided during in-person sessions.

(4) A provider must [~~shall~~] determine whether a particular service or procedure is appropriate to be provided via telehealth.

A provider must [~~shall~~] maintain a focus on evidence-based practice and identify appropriate meaningful outcomes for a client. When an established telehealth procedure is not available, the provider must [~~shall~~] notify the client or multi-disciplinary team, as appropriate, that the effectiveness of the procedure has not yet been established for the method, manner, or mode of treatment.

(5) Documentation of telehealth services must [~~shall~~] include documentation of the date and nature of services performed by the provider through telehealth and the assistive tasks of the facilitator, if used.

(6) A provider must [~~shall~~]:

(A) - (C) (No change.)

§121.80. Use of Facilitators with Telehealth.

(a) Subject to the requirements and limitations of this subchapter, a provider may utilize a facilitator at the client site to assist the provider in rendering telehealth services.

(b) A provider must [~~shall~~] document whether a facilitator is used in providing telehealth services. If a facilitator is used, the provider must [~~shall~~] document the tasks in which the facilitator provided assistance.

(c) Before allowing a facilitator to assist the provider in providing telehealth services, the provider must [~~shall~~] ascertain and document the facilitator's qualifications, training, and competence, as appropriate and reasonable, in:

(1) - (2) (No change.)

(d) (No change.)

§121.81. Client Contacts and Communications.

(a) A provider must [~~shall~~] notify a client, a client's authorized representative, or multi-disciplinary team, as appropriate, of the conditions of telehealth services, including, but not limited to, the right to refuse or discontinue telehealth services, options for service delivery, differences between in-person and remote service delivery methods, and instructions for filing and resolving complaints.

(b) A provider must [~~shall~~] obtain client consent before services may be provided through telehealth. If a client previously consented to in-person services, a provider must [~~shall~~] obtain updated consent to include telehealth services.

(c) (No change.)

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

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Deanne Rienstra
General Counsel
Texas Department of Licensing and Regulation
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For further information, please call: (512) 463-7750

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SUBCHAPTER F. FEES

16 TAC §121.85

STATUTORY AUTHORITY

The proposed rules are proposed under Texas Occupations Code, Chapters 51 and 506, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposed rules are those set forth in Texas Occupations Code, Chapters 51 and 506. No other statutes, articles, or codes are affected by the proposed rules.

The legislation that enacted the statutory authority under which the proposed rules are proposed to be adopted is SB 2075, 89th Legislature, Regular Session (2025).

§121.85. Fees.

(a) (No change.)

(b) Licensing fees are as follows:

(1) [~~application and initial~~] license, behavior analyst--$165

(2) [~~application and initial~~] license, assistant behavior analyst--$110

(3) - (8) (No change.)

(c) - (e) (No change.)

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

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SUBCHAPTER G. ENFORCEMENT

16 TAC §121.90, §121.95

STATUTORY AUTHORITY

The proposed rules are proposed under Texas Occupations Code, Chapters 51 and 506, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposed rules are those set forth in Texas Occupations Code, Chapters 51 and 506. No other statutes, articles, or codes are affected by the proposed rules.

The legislation that enacted the statutory authority under which the proposed rules are proposed to be adopted is SB 2075, 89th Legislature, Regular Session (2025).

§121.90. Basis for Disciplinary Action.

(a) (No change.)

(b) The department may consult the requirements of the certifying entity [~~and the~~ BACB ~~*Ethics Code for Behavior Analysts*~~] in the application and enforcement of this chapter.

(c) - (f) (No change.)

§121.95. Complaints.

(a) The department will provide its website, mailing address, and telephone number for the purpose of submitting complaints relating to a health profession regulated by the department.

~~[(a) The department shall list, with its business telephone number, a toll-free telephone number established to accept complaints relating to a health profession regulated by the department.]~~

(b) A license holder must [~~shall~~] notify each client or a minor client's authorized representative of the name, mailing address, email address, telephone number, and website of the department for the purpose of directing complaints to the department. A license holder must [~~shall~~] display this notification:

(1) - (2) (No change.)

(c) - (g) (No change.)

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

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SUBCHAPTER H. LICENSE HOLDER RESPONSIBILITIES RELATED TO THE USE OF AIS

16 TAC §121.100

STATUTORY AUTHORITY

The proposed rules are proposed under Texas Occupations Code, Chapters 51 and 506, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposed rules are those set forth in Texas Occupations Code, Chapters 51 and 506. No other statutes, articles, or codes are affected by the proposed rules.

The legislation that enacted the statutory authority under which the proposed rules are proposed to be adopted is SB 2075, 89th Legislature, Regular Session (2025).

§121.100. License Holder Responsibilities Related to the Use of AIs

(a) A license holder must not use AI as the sole basis for a client treatment design, assessment, treatment implementation, report, or for the evaluation of a treatment plan. Any results generated by AI used as the basis for a decision must be based on accurate evidence personally verified by the license holder.

(b) A license holder must individually review any client treatment design, assessment, treatment implementation, report, or evaluation of a treatment plan generated in whole or in part by AI.

(c) If a client treatment design, assessment, treatment implementation, report, or evaluation of a treatment plan is generated in whole or in part by AI and recommends implementing restrictive or punishment-based procedures, a license holder must personally ensure the desired results cannot be obtained using less intrusive means and that the risk of harm to the client is outweighed by the benefit associated with the behavior-change intervention, and must document the license holder's rationale for this decision in the client's file.

(d) A license holder must not use AI to create a client treatment design, assessment, or treatment implementation, to generate a client report, or to evaluate a treatment plan unless doing so is within the training, competence, and scope of the license holder.

(e) If any changes to a client treatment design, assessment, treatment implementation, or evaluation of a treatment plan are derived from the use or application of AI, the license holder must be able to explain to a client the evidentiary basis for these changes in understandable language and must document this explanation in the client's file.

(f) Any changes to a client treatment design, assessment, treatment implementation, or evaluation of a treatment plan derived from the use or application of AI must be based on accurate evidence personally verified by the license holder, and the license holder must document this verification in the client's file.

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

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 20. TEXAS WORKFORCE COMMISSION

CHAPTER 815. UNEMPLOYMENT INSURANCE

SUBCHAPTER B. BENEFITS, CLAIMS, AND APPEALS

40 TAC §815.16

The Texas Workforce Commission (TWC) proposes amendments to the following section of Chapter 815, relating to Unemployment Insurance:

Subchapter B. Benefits, Claims, and Appeals, §815.16

PART I. PURPOSE, BACKGROUND, AND AUTHORITY

The purpose of the proposed Chapter 815 rule change is to add clear guidelines on the applicability of time zone differences in determining whether a petitioner has shown good cause for failure to appear at a hearing, pursuant to the provisions of §815.16(5)(B).

This proposed amendment to the rule formalizes and modernizes the intent of TWC Appeals Precedent Case No. 93-014606-10*-101993 (MS 30.00(4)), a Commission precedent initially adopted in 1993 when telephone conference hearings were less frequent and the total volume of hearings was significantly lower. Telephone conference calls are now the default method of conducting hearings, and the consistent increase in the total number of hearings makes consideration of time zones generally applicable.

Also, with the increase in total hearing volume, the physical locations of hearing officers are no longer limited to the Central time zone used in hearing notices. The proposed rule change modernizes the guidelines by specifying that the good cause analysis relies on the difference between the petitioner's time zone and the time zone used in the hearing notice (Central time zone), regardless of the hearing officer's time zone.

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS

(Note: Minor editorial changes are made that do not change the meaning of the rule and, therefore, are not discussed in the Explanation of Individual Provisions.)

SUBCHAPTER B. BENEFITS, CLAIMS, AND APPEALS

TWC proposes the following amendments to Subchapter B:

§815.16. Appeals to Appeal Tribunals from Determinations

Section 815.16 is amended to add paragraph (5)(D) to define the circumstances under which a time zone difference between the petitioner's location and the time published in the hearing notice establish good cause for the petitioner to fail to participate in a hearing. Good cause for missing a prior hearing may be established if the petitioner makes a good faith effort to participate in the hearing but calls in untimely solely because of a time zone difference between the petitioner's location and the (Central) time zone expressed in the hearing notice.

PART III. IMPACT STATEMENTS

Chris Nelson, Chief Financial Officer, has determined that for each year of the first five years the proposed rule will be in effect, the following statements will apply:

There are no additional estimated costs to the state and to local governments expected as a result of enforcing or administering the proposed rule.

There are no estimated cost reductions to the state and to local governments as a result of enforcing or administering the proposed rule.

There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the proposed rule.

There are no foreseeable implications relating to costs or revenue of the state or local governments as a result of enforcing or administering the proposed rule.

There are no anticipated economic costs to individuals required to comply with the proposed rule.

There is no anticipated adverse economic impact on small businesses, microbusinesses, or rural communities as a result of enforcing or administering the proposed rule.

Based on the analyses required by Texas Government Code, §2001.024, TWC has determined that the requirement to repeal or amend a rule, as required by Texas Government Code, §2001.0045, does not apply to this rulemaking.

Takings Impact Assessment

Under Texas Government Code, §2007.002(5), "taking" means a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the US Constitution or the Texas Constitution, §17 or §19, Article I, or restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action, and is the producing cause of a reduction of at least 25 percent in the market value of the affected private real property, determined by comparing the market value of the property as if the governmental action is not in effect and the market value of the property determined as if the governmental action is in effect. TWC completed a Takings Impact Assessment for the proposed rulemaking under Texas Government Code, §2007.043. The primary purpose of this proposed rulemaking, as discussed elsewhere in this preamble, is to add clear guidelines on the applicability of time zone differences in determining whether a petitioner has shown good cause for failure to appear at a hearing, pursuant to the provisions of §815.16(5)(B).

The proposed rulemaking will not create any additional burden on private real property or affect private real property in a manner that would require compensation to private real property owners under the US Constitution or the Texas Constitution. The proposal also will not affect private real property in a manner that restricts or limits an owner's right to the property that would otherwise exist in the absence of the governmental action. Therefore, the proposed rulemaking will not cause a taking under Texas Government Code, Chapter 2007.

Government Growth Impact Statement

TWC has determined that during the first five years the proposed rule is in effect, it:

--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 TWC;

--will not require an increase or decrease in fees paid to TWC;

--will not create a new regulation;

--will not expand, limit, or eliminate an existing regulation;

--will not change the number of individuals subject to the rule; and

--will not positively or adversely affect the state's economy.

Economic Impact Statement and Regulatory Flexibility Analysis

TWC has determined that the rule will not have an adverse economic impact on small businesses or rural communities, as the proposed rule places no requirements on small businesses or rural communities.

Mariana Vega, Director, Labor Market Information, has determined that there is not a significant negative impact upon employment conditions in the state as a result of the rule.

Lowell Keig, Director, Unemployment Insurance Division, has determined that for each year of the first five years the rule is in

effect, the public benefit anticipated as a result of enforcing the proposed rule will be to add clear guidelines on the applicability of time zone differences in determining whether a petitioner has shown good cause for failure to appear at a hearing, pursuant to the provisions of §815.16(5)(B).

PART IV. REQUEST FOR IMPACT INFORMATION

TWC requests, from any person required to comply with the proposed rule or any other interested person, information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis. Please submit the requested information to TWCPolicyComments@twc.texas.gov no later than July 20, 2026.

PART V. PUBLIC COMMENTS

Comments on the proposed rule may be submitted to TWCPolicyComments@twc.texas.gov and must be received no later than July 20, 2026.

PART VI. STATUTORY AUTHORITY

The rule is proposed under:

--Texas Labor Code §212.001, which provides that the manner in which unemployment insurance hearings and appeals are conducted must be in accordance with rules adopted by TWC.

--Texas Labor Code, §301.0015(a)(6), which provides TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

The proposed rule affects Texas Labor Code, Title 4, Chapter 212.

§815.16. Appeals to Appeal Tribunals from Determinations.

A party of interest may appeal a determination to the appeal tribunal. Appeals shall be in accordance with the terms of this section and §§815.15, 815.17, and 815.18[, ~~§815.15~~] of this subchapter [~~chapter (relating to Parties with Appeal Rights), §815.17 of this chapter (relating to Appeals to the Commission from Decisions), and §815.18 of this chapter (relating to General Rules for Both Appeal Stages)~~]. As used in this section and in §815.17 and §815.18 of this subchapter, the term "party" includes a person's or individual's representative. In this section, a reference to the term "supervisor of appeals" includes the supervisor's designee.

(1) Presentation of appealed claims.

(A) A party appealing from a determination made by an examiner under the provisions of the Act, shall file an appeal by hand delivery, mail, common carrier, facsimile (fax) transmission, or other method approved by the Agency in writing. A written appeal that is sent to the Agency should be addressed to the Texas Workforce Commission, 101 East 15th Street, Austin, Texas, 78778-0001, or faxed to the number provided in the determination. A written appeal may be hand delivered to the Texas Workforce Commission, 101 East 15th Street, Austin, Texas 78778-0001, a local office of the Agency, or an agent state, or a Texas Workforce Center, [~~workforce center~~] or an office of a Board. The appeal should identify the determination being appealed, the basis for the appeal, the name of the party appealing, and the date of the appeal. The provisions of §815.32 of this subchapter [~~chapter (relating to Timeliness)~~] shall determine on what date the appeal was filed.

(B) Upon [~~the~~] scheduling [~~of~~] a hearing on an appeal or a petition to reopen, notice of the hearing shall be mailed to the parties at least five calendar days before the date of the hearing. The notice shall identify the decision or determination appealed from and shall specify the time and date of the hearing, the party appealing, and the issue to be heard. If the hearing is an in-person hearing, the notice shall also specify the location of the hearing.

(2) Disqualification of appeal tribunal. The essence of a fair hearing lies in the impartiality of the appeal tribunal. An appeal tribunal should be free not only of any personal interest or bias in the appeal before it, but also of any reasonable suspicion of personal interest. No appeal tribunal shall participate in the hearing of an appeal in which that tribunal has a personal interest in the outcome of the appeal decision. The appeal tribunal may withdraw from a hearing to avoid the appearance of impropriety or partiality. Challenges to the impartiality of any appeal tribunal may be heard and decided by the supervisor of appeals.

(3) Hearing of appeal.

(A) Consistent with §212.106 of the Act, all hearings shall be conducted informally and in a manner to ensure the substantial rights of the parties. All issues relevant to the appeal shall be considered and ruled upon. The parties to an appeal before an appeal tribunal may present evidence that may be material and relevant as determined by an appeal tribunal. The appeal tribunal shall examine parties and witnesses, if any, and may allow cross-examination to the extent the appeal tribunal deems necessary to afford the parties due process. The appeal tribunal, with or without notice to any of the parties, may take additional evidence that it deems necessary, provided that a party shall be given an opportunity to rebut the evidence if it is to be used against the party's interest.

(i) In conducting a hearing, the appeal tribunal shall actively develop the record on the relevant circumstances leading to the separation for hearings involving the issue of work separation and, for hearings involving other issues, the relevant facts to resolve those issues. It is the responsibility of the appeal tribunal to ensure that all relevant issues are thoroughly explored at the hearing.

(ii) The appeal tribunal shall ask any questions necessary to obtain pertinent facts concerning all events (such as job separation) that are at issue in the hearing.

(B) The parties to an appeal, with the consent of the appeal tribunal, may stipulate in writing the facts involved. The appeal tribunal may decide the appeal on the basis of a stipulation or, in its discretion, may set the appeal for hearing and take any additional evidence it deems necessary to enable it to determine the appeal.

(C) Hearings shall be conducted by telephone conference call unless the supervisor of appeals determines that an in-person hearing is necessary because a party with a physical impairment cannot effectively participate by telephone, because the nature of the evidence to be presented makes a hearing by telephone impractical, or because the supervisor of appeals otherwise determines that an in-person hearing is necessary. The rules and procedures in this chapter govern both in-person and telephone hearings. A party may request an in-person hearing by informally contacting, orally or in writing or by any other reasonable method of communication, the appeal tribunal, or the supervisor of appeals before the scheduled time of the hearing and presenting information to support the request. The supervisor of appeals has the discretion to determine whether the party's request for an in-person hearing will be granted.

(4) Adjournment, continuance, and postponement of hearing.

(A) The appeal tribunal shall use its best judgment to determine when to grant a continuance or postponement of a hearing in order to secure all the evidence that is necessary and to be fair to the parties.

(B) Either prior to or during a hearing, an appeal tribunal, on its own motion or on the motion of a party of interest, may continue, adjourn, or postpone a hearing. The continuance, adjournment, or postponement shall not be for the purpose of delaying the proceeding and may be granted due to illness of the appellant, death in the immediate family of the appellant, or a pending criminal prosecution of the appellant. A continuance, adjournment, or postponement may also be granted at the request of the appellant or appellee when there is a need for an interpreter, religious observance, jury duty, court appearance, active military duty, or other reasons approved by the supervisor of appeals. Prior to the hearing, requests for a continuance or a postponement of a hearing may be made informally, either orally or in writing, to the appeal tribunal designated to hear the appeal or to the supervisor of appeals.

(5) Reopening of hearing before appeal tribunal.

(A) If a party fails to appear for a hearing, the appeal tribunal may hear and record the evidence of the party present and the witnesses, if any, and shall proceed to decide the appeal on the basis of the record unless there appears to be good reason for continuing the hearing. A copy of the decision shall be promptly mailed to the parties of interest with an explanation of the manner in which, and time within which a request for reopening may be submitted.

(B) A party of interest to the appeal who fails to appear at a hearing may, within 14 calendar days from the date the decision is mailed, petition for a new hearing before the appeal tribunal in the manner set out in paragraph [~~subsection~~] (1)(A) of this section. The petition should identify the party requesting the reopening, the applicable decision of the appeal tribunal, the date of the petition, and explain the reason for the failure to appear. The provisions of §815.32 of this subchapter [~~chapter (relating to Timeliness)~~] shall determine on what date the petition was filed. The petition shall be granted if it appears to the appeal tribunal that the petitioner has shown good cause for the petitioner's failure to appear at the hearing. In the event that an appeal to the Commission is filed before the filing of the petition for reopening by the appeal tribunal, the appeal shall be referred to the Commission for review.

(C) For purposes of this section, the term "appear" shall mean participation by a party or a party's representative in the proceeding. Actions that may be considered as participation include offering testimony, examining witnesses, or presenting oral argument. If the hearing is a telephone hearing, a party or a party's representative shall appear at a hearing by calling on the date and at the time of the hearing and participating in the hearing proceedings. If the hearing is an in-person hearing, a party or a party's representative shall appear by being at the location of the hearing on the date and at the time scheduled for the hearing and participating in the hearing proceedings. Mere submission of written documents, whether sworn or unsworn, or observation of the proceedings, shall not constitute an appearance.

(D) A petitioner under subparagraph (B) of this paragraph shall be deemed to have established good cause for failure to appear at a hearing if:

(i) the time zone in the petitioner's physical location is located in a time zone different from the one specified in the hearing notice;

(ii) the petitioner made a good faith attempt to participate in the hearing at the time stated in the hearing notice by calling at the numerical time in the time zone in the petitioner's physical location; and

(iii) the petitioner's failure to appear was caused solely by the difference between the time zone stated in the hearing notice and the time zone in the petitioner's physical location.

(6) The determination of appeals.

(A) As soon as possible following the conclusion of a hearing of an appeal, the appeal tribunal shall issue its findings of fact and decision with respect to the appeal. The decision shall be in writing and shall reflect the name of the appeal tribunal who conducted the hearing and who rendered the decision. In the decision, the appeal tribunal shall set forth findings of fact and conclusions of law, with respect to the matters on appeal, and the reasons for the decision. Copies of the decision shall be mailed by the appeal tribunal to the parties of interest to the appeal. Upon request, courtesy copies may be mailed to other parties to the appeal.

(B) At any time during the 14 calendar day [~~14-day~~] period from the date a decision on an appeal is mailed, unless a party of interest has already appealed to the Commission, the appeal tribunal or the supervisor of appeals may assume continuing jurisdiction over the appeal for the purpose of reconsidering the issues on appeal and issuing a corrected decision. During the period in which continuing jurisdiction is assumed, the appeal tribunal, after notice to the parties, may take any additional evidence or secure any additional information it deems necessary to issue a decision.

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

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General Counsel
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