

PROPOSED RULES

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 22. RESTRICTIONS ON CONTRIBUTIONS AND EXPENDITURES

1 TAC §§22.1, 22.7, 22.9, 22.17, 22.19, 22.23, 22.29, 22.37

The Texas Ethics Commission (the TEC) proposes amendments to Texas Ethics Commission Rules in Chapter 22 (relating to Restrictions on Contributions and Expenditures). Specifically, the TEC proposes amendments to §22.1 regarding Certain Campaign Treasurer Appointments Required Before Political Activity Begins, §22.7 regarding Contribution from out-of-State Committee, §22.9 regarding Cash Contributions Exceeding \$100 Prohibited, §22.17 regarding Prohibition on Personal Use of Political Contributions, §22.19 regarding General Restrictions on Reimbursement of Personal Funds, §22.23 regarding Restrictions on Certain Payments, §22.29 regarding Activity After Death or Incapacity of Candidate or Officeholder, and §22.37 regarding Virtual Currency Contributions.

This proposal, along with the contemporaneous proposal of the repeal of certain other rules in Chapter 22, amends the rules regarding restrictions on contributions and expenditures.

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 restrictions on contributions and expenditures, which are codified in Chapter 22. The repeal of some rules and adoption of amendments to other rules seek to shorten, simplify, and reorganize the rules to eliminate surplusage and improve clarity on these restrictions.

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 Commission's rules regarding sworn complaint procedures. 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 Commission 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 Commission'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 Title 15 of the Election Code and Chapter 571 of the Government Code.

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

§22.1. Certain Campaign Treasurer Appointments Required before Political Activity Begins.

[(a)] A candidate or officeholder ~~[An individual]~~ must file a campaign treasurer appointment with the proper authority upon becoming a candidate before accepting a campaign contribution or making or authorizing a campaign expenditure.

[(1)] An officeholder may accept an officeholder contribution and make or authorize an officeholder expenditure without a campaign treasurer appointment on file.]

[(2)] An officeholder who does not have a campaign treasurer appointment on file may not accept a campaign contribution or make or authorize a campaign expenditure.]

[(b)] A political committee may not accept political contributions exceeding the amount specified for making political contributions or making or authorizing political expenditures in Tex. Elec. Code §253.031(b), as amended by Figure 1 in 1 TAC §18.31 without filing a campaign treasurer appointment with the appropriate filing authority.]

[(c)] Unless the committee's campaign treasurer appointment was filed not later than the 30th day before the appropriate election day, a political committee may not knowingly make or authorize campaign contributions or campaign expenditures exceeding the amount

specified in Tex. Elec. Code §253.031(b), as amended by Figure 1 in 1 TAC §18.31 to support or oppose a candidate in a primary or general election for the following:}]

- [(1) a statewide office;]
- [(2) a seat in the state legislature;]
- [(3) a seat on the State Board of Education;]
- [(4) a multi-county district office; or]
- [(5) a judicial district office filled by voters of only one county.]

[(d) This section does not apply to the county executive committee of a political party except as provided in Chapter 20, Subchapter I of this title (relating to Rules Applicable to a Political Party's County Executive Committee).]

§22.7. Contribution from Out-of-State Committee.

[(a) For each reporting period during which a candidate, officeholder, or political committee accepts a contribution or contributions from an out-of-state political committee totaling more than the amount specified in Tex. Elec. Code §253.032(a), as amended by Figure 1 in 1 TAC §18.31, the candidate, officeholder, or political committee must comply with subsections (b) and (c) of this section.]

[(b) The candidate, officeholder, or political committee covered by subsection (a) of this section must first obtain from the out-of-state committee one of the following documents before accepting the contribution that causes the total received from the out-of-state committee to exceed the amount specified in Tex. Elec. Code §253.032(a), as amended by Figure 1 in 1 TAC §18.31 during the reporting period:]

[(1) a written statement, certified by an officer of the out-of-state political committee, listing the full name and address of each person who contributed more than the amount specified in Tex. Elec. Code §253.032(a)(1), as amended by Figure 1 in 1 TAC §18.31 to the out-of-state political committee during the 12 months immediately preceding the date of the contribution; or]

[(2) a copy of the out-of-state political committee's statement of organization filed as required by law with the Federal Election Commission and certified by an officer of the out-of-state committee.]

[(c) The document obtained pursuant to subsection (b) of this section shall be included as part of the report that covers the reporting period in which the candidate, officeholder, or political committee accepted the contribution that caused the total accepted from the out-of-state committee to exceed the amount specified in Tex. Elec. Code §253.032(e), as amended by Figure 1 in 1 TAC §18.31.]

(a) [(d)] A candidate, officeholder, or political committee that:

(1) receives contributions covered by §253.032(a) of the Election Code [subsection (a) of this section] from the same out-of-state committee in successive reporting periods; and

(2) complies with §253.032(a)(2) of the Election Code [subsection (b)(2) of this section] before accepting the first contribution triggering §253.032(a) [triggering subsection (a) of this section], may comply with §253.032(c) [subsection (c) of this section] in successive reporting periods by submitting a copy of the certified document obtained before accepting the first contribution triggering §253.032(a), [subsection (a) of this section;] rather than by obtaining and submitting an original certified document for each reporting period, provided the document has not been amended since the last submission.

(b) [(e)] A candidate, officeholder, or political committee that accepts a contribution or contributions totaling the amount specified in Tex. Elec. Code §253.032(e), as amended by Figure 1 in 1 TAC §18.31

or less from an out-of-state political committee shall include as part of the report covering the reporting period in which the contribution or contributions are accepted either:

(1) a copy of the out-of-state committee's statement of organization filed as required by law with the Federal Election Commission and certified by an officer of the out-of-state committee; or

(2) the following information:

(A) the full name of the committee, and, if the name is an acronym, the words the acronym represents;

(B) the address of the committee;

(C) the telephone number of the committee;

(D) the name of the person appointing the campaign treasurer; and

(E) the following information for the individual appointed campaign treasurer and assistant campaign treasurer:

(i) the individual's full name;

(ii) the individual's residence or business street address; and

(iii) the individual's telephone number.

[(f) This section does not apply to a contribution from an out-of-state political committee if the committee filed a campaign treasurer appointment with the commission before making the contribution.]

§22.9. Cash Contributions Exceeding \$100 Prohibited.

[(a)] For the purposes of §253.033 of the Election Code, "cash" is defined as paper currency and coinage. [A candidate, officeholder, or specific-purpose committee may not knowingly accept political contributions in cash that in the aggregate exceed \$100 from a contributor in a reporting period.]

[(b) Checks are not considered cash for purposes of this section.]

§22.17. Prohibition on Personal Use of Political Contributions.

[(a) A person who accepts a political contribution as a candidate or officeholder may not convert the contribution to personal use. This subsection applies only to political contributions accepted on or after September 1, 1983.]

[(b) A specific-purpose committee that accepts a political contribution may not convert the contribution to the personal use of a candidate, officeholder, or former candidate or officeholder. This prohibition applies only to political contributions accepted on or after September 1, 1987.]

[(c) The prohibitions set out in subsections (a) and (b) of this section apply to the use of an asset purchased with political contributions and to the use of any interest or other income earned on political contributions.]

[(d) "Personal use" means a use that primarily furthers individual or family purposes not connected with the performance of duties or activities as a candidate for or holder of a public office. In addition to the exceptions listed in §253.035(d) of the Election Code, it does not include:]

[(1) payments made to defray ordinary and necessary expenses incurred in connection with activities as a candidate or in connection with the performance of duties or activities as a public officeholder, including payment of rent, utility, and other reasonable housing or household expenses incurred in maintaining a residence in Travis County by members of the legislature who do not normally reside in

Travis County, but excluding payments prohibited pursuant to §22.15 of this title (relating to Prohibition on Payments Made to Purchase Real Property);]

[(2) payments of federal income taxes due on interest and other income earned on political contributions;]

[(3) use of contributions for defending a criminal action or prosecuting or defending a civil action brought by or against the individual in his or her status as a candidate or officeholder;]

[(4) use of contributions for participating in an election contest or participating in a civil action to determine an individual's eligibility to be a candidate for, or elected or appointed to, a public office in this state;]

[(5) an expenditure for a purpose listed in §20.289 of this title (relating to Disposition of Unexpended Contributions);]

[(6) payment of travel expenses of a candidate's spouse or any other person if the spouse or other person is campaigning for candidate; or]

[(7) payment of travel expenses of an officeholder's spouse or any other person if the other person's travel is in connection with the performance of duties or activities as a public officeholder.]

[(e)] An asset purchased with political contributions is not converted to personal use if the political contributions are fully reimbursed during the reporting period in which the use occurred in an amount that reasonably reflects the fair market value of the use.

§22.19. General Restrictions on Reimbursement of Personal Funds.

(a) If a candidate makes political expenditures from the candidate's personal funds, he or she may reimburse those personal funds from political contributions only if the expenditure is reported and the candidate states his or her intent to reimburse personal funds consistent with title 15 and this chapter.

(b) If an officeholder who does not have a campaign treasurer appointment on file makes political expenditures from the officeholder's personal funds, he or she may reimburse those personal funds from political contributions only if the expenditure is reported and the officeholder states his or her intent to reimburse personal funds consistent with title 15 and this chapter.

(c) A candidate or officeholder may reimburse personal funds from political contributions for the use of personal assets for political purposes provided that the reimbursement is reported as a political expenditure.

(d) A candidate or officeholder who makes political expenditures from his or her personal funds may reimburse those personal funds from political contributions only if:

(1) the expenditures were fully reported as political expenditures on the report covering the period during which the expenditures were made; and

(2) the report disclosing the expenditures indicates that the expenditures were made from the candidate's or officeholder's personal funds and are subject to reimbursement.

(e) A candidate's or officeholder's failure to comply with subsection (d) of this section may not be cured by filing a corrected report after the report deadline has passed.

(f) A candidate or officeholder who has complied with subsection (d) of this section and whose personal funds have been reimbursed from political contributions must report the amount of the reimbursement as a political expenditure in the report covering the period during which the reimbursement was made.

[(g) Section 22.21 of this title (relating to Additional Restrictions on Reimbursement of Personal Funds and Payments on Certain Loans) sets limits on the amount of political expenditures from personal funds that a statewide officeholder may reimburse from political contributions.]

§22.23. Restrictions on Certain Payments.

[(a) A candidate or officeholder, or a specific-purpose committee for supporting, opposing, or assisting the candidate or officeholder, may not knowingly make or authorize a payment from a political contribution if the payment is made for personal services rendered by the candidate or officeholder or by the spouse or dependent child of the candidate or officeholder to:]

[(1) a business in which the candidate or officeholder has a participating interest of more than 10%, holds a position on the governing body of the business, or serves as an officer of the business; or]

[(2) the candidate or officeholder or the spouse or dependent child of the candidate or officeholder.]

(a) [(b)] A payment made from a political contribution to a business described by §253.038 of the Election Code [subsection (a) of this section] that is not prohibited by that section [subsection] may not exceed the amount necessary to reimburse the business for actual expenditures made by the business.

(b) [(e)] A discount given by a corporation to conform with subsection (a) [(b)] of this section does not constitute a political contribution from the corporation.

§22.29. Activity after Death or Incapacity of Candidate or Officeholder.

[(a)] The legal representative of a candidate or officeholder who has died or become incapacitated may accept political contributions and make or authorize expenditures only for the following purposes:

(1) payment of debts or expenses in connection with a campaign or in connection with officeholder duties and activities;

(2) payments to the political party with which the person was affiliated when the person's name last appeared on a ballot;

(3) political contributions to a candidate or political committee;

(4) donations to the Comptroller of Public Accounts for deposit in the state treasury;

(5) refunds of contributions to one or more persons from whom political contributions were received, not to exceed the total amount contributed by each person within the last two years;

(6) donations to a charity recognized by the Internal Revenue Service as tax-exempt;

(7) donations to a public or private post-secondary educational institution or an institution of higher education as defined by the Education Code, §61.003(8) (concerning Definitions), solely for the purpose of assisting or creating a scholarship program; or

(8) payment of federal income taxes due on interest and other income earned on political contributions.

[(b) See §20.67 of this title (relating to Reporting after the Death or Incapacity of a Filer) in regard to reporting requirements after the death or incapacity of a candidate or officeholder.]

§22.37. Virtual Currency Contributions.

(a) Virtual currency contributions are considered "in-kind" contributions.

(b) A candidate, officeholder, or political committee must report a gain from the sale of virtual currency contributions on the appropriate schedule if the gain exceeds the reporting threshold set by § [Section] 254.031(9) of the Election Code and amended by § [section] 18.31 of this title (relating to Adjustments to Reporting Thresholds).

(c) The value of a virtual currency contribution shall be reported as the fair market value of the virtual currency upon receipt.

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 October 10, 2025.

TRD-202503673

Amanda Arriaga

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Texas Ethics Commission

Earliest possible date of adoption: November 23, 2025

For further information, please call: (512) 463-5800



1 TAC §§22.3, 22.6, 22.11, 22.21, 22.27

The Texas Ethics Commission (the TEC) proposes the repeal of certain Texas Ethics Commission Rules in Chapter 22 (relating to Restrictions on Contributions and Expenditures), including §22.3 regarding Disclosure of True Source of Contribution or Expenditure, §22.6 regarding Reporting Direct Campaign Expenditures, §22.11 regarding Prohibition on Contributions during Regular Session, §22.21 regarding Additional Restrictions on Reimbursement of Personal Funds and Payments on Certain Loans, and §22.27 regarding Time Limit on Retaining Unexpended Contributions.

This proposal, along with the contemporaneous proposal of amendments of certain other rules in Chapter 22, amends the rules regarding restrictions on contributions and expenditures.

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 restrictions on contributions and expenditures, which are codified in Chapter 22. The repeal of some rules and adoption of amendments to other rules seek to shorten, simplify, and reorganize the rules to eliminate surplusage and improve clarity on these restrictions.

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

The General Counsel has also determined that for each year of the first five years the proposed repealed rules are in effect, the public benefit will be consistency and clarity in the Commission's rules regarding restrictions on contributions and expenditures. 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 repealed rules.

The General Counsel has determined that during the first five years that the proposed repealed 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 Commission invites comments on the proposed repealed 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 repealed rules may do so at any Commission meeting during the agenda item relating to the proposed repealed rules. Information concerning the date, time, and location of Commission meetings is available by telephoning (512) 463-5800 or on the Commission's website at www.ethics.state.tx.us.

The repealed 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 repealed rules affect Title 15 of the Election Code.

§22.3. *Disclosure of True Source of Contribution or Expenditure.*

§22.6. *Reporting Direct Campaign Expenditures.*

§22.11. *Prohibition on Contributions during Regular Session.*

§22.21. *Additional Restrictions on Reimbursement of Personal Funds and Payments on Certain Loans.*

§22.27. *Time Limit on Retaining Unexpended Contributions.*

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 October 10, 2025.

TRD-202503674

Amanda Arriaga

General Counsel

Texas Ethics Commission

Earliest possible date of adoption: November 23, 2025

For further information, please call: (512) 463-5800



CHAPTER 24. RESTRICTIONS ON CONTRIBUTIONS AND EXPENDITURES APPLICABLE TO CORPORATIONS AND LABOR ORGANIZATIONS

1 TAC §24.1, §24.17

The Texas Ethics Commission (the TEC) proposes amendments to Texas Ethics Commission Rules in Chapter 24 (relating to Restrictions on Contributions and Expenditures Applicable to Corporations and Labor Organizations). Specifically, the TEC proposes amendments to §24.1 regarding Corporations and Certain Associations Covered, and §24.17 regarding Corporate Expenditures for Get-Out-the Vote Campaigns Permitted.

This proposal, along with the contemporaneous proposal of the repeal of one other rule in Chapter 24, amends the rules regarding restrictions on contributions and expenditures that are applicable to corporations and labor organizations.

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 restrictions on contributions and expenditures applicable to corporations and labor organizations, which are codified in Chapter 24. The repeal of one rule and adoption of amendments to other rules seek to shorten, simplify, and reorganize the rules to eliminate surplusage and improve clarity on these restrictions.

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 Commission's rules regarding sworn complaint procedures. 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 Commission 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 Commission'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 Title 15 of the Election Code and Chapter 571 of the Government Code.

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

§24.1. Corporations and Certain Associations Covered.

~~[(a) This chapter applies to:]~~

~~[(1) labor organizations;]~~

~~[(2) corporations that are organized under the Texas Business Corporation Act, the Texas For-Profit Corporation Law, the Texas Non-Profit Corporation Act, the Texas Non-Profit Corporation Law, federal law, or the laws of another state or nation; and]~~

~~[(3) the following associations, whether incorporated or not, for purposes of this chapter are considered to be corporations covered by this chapter:]~~

~~[(A) banks;]~~

~~[(B) trust companies;]~~

~~[(C) savings and loan associations or companies;]~~

~~[(D) insurance companies;]~~

~~[(E) reciprocal or interinsurance exchanges;]~~

~~[(F) railroad companies;]~~

~~[(G) cemetery companies;]~~

~~[(H) government-regulated cooperatives;]~~

~~[(I) stock companies; and]~~

~~[(J) abstract and title insurance companies.]~~

~~(a) [(b)] For purposes of this chapter, members of a corporation that does not have stockholders [and members of an association listed in subsection (a)(3) of this section] are considered to be stockholders.~~

~~[(c) This chapter does not apply to a political committee that incorporates for liability purposes only in accordance with subsection (d) of this section, provided that the sole principal purpose of the committee is accepting political contributions and making political expenditures.]~~

~~(b) [(d)] A political committee may incorporate to limit its liability by providing in its official incorporation documents that it is a political committee that is incorporating for liability purposes only, and that its only principal purpose is to accept political contributions and make political expenditures.~~

§24.17. Corporate Expenditures for Get-Out-the-Vote Campaigns Permitted.

~~(a) An expenditure to finance a voter registration or get-out-the-vote drive is not a political expenditure if the drive encourages voting in general but does not encourage voting for or against a measure, candidate, officeholder, or political party.~~

~~[(b) A corporation or labor organization is permitted to make an expenditure described in subsection (a) of this section.]~~

~~(b)[(e)] A corporate or labor organization expenditure described by subsection (a) of this section is not reportable.~~

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 October 10, 2025.

TRD-202503675

Amanda Arriaga

General Counsel

Texas Ethics Commission

Earliest possible date of adoption: November 23, 2025

For further information, please call: (512) 463-5800



1 TAC §24.5

The Texas Ethics Commission (the TEC) proposes the repeal of Texas Ethics Commission Rule 24.5 (regarding Corporate Loans) in Chapter 24 (relating to Restrictions On Contributions And Expenditures Applicable To Corporations And Labor Organizations).

This proposal, along with the contemporaneous proposal of amendments of certain other rules in Chapter 24, amends the rules regarding restrictions on contributions and expenditures that are applicable to corporations and labor organizations.

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 restrictions on contributions and expenditures applicable to corporations and labor organizations, which are codified in Chapter 24. The repeal of some rules and adoption of amendments to other rules seek to shorten, simplify, and reorganize the rules to eliminate surplusage and improve clarity on these restrictions.

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

The General Counsel has also determined that for each year of the first five years the proposed repealed rule is in effect, the public benefit will be consistency and clarity in the Commission's rules regarding restrictions on contributions and expenditures. 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 repealed rule.

The General Counsel has determined that during the first five years that the proposed repealed rule is 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 Commission invites comments on the proposed repealed 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 Commission concerning the proposed repealed rule may do so at any Commission meeting during the agenda item relating to the proposed repealed rule. Information concerning the date, time, and location of Commission meetings is available by telephoning (512) 463-5800 or on the Commission's website at www.ethics.state.tx.us.

The repealed 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 repealed rule affects Title 15 of the Election Code.

§24.5. Corporate Loans.

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 October 10, 2025.

TRD-202503676

Amanda Arriaga

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Earliest possible date of adoption: November 23, 2025

For further information, please call: (512) 463-5800



PART 4. OFFICE OF THE SECRETARY OF STATE

CHAPTER 87. NOTARY PUBLIC

The Office of the Secretary of State (Office) proposes to adopt, in Title 1, Part 4, Texas Administrative Code, Chapter 87, new §§87.5, 87.8, and 87.9, concerning the qualification requirements of Texas notary public applicants. The Office proposes to adopt these rules to implement the new education requirements for notaries in Senate Bill 693, enacted by the 89th Legislature, Regular Session, codified at Chapter 406 of the Texas Government Code (SB 693).

The Office further proposes amendments to Chapter 87, §§87.13, 87.14, and 87.20, to clarify that, in accordance with Chapter 406 of the Texas Government Code, an applicant is not qualified to be commissioned as a traditional or online Texas notary public unless the applicant satisfies the mandatory education requirements.

BACKGROUND INFORMATION AND JUSTIFICATION

SB 693, adopted by the 89th Legislature, Regular Session, creates a framework in Chapter 406 of the Texas Government Code to require and provide education for the appointment of a notary public applicant and continuing education for the reappointment of a notary public. The bill took effect on September 1, 2025.

As enacted by SB 693, Chapter 406 of the Texas Government Code requires the Office to adopt rules necessary to establish education requirements for appointment and continuing education requirements for reappointment as a notary public not later than January 1, 2026.

Texas Government Code §406.023(d)(1) specifies that the Office may not require a person to complete more than two hours of education for appointment or two hours of continuing education for reappointment as a notary public. Texas Government Code §406.023(d)(2) directs the Office to establish and offer education and continuing education courses and allows the Office to charge a reasonable fee for those courses. Texas Government Code §406.023(d)(3) directs the Office to require that the education and continuing education course hours required for appointment or reappointment as a notary public may only be completed through a course established and offered by the Office. In addition, Texas Government Code §406.023(d)(4) prohibits the Office from requiring a person appointed as a notary public before September 1, 2025 to complete education requirements required for initial appointment as a notary public on or after that date. SB 693 also established that the successful completion of a notary education course or continuing education course is now a mandatory qualification for commissioning as a Texas notary public or renewal of an existing Texas notary public commission under Texas Government Code §406.006 and Texas Government Code §406.011.

The purpose of these new rules under Chapter 87 (Notary Public) is to provide information regarding the education requirements for persons applying for or renewing a Texas notary public commission in accordance with SB 693. The changes will apply to notary public appointment and reappointment applications submitted to the Office on or after January 1, 2026.

SECTION-BY-SECTION SUMMARY

Proposed §87.5 establishes a reasonable fee of \$50.00 to take the initial notary education course or the continuing notary education course. This fee will cover the development, implementation, and continuous improvement of the Office's notary education platform.

Proposed §87.8 implements the required notary education training and provides information regarding the education course that applicants must successfully complete to be commissioned as Texas notaries public, as required by Texas Government Code §406.023. This section establishes the percentage of questions that an applicant must answer correctly to pass the education course. In addition, this section designates the time period that applicants have to complete the education course and sets limits on how many times an applicant can take the education course in a three-month period.

Proposed §87.9 implements the required notary continuing education training and provides information regarding the continuing education course that applicants must successfully complete to renew their commissions as Texas notaries public, as required by Texas Government Code §406.023. This section establishes the percentage of questions that a notary must answer correctly to pass the continuing education course. In addition, this section designates the time period that notaries have to complete the continuing education course and sets limits on how many times a notary can take the continuing education course in a three-month period.

Proposed amended §87.13 adds subsections (a)(2)(E) and (a)(2)(F) to clarify that a person is not qualified to be commissioned as a traditional Texas notary public unless they satisfy the mandatory education requirement and pay for the education course.

Proposed amended §87.14 adds subsections (a)(2)(D) and (a)(2)(E) to clarify that a person is not qualified to be commis-

sioned as an online Texas notary public unless they satisfy the mandatory education requirement and pay for the education course.

Proposed amended §87.20 adds subsections (e)(2)(D) and (e)(2)(E) to clarify that a person is not qualified to be commissioned as a Texas notary public without bond unless they satisfy the mandatory education requirement and pay for the education course.

FISCAL NOTE

SB 693 authorizes the Office to charge a reasonable fee for the mandatory education and continuing education courses. The proposed rules set the fee at \$50.00 for the initial education and continuing education courses. The fee amount is comparable to examination fees charged by other state agencies, including the \$50.00 examination fee applicable to certain insurance professionals (28 TAC §19.802). The proposed new rules do not impose any additional costs on a notary public applicant seeking to obtain or renew a commission.

Michael Powell, Director of the Office's Business & Government Filings Division, has determined that for each year of the first five years that the proposed new sections will be in effect, there will be no fiscal implications for state or local governments as a result of enforcing or administering the proposed rules. In addition, the Office does not anticipate that enforcing or administering the proposed rules will result in any reductions in costs or in any additional costs to the Office, the state, or local governments. The Office also does not anticipate that there will be any loss or increase in revenue to the Office, the state, or local governments as a result of enforcing or administering the proposed rules.

PUBLIC BENEFIT

Mr. Powell has determined that for each year of the first five years that the proposed new sections will be in effect, the public benefit expected as a result of adopting the proposed rules will be clarity with respect to the Office's application of Texas Government Code §406.023. The proposed new rules will benefit the public by providing information regarding the Office's commissioning of notaries public in accordance with Chapter 406 of the Texas Government Code. The rules will also provide guidance to notary applicants regarding the education requirements established under Texas Government Code §406.023 for initial commissioning or renewal under Texas Government Code §406.006 and Texas Government Code §406.011.

ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT

There are no anticipated economic costs to persons required to comply with the proposed new rules. There is a fee imposed on applicants seeking to qualify for a notary public commission or to renew their existing notary public commission pursuant to Texas Government Code §406.023. However, the Office's proposed new rules do not impose any additional costs on such persons. There is no effect on local economy for the first five years that the proposed new rules will be in effect; therefore, no local employment impact statement is required under Texas Government Code §§2001.022 and 2001.024(a)(6).

FISCAL IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

The proposed new rules will have no direct adverse economic impact on small businesses, micro-businesses, or rural communities. Accordingly, the preparation of an economic impact state-

ment and a regulatory flexibility analysis, as specified in Texas Government Code §2006.002, is not required.

GOVERNMENT GROWTH IMPACT STATEMENT

Pursuant to Texas Government Code §2001.0221, the Office provides the following government growth impact statement for the proposed rules. For each year of the first five years that the proposed new rules will be in effect, the Office has determined the following:

- (1) the proposed rules will not create or eliminate a government program;
- (2) implementation of the proposed rules will not require the creation of new employee positions or the elimination of existing employee positions;
- (3) implementation of the proposed rules will not require an increase or decrease in future legislative appropriations to the Office;
- (4) the proposed rules specify a fee that must be paid by a notary public applicant to complete a mandatory education course or continuing education course, as authorized by Texas Government Code §406.023(d)(2), and will not require an increase or decrease in any other fees paid to the Office;
- (5) the proposed rules are new rules and therefore create new regulations;
- (6) the proposed rules will not expand, limit, or repeal an existing regulation;
- (7) the proposed rules will not increase or decrease the number of individuals subject to the rules' applicability; and
- (8) the proposed rules will not positively or adversely affect the state's economy.

REQUEST FOR PUBLIC COMMENTS

Comments or questions on the proposed rules may be submitted in writing and directed to Adam Bitter, General Counsel, Office of the Secretary of State, P.O. Box 12887, Austin, Texas 78711-2887, or by e-mail to generalcounsel@sos.texas.gov. Comments will be accepted for thirty (30) days from the date of publication of the proposed rules in the *Texas Register*. Comments should be organized in a manner consistent with the organization of the proposed rules.

SUBCHAPTER A. GENERAL PROVISIONS

1 TAC §87.5

STATUTORY AUTHORITY

The proposed new rules are authorized by Texas Government Code §406.023 and Texas Government Code §2001.004(1). Texas Government Code §406.023 authorizes the Office to adopt rules necessary to implement the notary public education requirements in Chapter 406 of the Texas Government Code. Texas Government Code §2001.004 requires a state agency to adopt rules of practice stating the nature and requirements of formal and informal procedures.

CROSS REFERENCE TO STATUTE

The proposed new rules implement Chapter 406 of the Texas Government Code. No other statute, code, or article is affected by the proposed rules.

§87.5. Notary Education Fees.

(a) The nonrefundable fee for the notary education course is \$50.00.

(b) The nonrefundable fee for the notary continuing education course is \$50.00.

(c) An applicant must pay a separate notary education course fee or notary continuing education course fee each time the applicant takes a course.

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 October 14, 2025.

TRD-202503703

Adam Bitter

General Counsel

Office of the Secretary of State

Earliest possible date of adoption: November 23, 2025

For further information, please call: (512) 475-2813



SUBCHAPTER B. ELIGIBILITY AND QUALIFICATION

1 TAC §87.8, §87.9

The proposed new rules are authorized by Texas Government Code §406.023 and Texas Government Code §2001.004(1). Texas Government Code §406.023 authorizes the Office to adopt rules necessary to implement the notary public education requirements in Chapter 406 of the Texas Government Code. Texas Government Code §2001.004 requires a state agency to adopt rules of practice stating the nature and requirements of formal and informal procedures.

CROSS REFERENCE TO STATUTE

The proposed new rules implement Chapter 406 of the Texas Government Code. No other statute, code, or article is affected by the proposed rules.

§87.8. Notary Education.

(a) An applicant must fulfill the education requirement under Texas Government Code §406.006 before the applicant may apply for appointment as a Texas notary public.

(b) To fulfill the education requirement, an applicant must first pay the notary education course fee specified in §87.5(a) of this title (relating to Notary Education Fees).

(c) After payment of the required notary education course fee, an applicant must take a notary education course that does not exceed two hours and has been established by the secretary of state. The applicant must successfully answer a minimum of 80% of questions presented to the applicant during the education course.

(1) If an applicant is applying for a traditional notary public commission, the applicant fulfills the education requirement by taking a notary education course and successfully answering questions on traditional notary subject matter.

(2) If an applicant is also applying for an online notary public commission, the applicant fulfills the education requirement by taking a notary education course and successfully answering questions on online notary public subject matter.

(d) An applicant must take the notary education course on or before the 60th day after the date on which the secretary of state receives the course fee from the applicant. Failure to take the education course within 60 days will result in forfeiture of the course fee, and any completion of the course after the 60-day period has expired will not fulfill the education requirement. The applicant must pay a new fee to reattempt the notary education course.

(e) An applicant may not complete a notary education course more than 3 times in a 3-month period to fulfill the education requirement.

§87.9. Continuing Education.

(a) A Texas notary public must fulfill the continuing education requirement under Texas Government Code §406.011 before the notary public may apply for reappointment as a Texas notary public.

(b) To fulfill the continuing education requirement, a notary public must first pay the notary continuing education course fee specified in §87.5(b) of this title (relating to Notary Education Fees).

(c) After payment of the required notary continuing education course fee, a notary public must take a continuing education course that does not exceed two hours and has been established by the secretary of state. The notary public must successfully answer a minimum of 80% of questions presented to the notary during the continuing education course.

(1) If an applicant is applying for the renewal of a traditional notary public commission, the applicant fulfills the continuing education requirement by taking a notary continuing education course and successfully answering questions on traditional notary subject matter.

(2) If an applicant is also applying for the renewal of an online notary public commission, the applicant fulfills the continuing education requirement by taking a notary continuing education course and successfully answering questions on online notary public subject matter.

(d) A notary public must take the notary continuing education course on or before the 60th day after the date on which the secretary of state receives the course fee from the notary. Failure to take the continuing education course within 60 days will result in forfeiture of the course fee, and any completion of the course after the 60-day period has expired will not fulfill the continuing education requirement. The notary public must pay a new fee to reattempt the notary continuing education course.

(e) A notary public may not complete a notary continuing education course more than 3 times in a 3-month period to fulfill the continuing education requirement.

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 October 14, 2025.

TRD-202503704

Adam Bitter

General Counsel

Office of the Secretary of State

Earliest possible date of adoption: November 23, 2025

For further information, please call: (512) 475-2813



1 TAC §87.13, §87.14

STATUTORY AUTHORITY

The proposed amendments are authorized by Texas Government Code §406.023 and Texas Government Code §2001.004(1). Texas Government Code §406.023 authorizes the Office to adopt rules necessary to implement the notary public education requirements in Chapter 406 of the Texas Government Code. Texas Government Code §2001.004 requires a state agency to adopt rules of practice stating the nature and requirements of formal and informal procedures.

CROSS REFERENCE TO STATUTE

The proposed new rules implement Chapter 406 of the Texas Government Code. No other statute, code, or article is affected by the proposed rules.

§87.13. Issuance of the Traditional Notary Public Commission by the Secretary of State.

(a) The secretary of state shall issue a traditional notary public commission to a qualified applicant. An applicant is qualified if:

(1) the applicant meets the eligibility requirements stated in §87.10 of this title (relating to Eligibility to Hold the Office of Notary Public);

(2) the applicant submits:

(A) a properly completed and executed application;

(B) the bond as provided in §406.010, Government Code, if required;

(C) the statement of officer required by article XVI, §1 Texas Constitution;

(D) payment to the secretary of state of fees required by §406.007, Government Code; ~~and~~

(E) proof that the applicant has successfully completed the notary education course required by §406.006(6), Government Code; and

(F) proof of payment of the notary education course fee under §87.5 of this title (relating to Notary Education Fees); and

(3) no good cause exists for rejecting the application.

(b) The secretary of state shall not commission an applicant if the applicant had a prior application rejected or a commission revoked due to a finding of ineligibility or good cause and the reason for ineligibility or grounds for good cause continues to exist.

(c) When all conditions for qualification have been met, the application shall be approved and filed. The secretary of state shall cause a commission to be issued and sent to each traditional notary public who has qualified. A commission is effective as of the date of qualification.

§87.14. Issuance of the Online Notary Public Commission by the Secretary of State.

(a) The secretary of state shall issue an online notary public commission to a qualified applicant. An applicant is qualified if:

(1) the applicant meets the eligibility requirements stated in §87.11 of this title (relating to Eligibility to be Commissioned as an Online Notary Public);

(2) the applicant submits:

(A) a properly completed and executed application;

(B) the statement of officer required by article XVI, §1 Texas Constitution;

(C) payment to the secretary of state the application fee of \$50; [and]

(D) proof that the applicant has successfully completed the notary education course required by §406.006(6), Government Code; and

(E) proof of payment of the notary education course fee under §87.5 of this title (relating to Notary Education Fees); and

(3) no good cause exists for rejecting the application.

(b) The secretary of state shall not commission an applicant if the applicant had a prior application rejected or a commission revoked due to a finding of ineligibility or good cause and the reason for ineligibility or grounds for good cause continues to exist.

(c) When all conditions for qualification have been met, the application shall be approved and filed. The secretary of state shall cause a commission to be issued and sent to each online notary public who has qualified. A commission is effective as of the date of qualification and shall expire on the same date as applicant's corresponding traditional notary public commission.

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 October 14, 2025.

TRD-202503705

Adam Bitter

General Counsel

Office of the Secretary of State

Earliest possible date of adoption: November 23, 2025

For further information, please call: (512) 475-2813



SUBCHAPTER C. NOTARIES WITHOUT BOND

1 TAC §87.20

STATUTORY AUTHORITY

The proposed amendment is authorized by Texas Government Code §406.023 and Texas Government Code §2001.004(1). Texas Government Code §406.023 authorizes the Office to adopt rules necessary to implement the notary public education requirements in Chapter 406 of the Texas Government Code. Texas Government Code §2001.004 requires a state agency to adopt rules of practice stating the nature and requirements of formal and informal procedures.

CROSS REFERENCE TO STATUTE

The proposed new rules implement Chapter 406 of the Texas Government Code. No other statute, code, or article is affected by the proposed rules.

§87.20. *Qualification by an Officer or Employee of a State Agency.*

(a) An applicant who is an officer or employee of a state agency is not required to provide a surety bond. For the purpose of this chapter, "state agency" has the meaning assigned by §2052.101, Government Code.

(b) An applicant who is an officer or employee of a state agency and does not provide a surety bond must complete the traditional notary public application entitled "Application for Appointment as a Notary Public Without Bond" (Form 2301-NB).

(c) The State Agency employing the applicant must submit the completed application to the State Office of Risk Management.

(d) The State Office of Risk Management shall complete the verification certificate on the application and forward the completed application to the Office of the Secretary of State for processing.

(e) The secretary of state shall commission the applicant if:

(1) the applicant meets the eligibility requirements stated in §87.10 of this title (relating to Eligibility to Hold the Office of Notary Public);

(2) the applicant submits:

(A) a properly completed and executed application verified by the State Office of Risk Management;

(B) the statement of officer required by article XVI, §1 Texas Constitution;

(C) the payment of fees required by §406.007(a)(2) and §406.007(b), Government Code; [and]

(D) proof that the applicant has successfully completed the notary education course required by §406.006(6), Government Code; and

(E) proof of payment of the notary education course fee under §87.5 of this title (relating to Notary Education Fees); and

(3) no good cause exists for rejecting the application.

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 October 14, 2025.

TRD-202503706

Adam Bitter

General Counsel

Office of the Secretary of State

Earliest possible date of adoption: November 23, 2025

For further information, please call: (512) 475-2813



TITLE 10. COMMUNITY DEVELOPMENT

PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

CHAPTER 2. ENFORCEMENT

SUBCHAPTER C. ADMINISTRATIVE PENALTIES

10 TAC §2.302

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of 10 TAC Chapter 2, Subchapter C, Administrative Penalties, §2.302 Administrative Penalty Process. The purpose of the proposed repeal is to

eliminate the outdated rule and replace it simultaneously with a new rule that addresses elevator noncompliance.

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 proposed rulemaking and the analysis is described below for each category of analysis performed.

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

Mr. Bobby Wilkinson 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 changes to an existing activity: the enforcement of the Department's program rules.
2. The repeal does not require a change in work that creates new 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 is not considered to expand an existing regulation.
7. The repeal does not increase 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 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 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 October 24, 2025 to November 24, 2025, 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, November 24, 2025.

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.

§2.302. Administrative Penalty Process.

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 October 10, 2025.

TRD-202503660

Bobby Wilkinson

Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: November 23, 2025

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



10 TAC §2.302

(Editor's note: In accordance with Texas Government Code, §2002.014, which permits the omission of material which is "cumbersome, expensive, or otherwise inexpedient," the figures in 10 TAC §2.302(k) are not included in the print version of the Texas Register. The figures are available in the on-line version of the October 24, 2025, issue of the Texas Register.)

The Texas Department of Housing and Community Affairs (the Department) proposes new 10 TAC Chapter 2, Subchapter C, Administrative Penalties, §2.302 Administrative Penalty Process. The purpose of the proposed repeal is to eliminate the outdated rule and replace it simultaneously with a new rule that addresses the enforcement of elevator noncompliance.

Tex. Gov't Code §2001.0045(b) does not apply to the rule proposed for repeal because there are no additional costs associated with this action. Sufficient existing state and/or federal administrative funds associated with the applicable programs are available to offset costs. 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.

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

Mr. Bobby Wilkinson has determined that, for the first five years the 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 enforcement of the Department's program rules.
2. The rule does not require a change in work that creates new employee positions.
3. The new section will not require additional future legislative appropriations.
4. The new section will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The new section is not creating a new regulation.
6. The new section does expand on an existing regulation.
7. The new section does not increase the number of individuals subject to the rule's applicability.
8. The new section will not negatively or positively affect the state's economy.

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

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

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The 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 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.

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 improvement in the Department's ability to enforce elevator noncompliance. The rule does provide for administrative costs to properties that have no operational elevators. 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 section is in effect, enforcing or administering the sections may have some costs to the state to implement the verification process and to the Department's subrecipients in administering the rule changes. However, sufficient state or federal administrative funds associated with the applicable programs are already available to offset costs. No additional funds will be required.

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 October 24, 2025 to November 24, 2025, 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, November 24, 2025

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

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

§2.302. Administrative Penalty Process.

(a) The Executive Director will appoint an Enforcement Committee, as defined in §2.102 of this chapter (relating to Definitions).

(b) The referring division will recommend the initiation of administrative penalty proceedings to the Committee by referral to the secretary of the Committee (Secretary). At the time of referral for a multifamily rental Development, the referral letter from the referring Division will require the Responsible Party who Controls the Development to provide a listing of the Actively Monitored Developments in their portfolio. The Secretary will use this information to help determine whether mandatory Debarment should be simultaneously considered by the Enforcement Committee in accordance with §2.401(e)(2) of this section, related to repeated violations.

(c) The Secretary shall promptly contact the Responsible Party. If fully acceptable corrective action documentation is submitted to the referring division before the Secretary sends an informal conference notice, the referral shall be closed with no further action provided that the Responsible Party is not subject to consideration for Debarment and provided that the referring division does not wish to move forward with the referral based upon a pattern of repeated violations. If the Secretary is not able to facilitate resolution, but receives a reasonable plan for correction, such plan shall be reported to the Committee to determine whether to schedule an informal conference, modify the plan, or accept the plan. If accepted, plan progress shall be regularly reported to the Committee, but an informal conference will not be held unless the approved plan is substantively violated, or an informal conference is later requested by the Committee or the Responsible Party. Plan examples include but are not limited to: a rehabilitation plan with a scope of work or contracts already in place, plans approved by the Department as part of the Previous Participation Review process provided for in 10 TAC Subchapter C for an ownership transfer or funding application, plans approved by the Executive Director, plans approved by the Asset Management Division, and/or plans relating to newly transferred Developments with unresolved Events of Noncompliance originating under prior ownership. Should the Secretary and Responsible Party fail to come to, an agreement or closer of the referral, or if the Responsible Party or ownership group's prior history of administrative penalty referrals does not support closure, or if consideration of Debarment is appropriate, the Secretary will schedule an informal conference with the Responsible Party to attempt to reach an agreed resolution.

(d) When an informal conference is scheduled, a deadline for submitting Corrective Action documentation will be included, provid-

ing a final opportunity for resolution. If compliance is achieved at this stage, the referral will be closed with a warning letter provided that factors, as discussed below, do not preclude such closure. Closure with a warning letter shall be reported to the Committee. Factors that will determine whether it is appropriate to close with a warning letter include, but are not limited to:

(1) Prior Enforcement Committee history relating to the Development or other properties in the ownership group;

(2) Prior Enforcement Committee history regarding similar federal or state Programs;

(3) Whether the deadline set by the Secretary in the informal conference notice has been met;

(4) Whether the Committee has set any exceptions for certain finding types; and

(5) Any other factor that may be relevant to the situation.

(e) If an informal conference is held:

(1) Notwithstanding the Responsible Party's attendance or presence of an authorized representative, the Enforcement Committee may proceed with the informal conference;

(2) The Responsible Party may, but is not required to be, represented by legal counsel of their choosing at their own cost and expense;

(3) The Responsible Party may bring to the meeting third parties, employees, and agents with knowledge of the issues;

(4) Assessment of an administrative penalty and Debarment may be considered at the same informal conference; and

(5) In order to facilitate candid dialogue, an informal conference will not be open to the public; however, the Committee may include such other persons or witnesses as the Committee deems necessary for a complete and full development of relevant information and evidence.

(f) An informal conference may result in the following, which shall be reported to the Executive Director:

(1) An agreement to dismiss the matter with no further action;

(2) A compliance assistance notice issued by the Committee, available for Responsible Parties appearing for the first time before the Committee for matters which the Committee determines do not necessitate the assessment of an administrative penalty, but for which the Committee wishes to place the Responsible Party on notice with regard to possible future penalty assessment;

(3) An agreement to resolve the matter through corrective action without penalty with a clear timeline included. If the agreement is to be included in an order, a proposed agreed order will be prepared and presented to the Board for approval;

(4) An agreement to resolve the matter through corrective action with the assessment of an administrative penalty which may be probated in whole or in part, and may, where appropriate, include additional action to promote compliance such as requirements to obtain training. In this circumstance, a proposed agreed order will be prepared and presented to Department's Governing Board for approval;

(5) A recommendation by the Committee to the Executive Director to determine that a violation occurred, and to issue a report to the Board and a Notice of Violation to the Responsible Party, seeking the assessment of administrative penalties through a contested case hearing with the State Office of Administrative Hearings (SOAH); or

(6) Other action as the Committee deems appropriate.

(g) Upon receipt of a recommendation from the Committee regarding the issuance of a report and assessment of an administrative penalty under subsection (f)(5), the Executive Director shall determine whether a violation has occurred. If needed, the Executive Director may request additional information and/or return the recommendation to the Committee for further development. If the Executive Director determines that a violation has occurred, the Executive Director will issue a report to the Board in accordance with §2306.043 of the Texas Government Code.

(h) Not later than 14 days after issuance of the report to the Board, the Executive Director will issue a Notice of Violation to the Responsible Party, along with a Notice of Violation for Property Posting (which shall be printed and posted in two prominent places on the property subject to the Notice, and photographic proof of the posting shall be made). The Notice of Violation issued by the Executive Director will include:

(1) A summary of the alleged violation(s) together with reference to the particular sections of the statutes and rules alleged to have been violated;

(2) A statement informing the Responsible Party of the right to a hearing before the SOAH, if applicable, on the occurrence of the violation(s), the amount of penalty, or both;

(3) Any other matters deemed relevant, including the requirements regarding the Notice of Violation for Property Posting; and

(4) The amount of the recommended penalty. In determining the amount of a recommended administrative penalty, the Executive Director shall take into consideration the statutory factors at Tex. Gov't Code §2306.042 the penalty schedule shown in the tables in subsection (k) of this section and in the instance of a proceeding to assess administrative penalties against a Responsible Party administering the annual block grant portion of CDBG, CSBG, or LIHEAP, whether the assessment of such penalty will interfere with the uninterrupted delivery of services under such program(s). The Executive Director shall further take into account whether the Department's purposes may be achieved or enhanced by the use of full or partial probation of penalties subject to adherence to specific requirements and whether the violation(s) in question involve disallowed costs.

(i) Not later than 20 days after the Responsible Party receives the Notice of Violation, the Responsible Party may accept the requirements of the Notice of Violation or request a SOAH hearing.

(j) If the Responsible Party requests a hearing or does not respond to the Notice of Violation, the Executive Director, with the approval of the Board, shall cause the hearing to be docketed before a SOAH administrative law judge in accordance with §1.13 of this title (relating to Contested Case Hearing Procedures), which outlines the remainder of the process.

(k) Penalty schedules.

Figure 1: 10 TAC §2.302k

Figure 2: 10 TAC §2.302k

Figure 3: 10 TAC §2.302k

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 October 10, 2025.

TRD-202503661



SUBCHAPTER D. DEBARMENT FROM PARTICIPATION IN PROGRAMS ADMINISTERED BY THE DEPARTMENT

10 TAC §2.401

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of 10 TAC Chapter 2, Subchapter D, Debarment from Participation in Programs Administered by the Department, §2.401 General. The purpose of the proposed repeal is to eliminate the outdated rule and replace it simultaneously with a new rule that incorporates voluntary non-participation agreements, incorporates elevator noncompliance, and clarifies areas of confusion.

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 proposed rulemaking and the analysis is described below for each category of analysis performed.

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

Mr. Bobby Wilkinson 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 changes to an existing activity: the enforcement of the Department's program rules.
2. The repeal does not require a change in work that creates new 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 is not considered to expand an existing regulation.
7. The repeal does not increase 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 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 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 October 24, 2025 to November 24, 2025, 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, November 24, 2025.

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.

§2.401. General.

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 October 10, 2025.

TRD-202503658
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Earliest possible date of adoption: November 23, 2025
For further information, please call: (512) 475-3959



10 TAC §2.401

The Texas Department of Housing and Community Affairs (the Department) proposes new 10 TAC Chapter 2, Subchapter D, Debarment from Participation in Programs Administered by the Department, §2.401 General. The purpose of the proposed repeal is to eliminate the outdated rule and replace it simultaneously with a new rule that incorporates voluntary nonparticipation agreements, incorporates elevator noncompliance, and clarifies areas of confusion.

Tex. Gov't Code §2001.0045(b) does not apply to the rule proposed for repeal because there are no additional costs associated with this action. Sufficient existing state and/or federal administrative funds associated with the applicable programs are available to offset costs. 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.

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

Mr. Bobby Wilkinson has determined that, for the first five years the 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 enforcement of the Department's program rules.
2. The rule does not require a change in work that creates new employee positions.
3. The new section will not require additional future legislative appropriations.
4. The new section will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The new section is not creating a new regulation.
6. The new section does expand on an existing regulation.
7. The new section does not increase the number of individuals subject to the rule's applicability.
8. The new section will not negatively or positively affect the state's economy.

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

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

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The 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 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.

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 improvement in the Department's enforcement abilities. 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 section is in effect, enforcing or administering the sections may have some costs to the state to implement the verification process and to the Department's subrecipients in administering the rule changes. However, sufficient state or federal administrative funds associated with the applicable programs are already available to offset costs. No additional funds will be required.

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 October 24, 2025 to November 24, 2025, 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, November 24, 2025

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

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

§2.401. General.

(a) The Department may debar a Responsible Party, a Consultant, and/or a Vendor who has exhibited past failure to comply with any condition imposed by the Department in the administration of its programs. Any of the following discretionary debarment criteria must be past the provided corrective action deadline, if applicable. A Responsible Party, Consultant or Vendor may be referred to the Committee for Debarment for any of the following:

(1) Refusing to provide an acceptable plan to implement and adhere to procedures to ensure compliant operation of the program after being placed on Modified Cost Reimbursement;

(2) Refusing to repay disallowed costs;

(3) Refusing to enter into a plan to repay disallowed costs or egregious violations of an agreed repayment plan;

(4) Meeting any of the ineligibility criteria referenced in §11.202 of this title (relating to Ineligible Applicants and Applications) or other ineligibility criteria outlined in a Program Rule, with the exception of: ineligibility related to conflicts of interest disclosed to the Department for review, and ineligibility identified in a previous participation review in conjunction with an application for funds or resources (unless otherwise eligible for Debarment under this Subchapter D);

(5) Providing fraudulent information, knowingly falsified documentation, or other intentional or negligent material misrepresentation or omission with regard to any documentation, certification or other representation made to the Department;

(6) Failing to correct Events of Noncompliance as required by an order that became effective after April 1, 2021, and/or failing to pay an administrative penalty as required by such order, within six months of a demand being issued by the Department. In this circumstance, if the Debarment process is initiated but the Responsible Party, Consultant, and/or Vendor fully corrects the findings of noncompliance to the satisfaction of the referring division and pays the administrative penalty as required by the order before the Debarment is finalized by the Board, the Debarment recommendation may be cancelled or withdrawn by Committee recommendation and Executive Director concurrence. This type of referral would be initiated by the Secretary;

(7) Controlling a multifamily Development that was foreclosed after April 1, 2021, where the foreclosure or deed in lieu of foreclosure terminates a TDHCA LURA. After January 1, 2026, this also applies if a TDHCA LURA is terminated because of bankruptcy;

(8) Controlling a multifamily Development where there is no operable elevator in an elevator-serviced building after January 1, 2026, unless the Owner can provide evidence that necessary repairs were under contract and scheduled for repair with a licensed repair company within the corrective action period;

(9) Controlling a multifamily Development and allowing a change in ownership after April 1, 2021, without Department approval;

(10) Transferring a Development, after April 1, 2021, without regard for a Right of First Refusal requirement;

(11) Being involuntary removed, or replaced due to a default by the General Partner under the Limited Partnership Agreement, after April 1, 2021;

(12) Controlling a multifamily Development and failing to correct Events of Noncompliance before the expiration of a Land Use Restriction Agreement, after the effective date of this rule;

(13) Refusing to comply with conditions approved by the Board that were recommended by the Executive Award Review Advisory Committee after April 1, 2021;

(14) Having any Event of Noncompliance that occurs after April 1, 2021, that causes the Department to be required to repay federal funds to any federal agency including, but not limited to the U.S. Department of Housing and Urban Development; and/or

(15) Submitting a written certification that non-compliance has been corrected when it is determined that the Event of Noncompliance was not corrected. For certain Events of Noncompliance, in lieu of documentation, the Compliance Division accepts a written certification that noncompliance has been corrected. If it is determined that the Event of Noncompliance was not corrected, a Person who signed the certification may be recommended for debarment;

(16) Refusing to provide an amenity required by the LURA after April 1, 2021;

(17) Failing to reserve units for Section 811 PRA participants after April 1, 2021;

(18) Failing to notify the Department of the availability of 811 PRA units after April 1, 2021;

(19) Taking "choice limiting" actions prior to receiving HUD environmental clearance (24 CFR §58.22);

(20) Substandard construction, as defined by the Program, and repeated failure to conduct required inspections;

(21) Repeated failure to provide eligible match. 24 CFR §92.220, 24 CFR §576.201, and as required by NOFA;

(22) Repeated failure to report program income. As applicable, 24 CFR §200.80, 24 CFR §570.500, 24 CFR §576.407(c), 24 CFR §92.503 24 CFR §93.304, and 10 TAC §20.9, or as defined by Program Rule;

(23) Participating in activities leading to or giving the appearance of "Conflict of Interest". As applicable, in 2 CFR Part 215, 2 CFR Part 200. 24 CFR §93.353, §92.356 24 CFR, §570.489, 24 CFR §576.404, 10 TAC §20.9, or as defined by Program Rule;

(24) Repeated material financial system deficiencies. As applicable, 2 CFR Part 200, 24 CFR §§, 92.205, 92.206, 92.350, 92.505, and 92.508, 2 CFR Part 215, 2 CFR Part 225 (if applicable), 2 CFR Part 230 10 TAC §20.9, Uniform Grant Management Standards, and Texas Grant Management Standards, and as defined by Program Rule.

(25) Repeated violations of Single Audit or other programmatic audit requirements;

(26) Failure to remain a CHDO for Department committed HOME funds;

(27) Commingling of funds, Misapplication of funds;

(28) Refusing to submit a required Audit Certification Form, Single Audit, or other programmatic audit;

(29) Refusing to timely respond to reports/provide required correspondence;

(30) Failure to timely expend funds; and

(31) A Monitoring Event determines that 50% or more of the client or household files reviewed do not contain required documentation to support income eligibility or indicate that the client or household is not income eligible.

(b) The Department shall debar any Responsible Party, Consultant, and/or Vendor who is debarred from participation in any program administered by the United States Government.

(c) Debarment for violations of the Department's Multifamily Programs. The Department shall debar any Responsible Party, Consultant, and/or Vendor who has materially or repeatedly violated any condition imposed by the Department in connection with the administration of a Department program, including but not limited to a material or repeated violation of a land use restriction agreement (LURA) or Contract. Subsection (d) of this section provides the criteria the Department will use to determine if there has been a material violation of a LURA. Subsections (e)(1) and (e)(2) of this section provide the criteria the Department shall use to determine if there have been repeated violations of a LURA. Any of the following mandatory debarment criteria must be past the corrective action deadline, if applicable.

(d) Material violations of a LURA. A Responsible Party, Consultant, and/or Vendor will be considered to have materially violated a LURA, Program Agreement, or condition imposed by the Department and shall be referred to the committee for mandatory Debarment if they:

(1) Control a Development that has, on more than one occasion scored 50 or less on a UPCS inspection or has, on more than one occasion scored 50 or less on a NSPIRE inspection, or any combination thereof. The Compliance Division may temporarily decrease this NSPIRE score threshold with approval by the Executive Director, for a period of time not longer than one year, so long as the score threshold is applied evenly to all properties;

(2) Refuse to allow a monitoring visit when proper notice was provided or failed to notify residents, resulting in inspection cancellation, or otherwise fails to make units and records available;

(3) Refuse to reduce rents to less than the highest allowed under the LURA;

(4) Refuse to correct a UPCS, NSPIRE, or final construction inspection deficiency after the effective date of this rule;

(5) Fail to meet minimum set aside by the end of the first year of the credit period (HTC Developments only) after April 1, 2021; or

(6) Excluding an individual or family from admission to the Development solely because the household participates in the HOME Tenant Based Rental Assistance Program, the housing choice voucher program under Section 8, United States Housing Act of 1937 (42 U.S.C. §1-437), or other federal, state, or local government rental assistance program after April 1, 2021.

(c) Repeated Violations of a LURA that shall be referred to the Committee for Debarment.

(1) A Responsible Party, Consultant, and/or Vendor shall be referred to the Committee for mandatory Debarment if they Control a Development that, during two Monitoring Events in a row is found to be out of compliance with the following Events of Noncompliance:

(A) No evidence of, or failure to certify to, material participation of a non-profit or HUB, if required by the Land Use Restriction Agreement;

(B) Any Uniform Physical Condition Standards Violations that result in a score of 70 or below in sequential UPCS inspections after April 1, 2021 or NSPIRE violations that result in a score of 50 or below in sequential inspections after the effective date of this rule, or any combination thereof. The Compliance Division may temporally decrease this NSPIRE score threshold with approval by the Executive Director, for a period not to exceed one year, so long as the score threshold is applied evenly to all properties;

(C) Refuse to submit all or parts of the Annual Owner's Compliance Report for two consecutive years after April 1, 2021; or

(D) Gross rents exceed the highest rent allowed under the LURA or other deed restriction.

(2) Repeated violations in a portfolio. Responsible Party who control five or more Actively Monitored Developments will be considered for Debarment based on repeated violations in a portfolio. A Person shall be referred to be committee if an inspection or referral, after April 1, 2021, indicates the following:

(A) 50% or more of the Actively Monitored Developments in the portfolio that are Controlled by the Responsible Party, whether acting alone or in concert with others, have been referred to the Enforcement Committee within the last three years. The Enforcement Committee may increase this threshold at its discretion. For example, if three properties in a five-property portfolio are monitored in the same month, and then referred to the Enforcement Committee at the same time, it may be appropriate to increase the 50% threshold; or,

(B) 50% or more of the Actively Monitored Developments in the portfolio score a 70 or less during a Uniform Physical Conditions Standards inspection or score 50 or less during a NSPIRE inspection, or any combination thereof. The Compliance Division may decrease this NSPIRE score threshold with approval by the Executive Director, for a period not to exceed one year, so long as the score threshold is applied evenly to all properties.

(f) Debarment for violations of Department Programs, with the exception of the Non-Discretionary funds in the Community Services Block Grant program. Material or repeated violations of conditions imposed in connection with the administration of Programs administered by the Department. Administrators, Subrecipients, Responsible Parties, contractors, multifamily owners, and related parties shall be referred to the Committee for consideration for Debarment for violations including but not limited to:

(1) 50% or more loan defaults in the first 12 months of the loan agreement after April 1, 2021;

(2) The following Davis Bacon Act Violations:

(A) Refusing to pay restitution (underpayment of wages). 29 CFR §5.31.

(B) Refusing to pay liquidated damages (overtime violations). 29 CFR §5.8.

(C) Repeated failure to pay full prevailing wage, including fringe benefits, for all hours worked. 29 CFR §5.31.

(3) The following violations of the Uniform Relocation Act and requirements of §104(d):

(A) Repeated failure to provide the General Information Notice to tenants prior to application. 49 CFR §24.203, 24 CFR §92.353, 24 CFR §93.352 and HUD Handbook 1378.

(B) Repeated failure to provide all required information in the General Information Notice. 49 CFR §24.203, 24 CFR §570.606, 24 CFR §92.353, 24 CFR §93.352, or HUD Handbook 1378.

(C) Repeated failure to provide the Notice of Eligibility and/or Notice of Non-displacement on or before the Initiation of Negotiations date. 49 CFR §24.203, 24 CFR §92.353, 24 CFR §93.352, or 24 CFR §570.606.

(D) Repeated failure to provide all required information in the Notice of Eligibility and/or Notice of Non-displacement. 49 CFR §24.203, 24 CFR §92.353, 24 CFR §93.352, or 24 CFR §570.606.

(E) Repeated failure to provide 90 Day Notices to all "displaced" tenants and/or repeated failure to provide 30 Day Notices to all "non-displaced" tenants. 49 CFR §24.203, 24 CFR §92.353, 24 CFR §93.352, or 24 CFR §570.606.

(F) Repeated failure to perform and document "decent, safe and sanitary" inspections of replacement housing. 49 CFR §24.203, 24 CFR §92.353, 24 CFR §93.352, or 24 CFR §570.606.

(G) Refusing to properly provide Uniform Relocation Act or §104(d) assistance. 49 CFR §24.203, 24 CFR §92.353, 24 CFR §570.606 and §104(d) of the Housing & Community Development Act of 1974 - 24 CFR Part 42.

(4) Refusing to reimburse excess cash on hand;

(5) Using Department funds to demolish a homeowner's dwelling and then refusing to rebuild;

(6) Drawing down Department funds for an eligible use and then refusing to pay a properly submitted request for payment to a subgrantee or vendor with the drawn down funds.

(g) The referring division shall provide the Responsible Party, Consultant, and/or Vendor with written notice of the referral to the Committee, setting forth the facts and circumstances that justify the referral for Debarment consideration. That notice shall require the Responsible Party to provide a current organizational chart showing ownership to the level of natural persons who are in Control of the devel-

opment, and must indicate which entities and natural persons have the ability to Control the development.

(h) The Secretary shall then offer the Responsible Party, Consultant, and/or Vendor the opportunity to attend an Informal Conference with the Committee to discuss resolution of the. In the event that the Debarment referral was the result of a violated agreed order or a determination that 50% or more of the Actively Monitored Developments in their portfolio have been referred to the Enforcement Committee, the above written notice of the referral to the Committee and the informal conference notice shall be combined into a single notice issued by the Secretary.

(i) A Debarment Informal Conference may result in the following, which shall be reported to the Executive Director:

(1) A determination that the Department did not have sufficient information and/or that the Responsible Party, Consultant, and/or Vendor does not meet any of the criteria for Debarment;

(2) An agreed Debarment, with a proposed agreed order to be prepared and presented to the Board for approval;

(3) A recommendation by the Committee to the Executive Director for Debarment;

(4) A request for further information, to be considered during a future meeting; or,

(5) If Debarment is not mandatory, one of the following results, which will then be reported to the Executive Director:

(A) An agreement to dismiss the matter with no further action;

(B) A recommendation for a voluntary non-participation agreement, with an alternative recommendation for Debarment to the Executive Director, with said Debarment recommendation to be made only in the event that the Responsible Party, Consultant, and/or Vendor refuses to enter into a voluntary non-participation agreement;

(C) An agreement to dismiss the matter with corrective action being taken; or

(D) Any other action as the Committee deems appropriate.

(j) The Committee's recommendation to the Executive Director regarding a voluntary non-participation agreement shall include a recommended period during which the Responsible Party, Consultant, and/or Vendor will not participate in any new Department financing, assistance opportunity, or programs in any manner. Recommended periods of non-participation will be based on material factors such as repeated occurrences, seriousness of underlying issues, presence or absence of corrective action taken or planned, including corrective action to install new responsible persons and ensure they are qualified and properly trained. If the Department determines that this type of agreement is appropriate and the Responsible Party, Consultant, and/or Vendor agrees to the terms proposed by the Department, the Enforcement Committee will not recommend Debarment. This agreement will be placed on the Department website for the duration of its term. The Department will provide a quarterly report to the Board regarding any voluntary non-participation agreements that have been entered into during the previous quarter. The terms of a voluntary non-participation agreement are not appealable to the Board.

(k) The Committee's recommendation to the Executive Director regarding Debarment shall include a recommended period of Debarment. Recommended periods of Debarment will be based on material factors such as repeated occurrences, seriousness of underlying issues, presence or absence of corrective action taken or planned, including

corrective action to install new responsible persons and ensure they are qualified and properly trained. Recommended periods of Debarment if based upon HUD Debarment, shall be for the period of the remaining HUD Debarment; or, if based upon criminal conviction, shall be up to ten (10) years or until fulfillment of all conditions of incarceration and/or probation, whichever is greater.

(l) The Executive Director shall accept, reject, or modify the Debarment recommendation by the Committee and shall provide written notice to the Responsible Party, Consultant, and/or Vendor of the determination, and an explanation of the determination if different than the Committee's recommendation, including the period of Debarment, if any. The Responsible Party, Consultant, and/or Vendor may appeal the Debarment determination in writing to the Board as described in §1.7 of this title (relating to Appeals Process).

(m) The Debarment recommendation will be brought to the next Board meeting for which the matter can be properly posted. The Board reserves discretion to impose longer or shorter Debarment periods than those recommended by staff based on its finding that such longer or shorter periods are appropriate when considering all factors and/or for the purposes of equity or other good cause. An action on a proposed Debarment of an Eligible Entity under the CSBG Act will not become final until and unless proceedings to terminate Eligible Entity status have occurred, resulting in such termination and all rights of appeal or review have run or Eligible Entity status has been voluntarily relinquished.

(n) Until the Responsible Party, Consultant, and/or Vendor's Debarment referral is fully resolved, the Responsible Party, Consultant, and/or Vendor may not participate in new Department financing and assistance opportunities.

(o) Any person who has been debarred is prohibited from participation as set forth in the final order of Debarment for the term of their Debarment. Unless specifically stated in the order of Debarment, Debarment does not relieve a Responsible Party, Consultant, and/or Vendor from its current obligations, or prohibit it from continuing its participation in any existing engagements funded through the Department, nor limit its responsibilities and duties thereunder. The Board will not consider modifying the terms of the Debarment after the issuance of a final order of Debarment.

(p) If an Eligible Entity under the CSBG Act meets any of the criteria for Debarment in this rule, the Department may recommend the Eligible Entity for Debarment. However, that referral or recommendation shall not proceed until the termination of the Eligible Entity's status under the CSBG Act has concluded, and no right of appeal or review remains.

(q) All correspondence under this rule shall be delivered electronically.

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 October 10, 2025.

TRD-202503659

Bobby Wilkinson

Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: November 23, 2025

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



CHAPTER 10. UNIFORM MULTIFAMILY
RULES
SUBCHAPTER J. HOUSING FINANCE
CORPORATION COMPLIANCE MONITORING
10 TAC §§10.1201 - 10.1207

The Texas Department of Housing and Community Affairs (the Department) proposes new 10 TAC Subchapter J, Housing Finance Corporation Compliance Monitoring, §§10.1201 through 10.1207. The purpose of the proposed new rules, in compliance with Tex. Gov't Code §2306.053, is to implement the requirements of HB 21 (89th Regular Legislature), which tasks the Department with the compliance monitoring oversight of all Housing Finance Corporation (HFC) multifamily residential developments. The bill requires the Department to adopt rules related to the new compliance monitoring function by January 1, 2026. The new rules provide guidance on auditing and reporting requirements for Housing Finance Corporation (HFC) multifamily residential developments that are required to be audited no later than June 1, 2026, and the results reviewed and published by the Department.

FISCAL NOTE. Mr. Bobby Wilkinson, Executive Director, has determined that, for each year of the first five years the rules are in effect, enforcing or administering the amendment does not have any foreseeable implications related to costs or revenues of the state or local governments.

GOVERNMENT GROWTH IMPACT STATEMENT. Mr. Wilkinson also has determined that, for the first five years the rules would be in effect:

1. The proposed new rules do not create or eliminate a government program, but clearly outlines the audit report and monitoring requirements for Responsible Parties of Housing Finance Corporation and their Sponsors.
2. The proposed new rules will change the number of employees of the Department. The enactment of HB 21 included an appropriation for one full time employee for fiscal year 2026 to perform the work associated with implementation of HB 21 and this rule.
3. The proposed new rules will require additional future legislative appropriations. The proposed rules are in effect because the Texas Legislature in its 89th Regular Session passed House Bill 21. The Department was appropriated an additional \$228,228 per year of the biennium from General Revenue funds to implement the provisions of the legislation and received one new FTE. It is expected that the appropriation would continue in subsequent biennia to continue implementing the provisions.
4. The proposed new rules will increase fees paid to the Department. Each HFC multifamily residential development must submit an annual service fee in the amount of \$20 per restricted unit and the minimum fee shall not be less than \$500.
5. The proposed new rules are creating a new regulation in order to implement the requirements of HB 21.
6. The proposed new rules will not limit or repeal an existing regulation but can be considered to "expand" the existing regulations on this activity because the proposed new rules are necessary to ensure compliance with HB 21 and for the Department to establish rules.

7. The proposed new rules will not increase or decrease the number of individuals subject to the rules' applicability; and

8. The proposed new rules will neither positively nor negatively affect this state's economy.

PUBLIC BENEFIT/COST NOTE. Mr. Wilkinson also has determined that, for each year of the first five years the rules are in effect, the public benefit anticipated as a result of the new rules will be the provision of a new procedure of monitoring Housing Finance Corporations multifamily residential developments that are generally exempt from ad valorem taxation. There will be economic cost to individuals required to comply with the new rules because a fee will be collected by the Department to perform compliance monitoring on Housing Finance Corporations multifamily residential developments. In addition, HFCs will be required to hire third party auditors to complete the annual audits.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES. The Department has determined that there will be no economic effect on small or micro-businesses or rural communities because the rules apply only to Housing Finance Corporation multifamily residential developments.

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 October 24, 2025, to November 24, 2025, to receive input on the newly proposed action. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Wendy Quackenbush, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, or email wendy.quackenbush@tdhca.texas.gov. ALL COMMENTS AND INFORMATION MUST BE RECEIVED BY 5:00 p.m. Austin local time, November 24, 2025.

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 rules affect no other code, article, or statute.

§10.1201. Purpose and Applicability.

The purpose of this Subchapter is to:

- (1) Establish rules governing Developments owned or sponsored by a Housing Finance Corporation (HFC) that are subject to Sections 394.9026 and 394.9027 of the Texas Local Government Code.
- (2) Enable the Department to communicate with Responsible Parties and persons with an interest in the Development, regarding the results of the Audit Report.
- (3) Establish qualifications for Auditors and reporting standards and formats.
- (4) Implement compliance requirements, tenant protections, and affirmative marketing requirements, as required by Sections 394.9026 and 394.9027 of the Texas Local Government Code.
- (5) This rule is not applicable to a Development that is a recipient of Federal Low Income Housing Tax Credits. For purposes of this rule, a recipient of Federal Low Income Housing Tax Credits is

any development or HFC User that has received a commitment notice, or determination notice for an allocation of Federal Low Income Housing Tax Credits from the Department. For the construction period the property will be considered to be a recipient of Housing Tax Credits, unless more than five years have passed since the commitment notice or determination notice was issued without entering into the Land Use Restriction Agreement. After the construction period, the Development must have an executed Land Use Restriction Agreement (LURA) with the Department. The Development is considered to be a recipient of Federal Low Income Housing Tax Credits for the term of the LURA between the Department and the Development.

§10.1202. Definitions.

The capitalized terms or phrases used herein are defined in this title. Any other capitalized terms in the subchapter shall have the meaning defined in Chapter 2306 of the Texas Government Code, Chapter 394, Texas Local Government Code, and other state or Department rules, as applicable. Defined terms, when not capitalized, are to be read in context and construed according to common usage.

(1) Audit Report--A report required by Section 394.9027 of Texas Local Government Code completed by an Auditor or compliance expert, in a manner and format prescribed by the Department.

(2) Auditor--An individual who is an independent auditor, a business entity that primarily performs audits and/or a compliance expert with an established history of providing similar audits on housing compliance matters, meeting the criteria established herein.

(3) Board--The governing board of the Texas Department of Housing and Community Affairs.

(4) Chief Appraiser--The chief appraiser of the appraisal district in which a Development is located.

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

(6) Housing Choice Voucher Program--The housing choice voucher program under Section 8, United States Housing Act of 1937 (42 U.S.C. Section 1437(f)).

(7) Housing Finance Corporation (HFC)--a public, non-profit corporation created under Chapter 394, of the Texas Local Government Code. This includes an instrumentality created by the HFC.

(8) Housing Finance Corporation User or HFC User--A Housing Finance Corporation; or for a Multifamily Residential Development that is not owned directly by a Housing Finance Corporation, a public-private partnership entity or a developer or other person or entity that has an ownership interest or a leasehold or other possessory interest in a Multifamily Residential Development financed or supported by a Housing Finance Corporation.

(9) HUD--The United States Department of Housing and Urban Development.

(10) Lower Income Housing Unit--a residential unit reserved for occupancy by an individual or family earning not more than 60 percent of the area median income, adjusted for family size.

(11) Maximum Market Rent--with respect to a particular Restricted unit, the average annual Rent charged for all non-income-restricted units in the development having the same or substantially similar floor plan as the Restricted unit.

(12) Middle Income Housing Unit--a residential unit reserved for occupancy by an individual or family earning not more than 100 percent of the area median income, adjusted for family size.

(13) Moderate Income Housing Unit--a residential unit reserved for occupancy by an individual or family earning not more than 80 percent of the area median income, adjusted for family size.

(14) Multifamily Residential Development--(also called Development) any residential development owned by a Housing Finance Corporation consisting of four or more residential units intended for occupancy as rentals, regardless of whether the units are attached or detached.

(15) Regulatory Agreement--A Land Use Restriction Agreement (LURA), Ground Lease, Deed Restriction, or any similar restrictive instrument that is recorded in the real property records of the county in which the Development is located.

(16) Rent--any recurring fee or charge a tenant is required to pay as a condition of occupancy, including a fee or charge for the use of a common area or facility reasonably associated with the residential rental property. The term does not include fees and charges for services or amenities that are optional for a tenant, such as pet fees and fees for storage or covered parking.

(17) Rent Reduction--The projected difference between the Rent charged for a Restricted Unit and the Maximum Market Rent that could be charged for that same unit without the income restrictions.

(18) Responsible Parties--The Housing Finance Corporation that owns or is associated with the Development, the Housing Finance Corporation User of the Development, the Texas Comptroller, and/or the governing body of the Sponsor.

(19) Restricted Unit--A residential unit in a Multifamily Residential Development that is reserved for or occupied by a household meeting certain income limitations established in the Regulatory Agreement, in accordance with §394.9026(c)(1) of Texas Local Government Code, with Rent for such unit restricted as set forth in these rules. Restricted Units may float in a Development and need not be permanently fixed.

(20) Sponsor--a municipality, county or collection of municipalities and counties that causes a corporation to be created to act in accordance with Chapter 394, of the Texas Local Government Code.

(21) Tax Year--Is a calendar year. For the purposes of all provisions within the rule, the terms "Tax Year" and "Calendar Year" shall have the same meaning and shall be interchangeable.

(22) Unit Type--Means the type of unit determined by the number of bedrooms.

§10.1203. Reporting Requirements.

The following reporting requirements apply to all Housing Finance Corporation (HFC) Multifamily Residential Developments claiming an ad valorem tax exemption under Section 394.905 of the Texas Local Government Code and to which §§394.9026 and 394.9027 of Texas Local Government Code apply, regardless of when approved or acquired.

(1) All Multifamily Residential Developments owned by an HFC as defined by this subchapter must submit an Audit Report as described in this paragraph.

(A) No later than June 1 of each year, with approved extensions as described in subparagraph (B) of this paragraph HFC Users must submit to the Department an Audit Report from an Auditor, obtained at the expense of the HFC User. The Audit Report determines whether the Multifamily Residential Development is in compliance with Sections 394.9026 and 394.9027 of the Texas Local Government Code.

(B) Audit Report extension requests must be submitted to hfc@tdhca.texas.gov no later than May 1 of each reporting year. The request for an extension must include an explanation of the reason and the requested submission date, not to exceed 120 days from the June 1 reporting deadline. Within seven calendar days of receiving the request, the Department will respond to the request and determine if good cause exists prior to issuing a determination of approval or denial for an extension.

(C) No later than when the first Audit Report submission is due, the HFC User must provide their auditor with a copy of the underwriting assessment as published on the HFC website and as conducted pursuant to §394.905(b)(3) of Texas Local Government Code; a copy of the resolution or order required by §394.031(d) and §394.037(a-1)(2) if applicable; and a copy of the board meeting minutes, public hearing transcript or adopted resolution, or other document evidencing approval of the Development. The auditor will include these with the first Audit Report. Additionally, a copy of the Regulatory Agreement and a copy of the one-time exemption application submitted to the Texas Comptroller's office shall be included in the first Audit Report. These items being submitted are the responsibility of the HFC User; if the Auditor indicates in their Audit Report that the HFC User has not provided the documents required in this subparagraph, a compliance finding will be issued.

(D) The first Audit Report for a Development must be submitted no later than June 1 of the Tax Year following:

(i) The date of acquisition by the HFC for an occupied Development; or

(ii) The date a newly constructed Development first becomes occupied by one or more tenants.

(2) A Multifamily Residential Development is not entitled to an ad valorem tax exemption for any Tax Year in which the HFC User has not timely submitted the full Audit Report by the deadline, with approved extensions as required by §394.9027 of the Texas Local Government Code.

(3) All Audit Reports must comply with subparagraphs (A) to (C) of this paragraph:

(A) be for at least the full prior reporting year ending December 31 and include a rent roll for the same period.

(B) include contact information for all Responsible Parties.

(C) be completed and submitted in the Department prescribed manner.

(4) The HFC User must submit an annual service fee to the Department by June 1 of each year of the greater of \$20 per Restricted unit or \$500. This fee shall be tendered by check, money order, or via an online payment system (if provided by the Department), payable to the Texas Department of Housing and Community Affairs. This fee, when received in connection with an Audit Report, is earned and is not subject to refund.

(5) No later than 60 days after the receipt of the Audit Report, the Department will post a summary of the Audit Report on its website including a detailed description of any noncompliance with this rule found by the Auditor. A copy of the summary notice will also be provided to the Development and all Responsible Parties.

(6) If noncompliance is identified by the Auditor in the Audit Report, no later than 120 days after receipt of the Audit Report by the Department, the Department will issue a monitoring report notice

and make it available on the website. A copy of the monitoring report will also be provided to the Development and all Responsible Parties.

(A) The monitoring report will include a detailed description of any noncompliance and at least one option for corrective action to resolve the noncompliance. The HFC User will be given 180 days from the issuance of the monitoring report notice to correct the noncompliance. At the end of the 180 days, the Department will post a final report on its website.

(B) If there is any noncompliance with Section 394.9026 that is not corrected within the 180-day corrective action period, the Department will notify the Responsible Parties, appropriate appraisal district, and the Texas Comptroller in writing and recommend a loss of ad valorem tax exemption under Section 394.905 Texas Local Government Code.

(7) The qualification of the Auditor must be submitted with each Audit Report. Qualifications must include experience auditing housing compliance, a current Certified Occupancy Specialist (COS) certification or an equivalent certification, and resume. The Auditor may not be affiliated with or related to any Responsible Parties. Additionally, a current or previous Management Agent that has or had oversight of the Development or is/was responsible for reviewing and approving tenant files does not qualify as an Auditor under these rules. HFC Users may not engage the same individual as Auditor for a particular Development for more than three consecutive years. After the third consecutive Audit Report by the same Auditor, the HFC User must engage a new Auditor for the submission of at least two annual Audit Reports before re-engaging with a prior Auditor.

(8) Audit Reports and supporting documentation and required forms must be submitted through the Departments File Serve System. To obtain access to this system the HFC User or Auditor must request access by emailing hfc@tdhca.texas.gov.

§10.1204. Audit Requirements.

HFC Developments must comply with the Audit Report requirements identified in this section:

(1) If the HFC Development was acquired prior to May 28, 2025, the Development must comply with all requirements by January 1, 2026, with the exception of subparagraphs (3)(B), (3)(C), (3)(J), (3)(K) and (3)(L) of this section, which must be met no later than the end of the 10th Tax Year following May 28, 2025, or the end of the first Tax Year following a Tax Year in which the Development was refinanced, fee or leasehold title was conveyed or a sale or transfer of ownership in the HFC Development or HFC User occurred. For purposes of this rule, refinancing of construction loans, whether by virtue of conversion from Construction phase to permanent phase or replacement of construction financing with permanent financing, will not be considered a refinancing.

(2) The Auditor must use the Department's HFC monitoring forms made available on the website. The review performed by the Auditor may be completed either onsite or electronically. Original records must be made available to the Auditor. The file sample used by the Auditor must contain at least 20% of the total number of Restricted Units for the Development, but no more than a total of fifty (50) household files. The selection of Restricted Units should include at least 75% of households that are newly moved in to the Development, but also include at least 10% of households that have recertified, or if 10% of households have not recertified, then units that have recertified. For Developments that are leasing up and not yet fully occupied the percentages reflected in this paragraph should be applied to all occupied units.

(3) The Auditor will ensure Development meets the following requirements and will identify any deficiencies in the Audit Report:

(A) The HFC User will provide the auditor with documentation that the Auditor will submit with the Audit that:

(i) confirms that the Multifamily Residential Development is within its jurisdictional boundaries pursuant to §394.031 of the Texas Local Government Code.

(ii) submit supporting documentation that a Multifamily Residential Development that is acquired outside of the Sponsor's jurisdiction has been approved in accordance with §394.031(d) of Texas Local Government Code. For a development not located within the jurisdictional boundaries, that was acquired on or before September 1, 2025, this requirement does not apply until January 1, 2027, after which this documentation must be submitted.

(B) The Restricted units in the Development have the same unit finishes and equipment and access to community amenities and programs as residential units that are not income restricted. Minor variations in floorplans, colors, and design are acceptable deviations and will not be noted as noncompliance; significant variations in floor plans and square footage will be considered noncompliance.

(C) The percentage of Restricted Units in each Unit Type and each category of income restriction in the Development must be the same or greater percentage as the percentage of each Unit Type of units that are reserved in the Development as a whole.

(D) Occupants of Restricted Units are required to recertify the income of the household using a Department-approved Income Certification form at lease renewal. If a household exceeds the income limit at annual income recertification, the Available Unit Rule as outlined in Section 42(g)(2)(D) of the Internal Revenue Code will be implemented Development-wide.

(E) The Development must affirmatively market available Restricted Units and non-Restricted Units to households participating in the Housing Choice Voucher program and notify local housing authorities of their acceptance of voucher program tenants. Evidence of this must be provided to include, but not be limited to, notifications to the local housing authority, advertising that may be posted at the local housing authority properties, or mailings that were sent to local housing authority households.

(F) The internet website for the Development must include information about the Development and its compliance with Section 394.9026(c)(7), Texas Local Government Code, along with its policies on the acceptance of Housing Choice Voucher holders.

(G) HFC Developments cannot refuse to rent to an individual or family solely because the individual or family participates in a Housing Choice Voucher program.

(H) HFC Developments cannot require a minimum income standard for individuals or families participating in a Housing Choice Voucher program that exceeds two hundred and fifty percent (250%) of the tenant portion of rent.

(I) The Auditor will review the Development's form of tenant lease, lease addendums and leasing policies to ensure the Development meets the following requirements and will report any deficiencies found in the Audit Report. Each residential lease agreement for a Restricted Unit must provide the following:

(i) The landlord may not retaliate against the tenant or the tenant's guests by taking action because the tenant established, attempted to establish, or participated in a tenant organization;

(ii) The landlord may only choose to not renew the lease if the tenant: committed one or more substantial violations of the lease; failed to provide required information on the income, composition, or eligibility of the tenant's household; or committed repeated minor violations of the lease that disrupt the livability of the Development, adversely affect the health and safety of any person or the right to quiet enjoyment of the leased premises and related Development facilities, interfere with the management of the Development, or have an adverse financial effect on the Development, including the failure of the tenant to pay rent in a timely manner.

(iii) To non-renew a lease, the landlord must serve a written notice of proposed nonrenewal on the tenant no later than the 30th day before the effective date of nonrenewal.

(iv) Tenants may not waive these protections in a lease or lease addendum.

(J) Income Restrictions. A Development seeking an ad valorem tax exemption must meet the requirements of either clause (i) or (ii) of this subparagraph.

(i) at least 10% of the residential units are reserved as Lower Income Housing Units and at least 40% of the residential units are reserved as Moderate-Income Housing Units or;

(ii) at least 10% of the residential units are reserved as Very Low-Income Housing Units and at least 40% of the residential units are reserved as Middle Income Housing Units.

(K) Rent Restrictions:

(i) Monthly Rent for Restricted Units may not exceed thirty percent (30%) of the imputed household income limitation for the unit, adjusted for family size, as determined by HUD. HFC Users may apply to the Development an imputed family size of either one person per bedroom plus one person, or one and one half persons per bedroom. The Auditor shall indicate in the Audit Report which imputed family size was applied to the Development.

(ii) Notwithstanding the foregoing, if a Restricted Unit is occupied by a household with a Housing Choice Voucher, and the payment standard for that voucher is less than the monthly Rent for the Restricted Unit established pursuant to clause (i) of this subparagraph, the household may be required to pay the difference between the payment standard and the monthly Rent.

(L) Rent Reduction Comparison:

(i) Identify the difference between the Rent charged for each Restricted unit and the estimated Maximum Market Rent that could be charged for such units if they were not restricted. For Developments that do not have market rate units the Auditor and/or the HFC User must provide evidence of reasonably comparable Maximum Market Rents, which may be based on market studies, leasing surveys, Fair Market Rents as published by HUD, or other methods acceptable to the Department.

(ii) Include the following public benefit test:

(I) The cumulative Rent Reduction for all Restricted Units at the Development in the preceding Tax Year must not be less than 50% of the amount of the estimated ad valorem taxes that would have been imposed on the Development in the same Tax Year if the Development did not receive the exemption.

(-a-) For a Development acquired by an HFC the first Audit Report that will include the rent reduction test is for the first Tax Year after the acquisition Tax Year. Example 1204(1): Development acquired by an HFC on July 24, 2025. The acquisition tax year would be 2025, and the second tax year after acquisition would

be 2026, so the first Audit Report would be due on June 1, 2026. The first rent reduction test would be for Tax Year 2026 on Audit Report submitted June 1, 2027.

(-b-) For newly constructed Developments the first Audit Report that will include the rent reduction test for the first Tax Year after the Tax Year in which construction first begins. Example 1204(2): An HFC Development begins new construction on February 1, 2026. The first tenant occupies the Development on September 15, 2027. The first Audit Report is due on June 1, 2028, and must include the rent reduction test for reporting year 2027.

(II) The Rent Reduction calculation for each Restricted unit must be the difference between the Maximum Market Rent for the same Unit Type and the lease Rent on the rent roll for the Rent for the Restricted Unit. Restricted and Market Rate units occupied by households with Housing Choice Vouchers will be disregarded during the Rent Reduction calculation. Vacant units will also be excluded for the purposes of the Rent Reduction calculation.

(-a-) for a Restricted Unit the maximum permitted Rent for such unit under the Regulatory Agreement, and

(-b-) for any market rate unit the maximum rent charged for that Unit Type in the months that were vacant.

(III) If the Rent Reduction calculation demonstrates that the Rent Reduction was less than 50% of the amount of the estimated ad valorem taxes that would have been imposed on the Development for the Tax Year, the HFC User must pay each taxing authority the pro rata share of the Rent Reduction shortfall based on the published millage rates of each taxing authority. The Rent Reduction shortfall is an amount equal to 50% of the estimated ad valorem tax amount minus the total Rent Reduction for the Tax Year. The Auditor must provide copies of any payments made by the HFC User to the appropriate taxing authority in the Audit Report.

(IV) In estimating the ad valorem taxes that would have been imposed, the Auditor may use, but is not limited to, the following:

(-a-) For occupied Developments acquired by an HFC, estimated ad valorem taxes should generally be based on the actual taxes applicable prior to the acquisition by the HFC with a stated escalation factor.

(-b-) For new construction, estimated ad valorem taxes may be based on an independent appraisal, third-party property tax report, published appraisal district value, or other means acceptable to the Department.

(4) A Development acquired by an HFC after May 28, 2025, must comply with all requirements in this Subchapter no later than the end of the tax year following the year of acquisition.

(5) The Auditor must maintain monitoring records and papers for each Audit Report for three years and must provide the Department and/or the Chief Appraiser a copy of their monitoring records upon request.

§10.1205. Income and Rent Calculations.

(a) Annual Income for a household occupying a Restricted Unit shall be determined consistent with the Section 8 Program administered by the U.S. Department of Housing and Urban Development (HUD), using the definitions of annual income described in 24 CFR §5.609 as further described in the HUD Handbook 4350.3 as amended from time to time by publication in the Federal Register.

(b) Special rule relating to basic housing allowances. For purposes of determining income under this subparagraph, payments under section 403 of title 37, United States Code, as basic pay allowance for housing shall be disregarded with respect to any qualified building.

(1) The term "qualified building" means any building located -

(A) in any county in which is located a qualified military installation to which the number of members of the Armed Forces of the United States assigned to units based out of such qualified military installation, as of June 1, 2008, has increased by not less than 20 percent, as compared to such number on December 31, 2005, or

(B) in any county adjacent to a county described in clause (i).

(2) Qualified military installation. The term "qualified military installation" means any military installation or facility the number of members of the Armed Forces of the United States assigned to which, as of June 1, 2008, is not less than 1,000.

(3) Income and rent limits will be derived from data released by HUD.

(4) The income and rent limits specified in the Regulatory Agreement will be used to determine if a household's income and rent is restricted.

(5) To document compliance, HFC Users must maintain sufficient documentation to support income eligibility of households which includes an application that screens for all includable sources of income and assets, first hand or third party documentation of income and assets and an Income Certification form signed by all adults in the household.

§10.1206. Penalties.

Noncompliance with Sections 394.9026 and or 394.9027 of the Texas Local Government Code, or this Subchapter, continuing after all available notice and corrective action periods, will result in a Department report to the Texas Comptroller and Chief Appraiser, and recommendation of loss of the ad valorem exemption for the Development for the Tax Year in which the Development that is owned by a HFC is determined by the Department based on an Audit Report to not be in compliance with the requirements of Sections 394.9026 and 394.9027.

§10.1207. Options for Review.

(a) The HFC User must attempt to address any issues of non-compliance identified in the Audit Report with the Auditor, prior to submission of the Audit Report to the Department.

(b) During the corrective action period, the HFC User may appeal any noncompliance issued as provided for in §1.7 of this Title relating to Appeals. The filing of an appeal does not extend or suspend the 180-day corrective action period, unless the Department authorizes an extension in writing. The HFC User and Auditor, as applicable, must provide all documentation requested by the Department within ten calendar days prior to the meeting.

(c) An HFC User may request alternative dispute resolution in accordance with the Department's rules regarding such resolution set forth at §1.17 of this title (related to Alternative Dispute Resolution).

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 October 10, 2025.

TRD-202503662



CHAPTER 12. MULTIFAMILY HOUSING REVENUE BOND RULES

10 TAC §§12.1 - 12.10

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of 10 TAC Chapter 12, Multifamily Housing Revenue Bond Rules (Bond Rules). The purpose of the proposed repeal is to eliminate an outdated rule while adopting a new updated rule under separate action.

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. Bobby Wilkinson, Executive Director, has determined that, for the first five years the proposed repeal would be in effect, the proposed repeal does not create or eliminate a government program, but relates to the repeal, and simultaneous readoption making changes to an existing activity, the issuance of Private Activity Bonds (PAB) by the Department.

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

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

4. The proposed repeal does not result in an increase in fees paid to the Department or in a decrease in fees paid to the Department.

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

6. The proposed action will repeal an existing regulation, but is associated with a simultaneous readoption making changes to an existing activity, the issuance of PABs by the Department.

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

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

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

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

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043.

The proposed repeal does not contemplate 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 proposed repeal as to its possible effects on local economies and has determined that for the first five years the proposed repeal would be in effect there would be no economic effect on local employment; therefore no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5).

Mr. Wilkinson has determined that, for each year of the first five years the proposed repeal is in effect, the public benefit anticipated as a result of the repealed section would be an updated and more germane rule for administering the issuance of PAB by the Department. There will not be economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4).

Mr. Wilkinson also has determined that for each year of the first five years the proposed repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

REQUEST FOR PUBLIC COMMENT AND INFORMATION RELATED TO COST, BENEFIT OR EFFECT. The Department requests comments on the proposed repeal and also requests information related to the cost, benefit, or effect of the proposed repeal, 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 October 24, 2025 to November 24, 2025, to receive input on the proposed action. Attn: Liz Cline, Bond Rule Public Comment, P.O. Box 13941, Austin, Texas 78711-3941, or by fax to (512) 475-3963, attn: Liz Cline, Bond Rule Public Comments, or by email to liz.cline@tdhca.texas.gov. ALL COMMENTS AND INFORMATION MUST BE RECEIVED BY 5:00 p.m., Austin local (Central) time, November 24, 2025.

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

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

§12.1. General.

§12.2. Definitions.

§12.3. Bond Rating and Investment Letter.

§12.4. Pre-Application Process and Evaluation.

§12.5. Pre-Application Threshold Requirements.

§12.6. Pre-Application Scoring Criteria.

§12.7. Full Application Process.

§12.8. Refunding Application Process.

§12.9. Occupancy Requirements.

§12.10. Fees.

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 October 10, 2025.

TRD-202503656

Bobby Wilkinson

Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: November 23, 2025

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



10 TAC §§12.1 - 12.11

The Texas Department of Housing and Community Affairs (the Department) proposes new 10 TAC Chapter 12, Multifamily Housing Revenue Bond Rules (Bond Rule), §§12.1 - 12.10. The purpose of the proposed new sections is to provide compliance with Tex. Gov't Code §2306.67022, to reflect relatively minor policy revisions, and to ensure that it is reflective of changes made in the Department's Qualified Allocation Plan where applicable.

Tex. Gov't Code §2001.0045(b) does not apply to the rules proposed for action pursuant to item (9), which excepts rule changes necessary to implement legislation. The proposed rules provide compliance with Tex. Gov't Code §2306.359, which requires the Department to provide for specific scoring criteria and underwriting considerations for its multifamily private activity bond activities.

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

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

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

1. The proposed rule does not create or eliminate a government program, but relates to the readoption of this rule which makes changes to an existing activity, the issuance of Private Activity Bonds (PAB) by the Department.
2. The proposed new rule does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The proposed rule changes do not require additional future legislative appropriations.
4. The proposed rule changes will not result in an increase in fees paid to the Department, but may, under certain circumstances, result in a decrease in fees paid to the Department regarding Tax-Exempt Bond Developments.
5. The proposed rule is not creating a new regulation, except that it is replacing a rule being repealed simultaneously to provide for revisions.
6. The proposed rule will not limit, expand or repeal an existing regulation but merely revises a rule.

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

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

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002. The Department, in drafting this proposed rule, has attempted to reduce any adverse economic effect on small or micro-business or rural communities while remaining consistent with the statutory requirements of Tex. Gov't Code §2306.359. Although these rules mostly pertain to the filing of a bond pre-application, some stakeholders have reported that their average cost of filing a full Application is between \$50,000 and \$60,000, which may vary depending on the specific type of Application, location of the Development Site, and other non-state of Texas funding sources utilized. The proposed rules do not, on average, result in an increased cost of filing an application as compared to the existing program rules.

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 procedures in place for entities applying for multifamily PAB. Only those small or micro-businesses that participate in this program are subject to this rule. There are approximately 100 to 150 businesses, which could possibly be considered small or micro-businesses, subject to the proposed rule for which the economic impact of the rule would be a fee of approximately \$11,000 which includes the filing fees associated with submitting a bond pre-application.

The Department bases this estimate on the potential number of Applicants and their related parties who may submit applications to TDHCA for PABs (and accompanying housing tax credits). There could be additional costs associated with pre-applications depending on whether the small or micro-businesses outsource how the application materials are compiled. The fee for submitting an Application for PAB layered with LIHTC is based on \$30 per unit, and all Applicants are required to propose constructing, at a minimum, 16 Units.

These Application Fee costs are not inclusive of external costs required by the basic business necessities underlying any real estate transaction, from placing earnest money on land, conducting an Environmental Site Assessment, conducting a market study, potentially retaining counsel, hiring an architect and an engineer to construct basic site designs and elevations, and paying any other related, third-party fees for securing the necessary financing to construct multifamily housing. Nor does this estimate include fees from the Department for Applications that successfully attain an award.

There are approximately 1,300 rural communities potentially subject to the proposed rule for which the economic impact of the rule is projected to be \$0. 10 TAC Chapter 12 places no financial burdens on rural communities, as the costs associated with submitting an Application are born entirely by private parties. In an average year the volume of applications for PAB that are located in rural areas is not more than 20% of all PAB applications received. In those cases, a rural community securing a PAB Development will experience an economic benefit, including by not limited to the potential increased property tax revenue from a large multifamily Development if the Development is not seeking an exemption of such property tax revenue.

3. The Department has determined that because there are rural PAB awardees, this program helps promote construction activities and long term tax base in rural areas of Texas. Aside from the fees and costs associated with submitting an Application, there is a probable positive economic effect on small or micro-businesses or rural communities that receive PAB awards and successfully use those awards to construct multifamily housing, although the specific impact is not able to be quantified in advance.

c. **TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043.** The proposed 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 rule as to its possible effects on local economies and has determined that for the first five years the rule will be in effect the proposed rule may provide a possible positive economic effect on local employment in association with this rule since PAB Developments, layered with housing tax credits, often involve a total input of, typically at a minimum, \$5 million in capital, but often an input of \$10 million to \$30 million. Such a capital investment has concrete direct, indirect, and induced effects on the local and regional economies and local employment. However, because the exact location of where program funds or developments are directed is not determined in rule, and is driven by real estate demand, there is no way to determine during rulemaking where the positive effects may occur. Furthermore, while the Department believes that any and all impacts are positive, that impact is not able to be quantified for any given community until PABs and LIHTCs are actually awarded to a proposed Development, given the unique characteristics of each proposed multifamily Development and region in which it is being developed.

Tex. Gov't Code §2001.022(a) states that this "impact statement must describe in detail the probable effect of the rule on employment in each geographic region affected by this rule..." Considering that significant construction activity is associated with any PAB Development layered with LIHTCs and each apartment community significantly increases the property value of the land being developed, there are no probable negative effects of the new rule on particular geographic regions and positive effects may ensue in those communities where developers receive PAB awards.

e. **PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5).** Mr. Wilkinson has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new section will be an updated and more germane rule for administering the issuances of PABs by the Department and corresponding allocation of housing tax credits. There is no change to the economic cost to any individuals required to comply with the new section because the same processes described by the rule have already been in place through the rule found at this section being repealed. The average cost of filing a pre-application and application remain unchanged based on these rules changes. The proposed rules do not, on average, result in an increased cost of filing an application as compared to the existing program rules.

f. **FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4).** Mr. Wilkinson also has determined that for each year of the first five years the new section is in effect,

enforcing or administering the new section does not have any foreseeable implications related to costs or revenues of the state or local governments because the same processes described by the rule have already been in place through the rule found at this section being repealed.

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 interest person. The public comment period will be held October 24, 2025, to November 24, 2025, to receive stakeholder comment on the new proposed section. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Liz Cline, Bond Rule Public Comment, P.O. Box 13941, Austin, Texas 78711-3941, or by fax to (512) 475-3963, attn: Liz Cline, Bond Rule Public Comments, or by email to liz.cline@tdhca.texas.gov. **ALL COMMENTS AND INFORMATION MUST BE RECEIVED BY 5:00 p.m., Austin local (Central) time November 24, 2025.**

STATUTORY AUTHORITY. The new sections 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.

§12.1. General.

(a) Authority. The rules in this chapter apply to the issuance of multifamily housing revenue bonds, notes, or other evidences of indebtedness (Bonds) by the Texas Department of Housing and Community Affairs (Department). The Department is authorized to issue Bonds, including Qualified 501(c)(3) Bonds and Taxable Bonds, pursuant to Tex. Gov't Code, Chapter 2306. Notwithstanding anything in this chapter to the contrary, Bonds which are issued to finance the Development of multifamily rental housing are subject to the applicable requirements of the laws of the State of Texas, including but not limited to Tex. Gov't Code, Chapters 1372 and 2306, and federal law pursuant to the requirements of Internal Revenue Code (Code), §§141 through 150, as applicable.

(b) General. The purpose of this chapter is to state the Department's requirements for issuing Bonds, the procedures for applying for Bonds and the regulatory and land use restrictions imposed upon Bond financed Developments. The provisions contained in this chapter are separate from the rules relating to the Department's administration of the Housing Tax Credit program. Applicants seeking a Housing Tax Credit Allocation should consult Chapter 11 of this title (relating to the Housing Tax Credit Program Qualified Allocation Plan) for the current program year. In general, the Applicant will be required to satisfy the eligibility and threshold requirements of the Qualified Allocation Plan (QAP) in effect at the time the Certificate of Reservation is issued by the Texas Bond Review Board (TBRB). If the applicable QAP contradicts rules set forth in this chapter, the applicable QAP will take precedence over the rules in this chapter except in an instance of a conflicting statutory requirement, which shall always take precedence. To the extent applicable to each specific Bond issuance, the Department's conduit multifamily Bond transactions will be processed in accordance with 34 TAC Part 9, Chapter 181, Subchapter A (relating to Bond Review Board Rules) and Tex. Gov't Code, Chapter 1372.

(c) Costs of Issuance. The Applicant shall be responsible for payment of all costs related to the preparation and submission of the pre-application and Application, including but not limited to, costs as-

sociated with the publication and posting of required public notices and all costs and expenses associated with the issuance of the Bonds, regardless of whether the Application is ultimately approved or whether Bonds are ultimately issued. At any point during the process, the Applicant is solely responsible for determining whether to proceed with the Application and the Department disclaims any and all responsibility and liability in this regard.

(d) Waivers and Appeals. Requests for any permitted waivers of program rules must be made in accordance with §11.207 of this title (relating to Waiver of Rules). The process for appeals and grounds for appeals may be found under §1.7 of this title (relating to Appeals Process).

§12.2. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Any capitalized terms not specifically mentioned in this section shall have the meaning as defined in Tex. Gov't Code, Chapter 2306, §§141 through 150 of the Code, Chapter 10 of this title (relating to Uniform Multifamily Rules), and Chapter 11 of this title (relating to Housing Tax Credit Program Qualified Allocation Plan).

(1) Bond Trustee--A financial institution, usually a trust company or the trust department in a commercial bank, that holds collateral for the benefit of the holders of municipal securities. The Bond Trustee's obligations and responsibilities are set forth in the Indenture.

(2) Institutional Buyer--Shall have the meaning prescribed under 17 CFR §230.501(a), but excluding any natural person or any director or executive officer of the Department (17 CFR §230.501(a)(4) - (6)), or as defined by 17 CFR §230.144(a), promulgated under the Securities Act of 1933, as amended.

(3) Persons with Special Needs--Shall have the meaning prescribed under Tex. Gov't Code §2306.511.

(4) Qualified 501(c)(3) Bonds--Any Bonds described by Section 145 of the Code to provide residential rental property.

§12.3. Bond Rating and Investment Letter.

(a) Bond Ratings. All publicly offered Bonds issued by the Department to finance Developments shall have a debt rating the equivalent of at least an "A" rating assigned to long-term obligations by Standard & Poor's Ratings Services, or Moody's Investors Service, Inc. If such rating is based upon credit enhancement provided by an institution other than the Applicant or Development Owner, the form and substance of such credit enhancement shall be subject to approval by the Department's Board (Board), evidenced by a resolution authorizing the issuance of the credit enhanced Bonds.

(b) Investment Letters. Bonds rated less than "A" or Bonds which are unrated must be placed with one or more Institutional Buyers and must be accompanied by an investor letter acceptable to the Department. Subsequent purchasers of such Bonds must also be qualified as Institutional Buyers and must execute and deliver to the Department an investor letter in a form satisfactory to the Department. Bonds rated less than "A" and Bonds which are unrated shall be issued in physical form, in minimum denominations of one hundred thousand dollars (\$100,000), and must carry a legend requiring any purchasers of the Bonds to be Institutional Buyers and sign and deliver to the Department an investor letter in a form acceptable to the Department.

§12.4. Pre-Application Process and Evaluation.

(a) Pre-Inducement Questionnaire. Prior to the filing of a pre-application, including an application for Qualified 501(c)(3) Bonds, the Applicant shall submit the Pre-Inducement Questionnaire, in the form prescribed by the Department, so the Department can have a preliminary understanding of the proposed Development plan before a

pre-application and corresponding fees are submitted. After reviewing the pre-inducement questionnaire, Department staff will follow-up with the Applicant to discuss the next steps in the process and may schedule a pre-inducement conference call. Prior to the submission of a pre-application, it is essential that the Department and Applicant communicate regarding the Department's objectives and policies in the development of affordable housing throughout the State using Bond financing. The acceptance of the questionnaire by the Department does not constitute a pre-application or Application and does not bind the Department to any formal action regarding an inducement resolution.

(b) Neighborhood Risk Factors. If the Development Site has any of the characteristics described in §11.101(a)(3)(D) of this title (relating to Neighborhood Risk Factors), the Applicant must disclose the presence of such characteristics to the Department. Disclosure may be done at time of pre-application and handled in connection with the inducement or it can be addressed at the time of Application submission. The Applicant understands that any determination made by staff or the Board at the time of bond inducement regarding Site eligibility based on the documentation presented, is preliminary in nature. Should additional information related to any of the Neighborhood Risk Factors become available while the Tax-Exempt Bond Development Application is under review, or the information by which the original determination was made changes in a way that could affect eligibility, then such information will be re-evaluated and presented to the Board.

(c) Pre-Application Process. An Applicant who intends to pursue Bond financing from the Department, including Qualified 501(c)(3) Bonds, shall submit a pre-application by the corresponding pre-application submission deadline, as set forth by the Department. The required pre-application fee as described in §12.10 of this chapter (relating to Fees) or §12.11 of this chapter (relating to Qualified 501(c)(3) Bonds), as applicable, must be submitted with the pre-application in order for the pre-application to be considered accepted by the Department. Department review at the time of the pre-application is limited and not all issues of eligibility, fulfillment of threshold requirements in connection with the full Application, and documentation submission requirements pursuant to Chapter 11 of this title (relating to Housing Tax Credit Program Qualified Allocation Plan) are reviewed. The Department is not responsible for notifying an Applicant of potential areas of ineligibility or other deficiencies at the time of pre-application. If the Development meets the criteria as described in §12.5 of this chapter (relating to Pre-Application Threshold Requirements), the pre-application will be scored and ranked according to the applicable selection criteria as described in §12.6 of this chapter (relating to Pre-Application Scoring Criteria), recognizing that pre-applications for Qualified 501(c)(3) Bond financing will be scored and ranked separately from bond pre-applications associated with Housing Tax Credits. The selection criteria, as further described in §12.6 of this chapter, reflects a structure that gives priority consideration to specific criteria as outlined in Tex. Gov't Code, §2306.359, as well as other important criteria. To the extent applicable, should two or more pre-applications receive the same score, the Department will utilize the tie breaker factors in this paragraph, which will be considered in the order they are presented herein, to determine which pre-application will receive preference in consideration of a Certificate of Reservation:

(1) To the pre-application that was on the waiting list with the TBRB but did not have an active Certificate of Reservation at the time of the TBRB lottery and achieved the maximum number of points under §12.6(12) of this chapter; and

(2) To the pre-application with the highest number of positive points achieved under §12.6(9) of this chapter.

(d) Inducement Resolution. After the pre-applications have been scored and ranked, the pre-application will be presented to the

Board for consideration of an inducement resolution declaring the Department's initial intent to issue Bonds with respect to the Development. Approval of the inducement resolution does not guarantee final Board approval of the Bond Application. Department staff may recommend that the Board not approve an inducement resolution for a pre-application. Notwithstanding the foregoing, Department staff may, but is not required to, recommend that an inducement resolution be approved despite the presence of neighborhood risk factors, undesirable site features, or requirements that may necessitate a waiver, that have not fully been evaluated by staff at pre-application. The Applicant recognizes the risk involved in moving forward should this be the case and the Department assumes no responsibility or liability in that regard. Each Development is unique, and therefore, making the final determination to issue Bonds is often dependent on the issues presented at the time the full Application is considered by the Board.

§12.5. Pre-Application Threshold Requirements.

The threshold requirements of a pre-application include the criteria listed in paragraphs (1) - (7) of this section. As the Department reviews the pre-application the assumptions as reflected in Chapter 11, Subchapter D of this title (relating to Underwriting and Loan Policy) will be utilized, as applicable, even if not reflected by the Applicant in the pre-application. The threshold requirements of a pre-application include:

(1) Submission of the Multifamily Bond Pre-application as prescribed by the Department in the Multifamily Bond Pre-Application Procedures Manual;

(2) Completed Bond Review Board Residential Rental Attachment for the current program year; provided this paragraph shall not be required for Qualified 501(c)(3) Bonds;

(3) Site Control, evidenced by the documentation required under §11.204(10) of this title (relating to Required Documentation for Application Submission). The Site Control must be valid through the date of both the Board meeting at which the inducement resolution is considered and, if applicable, subsequent submission of the application to the TBRB. For Lottery applications, Site Control must meet the requirements of 34 TAC §190.3(b)(13) (relating to Filing Requirements for Applications for Reservation);

(4) Boundary survey or plat clearly identifying the location and boundaries of the subject Property;

(5) Organizational Chart showing the structure of the Development Owner and of any Developer and Guarantor, providing the names and ownership percentages of all Persons having an ownership interest in the Development Owner, Developer and Guarantor, as applicable, and completed List of Organizations form, as provided in the pre-application. The List of Organizations form must include all Persons identified on the organizational charts, and further identify which of those Persons listed exercise Control of the Development;

(6) Evidence of Entity Registration or Reservation with the Texas Office of the Secretary of State; and

(7) A certification, as provided in the pre-application, that the Applicant met the requirements and deadlines for public notifications as identified in §11.203 of this title (relating to Public Notifications (§2306.6705(9))). In general, notifications should not be older than three months prior to the date of Application submission. In addition, should the jurisdiction of the official holding any position or role described in §11.203 of this title change between the submission of a pre-application and the submission of an Application in a manner that results in the Development being within a new jurisdiction, Applicants are required to notify the new entity no later than the Full Application Delivery Date.

§12.6. Pre-Application Scoring Criteria.

This section identifies the scoring criteria used in evaluating and ranking pre-applications, including pre-applications requesting Qualified 501(c)(3) Bonds to the extent applicable. Any scoring items that require supplemental information to substantiate points must be submitted in the pre-application, as further outlined in the Multifamily Bond Pre-Application Procedures Manual. Applicants proposing multiple sites will be required to submit a separate pre-application for each Development Site, unless staff determines that one pre-application is more appropriate based on the specifics of the transaction. Each individual pre-application will be scored on its own merits and the final score will be determined based on an average of all of the individual scores. Ongoing requirements, as selected in the pre-application, will be reflected in the Bond Regulatory and Land Use Restriction Agreement and must be maintained throughout the State Restrictive Period, unless otherwise stated or required in such Agreement.

(1) Income and Rent Levels of the Tenants. Pre-applications may qualify for up to ten (10 points) for this item.

(A) Priority 1 designation includes one of clauses (i) - (iii) of this subparagraph. (10 points)

(i) set aside 50% of Units rent capped at 50% AMGI and the remaining 50% of Units rent capped at 60% AMGI; or

(ii) set aside 15% of Units rent capped at 30% AMGI and the remaining 85% of Units rent capped at 60% AMGI; or

(iii) set aside 100% of Units rent capped at 60% AMGI for Developments located in a census tract with a median income that is higher than the median income of the county, MSA, or PMSA in which the census tract is located.

(B) Priority 2 designation requires the set aside of at least 80% of the Units rent capped at 60% AMGI (7 points).

(C) Priority 3 designation. Includes any qualified residential rental development. Market rate Units can be included under this priority (5 points).

(2) Cost of Development per Square Foot. (1 point) For this item, costs shall be defined as the Building Cost as represented in the Development Cost Schedule, as originally provided in the pre-application. This calculation does not include indirect construction costs or site work. Pre-applications that do not exceed \$160 per square foot of Net Rentable Area will receive one (1) point. Rehabilitation Developments will automatically receive this point.

(3) Unit Sizes. (6 points) The Development must meet the minimum requirements identified in this subparagraph to qualify for points. Points for this item will be automatically granted for Applications involving Rehabilitation (excluding Reconstruction).

(A) Five-hundred (500) square feet for an Efficiency Unit;

(B) Six-hundred (600) square feet for a one Bedroom Unit;

(C) Eight-hundred-fifty (850) square feet for a two Bedroom Unit;

(D) One-thousand-fifty (1,050) square feet for a three Bedroom Unit; and

(E) One-thousand, two-hundred-fifty (1,250) square feet for a four Bedroom Unit.

(4) Extended Affordability. A pre-application may qualify for up to three (3) points under this item.

(A) Development Owners that agree to extend the State Restrictive Period for a Development to a total of 40 years (3 points).

(B) Development Owners that agree to extend the State Restrictive Period for a Development to a total of 35 years (2 points).

(5) Unit and Development Construction Features. A pre-application may qualify for nine (9) points, as certified in the pre-application, for providing specific amenity and quality features in every Unit at no extra charge to the tenant. The amenities and corresponding point structure is provided in §11.101(b)(6)(B) of this title (relating to Unit, Development Construction, and Energy and Water Efficiency Features), which includes a minimum number of points that must come from Energy and Water Efficiency Features. Applications involving scattered site Developments must have a specific amenity located within each Unit to count for points. Rehabilitation Developments will start with a base score of (5 points).

(6) Common Amenities. All Developments must provide at least the minimum threshold of points for common amenities based on the total number of Units in the Development as provided in subparagraphs (A) - (F) of this paragraph. An Applicant may choose to exceed the minimum number of points necessary based on Development size; however, the maximum number of points under this item which a Development may be awarded shall not exceed 22 points. The common amenities include those listed in §11.101(b)(5) of this title and must meet the requirements as stated therein. The Owner may change, from time to time, the amenities offered; however, the overall points as selected at Application must remain the same.

(A) Developments with 16 to 40 Units must qualify for (2 points);

(B) Developments with 41 to 76 Units must qualify for (4 points);

(C) Developments with 77 to 99 Units must qualify for (7 points);

(D) Developments with 100 to 149 Units must qualify for (10 points);

(E) Developments with 150 to 199 Units must qualify for (14 points); or

(F) Developments with 200 or more Units must qualify for (18 points).

(7) Resident Supportive Services. A pre-application may qualify for up to ten (10) points for this item. By electing points, the Applicant certifies that the Development will provide supportive services, which are listed in §11.101(b)(7) of this title, appropriate for the residents and that there will be adequate space for the intended services. The Owner may change, from time to time, the services offered; however, the overall points as selected at pre-application must remain the same. Should the QAP in subsequent years provide different services than those listed in §11.101(b)(7)(A) - (E) of this title, the Development Owner may be allowed to select services as listed therein upon written consent from the Department and any services selected must be of similar value to the service it is intending to replace. The Development Owner will be required to substantiate such service(s) at the time of compliance monitoring, if requested by staff. The services provided should be those that will directly benefit the Target Population of the Development and be accessible to all. No fees may be charged to the residents for any of the services. Unless otherwise specified, services must be provided on-site or transportation to those off-site services identified on the list must be provided. The same service may not be used for more than one scoring item. These services are intended to be provided by a qualified and reputable provider in the specified industry

such that the experience and background of the provider demonstrates sufficient knowledge to be providing the service. In general, on-site leasing staff or property maintenance staff would not be considered a qualified provider. Where applicable, the services must be documented by a written agreement with the provider. Unless otherwise noted in a particular clause, courses and services must be offered by an onsite instructor(s).

(A) The Development Owner shall provide resident services sufficient to substantiate ten (10) points; or

(B) The Development Owner shall provide resident services sufficient to substantiate eight (8) points.

(8) Underserved Area. An Application may qualify to receive up to four (4) points if the Development Site meets the criteria described in §11.9(c)(6)(A) - (E) of this title. The pre-application must include evidence that the Development Site meets this requirement. Regardless of the varying point options listed under §11.9(c)(6) of this title, the number of points attributed to this scoring item shall be four (4) points.

(9) Development Support/Opposition. (Maximum +24 to -24 points) Each letter will receive a maximum of +3 to -3 points and shall be received 10 business days prior to the Board's consideration of the pre-application. Letters must clearly state support or opposition to the specific Development. State Representatives or Senators as well as local elected officials must be in office when the pre-application is submitted and represent the district containing the proposed Development Site. Letters of support from State or local elected officials that do not represent the district containing the proposed Development Site will not qualify for points. Neutral letters that do not specifically refer to the Development or do not explicitly state support will receive (zero points). A letter that does not directly express support but expresses it indirectly by inference (i.e., "the local jurisdiction supports the Development and I support the local jurisdiction") counts as a neutral letter except in the case of State elected officials. A letter from a State elected official that does not directly indicate support by the official, but expresses support on behalf of the official's constituents or community (i.e., "My constituents support the Development and I am relaying their support") counts as a support letter. A resolution specifically expressing support that is adopted by the applicable Governing Body will count as support under this scoring item for a maximum of 3 points.

(A) State Senator and State Representative of the districts whose boundaries include the proposed Development Site;

(B) Mayor of the municipality (if the Development is within a municipality or its extraterritorial jurisdiction);

(C) Elected member of the Governing Body of the municipality (if the Development is within a municipality or its extraterritorial jurisdiction) who represents the district in which the Development Site is located;

(D) Presiding officer of the Governing Body of the county in which the Development Site is located;

(E) Elected member of the Governing Body of the county who represents the district in which the Development Site is located;

(F) Superintendent of the school district in which the Development Site is located; and

(G) Presiding officer of the board of trustees of the school district in which the Development Site is located.

(10) Preservation Initiative. (2 points) Preservation Developments, including Rehabilitation proposals on Properties which are nearing expiration of an existing affordability requirement within the next two years or for which there has been a rent restriction requirement in the past 10 years may qualify for points under this item. Evidence must be submitted in the pre-application.

(11) Declared Disaster Areas. (7 points) A pre-application may receive points if the Development Site is located in an area declared a disaster area under Tex. Gov't Code §418.014 at the time of submission, or at any time within the two-year period preceding the date of submission.

(12) Waiting List. (5 points) A pre-application that is on the Department's waiting list with the TBRB and does not have an active Certificate of Reservation at the time of the Private Activity Bond Lottery may receive points under this item if participating in the Lottery for the upcoming program year. These points will be added by staff once all of the scores for Lottery applications have been finalized. A pre-application for Qualified 501(c)(3) Bonds is not eligible for these points.

(A) For pre-applications that participated in the prior year Private Activity Bond Lottery (5 points); or

(B) For pre-applications that had an Inducement Resolution adoption date of November of the prior calendar year through March of the current calendar year (3 points); or

(C) For pre-applications that had an Inducement Resolution adoption date of April through July of the current calendar year (1 point).

(13) Assisting Households with Children. (42(m)(1)(C)(vii)) A pre-application may receive one point under this item if at least 15% of the Units in the Development contain three or more bedrooms. The specific number of three or more bedrooms may change from pre-application to full Application, but the minimum percentage must still be met. Applications proposing Rehabilitation (excluding Reconstruction) and Elderly Developments will automatically receive this point.

(14) Sponsor Contribution. This scoring item is only applicable to pre-applications requesting an issuance of Qualified 501(c)(3) Bonds. A pre-application may qualify for up to ten (10) points for this item based on the amount of sponsor contribution as reflected in the pre-application. The contribution shall be in the form of cash or land contribution or other contribution acceptable to the Department. A contribution in the form of deferred developer fee will not qualify for points.

(A) A contribution of at least 10% will qualify for 10 points; or

(B) A contribution of at least 5% will qualify for 7 points.

§12.7. Full Application Process.

(a) Application Submission. Once the inducement resolution has been approved by the Board, an Applicant who elects to proceed with submitting a full Application to the Department must submit the complete tax credit Application pursuant to §11.201 of this title (relating to Procedural Requirements for Application Submission). While a Certificate of Reservation is required under §11.201 of this title prior to submission of the complete tax credit Application, staff may allow the Application to be submitted prior to the issuance of a Certificate of Reservation depending on circumstances associated with the Development Site, structure of the transaction, volume cap environment, or other factors in the Department's sole discretion. An Applicant who in-

tends to pursue Qualified 501(c)(3) Bond financing shall submit a full Application that complies with §12.11 of this chapter at least 90 days prior to the date by which consideration by the Board for the issuance of the bonds would occur.

(b) Eligibility Criteria. The Department will evaluate the Application for eligibility and threshold at the time of full Application pursuant to this Chapter and Chapter 11 of this title (relating to Housing Tax Credit Program Qualified Allocation Plan), as applicable. If there are changes to the Application at any point prior to closing that have an adverse effect on the score and ranking order and that would have resulted in the pre-application being placed below another pre-application in the ranking, the Department may terminate the Application and withdraw the Certificate of Reservation from the Bond Review Board (with the exception of changes to deferred developer's fees and support or opposition points). The Development and the Applicant must satisfy the applicable requirements set forth in Chapter 11 of this title in addition to Tex. Gov't Code, Chapter 1372, the requirements of Tex. Gov't Code Chapter 2306, and the Code. The Applicant will also be required to select a Bond Trustee from the Department's approved list as published on its website.

(c) Bond Documents. Once the Application has been submitted and the Applicant has deposited funds to pay initial costs, the Department's bond counsel shall draft Bond documents.

(d) Public Hearings. The Department will hold a public hearing to receive comments pertaining to the Development and the issuance of the Bonds. A representative of the Applicant or member of the Development Team must be present at the public hearing and will be responsible for conducting a brief presentation on the proposed Development and providing handouts at the hearing that should include at minimum, a description of the Development, maximum rents and income restrictions. If the proposed Development is Rehabilitation, the presentation should include the proposed scope of work that is planned for the Development. The handouts must be submitted to the Department for review at least two days prior to the public hearing. Publication of all notices required for the public hearing shall be at the sole expense of the Applicant, as well as any facility rental fees or required deposits, if applicable.

(e) Approval of the Bonds. Subject to the timely receipt and approval of commitments for financing, an acceptable evaluation for eligibility, financial feasibility, the satisfactory negotiation of Bond documents, and the completion of a public hearing, the Board will consider the approval of the final Bond resolution relating to the issuance, substantially final Bond documents and in the instance of privately placed Bonds, the pricing, terms and interest rate of the Bonds, or the formula thereof that is used to determine such factors. For Applications that include local funding, Department staff may choose to delay Board consideration of the Bond issuance until such time it has been confirmed that the amount or terms associated with such local funding will not change and remain consistent with what was represented in the Department's underwriting analysis.

(f) Local Permits. Prior to closing on the Bond financing, all necessary approvals, including building permits from local municipalities, counties, or other jurisdictions with authority over the Development Site must have been obtained or evidence that the permits are obtainable subject only to payment of certain fees. In instances where such permits will be not received prior to bond closing, the Department may, on a limited and case-by-case basis allow for the closing to occur, subject to receipt of confirmation, acceptable to the Department, by the lender and/or equity investor that they are comfortable proceeding with closing.

§12.8. Refunding Application Process.

(a) Application Submission. Owners who wish to refund or modify tax-exempt bonds, including Qualified 501(c)(3) Bonds, that were previously issued by the Department must submit to the Department a summary of the proposed refunding plan or modifications. To the extent such modifications constitute a re-issuance under state law the Applicant shall then be required to submit a refunding Application in the form prescribed by the Department pursuant to the Bond Refunding Application Procedures Manual.

(b) Bond Documents. Once the Department has received the refunding Application and the Applicant has deposited funds to pay initial costs, the Department's bond counsel will draft the necessary Bond documents.

(c) Public Hearings. Depending on the proposed modifications to existing Bond covenants a public hearing may be required. Such hearing must take place prior to obtaining Board approval and must meet the requirements pursuant to §12.7(d) of this chapter (relating to Full Application Process) regarding the presence of a member of the Development Team and providing a summary of proposed Development changes.

(d) Rule Applicability. Refunding Applications must meet the applicable requirements pursuant to Chapter 11 of this title (relating to Housing Tax Credit Program Qualified Allocation Plan). At the time of the original award the Application would have been subject to eligibility and threshold requirements under the QAP in effect the year the Application was awarded. Therefore, it is anticipated the Refunding Application would not be subject to the site and development requirements and restrictions pursuant to §11.101 of this title (relating to Site and Development Requirements and Restrictions). The circumstances surrounding a refunding Application are unique to each Development; therefore, upon evaluation of the refunding Application, the Department is authorized to utilize its discretion in the applicability of the Department's rules as it deems appropriate.

§12.9. Occupancy Requirements.

(a) Filing and Term of Regulatory Agreement. A Bond Regulatory and Land Use Restriction Agreement will be filed in the property records of the county in which the Development is located for each Development financed from the proceeds of Bonds issued by the Department, including Qualified 501(c)(3) Bonds. Such Regulatory and Land Use Restriction Agreement shall include provisions relating to the Qualified Project Period, if applicable, and the State Restrictive Period, along with points claimed for other provisions that will be required to be monitored throughout the State Restrictive Period, and shall also include provisions relating to Persons with Special Needs. The minimum term of the Regulatory Agreement will be based on the criteria as described in paragraphs (1) - (3) of this subsection, as applicable:

(1) 30 years, or such longer period as elected under §12.6(4) of this chapter (relating to Pre-Application Scoring Criteria), from the date the Development Owner takes legal possession of the Development;

(2) The end of the remaining term of the existing federal government assistance pursuant to Tex. Gov't Code, §2306.185; or

(3) The period required by the Code.

(b) Federal Set Aside Requirements.

(1) Developments which are financed from the proceeds of Private Activity Bonds, excluding Qualified 501(c)(3) Bonds, must be restricted under one of the two minimum set-asides as described in subparagraphs (A) and (B) of this paragraph. Regardless of an election that may be made under Section 42 of the Code relating to income averaging, a Development will be required under the Bond Regulatory

and Land Use Restriction Agreement to meet one of the two minimum set-asides described in subparagraphs (A) and (B) of this paragraph. Any proposed market rate Units shall be limited to 140% of the area median income and be considered restricted units under the Bond Regulatory and Land Use Restriction Agreement for purposes of using Bond proceeds to construct such Units.

(A) At least 20% of the Units within the Development shall be occupied or held vacant and available for occupancy at all times by persons or families whose income does not exceed 50% of the area median income; or

(B) At least 40% of the Units within the Development shall be occupied or held vacant and available for occupancy at all times by persons or families whose income does not exceed 60% of the area median income.

(2) The Development Owner must, at the time of Application, indicate which of the two federal set-asides will apply to the Development and must also designate the selected priority for the Development in accordance with Tex. Gov't Code, §1372.0321. Units intended to satisfy set-aside requirements must be distributed equally throughout the Development, and must include a reasonably proportionate amount of each type of Unit available in the Development.

(3) No tenant qualifying under either of the minimum federal set-asides shall be denied continued occupancy of a Unit in the Development because, after commencement of such occupancy, such tenant's income increases to exceed the qualifying limit. However, should a tenant's income, as of the most recent determination thereof, exceed 140% of the applicable federal set-aside income limit and such tenant constitutes a portion of the set-aside requirement of this section, then such tenant shall only continue to qualify for so long as no Unit of comparable or smaller size is rented to a tenant that does not qualify as a Low-Income Tenant.

§12.10. Fees.

(a) The fees noted in subparagraphs (b) through (g) of this paragraph will be required as part of a Bond issuance by the Department, excluding Qualified 501(c)(3) Bond issuances.

(b) Pre-Application Fees. The Applicant is required to submit, at the time of pre-application, a pre-application fee of \$1,000, along with the fees noted on the Schedule of Fees posted on the Department's website specific to the Department's bond counsel and the Texas Bond Review Board (TBRB) pursuant to Tex. Gov't Code, §1372.006(a)). These fees cover the costs of pre-application review by the Department and its bond counsel and filing fees associated with application submission for the Certificate of Reservation to the TBRB.

(c) Application Fees. At the time of Application the Applicant is required to submit a tax credit application fee of \$30 per Unit based on the total number of Units and a bond application fee of \$20 per Unit based on the total number of Units. Such fees cover the costs associated with Application review and the Department's expenses in connection with providing financing for a Development. For Developments proposed to be structured as a portfolio the bond application fees may be reduced by the Executive Director to reflect the Department's projected costs.

(d) Closing Fees. The origination fee for Bonds, other than refunding Bonds, is equal to 50 basis points of the issued principal amount of the Bonds, unless otherwise modified by the Executive Director. The Applicant will also be required to pay at closing of the Bonds the first two years of the administration fee equal to 20 basis points of the issued principal amount of the Bonds, with the first year prorated based on the actual closing date, and a Bond compliance fee equal to \$25/Unit (excludes market rate Units as defined in the Regu-

latory Agreement). Such compliance fee shall be applied to the third year following closing.

(e) Application and Issuance Fees for Refunding Applications. For refunding an Application the application fee will be \$10,000 unless the refunding is not required to have a public hearing, in which case the fee will be \$5,000. The closing fee for refunding Bonds is equal to 25 basis points of the issued principal amount of the refunding Bonds. If applicable, administration and compliance fees due at closing may be prorated based on the current billing period of such fees. If additional volume cap is being requested other fees may be required as further described in the Bond Refunding Applications Procedures Manual. Transactions previously issued that involved a financing structure that would constitute a re-issuance under state law, but do not fit under §12.8 of this chapter (relating to Refunding Application Process), will be required to pay a closing fee that shall not exceed 25 basis points of the re-issued principal amount of the bonds which may be reduced in the sole determination of the Department as commensurate with the review by staff in obtaining Board approval at the time of conversion.

(f) Ongoing Administration Fee. The annual administration fee is equal to 10 basis points of the outstanding bond amount at the inception of each payment period and is paid as long as the Bonds are outstanding.

(g) Ongoing Bond Compliance Fee. The Bond compliance monitoring fee is equal to \$25/Unit (excludes market rate Units as defined in the Regulatory Agreement), and is paid for the duration of the State Restrictive Period under the Regulatory Agreement, regardless of whether the Bonds have been paid off and are no longer outstanding. For Developments for which (1) the Department's Bonds are no longer outstanding and (2) new bonds or notes have been issued and delivered by the Department, the bond compliance monitoring fee may be reduced on a case by case basis at the discretion of Department staff.

§12.11. Qualified 501(c)(3) Bonds.

(a) General. The Department may issue Qualified 501(c)(3) Bonds under §145 of the Code to provide residential rental property. Such Bonds are not eligible for an allocation of Housing Tax Credits.

(b) Rule Applicability. Qualified 501(c)(3) Bond Developments shall meet the applicable requirements of Chapter 1 of this title (relating to Administration), Chapter 2 (relating to Enforcement), Chapter 10 (relating to Uniform Multifamily Rules), Chapter 11 Subchapter B of this title (except for §11.101(b)(3) (relating to Rehabilitation Costs), Chapter 11 Subchapter C of this title, and this Chapter (except for §12.9(b) (relating to Federal Set-Asides) and §12.10 (relating to Fees)).

(c) Maximum Amount to be Issued. The annual amount of Qualified 501(c)(3) Bonds to be issued shall be in accordance with Tex. Gov't Code §2306.358(b) pursuant to a Memorandum of Understanding with the Bond Review Board and further subject to §2306.358(a) whereby not more than 25% of the total annual issuance amount specified in the Memorandum of Understanding will be used for projects in any one metropolitan area and at least 15% of the total annual issuance amount specified in the Memorandum of Understanding is reserved for projects in rural areas, as both metropolitan and rural area is defined in the Memorandum of Understanding.

(d) Borrower Eligibility. A borrower must be an organization exempt from federal income tax by virtue of being described in §501(c)(3) of the Code. In addition to having a "determination letter" issued by the Internal Revenue Service confirming the borrower's Section 501(c)(3) status, an "unqualified" legal opinion from a practitioner experienced in tax-exempt organizations must be delivered in connection with a financing. The ownership of the multifamily Development financed with proceeds from Qualified 501(c)(3) Bonds must

further the organization's exempt purposes, which shall include providing affordable housing pursuant to standards promulgated by the Internal Revenue Service and the Safe Harbor for Relieving the Poor and Distressed under Revenue Procedure 96-32. The borrower or its nonprofit parent organization shall have at least five years in operation with demonstrated experience in affordable housing development and management and/or ownership of other similar projects. The Borrower must maintain its Section 501(c)(3) status while the bonds are outstanding. Borrower must be registered with the Texas Secretary of State throughout the term of the Regulatory Agreement.

(e) Minimum Set-Asides and Rent and Income Requirements (§2306.358). The federal Safe Harbor for Relieving the Poor and Distressed requires that at least 75% of the units must be at or below 80% of Area Median Gross Income. The state law requirements, as identified in subparagraphs (1) and (2) below, may alternatively be elected for a Development, regardless of whether New Construction or Rehabilitation. Units intended to satisfy set-aside requirements must be distributed proportionally throughout the Development.

(1) At least 60% of the units serve individuals and families at 80% of the Area Median Gross Income and below (§2306.358(c)(2)); AND

(A) At least 20% of the Units are both rent restricted and occupied by individuals whose income is 50% or less of the Area Median Gross Income, adjusted for family size; OR

(B) At least 40% of the Units are both rent restricted and occupied by individuals whose income is 60% or less of the Area Median Gross Income, adjusted for family size; AND

(2) 100% of the Units must be occupied by individuals whose income does not exceed 140% of the Area Median Gross Income such that all tenants are eligible tenants.

(f) Mandatory Development Amenities (§2306.187). The Development must include those amenities identified under §11.101(b)(4) of this title (relating to Mandatory Development Amenities).

(g) Accessibility Requirements. Developments shall be subject to 10 TAC §11.101(b)(8) (relating to Development Accessibility Requirements) with the exception of (b)(8)(B) as it relates to visitability requirements, in which case Rehabilitation (excluding Reconstruction) Developments shall be exempt. Regarding applicability of 10 TAC §11.101(b)(8)(D) relating to substantial alteration, Rehabilitation (excluding Reconstruction) Developments shall not be required to achieve unit distribution of the 5% of the Units that must be mobility accessible or the 2% of the Units that must be accessible for the hearing and visually impaired, unless such distribution is required by another source in the transaction or other use agreement restricting the Development.

(h) Minimum Rehabilitation Costs. In the case of Rehabilitation Developments, a Scope and Cost Report or Capital Needs Assessment must be submitted. Any health and safety findings identified must be corrected as part of the acquisition and rehabilitation following closing, and a timeline of the repairs must be included in the Application. For deferred maintenance indicated in such report as needing to be remedied within the first three years, the Department will require an adequate reserve account to be funded at closing. Alternatively, the Department may rely on reserve amounts required by the senior lender.

(i) Underwriting Standards (§2306.358(c)). In addition to meeting the requirements of §§141 through 150 of the Code, the borrower must demonstrate to the Department that the Development is carefully and conservatively underwritten to ensure that the project is well run, well maintained, financially viable, and will minimize the risk of the Borrower's default. Developments financed by Qualified 501(c)(3) Bonds shall generally be underwritten pursuant to §11.302

of the QAP, except that for Developments that do not have any other Department funding or an ongoing Department use agreement, in recognition of differences in financing structures, the Executive Director or authorized designee may approve minor deviations where consistent with prudent industry standards or senior lender requirements, provided they do not jeopardize the financial viability of the Development, are determined by Real Estate Analysis to be necessary to maintain financial feasibility, and if such deviation is requested as part of the application process.

(j) Fees. The fees noted in paragraphs (1) - (5) of this subsection will be required as part of a Qualified 501(c)(3) Bond issuance by the Department.

(1) Pre-Application/Inducement Fee. A pre-application fee of \$1,000 shall be submitted, payable to the Department and an Inducement Fee as noted on the Schedule of Fees posted on the Department's website specific to the Department's bond counsel. These fees cover the costs of pre-application review by the Department and its bond counsel. For Developments proposed to be structured as a portfolio, either or both fees may be reduced on a case-by-case basis at the discretion of the Executive Director.

(2) Application Fee. An application fee of \$20 per Unit based on the total number of Units must be submitted, with an allowable 10% discount off the calculated Application fee. For Developments proposed to be structured as a portfolio, the bond Application fee may be reduced by the Executive Director to reflect the Department's projected costs.

(3) Closing Fees. The origination fee shall be equal to 25 basis points of the issued principal amount of the Bonds, unless otherwise modified by the Executive Director. The Applicant will also be required to pay at closing of the Bonds the first two years of the administration fee equal to 20 basis points of the issued principal amount of the Bonds, with the first year prorated based on the actual closing date, and a Bond compliance fee equal to \$25 per Unit (excluding market rate Units as defined in the Regulatory Agreement). Such compliance fee shall be applied to the third year following closing.

(4) Ongoing Administration Fee. The annual administration fee is equal to 10 basis points of the outstanding bond amount at the inception of each payment period and is paid as long as the bonds are outstanding.

(5) Ongoing Bond Compliance Fee. The compliance monitoring fee is equal to \$25 per Unit (excluding market rate Units as defined in the Regulatory Agreement) and is paid for the duration of the State Restrictive Period under the Regulatory Agreement, regardless of whether the Bonds have been paid off and are no longer outstanding. For Developments for which (1) the Department's Bonds are no longer outstanding and (2) new bonds or notes have been issued and delivered by the Department, the bond compliance monitoring fee may be reduced on a case-by-case basis at the discretion of Department staff.

(6) Professional Fees. The Department engages outside firms to provide professional services with respect to its multifamily bond program. These firms include bond counsel, financial advisor and disclosure counsel. Applicants are encouraged to review the Department's Schedule of Fees on its website for more details regarding these fees.

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 October 10, 2025.

TRD-202503657

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Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: November 23, 2025

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TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 102. EDUCATIONAL PROGRAMS

SUBCHAPTER JJ. COMMISSIONER'S RULES CONCERNING INNOVATION DISTRICT

19 TAC §§102.1307, 102.1309, 102.1315

The Texas Education Agency (TEA) proposes amendments to §§102.1307, 102.1309, and 102.1315, concerning innovation districts. The proposed amendments would update the list of prohibited exemptions to reflect changes made by House Bill (HB) 2, HB 6, Senate Bill (SB) 12, and SB 569, 89th Texas Legislature, Regular Session, 2025; update references to statute redesignated by SB 571, 89th Texas Legislature, Regular Session, 2025; and update the title of Texas Education Code (TEC), §22.001, as renamed by HB 2, 89th Texas Legislature, Regular Session, 2025.

BACKGROUND INFORMATION AND JUSTIFICATION: Chapter 102, Subchapter JJ, establishes provisions relating to the applicable processes and procedures for innovation districts.

The proposed amendment to Figure: 19 TAC §102.1307(d) would clarify the instructions for the form and add specific fields for the type of board action being reported to TEA, the date of board action, the name and title of the individual submitting the figure, and the date of submission. The proposed amendment to Figure: 19 TAC §102.1307(d) would also remove TEC, §21.057, which is now prohibited from exemption per HB 2 and SB12, and remove TEC, §37.0012 and §37.002, which are now prohibited from exemption per HB 6. Finally, the proposed amendment to Figure: 19 TAC §102.1307(d) would update the name of TEC, §22.001, as changed by HB 2.

New §102.1309(a)(1)(A) would add TEC, §21.0032 (Employment of Uncertified Classroom Teachers) and §21.057 (Parental Notification), to clarify that these sections are prohibited from exemption per HB 2. The subsequent subparagraphs are relettered accordingly to reflect this addition. The proposed amendment to §102.1309(a)(1)(C), relettered as subparagraph (D), would add TEC, §28.004, as a prohibited exemption to reflect the prohibition in TEC, §12A.004(a)(4), as added by SB 12. The proposed amendment to §102.1309(a)(1)(H), relettered subparagraph (I), would clarify that TEC, Chapter 37, in its entirety is prohibited from exemption per HB 6.

The proposed amendment to §102.1315(a)(3) would update the reference to TEC, §22.085, to §22A.157 and the reference to TEC, §22.092, to §22A.151. Both sections were redesignated by SB 571.

FISCAL IMPACT: Steve Lecholop, deputy commissioner for governance, has determined that for the first five-year period the proposal is in effect, there are no additional costs to state or lo-

cal government, including school districts and open-enrollment charter schools, required to comply with the proposal.

LOCAL EMPLOYMENT IMPACT: The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT: TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would expand an existing regulation. The proposed amendment to §102.1309 would add, for clarification, specific chapters and sections of the TEC from which a district of innovation may not be exempt.

The proposed amendments would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not limit or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: Mr. Lecholop has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be to update Figure: 19 TAC §102.1307(d) to conform to new legislation regarding prohibited exemptions and provide clarification regarding how to complete the document. The proposed amendment to §102.1309 would also add and update the sections of statute that are prohibited from exemption to mirror recently passed legislation. The amendment to §102.1315 would update statute applicable to termination of a District of Innovation plan to mirror recently passed legislation. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have no new data or reporting impact. The existing rule requires school districts to submit the checklist adopted as Figure: 19 TAC §102.1307(d) to TEA any time it adopts, amends, or renews its locally-adopted District of Innovation plan. The proposed amendment would update the figure to align statutory references with recent legislation.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: TEA requests public comments on the proposal, including, per Texas Government Code, §2001.024(a)(8), information related to the cost, benefit, or effect of the proposed rule and 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 on the proposal begins October 24, 2025, and ends November 24, 2025. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on October 24, 2025. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_\(TAC\)/Proposed_Commissioner_of_Education_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/).

STATUTORY AUTHORITY. The amendments are proposed under Texas Education Code (TEC), §12A.009, which authorizes the commissioner to adopt rules to implement districts of innovation.

CROSS REFERENCE TO STATUTE. The amendments implement Texas Education Code, §12A.009.

§102.1307. Adoption of Local Innovation Plan.

(a) The board of trustees may not vote on adoption of a proposed local innovation plan unless:

(1) the final version of the proposed plan has been available on the district's website for at least 30 days;

(2) the board of trustees has notified the commissioner of education of the board's intention to vote on adoption of the proposed plan; and

(3) the district-level committee established under Texas Education Code (TEC), §11.251, has held a public meeting to consider the final version of the proposed plan and has approved the plan by a majority vote of the committee members. This public meeting may occur at any time, including up to or on the same date at which the board intends to vote on final adoption of the proposed plan.

(b) A board of trustees may adopt a proposed local innovation plan by an affirmative vote of two-thirds of the membership of the board.

(c) On adoption of a local innovation plan, the district:

(1) is designated as a district of innovation under this subchapter for the term specified in the plan but no longer than five calendar years, subject to TEC, §12A.006;

(2) shall begin operation in accordance with the plan; and

(3) is exempt from state requirements identified under TEC, §12A.003(b)(2).

(d) The district shall notify the commissioner of approval of the plan along with a list of approved TEC exemptions by completing the agency form provided in the figure in this subsection.

Figure: 19 TAC §102.1307(d)

[Figure: 49 TAC §102.1307(d)]

(e) A district's exemption described by subsection (c)(3) of this section includes any subsequent amendment or redesignation of an identified state requirement, unless the subsequent amendment or redesignation specifically applies to an innovation district.

(f) The district shall ensure that a copy of the local innovation plan is posted on the district's website in accordance with TEC, §12A.0071, for the term of the designation as an innovation district.

(g) Not later than the 15th day after the date on which the board of trustees finalizes a local innovation plan either through adoption, amendment, or renewal, the district shall provide a link to the local innovation plan as posted on the district's website to the Texas Education Agency for posting on the agency website.

§102.1309. Prohibited Exemptions.

(a) An innovation district may not be exempted from the following sections of the Texas Education Code (TEC) and the rules adopted thereunder:

(1) a state or federal requirement, imposed by statute or rule, applicable to an open-enrollment charter school operating under TEC, Chapter 12, Subchapter D, including, but not limited to, the requirements listed in TEC, §12.104(b), and:

(A) TEC, Chapter 21, §21.0032 and §21.057;

(B) [(A)] TEC, Chapter 22, Subchapter B;

(C) [(B)] TEC, Chapter 25, Subchapter A, §§25.001, 25.002, 25.0021, 25.0031, and 25.004;

(D) [(C)] TEC, Chapter 28, §§28.002, 28.0021, 28.0023, 28.004, 28.005, 28.0051, 28.006, 28.016, 28.0211, 28.0213, 28.0217, 28.025, 28.0254, 28.02541, 28.0255, 28.0258, 28.0259, and 28.026;

(E) [(D)] TEC, Chapter 29, Subchapter G;

(F) [(E)] TEC, Chapter 30, Subchapter A;

(G) [(F)] TEC, §30.104;

(H) [(G)] TEC, Chapter 34;

(I) [(H)] TEC, Chapter 37[, §§ 37.005, 37.006(I), 37.007(e), 37.011, 37.012, 37.013, and 37.020];

(J) [(I)] TEC, Chapter 39; and

(K) [(J)] TEC, Chapter 39A.

(2) TEC, Chapter 11, Subchapters A, C, D, and E, except that a district may be exempt from TEC, §11.1511(b)(5) and (14) and §11.162;

(3) TEC, Chapter 12, Subchapter C;

(4) TEC, Chapter 12A;

(5) TEC, Chapter 13;

(6) TEC, Chapter 44, §§44.0011, 44.002, 44.003, 44.004, 44.0041, 44.005, 44.0051, 44.006, 44.007, 44.0071, 44.008, 44.009, 44.011, 44.0312, 44.032, 44.051, 44.052, 44.053, and 44.054;

(7) TEC, Chapter 45, §§45.003, 45.0031, 45.005, 45.105, 45.106, 45.202, 45.203;

(8) TEC, Chapter 46;

(9) TEC, Chapter 48; and

(10) TEC, Chapter 49.

(b) In addition to the prohibited exemptions specified in subsection (a) of this section, an innovation district may not be exempted from:

(1) a requirement of a grant or other state program in which the district voluntarily participates;

(2) duties that the statute applies to the execution of that power if a district chooses to implement an authorized power that is optional under the terms of the statute;

(3) a requirement of a grant or other state program authorized in the TEC that would otherwise entitle the district to participation in that program; and

(4) requirements imposed by provisions outside the TEC, including requirements under Texas Government Code, Chapter 822.

§102.1315. Termination.

(a) The commissioner of education may:

(1) terminate a district's designation as a district of innovation if, beginning with its ratings in the year of designation, the district is assigned for two consecutive school years:

(A) a final unacceptable academic performance rating under the Texas Education Code (TEC), §39.054;

(B) a final unacceptable financial accountability rating under the TEC, §39.082; or

(C) a final unacceptable academic performance rating under the TEC, §39.054, for one of the school years and a final unacceptable financial accountability rating under the TEC, §39.082, for the other school year;

(2) permit the district to amend the district's local innovation plan to address concerns specified by the commissioner in lieu of terminating the designation as described in paragraph (1) of this subsection; or

(3) terminate a district's designation as a district of innovation if the district:

(A) fails to comply with the duty to discharge or refuse to hire certain employees or applicants for employment under the TEC, §12.1059;

(B) fails to comply with the duty to discharge or refuse to hire certain employees or applicants convicted of certain offenses under the TEC, §22A.157 [§22.085]; or

(C) fails to comply with the duty to discharge or refuse to hire certain employees or applicants not eligible for employment in public schools under the TEC, §22A.151 [§22.092].

(b) The commissioner shall terminate a district's designation as a district of innovation if, beginning with its ratings in the year of designation, the district is assigned for three consecutive school years:

(1) a final unacceptable academic performance rating under the TEC, §39.054;

(2) a final unacceptable financial accountability rating under the TEC, §39.082; or

(3) any combination of one or more unacceptable ratings under paragraph (1) of this subsection and one or more unacceptable ratings under paragraph (2) of this subsection.

(c) Upon termination of an innovation plan, a district must return to compliance with all specified areas of the TEC by a date to be determined by the commissioner.

(d) A decision by the commissioner under this section is final and may not be appealed.

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 October 13, 2025.

TRD-202503692

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Earliest possible date of adoption: November 23, 2025

For further information, please call: (512) 475-1497



TITLE 28. INSURANCE

PART 1. TEXAS DEPARTMENT OF INSURANCE

CHAPTER 3. LIFE, ACCIDENT, AND HEALTH INSURANCE AND ANNUITIES

SUBCHAPTER V. COORDINATION OF BENEFITS

28 TAC §3.3520

INTRODUCTION. The Texas Department of Insurance (TDI) proposes new 28 TAC §3.3520, concerning Uniform Coordination of Benefits Questionnaire. Section 3.3520 implements House Bill 388, 89th Legislature, 2025.

EXPLANATION. New §3.3520 is necessary to implement HB 388. HB 388 requires TDI to adopt a uniform coordination of benefits (COB) questionnaire. Health benefit plan issuers that include COB provisions in their forms are required to use the uniform COB questionnaire and make the questionnaire available to health care providers as appropriate.

New §3.3520 adopts two versions of a uniform COB questionnaire by reference. Health plans must use and accept the Patient Health Plan Coverage Form (LHL138) in connection with a requirement for a health care provider to maintain information on coordination of benefits. Health plans must use and accept the Enrollee's Other Health Plan Coverage Form (LHL139) when requiring an enrollee to provide information on other health coverage.

TDI invited public comment on an informal draft posted on TDI's website on August 11, 2025. TDI received one comment and took it into consideration in preparing this proposal.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Rachel Bowden, director of Regulatory Initiatives, has determined that during each year of the first five years the proposed new section is in effect, there will be no measurable fiscal impact on state and local governments as a result of enforcing or administering the new section, other than that imposed by the statute. Ms. Bowden made this determination because the proposed new section does not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with the proposed new section.

Ms. Bowden does not anticipate any measurable effect on local employment or the local economy as a result of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed new section is in effect, Ms. Bowden expects that enforcing the proposed new section will have the pub-

lic benefit of ensuring that TDI's rules conform to new Insurance Code Chapter 1203, Subchapter D, §§1203.151, 1203.152, and 1203.153, as added by HB 388.

Ms. Bowden expects that the proposed new section will not increase the cost of compliance with Insurance Code §§1203.151, 1203.152, and 1203.153 because it does not impose requirements beyond those in statute. Insurance Code §§1203.151, 1203.152, and 1203.153 requires TDI to create and adopt a uniform coordination of benefits questionnaire. As a result, the cost associated with the rule does not result from the enforcement or administration of the proposed new section.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TDI has determined that the proposed new section will not have an adverse economic effect on small or micro businesses, or on rural communities. This is because the new section does not impose requirements beyond those in statute. As a result, and in accordance with Government Code §2006.002(c), TDI is not required to prepare a regulatory flexibility analysis.

EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045. TDI has determined that this proposal does not impose a possible cost on regulated persons. Even if costs were imposed, no additional rule amendments are required under Government Code §2001.0045 because the proposed new section is necessary to implement legislation. The proposed rule implements Insurance Code §§1203.151, 1203.152, and 1203.153, as added by HB 388.

GOVERNMENT GROWTH IMPACT STATEMENT. TDI has determined that for each year of the first five years that the proposed new section is in effect, the proposed rule:

- will not create or eliminate a government program;
- will not require the creation of new employee positions or the elimination of existing employee positions;
- will not require an increase or decrease in future legislative appropriations to the agency;
- will not require an increase or decrease in fees paid to the agency;
- will create a new regulation;
- will not expand, limit, or repeal an existing regulation;
- will not increase or decrease the number of individuals subject to the rule's applicability; and
- will not positively or adversely affect the Texas economy.

TAKINGS IMPACT ASSESSMENT. TDI has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. TDI will consider any written comments on the proposal that are received by TDI no later than 5:00 p.m., central time, on November 24, 2025. Consistent with Government Code §2001.0024(a)(8), TDI requests public comments on the proposal, including information related to the cost, benefit, or effect of the proposal, and any applicable data, research, and analysis. Send your comments to ChiefClerk@tdi.texas.gov or to the Office of the Chief Clerk,

MC: GC-CCO, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030.

The commissioner of insurance will also consider written and oral comments on the proposal in a public hearing under Docket No. 2859 at 2:00 p.m., central time, on November 18, 2025, in Room 2.035 of the Barbara Jordan State Office Building, 1601 Congress Avenue, Austin, Texas 78701.

STATUTORY AUTHORITY. TDI proposes new §3.3520 under Insurance Code §1203.152 and §36.001.

Insurance Code §1203.152 requires the adoption of rules establishing a uniform coordination of benefits questionnaire to be used by all health benefit plan issuers in this state.

Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

CROSS-REFERENCE TO STATUTE. New §3.3520 implements Insurance Code §§1203.151, 1203.152, and 1203.153.

§3.3520. Uniform Coordination of Benefits Questionnaire.

(a) Notwithstanding §3.3502 of this title (relating to Applicability), this section applies to a health benefit plan issuer that is subject to Insurance Code Chapter 1203, Subchapter D, concerning Coordination of Benefits Questionnaire.

(b) The commissioner adopts by reference LHL138 and LHL139, which contain two versions of a uniform coordination of benefits questionnaire, effective January 1, 2026, to be used and accepted by a health benefit plan issuer in compliance with this section. Both versions of the form are posted on the TDI website at www.tdi.texas.gov/forms.

(c) Beginning February 1, 2026:

(1) a health benefit plan issuer that requires a health care provider to maintain information on coordination of benefits must use and accept the Patient Health Plan Coverage Form that is adopted by this section as LHL138; and

(2) a health benefit plan issuer that requires an enrollee to provide information on other health coverage must use and accept the Enrollee's Other Health Plan Coverage Form that is adopted by this section as LHL139.

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 October 13, 2025.

TRD-202503697

Jessica Barta

General Counsel

Texas Department of Insurance

Earliest possible date of adoption: November 23, 2025

For further information, please call: (512) 676-6585



CHAPTER 5. PROPERTY AND CASUALTY INSURANCE

SUBCHAPTER O. STATISTICAL PLANS

28 TAC §5.9503, §5.9504

The Texas Department of Insurance (TDI) proposes new 28 TAC §5.9503 and §5.9504, concerning the Texas Statistical Plan for Residential Risks (Residential Plan) and the Texas Private Passenger Auto Statistical Plan (Auto Plan), respectively. TDI previously adopted the Residential Plan and Auto Plan under the procedures outlined in Insurance Code Article 5.96. To align these plans with other TDI statistical plans, TDI proposes to adopt by reference updated versions of the Residential and Auto Plans under Government Code Chapter 2001. Updates to the plans are necessary to collect data on the reasons insurers give consumers for the declination, cancellation, or nonrenewal of property and casualty insurance policies. The new sections implement House Bill 2067, 89th Legislature, 2025.

EXPLANATION. In TDI's 2024 Biennial Report, TDI recommended to the Texas Legislature that insurance companies be required to tell consumers why the company declined a policy application or canceled or nonrenewed an existing policy. The Insurance Code had required companies to tell consumers why personal property and casualty policies were declined, canceled, or nonrenewed only when the consumer asked. Companies were also required to tell consumers why their commercial property and casualty policies were canceled or nonrenewed but not why their commercial insurance applications were declined.

Consistent with TDI's recommendations, HB 2067 amended Insurance Code Chapter 551 to require disclosure of an insurer's reasons for cancellation or nonrenewal of an existing insurance policy or for declination of an application. Now, the insurer must disclose the reasons to the policyholder or applicant for all cancellations, nonrenewals, and declinations, even without a consumer's request. HB 2067 also requires that insurers provide to TDI—at least once a quarter and in the form and manner TDI prescribes—a written report organized by ZIP code that summarizes the reasons that were provided to consumers. The bill also requires TDI to post an aggregated summary of the reports on its website.

New §5.9503 and §5.9504 propose to adopt by reference revised versions of TDI's current statistical plans for residential and private passenger automobile lines of business. The proposed revisions to the Residential Plan and Auto Plan require insurers to include data by ZIP code relating to the reasons for coverage decisions in the statistical reports submitted to TDI's statistical agent. Insurers will report the data under the Residential Plan on a monthly basis and under the Auto Plan on a quarterly basis, aligning with current reporting frequency. The proposed revisions will facilitate insurers' reporting of the data to TDI and TDI's collection and posting of an aggregated summary of the data, in compliance with HB 2067. Each statistical plan will provide codes to be used as shorthand for various common reasons an insurer would decline an application or cancel or not renew a policy.

In the Residential Plan, a new subsection is added to Section A (General Rules) to describe the requirements for reason-code reporting. New Section E provides the record layout for reasons-related data, including instructions, description of the required columns, and the corresponding reason code and description or type. New Section F provides additional instructions and descriptions of the reason codes.

In the Auto Plan, the proposed revisions require a new quarterly report on the reasons for cancellations, nonrenewals, and decli-

nations. Specific instructions are added for the report, including the record layout, field instructions, and listing and descriptions of the reason codes.

For clarity, the reason codes are provided only for use in a statistical plan report submitted to TDI's statistical agent. TDI expects that in notices or disclosures of reasons to consumers, as required by HB 2067, insurers will provide a comprehensive description or explanation of the reasons for a specific declination, cancellation, or nonrenewal; the insurer should not rely on TDI's reason codes in its consumer notices or disclosures. TDI anticipates that reason code updates will be needed to align future data reports with the evolving insurance market, to address stakeholder feedback, or to improve the usefulness of collected data.

In both the Residential Plan and the Auto Plan, consistent with Insurance Code §551.002(c) and §551.109(1), the new columns have an indicator for reasons that include the use of third-party information. In the Residential Plan, the new indicator requires specifying whether the reasons were based on use of aerial imagery versus other types of third-party information. An indicator for cancellations that occur during the first 60 days of a policy term is also included in both plans.

As instructed in the revised Residential Plan and Auto Plan, the reasons-related reporting requirements will apply to all declinations, cancellations, and nonrenewals starting on January 1, 2026, except for:

(1) declination of an application that was made before January 1, 2026; and

(2) cancellation of a policy that was delivered, issued for delivery, or renewed before January 1, 2026.

The proposed revisions enable TDI's posting of an aggregated summary of insurers' reports.

TDI also proposes to add new reporting requirements to each of the statistical plans to require an additional report of the numbers of declined applications and canceled and nonrenewed policies by ZIP code. New Section G is added to the Residential Plan to provide the record layout for reporting the data. Similar instructions are added to the Auto Plan to describe the new report requirements.

In addition to the previously described revisions to implement HB 2067 and Insurance Code Chapter 38, Subchapter E, proposed revisions to the plans (non-implementation updates) include aligning reporting requirements with current industry practices, adding clarification, correcting errors, and removing an obsolete technology reference.

In the Residential Plan, an instruction for reporting accident dates on loss records is deleted to reflect current industry practice. Similarly, a new code for policies with vacant occupancy is added to the premium and losses codes and the record layout for premiums to accommodate current reporting practices. Also, in the record layout for premiums, revisions clarify in the descriptions for Codes 01 and 91 in Column 5-6 (Record Type) that the report includes reinstatements of flat cancellations. Revisions correct errors in the record layout for premium instructions by adding a code for "Not Applicable" in Column 53 (Construction) and by deleting the "DW Only" reference in Column 151 (Replacement Cost Building (HO and DW)). In the instructions within the record layout for losses for column 151 (Replacement Cost Building (HO and DW)), the text "(Ten and Con Only)" is deleted. Another error in the

instructions within the record layout for losses is corrected by deleting a reference to a nonexistent field in Column 169-172 (Amount of Insurance - Personal Property Coverage (HO)). A reference to an obsolete technology, ShareFile, is deleted from the transmittal form instructions in the General Rules.

In the Auto Plan, revisions add classification codes to clarify how insurers should report data in certain circumstances and expand the number of reserved deductible positions. Insurers have increasingly reported that the classification codes in the current Auto Plan do not account for changes in insurers' driver class rating variables and risk classifications. The proposed revisions add the following two new classification codes to the Quarterly Market Report:

(1) 99150 - Used when an insured household includes both Youthful Males under the age of 25 and Unmarried Females under the age of 21.

(2) 99900 - Used when an insurer does not have sufficient information about Operators and Business Use. Use of this code requires certification from the insurer regarding inapplicability of any other classification code and requires prior approval from TDI's statistical agent.

The proposed revisions also increase the number of positions available for the "deductible amount" from four to five in the Quarterly Detailed Experience Report. At least one insurer has begun offering a deductible option that spans five digits. Because the current Auto Plan has an allocation of four positions for reporting the deductible amount, insurers currently report "9999" in the deductible field when the deductible is five digits.

The proposed revisions to the classification codes and deductible positions in the Auto Plan address limitations in the current plan that make reporting of accurate statistical data difficult and reflect current practices by insurers. Revisions also update General Reporting Instructions Section 12 relating to new versions of the Auto Plan.

TDI also proposes in both plans nonsubstantive changes, including typo corrections, plain language edits, TDI contact information updates, outdated footer removal, new cover page and table of contents additions, and style and formatting changes to reflect current TDI style preferences.

Descriptions of the proposed new sections follow.

Section 5.9503. Texas Statistical Plan for Residential Risks. New §5.9503 proposes to adopt by reference the Residential Plan, which is revised to add requirements and instructions for reporting data on the reasons for declinations, cancellations, and nonrenewals of residential property insurance policies under HB 2067. Subsection (a)(1) provides that the section's purpose is to establish requirements for this data reporting. Subsection (a)(2) provides that these requirements apply to insurers writing direct residential property lines of business in Texas and that applicable insurers must provide the reports described in the Residential Plan. Subsection (a)(3) provides that insurers' reports must comply with the requirements and instructions specified in the Residential Plan. Subsection (a)(4) specifies that insurers must use the revised version of the Residential Plan beginning on its effective date, January 1, 2026. Subsection (b) proposes to adopt by reference the revised Residential Plan.

Section 5.9504. Texas Private Passenger Auto Statistical Plan. New §5.9504 proposes to adopt by reference the Auto Plan, which is revised to add requirements and instructions for reporting data on the reasons for declinations, cancellations, and non-

renewals of automobile insurance policies under HB 2067. Subsection (a)(1) provides that the section's purpose is to establish requirements for this data reporting. Subsection (a)(2) provides that insurers writing direct private passenger automobile business in Texas must provide the reports described in the Auto Plan. Subsection (a)(3) provides that insurers' reports must comply with the requirements and instructions specified in the Auto Plan. Subsection (a)(4) specifies that insurers must use the revised version of the Auto Plan beginning on its effective date, January 1, 2026. Subsection (b) proposes to adopt by reference the revised Auto Plan.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Nicole Elliott, director and chief actuary, Property and Casualty Actuarial Office, has determined that during each year of the first five years the sections as proposed are in effect, there will be no measurable fiscal impact on state and local governments as a result of enforcing or administering the proposed sections, other than that imposed by statute. Ms. Elliott made this determination because the sections as proposed do not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with the proposed sections.

Ms. Elliott does not anticipate any measurable effect on local employment or the local economy as a result of this proposal.

PUBLIC BENEFIT AND COST NOTE.

For each year of the first five years the sections as proposed are in effect, Ms. Elliott expects that enforcing and administering them will have the public benefit of ensuring that TDI's rules conform to the Insurance Code as amended by HB 2067. Also, the proposed new data reporting requirements in both statistical plans are limited in scope but serve an important purpose: the information collected is essential to protect consumers and to provide TDI with the necessary data to evaluate market activity and track trends to determine whether agency action is necessary. The data collection is also necessary to enable TDI to access and fulfill its statutory obligation to post an aggregated summary of insurer reports on TDI's website, as required under Insurance Code §551.006(b). By providing a uniform and consistent form and manner for insurers to report the new data to TDI's statistical agents, the proposed new sections will also decrease compliance costs over time for insurers.

Ms. Elliott expects that the sections as proposed will impose an economic cost on persons required to comply with them.

Under the proposed plan revisions, certain property and casualty insurers will be required to provide to TDI monthly or quarterly written reports summarizing their reasons for declination, cancellation, or nonrenewal of insurance applications or policies, as required by Insurance Code Chapter 551.

Compliance costs may include initial systems setup and process integration. Insurers are expected to incur costs from integrating the tracking, collection, and reporting of the new data into their current computer systems, databases, and business processes that are used to report existing data requirements in the Residential Plan or Auto Plan. These updates will be needed to ensure that insurers' systems and processes comply with the proposed new data collection and reporting requirements in the applicable plan. Depending on the individual computer system, this integration may require significant system development, while computer systems with advanced functionality may require only minor system modifications. Insurers may need to ensure that their computer and database systems can perform system queries to

extract the new categories of data and convert internal data and fields or codes to the formats prescribed by the proposed revised plans. Costs may differ depending on how insurers choose to track, collect, and conform the data to each plan's requirements.

TDI estimates that these system and process updates may require the services of computer and information system managers, database architects, database administrators, computer systems analysts, and computer programmers. While it is not feasible to determine the actual amount of time it would take these professionals to complete their respective tasks, TDI estimates that it could take each profession type 50 - 100 hours. Based on the Occupational Employment and Wage Statistics estimates for Texas published by the U.S. Department of Labor (DOL), Bureau of Labor Statistics (BLS) (May 2024; data.bls.gov/oes/#/area/4800000), the mean hourly wages for these professions are as follows: \$84.06 for a computer and information system manager, \$65.83 for a database architect, \$52.56 for a database administrator, \$54.98 for a computer systems analyst, and \$44.02 for a computer programmer. The actual number, types, and cost of personnel will be determined by the insurer's existing data systems, business processes, and staffing and its business decisions relating to the method of compliance.

There may also be costs associated with legal and compliance review to ensure that insurers' updated systems and processes comply with the proposed new reporting requirements. Insurers may also need to update their standard operating procedures, underwriting manuals, procedural and process documents, and other internal documentation to reflect the new system and process updates. Also, insurance company staff will likely require training to implement the system and process updates.

TDI estimates that the compliance review and implementation efforts previously described may require the services of attorneys, compliance officers, office and administrative support staff, and first-line administrative supervisors. While it is not feasible to determine the actual amount of time it would take any professional to complete their respective tasks, TDI estimates that it could take each profession type 50 - 100 hours. Based on the Occupational Employment and Wage Statistics estimates for Texas (DOL, BLS; May 2024; data.bls.gov/oes/#/area/4800000), the mean hourly wages for these professions are as follows: \$78.29 for an attorney, \$37.76 for a compliance officer, \$22.62 for an office and administrative support worker, and \$33.94 for a first-line supervisor of office and administrative support staff. The actual number, types, and cost of personnel will be determined by the insurer's existing data systems, business processes, and staffing and its business decisions relating to the method of compliance.

In addition to the initial implementation and compliance review costs, insurers will likely incur ongoing costs for reporting the new data to TDI's statistical agents on a monthly or quarterly basis. Because of automation or integration with existing systems, these ongoing costs for computer and database system updates are not expected to be significant for most insurers. Other ongoing costs might arise from data retrieval and aggregation, administrative and internal compliance review of reports, and staff training, as well as collaborations with the designated statistical agents for data verification and error correction cycles.

TDI estimates that these ongoing implementation tasks may require the services of computer and information system managers, database administrators, office and administrative support workers, and compliance officers. While it is not feasible to determine the actual amount of time it would take any

professional to complete their respective tasks, TDI estimates that it could take each profession type 25 - 50 hours for each reporting period. Based on the Occupational Employment and Wage Statistic estimates for Texas (DOL, BLS; May 2024; data.bls.gov/oes/#/area/4800000), the mean hourly wages for these professions are as follows: \$84.06 for a computer and information system manager, \$52.56 for a database administrator, \$22.62 for an office and administrative support worker, \$33.94 for a first-line supervisor of office and administrative support staff, and \$37.76 for a compliance officer. The actual number, types, and cost of personnel will be determined by the insurer's existing data systems, business processes, and staffing and its business decisions relating to the method of compliance.

For both plans, insurers will also be required to provide a new report of the numbers of declined applications and canceled or nonrenewed policies by ZIP code. Because this data is simpler than reasons-related data, the compliance costs for these reports will likely be lower than the costs previously described. For insurers that currently report similar data for the Market Conduct Annual Statement issued by the National Association of Insurance Commissioners, the costs of providing the new report as part of the Auto Plan and Residential Plan may not be significant.

In addition, the designated statistical agent for the applicable plan may charge additional or increased submission fees and special assessment fees for the additional data reports required under the proposed revised plans. Insurers that choose to report data through an outside vendor or managing general agent would incur additional fees charged by those entities.

The non-implementation updates to the plans are not expected to increase costs to regulated entities because the proposed requirements reflect current reporting practices or merely clarify requirements or correct errors. For example, the proposed revisions to the classification codes and deductible positions in the Auto Plan are not expected to increase the cost of compliance because the new codes are already being used in statistical data reporting by insurers, and the additional deductible position is already included in the reports as a reserved position.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TDI has determined that the sections as proposed will not have an adverse impact on rural communities, but may have an adverse economic effect on small or micro businesses. The cost analysis in this proposal's Public Benefit and Cost Note section also applies to these small or micro businesses. TDI estimates that the sections as proposed may affect approximately 100 small or micro businesses.

This proposal's primary objective is to gather essential data to assess consumers' access to the insurance market. TDI considered the following alternatives to lessen any adverse effect on small or micro businesses while accomplishing the proposal's objectives:

- (1) not proposing the new sections and instead collecting the needed data through ongoing data calls;
- (2) providing additional time for small or micro businesses to comply; and
- (3) exempting small or micro businesses from the proposed requirements that could create an adverse effect.

Not proposing the new sections. Not proposing the new sections would result in TDI needing to rely on the data-call approach to collecting the needed data. There would be no streamlined

process for collecting this important data for any insurer, regardless of size. This would mean no cost-savings would result over time due to increased efficiency, and no statistical plan to ensure consistent data is collected that would allow an examination of experience comparisons over time. For these reasons, TDI rejected this option.

Providing additional time for small or micro businesses to comply. TDI determined that extending the compliance deadline for small or micro businesses was not supported by statute; HB 2067 takes effect on January 1, 2026, and requires reporting "at least once a quarter." Providing additional time for some businesses and not others would create an unlevel playing field and provide inequitable protections for consumers depending on whether they purchase or apply for a policy offered by a small or micro business. For these reasons, TDI rejected this option.

Exempting small or micro businesses from the proposed requirements that could create an adverse effect. TDI declined to exempt small or micro businesses from the sections as proposed because these businesses are required to comply with HB 2067 and the rules implementing that bill. In addition, if small or micro businesses were exempt from the new reporting requirements under the statistical plans, they would be required to collect and report the data under HB 2067 via another method, such as responding to monthly or quarterly data calls. These alternative methods would likely be less efficient and more prone to errors. Further, collection of the new data will provide TDI with a holistic view of market activity and allow it to address issues affecting consumer access to insurance products. An exemption would prevent TDI from identifying issues impacting small or micro businesses in particular and from enacting regulations that could benefit these businesses or expand their customer base. For these reasons, TDI rejected this option.

TDI has determined that the proposal will not have an adverse economic impact on rural communities because the rule will apply only to insurers. As a result, and in accordance with Government Code §2006.002(c), it is not necessary for TDI to address rural communities in its regulatory flexibility analysis.

EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045. TDI has determined that this proposal does impose a possible cost on regulated persons. However, no additional rule amendments are required under Government Code §2001.0045 because the proposed rule is necessary to implement legislation and to protect the health, safety, and welfare of Texas residents. The proposed rule implements Insurance Code §551.006, as added by HB 2067, and §38.202.

GOVERNMENT GROWTH IMPACT STATEMENT.

TDI has determined that for each year of the first five years that the sections as proposed are in effect, the proposed rule:

- will not create or eliminate a government program;
- will not require the creation of new employee positions or the elimination of existing employee positions;
- will not require an increase or decrease in future legislative appropriations to the agency;
- will not require an increase or decrease in fees paid to the agency;
- will create a new regulation;
- will expand, limit, or repeal an existing regulation;

- will increase the number of individuals subject to the rule's applicability; and
- will positively affect the Texas economy.

Although the proposed rule will not affect fees paid to TDI, TDI's designated statistical agent may require additional or increased fees for insurers' submission of the new data. In addition, the proposed amendments to the plans will expand requirements in the existing statistical plans for residential and private passenger automobile lines and will require additional insurers such as farm mutual insurance companies to begin reporting data.

TAKINGS IMPACT ASSESSMENT.

TDI has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT.

TDI will consider any written comments on the proposal that are received by TDI no later than 5:00 p.m., central time, on November 24, 2025. Consistent with Government Code §2001.024(a)(8), TDI requests public comments on the proposal, including information related to the cost, benefit, or effect of the proposal and any applicable data, research, and analysis. Send your comments to ChiefClerk@tdi.texas.gov or to the Office of the Chief Clerk, MC: GC-CCO, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030.

The commissioner of insurance will also consider written and oral comments on the proposal in a public hearing under Docket No. 2860 at 2:00 p.m., central time, on November 13, 2025, in Room 2.035 of the Barbara Jordan State Office Building, 1601 Congress Avenue, Austin, Texas 78701.

STATUTORY AUTHORITY. TDI proposes new §5.9503 and §5.9504 under Insurance Code §§38.001, 38.202, 38.204(a), 38.205 - 38.207, 551.006, 551.112, and 36.001.

Insurance Code §38.001 authorizes TDI to address a reasonable inquiry to any insurance company or other holder of an authorization relating to the business condition or any matter connected with the person's transactions that TDI considers necessary for the public good or for the proper discharge of TDI's duties.

Insurance Code §38.202 allows the commissioner to, for a line or subline of insurance, designate or contract with a qualified organization to serve as the statistical agent for the commissioner to gather data for relevant regulatory purposes or as otherwise provided by the Insurance Code.

Insurance Code §38.204(a) provides that a designated statistical agent must collect data from reporting insurers under a statistical plan adopted by the commissioner.

Insurance Code §38.205 provides that insurers must provide all premium and loss cost data to the commissioner or designated statistical agent as the commissioner or agent requires.

Insurance Code §38.206 authorizes the statistical agent to collect from reporting insurers any fees necessary for the agent to recover the necessary and reasonable costs of collecting data from that reporting insurer.

Insurance Code §38.207 authorizes the commissioner to adopt rules necessary to accomplish the purposes of Insurance Code Chapter 38, Subchapter E.

Insurance Code §551.006 authorizes the commissioner to prescribe the form and manner of an insurer's written report summarizing the insurer's reasons for declination, cancellation, or nonrenewal provided to applicants or policyholders as required by Insurance Code Chapter 551.

Insurance Code §551.112 authorizes the commissioner to adopt rules relating to the cancellation and nonrenewal of insurance policies.

Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

CROSS-REFERENCE TO STATUTE.

Proposed new §5.9503 and §5.9504 implement Insurance Code Chapter 38, Subchapter E, and Chapter 551, Subchapters A - C.

§5.9503. Texas Statistical Plan for Residential Risks.

(a) Purpose and Applicability.

(1) The purpose of this section is to establish requirements for the reporting of data by residential property insurers under Insurance Code Chapter 38, Subchapter E, concerning Statistical Data Collection; Insurance Code §38.001, concerning Inquiries; and Insurance Code §551.006, concerning Report Required.

(2) Insurers writing direct residential property business in Texas must provide the required reports described in the Texas Statistical Plan for Residential Risks adopted by reference in subsection (b) of this section to the commissioner or the statistical agent designated under Insurance Code §38.202, concerning Statistical Agent.

(3) The reports must comply with the reporting requirements and instructions specified in the Texas Statistical Plan for Residential Risks adopted by reference in subsection (b) of this section.

(4) This section applies to all reports required to be filed with the department under this section for reporting periods beginning on or after January 1, 2026.

(b) Adoption by Reference. The commissioner adopts by reference the Texas Statistical Plan for Residential Risks, effective January 1, 2026. This document is published on the department's website at www.tdi.texas.gov.

§5.9504. Texas Private Passenger Auto Statistical Plan.

(a) Purpose and Applicability.

(1) The purpose of this section is to establish requirements for the reporting of data by private passenger automobile insurers under Insurance Code Chapter 38, Subchapter E, concerning Statistical Data Collection; Insurance Code §38.001, concerning Inquiries; and Insurance Code §551.006, concerning Report Required.

(2) Insurers writing direct private passenger automobile business in Texas must provide the required reports described in the Texas Private Passenger Auto Statistical Plan adopted by reference in subsection (b) of this section to the commissioner or the statistical agent designated under Insurance Code §38.202, concerning Statistical Agent.

(3) The reports must comply with the reporting requirements and instructions specified in the Texas Private Passenger Auto Statistical Plan adopted by reference in subsection (b) of this section.

(4) This section applies to all reports required to be filed with the department under this section for reporting periods beginning on or after January 1, 2026.

(b) Adoption by Reference. The commissioner adopts by reference the Texas Private Passenger Auto Statistical Plan, effective January 1, 2026. This document is published on the department's website at www.tdi.texas.gov.

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 October 13, 2025.

TRD-202503696

Jessica Barta

General Counsel

Texas Department of Insurance

Earliest possible date of adoption: November 23, 2025

For further information, please call: (512) 676-6585



PART 2. TEXAS DEPARTMENT OF INSURANCE, DIVISION OF WORKERS' COMPENSATION

CHAPTER 133. GENERAL MEDICAL PROVISIONS

INTRODUCTION. The Texas Department of Insurance, Division of Workers' Compensation (DWC) proposes to amend 28 TAC §§133.240, 133.250, 133.305, and 133.308, concerning medical disputes for workers' compensation claims. The amendments implement House Bill (HB) 1306, 89th Legislature, Regular Session (2025).

EXPLANATION. HB 1306 added Texas Labor Code §504.057, which requires expedited medical benefits and accelerated medical dispute resolution for claims for medical benefits by a death investigation professional who sustains a serious bodily injury in the course and scope of employment, and requires that the death investigation professional inform DWC and the independent review organization that a contested case hearing or appeal involves a death investigation professional. The amendments are necessary to implement the changes in HB 1306. They specify that the insurance carrier must expedite and give priority to a claim for medical benefits by a death investigation professional who sustains a serious bodily injury in the course and scope of employment, including all health care required to cure or relieve the effects naturally resulting from a compensable injury. They also specify that DWC will accelerate and give priority to an appeal from a denial of a claim for medical benefits, and that the death investigation professional must provide notice to DWC and the independent review organization that a contested case or appeal involves a death investigation professional.

Section 133.240. The amendments to §133.240 add the requirement from HB 1306 that an insurance carrier must accelerate and give priority to a qualifying claim for medical benefits by a death investigation professional, including all required health care for the claim. Amending §133.240 is necessary to ensure that the rule is consistent with HB 1306.

Section 133.250. The amendments to §133.250 add the requirement from HB 1306 that an insurance carrier must accelerate and give priority to a qualifying claim for medical benefits by a death investigation professional, including all required health care for the claim. Amending §133.250 is necessary to ensure that the rule is consistent with HB 1306.

Section 133.305. The amendment to §133.305 adds a definition of "death investigation professional" to tie it to the definition in Labor Code §504.057 from HB 1306. Amending §133.305 is necessary to ensure that the rule is consistent with HB 1306.

Section 133.308. The amendments to §133.308 add the requirement from HB 1306 that DWC will accelerate and give priority to an appeal from a denial of a qualifying claim for medical benefits made by a death investigation professional, as well as to actions involving all health care required to cure or relieve the effects naturally resulting from a compensable injury. The amendments add the requirement from HB 1306 that the death investigation professional must notify DWC and the independent review organization that the contested case hearing or appeal involves a death investigation professional. Amending §133.308 is necessary to ensure that the rule is consistent with HB 1306.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Chief Administrative Law Judge Allen Craddock has determined that during each year of the first five years the proposed amendments are in effect, there will be no or minimal measurable fiscal impact on state and local governments as a result of enforcing or administering the sections, other than that imposed by the statute. This determination was made because the proposed amendments do not add to or decrease state revenues or expenditures, and because local and state government entities are only involved in enforcing or complying with the proposed amendments when acting in the capacity of a workers' compensation insurance carrier. Those entities will be impacted in the same way as an insurance carrier and will realize the same benefits from the proposed amendments.

Chief Administrative Law Judge Craddock does not anticipate a measurable effect on local employment or the local economy as a result of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed amendments are in effect, Chief Administrative Law Judge Craddock expects that enforcing and administering the proposed amendments will have the public benefits of reducing administrative hurdles for death investigation professionals with compensable injuries, and ensuring that DWC's rules conform to Labor Code §504.057, as added by HB 1306, and are current and accurate, which promotes transparent and efficient regulation.

Chief Administrative Law Judge Craddock expects that the proposed amendments will not increase the cost to comply with Labor Code §504.057 because they do not impose requirements beyond those in the statute. HB 1306 added Labor Code §504.057, which requires that insurance carriers expedite claims for medical benefits by death investigation professionals, that DWC accelerate disputes about those claims, and that the death investigation professionals inform DWC and the independent review organization that a contested case hearing or appeal involves a death investigation professional. Any cost associated with those requirements does not result from the enforcement or administration of the proposed amendments.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. DWC has determined that the proposed

amendments will not have an adverse economic effect or a disproportionate economic impact on small or micro businesses, or on rural communities because the proposed amendments implement the requirements in HB 1306 only. The proposed amendments do not change the people the rule affects or impose additional costs. As a result, and in accordance with Government Code §2006.002(c), DWC is not required to prepare a regulatory flexibility analysis.

EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045. DWC has determined that this proposal does not impose a possible cost on regulated persons. As a result, no additional rule amendments are required under Government Code §2001.0045. In addition, the proposed rule is necessary to implement Labor Code §504.057, as added by HB 1306, 89th Legislature, Regular Session (2025).

GOVERNMENT GROWTH IMPACT STATEMENT. DWC has determined that for each year of the first five years that the proposed amendments are in effect, the proposed rule:

- will not create or eliminate a government program;
- will not require the creation of new employee positions or the elimination of existing employee positions;
- will not require an increase or decrease in future legislative appropriations to the agency;
- will not require an increase or decrease in fees paid to the agency;
- will not create a new regulation;
- will expand, limit, or repeal an existing regulation;
- will not increase or decrease the number of individuals subject to the rule's applicability; and
- will not positively or adversely affect the Texas economy.

DWC made these determinations because the proposed amendments are necessary to implement the changes in HB 1306 that ensure that insurance carriers expedite claims for medical benefits by death investigation professionals, and ensure that DWC expedites disputes about those claims. The proposed amendments do not change the people the rule affects or impose additional costs.

TAKINGS IMPACT ASSESSMENT. DWC has determined that no private real property interests are affected by this proposal, and this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

REQUEST FOR INFORMATION AND PUBLIC COMMENT. DWC requests public comments on the proposal, including information related to the cost, benefit, or effect of the proposal and any applicable data, research, and analysis. DWC will consider any written comments on the proposal that DWC receives no later than 5:00 p.m., Central time, on November 24, 2025. Send your comments to RuleComments@tdi.texas.gov; or to Texas Department of Insurance, Division of Workers' Compensation, Legal Services, MC-LS, P.O. Box 12050, Austin, Texas 78711-2050.

To request a public hearing on the proposal, submit a request before the end of the comment period to RuleComments@tdi.texas.gov; or to Texas Department of Insurance,

Division of Workers' Compensation, Legal Services, MC-LS, P.O. Box 12050, Austin, Texas 78711-2050. The request for public hearing must be separate from any comments.

SUBCHAPTER C. MEDICAL BILL PROCESSING/AUDIT BY INSURANCE CARRIER

28 TAC §133.240, §133.250

STATUTORY AUTHORITY. DWC proposes §§133.240 and 133.250 under Labor Code §§504.057, 402.00111, 402.00116, and 402.061.

Labor Code §504.057 requires that insurance carriers expedite claims for medical benefits by death investigation professionals who sustain a serious bodily injury in the course and scope of employment, that DWC accelerate disputes about those claims, and that the death investigation professionals inform DWC and the independent review organization that a contested case hearing or appeal involves a death investigation professional.

Labor Code §402.00111 provides that the commissioner of workers' compensation shall exercise all executive authority, including rulemaking authority under Title 5 of the Labor Code.

Labor Code §402.00116 provides that the commissioner of workers' compensation shall administer and enforce this title, other workers' compensation laws of this state, and other laws granting jurisdiction to or applicable to DWC or the commissioner.

Labor Code §402.061 provides that the commissioner of workers' compensation shall adopt rules as necessary to implement and enforce the Texas Workers' Compensation Act.

CROSS-REFERENCE TO STATUTE. The amendments to §133.240 and §133.250 implement Labor Code §504.057, enacted by HB 1306, 89th Legislature, Regular Session (2025).

§133.240. Medical Payments and Denials.

(a) - (o) (No change.)

(p) For the purposes of this section, all utilization review must be performed by an insurance carrier that is registered with or a utilization review agent that is certified by the Texas Department of Insurance to perform utilization review in accordance with Insurance Code Chapter 4201 and Chapter 19 of this title.

(1) All utilization review agents or registered insurance carriers who perform utilization review under this section must comply with Labor Code §504.055 and any other provisions of Chapter 19, Subchapter U of this title (relating to Utilization Reviews for Health Care Provided under Workers' Compensation Insurance Coverage) that relate to the expedited provision of medical benefits to first responders employed by political subdivisions who sustain a serious bodily injury in the course and scope of employment.

(2) An [In accordance with Labor Code §501.028(b), an] insurance carrier must accelerate and give priority to a claim for medical benefits, including all health care required to cure or relieve the effects naturally resulting from a compensable injury, under the following conditions:

(A) In accordance with Labor Code §501.028(b), the claim is by a member of the Texas military forces who,

[(i)] while on state active duty,

[(ii)] sustains a serious bodily injury, as defined by Penal Code §1.07.[i]

(B) In accordance with Labor Code §504.057(c), the claim is by a death investigation professional who sustains a serious bodily injury, as defined by Penal Code §1.07, in the course and scope of employment. [including all health care required to cure or relieve the effects naturally resulting from a compensable injury.]

(q) (No change.)

§133.250. Reconsideration for Payment of Medical Bills.

(a) - (i) (No change.)

(j) For the purposes of this section, all utilization review must be performed by an insurance carrier that is registered with, or a utilization review agent that is certified by, the Texas Department of Insurance to perform utilization review in accordance with Insurance Code Chapter 4201 and Chapter 19 of this title.

(1) All utilization review agents or registered insurance carriers who perform utilization review under this section must comply with Labor Code §504.055 and any other provisions of Chapter 19, Subchapter U of this title (relating to Utilization Reviews for Health Care Provided under Workers' Compensation Insurance Coverage) that relate to the expedited provision of medical benefits to first responders employed by political subdivisions who sustain a serious bodily injury in the course and scope of employment.

(2) An [In accordance with Labor Code §501.028(b), an] insurance carrier must accelerate and give priority to a claim for medical benefits, including all health care required to cure or relieve the effects naturally resulting from a compensable injury, under the following conditions:

(A) In accordance with Labor Code §501.028(b), the claim is by a member of the Texas military forces who,

[(#)] while on state active duty,

[(##)] sustains a serious bodily injury, as defined by Penal Code §1.07.[;]

(B) In accordance with Labor Code §504.057(c), the claim is by a death investigation professional who sustains a serious bodily injury, as defined by Penal Code §1.07, in the course and scope of employment. [including all health care required to cure or relieve the effects naturally resulting from a compensable injury.]

(k) (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.

Filed with the Office of the Secretary of State on October 13, 2025.

TRD-202503688

Kara Mace

General Counsel

Texas Department of Insurance, Division of Workers' Compensation

Earliest possible date of adoption: November 23, 2025

For further information, please call: (512) 804-4703



SUBCHAPTER D. DISPUTE OF MEDICAL BILLS

28 TAC §133.305, §133.308

STATUTORY AUTHORITY. DWC proposes §133.305 and §133.308 under Labor Code §504.057, 402.00111, 402.00116, and 402.061.

Labor Code §504.057 requires that insurance carriers expedite claims for medical benefits by death investigation professionals who sustain a serious bodily injury in the course and scope of employment, that DWC accelerate disputes about those claims, and that the death investigation professionals inform DWC and the independent review organization that a contested case hearing or appeal involves a death investigation professional.

Labor Code §402.00111 provides that the commissioner of workers' compensation shall exercise all executive authority, including rulemaking authority under Title 5 of the Labor Code.

Labor Code §402.00116 provides that the commissioner of workers' compensation shall administer and enforce this title, other workers' compensation laws of this state, and other laws granting jurisdiction to or applicable to DWC or the commissioner.

Labor Code §402.061 provides that the commissioner of workers' compensation shall adopt rules as necessary to implement and enforce the Texas Workers' Compensation Act.

CROSS-REFERENCE TO STATUTE. The amendments to §133.305 and §133.308 implement Labor Code §504.057, enacted by HB 1306, 89th Legislature, Regular Session (2025).

§133.305. MDR--General.

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

(1) - (14) (No change.)

(15) Death investigation professional--As defined by §504.057, Labor Code.

(b) - (f) (No change.)

§133.308. MDR of Medical Necessity Disputes.

(a) - (v) (No change.)

(w) Death investigation professionals. In accordance with Labor Code §504.057, the division will accelerate and give priority to an appeal from a denial of a claim for medical benefits.

(1) This subsection applies to a claim for medical benefits made by a death investigation professional who sustains a serious bodily injury, as defined by Penal Code §1.07, in the course and scope of employment.

(2) The division will accelerate and give priority to actions involving all health care required to cure or relieve the effects naturally resulting from a compensable injury.

(3) The death investigation professional must notify the division and IRO that the CCH or appeal involves a death investigation professional.

(x) [(w)] Enforcement. The department or the division may initiate appropriate proceedings under Chapter 12 of this title or Labor Code, Title 5 and division rules against an independent review organization or a person conducting independent reviews.

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 October 13, 2025.



CHAPTER 134. BENEFITS--GUIDELINES FOR MEDICAL SERVICES, CHARGES, AND PAYMENTS

SUBCHAPTER G. PROSPECTIVE AND CONCURRENT REVIEW OF HEALTH CARE

28 TAC §134.600

INTRODUCTION. The Texas Department of Insurance, Division of Workers' Compensation (DWC) proposes to amend 28 TAC §134.600, concerning preauthorization, concurrent utilization review, and voluntary certification of health care. The amendment implements House Bill (HB) 1306, 89th Legislature, Regular Session (2025).

EXPLANATION. HB 1306 added Texas Labor Code §504.057, which requires expedited medical benefits and accelerated medical dispute resolution for claims for medical benefits by a death investigation professional who sustains a serious bodily injury in the course and scope of employment, and requires that the death investigation professional inform DWC and the independent review organization that a contested case hearing or appeal involves a death investigation professional. The amendment is necessary to implement the changes in HB 1306.

Section 134.600. The amendment to §134.600 adds the requirement from HB 1306 that an insurance carrier must accelerate and give priority to a qualifying claim for medical benefits by a death investigation professional, including all required health care for the claim. Amending §134.600 is necessary to ensure that the rule is consistent with HB 1306.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Chief Administrative Law Judge Allen Craddock has determined that during each year of the first five years the proposed amendment is in effect, there will be no or minimal measurable fiscal impact on state and local governments as a result of enforcing or administering the sections, other than that imposed by the statute. This determination was made because the proposed amendment does not add to or decrease state revenues or expenditures, and because local and state government entities are only involved in enforcing or complying with the proposed amendment when acting in the capacity of a workers' compensation insurance carrier. Those entities will be impacted in the same way as an insurance carrier and will realize the same benefits from the proposed amendment.

Chief Administrative Law Judge Craddock does not anticipate a measurable effect on local employment or the local economy as a result of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed amendment is in effect, Chief Administrative Law Judge Craddock expects that enforcing and administering the proposed amendment will have the public benefits of reducing administrative hurdles for death investigation professionals with compensable injuries, and ensuring that DWC's

rules conform to Labor Code §504.057, as added by HB 1306, and are current and accurate, which promotes transparent and efficient regulation.

Chief Administrative Law Judge Craddock expects that the proposed amendment will not increase the cost to comply with Labor Code §504.057 because it does not impose requirements beyond those in the statute. HB 1306 added Labor Code §504.057, which requires that insurance carriers expedite claims for medical benefits by death investigation professionals, that DWC accelerate disputes about those claims, and that the death investigation professionals inform DWC and the independent review organization that a contested case hearing or appeal involves a death investigation professional. Any cost associated with those requirements does not result from the enforcement or administration of the proposed amendment.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. DWC has determined that the proposed amendment will not have an adverse economic effect or a disproportionate economic impact on small or micro businesses, or on rural communities because the proposed amendment implements the requirements in HB 1306 only. The proposed amendment does not change the people the rule affects or impose additional costs. As a result, and in accordance with Government Code §2006.002(c), DWC is not required to prepare a regulatory flexibility analysis.

EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045. DWC has determined that this proposal does not impose a possible cost on regulated persons. As a result, no additional rule amendments are required under Government Code §2001.0045. In addition, the proposed rule is necessary to implement Labor Code §504.057, as added by HB 1306, 89th Legislature, Regular Session (2025).

GOVERNMENT GROWTH IMPACT STATEMENT. DWC has determined that for each year of the first five years that the proposed amendment is in effect, the proposed rule:

- will not create or eliminate a government program;
- will not require the creation of new employee positions or the elimination of existing employee positions;
- will not require an increase or decrease in future legislative appropriations to the agency;
- will not require an increase or decrease in fees paid to the agency;
- will not create a new regulation;
- will expand, limit, or repeal an existing regulation;
- will not increase or decrease the number of individuals subject to the rule's applicability; and
- will not positively or adversely affect the Texas economy.

DWC made these determinations because the proposed amendment is necessary to implement the changes in HB 1306 that ensure that insurance carriers expedite claims for medical benefits by death investigation professionals, and ensure that DWC expedites disputes about those claims. The proposed amendment does not change the people the rule affects or impose additional costs.

TAKINGS IMPACT ASSESSMENT. DWC has determined that no private real property interests are affected by this proposal, and this proposal does not restrict or limit an owner's right to

property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

REQUEST FOR INFORMATION AND PUBLIC COMMENT. DWC requests public comments on the proposal, including information related to the cost, benefit, or effect of the proposal and any applicable data, research, and analysis. DWC will consider any written comments on the proposal that DWC receives no later than 5:00 p.m., Central time, on November 24, 2025. Send your comments to RuleComments@tdi.texas.gov; or to Texas Department of Insurance, Division of Workers' Compensation, Legal Services, MC-LS, P.O. Box 12050, Austin, Texas 78711-2050.

To request a public hearing on the proposal, submit a request before the end of the comment period to RuleComments@tdi.texas.gov; or to Texas Department of Insurance, Division of Workers' Compensation, Legal Services, MC-LS, P.O. Box 12050, Austin, Texas 78711-2050. The request for public hearing must be separate from any comments.

STATUTORY AUTHORITY. DWC proposes §134.600 under Labor Code §§504.057, 402.00111, 402.00116, and 402.061.

Labor Code §504.057 requires that insurance carriers expedite claims for medical benefits by death investigation professionals who sustain a serious bodily injury in the course and scope of employment, that DWC accelerate disputes about those claims, and that the death investigation professionals inform DWC and the independent review organization that a contested case hearing or appeal involves a death investigation professional.

Labor Code §402.00111 provides that the commissioner of workers' compensation shall exercise all executive authority, including rulemaking authority under Title 5 of the Labor Code.

Labor Code §402.00116 provides that the commissioner of workers' compensation shall administer and enforce this title, other workers' compensation laws of this state, and other laws granting jurisdiction to or applicable to DWC or the commissioner.

Labor Code §402.061 provides that the commissioner of workers' compensation shall adopt rules as necessary to implement and enforce the Texas Workers' Compensation Act.

CROSS-REFERENCE TO STATUTE. The amendment to §134.600 implements Labor Code §504.057, enacted by HB 1306, 89th Legislature, Regular Session (2025).

§134.600. Preauthorization, Concurrent Utilization Review, and Voluntary Certification of Health Care.

(a) - (t) (No change.)

(u) For the purposes of this section, all utilization review must be performed by an insurance carrier that is registered with, or a utilization review agent that is certified by, the Texas Department of Insurance to perform utilization review in accordance with Insurance Code Chapter 4201 and Chapter 19 of this title (relating to Licensing and Regulation of Insurance Professionals).

(1) All utilization review agents or registered insurance carriers who perform utilization review under this section must comply with Labor Code §504.055 and any other provisions of Chapter 19, Subchapter U of this title (relating to Utilization Reviews for Health Care Provided under Workers' Compensation Insurance Coverage) that relate to the expedited provision of medical benefits to first responders employed by political subdivisions who sustain a serious bodily injury in the course and scope of employment.

(2) An [In accordance with Labor Code §501.028(b), an] insurance carrier must accelerate and give priority to a claim for medical benefits, including all health care required to cure or relieve the effects naturally resulting from a compensable injury, under the following conditions:

(A) In accordance with Labor Code §501.028(b), the claim is by a member of the Texas military forces who,

[(#)] while on state active duty,

[(##)] sustains a serious bodily injury, as defined by Penal Code §1.07.[i]

(B) In accordance with Labor Code §504.057(c), the claim is by a death investigation professional who sustains a serious bodily injury, as defined by Penal Code §1.07, in the course and scope of employment. [including all health care required to cure or relieve the effects naturally resulting from a compensable injury.]

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 October 13, 2025.

TRD-202503690

Kara Mace

General Counsel

Texas Department of Insurance, Division of Workers' Compensation

Earliest possible date of adoption: November 23, 2025

For further information, please call: (512) 804-4703



TITLE 30. ENVIRONMENTAL QUALITY

PART 1. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

CHAPTER 116. CONTROL OF AIR POLLUTION BY PERMITS FOR NEW CONSTRUCTION OR MODIFICATION

SUBCHAPTER F. STANDARD PERMITS

30 TAC §116.605

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) proposes an amendment to 30 Texas Administrative Code (TAC) §116.605.

If adopted, these amended rules would be submitted to the United States Environmental Protection Agency (EPA) as a revision to the state implementation plan (SIP).

Background and Summary of the Factual Basis for the Proposed Rules

Senate Bill (SB) 763 amends Texas Health and Safety Code (THSC), §382.05195, Standard Permit. The bill adds Subsection (e-1) requiring the TCEQ to conduct a protectiveness review at least once every eight years for a standard permit issued under this section that authorizes the operation of a permanent concrete batch plant (CBP) that performs wet batching, dry batching, or central mixing (Air Quality Standard Permit for Concrete Batch Plants (CBP SP)). If the standard permit is amended after

a protectiveness review is conducted, TCEQ shall allow facilities authorized to operate under the standard permit as it read before being amended to continue to operate until a date provided by the commission that provides facility operators a reasonable amount of time to comply with the amended standard permit. The bill requires TCEQ to adopt rules necessary to implement these changes no later than March 1, 2026. SB 763 was signed by the Governor on June 20, 2025, and became effective on September 1, 2025.

SB 2351 amends THSC, §382.05195, Standard Permit, by adding Subsection (f-1) that would apply only to a standard permit issued under this section that authorizes the operation of a permanent concrete batch plant that performs wet batching, dry batching, or central mixing (CBP SP). SB 2351 also amends THSC, §382.05198, Standard Permit for Certain Concrete Plants, by adding Subsection (d) that would apply only to a standard permit issued under that section (Air Quality Standard Permit for Concrete Batch Plants with Enhanced Controls (CBPEC SP)). New THSC, §382.05195, Subsection (f-1) and THSC, §382.05198, Subsection (d) establish that upon TCEQ amending these standard permits, TCEQ may require each facility operator authorized to begin construction of a facility under the former standard permit to update the facility's plans for the new construction in accordance with the amended standard permit if the facility operator did not begin construction before the adoption of the amended standard permit, and if the facility operator filed a request under commission rules for an extension to begin construction. SB 2351 was signed by the Governor on May 24, 2025, and became effective on May 24, 2025, after receiving a vote of two-thirds of all the members of each house.

Section by Section Discussion

To implement the requirements of SB 763 and SB 2351, 89th Regular Texas Legislature, 2025, the commission proposes to amend 30 TAC Chapter 116, Subchapter F (Standard Permits).

The proposed rulemaking would add 30 TAC §116.605(d)(4) requiring a protectiveness review to be conducted for the CBP SP at least once every eight years. The proposed rulemaking would also add 30 TAC §116.605(f)(1) and (2) that would be applicable only when an amendment to the CBP SP or the CBPEC SP is issued by the commission. New 30 TAC §116.605(f)(1) and (2) would outline criteria of how the commission may require an operator of a permanent facility that is authorized to begin new construction under the former standard permit to update the permanent facility's plans for the new construction to comply with the amended standard permit if the facility operator did not begin the construction before the adoption of the amended standard permit and the operator filed a request for an extension to begin construction. These proposed requirements would not be applicable to temporary or specialty plants authorized under the CBP SP.

Fiscal Note: Costs to State and Local Government

Kyle Girtten, Analyst in the Budget and Planning Division, has determined that for the first five-year period the proposed rule is in effect, no fiscal implications are anticipated for the agency or for other units of state or local government as a result of administration or enforcement of the proposed rule.

Public Benefits and Costs

Mr. Girtten determined that for each year of the first five years the proposed rules are in effect, the public benefit will be compliance with state law, specifically, SB 763 and SB 2351 from the 89th

Regular Legislative Session, 2025. The proposed rulemaking is not anticipated to result in fiscal implications for individuals or businesses during the first five-year period the proposed rule is in effect.

Local Employment Impact Statement

The commission reviewed this proposed rulemaking and determined that a Local Employment Impact Statement is not required because the proposed rulemaking does not adversely affect a local economy in a material way for the first five years that the proposed rule is in effect.

Rural Communities Impact Assessment

The commission reviewed this proposed rulemaking and determined that the proposed rulemaking does not adversely affect rural communities in a material way for the first five years that the proposed rules are in effect. The amendments would apply statewide and have the same effect in rural communities as in urban communities.

Small Business and Micro-Business Assessment

No adverse fiscal implications are anticipated for small or micro-businesses due to the implementation or administration of the proposed rule for the first five-year period the proposed rules are in effect.

Small Business Regulatory Flexibility Analysis

The commission reviewed this proposed rulemaking and determined that a Small Business Regulatory Flexibility Analysis is not required because the proposed rule does not adversely affect a small or micro-business in a material way for the first five years the proposed rules are in effect.

Government Growth Impact Statement

The commission prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program, and will not require an increase or decrease in future legislative appropriations to the agency. The proposed rulemaking does not require the creation of new employee positions, eliminate current employee positions, nor require an increase or decrease in fees paid to the agency. The proposed rulemaking amends an existing regulation, and it does not create, expand, repeal, or limit this regulation. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years, the proposed rule should not impact positively or negatively the state's economy.

Written comments concerning the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

Regulatory Impact Analysis Determination

The commission reviewed the proposed rulemaking considering the regulatory impact analysis requirements of Texas Government Code (TGC), §2001.0225, and determined that the proposed rulemaking does not meet the definition of a "Major environmental rule" as defined in that statute, and in addition, if it did meet the definition, would not be subject to the requirement to prepare a regulatory impact analysis. A "Major environmental rule" means a rule, the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure, and that may adversely affect in a material way the economy, a sector of the economy, productivity, com-

petition, jobs, the environment, or the public health and safety of the state or a sector of the state. Additionally, the proposed rulemaking does not meet any of the four applicability criteria for requiring a regulatory impact analysis for a major environmental rule, which are listed in TGC, §2001.0225(a). TGC, §2001.0225 applies only to a major environmental rule, the result of which is to: 1) exceed a standard set by federal law, unless the rule is specifically required by state law; 2) exceed an express requirement of state law, unless the rule is specifically required by federal law; 3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or 4) adopt a rule solely under the general powers of the agency instead of under a specific state law.

The proposed rulemaking's purpose is to amend 30 TAC §116.605(d)(4) requiring a protectiveness review to be conducted for the concrete batch plant standard permit at least once every eight years. The proposed rulemaking would also add 30 TAC §116.605(f)(1) and (2) that would outline criteria of how the commission may require an operator of a permanent facility that is authorized to begin new construction under the former standard permit to update the permanent facility's plans for the new construction to comply with the amended standard permit. The new requirements are required under statutory amendments to THSC, §382.05195.

As defined in the Texas Government Code, TGC, §2001.0225 only applies to a major environmental rule, the result of which is to: exceed a standard set by federal law, unless the rule is specifically required by state law; exceed an express requirement of state law, unless the rule is specifically required by federal law; exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or adopt a rule solely under the general authority of the commission. The proposed amendments to 30 TAC §116.605 do not exceed an express requirement of state law or a requirement of a delegation agreement and were not developed solely under the general powers of the agency but are authorized by specific sections of the Texas Government Code and the Texas Water Code that are cited in the Statutory Authority section of this preamble. The proposed rule implements Senate Bills 763 and 2351, 89th Regular Legislature, 2025, which require changes relating to how the agency evaluates standard permits and thus is a specific requirement under state statute. Therefore, this rulemaking is not subject to the regulatory analysis provisions of TGC, §2001.0225(b).

The commission invites public comment regarding the Draft Regulatory Impact Analysis during the public comment period. Written comments on the Draft Regulatory Impact Analysis may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

Takings Impact Assessment

Under TGC, §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 United States Constitution or §17 or §19, Article I, Texas Constitution; or a governmental action that (i) affects an owner's private real property that is the subject of the governmental action, in whole or in part or temporarily or permanently, in a manner that restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action; and (ii) 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.

The proposed amendments are procedural in nature and would not burden private real property. The proposed amendments do not affect private property in a manner that restricts or limits an owner's right to the property that would otherwise exist in the absence of a governmental action. Consequently, this rulemaking action does not meet the definition of a taking under TGC, §2007.002(5). The proposed amendments do not directly prevent a nuisance or prevent an immediate threat to life or property. Therefore, this rulemaking action would not constitute a taking under TGC, Chapter 2007.

Consistency with the Coastal Management Program

The commission reviewed the proposed rulemaking and found that the proposal is subject to the Texas Coastal Management Program (CMP) in accordance with the Coastal Coordination Act, Texas Natural Resources Code, §§33.201 et seq., and therefore must be consistent with all applicable CMP goals and policies. The commission conducted a consistency determination for the proposed rules in accordance with Coastal Coordination Act implementation rules, 31 TAC §29.22, and found the proposed rulemaking is consistent with the applicable CMP goals and policies.

The CMP goal applicable to this proposed rulemaking is the goal to protect, preserve, restore, and enhance the diversity, quality, quantity, functions, and values of coastal natural resource areas (31 TAC §26.12(l)). The proposed amendments to Chapter 116 would update TCEQ rules to implement the requirement that a protectiveness review be conducted for the CBP SP at least once every eight years and incorporate requirements for when an operator of a facility authorized under the CBP SP or CBPEC SP must comply with the amended standard permit. The CMP policy applicable to the proposed rulemaking is that commission rules comply with federal regulations in Title 40 of the Code of Federal Regulations (40 CFR) to protect and enhance air quality in the coastal areas (31 TAC §26.32). This rulemaking complies with 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of Implementation Plans. Therefore, in accordance with 31 TAC §29.22(e), the commission affirms that this rulemaking is consistent with CMP goals and policies.

Promulgation and enforcement of these rules will not violate or exceed any standards identified in the applicable CMP goals and policies because the proposed rules are consistent with these CMP goals and policies and because these rules do not create or have a direct or significant adverse effect on any coastal natural resource areas.

Written comments on the consistency of this rulemaking may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

Effect on Sites Subject to the Federal Operating Permits Program

The proposed amendments are not expected to have a significant impact on sites subject to the Federal Operating Permits Program. Facilities that operate under a registered standard permit and have a Site Operating Permit (SOP) should evaluate the revised applicable requirements of 30 TAC §116.615 to determine if an update to their SOP is necessary.

Announcement of Hearing

The commission will hold a hybrid virtual and in-person public hearing on this proposal in Austin on Thursday, November 20, 2025, at 2:00 p.m. in Building E, Room 201S, at the commission's central office located at 12100 Park 35 Circle. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not be permitted during the hearing; however, commission staff members will be available to discuss the proposal 30 minutes prior to the hearing at 1:30 p.m.

Individuals who plan to attend the hearing virtually and want to provide oral comments and/or want their attendance on record must register by Tuesday, November 18, 2025. To register for the hearing, please email Rules@tceq.texas.gov and provide the following information: your name, your affiliation, your email address, your phone number, and whether or not you plan to provide oral comments during the hearing. Instructions for participating in the hearing will be sent on Wednesday, November 19, 2025, to those who register for the hearing.

Members of the public who do not wish to provide oral comments but would like to view the hearing may do so at no cost at:

<https://events.teams.microsoft.com/event/18d7b168-6cfa-4d0a-afb1-8d87db8289d2@871a83a4-a1ce-4b7a-8156-3bcd93a08fba>

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Sandy Wong, Office of Legal Services at (512) 239-1802 or 1-800-RELAY-TX (TDD). Requests should be made as far in advance as possible.

Submittal of Comments

Written comments may be submitted to Gwen Ricco, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to fax4808@tceq.texas.gov. Electronic comments may be submitted at: <https://tceq.commentinput.com/comment/search>. File size restrictions may apply to comments being submitted via the TCEQ Public Comments system. All comments should reference Rule Project Number 2025-032-116-AI. The comment period closes at 11:59 p.m. on November 25, 2025. Copies of the proposed rulemaking can be obtained from the commission's website at https://www.tceq.texas.gov/rules/propose_adapt.html. For further information, please contact David Munzenmaier, Air Permits Division, (512) 239-6092.

Statutory Authority

The amendments are proposed under Texas Water Code (TWC), §5.013, concerning General Jurisdiction of Commission, which establishes the general jurisdiction of the commission; TWC, §5.102, concerning General Powers, which provides the commission with the general powers to carry out its duties under the TWC; TWC, §5.103, concerning Rules, which authorizes the commission to adopt rules necessary to carry out its powers and duties under the TWC; and TWC, §5.105, concerning General Policy, which authorizes the commission by rule to establish and approve all general policy of the commission. The amendments are also proposed under THSC, §382.002, concerning Policy and Purpose, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical

property; THSC, §382.011, concerning General Powers and Duties, which authorizes the commission to control the quality of the state's air; THSC, §382.012, concerning State Air Control Plan, which authorizes the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; THSC, §382.017, concerning Rules, which authorizes the commission to adopt rules consistent with the policy and purposes of the Texas Clean Air Act; THSC §382.05195, concerning standard permits; and §382.05198, concerning standard permits for certain concrete plants.

In addition, the amendments are proposed under TGC, §2001.004, concerning Requirement to Adopt Rules of Practice and Index Rules, Orders, and Decisions, which requires state agencies to adopt procedural rules; TGC, §2001.006, concerning Actions Preparatory to Implementation of Statute or Rule, which authorizes state agencies to adopt rules or take other administrative action that the agency deems necessary to implement legislation; TGC, §2001.142, concerning Notification of Decisions and Orders, which provides a time period for presumed notification by a state agency; and the Federal Clean Air Act, 42 United States Code (USC), §§7401, et seq., which requires states to submit state implementation plan revisions that specify the manner in which the national ambient air quality standards will be achieved and maintained within each air quality control region of the state. The proposed amendments implement Senate Bills 763 and 2351, 89 Regular Legislature, 2025, which require changes relating to how the agency evaluates standard permits.

The proposed amendments implement changes to THSC, §382.05195.

§116.605. Standard Permit Amendment and Revocation.

(a) A standard permit remains in effect until amended or revoked by the commission.

(b) After notice and comment as provided by subsection (c) of this section and §116.603(b)-(f) of this title (relating to Public Participation in Issuance of Standard Permits), a standard permit may be amended or revoked by the commission.

(c) The commission will publish notice of its intent to amend or revoke a standard permit in a daily or weekly newspaper of general circulation in the area affected by the activity that is the subject of the standard permit. If the standard permit has statewide applicability, then the requirement for newspaper notice shall be accomplished by publishing notice in the daily newspaper of largest general circulation within each of the following major metropolitan areas: Austin, Dallas, and Houston. The commission will also provide written notice to registrants and any persons requesting to be on a mailing list concerning a specific standard permit. In both cases, the commission will publish notice in the *Texas Register*.

(d) The commission may, through amendment of a standard permit, add or delete requirements or limitations to the permit.

(1) To remain authorized under the standard permit, a facility shall comply with an amendment to the standard permit on the later of either the deadline the commission provides in the amendment or the date the facility's registration to use the standard permit is required to be renewed. The commission may not require compliance with an amended standard permit within 24 months of its amendment unless it is necessary to protect public health.

(2) Before the date the facility is required to comply with the amendment, the standard permit, as it read before the amendment, applies to the facility.

(3) The commission will consider the following when determining whether to amend or revoke a standard permit:

(A) whether a condition of air pollution exists;

(B) the applicability of other state or federal standards that apply or will apply to the types of facilities covered by the standard permit;

(C) requests from the regulated community or the public to amend or revoke a standard permit consistent with the requirements of the TCAA; and

(D) whether the standard permit requires best available control technology.

(4) The commission shall conduct a protectiveness review at least once every eight years in accordance with THSC, §382.05195(e-1) to determine whether to amend the standard permit issued under THSC, §382.05195 regarding the operation of a permanent concrete batch plant that performs wet batching, dry batching, or central mixing.

(e) The commission may require, upon issuance of an amended standard permit, or on a date otherwise provided, the owner or operator of a facility to submit a registration to use the amended standard permit in accordance with the requirements of §116.611 of this title (relating to Registration to Use a Standard Permit).

(f) When standard permits issued under THSC, §§382.05195 and 382.05198 are amended, the commission may require each facility operator authorized to begin new construction of permanent concrete batch plants that perform wet batching, dry batching or central mixing under the former standard permit to update the facility's plan for the new construction in accordance with the amended standard permit if the facility operator:

(1) did not begin construction before the adoption of the amended standard permit; and

(2) filed a request under §116.120 of this title, (relating to Voiding of Permits) for an extension to begin construction before the effective date of the amended standard permit.

(g) [(f)] If the commission revokes a standard permit, it will provide written notice to affected registrants prior to the revocation of the standard permit. The notice will advise registrants that they must apply for a permit under this chapter or qualify for an authorization under Chapter 106 of this title (relating to Exemptions from Permitting).

(h) [(g)] The issuance, amendment, or revocation of a standard permit or the issuance, renewal, or revocation of a registration to use a standard permit is not subject to Texas Government Code, Chapter 2001.

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 October 10, 2025.

TRD-202503666

Charmaine Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Earliest possible date of adoption: November 23, 2025

For further information, please call: (512) 239-2678



TITLE 31. NATURAL RESOURCES AND CONSERVATION

PART 1. GENERAL LAND OFFICE

CHAPTER 15. COASTAL AREA PLANNING

SUBCHAPTER A. MANAGEMENT OF THE BEACH/DUNE SYSTEM

31 TAC §15.38

The General Land Office (GLO) proposes new 31 Texas Administrative Code (TAC) §15.38 relating to certification status of the Dune Protection and Beach Access Plan (Plan) for the City of Starbase, Texas (City). The GLO has reviewed the City's Plan and Erosion Response Plan (ERP), which is included as an appendix in the Plan, and has determined that the Plan and ERP both comply with state law.

The GLO proposes new 31 TAC §15.38 to certify the proposed Plan as consistent with state law. Copies of the City's proposed Plan can be obtained by contacting the GLO or the City of Starbase.

BACKGROUND OF THE PROPOSED PLAN

Pursuant to the Open Beaches Act (OBA), Texas Natural Resources Code (Tex. Nat. Res. Code) Chapter 61, the Dune Protection Act (DPA), Tex. Nat. Res. Code Chapter 63, Tex. Nat. Res. Code § 33.607, and 31 TAC §§15.3, 15.7, and 15.17, each local government with ordinance authority over construction adjacent to public beaches is required to adopt a plan for preserving and enhancing access to and use of public beaches and dune protection within the jurisdiction of the local government and submit its plan to the GLO for certification. If appropriate, the GLO will certify that the plan or ERP as consistent with state law by adoption or amendment of a rule, as authorized in Tex. Nat. Res. Code §§ 61.011(d)(5), 61.015(b), and 63.121. The certification by rule reflects the State's certification of the plan; however, the text of the plan is not adopted by the GLO, as explained in 31 TAC §15.3(o)(4).

The DPA and 31 TAC §15.3 provide that a county may allow a municipality within the county to administer the DPA within its corporate limits and extraterritorial jurisdiction. Each municipality administering the DPA is required to establish a dune protection line and dune protection plan with procedures and requirements governing the review and approval of dune permits.

On May 3, 2025 residents of Cameron County (County) voted to incorporate Starbase as a Type C municipality within the State of Texas. Thereafter, on September 17th, 2025 the City passed Resolution No. 2025-09-17-D03-RE requesting that the County delegate authority to administer the DPA, to the City. On September 23rd, 2025 the County delegated the authority to administer the DPA to the City through Cameron County Commissioners Court Order No. 2025O09098.

On September 25th, 2025, the Starbase City Commission passed Ordinance No. 2025-09-25-F01-OR, adopting the City's Plan and ERP. The City provided public notice of the hearing on the proposed Plan and ERP and establishment of the dune protection line through publication in the Brownsville Herald on September 3rd, September 6th, and September 10th, 2025 in accordance with Tex. Nat. Res. Code § 63.013 and 31 TAC §15.3(l) and §15.17(c). On September 26th, 2025 the City submitted the proposed Plan and ERP to the GLO for certification.

ANALYSIS OF PROPOSED PLAN AND GLO'S PROPOSED 31 TAC §15.38

The City's Plan establishes the dune protection line at 1,000 feet landward of mean high tide, at the maximum extent of a local government's jurisdiction for establishing dune protection lines. The Plan also establishes procedures and requirements for dune protection permits seaward of the dune protection line and beachfront construction certificates within 1,000 feet landward of mean high tide or seaward of the first public road, whichever is greater, consistent with 31 TAC Chapter 15.

The City's Plan establishes an eroding area boundary in accordance with 31 TAC §15.2(32) at whichever distance landward of the line of vegetation is greater: 200 feet, or the distance determined by multiplying 50 years by the annual historical erosion rate (based on the most recent GLO approved data published by the University of Texas at Austin, Bureau of Economic Geology). All areas seaward of the eroding area boundary are considered an eroding area under the Plan and all applicable eroding area standards apply in that area.

The City's Plan prohibits the use of impervious surfaces seaward of the eroding area boundary in accordance with 31 TAC §15.6(f). Impervious surfaces may be used landward of the eroding area boundary, except where they would cause ponding, channeling or dune destabilization or where they would materially weaken dunes or materially damage dune vegetation. The allowance of impervious surfaces landward of the eroding area boundary complies with 31 TAC §15.6(f) since the Plan establishes eroding areas as the areas seaward of the eroding area boundary.

The City's ERP establishes a building setback line coextensive with the eroding area boundary. Except for construction of public amenities and beach access improvements, the City's Plan and ERP prohibit the construction, placement, or maintenance of a permanent structure seaward of the eroding area boundary and building setback line, unless a property owner qualifies for an exemption by demonstrating that there are no practicable alternatives to construction seaward of the eroding area boundary or building setback line.

The City's Plan and ERP provide stricter construction requirements for exempt properties. All exempt construction must provide plans and certifications for the structure by a registered professional engineer licensed in the State of Texas demonstrating a minimum two-foot freeboard above base flood elevation (BFE), no enclosures below BFE, feasible relocation of the habitable structure, compliance with the specifications in American Society of Civil Engineers, Structural Engineering Institute, Flood Resistant Design and Construction, ASCE 24-05, and that construction is designed to minimize impacts on natural hydrology. Construction should also be located landward of the toe of the foredune ridge, where practicable.

The Plan's prohibition on construction of new structures and impervious surfaces seaward of the eroding area boundary and building setback line provides increased protection for areas at higher risk of damage from flooding and erosion and reduces the risk of public expenditures for erosion and storm damage losses to public and private property. These restrictions also promote a continuous critical dune area that will help provide protection from erosion and storms and provides a vegetative buffer between development and the beach.

Pursuant to the enrollment of House Bill 5246, the 89th Legislature amended Tex. Govt. Code § 482.107(8), effective Septem-

ber 1, 2025 to allow the Texas Space Commission (Space Commission) to issue an order, subject to the approval of the municipality's governing body, to temporarily close a highway, venue, or "Gulf Beach" as specified by Tex. Nat. Res. Code §33.203(11), which includes areas of Boca Chica beach.

On September 23, 2025 the Space Commission, pursuant to new Tex. Gov't Code § 482.107(a)(8), issued standing Order No. 2025-01 authorizing the City to temporarily close a highway as defined by Tex. Transp. Code § 221.001, or the "Gulf Beach" during space flight activities. Such temporary closures are necessary to safeguard public safety and operational security in furtherance of state aerospace policy and will be issued only as necessary consistent with the requirements in 43 Tex. Admin. Code § 22.12. The City shall ensure that a safety zone perimeter is established in coordination with law enforcement and entities conducting space flight activities. The Order ensures the following dates remain available to the public for recreational use and will not be subject to any access limitations:

- 1) the Saturday or Sunday preceding Memorial Day;
- 2) Memorial Day;
- 3) July 4;
- 4) a Saturday or Sunday preceding Labor Day; or
- 5) Labor Day.

In addition to the authority to close the Gulf Beach under the Space Commission Order, the City, pursuant to 31 TAC §15.7, is authorized to close the public beach in cases of emergencies related to public health and safety and must notify the GLO as soon as practicable upon the closure and reopening of the beach. Such emergency closures must be minimized in scope and duration.

The City's Plan follows additional closure related provisions that are more protective of the public's access and use of the beach than the limitations on access restrictions outlined in the Space Commission's Order. These additional provisions in the proposed Plan are consistent with the access requirements related to spaceflight activities included in the Mitigated Finding of No Significant Impact and Record of Decision for the Final Tiered Environmental Assessment (Mitigated FONSI/ROD), issued by the Federal Aviation Administration on April 24, 2025.

The Mitigated FONSI/ROD states that there shall be no State Highway 4 access restrictions on the following:

1.) Memorial Day

a.) Memorial Day to Labor Day (the times of greatest visitor beach uses and enjoyment), no Weekend Access Restrictions from Friday at 6:00 a.m. through Sunday.

b.) Road access restrictions for any space flight activities would occur from Monday through Friday at 6:00 a.m. This predictive schedule ensures the public access to all open areas of the Laguna Atascosa National Wildlife Refuge (e.g., Boca Chica Beach) from Friday at 6:00 a.m. through Sunday from Memorial Day through Labor Day.

c.) When a space flight activity requires at least one road access restriction between Fridays at 6:00 a.m. and Sundays from Memorial Day to Labor Day, or on weekends from the day after Labor Day to the day before Memorial Day, it is considered a "Weekend Access Restriction."

d.) Weekend Access Restrictions may be requested up to five times per calendar year;

2.) Labor Day

a.) From the day after Labor Day to the day before Memorial Day (throughout the winter months), no Weekend Access Restrictions on Saturday or Sunday;

3) July 4th;

4) Martin Luther King Jr. Day;

5) Presidents' Day;

6) Texas Independence Day;

7) Cesar Chavez Day;

8) Emancipation Day in Texas (also referred to as Juneteenth);

9) Veteran's Day;

10) Good Friday;

11) Easter;

12) Father's Day;

13) Mother's Day;

14) Thanksgiving Day, no access restrictions shall be permitted from Thanksgiving Day through the Sunday immediately following Thanksgiving;

15) Christmas Day; and

16) New Year's Day ("Holidays").

If any Holiday falls on a Monday or Friday, no Weekend Access Restrictions shall be permitted.

In accordance with the April 24, 2025 Mitigated FONSI/ROD, to reduce impacts to recreational users the City shall provide forty-eight (48) hours notice of any road and beach closure through its official website: www.starbase.texas.gov/.

A copy of the Final Tiered EA may also be obtained from the FAA's website: www.faa.gov/space/stakeholder_engagement/spacex_starship.

If a future FAA Mitigated FONSI/ROD modifies the dates of public beach access closures, increases the duration or total number of hours of closures in excess of the 2025 Mitigated FONSI/ROD, or changes the public notice process, express written GLO approval will be required prior to implementation by the City.

The City's proposed Plan does not add any additional access restrictions to the public beach from what is currently being enforced by the County as set forth in the County's Dune Protection and Beach Access Plan.

FISCAL AND EMPLOYMENT IMPACTS

Ms. Angela Sunley, Deputy Director for the GLO's Coastal Resources Division, has determined that for each year of the first five years the rule as proposed is in effect, there will be minimal, if any, fiscal implications to the state government as a result of enforcing or administering the rules.

Ms. Sunley has determined that there may be fiscal implications to the local government associated with the enforcing or administering the Plan and ERP. However, these fiscal impacts cannot be estimated with certainty at this time. The fiscal impacts associated with issuing and enforcing beachfront construction certificates and dune protection permits are dependent on the

rate of construction occurring within the jurisdictional area subject to the Plan and the number of permit applications received and issued by the local government. The fiscal implications of enforcing beach and dune regulations related to construction will be dependent on the schedule and methods by which the local government monitors for violations and the frequency at which violations occur.

There may also be fiscal implications to the local government associated with conducting beach maintenance activities within the jurisdiction of the local government, which will depend on the frequency of needed trash collection and beach raking activities and may vary seasonally or during times of increased seaweed inundation.

Ms. Sunley has determined that the proposed rule will have minimal, if any, fiscal implications for businesses or individuals. The estimated cost of compliance is expected to be minimal, based on the cost of providing the information required for a beachfront construction certificate and dune protection permit. The application information required under the Plan mirrors the existing requirements in 31 TAC Chapter 15 and the preexisting application requirements under Cameron County's Dune Protection and Beach Access Plan, which were applicable to this geographic area prior to the adoption of the City's Plan.

Ms. Sunley also believes that the costs of compliance with the ERP for businesses and individuals will be offset by the reduction in losses to businesses and individuals due to storm damage. Implementation of the ERP will preserve beach dunes and delay erosion by reducing the intensity of storm surge. Additionally, the enhanced dune restoration and construction standards will result in increased protection for structures which are located landward of the dune protection line.

The proposed rulemaking will have no adverse impact on local employment, and no impact statement is required pursuant to Texas Government Code § 2001.022.

The proposed rulemaking will not incur any additional or new fiscal impacts as the only change related to any fiscal implications is the name of the entity being regulated is changing from Cameron County to the City of Starbase.

PUBLIC BENEFIT

Ms. Sunley has determined that the public will benefit from the proposed Plan and ERP by having guaranteed limitations on the restrictions to access and use of the public beach, protecting the City and individuals from flood losses, assuring the integrity of the beach/dune system is maintained and enhanced while recognizing landowners' private property rights, and affording mitigating options to landowners that would protect dunes, while not unreasonably restricting private land use.

The City is proposing to establish a building setback line that is 200 feet landward of the line of vegetation or a distance 50 times the historical annual eroding rate as published by the Bureau of Economic Geology, whichever is greater. Under the City's Plan and ERP, landowners are able to obtain an exemption from the prohibition on construction seaward of the building setback line if there are no practicable alternatives to construction in that area, and by adhering to stricter construction requirements. By encouraging the placement of structures further landward, there will be a reduction in the hazards created by buildings that are subjected to storm surge and a reduction in the vulnerability of buildings to storm tide and erosion. The public will also benefit from the construction standards applied to properties that are

exempted from the prohibition on construction seaward of the building setback line and eroding area boundary.

The ERP also includes target dimensions for restored or enhanced critical front row dunes and identifies priority dune restoration sites. Promoting a more consistent foredune system will provide a natural buffer from storm events and erosion, which helps protect property from storm damage and helps reduce public expenses for disaster relief. Identifying priority dune restoration sites will also help the City and landowners in focusing mitigation and restoration effects in areas that are more vulnerable to storm inundation.

ENVIRONMENTAL REGULATORY ANALYSIS

The GLO has evaluated the proposed rulemaking action in light of the regulatory analysis requirements of Texas Government Code § 2001.0225 and determined that the action is not subject to § 2001.0225, because it does not meet the definition of a "major environmental rule" as defined in the statute. "Major environmental rule" means a rule, the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. The proposed new rule is not anticipated to adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. The new rule is proposed under Tex. Nat. Res. Code §§ 33.602, 33.607, 61.011, 61.015(b), 61.022 (b) & (c), 63.091, and 63.121, which provide the GLO with the authority to adopt rules governing the preservation and enhancement of the public's right to use and access public beaches and to certify local government beach access and use plans as consistent with state law. The proposed new rule does not exceed federal or state requirements.

TAKINGS IMPACT ASSESSMENT

The GLO has evaluated the proposed rulemaking in accordance with Texas Government Code §2007.043(b) and the Attorney General's Private Real Property Rights Preservation Act Guidelines to determine whether a detailed takings impact assessment is required. The GLO has determined that the proposed new rule does not affect private real property in a manner that requires real property owners to be compensated as provided by the Fifth and Fourteenth Amendments to the United States Constitution or Article I, §§ 17 and 19 of the Texas Constitution. The GLO has also determined that the proposed rulemaking would not affect any private real property in a manner that restricts or limits the owner's right to property or use of that property.

The Plan and ERP establish a process by which an exemption from the prohibition on construction seaward of the building setback line or eroding area boundary may be issued for properties for which the owner has demonstrated that no practicable alternative to construction seaward of the eroding area boundary or building setback line exists. The definition of the term "practicable" in 31 TAC §15.2 allows a local government to consider the cost of implementing a technique such as the setback provision in determining whether it is "practicable" in a particular application for development. In applying its regulation, the City will determine on a case-by-case basis to permit construction of structures in the area seaward of the eroding area boundary and building setback line if certain construction conditions are met,

thereby avoiding severe and unavoidable economic impacts and thus an unconstitutional taking.

The GLO has therefore determined that the proposed rulemaking will not result in a taking of private property and that there are no adverse impacts on private real property interests.

GOVERNMENT GROWTH IMPACT STATEMENT

The GLO prepared a Government Growth Impact Statement for this proposed rulemaking. Since the proposed rules simply certify Starbase City's Dune Protection and Beach Access Plan and its Erosion Response Plan, they will not affect the operations of the General Land Office. Even though Starbase City is a new municipality, the proposed rules do not increase or decrease the number of individuals subject to the rule's applicability because those individuals were already subject to the beach and dune rules under Cameron County's Beach Access and Dune Protection Plan and ERP prior to the incorporation of the City of Starbase and the adoption and certification of the City's Plan. The proposed rulemaking does not create or eliminate a government program, will not require an increase or decrease in future legislative appropriations to the agency, will not require the creation of new employee positions nor eliminate current employee positions at the agency, nor will it require an increase or decrease in fees paid to the GLO. The proposed rule does not create, limit, or repeal existing agency regulations, but rather certify the Plan as consistent with state law.

During the first five years that the proposed rule would be in effect, it is not anticipated that there will be an adverse impact on the state's economy. The proposed new rule is expected to enhance or preserve beach access and protect environmental protection and safety.

CONSISTENCY WITH COASTAL MANAGEMENT PROGRAM

The proposed rulemaking is subject to the Coastal Management Program as provided for in Tex. Nat. Res. Code § 33.2053 and 31 TAC §§ 29.11(a)(1)(J) and 29.11(c), relating to Actions and Rules Subject to the Coastal Management Program (CMP). The GLO has reviewed this proposed action for consistency with the CMP goals and policies in accordance with its regulations and has determined that the proposed action is consistent with the applicable CMP goals and policies. The applicable goals and policies are found at 31 TAC §26.12 (relating to Goals) and §26.26 (relating to Policies for Construction in the Beach/Dune System).

The proposed Plan is consistent with the CMP goals outlined in 31 TAC §26.12(5). These goals seek to balance the benefits of economic development and multiple human uses, the benefits of protecting, preserving, restoring, and enhancing coastal natural resource areas (CNRAs), and the benefits from public access to and enjoyment of the coastal zone. The proposed Plan is consistent with 31 TAC §26.12(5) as it provides the City with the ability to enhance public access and enjoyment of the coastal zone, protect and preserve and enhance the CNRA, and balance other uses of the coastal zone.

The proposed rule is also consistent with CMP policies in 31 TAC §26.26(a)(4) because it enhances and preserves the ability of the public, individually and collectively, to exercise rights of use and access to and from public beaches through the limited access restrictions imposed by the April 24, 2025 Mitigated FONSI/ROD.

PUBLIC COMMENT REQUEST

To comment on the proposed rulemaking or its consistency with the CMP goals and policies, please send a written comment to Mr. Walter Talley, Texas Register Liaison, Texas General Land Office, P.O. Box 12873, Austin, Texas 78711, email to walter.talley@glo.texas.gov. Written comments must be received no later than 5:00 p.m., thirty (30) days from the date of publication of this proposal.

STATUTORY AUTHORITY

The rule was reviewed under new Tex. Gov. Code § 482.107(8), which allows the Texas Space Commission to issue an order, subject to the approval of the municipality's governing body, to temporarily close in a municipality a highway, venue, or area as specified by Tex. Nat. Res. Code § 33.203(11), and is proposed under Tex. Nat. Res. Code §§ 33.602, 33.607, 61.011, 61.015(b), 61.022 (b) & (c), 63.091, and 63.121, which provide the GLO with the authority to adopt rules governing the preservation and enhancement of the public's right to access and use public beaches and certification of local government beach access and dune protection plans as consistent with state law.

Tex. Nat. Res. Code §§ 33.602, 33.607, 61.011, 61.015(b), 61.022 (b) & (c), 63.091, and 63.121 are affected by the proposed new rule. The GLO hereby certifies that the section as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's authority.

§15.38. Certification Status of the City of Starbase Dune Protection and Beach Access Plan.

The City of Starbase (City) has submitted to the General Land Office a dune protection and beach access plan and erosion response plan, which was adopted by the City on September 25th, 2025. The City's plan is fully certified as consistent with state law.

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 October 13, 2025.

TRD-202503694

Jennifer Jones

Chief Clerk and Deputy Land Commissioner
General Land Office

Earliest possible date of adoption: November 23, 2025

For further information, please call: (512) 475-1859



TITLE 34. PUBLIC FINANCE

PART 3. TEACHER RETIREMENT SYSTEM OF TEXAS

CHAPTER 25. MEMBERSHIP CREDIT

SUBCHAPTER B. COMPENSATION

34 TAC §25.21

The Teacher Retirement System of Texas (TRS) proposes to amend §25.21, relating to Compensation Subject to Deposit and Credit, under Subchapter B (relating to Compensation) of Chapter 25 in Part 3 of Title 34 of the Texas Administrative Code.

BACKGROUND AND PURPOSE

TRS is proposing to amend §25.21 in order to conform with legislation passed during the regular session of the 89th Legislature. Specifically, House Bill 2 (HB 2) amended Government Code §822.201 to provide that any increased compensation paid to an employee by a school district using funds received by the district from the teacher retention allotment (TRA) or support staff retention allotment (SSRA) is creditable compensation. HB 2 added these allotments to the Education Code to provide compensation increases for classroom teachers and other employees. In addition, HB 2 amended Section 822.201 to ensure that regardless of how these increases are distributed to teachers and other employees, the increases would qualify as creditable compensation for the purpose of TRS reporting. Based on these changes, TRS proposes to amend §25.21 to similarly provide that any compensation paid by a school district to an employee from the TRA or SSRA is creditable compensation.

FISCAL NOTE

Don Green, TRS Chief Financial Officer, has determined that for each year of the first five years proposed amended §25.21 will be in effect, there will be no foreseeable fiscal implications for state or local governments as a result of administering the proposed amended rule.

PUBLIC COST/BENEFIT

For each year of the first five years proposed amended §25.21 will be in effect, Mr. Green also has determined that the public benefit anticipated as a result of adopting proposed amended §25.21 will be that the rule will conform with recent statutory changes under HB 2 as discussed above.

Mr. Green has also determined that the public will incur no new costs as a result of proposed amended §25.21.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

TRS has determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities as a result of proposed amended §25.21. Therefore, neither an economic impact statement nor a regulatory flexibility analysis is required under Government Code §2006.002.

LOCAL EMPLOYMENT IMPACT STATEMENT

TRS has determined that there will be no effect on local employment because of proposed amended §25.21. Therefore, no local employment impact statement is required under Government Code §2001.022.

GOVERNMENT GROWTH IMPACT STATEMENT

TRS has determined that for the first five years the proposed amended rule is in effect, proposed amended §25.21 will not create or eliminate any TRS programs; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to TRS; will not eliminate any fees currently paid to TRS; will not create a new regulation; will not repeal or limit an existing regulation; will not increase or decrease the number of individuals subject to the rule's applicability; and will not affect the state's economy.

Proposed amended §25.21 will expand the scope of the rule but only to the extent necessary for the rule to conform with statute.

TAKINGS IMPACT ASSESSMENT

TRS has determined that there are no private real property interests affected by proposed amended §25.21, therefore, a takings impact assessment is not required under Government Code §2007.043.

COSTS TO REGULATED PERSONS

TRS has determined that Government Code §2001.0045 does not apply to proposed amended §25.21 because it does not impose a cost on regulated persons.

COMMENTS

TRS requests written comments regarding the proposed amended rule. The comments may include information related to the costs, benefits, or effects of the proposed amended rule, including any applicable data, research, or analysis, from any person required to comply with the proposed amended rule or any other interested person.

Comments and information regarding the cost, benefit, and effect of the rule may be submitted in writing to Brian Guthrie, TRS Executive Director, P.O. Box 149676, Austin, Texas 78714-0185. Written comments and cost/benefit information must be received by TRS no later than 30 days after publication of this notice in the *Texas Register*.

STATUTORY AUTHORITY

Proposed amended §25.21 is proposed under the authority of Section 1.09 of House Bill 2, 89th Legislature, Regular Session; Government Code § 822.201, which provides that increased compensation paid to an employee by a school district using funds received by the district under the teacher retention allotment under Section 48.158, Education Code or support staff retention allotment under Section 48.1581, Education Code qualifies as "salary and wages" for TRS purposes and is, therefore, subject to deposit and credit by TRS; and Government Code §825.102, which authorizes the board of trustees to adopt rules for administration of the funds of the retirement system and eligibility for membership.

CROSS-REFERENCE TO STATUTE

Proposed amended §25.21 affects the following statutes: Government Code §822.201, relating to member compensation.

§25.21. Compensation Subject to Deposit and Credit.

(a) The contributions required from a member to the Teacher Retirement System of Texas are generally based upon the member's annual compensation. Benefits paid by the retirement system are also generally based in whole or in part upon the annual compensation credited to a member for certain school years. A member's annual compensation for any particular school year has the meaning given by the law and rules applicable for that year. Beginning with the 1981-1982 school year, and for school years thereafter, annual compensation consists of the salary and wages that are paid or payable to a member for employment which is eligible for membership in the retirement system during that school year.

(b) Some payments made by an employer to a member are not salary or wages, even though the payments may be otherwise considered as compensation under the employment contract or federal tax laws. In general salary and wages creditable and subject to deposit are those types of monetary compensation that are recurring base pay for periods of employment and that:

(1) are earned or accrue proportionally as the work is performed, so that a member terminating employment between pay peri-

ods is entitled to a proportional amount of the compensation based on either length of employment or amount of work performed;

(2) are paid or payable at fixed intervals, generally at the end of each pay period; and

(3) are not specifically excluded under subsection (d) of this section.

(c) The following types of monetary compensation are to be included in annual compensation:

(1) amounts deducted from regular pay for the state-deferred compensation program, for a tax-sheltered annuity, or for a deferred compensation arrangement qualifying under the United States Internal Revenue Code, §401(k);

(2) normal payroll deductions which are not tax-exempt or tax-deferred;

(3) additional compensation paid for additional duties, for longevity, for overtime worked as required by law, or for service in a particular location or specialty the employer determines requires additional compensation compared to other employees of that employer, provided that these payments clearly meet the requirements of subsection (b) of this section;

(4) delayed payments of lump-sum amounts which by law or contract should have been paid at fixed intervals and which otherwise meet the requirements of subsection (b) of this section provided the amounts are credited to the payroll period in which they were earned;

(5) amounts withheld from regular pay under a cafeteria plan as provided by §25.22 of this title (relating to Contributions to Cafeteria Plans and Deferred Compensation);

(6) performance pay provided it meets the requirements of §822.201(b)(4), Government Code and §25.24 of this title (relating to Performance Pay);

(7) compensation received under the relevant parts of the educator excellence awards program under Subchapter O, Chapter 21, Education Code, or a mentoring program under §21.458, Education Code, that authorize compensation for service, and compensation earned under the awards for student achievement program under Subchapter N of Chapter 21, Education Code, prior to the repeal of statutory provisions authorizing that program;

(8) a merit salary increase made under §51.962, Education Code;

(9) amounts deducted from regular pay for a qualified transportation benefit under §659.202, Government Code;

(10) compensation designated as health care supplementation by an employee under Subchapter D, Chapter 22, Education Code;

(11) workers' compensation paid as temporary wage replacement pay and reported or verified to TRS and with member contributions paid on the amount of workers' compensation, by the end of the school year following the year in which it was paid. Workers' compensation paid as temporary wage replacement pay and not reported or verified to TRS with member contributions paid on the workers' compensation in the time period provided may be verified and purchased as provided in §25.45 of this title (relating to Verification of Unreported Compensation or Service) and §25.43 of this title (relating to Cost for Unreported Service or Compensation) no later than the end of the fifth year following the school year in which it may be reported or verified under this paragraph; and

(12) increased compensation paid by a school district using funds received by the district under;

(A) the teacher incentive allotment under §48.112, Education Code;[7]

(B) the teacher retention allotment under §48.158, Education Code; or

(C) the support staff retention allotment under §48.1581.

(d) The following are excluded from annual compensation:

(1) allowances, including housing, car, cell phone, and expense allowances;

(2) reimbursements for expenses;

(3) payments for accrued compensatory time for overtime worked or for accrued sick leave or vacation, except that continued payments of normal compensation when vacation, sick, administrative, or emergency leave or compensatory time is actually taken by an employee will be included in annual compensation to the extent otherwise permitted by this section;

(4) benefits, except as provided in subsection (c)(1) of this section, which either are not subject to federal income tax or which will be subject to federal income tax in a future year;

(5) bonus and incentive payments, including signing or retention bonuses that are offered to entice a person to enter into an employment arrangement or to stay for a period of time in an employment arrangement, whether paid under Subchapter O, Chapter 21, the Education Code, or other authority, unless state law expressly provides that a type of bonus or incentive payment is to be considered TRS-creditable compensation;

(6) employer payments for fringe benefits, including direct cash payments in lieu of fringe benefits, except as provided in §25.22 of this title (relating to Contributions to Cafeteria Plans and Deferred Compensation);

(7) payments, except as provided in subsection (c)(1), (2), (5), and (9) of this section, made to third parties for the benefit of a member;

(8) payments for work as an independent contractor or consultant;

(9) all nonmonetary compensation;

(10) active employee health coverage or compensation supplementation or any other amount received by an employee under former Article 3.50-8, Insurance Code; former Chapter 1580, Insurance Code; Subchapter D, Chapter 22, Education Code, as that subchapter existed on January 1, 2006; or Rider 9, page III-39, Chapter 1330, Acts of the 78th Legislature, Regular Session, 2003 (the General Appropriations Act), regardless of whether the employee receives the amount in cash, uses it for payment of health care coverage, or uses it for any other option available by law;

(11) any other fringe benefit;

(12) payments that an employer intentionally does not include in salary and wages because they are not expected to be permanently recurring in each pay period of employment or because they are not considered base pay and that, for the protection of the actuarial soundness of the retirement system, the type of payment should not be included in the calculation of a lifetime retirement benefit intended to replace a percentage of the member's base pay at retirement;

(13) payments for terminating employment or paid as an incentive to terminate employment. Examples of such payments include payments for contract buy-outs, amounts paid pursuant to an

agreement in which the employee agrees to terminate employment or to waive or release rights to future employment, and amounts paid pursuant to early retirement incentive programs or other programs intended to increase the compensation paid to the employee upon receipt of the resignation of the employee or the waiver or release of rights to future employment. Increased compensation paid in the final year of employment prior to retirement that exceeds increases approved by the employer for all employees or classes of employees is presumed to be payment for terminating employment;

(14) payments received under relevant parts of the educator excellence awards program under Subchapter O, Chapter 21, Education Code that do not represent payments for service rendered by the member;

(15) except as provided in §25.28(e) of this title (relating to Payroll Report Dates), amounts paid pursuant to a settlement agreement except that compensation paid to an employee while on paid leave of any type, including paid administrative or emergency leave under the terms of a settlement agreement is creditable under paragraph (3) of this subsection; and

(16) differential pay that is less than 50% of the compensation for service in a full-time position. Differential pay is pay by an employer to a member who leaves membership eligible employment to serve in the military and the pay represents all or some of the difference between what the member earned in the TRS covered employment and what he or she is earning in the military job. Differential pay that is at least 50% of the compensation for full-time service in the membership eligible position may be reported to TRS and deposits submitted at the discretion of the employer.

(e) The maximum amount of compensation of any member that may be taken into account under the retirement system shall not exceed \$150,000 for plan years commencing on or after September 1, 1996. For plan years commencing on or after January 1, 2002, the maximum amount of compensation shall not exceed the limit contained in the Internal Revenue Code §401(a)(17)(A), 26 United States Code §401(a)(17)(A). For plan years beginning before January 1, 1997, in determining the compensation of any member for any year, the family aggregation rules of the Internal Revenue Code §414(q)(6), 26 United States Code §414(q)(6) shall apply except the term "family" shall include only the spouse of the member and any lineal descendants of the member who have not attained age 19 before the end of the year. The limits set forth in the first two sentences of this subsection shall be increased from time to time, to reflect cost of living increases, in accordance with the Internal Revenue Code §401(a)(17), 26 United States Code §401(a)(17). The dollar limitation prescribed in the first two sentences of this subsection shall not apply to limit the compensation of any person who first becomes a member before September 1, 1996. Furthermore, that limitation shall not apply for any period during which such limitation is repealed or is not enforced by the Internal Revenue Service with regard to governmental plans. In applying the limits described in this section, a plan year is September 1 through August 31.

(f) TRS may rely upon employer certifications in determining creditable compensation or may conduct an investigation to determine whether any ineligible compensation has been reported. At the request of TRS, employers will provide copies of any records or information the retirement system requests. Such records may include, but are not limited to, copies of contracts, work agreements, salary schedules or addenda, board minutes, payroll records, or other materials that will assist the retirement system in making a determination.

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 October 8, 2025.
TRD-202503627
Don Green
Chief Financial Officer
Teacher Retirement System of Texas
Earliest possible date of adoption: November 23, 2025
For further information, please call: (512) 542-6506



CHAPTER 31. EMPLOYMENT AFTER RETIREMENT

SUBCHAPTER A. GENERAL PROVISIONS AND PROCEDURES

34 TAC §31.3

The Teacher Retirement System of Texas (TRS) proposes to amend §31.3 (relating to Return-to-Work Employer Pension Surcharge) under Subchapter A (relating to General Provisions and Procedures) of Chapter 31 in Part 3 of Title 34 of the Texas Administrative Code.

BACKGROUND AND PURPOSE

TRS proposes to amend §31.3 to conform with legislation passed during the regular session of the 89th Legislature. Specifically, House Bill 2 (HB 2) repealed Government Code §825.4092(f). This subsection was originally added in 2021 by Senate Bill 202 (SB 202). Subsection 825.4092(f), as added by SB 202, prohibited TRS employers from directly or indirectly passing on the cost of pension or health care surcharges to TRS retirees they employ. To implement SB 202, TRS added this "pass-through prohibition" to §31.3 and §41.4 (relating to Employer Health Benefit Surcharge), which is also proposed for amendment elsewhere in this issue of the *Texas Register*. Because HB 2 repealed Subsection 824.4092(f), TRS staff proposes to remove this provision from §31.3(e) as well.

FISCAL NOTE

Don Green, TRS Chief Financial Officer, has determined that for each year of the first five years the proposed amended rule will be in effect, there will be no foreseeable fiscal implications for state or local governments as a result of administering the proposed amended rule.

PUBLIC COST/BENEFIT

For each year of the first five years the proposed amended rule will be in effect, Mr. Green also has determined that the public benefit anticipated as a result of adopting the proposed amended rule will be for the proposed amended rule to conform with statute.

Mr. Green has also determined that the public will incur no new costs as a result of complying with the proposed amended rule. While it is possible that TRS retirees employed by TRS-covered employers may begin to have the cost of pension or health care surcharges passed on to them by their employers, this change results from the underlying change to statute made by HB 2. TRS' proposed amendment to §31.3 simply implements this change.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEX- IBILITY ANALYSIS

TRS has determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities as a result of the proposed amended rule. Therefore, neither an economic impact statement nor a regulatory flexibility analysis is required under Government Code §2006.002.

LOCAL EMPLOYMENT IMPACT STATEMENT

TRS has determined that there will be no effect on local employment because of the proposed amended rule. Therefore, no local employment impact statement is required under Government Code §2001.022.

GOVERNMENT GROWTH IMPACT STATEMENT

TRS has determined that for the first five years the proposed amended rule is in effect, the proposed amended rule will not create or eliminate any TRS programs; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to TRS; will not eliminate any fees currently paid to TRS; will not create a new regulation; will not expand or repeal an existing regulation; will not increase or decrease the number of individuals subject to the rule's applicability; and will not affect the state's economy.

The proposed amendment will limit the current scope of proposed amended §31.3 because it will remove the pension surcharge pass-through prohibition provision from its requirements as HB 2 has removed that requirement from law.

TAKINGS IMPACT ASSESSMENT

TRS has determined that there are no private real property interests affected by the proposed amended rule, therefore, a takings impact assessment is not required under Government Code §2007.043.

COSTS TO REGULATED PERSONS

TRS has determined that Government Code §2001.0045 does not apply to the proposed amended rule because the proposed amended rule does not impose a cost on regulated persons.

COMMENTS

TRS requests written comments regarding the proposed amended rule. The comments may include information related to the costs, benefits, or effects of the proposed amended rule, including any applicable data, research, or analysis, from any person required to comply with the proposed amended rule or any other interested person.

Comments and information regarding the cost, benefit, and effect of the rule may be submitted in writing to Brian Guthrie, TRS Executive Director, P.O. Box 149676, Austin, Texas 78714-0185. Written comments and cost/benefit information must be received by TRS no later than 30 days after publication of this notice in the *Texas Register*.

STATUTORY AUTHORITY

The proposed amended rule is proposed under the authority of Section 2.20(c) of House Bill 2, 89th Legislature, Regular Session; Government Code §824.604, which provides that board of trustees may adopt rules to administer laws under Subchapter G of Chapter 824 of the Government Code; Government Code §825.4092, which relates to employer contributions for employed retirees; and Government Code §825.102, which authorizes the board of trustees to adopt rules for the transaction of the business of the board.

CROSS-REFERENCE TO STATUTE

The proposed amended rule affects the following statute: Government Code §825.4092, which relates to employer contributions for employed retirees.

§31.3. Return-to-Work Employer Pension Surcharge.

(a) For each report month a retiree is employed by an employer for more than 92 hours in a calendar month and that retiree is not exempt from surcharge under subsection (b) of this section, the employer shall pay to TRS a surcharge based on the compensation paid to the retiree during that report month. The criteria used to determine if a retiree is working more than 92 hours in a calendar month are the same as the criteria for determining one-half time employment under §31.13 of this title (relating to One-half Time Employment) even if the retiree's employment also qualifies for an exception under §31.14 of this title (relating to Full-time Employment after 12 Consecutive Month Break in Service), or §31.15 of this title (relating to Tutors under Education Code §33.913).

(b) Employers are not required to submit employer surcharges based on the employment of a retiree during a calendar month if:

(1) the retiree works 92 hours or less during the applicable report month;

(2) the retiree retired prior to September 1, 2005;

(3) the retiree is employed solely as a substitute and that employment meets all the requirements §31.12 of this title (relating to Substitute Service) even if the retiree's substitute employment also qualifies for another exception under Subchapter B of this chapter (relating to Employment After Retirement Exceptions);

(4) the retiree is employed in multiple positions during the calendar month and does not exceed the limits for such combined employment under §31.19 of this title (relating to Combining EAR Exceptions and Employer Surcharges); or

(5) the retiree's employment is in a position that qualifies as a federally-funded COVID-19 position under §31.16 of this title (relating to Federally-funded COVID-19 Personnel) and Government Code §824.6021.

(c) The amount of the employer surcharge that an employer must contribute to TRS for each retiree subject to surcharge under this section is equal to the sum of the compensation paid to the retiree during the report month multiplied by the member contribution rate in effect for the report month plus the compensation paid to the retiree during the report month multiplied by the state contribution rate in effect for that report month.

(d) If a retiree is employed concurrently in more than one position, the employer surcharge is owed if the combined employment exceeds the monthly limits described by §31.19 of this title. If the employment is with more than one employer, the employer surcharge is owed by each employer.

[(e) Employers shall not directly or indirectly pass the cost of the employer surcharge under this section on to the retiree through payroll deduction, by imposition of a fee, or by any other means designed to recover the cost.]

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 October 8, 2025.

TRD-202503628

Don Green

Chief Financial Officer

Teacher Retirement System of Texas

Earliest possible date of adoption: November 23, 2025

For further information, please call: (512) 542-6506



CHAPTER 41. HEALTH CARE AND INSURANCE PROGRAMS

SUBCHAPTER A. RETIREE HEALTH CARE BENEFITS (TRS-CARE)

34 TAC §41.4

The Teacher Retirement System of Texas (TRS) proposes to amend §41.4, relating to Employer Health Benefit Surcharge, under Subchapter A (relating to Retiree Health Care Benefits (TRS-CARE)) of Chapter 41 in Part 3 of Title 34 of the Texas Administrative Code.

BACKGROUND AND PURPOSE

TRS proposes to amend §41.4 to conform with legislation passed during the regular session of the 89th Legislature. Specifically, House Bill 2 (HB 2) repealed Government Code §825.4092(f). This subsection was originally added in 2021 by Senate Bill 202 (SB 202). Subsection 825.4092(f), as added by SB 202, prohibited TRS employers from directly or indirectly passing on the cost of pension or health care surcharges to TRS retirees they employ. To implement SB 202, TRS added this "pass-through prohibition" to §41.4 and to §31.3 (relating to Return-to-Work Employer Pension Surcharge), which is also proposed for amendment elsewhere in this issue of the *Texas Register*. Because HB 2 repealed Subsection 824.4092(f), TRS staff proposes to remove this provision from §41.4(i) as well.

FISCAL NOTE

Don Green, TRS Chief Financial Officer, has determined that for each year of the first five years the proposed amended §41.4 will be in effect, there will be no foreseeable fiscal implications for state or local governments as a result of administering the proposed amended rule.

PUBLIC COST/BENEFIT

For each year of the first five years proposed amended §41.4 will be in effect, Mr. Green also has determined that the public benefit anticipated as a result of adopting proposed amended §41.4 will be that the rule will conform with recent statutory changes.

Mr. Green has also determined that the public will incur no new costs as a result of proposed amended §41.4. While it is possible that TRS retirees employed by TRS-covered employers may begin to have the cost of pension or health care surcharges passed on to them by their employers, this change results from the underlying change to statute made by HB 2. TRS' proposed amendment to §41.4 simply implements this change.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

TRS has determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities as a result of proposed amended §41.4. Therefore, neither an economic impact statement nor a regulatory flexibility analysis is required under Government Code §2006.002.

LOCAL EMPLOYMENT IMPACT STATEMENT

TRS has determined that there will be no effect on local employment because of proposed amended §41.4. Therefore, no local employment impact statement is required under Government Code §2001.022.

GOVERNMENT GROWTH IMPACT STATEMENT

TRS has determined that for the first five years the proposed amended rule is in effect, proposed amended §41.4 will not create or eliminate any TRS programs; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to TRS; will not eliminate any fees currently paid to TRS; will not create a new regulation; will not expand or repeal an existing regulation; will not increase or decrease the number of individuals subject to the rule's applicability; and will not affect the state's economy.

The proposed amendment will limit the current scope of proposed amended §41.4 because it will remove the health surcharge pass-through prohibition provision from its requirements as HB 2 has removed that requirement from law.

TAKINGS IMPACT ASSESSMENT

TRS has determined that there are no private real property interests affected by proposed amended §41.4, therefore, a takings impact assessment is not required under Government Code §2007.043.

COSTS TO REGULATED PERSONS

TRS has determined that Government Code §2001.0045 does not apply to proposed amended §41.4 because it does not impose a cost on regulated persons.

COMMENTS

TRS requests written comments regarding the proposed amended rule. The comments may include information related to the costs, benefits, or effects of the proposed amended rule, including any applicable data, research, or analysis, from any person required to comply with the proposed amended rule or any other interested person.

Comments and information regarding the cost, benefit, and effect of the proposed amended rule may be submitted in writing to Brian Guthrie, TRS Executive Director, PO Box 149676, Austin, Texas 78714-0185. Written comments and cost/benefit information must be received by TRS no later than 30 days after publication of this notice in the *Texas Register*.

STATUTORY AUTHORITY

Proposed amended §41.4 is proposed under the authority of Section 2.20(c) of House Bill 2, 89th Legislature, Regular Session; Government Code §824.604, which provides that board of trustees may adopt rules to administer laws under Subchapter G of Chapter 824 of the Government Code; Government Code §825.4092, which relates to employer contributions for employed retirees; and Government Code §825.102, which authorizes the board of trustees to adopt rules for the transaction of the business of the board.

CROSS-REFERENCE TO STATUTE

Proposed amended §41.4 affects the following statutes: Government Code §825.4092, relating to employer contributions for employed retirees.

§41.4. Employer Health Benefit Surcharge.

(a) When used in this section, the term "employer" has the meaning given in §821.001(7), Government Code.

(b) For each report month a retiree is enrolled in TRS-Care and working for an employer for more than 92 hours in that calendar month, the employer that reports the employment of the retiree on the Employment of Retired Members Report to TRS shall pay monthly to the Retired School Employees Group Insurance Fund (the Fund) a surcharge established by the Board of Trustees of TRS.

(c) The criteria used to determine if the retiree is working more than 92 hours in that calendar month are the same as the criteria for determining one-half time employment under §31.13 of this title (relating to One-half Time Employment) even if the retiree's employment also qualifies for an exception under §31.14 of this title (relating to Full-time Employment after 12 Consecutive Month Break in Service) or §31.15 of this title (relating to Tutors under Education Code §33.913).

(d) The surcharge is also owed by the employer on any retiree who is enrolled in TRS-Care, is working for a third party entity but is working for more than 92 hours in that calendar month and who is considered an employee of that employer under §824.601(d) of the Government Code.

(e) The surcharge under this section is not owed:

(1) by an employer for any retiree who retired from TRS before September 1, 2005; or

(2) by an employer for a retiree reported as working under the exception for substitute service as provided in §31.12 of this title (relating to Substitute Service) unless that retiree combines substitute service under §31.12 of this title with other non-substitute employment with the same or another employer or third party entity in the same calendar month;

(3) by an employer for any retiree that is employed in multiple positions during a calendar month and does not exceed the limits for such combined employment under §31.19 of this title (relating to Combining EAR Exceptions and Employer Surcharges); or

(4) by an employer for any service retiree that is employed in a position that qualifies as a federally-funded COVID-19 position under §31.16 of this title (relating to Federally-funded COVID-19 Personnel) and Government Code §824.6021.

(f) If more than one employer reports the employment of a retiree who is enrolled in TRS-Care to TRS during any part of a month, the surcharge under this section required to be paid into the Fund by each reporting employer for that month is the total amount of the surcharge due that month divided by the number of reporting employers. The pro rata share owed by each employer is not based on the number of hours respectively worked by the retiree for each employer, nor is it based on the number of days respectively worked during the month by the retiree for each employer.

(g) If a retiree who is enrolled in TRS-Care is employed concurrently by one or more employers in more than one position, the surcharge is owed if the combined employment exceeds the limits for such combined employment under §31.19 of this title.

(h) The employer shall maintain the confidentiality of any information provided to the employer under this section and shall use the information only as needed to carry out the purposes stated in this section and related applicable rules or statutes.

[(i) Employers shall not directly or indirectly pass the cost of the surcharge under this section on to the retiree through payroll deduction, by imposition of a fee, or by any other means designed to recover the cost.]

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 October 8, 2025.

TRD-202503629

Don Green

Chief Financial Officer

Teacher Retirement System of Texas

Earliest possible date of adoption: November 23, 2025

For further information, please call: (512) 542-6506



TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 1. TEXAS DEPARTMENT OF PUBLIC SAFETY

CHAPTER 6. LICENSE TO CARRY HANDGUNS

SUBCHAPTER B. ELIGIBILITY AND APPLICATION PROCEDURES FOR A LICENSE TO CARRY A HANDGUN

37 TAC §6.14, §6.19

The Texas Department of Public Safety (the department) proposes an amendment to §6.14 and proposes a new §6.19, concerning Eligibility And Application Procedures For A License To Carry A Handgun. Proposed amendments to §6.14 clarify that applicants for a license to carry who are tactical medical professionals must submit their certificate of training in accordance with new §6.19, which provides that the certificate of training is valid for one year. Proposed new §6.19 establishes the training, continuing education course, and certification requirements for tactical medical professionals with a license to carry in compliance with House Bill 4995, 89th Leg. R.S. (2025).

Megan Sanchez, Assistant Chief, Finance Division, has determined that for each year of the first five-year period these rules are in effect there will be no fiscal implications for state or local government or local economies.

Ms. Sanchez has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities required to comply with the sections as proposed. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed. There is no anticipated negative impact on local employment.

Ms. Sanchez has determined that for each year of the first five-year period the rules are in effect the public benefit anticipated as a result of these rules will be the effective implementation of legislation and greater clarity, consistency, and transparency in the administration of the License to Carry Handguns Program.

The department has determined this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the

economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

The department has determined that Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the department is not required to complete a takings impact assessment regarding this proposal.

The department prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program; will not require the creation of new employee positions nor eliminate current employee positions; will not require an increase or decrease in future legislative appropriations to the agency; nor will it require an increase or decrease in fees paid to the agency. The proposed rulemaking does create a new regulation and limits an existing regulation. The proposed rulemaking does not expand or repeal an existing regulation. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years the proposed rule is in effect, the proposed rule should not impact positively or negatively the state's economy.

Comments on the proposal may be submitted to Amanda Contrino, Regulatory Services Division, Department of Public Safety, P.O. Box 4087, MSC-0240, Austin, Texas 78773-0240, or by email to RSD.Rule.Comments@dps.texas.gov. Email submission only is preferred. Comments must be received no later than thirty (30) days from the date of publication of this proposal. Persons required to comply with the proposed rules or any other interested person may provide information to the department related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis.

This proposal is made pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; §411.1884 which requires the director to adopt rules establishing minimum standards for an initial training course and an annual continuing education course for tactical medical professionals who hold licenses to carry; and House Bill 4995, 89th Leg., R.S. (2025).

Texas Government Code, §411.004(3) and §411.1884 are affected by this proposal.

§6.14. Proficiency Requirements.

(a) The figure in this section provides the proficiency demonstration requirements applicable to applicants for either a license to carry a handgun or certification as a qualified handgun instructor.

Figure: 37 TAC §6.14(a) (No change.)

(b) An applicant for a license to carry a handgun must score at least 70% on both the written examination and the proficiency examination.

(c) An applicant for a license to carry a handgun will have three opportunities to pass the written examination and the proficiency examination within a 12-month period.

(d) The qualified handgun instructor or approved online course provider must submit all examination failures to the department on the class completion notification. The notification must indicate if the failure occurred after the applicant had been given three opportunities to pass the examinations.

(e) On successful completion of the written or proficiency examinations, the qualified handgun instructor or approved online course provider, as applicable, shall certify the applicant has established his or her proficiency on the form and in the manner determined by the department.

(f) With the exception of first responder certificates of training issued under §6.18 of this title (relating to First Responder Certification; Renewal of Certification) and tactical medical professional certificates of training issued under §6.19 of this title (relating to Tactical Medical Professional Certification; Renewal of Certification), all certificates of training are valid for two years from the date they are issued by the qualified handgun instructor or approved online course provider. Any certificate of training that is required in conjunction with an application must be valid on the date the completed application is submitted to the department.

(g) The qualified handgun instructor shall require all applicants for a license to carry a handgun to complete the range instruction part of the handgun proficiency course before allowing a physical demonstration of handgun proficiency.

§6.19. Tactical Medical Professional Certification; Renewal of Certification.

(a) A license holder who is also a tactical medical professional, as defined in §411.1884, Government Code, may obtain the tactical medical professional certification by:

(1) successfully completing the tactical medical professional certification course offered by a qualified handgun instructor who is certified as a tactical medical professional instructor; and

(2) submitting a request for a tactical medical professional certification, including the certificate of completion provided by the tactical medical professional instructor, and any documentation requested by the department establishing the requestor's employment as a tactical medical professional.

(b) The tactical medical professional certificate of training may be submitted to the department within one year from the date it was issued by the qualified handgun instructor. The tactical medical professional certificate of training must be valid on the date it is submitted to the department.

(c) The tactical medical professional certification must be renewed annually by completing the required continuing education course provided by a certified tactical medical professional instructor and submitting the certificate of training to the department. The certificate of continuing education training is valid for six months from the date of issuance. The certificate of continuing education training must be valid on the date the original tactical medical professional certificate expires.

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 October 13, 2025.

TRD-202503677

D. Phillip Adkins

General Counsel

Texas Department of Public Safety

Earliest possible date of adoption: November 23, 2025

For further information, please call: (512) 424-5848



SUBCHAPTER G. TACTICAL MEDICAL PROFESSIONAL INSTRUCTOR CERTIFICATION

37 TAC §6.111, §6.112

The Texas Department of Public Safety (the department) proposes new §6.111 and §6.112, concerning Tactical Medical Professional Instructor Certification. These new rules are necessary to implement House Bill 4995, 89th Leg. R.S. (2025), which requires the department to establish by rule minimum standards for a training course to be completed by tactical medical professionals who also hold a license to carry. New §6.111 and §6.112 provide the application procedures and training requirements to enable qualified license to carry handgun instructors to obtain the training and certification required to offer the tactical medical professional training course to tactical medical professionals who hold a license to carry.

Megan Sanchez, Assistant Chief, Finance Division, has determined that for each year of the first five-year period these rules are in effect there will be no fiscal implications for state or local government or local economies.

Ms. Sanchez has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities required to comply with the sections as proposed. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed. There is no anticipated negative impact on local employment.

Ms. Sanchez has determined that for each year of the first five-year period the rules are in effect the public benefit anticipated as a result of these rules will be the effective implementation of legislation and greater clarity, consistency, and transparency in the administration of the License to Carry Handguns Program.

The department has determined this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

The department has determined that Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the department is not required to complete a takings impact assessment regarding this proposal.

The department prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program; will not require the creation of new employee positions nor eliminate current employee positions; will not require an increase or decrease in future legislative appropriations to the agency; nor will it require an increase or decrease in fees paid to the agency. The proposed rulemaking does create a new regulation. The proposed rulemaking does not expand, limit, or repeal an existing regulation. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years the proposed rule is in effect, the proposed rule should not impact positively or negatively the state's economy.

Comments on the proposal may be submitted to Amanda Con-
trino, Regulatory Services Division, Department of Public Safety,
P.O. Box 4087, MSC-0240, Austin, Texas 78773-0240, or by
email to RSD.Rule.Comments@dps.texas.gov. Email submis-
sion only is preferred. Comments must be received no later than
thirty (30) days from the date of publication of this proposal. Per-
sons required to comply with the proposed rules or any other
interested person may provide information to the department re-
lated to the cost, benefit, or effect of the proposed rule, including
any applicable data, research, or analysis.

This proposal is made pursuant to Texas Government Code,
§411.004(3), which authorizes the Public Safety Commission
to adopt rules considered necessary for carrying out the de-
partment's work; §411.1884 which requires the director to adopt
rules establishing minimum standards for an initial training
course and an annual continuing education course for tactical
medical professionals who hold licenses to carry; and House
Bill 4995, 89th Leg., R.S. (2025).

Texas Government Code, §411.004(3) and §411.1884 are af-
fected by this proposal.

§6.111. Application for Tactical Medical Professional Instructor Cer-
tification.

(a) A qualified handgun instructor may apply for an instructor
of the tactical medical professional certification course if the applicant's
qualified handgun instructor certification is current and the applicant
has no suspension, revocation or other disciplinary actions pending.

(b) A tactical medical professional instructor certification ap-
plicant is required to attend the department's training course in person.
If the applicant is unable to attend the originally scheduled tactical med-
ical professional instructor course in person, the applicant may request
to be rescheduled for a second tactical medical professional instructor
course. If the applicant fails to attend the second scheduled course, the
application will be terminated, and the applicant is required to submit
a new application to attend a tactical medical professional instructor
course in the future.

(c) A tactical medical professional instructor certification ap-
plicant is required to pass a prequalifying written examination consist-
ing of material from the current license to carry a handgun course. A
passing score of 90% or better must be achieved on the first attempt. A
student scoring less than 90% is not permitted to continue the training
and must reapply as a new applicant for a future course.

(d) A tactical medical professional instructor certification ap-
plicant who passes the prequalifying written examination is required
to demonstrate handgun proficiency using the current license to carry
a handgun course of fire. A passing score of 90% or better must be
achieved on the first attempt. A second attempt may be allowed at
the discretion of the department if the prior failure was the result of a
weapon malfunction. A student may use only one handgun, and the
handgun must meet the requirements of the Act and of this chapter. A
student who scores less than 90% will not be permitted to continue the
training and must reapply as a new applicant for a future course.

(e) Only tactical medical professional instructor certification
applicants who pass the prequalifying written examination and the pro-
ficiency demonstration will be allowed to attend the tactical medical
professional instructor certification course. A student may be removed
from course for reasons described in §6.37 of this title (relating to Con-
duct During Training). Students must pass the department approved fi-
nal written examination for certification with a score of 90% or better.
Failing students must reapply as a new applicant for a future course.

(f) Applicants who pass the course will be provided a certi-
ficate in the form approved by the department.

(g) The tactical medical professional instructor certification
remains valid so long as the instructor's qualified handgun instructor
certification remains valid and is continuously renewed prior to
expiration.

(h) The applicant's qualified handgun instructor certification
must be current as of the date the tactical medical professional instruc-
tor certification course begins. If the qualified handgun instructor cer-
tification has expired course attendance will not be permitted.

§6.112. Tactical Medical Professional Certification Courses.

(a) The tactical medical professional training course described
in Government Code, §411.1884 may only be provided by a certified
tactical medical professional instructor and must be taught using the
department approved curriculum, training materials, and examinations.

(b) Following the classroom portion and the practical exer-
cises, applicants must pass both the department approved final writ-
ten examination and proficiency demonstration with a score of 90% or
better on each. Applicants with a score of less than 90% on the final
written examination and the proficiency demonstration will not receive
a tactical medical professional certificate from the department.

(c) On completion of the tactical medical professional training
course, the certified tactical medical professional instructor who con-
ducted the course must submit a report within five business days to the
department indicating whether the applicants in the course passed or
failed. The report must be submitted in the manner determined by the
department.

(d) Certified tactical medical professional instructors must
comply with this chapter's rules relating to qualified handgun instructor
course scheduling, reporting, and record retention unless otherwise
provided in this section.

(e) Certified tactical medical professional instructors must
submit all failures of written examinations and proficiency demon-
strations to the department on the class completion notification.
The notification must indicate whether the failure occurred after the
applicant had been given three opportunities to pass the examinations.

(f) On successful completion of the written examinations or
proficiency demonstrations, the qualified handgun instructor must cer-
tify the applicant has established the applicant's proficiency on the form
and in the manner determined by the department.

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

Filed with the Office of the Secretary of State on October 13,
2025.

TRD-202503678

D. Phillip Adkins

General Counsel

Texas Department of Public Safety

Earliest possible date of adoption: November 23, 2025

For further information, please call: (512) 424-5848



CHAPTER 10. IGNITION INTERLOCK DEVICE

SUBCHAPTER C. MILITARY SERVICE MEMBERS, VETERANS, AND SPOUSES - SPECIAL CONDITIONS FOR VENDOR AUTHORIZATIONS

37 TAC §10.24, §10.25

The Texas Department of Public Safety (the department) proposes an amendment to §10.24 and proposes new §10.25, concerning Military Service Members, Veterans, And Spouses - Special Conditions For Vendor Authorizations. The proposed amendment and new rule implement House Bill 5629, 89th Leg., R.S. (2025) by clarifying the alternative vendor authorization or licensing process and by establishing new rules for recognizing another state's license similar in scope of practice to the vendor authorization in this state for the Ignition Interlock Device Program.

Megan Sanchez, Assistant Chief, Finance Division, has determined that for each year of the first five-year period these rules are in effect there will be no fiscal implications for state or local government or local economies.

Ms. Sanchez has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities required to comply with the sections as proposed. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed. There is no anticipated negative impact on local employment.

Ms. Sanchez has determined that for each year of the first five-year period the rules are in effect the public benefit anticipated as a result of these rules will be the effective implementation of legislation and greater clarity, consistency, and transparency in the administration of the Ignition Interlock Device Program for military service members, veterans, and spouses.

The department has determined this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

The department has determined that Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the department is not required to complete a takings impact assessment regarding this proposal.

The department prepared a Government Growth Impact State-ment assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program; will not require the creation of new employee positions nor eliminate current employee positions; will not require an increase or decrease in future legislative appropriations to the agency; nor will it require an increase or decrease in fees paid to the agency. The proposed rulemaking does create a new regulation. The proposed rulemaking does not expand, limit, or repeal an existing regulation. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years the proposed rule is in effect, the proposed rule should not impact positively or negatively the state's economy.

Comments on the proposal may be submitted to Amanda Contrino, Regulatory Services Division, Department of Public Safety, P.O. Box 4087, MSC-0240, Austin, Texas 78773-0240, or by email to RSD.Rule.Comments@dps.texas.gov. Email submission only is preferred. Comments must be received no later than thirty (30) days from the date of publication of this proposal. Persons required to comply with the proposed rules or any other interested person may provide information to the department related to the cost, benefit, or effect of the proposed rule, including any applicable, data, research, or analysis.

This proposal is made pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; Texas Transportation Code, §521.247, which authorizes the department to adopt rules for the approval of ignition interlock devices; §521.2476, which authorizes the department to establish by rule minimum standards for vendors of ignition interlock devices who conduct business in this state and procedures to ensure compliance with those standards; and House Bill 5629, 89th Leg., R.S. (2025).

Texas Government Code, §411.004(3); Texas Transportation Code, §521.247 and §521.2476; and Texas Occupations Code, §55.004 and §55.0041 are affected by this proposal.

§10.24. Alternative Licensing for Military Service Members, Military Veterans, and Military Spouses.

(a) An individual who is a military service member, military veteran, or military spouse may apply for a vendor authorization under this section if the individual:

(1) Holds a current authorization issued by another state that is similar in scope of practice to the vendor authorization in this state and is in good standing with that state's licensing authority [jurisdiction with licensing requirements substantially equivalent to the Act's requirements for the authorization]; or

(2) Within the 5 years preceding the application date, held a vendor authorization in this state.

(b) The department may accept alternative demonstrations of professional competence in lieu of existing experience, training, or educational requirements.

§10.25. Recognition of Out-of-State License for Military Service Members and Military Spouses.

Pursuant to Occupations Code, §55.0041, the department's determination of whether another state's license held by a military service member or military spouse is similar in the scope of practice to that of the Texas vendor authorization will be made upon receipt of the application for recognition of the out-of-state license by comparing the other state's license requirements, including its statutes, rules, and application review process, with the department's requirements to determine if the requirements are similar in scope of practice.

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 October 13, 2025.

TRD-202503679



CHAPTER 23. VEHICLE INSPECTION

SUBCHAPTER C. VEHICLE INSPECTION STATION OPERATION

37 TAC §23.25

The Texas Department of Public Safety (the department) proposes an amendment to §23.25, concerning Vehicle Inspection Fees. The amendment removes subsection (e) to implement Senate Bill 1729, 89th Leg., R.S. (2025), which repeals the department's authority to establish the three-year inspection fee for certain rental vehicles.

Megan Sanchez, Assistant Chief, Finance Division, has determined that for each year of the first five-year period this rule is in effect there may be a decrease in revenue to the state because of the elimination of the three-year inspection fee for certain rental vehicles as repealed in Senate Bill 1729. The department cannot provide an estimate of this impact because the fee was collected by the Texas Department of Motor Vehicles, and not by the Texas Department of Public Safety. However, the fiscal note to Senate Bill 1729 indicated there was no significant fiscal impact anticipated to the state. There are no other fiscal implications for local government or local economies.

Ms. Sanchez has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities required to comply with the section as proposed. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed. There is no anticipated negative impact on local employment.

Ms. Sanchez has determined that for each year of the first five-year period the rule is in effect the public benefit anticipated as a result of this rule will be the effective implementation of legislation and greater clarity, consistency, and transparency in the administration of the Vehicle Inspection Program.

The department has determined this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

The department has determined that Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the department is not required to complete a takings impact assessment regarding this proposal.

The department prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program; will not require the creation of new employee positions nor eliminate current employee positions; will not require an increase or

decrease in future legislative appropriations to the agency; nor will it require an increase or decrease in fees paid to the agency. The proposed rulemaking does not create a new regulation. The proposed rulemaking does limit an existing regulation but does not expand or repeal it. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years the proposed rule is in effect, the proposed rule should not impact positively or negatively the state's economy.

Comments on the proposal may be submitted to Amanda Contrino, Regulatory Services Division, Department of Public Safety, P.O. Box 4087, MSC-0240, Austin, Texas 78773-0240, or by email to RSD.Rule.Comments@dps.texas.gov. Email submission only is preferred. Comments must be received no later than thirty (30) days from the date of publication of this proposal. Persons required to comply with the proposed rules or any other interested person may provide information to the department related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis.

This proposal is made pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; Texas Transportation Code, §548.002, which authorizes the department to adopt rules to administer and enforce this chapter; and Senate Bill 1729, 89th Leg., R.S. (2025).

Texas Government Code, §411.004(3) and Texas Transportation Code, §548.002, §548.1025, and §548.5035 are affected by this proposal.

§23.25. Vehicle Inspection Fees.

(a) The vehicle inspection fee is a charge for performing the vehicle inspection only and may not exceed the amount set by Texas Transportation Code, Chapter 548 or this chapter.

(b) The vehicle inspection station may collect the station portion of the inspection fee at the time of the original inspection whether the vehicle is passed or rejected.

(c) Charges for additional services related to the repair, replacement, or adjustment of the required items of inspection must be expressly authorized, or approved by the customer, and must be separately listed on the bill from the statutorily mandated inspection fee.

(d) A vehicle inspection station or vehicle inspector may not advertise, charge, or attempt to charge a fee in a manner that could reasonably be expected to cause confusion or misunderstanding on the part of an owner or operator presenting a vehicle regarding the relationship between the statutorily mandated inspection fee and a fee for any other service or product offered by the vehicle inspection station.

~~[(e) The initial three-year fee for inspection of certain rental vehicles meeting the requirements of Texas Transportation Code, §548.1025 shall be \$22.08.]~~

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 October 13, 2025.

TRD-202503680



SUBCHAPTER I. MILITARY SERVICE MEMBERS, VETERANS, AND SPOUSES-- SPECIAL CONDITIONS

37 TAC §23.93, §23.95

The Texas Department of Public Safety (the department) proposes an amendment to §23.93 and new §23.95, concerning Military Service Members, Veterans, and Spouses--Special Conditions. The proposed amendment and new rule implement House Bill 5629, 89th Leg., R.S. (2025) by clarifying the alternative certificate or licensing process and by establishing new rules for recognizing another state's license similar in scope of practice to the certificate in this state for the Vehicle Inspection Program.

Megan Sanchez, Assistant Chief, Finance Division, has determined that for each year of the first five-year period these rules are in effect there will be no fiscal implications for state or local government or local economies.

Ms. Sanchez has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities required to comply with the sections as proposed. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed. There is no anticipated negative impact on local employment.

Ms. Sanchez has determined that for each year of the first five-year period these rules are in effect the public benefit anticipated as a result of this rule will be the effective implementation of legislation and greater clarity, consistency, and transparency in the administration of the Vehicle Inspection Program for military service members, veterans, and spouses.

The department has determined this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

The department has determined that Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the department is not required to complete a takings impact assessment regarding this proposal.

The department prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program; will not require the creation of new employee positions nor eliminate current employee positions; will not require an increase or decrease in future legislative appropriations to the agency; nor will it require an increase or decrease in fees paid to the agency. The proposed rulemaking does create a new regulation. The

proposed rulemaking does not expand, limit, or repeal an existing regulation. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years the proposed rule is in effect, the proposed rule should not impact positively or negatively the state's economy.

Comments on the proposal may be submitted to Amanda Contrino, Regulatory Services Division, Department of Public Safety, P.O. Box 4087, MSC-0240, Austin, Texas 78773-0240, or by email to RSD.Rule.Comments@dps.texas.gov. Email submission only is preferred. Comments must be received no later than thirty (30) days from the date of publication of this proposal. Persons required to comply with the proposed rules or any other interested person may provide information to the department related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis.

This proposal is made pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; Texas Transportation Code, §548.002, which authorizes the department to adopt rules to administer and enforce this chapter; and House Bill 5629, 89th Leg., R.S. (2025).

Texas Government Code, §411.004(3); Texas Transportation Code, §548.002; and Texas Occupations Code, §55.004 and §55.0041 are affected by this proposal.

§23.93. Alternative Licensing for Military Service Members, Military Veterans, and Military Spouses.

(a) An individual who is a military service member, military veteran, or military spouse may apply for a certificate under this section if the individual:

(1) Holds a current certificate issued by another state that is similar in scope of practice to the certificate in this state and is in good standing with that state's licensing authority [jurisdiction with licensing requirements substantially equivalent to the Act's requirements for the certificate]; or

(2) Within the five (5) years preceding the application date held a certificate in this state.

(b) The department may accept alternative demonstrations of professional competence in lieu of existing experience, training, or educational requirements.

§23.95. Recognition of Out-of-State License for Military Service Members and Military Spouses.

Pursuant to Occupations Code, §55.0041, the department's determination of whether another state's license held by a military service member or military spouse is similar in the scope of practice to that of the Texas certificate will be made upon receipt of the application for recognition of the out-of-state license by comparing the other state's license requirements, including its statutes, rules, and application review process, with the department's requirements to determine if the requirements are similar in scope of practice.

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 October 13, 2025.

TRD-202503681



CHAPTER 35. PRIVATE SECURITY

SUBCHAPTER O. MILITARY SERVICE MEMBERS, MILITARY VETERANS, AND MILITARY SPOUSES - SPECIAL CONDITIONS

37 TAC §35.183, §35.186

The Texas Department of Public Safety (the department) proposes an amendment to §35.183 and proposes new §35.186, concerning Military Service Members, Military Veterans, And Military Spouses - Special Conditions. The proposed amendment and new rule implement House Bill 5629, 89th Leg., R.S. (2025) by clarifying the alternative licensing process and by establishing new rules for recognizing another state's license similar in scope of practice to the license in this state for the Private Security Program.

Megan Sanchez, Assistant Chief, Finance Division, has determined that for each year of the first five-year period these rules are in effect there will be no fiscal implications for state or local government or local economies.

Ms. Sanchez has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities required to comply with the sections as proposed. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed. There is no anticipated negative impact on local employment.

Ms. Sanchez has determined that for each year of the first five-year period the rules are in effect the public benefit anticipated as a result of these rules will be the effective implementation of legislation and greater clarity, consistency, and transparency in the administration of the Private Security Program for military service members, veterans, and spouses.

The department has determined this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

The department has determined that Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the department is not required to complete a takings impact assessment regarding this proposal.

The department prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program; will not require the creation of new employee positions nor eliminate current employee positions; will not require an increase or decrease in future legislative appropriations to the agency; nor will it require an increase or decrease in fees paid to the agency.

The proposed rulemaking does create a new regulation. The proposed rulemaking does not expand, limit, or repeal an existing regulation. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years the proposed rule is in effect, the proposed rule should not impact positively or negatively the state's economy.

Comments on the proposal may be submitted to Amanda Contrino, Regulatory Services Division, Department of Public Safety, P.O. Box 4087, MSC-0240, Austin, Texas 78773-0240, or by email to RSD.Rule.Comments@dps.texas.gov. Email submission only is preferred. Comments must be received no later than thirty (30) days from the date of publication of this proposal. Persons required to comply with the proposed rules or any other interested person may provide information to the department related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis.

This proposal is made pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; Texas Occupations Code, §1702.061(a), which authorizes the Public Safety Commission to adopt rules and general policies to guide the department in the administration of this chapter; and House Bill 5629, 89th Leg., R.S. (2025).

Texas Government Code, §411.004(3) and Texas Occupation Code, §55.004, §55.0041, and §1702.061(a) are affected by this proposal.

§35.183. Alternative Licensing for Military Service Members, Military Veterans, and Military Spouses.

(a) An individual who is a military service member, military veteran, or military spouse may apply for a license under this section if the individual:

(1) Holds a current license issued by another state that is similar in scope of practice to the license in this state and is in good standing with that state's licensing authority [jurisdiction with licensing requirements substantially equivalent to the Act's requirements for the authorization]; or

(2) Within the five (5) years preceding the application date held the license in this state.

(b) The department may accept alternative demonstrations of professional competence in lieu of existing experience, training, or educational requirements.

§35.186. Recognition of Out-of-State License for Military Service Members and Military Spouses.

Pursuant to Occupations Code, §55.0041, the department's determination of whether another state's license held by a military service member or military spouse is similar in the scope of practice to that of the Texas license will be made upon receipt of the application for recognition of the out-of-state license by comparing the other state's license requirements, including its statutes, rules, and application review process, with the department's requirements to determine if the requirements are similar in scope of practice.

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 October 13, 2025.

TRD-202503682



CHAPTER 36. METALS RECYCLING ENTITIES

SUBCHAPTER C. PRACTICE BY CERTIFICATE HOLDERS AND REPORTING REQUIREMENTS

37 TAC §36.33, §36.39

The Texas Department of Public Safety (the department) proposes an amendment to §36.33 and proposes a new §36.39, concerning Practice By Certificate Holders And Reporting Requirements. The proposed amendment and proposed new rule are necessary to implement Senate Bill 1646, 89th Leg., R.S. (2025). The amendment to §36.33 outlines the documentation a seller who sells insulated communications wire must provide to a metal recycling entity to establish that the wire was salvaged from a fire, and proposed new §36.39 establishes the method by which a metal recycling entity is required to document the type of seller from which the entity purchased or acquired copper or brass material.

Megan Sanchez, Assistant Chief, Finance Division, has determined that for each year of the first five-year period these rules are in effect there will be no fiscal implications for state or local government or local economies.

Ms. Sanchez has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities required to comply with the sections as proposed. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed. There is no anticipated negative impact on local employment.

Ms. Sanchez has determined that for each year of the first five-year period these rules are in effect the public benefit anticipated as a result of these rules will be the effective implementation of legislation and greater clarity, consistency, and transparency in the administration of the Metals Recycling Entities Program.

The department has determined this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

The department has determined that Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the department is not required to complete a takings impact assessment regarding this proposal.

The department prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program;

will not require the creation of new employee positions nor eliminate current employee positions; will not require an increase or decrease in future legislative appropriations to the agency; nor will it require an increase or decrease in fees paid to the agency. The proposed rulemaking does create a new regulation and expands an existing regulation. The proposed rulemaking does not limit or repeal an existing regulation. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years the proposed rule is in effect, the proposed rule should not impact positively or negatively the state's economy.

Comments on the proposal may be submitted to Amanda Contrino, Regulatory Services Division, Department of Public Safety, P.O. Box 4087, MSC-0240, Austin, Texas 78773-0240, or by email to RSD.Rule.Comments@dps.texas.gov. Email submission only is preferred. Comments must be received no later than thirty (30) days from the date of publication of this proposal. Persons required to comply with the proposed rules or any other interested person may provide information to the department related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis.

This proposal is made pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; Texas Occupations Code, §1956.013, which authorizes the Public Safety Commission to adopt rules to administer this chapter; §1956.0134(e), which authorizes the Public Safety Commission to adopt rules establishing the method by which a metal recycling entity is required to document in a record the type of seller from which the entity purchased or acquired copper or brass material; §1956.0134(f), which authorizes the Public Safety Commission to establish the type of documentation that a person selling insulated communications wire must provide to a metal recycling entity to establish that the wire was salvaged from a fire; and Senate Bill 1646, 89th Leg., R.S. (2025).

Texas Government Code, §411.004(3) and Texas Occupations Code, §1956.013, §1956.133, §1956.134, and §1956.137 are affected by this proposal.

§36.33. Documentation on Fire-Salvaged Insulated Communications Wire.

(a) Pursuant to §1956.032(a)(5) and (h) of the Act, a person attempting to sell insulated communications wire that has been burned wholly or partly to remove the insulation must display to the purchasing metal recycling entity documentation of the seller's ownership of the property at which the fire occurred or an affidavit from the owner reflecting the owner's consent for the material to be removed and sold.

(b) Pursuant to §1956.134(b)(3) and (f) of the Act, a seller listed in §1956.133 of the Act, attempting to sell copper or brass material containing insulated communications wire that has been burned wholly or partly to remove the insulation, must display to the purchasing metal recycling entity that the wire is salvaged from a fire by either:

(1) documentation of the seller's ownership of the property at which the fire occurred; or

(2) an affidavit from the owner reflecting the owner's consent for the material to be removed and sold.

§36.39. Documentation of Seller Type for Certain Copper or Brass Material.

(a) A metal recycling entity shall keep an accurate electronic record or an accurate and legible written record of each purchase of

copper or brass material made in the course of the entity's business. The record must clearly identify the type of seller listed in §1956.133 of the Act, from which a metal recycling entity purchased or acquired copper or brass material as defined in §1956.133 of the Act.

(b) The record indicating the type of seller must be in a retrievable format and available for inspection as part of the records requirements pursuant to §1956.134 of the Act.

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 October 13, 2025.

TRD-202503683

D. Phillip Adkins

General Counsel

Texas Department of Public Safety

Earliest possible date of adoption: November 23, 2025

For further information, please call: (512) 424-5848



SUBCHAPTER D. MILITARY EXEMPTIONS

37 TAC §36.43, §36.45

The Texas Department of Public Safety (the department) proposes an amendment to §36.43 and proposes new §36.45, concerning Military Exemptions. The proposed amendment and new rule implement House Bill 5629, 89th Leg., R.S. (2025) by clarifying the alternative certificate or licensing process and by establishing a new rule for recognizing another state's license similar in scope of practice to the certificate of registration in this state for the Metals Recycling Entities Program.

Megan Sanchez, Assistant Chief, Finance Division, has determined that for each year of the first five-year period these rules are in effect there will be no fiscal implications for state or local government or local economies.

Ms. Sanchez has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities required to comply with the sections as proposed. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed. There is no anticipated negative impact on local employment.

Ms. Sanchez has determined that for each year of the first five-year period the rules are in effect the public benefit anticipated as a result of these rules will be the effective implementation of legislation and greater clarity, consistency, and transparency in the administration of the Metals Recycling Entities Program for military service members, veterans, and spouses.

The department has determined this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

The department has determined that Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the department is not required to complete a takings impact assessment regarding this proposal.

The department prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program; will not require the creation of new employee positions nor eliminate current employee positions; will not require an increase or decrease in future legislative appropriations to the agency; nor will it require an increase or decrease in fees paid to the agency. The proposed rulemaking does create a new regulation. The proposed rulemaking does not expand, limit, or repeal an existing regulation. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years the proposed rule is in effect, the proposed rule should not impact positively or negatively the state's economy.

Comments on the proposal may be submitted to Amanda Contrino, Regulatory Services Division, Department of Public Safety, P.O. Box 4087, MSC-0240, Austin, Texas 78773-0240, or by email to RSD.Rule.Comments@dps.texas.gov. Email submission only is preferred. Comments must be received no later than thirty (30) days from the date of publication of this proposal. Persons required to comply with the proposed rules or any other interested person may provide information to the department related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis.

This proposal is made pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; Texas Occupations Code, §1956.013, which authorizes the Public Safety Commission to adopt rules to administer this chapter; and House Bill 5629, 89th Leg., R.S. (2025).

Texas Government Code, §411.004(3) and Texas Occupation Code, §55.004, §55.0041, and §1956.013 are affected by this proposal.

§36.43. Alternative Registration Procedures for Military Service Members, Military Veterans, and Military Spouses.

(a) An applicant who is a military service member, military veteran, or military spouse may apply for a certificate of registration under this section if the applicant:

(1) Establishes to the satisfaction of the department that the applicant holds a current certificate of registration or the equivalent issued by another state that is similar in scope of practice to the certificate of registration in this state and is in good standing with that state's licensing authority [jurisdiction with requirements substantially equivalent to the Act's requirements for the certificate of registration]; or

(2) Within the five (5) years preceding the application date held the certificate of registration in this state.

(b) The department may accept alternative demonstrations of professional competence in lieu of existing experience, training, or educational requirements.

§36.45. Recognition of Out-of-State License for Military Service Members and Military Spouses.

Pursuant to Occupations Code, §55.0041, the department's determination of whether another state's license held by a military service member or military spouse is similar in the scope of practice to that of the Texas certificate of registration will be made upon receipt of the application for recognition of the out-of-state license by comparing the other

state's license requirements, including its statutes, rules, and application review process, with the department's requirements to determine if the requirements are similar in scope of practice.

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 October 13, 2025.

TRD-202503684

D. Phillip Adkins

General Counsel

Texas Department of Public Safety

Earliest possible date of adoption: November 23, 2025

For further information, please call: (512) 424-5848



SUBCHAPTER E. DISCIPLINARY PROCEDURES AND ADMINISTRATIVE PROCEDURES

37 TAC §36.60

The Texas Department of Public Safety (the department) proposes amendments to §36.60, concerning Administrative Penalties. The proposed amendments modify the penalty schedule and add penalties for violation of proposed changes to §36.33, concerning Documentation of Fire-Salvaged Insulated Communications Wire and §36.39, concerning Documentation of Seller Type for Certain Copper or Brass Material. These changes are necessary to implement Senate Bill 1646, 89th Leg., R.S. (2025).

Megan Sanchez, Assistant Chief, Finance Division, has determined that for each year of the first five-year period this rule is in effect there will be no fiscal implications for state or local government or local economies.

Ms. Sanchez has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities required to comply with the section as proposed. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed. There is no anticipated negative impact on local employment.

Ms. Sanchez has determined that for each year of the first five-year period the rule is in effect the public benefit anticipated as a result of this rule will be the effective implementation of legislation and greater clarity, consistency, and transparency in the administration of the Metals Recycling Program.

The department has determined this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

The department has determined that Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly,

the department is not required to complete a takings impact assessment regarding this proposal.

The department prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program; will not require the creation of new employee positions nor eliminate current employee positions; will not require an increase or decrease in future legislative appropriations to the agency; nor will it require an increase or decrease in fees paid to the agency. The proposed rulemaking does not create a new regulation. The proposed rulemaking does not limit or repeal an existing regulation, but does expand an existing regulation. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years the proposed rule is in effect, the proposed rule should not impact positively or negatively the state's economy.

Comments on the proposal may be submitted to Amanda Contrino, Regulatory Services Division, Department of Public Safety, P.O. Box 4087, MSC-0240, Austin, Texas 78773-0240, or by email to RSD.Rule.Comments@dps.texas.gov. Email submission only is preferred. Comments must be received no later than thirty (30) days from the date of publication of this proposal. Persons required to comply with the proposed rules or any other interested person may provide information to the department related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis.

This proposal is made pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; Texas Occupations Code, §1956.013, which authorizes the Public Safety Commission to adopt rules to administer this chapter; and Senate Bill 1646, 89th Leg., R.S. (2025).

Texas Government Code, §411.004(3) and Texas Occupations Code, §1956.013, §1956.133, §1956.134, and §1956.137 are affected by this proposal.

§36.60. Administrative Penalties.

(a) The figure in this section reflects the department's penalty schedule applicable to administrative penalties imposed under this section. For any violation not expressly addressed in the penalty schedule, the department may impose a penalty not to exceed \$500 for the first (1st) violation. For the second (2nd) violation within the preceding one (1) year period, the penalty may not exceed \$1,000.

Figure: 37 TAC §36.60(a)

[Figure: 37 TAC §36.60(a)]

(b) Upon receipt of a notice of administrative penalty under this section, a person may request a hearing before the department pursuant to §36.56 of this title (relating to Informal Hearing; Settlement Conference).

(c) The failure to pay an administrative penalty that has become final, whether by the passage of the deadline to appeal or by final court disposition, whichever is later, shall result in suspension of the license with no further notice or right to appeal. The suspension takes effect when the appeal deadline has passed and remains in effect until the penalty is paid in full.

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 October 13, 2025.



CHAPTER 39. AUTOMATED MOTOR VEHICLES

37 TAC §§39.1 - 39.3

The Texas Department of Public Safety (the department) proposes new §§39.1 - 39.3, concerning Automated Motor Vehicles. The proposed new Chapter 39 is necessary to implement Senate Bill 2807, 89th Leg., R.S. (2025), regarding an authorization for a person to operate one or more automated motor vehicles to transport property or passengers in furtherance of a commercial enterprise on highways and streets in this state without a human driver.

Proposed new §39.1 provides the purpose and scope of proposed new Chapter 39. Proposed new §39.2 provides definitions and a cross reference to the definitions contained in Transportation Code, Chapter 545, Subchapter J. Proposed new §39.3 prescribes the form and manner by which a person must submit a first responder interaction plan to the department.

Megan Sanchez, Assistant Chief, Finance Division, has determined that for each year of the first five-year period these rules are in effect there will be no fiscal implications for state or local government or local economies.

Ms. Sanchez has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities required to comply with these sections as proposed. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed. There is no anticipated negative impact on local employment.

Ms. Sanchez has determined that for each year of the first five-year period the rules are in effect the public benefit anticipated as a result of these rules is safety of the traveling public and consistent requirements for the automated motor vehicle industry operating in Texas.

The department has determined this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

The department has determined that Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the department is not required to complete a takings impact assessment regarding this proposal.

The department prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program; will not require the creation of new employee positions nor elim-

inate current employee positions; will not require an increase or decrease in future legislative appropriations to the agency; nor will it require an increase or decrease in fees paid to the agency. The proposed rulemaking does create a new regulation. The proposed rulemaking does not expand, limit, or repeal an existing regulation. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years the proposed rule is in effect, the proposed rule should not impact positively or negatively the state's economy.

Comments on this proposal may be submitted to Captain Oscar Luna, Texas Highway Patrol Division, Texas Department of Public Safety, 5805 North Lamar Blvd., Austin, Texas 78752 or by email at Oscar.Luna@dps.texas.gov. Comments must be received no later than thirty (30) days from the date of publication of this proposal. Persons required to comply with the proposed rules or any other interested person may provide information to the department related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis.

This proposal is made pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; Texas Transportation Code, §545.455(c)(2), which authorizes the department to adopt rules for a plan specifying how a person who provides firefighting, law enforcement, ambulance, medical, or other emergency services should interact with the automate motor vehicle during the provision of those services; and Senate Bill 2807, 89th Leg., R.S. (2025).

Texas Government Code, §411.004(3) and Texas Transportation Code, §545.455 are affected by this proposal.

§39.1. Purpose and Scope.

This chapter prescribes the form and manner by which a person must submit a first responder interaction plan to the department specifying how a first responder should interact with the automated motor vehicle during the provision of services under Transportation Code, §545.455.

§39.2. Definitions.

(a) The definitions contained in Transportation Code, Chapter 545, Subchapter J govern this chapter. In the event of a conflict, the definitions referenced in Transportation Code, Chapter 545, Subchapter J control.

(b) First responder--A person who provides firefighting, law enforcement, ambulance, medical, or other emergency services.

(c) First responder interaction plan--A document of procedures that are developed by an authorization holder, manufacturer of an automated motor vehicle, or manufacturer of an automated driving system to be used by first responders when interacting with an automated motor vehicle.

§39.3. Submission Requirements.

(a) Prior to seeking authorization from the Texas Department of Motor Vehicles to operate one or more automated motor vehicles under Transportation Code, §545.456, a person must provide a first responder interaction plan to the department.

(b) A first responder interaction plan for one or more automated motor vehicles under Transportation Code, §545.455 must be:

(1) Submitted electronically in the department's designated system; and

(2) Prepared by or on behalf of the authorization holder, the manufacturer of the automated motor vehicle, or the manufacturer of the automated driving system.

(c) A first responder interaction plan must contain:

(1) How to communicate with a fleet support specialist who is available during the period in which the automated motor vehicle is in operation. The means of communication must include a telephone number that is prominently displayed on the vehicle in distinguishing markings that are sufficient to ensure clear identification by first responders. A Quick Response (QR) code must be affixed and displayed next to the telephone number which when scanned provides the first responder with direct electronic access to the first responder interaction plan;

(2) How to safely remove the automated motor vehicle from the roadway and safely tow the vehicle;

(3) How to recognize whether the automated motor vehicle is being operated with the automated driving system engaged;

(4) Any additional information the authorization holder, the manufacturer of the automated motor vehicle, or the manufacturer of the automated driving system considers necessary regarding hazardous conditions or public safety risks associated with the operation of the vehicle; and

(5) Contact information for the person that prepared, or on whose behalf the plan was prepared, the first responder interaction plan. The contact information must include the name, title, and contact details of the designee authorized and responsible for any enforcement action arising during the operation of the automated motor vehicle.

(d) Following the initial submission of a first responder interaction plan, a person, the manufacturer of the automated motor vehicle, or the manufacturer of the automated driving system must provide the department with an updated first responder interaction plan whenever a material change occurs or upon request of the department to ensure the information remains accurate and current. The person must electronically submit the updated plan consistent with subsection (b) 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.

Filed with the Office of the Secretary of State on October 13, 2025.

TRD-202503686

D. Phillip Adkins

General Counsel

Texas Department of Public Safety

Earliest possible date of adoption: November 23, 2025

For further information, please call: (512) 424-5848

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