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 7. BANKING AND SECURITIES

PART 7. STATE SECURITIES BOARD

CHAPTER 115. SECURITIES DEALERS AND AGENTS

7 TAC §115.18

The Texas State Securities Board proposes an amendment to §115.18, Special Provisions Relating to Military Applicants. The proposed amendment is necessary to implement House Bill 5629 and Senate Bill 1818 (89th Legislature, Regular Session (2025)) which amend state law relating to occupational licensing and recognition of out-of-state occupational licenses for military service members, military veterans, and military spouses (collectively, "military applicants"). The changes further expedite and simplify the process for military applicants who seek occupational licenses in Texas.

Related forms are being concurrently proposed, as are comparable amendments to the corresponding rule for investment advisers and investment adviser representatives.

Several changes would be made to §115.18 to align with state law requirements. The section would be amended to remove certain refund and waiver conditions imposed on military applicants. The time limits for Agency staff to issue registrations or recognitions for military applicants would be reduced. The section's provisions relating to recognition of out-of-state licenses would also be amended to change the documentation requirements and extend the duration of recognition periods for military service members and spouses. A publishing error would be corrected, and other changes would be made for clarity and consistency.

Subsection (a) would be amended to change the definitions for "current registration" and "good standing" to align with amended Texas Occupations Code §55.0042.

Subsection (b)(2) would be amended to require Registration staff to register military applicants who have requested expedited review to be registered within five business days of their request for expedited review.

Currently, military applicants who are new to the industry (i.e., those who have not been previously registered in another state) are not eligible for refunds or waivers of initial registration fees or fees for the Texas securities law examination. Subsection (c), which concerns waivers and refunds of fees, would be amended to remove those qualifying conditions set forth in (c)(1)(A) and (B). This change would slightly increase the number of military applicants who are eligible for and would benefit from the waivers and refund provisions in this section.

The caption for subsection (h) would be amended to re-insert the missing word "of" after the word "Recognition" that was recently removed from the official rule text due to a publishing error. Paragraph (1) of subsection (h) would be amended to pluralize the word "procedure" for consistency and clarity.

Paragraph (2) of subsection (h) would be amended to add language to extend the duration of the recognition period of a military spouse (which would be for as long as the military spouse is located in Texas), and to state the duration of the recognition period of a former military spouse (which would be for as long as the former military spouse is located in Texas but only until the third anniversary of the recognition date). The three-year limit on the duration of the recognition period for military service members and spouses residing in Texas in the existing rule would also be removed. This change would extend the duration of the "free" recognition period for eligible military applicants who are recognized under this subsection, which would consequently result in the waiver or refund of the applicants' annual renewal fees owed during the duration of this recognition period.

Paragraph (4) of subsection (h) concerning Option 2, would be amended to align with amended Occupations Code §55.0041, which removed certain requirements for recognition, including a requirement for Registration staff to verify out-of-state licensure good standing, and replaced them with different requirements, including a new requirement for the applicant to submit a notarized affidavit as to licensure good standing status. As a result of this change to Occupations Code §55.0041, the applicant may incur a small economic cost to obtain the required notarization.

Paragraph (4)(C)(ii) of subsection (h) would be amended to reduce the number of days that action must be taken on a request for recognition from 30 days to 10 business days.

Paragraph (4)(D) of subsection (h) would be amended to make conforming amendments to the renewal of the recognition status.

Finally, new paragraph (4)(E) of subsection (h) would be added for clarity and consistency with subsection (b), which relates to expedited review of applications. The new paragraph would clarify that individuals shall be recognized despite having pending or deficient items and would address how deficiencies are to be treated and resolved.

Cristi Ramón Ochoa, Deputy Securities Commissioner; Emily Diaz, Director, Registration Division; and Tommy Green, Director, Inspections and Compliance Division, have determined that for each year of the first five years the proposed amendment is in effect there may be foreseeable fiscal implications for state, but not local government, as a result of enforcing or administering the proposed amendment.

Although there may be a state fiscal impact, it would be minimal, and it is the result of legislation (HB 5629) rather than Agency

rulemaking. The Agency could potentially experience a slight loss in fee revenue as the proposal would waive or refund initial registration fees and Texas securities examination fees. In addition, the Agency could possibly experience a slight loss in renewal fee revenue as the duration of the "free" recognition period in (h) would be extended for certain military applicants. However, because no military applicants have applied for recognition under §115.18(h) or applied for any fee refunds or waivers under §115.18(c) since that subsection was enacted in 2015, the Agency anticipates that few, if any, applicants will seek recognition or request fee refunds or waivers in the future. Therefore, the Agency staff expects the fiscal impact to the Agency's fee revenue to be minimal.

Ms. Ochoa, Ms. Diaz, and Mr. Green have also determined that for each year of the first five years the proposed amendment will be in effect, the public benefit anticipated as a result of the changes will be consistency and conformity with the applicable military occupational licensing requirements under state law.

There will be no adverse economic effect on micro or small businesses or rural communities. Because the proposed amendment will have no adverse economic effect on micro or small businesses or rural communities, preparation of an economic impact statement and a regulatory flexibility analysis is not required.

There may be a very slight economic cost to military applicants who may apply for recognition under this section, as a result of the new statutory requirement to submit an affidavit that must be notarized. Otherwise, there is no anticipated economic cost to persons who are required to comply with the amendment as proposed.

The proposal will not affect local employment or a local economy.

For each year of the first five years the proposed amendment would be in effect, the impact on government growth is as follows:

(1) The proposal does not create or eliminate a government program;

(2) The proposal does not require the creation or elimination of existing employee positions;

(3) The proposal does not require an increase or decrease in future legislative appropriations to the Agency;

(4) The proposal does not require an increase in fees paid to the Agency; however, it would require a slight decrease in initial registration, Texas securities examination, and/or renewal fees paid to the Agency by certain military applicants;

(5) The proposal does not create a new regulation;

(6) The proposal does not repeal an existing regulation; however, it would limit an existing regulation by exempting certain military applicants from certain licensing requirements in order to comply with state law, and would expand an existing regulation by expanding certain benefits to additional, eligible military applicants;

(7) The proposal does not increase or decrease the number of individuals subject to the rule's applicability; and

(8) The proposal does not positively or negatively affect this state's economy.

The Texas State Securities Board is requesting public comments on the proposal and information related to the cost, benefit, or effect of the proposed amendment, including any applicable data, research, or analysis. Any information that is submitted in response to this request must include an explanation of how and why the submitted information is specific to the proposed amendment.

Comments and responses to the request for information may be submitted in writing and will be accepted for 30 days following the publication of this notice in the *Texas Register*. Written comments should be submitted to Cheryn Netz Howard, General Counsel, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167. Comments and responses to the request for information may also be submitted electronically to proposal@ssb.texas.gov.

The amendment is proposed under the authority of the Texas Government Code, §4002.151, as adopted by HB 4171, 86th Legislature, 2019 Regular Session, effective January 1, 2022. Section 4002.151 provides the Board with the authority to adopt rules as necessary to implement the provisions of the Texas Securities Act, including rules governing registration statements, applications, notices, and reports; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes. The amendment is also proposed under Chapter 55 of the Texas Occupations Code, as amended by HB 5629, which requires state agencies that issue licenses to adopt rules for the recognition of out-of-state licenses for military applicants, and as amended by SB 1818, which requires state agencies to promptly issue recognitions and licenses to military applicants.

The proposal affects the following sections of the Texas Securities Act, Texas Government Code Chapter 4004, Subchapters B through F, and §§4006.001, 4006.057, and 4007.105.

§115.18. Special Provisions Relating to Military Applicants.

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

(1) Current registration--A registration or license that is:

(A) issued by another state, the District of Columbia, or a territory of the United States that has registration requirements that are similar in scope of practice [~~substantially equivalent~~] to the requirements for a Texas registration in the same capacity;

(B) - (C) (No change.)

(2) Good standing--For purposes of this section, a person's registration is in good standing with another state's licensing authority if the person [~~A registration or license that is effective and unrestricted. A registration or license is considered to be restricted and not in good standing if it is subject to~~]:

(A) has a registration that is current, has not been suspended or revoked, and has not been voluntarily surrendered during an investigation for unprofessional conduct;

(B) has not been disciplined by the licensing authority with respect to the registration or person's practice of the occupation for which the registration is granted; and

(C) is not currently under investigation by the licensing authority for unprofessional conduct related to the person's registration or profession.

[~~(A) an undertaking, special stipulations or agreements relating to payments, limitations on activity or other restrictions;~~]

[~~(B) a pending administrative or civil action; or~~]

[(C) an order or other written directive issued pursuant to statutory authority and procedures, including orders of denial, suspension, or revocation.]

(3) - (8) (No change.)

(b) Expedited review of an application submitted by a military applicant as authorized by Occupations Code, §§55.004, 55.005, and 55.006.

(1) (No change.)

(2) If the military applicant is not registered within five business days of submitting an application, the military applicant may request special consideration of his or her application for registration by filing Form 133.4, Request for Consideration of a Registration Application by a Military Applicant, with the Securities Commissioner. Within five business days of receipt of the completed Form 133.4, the military applicant shall be registered [will be notified in writing of the reason(s) for the pending or deficient status assigned to the application].

(3) - (5) (No change.)

(c) Waiver or refund of initial application fee and Texas Securities Law Examination fee for a military applicant as authorized by Occupations Code, §55.009.

(1) To qualify for a fee waiver or refund, the military applicant must submit [be:]

[(A) a military applicant who holds a current registration in another jurisdiction; or]

[(B)] [a military service member or military veteran whose military service, training, or education substantially meets all the requirements for the registration sought who submits] Form 133.4, Request for Consideration of a Registration Application by a Military Applicant, with the applicant's registration application.

(2) (No change.)

(d) - (g) (No change.)

(h) Recognition of out-of-state license or registration of an individual who is either a military service member or a military spouse as authorized by Occupations Code, §55.0041.

(1) An individual who is a resident of Texas and who is either a military service member or a military spouse may use the procedures [procedure] set out in this subsection if the individual holds a current registration in another jurisdiction;

(2) The period covered by this subsection is only for the time during which the military service member is stationed at a military installation in Texas. In the case of a military spouse, the period covered by this subsection is for the time that the military spouse is a resident of Texas and is married to his or her respective military service member who is a military service member stationed at a military installation in Texas. Notwithstanding, if the individual is a military spouse, in the event of a divorce or other event that affects the individual's status as a military spouse, the recognition period covered by this subsection for such former spouse may continue until the third anniversary of the date the former spouse submitted the form and other documentation required by paragraph (4) of this subsection. [may continue, but for all individuals using the procedure set out in this subsection, this recognition period may not exceed three years from the date the individual:]

[(A) first becomes registered in Texas under Option 1, set out in paragraph (3) of this subsection; or]

[(B) first receives the confirmation from the Registration Division under Option 2, set out in paragraph (4)(C)(ii) of this subsection.]

(3) (No change.)

(4) Option 2: recognition of out-of-state registration [notification and authorization of activity] without Texas registration. Upon recognition [confirmation] under subparagraph (C) or (D) of this paragraph, the individual will be considered to be notice filed in Texas. Such notice filing expires at the end of the calendar year.

(A) (No change.)

(B) An individual who becomes ineligible under Occupations Code, §55.0041, or paragraph (1) or (2) of this subsection [prior to the three year period identified in paragraph (2) of this subsection,] must notify the Securities Commissioner of such ineligibility within 30 days and immediately cease activity until such time as the individual is registered in the appropriate capacity to conduct activity in Texas.

(C) Before engaging in an activity requiring registration in Texas, the individual must initially:

(i) submit to [provide notice of the individual's intent to engage in activity in Texas and specify the type of activity by filing with] the Securities Commissioner:

(I) (No change.)

(II) a copy of the member's military orders showing relocation to [proof of the individual's residency in] Texas; [(a permanent change of station (PCS) order may serve as proof of residency); and]

(III) a copy of the individual's marriage license if the applicant is a military spouse; and [military identification card.]

(IV) a notarized affidavit as required by Occupations Code §55.0041(b), included as part of Form 133.23, which affirms under penalty of perjury that the applicant is the person described and identified in the form; all statements in the application are true, correct, and complete; the applicant understands the scope of practice for the applicable registration in this state and will not perform outside that scope of practice; and the applicant is in good standing in each state in which the applicant holds or has held an applicable registration.

(ii) receive notification [confirmation] that the Registration Division[:]

[(I)] has recognized [verified] the individual's license in another jurisdiction, which the Registration Division shall provide such notice [complete such verification] no later than the 10th business [30th] day after the date the individual [provides the notice and] submits the information required by subparagraph (C)(i) of this paragraph.[; and]

[(II) authorizes the individual to engage in the specified activity.]

(D) To continue to conduct business in Texas without registration under Option 2, [after the expiration of the initial confirmation under subparagraph (C)(ii) of this paragraph,] the individual must renew recognition annually on the same schedule as renewals of registration. This enables the Registration Division to determine that the individual remains eligible under Occupations Code, §55.0041, to continue to conduct securities activities in Texas without being registered.

(i) (No change.)

(ii) A renewal is not effective until the Registration Division receives the documents identified in subparagraph (C)(i) of this paragraph. [~~individual receives confirmation that the Registration Division:~~]

~~*[(I)* has verified the individual's license in another jurisdiction; and]~~

~~*[(II)* authorizes the individual to engage in specified activity.]~~

(E) An individual proceeding under this paragraph shall be recognized despite having pending and/or deficient items ("deficiencies"). The deficiencies will be communicated to the individual in writing or by electronic means within five business days from the date of the notice of recognition under this paragraph. Such deficiencies must be resolved by the individual within a 12-month period. Failure to resolve outstanding deficiencies will cause the recognition granted under this paragraph or any renewal of such recognition to automatically terminate 12 months after the date the individual was notified of the recognition pursuant to this paragraph.

(i) (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 November 10, 2025.

TRD-202504067
Travis J. Iles
Securities Commissioner
State Securities Board
Earliest possible date of adoption: December 21, 2025
For further information, please call: (512) 305-8303

♦ ♦ ♦

CHAPTER 116. INVESTMENT ADVISERS AND INVESTMENT ADVISER REPRESENTATIVES

7 TAC §116.18

The Texas State Securities Board proposes an amendment to §116.18, Special Provisions Relating to Military Applicants. The proposed amendment is necessary to implement House Bill 5629 and Senate Bill 1818 (89th Legislature, Regular Session (2025)) which amend state law relating to occupational licensing and recognition of out-of-state occupational licenses for military service members, military veterans, and military spouses (collectively, "military applicants"). The changes further expedite and simplify the process for military applicants who seek occupational licenses in Texas.

Related forms are being concurrently proposed, as are comparable amendments to the corresponding rule for dealers and agents.

Several changes would be made to §116.18 to align with state law requirements. The section would be amended to remove certain refund and waiver conditions imposed on military applicants. The time limits for Agency staff to issue registrations or recognitions for military applicants would be reduced. The section's provisions relating to recognition of out-of-state licenses would also be amended to change the documentation requirements and extend the duration of recognition periods for military service members and spouses. Other changes would be made for clarity and consistency.

Subsection (a) would be amended to change the definitions for "current registration" and "good standing" to align with amended Texas Occupations Code §55.0042.

Subsection (b)(2) would be amended to require Registration staff to register military applicants who have requested expedited review to be registered within five business days of their request for expedited review.

Currently, military applicants who are new to the industry (i.e., those who have not been previously registered in another state) are not eligible for refunds or waivers of initial registration fees or fees for the Texas securities law examination. Subsection (c), which concerns waivers and refunds of fees, would be amended to remove those qualifying conditions set forth in (c)(1)(A) and (B). This change would slightly increase the number of military applicants who are eligible for and would benefit from the waivers and refund provisions in this section.

Paragraph (1) of subsection (h) would be amended to pluralize the word "procedure" for consistency and clarity.

Paragraph (2) of subsection (h) would be amended to add language to extend the duration of the recognition period of a military spouse (which would be for as long as the military spouse is located in Texas), and to state the duration of the recognition period of a former military spouse (which would be for as long as the former military spouse is located in Texas but only until the third anniversary of the recognition date). The three-year limit on the duration of the recognition period for military service members and spouses residing in Texas in the existing rule would also be removed. This change would extend the duration of the "free" recognition period for eligible military applicants who are recognized under this subsection, which would consequently result in the waiver or refund of the applicants' annual renewal fees owed during the duration of this recognition period.

Paragraph (4) of subsection (h) concerning Option 2, would be amended to align with amended Occupations Code §55.0041 which removed certain requirements for recognition, including a requirement for Registration staff to verify out-of-state licensure good standing, and replaced them with different requirements, including a new requirement for the applicant to submit a notarized affidavit as to licensure good standing status. As a result of this change to Occupations Code §55.0041, the applicant may incur a small economic cost to obtain the required notarization.

Paragraph (4)(C)(ii) of subsection (h) would be amended to reduce the number of days that action must be taken on a request for recognition from 30 days to 10 business days.

Paragraph (4)(D) of subsection (h) would be amended to make conforming amendments to the renewal of the recognition status.

Finally, new paragraph (4)(E) of subsection (h) would be added for clarity and consistency with subsection (b), which relates to expedited review of applications. The new paragraph would clarify that individuals shall be recognized despite having pending or deficient items and would address how deficiencies are to be treated and resolved.

Cristi Ramón Ochoa, Deputy Securities Commissioner; Emily Diaz, Director, Registration Division; and Tommy Green, Director, Inspections and Compliance Division, have determined that for each year of the first five years the proposed amendment is in

effect there may be foreseeable fiscal implications for state, but not local government, as a result of enforcing or administering the proposed amendment.

Although there may be a state fiscal impact, it would be minimal, and it is the result of legislation (HB 5629) rather than Agency rulemaking. The Agency could potentially experience a slight loss in fee revenue as the proposal would waive or refund initial registration fees and Texas securities examination fees. In addition, the Agency could possibly experience a slight loss in renewal fee revenue as the duration of the "free" recognition period in (h) would be extended for certain military applicants. However, because no military applicants have applied for recognition under §116.18(h), and only two military applicants have applied for any fee refunds under §116.18(c) since that subsection was enacted in 2015, the Agency anticipates that few, if any, applicants will seek recognition or request fee refunds or waivers in the future. Therefore, the Agency staff expects the fiscal impact to the Agency's fee revenue to be minimal.

Ms. Ochoa, Ms. Diaz, and Mr. Green have also determined that for each year of the first five years the proposed amendment will be in effect, the public benefit anticipated as a result of the changes will be consistency and conformity with the applicable military occupational licensing requirements under state law.

There will be no adverse economic effect on micro or small businesses or rural communities. Because the proposed amendment will have no adverse economic effect on micro or small businesses or rural communities, preparation of an economic impact statement and a regulatory flexibility analysis is not required.

There may be a very slight economic cost to military applicants who may apply for recognition under this section, as a result of the new statutory requirement to submit an affidavit that must be notarized. Otherwise, there is no anticipated economic cost to persons who are required to comply with the amendment as proposed.

The proposal will not affect local employment or a local economy.

For each year of the first five years the proposed amendment would be in effect, the impact on government growth is as follows:

(1) The proposal does not create or eliminate a government program;

(2) The proposal does not require the creation or elimination of existing employee positions;

(3) The proposal does not require an increase or decrease in future legislative appropriations to the Agency;

(4) The proposal does not require an increase in fees paid to the Agency; however, it would require a slight decrease in initial registration, Texas securities examination, and/or renewal fees paid to the Agency by certain military applicants;

(5) The proposal does not create a new regulation;

(6) The proposal does not repeal an existing regulation; however, it would limit an existing regulation by exempting certain military applicants from certain licensing requirements in order to comply with state law, and would expand an existing regulation by expanding certain benefits to additional, eligible military applicants;

(7) The proposal does not increase or decrease the number of individuals subject to the rule's applicability; and

(8) The proposal does not positively or negatively affect this state's economy.

The Texas State Securities Board is requesting public comments on the proposal and information related to the cost, benefit, or effect of the proposed amendment, including any applicable data, research, or analysis. Any information that is submitted in response to this request must include an explanation of how and why the submitted information is specific to the proposed amendment.

Comments and responses to the request for information may be submitted in writing and will be accepted for 30 days following the publication of this notice in the *Texas Register*. Written comments should be submitted to Cheryn Netz Howard, General Counsel, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167. Comments and responses to the request for information may also be submitted electronically to proposal@ssb.texas.gov.

The amendment is proposed under the authority of the Texas Government Code, §4002.151, as adopted by HB 4171, 86th Legislature, 2019 Regular Session, effective January 1, 2022. Section 4002.151 provides the Board with the authority to adopt rules as necessary to implement the provisions of the Texas Securities Act, including rules governing registration statements, applications, notices, and reports; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes. The amendment is also proposed under Chapter 55 of the Texas Occupations Code, as amended by HB 5629, which requires state agencies that issue licenses to adopt rules for the recognition of out-of-state licenses for military applicants, and as amended by SB 1818, which requires state agencies to promptly issue recognitions and licenses to military applicants.

The proposal affects the following sections of the Texas Securities Act, Texas Government Code Chapter 4004, Subchapters B through F, and §§4006.001, 4006.057, and 4007.105.

§116.18. Special Provisions Relating to Military Applicants.

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

(1) Current registration--A registration or license that is:

(A) issued by another state, the District of Columbia, or a territory of the United States that has registration requirements that are similar in scope of practice [~~substantially equivalent~~] to the requirements for a Texas registration in the same capacity;

(B) - (C) (No change.)

(2) Good standing--For purposes of this section, a person's registration is in good standing with another state's licensing authority if the person [~~A registration or license that is effective and unrestricted. A registration or license is considered to be restricted and not in good standing if it is subject to~~]:

(A) has a registration that is current, has not been suspended or revoked, and has not been voluntarily surrendered during an investigation for unprofessional conduct;

[~~(A) an undertaking, special stipulations or agreements relating to payments, limitations on activity or other restrictions;~~]

(B) has not been disciplined by the licensing authority with respect to the registration or person's practice of the occupation for which the registration is granted; and

[(B) a pending administrative or civil action; or]

(C) is not currently under investigation by the licensing authority for unprofessional conduct related to the person's registration or profession.

[(C) an order or other written directive issued pursuant to statutory authority and procedures, including orders of denial, suspension, or revocation.]

(3) - (8) (No change.)

(b) Expedited review of an application submitted by a military applicant as authorized by Occupations Code, §§55.004, 55.005, and 55.006.

(1) (No change.)

(2) If the military applicant is not registered within five business days of submitting an application, the military applicant may request special consideration of his or her application for registration by filing Form 133.4, Request for Consideration of a Registration Application by a Military Applicant, with the Securities Commissioner. Within five business days of receipt of the completed Form 133.4, the military applicant shall be registered [will be notified in writing of the reason(s) for the pending or deficient status assigned to the application].

(3) - (5) (No change.)

(c) Waiver or refund of initial application fee and Texas Securities Law Examination fee for a military applicant as authorized by Occupations Code, §55.009.

(1) To qualify for a fee waiver or refund, the military applicant must submit [be:]

[(A) a military applicant who holds a current registration in another jurisdiction; or]

[(B)] [a military service member or military veteran whose military service, training, or education substantially meets all the requirements for the registration sought who submits] Form 133.4, Request for Consideration of a Registration Application by a Military Applicant, with the applicant's registration application.

(2) (No change.)

(d) - (g) (No change.)

(h) Recognition of out-of-state license or registration of an individual who is either a military service member or a military spouse as authorized by Occupations Code, §55.0041.

(1) An individual who is a resident of Texas and who is either a military service member or a military spouse may use the procedures [procedure] set out in this subsection if the individual holds a current registration in another jurisdiction.

(2) The period covered by this subsection is only for the time during which the military service member is stationed at a military installation in Texas. In the case of a military spouse, the period covered by this subsection is for the time that the military spouse is a resident of Texas and is married to his or her respective military service member who is a military service member stationed at a military installation in Texas. Notwithstanding, if the individual is a military spouse, in the event of a divorce or other event that affects the individual's status as a military spouse, the recognition period covered by this subsection for such former spouse may continue until the third anniversary of the date the former spouse submitted the form and other documentation required by paragraph (4) of this subsection. [may continue, but for all individuals using the procedure set out in this subsection, this recognition period may not exceed three years from the date the individual:]

[(A) first becomes registered, or makes a notice filing pursuant to §116.1(b)(2) of this chapter (relating to general provisions), in Texas under Option 1, set out in paragraph (3) of this subsection; or]

[(B) first receives the confirmation from the Registration Division under Option 2, set out in paragraph (4)(C)(ii) of this subsection.]

(3) (No change.)

(4) Option 2: recognition of out of state registration [notification and authorization of activity] without Texas registration, or notice filing pursuant to §116.1(b)(2) of this chapter. Upon confirmation under subparagraph (C) or (D) of this paragraph, the individual will be considered to be notice filed in Texas. Such notice filing expires at the end of the calendar year.

(A) (No change.)

(B) An individual who becomes ineligible under Occupations Code, §55.0041, or paragraph (1) or (2) of this subsection [prior to the three year period identified in paragraph (2) of this subsection,] must notify the Securities Commissioner of such ineligibility within 30 days and immediately cease activity until such time as the individual is registered in Texas, or makes a notice filing pursuant to §116.1(b)(2) of this chapter, in the appropriate capacity to conduct activity in Texas.

(C) Before engaging in an activity in Texas requiring registration, or a notice filing pursuant to §116.1(b)(2) of this chapter, the individual must initially:

(i) submit to [provide notice of the individual's intent to engage in activity in Texas and specify the type of activity by filing with] the Securities Commissioner:

(I) (No change.)

(II) a copy of the member's military orders showing relocation to [proof of the individual's residency in] Texas [(a permanent change of station (PCS) order may serve as proof of residency)]; [and]

(III) a copy of the individual's marriage license if the applicant is a military spouse; and [military identification card.]

(IV) a notarized affidavit as required by Occupations Code §55.0041(b), included as part of Form 133.23, which affirms under penalty of perjury that the applicant is the person described and identified in the form; all statements in the application are true, correct, and complete; the applicant understands the scope of practice for the applicable registration in this state and will not perform outside that scope of practice; and the applicant is in good standing in each state in which the applicant holds or has held an applicable registration.

(ii) receive notification [confirmation] that the Registration Division[:]

[(I)] has recognized [verified] the individual's license in another jurisdiction, which the Registration Division shall provide such notice [complete such verification] no later than the 10th business [30th] day after the date the individual [provides the notice and] submits the information required by subparagraph (C)(i) of this paragraph.[; and]

[(II) authorizes the individual to engage in the specified activity.]

(D) To continue to conduct business in Texas without registration, or a notice filing pursuant to §116.1(b)(2) of this chap-

ter, under Option 2, [after the expiration of the initial confirmation under subparagraph (C)(ii) of this paragraph,] the individual must renew recognition annually on the same schedule as renewals of registration. This enables the Registration Division to determine that the individual remains eligible under Occupations Code, §55.0041, to continue to conduct securities activities in Texas without being registered.

(i) (No change.)

(ii) A renewal is not effective until the Registration Division receives the documents identified in subparagraph (C)(i) of this paragraph. [individual receives confirmation that the Registration Division:]

[(I) has verified the individual's license in another jurisdiction; and]

[(II) authorizes the individual to engage in specified activity.]

(E) An individual proceeding under this paragraph shall be recognized despite having pending and/or deficient items ("deficiencies"). The deficiencies will be communicated to the individual in writing or by electronic means within five business days from the date of the notice of recognition under this paragraph. Such deficiencies must be resolved by the individual within a 12-month period. Failure to resolve outstanding deficiencies will cause the recognition granted under this paragraph or any renewal of such recognition to automatically terminate 12 months after the date the individual was notified of the recognition pursuant to this paragraph.

(i) (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 November 10, 2025.

TRD-202504071
Travis J. Iles
Securities Commissioner
State Securities Board
Earliest possible date of adoption: December 21, 2025
For further information, please call: (512) 305-8303

♦ ♦ ♦

CHAPTER 133. FORMS

7 TAC §133.19, §133.23

The Texas State Securities Board proposes the repeal of two rules concerning forms adopted by reference. Specifically, the State Securities Board proposes the repeal of §133.19, a form concerning Waiver or Refund Request by a Military Applicant; and §133.23, a form concerning Request for Recognition of Out-Of-State License or Registration Pursuant to Occupations Code §55.0041.

The two sections proposed for repeal adopt by reference forms that implement portions of §115.18 and §116.18. New forms §133.19 and §133.23 are being concurrently proposed to implement amendments to §115.18 and §116.18, which are also being concurrently proposed, and are necessary to implement House Bill 5629 and Senate Bill 1818 (89th Legislature, Regular Session (2025)) which amend state law relating to occupational licensing and recognition of out-of-state occupational licenses for military service members, military veterans, and military spouses (collectively, "military applicants"). The changes further expedite and simplify the process for military applicants who seek occupational licenses in Texas.

Existing Form 133.19, which would be repealed, may be filed by a military applicant to request a waiver or a refund of an initial registration fee and/or a fee to take the Texas securities law examination. New Form 133.19, concurrently proposed, would perform the same function as the existing form, but certain requirements for waiver or refund eligibility would be removed from the form to implement the requirements of Occupations Code §55.009 as amended by HB 5629.

Existing Form 133.23, which would be repealed, may be filed by a military service member or military spouse eligible for non-registration under Texas Occupations Code §55.0041, to provide the Agency with information needed to determine eligibility for such treatment. New Form 133.23, concurrently proposed, would perform the same function as the existing form but would require the applicant to provide a notarized affidavit as to the applicant's good standing status in another jurisdiction as well as to require military orders, in lieu of providing proof of Texas residency and a military identification card, and, as applicable, a marriage license.

Cristi Ramón Ochoa, Deputy Securities Commissioner; Emily Diaz, Director, Registration Division; and Tommy Green, Director, Inspections and Compliance Division, have determined that for each year of the first five years the proposed repeals are in effect there will be no foreseeable fiscal implications for state or local government, as a result of administering the proposed repeals.

Ms. Ochoa, Ms. Diaz, and Mr. Green have also determined that for each year of the first five years the proposed repeals will be in effect the public benefit anticipated as a result of adoption of the proposed repeals will be that current forms can be replaced with new forms that comply with new statutory requirements.

There will be no adverse economic effect on micro or small businesses or rural communities. Because the proposed repeals will have no adverse economic effect on micro or small businesses or rural communities, preparation of an economic impact statement and a regulatory flexibility analysis is not required. There is no anticipated economic cost to persons who are required to comply with the repeals as proposed.

The proposed repeals will not affect local employment or a local economy.

For each year of the first five years the proposed amendment would be in effect, the impact on government growth is as follows:

(1) The proposed repeals do not create or eliminate a government program;

(2) The proposed repeals do not require the creation or elimination of existing employee positions;

(3) The proposed repeals do not require an increase or decrease in future legislative appropriations to this agency;

(4) The proposed repeals do not require an increase or decrease in fees paid to this agency;

(5) The proposed repeals do not create a new regulation;

(6) The proposed repeals do not expand or limit an existing regulation;

(7) The proposed repeals do not increase or decrease the number of individuals subject to the forms' applicability; and

(8) The proposed repeals do not positively or negatively affect the state's economy.

The rulemaking involves repealing two existing forms to replace them with two new forms that are being concurrently proposed, as part of the implementation of HB5629 and SB1818.

The Texas State Securities Board is requesting public comments on the proposed repeals and information related to the cost, benefit, or effect of the proposed repeals, including any applicable data, research, or analysis. Any information that is submitted in response to this request must include an explanation of how and why the submitted information is specific to the proposed repeals.

Comments and responses to the request for information may be submitted in writing and will be accepted for 30 days following the publication of this notice in the *Texas Register*. Written comments should be submitted to Cheryn Netz Howard, General Counsel, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167. Comments and responses to the request for information may also be submitted electronically to proposal@ssb.texas.gov.

The repeals are proposed under the authority of the Texas Government Code, §4002.151, as adopted by HB 4171, 86th Legislature, 2019 Regular Session, effective January 1, 2022. Section 4002.151 provides the Board with the authority to adopt rules as necessary to implement the provisions of the Texas Securities Act, including rules governing registration statements, applications, notices, and reports; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes. The repeals are also proposed under Chapter 55 of the Texas Occupations Code, as amended by HB 5629, which requires state agencies that issue licenses to adopt rules for the recognition of out-of-state licenses for military applicants, and as amended by SB 1818, which requires state agencies to promptly issue recognitions and licenses to military applicants.

The proposal affects the following sections of the Texas Securities Act, Texas Government Code Chapter 4004, Subchapters B through F, and §§4006.001, 4006.057, and 4007.105.

§133.19. Waiver or Refund Request by a Military Applicant.

§133.23. Request for Recognition of Out-Of-State License or Registration Pursuant to Occupations Code §55.0041.

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 November 10, 2025.

TRD-202504074
Travis J. Iles
Securities Commissioner
State Securities Board
Earliest possible date of adoption: December 21, 2025
For further information, please call: (512) 305-8303

♦ ♦ ♦

7 TAC §133.19, §133.23

The Texas State Securities Board proposes new §133.19, a form concerning Waiver or Refund Request by a Military Applicant; and new §133.23, a form concerning Request for Recognition of Out-Of-State License or Registration Pursuant to Occupations Code §55.0041.

The new sections would adopt by reference forms that would be created to implement amendments to §115.18 and §116.18, which are being concurrently proposed, and are necessary to implement House Bill 5629 and Senate Bill 1818 (89th Legislature, Regular Session (2025)) which amend state law relating to occupational licensing and recognition of out-of-state occupational licenses for military service members, military veterans, and military spouses (collectively, "military applicants"). The changes further expedite and simplify the process for military applicants who seek occupational licenses in Texas.

Existing forms §133.19 and §133.23 are being concurrently proposed for repeal.

Existing Form 133.19 may be filed by a military applicant to request a waiver or a refund of an initial registration fee and/or a fee to take the Texas securities law examination. New Form 133.19 would perform the same function as the existing form, but certain requirements for waiver or refund eligibility would be removed from the form to implement the requirements of Occupations Code §55.009 as amended by HB 5629.

Existing Form 133.23 may be filed by a military service member or military spouse eligible for non-registration under Texas Occupations Code §55.0041, to provide the Agency with information needed to determine eligibility for such treatment. New Form 133.23 would perform the same function as the existing form but would require the applicant to provide a notarized affidavit as to the applicant's good standing status in another jurisdiction as well as to require miliary orders, in lieu of providing proof of Texas residency and a military identification card, and, as applicable, a marriage license. The form would need to be resubmitted annually during the period that the individual qualifies for unique treatment under Texas Occupations Code §55.0041. Upon issuance of the confirmation by the Registration Division for the initial or a renewal filing, the individual would be considered to be notice filed for purposes of recordkeeping and certification.

Cristi Ramón Ochoa, Deputy Securities Commissioner; Emily Diaz, Director, Registration Division; and Tommy Green, Director, Inspections and Compliance Division, have determined that for each year of the first five years the proposed forms are used there will be no foreseeable fiscal implications for state or local government as a result of using the proposed forms.

Ms. Ochoa, Ms. Diaz, and Mr. Green have also determined that for each year of the first five years the proposed forms are used the public benefit anticipated as a result of adoption of the proposed forms will be that an eligible military applicant can complete the forms adopted by reference to either obtain a waiver or refund or to practice securities business in Texas without being registered.

There will be no adverse economic effect on micro or small businesses or rural communities. Because the proposed forms will have no adverse economic effect on micro or small businesses or rural communities, preparation of an economic impact statement and a regulatory flexibility analysis is not required.

There may be a very slight economic cost to military applicants who may apply for recognition under §115.18 and §116.18 using the forms that would be adopted by reference in the proposed

new rules, as a result of the new statutory requirement to submit an affidavit that must be notarized. Otherwise, there is no anticipated economic cost to persons who are required to use the forms as proposed.

The proposal will not affect local employment or a local economy.

For each year of the first five years the proposed new rules adopting by reference the forms would be in effect, the impact on government growth is as follows:

(1) The proposal does not create or eliminate a government program;

(2) The proposal does not require the creation or elimination of existing employee positions;

(3) The proposal does not require an increase or decrease in future legislative appropriations to the Agency;

(4) The proposal does not require an increase or decrease in fees paid to the Agency;

(5) The proposal does not create a new regulation;

(6) The proposal does not expand, limit, or repeal an existing regulation;

(7) The proposal does not increase or decrease the number of individuals subject to the rules' applicability; and

(8) The proposal does not positively or negatively affect this state's economy.

Although the rulemaking involves the creation of new forms, the forms are created as part of the implementation of HB5629 and SB1818.

The Texas State Securities Board is requesting public comments on the proposal and information related to the cost, benefit, or effect of the proposed new rules, including any applicable data, research, or analysis. Any information that is submitted in response to this request must include an explanation of how and why the submitted information is specific to the proposed new rules.

Comments and responses to the request for information may be submitted in writing and will be accepted for 30 days following the publication of this notice in the *Texas Register*. Written comments should be submitted to Cheryn Netz Howard, General Counsel, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167. Comments and responses to the request for information may also be submitted electronically to proposal@ssb.texas.gov.

The new rules are proposed under the authority of the Texas Government Code, §4002.151, as adopted by HB 4171, 86th Legislature, 2019 Regular Session, effective January 1, 2022. Section 4002.151 provides the Board with the authority to adopt rules as necessary to implement the provisions of the Texas Securities Act, including rules governing registration statements, applications, notices, and reports; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes. The new rules are also proposed under Chapter 55 of the Texas Occupations Code, as amended by HB 5629, which requires state agencies that issue licenses to adopt rules for the recognition of out-of-state licenses for military applicants, and as amended by SB 1818, which requires state agencies to promptly issue recognitions and licenses to military applicants.

The proposal affects the following sections of the Texas Securities Act, Texas Government Code Chapter 4004, Subchapters B through F, and §§4006.001, 4006.057, and 4007.105.

§133.19. Waiver or Refund Request by a Military Applicant.

This form is available from the State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167 and at www.ssb.texas.gov.

§133.23. Request for Recognition of Out-Of-State License or Registration Pursuant to Occupations Code §55.0041.

This form is available from the State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167 and at www.ssb.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 November 10, 2025.

TRD-202504073
Travis J. Iles
Securities Commissioner
State Securities Board
Earliest possible date of adoption: December 21, 2025
For further information, please call: (512) 305-8303

♦ ♦ ♦

TITLE 10. COMMUNITY DEVELOPMENT

PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

CHAPTER 1. ADMINISTRATION

SUBCHAPTER D. UNIFORM GUIDANCE FOR RECIPIENTS OF FEDERAL AND STATE FUNDS

10 TAC §1.401

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of 10 TAC Chapter 1, Subchapter D, Uniform Guidance for Recipients of Federal and State Funds, §1.401 Effective Date and Definitions. The purpose of the proposed repeal is to eliminate the outdated rule and replace it simultaneously with a new more germane rule.

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

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

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

Mr. 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 updates to reflect changes made by the Texas Comptroller of Public Accounts to the Texas Grant Management Standards (TxGMS).

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

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

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

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

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

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

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

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

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

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

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

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

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the changed sections would be a rule in compliance with the newest version of the Texas Grant Management Standards. 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 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 repeal or any other interested person. The public comment period will be held November 21, 2025 to December 21, 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.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local (Central) time, December 21, 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.

§1.401. Effective Date and Definitions.

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

Filed with the Office of the Secretary of State on November 7, 2025.

TRD-202504052
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Earliest possible date of adoption: December 21, 2025
For further information, please call: (512) 475-3959

10 TAC §1.401

The Texas Department of Housing and Community Affairs (the Department) proposes new 10 TAC Chapter 1, Subchapter D, Uniform Guidance for Recipients of Federal and State Funds, §1.401 Effective Date and Definitions. The purpose of the new section is to make updates that relate to the newest version of the Texas Grant Management Standards released in October 2025 by the Texas Comptroller of Public Accounts.

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

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

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

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

1. The new section does not create or eliminate a government program but relates to updates to new changes to the Texas Grant Management Standards.

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

3. The new section does 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, except that it is replacing a section being repealed simultaneously to provide for revisions.

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

7. The new section will not increase or decrease 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 a clearer rule relating to compliance with Texas Grant Management Standards, version 2.1. 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 section does not have any foreseeable implications related to costs or revenues of the state or local governments.

REQUEST FOR PUBLIC COMMENT AND INFORMATION RELATED TO COST, BENEFIT OR EFFECT. The Department requests comments on the proposed new section and also requests information related to the cost, benefit, or effect of the proposed new section, including any applicable data, research, or analysis from any person required to comply with the repeal or any other interested person. The public comment period will be held November 21, 2025 to December 21, 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.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local (Central) time, December 21, 2025.

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

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

§1.401. Effective Dates and Definitions.

(a) Revisions to this Subchapter reflect updates to 2 CFR Part 180 and 2 CFR Part 200, which are generally effective for Contracts executed on or after October 1, 2024. This rule also reflects conformance with the Texas Grant Management Standards Version (TxGMS) 2.0 and 2.1 published by the Texas Comptroller of Public Accounts in October 2024 and October 2025, respectively. TxGMS 2.0 may be incorporated into Contracts executed on or after October 1, 2024 or Contracts with nonprofit organizations that administer state funds where funds are added on or after October 1, 2024. TxGMS 2.1 is effective for Contracts with local governments and block grants subject to Chapter 2105 of the Tex. Gov't Code executed on or after October 1, 2025 or where funds are added on or after October 1, 2025. TxGMS 2.1 will be incorporated into Contracts with nonprofit organizations that administer state funds, that are executed after the effective date of this rule, and may be incorporated into Contracts where funds are added after the effective date of this rule. Previous versions of these rules as memorialized in Contracts will continue to be effective unless the Contract is amended to reflect TxGMS 2.1.

(b) Definitions. The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise. Capitalized words used herein have the meaning assigned in the specific Chapters and Rules of this title that govern the program associated with the request, or assigned by federal or state law.

(1) Affiliate--Shall have the meaning assigned by the specific program or programs described in this part.

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

(3) Equipment--Tangible personal property having a useful life of more than one year or a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by entity for financial statement purposes, or $10,000.

(4) Professional services--For a unit of government is as defined by state law. For Private Nonprofit Organizations it means services:

(A) within the scope of the practice, as defined by state law, of:

(i) accounting;

(ii) architecture;

(iii) landscape architecture;

(iv) land surveying;

(v) medicine;

(vi) optometry;

(vii) professional engineering;

(viii) real estate appraising;

(ix) professional nursing; or

(x) legal services; or

(B) provided in connection with the professional employment or practice of a person who is licensed or registered as:

(i) a certified public accountant;

(ii) an architect;

(iii) a landscape architect;

(iv) a land surveyor;

(v) a physician, including a surgeon;

(vi) an optometrist;

(vii) a professional engineer;

(viii) a state certified or state licensed real estate appraiser;

(ix) attorney; or

(x) a registered nurse.

(5) Single Audit--The audit required by Office of Management and Budget (OMB), 2 CFR Part 200, Subpart F, or Tex. Gov't Code, chapter 783, Uniform Grant and Contract Management, as reflected in an audit report.

(6) Single Audit Certification Form--A form that lists the source(s) and amount(s) of Federal funds and/or State funds expended by the Subrecipient during their fiscal year along with the outstanding balance of any loans made with federal or state funds if there are continuing compliance requirements other than repayment of the loan.

(7) Subrecipient--Includes an entity receiving or applying for federal or state funds from the Department under Chapters 6, 7, 20, 23, 24, 25, or 26 as identified by Contract or in this subchapter. Except as otherwise noted in this subchapter or by Contract, the definition does not include Applicants/Owners who have applied for and/or received funds for rental development, except for CHDO Operating funds, NCO Nonprofit Capacity Building, NCO Operating Assistance, a grant made to a unit of government or nonprofit organization, or Affiliate with state funds, or TCAP-RF grants or loans when made to a unit of government or nonprofit organization or Affiliate. Except as otherwise noted in this subchapter or by Contract, this definition does not include vendors having been procured by the Department for goods or services. A Subrecipient may also be referred to as Administrator.

(8) Supplies--Means tangible personal property other than "Equipment" in this section.

(9) Texas Grant Management Standards (TxGMS)--The standardized set of financial management procedures and definitions established by Tex. Gov't Code, chapter 783 regarding Uniform Grant and Contract Management to promote the efficient use of public funds by requiring consistency among grantor agencies in their dealings with grantees, and by ensuring accountability for the expenditure of public funds. This includes TxGMS Version 2.1 published by the Texas Comptroller of Public Accounts in October 2025. State agencies are required to adhere to these standards when administering grants and other financial assistance agreements with cities, counties and other political subdivisions of the state. This includes all Public Organizations including public housing and housing finance agencies. In addition, Tex. Gov't Code Chapter 2105, regarding Administration of Block Grants, subjects Subrecipients of federal block grants (as defined therein) to TXGMS.

(10) Uniform Grant Management Standards (UGMS)--The standardized set of financial management procedures used by the Department in Contracts that began before January 1, 2022.

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 November 7, 2025.

TRD-202504053

Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Earliest possible date of adoption: December 21, 2025
For further information, please call: (512) 475-3959

♦ ♦ ♦

10 TAC §1.403

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of 10 TAC Chapter 1, Subchapter D, Uniform Guidance for Recipients of Federal and State Funds, §1.403 Single Audit Requirements. The purpose of the proposed repeal is to eliminate the outdated rule and replace it simultaneously with a new more germane rule.

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

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

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

Mr. 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: requirements relating to single audits.

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

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

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

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

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

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

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

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

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

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

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

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

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the 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 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 repeal or any other interested person. The public comment period will be held November 21, 2025 to December 21, 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.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local (Central) time, December 21, 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.

§1.403. Single Audit Requirements.

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

Filed with the Office of the Secretary of State on November 7, 2025.

TRD-202504054
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Earliest possible date of adoption: December 21, 2025
For further information, please call: (512) 475-3959

♦ ♦ ♦

10 TAC §1.403

The Texas Department of Housing and Community Affairs (the Department) proposes new 10 TAC Chapter 1, Subchapter D, Uniform Guidance for Recipients of Federal and State Funds, §1.403 Single Audit Requirements. The purpose of the new section is to provide greater clarity in relation to the findings that may be identified in a single audit that would warrant the Department to not fund, or to stop funding, a given contract.

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

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

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

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

1. The new section does not create or eliminate a government program but relates to updates to existing requirements for recipients of Department funds.

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

3. The new section does 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, except that it is replacing a section being repealed simultaneously to provide for revisions.

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

7. The new section will not increase or decrease 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 a clearer rule relating to when single audit findings are significant

enough to warrant not funding, or stopping funding, a contract. 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 section does not have any foreseeable implications related to costs or revenues of the state or local governments.

REQUEST FOR PUBLIC COMMENT AND INFORMATION RELATED TO COST, BENEFIT OR EFFECT. The Department requests comments on the proposed new rule and also requests information related to the cost, benefit, or effect of the proposed new rule, including any applicable data, research, or analysis from any person required to comply with the rule or any other interested person. The public comment period will be held November 21, 2025 to December 21, 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.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local (Central) time, December 21, 2025.

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

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

§1.403. Single Audit Requirements.

(a) For this section, the word Subrecipient also includes Multifamily Development Owners who have applied for or received Direct Loan Funds, grants or 811 PRA funds from the Department who are or have an Affiliate that is required to submit a Single Audit, i.e. units of government, nonprofit organizations.

(b) Procurement of a Single Auditor. A Subrecipient or Affiliate must procure their single auditor in the following manner unless subject to a different requirement in the Local Government Code:

(1) Competitive Proposal procedures whereby competitors' qualifications are evaluated and a contract awarded to the most qualified competitor. Proposals should be advertised broadly, which may include going outside the entity's service area, and solicited from an adequate number (usually two or more) of qualified sources. Procurements must be conducted in a manner that prohibits the use of in-state or local geographical preferences in the evaluation of bids or proposals;

(2) A Subrecipient may not use the sealed bid method for procurement of the Single Auditor. There is no requirement that the selected audit firm be geographically located near the Subrecipient. If a Subrecipient does not receive proposals from firms with appropriate experience or responses with a price that is not reasonable compared to the cost price analysis, the submissions must be rejected and procurement must be re-performed.

(c) A Subrecipient or Affiliate must confirm that it is contracting with an audit firm that is properly licensed to perform the Single Audit and is not on a limited scope status or under any other sanction, reprimand or violation with the Texas State Board of Public Accountancy. The Subrecipient must ensure that the Single Audit is performed in accordance with the limitations on the auditor's license.

(d) A Subrecipient is required to submit a Single Audit Certification form within two (2) months after the end of its fiscal year indicating the amount they expended in Federal and State funds during the fiscal year and the outstanding balance of any loans made with federal funds if there are continuing compliance requirements other than repayment of the loan.

(e) A Subrecipient that expends $1,000,000 or more in an entity's fiscal year that starts on or after October 1, 2024 (or in the case of an entity's fiscal years starting before October 1, 2024, $750,000 or more) in federal and/or state awards or have an outstanding loan balance associated with a federal or state resource of $1,000,000 or $750,000 (as applicable for the fiscal year) with continuing compliance requirements, or a combination thereof must have a Single Audit or program-specific audit conducted. If the Subrecipient's Single Audit is required by 2 CFR 200, subpart F, the report must be submitted to the Federal Audit Clearinghouse the earlier of 30 calendar days after receipt of the auditor's report or nine (9) months after the end of its respective fiscal year. If a Single Audit is required but not under 2 CFR Part 200, subpart F, the report must be submitted to the Department the earlier of 30 calendar days after receipt of the auditor's report or nine months after the end of its respective fiscal year. If the deadline is on a Saturday, Sunday, federal holiday (for a Single Audit required to be submitted to the Federal Audit Clearinghouse), or a state holiday (for a Single Audit required to be submitted to the Department), the deadline is the next business day.

(f) A Subrecipient is required to submit a notification to the Department within five business days of submission to the Federal Audit Clearinghouse. Along with the notice, the Subrecipient must indicate if the auditor issued a management letter. If a management letter was issued by the auditor, a copy must be sent to the Department.

(g) The Department will review the Single Audit and issue a management decision letter for audit findings pertaining to the Federal or State award provided to the Subrecipient from the Department. If the Single Audit results in disallowed costs, those amounts must be repaid or an acceptable repayment plan must be entered into with the Department in accordance with 10 TAC §1.21 (relating to Action by Department if Outstanding Balances Exist).

(h) In evaluating a Single Audit, the Department will consider both audit findings and management responses in its review. The Department will notify Subrecipients and Affiliates (if applicable) of any Deficiencies or Findings from within the Single Audit for which the Department requires additional information or clarification and will provide a deadline by which that resolution must occur.

(i) The Subrecipient may submit written comments for consideration within five business days of the Department's management decision letter.

(j) If the Subrecipient disagrees with the auditors finding(s), and the issue is related to administration of one of the Department's programs, an appeal process is available to provide an opportunity for the auditee to explain its disagreement to the Department. This is not an appeal of audit findings themselves. The Subrecipient may submit a letter of appeal and documentation to support the appeal. The Department will take the documentation and written appeal into consideration prior to issuing a management decision letter. If the Subrecipient does not disagree with the auditor's finding, no appeal to the Department is available.

(k) In accordance with 2 CFR Part 200 and the State of Texas Single Audit Circular §225, with the exception of nondiscretionary CSBG funds except as otherwise required by federal laws or regulations, the Department may suspend and cease payments under all active Contracts, may elect not to recommend an award to the Board, may refrain from executing a reservation agreement or associated commitment of funds under a reservation agreement, or may refrain from executing a new Contract for any Board awarded contracts if any of the

issues identified in paragraphs (1) - (3) of this subsection occur. The Department may also use its discretion to withhold a contract or funding associated with the Single Audit based on the type of Department program for which the Subrecipient is applying. Multifamily Development Owners that are applying for or have received an award for Multifamily Direct Loans will be evaluated against the criteria in this subsection for consideration or reconsideration only before loan closing.

(1) the Single Audit is not received in accordance with the submission requirements detailed in subsection (e) and (f) of this section;

(2) the required Single Audit Certification form detailed in subsection (d) of this section is not received; or

(3) if any of the following issues have been identified:

(A) in the most recent Single Audit:

(i) the Single Audit identifies the Subrecipient as a 'going concern';

(ii) the Single Audit identifies that the Subrecipient has systemic inadequate fiscal controls or ineffective financial processes;

(iii) the Single Audit identifies one or more material weaknesses that relate to the responsibilities associated with the program to be funded;

(iv) the Single Audit identifies a combination of weaknesses and deficiencies that when taken together reflect a high risk for noncompliant use of state or federal funds; or

(v) the Single Audit has received a Modified, Adverse or Disclaimed determination by the auditor;

(B) in at least two of the last three Single Audits for which the findings have not been corrected:

(i) the Single Audits identify inaccurate reporting specific to Department funded programs;

(ii) the Single Audits identify questioned costs related to Department funded programs;

(iii) the Single Audits identify questioned costs relating to cross-cutting administrative or operational expenses such as cost allocation, procurement, or payroll;

(iv) the Single Audits identify that there is inadequate separation of duties; or

(v) the Single Audits identify a combination of weaknesses and deficiencies that when taken together reflect a high risk for noncompliant use of state or federal funds.

(l) In accordance with Subchapter C of this Chapter (relating to Previous Participation Reviews), if a Subrecipient applies for funding or an award from the Department, findings noted in the Single Audit and the failure to timely submit a Single Audit Certification Form or Single Audit will be reported to the Executive Director.

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 November 7, 2025.

TRD-202504055

Bobby Wilkinson

Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: December 21, 2025

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

♦ ♦ ♦

10 TAC §1.406

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of 10 TAC Chapter 1, Subchapter D, Uniform Guidance for Recipients of Federal and State Funds, §1.406 Fidelity Bond Requirements. The purpose of the proposed repeal is to eliminate the outdated rule and replace it simultaneously with a new rule that provides greater risk mitigation for the Department as it relates to fidelity bond coverage of the Department's subrecipients.

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: fidelity bond requirements.

2. The repeal does not require a change in work that creates new employee positions nor does it generate savings that would eliminate any 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, and greater risk mitigation or 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 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 November 21 to December 21, 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, December 21, 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.

§1.406. Fidelity Bond Requirements.

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

Filed with the Office of the Secretary of State on November 7, 2025.

TRD-202504056
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Earliest possible date of adoption: December 21, 2025
For further information, please call: (512) 475-3959

♦ ♦ ♦

10 TAC §1.406

The Texas Department of Housing and Community Affairs (the Department) proposes new 10 TAC Chapter 1, Subchapter D, Uniform Guidance for Recipients of Federal and State Funds, §1.406 Fidelity Bond Requirements. The purpose of the proposed rule is to eliminate the outdated rule and replace it simultaneously with a new rule that provides greater risk mitigation for the Department as it relates to fidelity bond coverage of the Department's subrecipients.

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

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 section would be in effect:

1. The rule does not create or eliminate a government program but relates to changes to an existing activity: fidelity bond requirements.

2. The rule does not require a change in work that creates new employee positions nor does it generate savings that would eliminate any employee positions.

3. The new section does 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 will not increase or decrease 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 a rule that provides clarity around fidelity bond requirements and better mitigates Department risk. There may be minimal costs to some program participant organizations that could be readily absorbed by the administrative funds provided by TDHCA.

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 section will not have costs to the state to implement. 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 November 21 to December 21, 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, December 21, 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.

§1.406. Fidelity Bond Requirements.

The Department is required to assure that fiscal control and accounting procedures for federal and state funded entities will be established to assure the proper disbursal and accounting for the federal funds paid to the state. In compliance with that assurance the Department requires program Subrecipients administering federal or state funds to maintain adequate fidelity bond coverage. A fidelity bond is a bond indemnifying the Subrecipient against losses resulting from the fraud or lack of integrity, honesty or fidelity of one or more of its employees, officers, or other persons holding a position of trust.

(1) In administering Contracts, Subrecipients shall observe their regular requirements and practices with respect to bonding and insurance. In addition, the Department may impose bonding and insurance requirements by Contract.

(2) If a Subrecipient is a non-governmental organization, the Department requires an adequate fidelity bond. If the amount of the fidelity bond is not prescribed in the contract, the fidelity bond must be for at least the greater of $50,000 or 10% of the Contract amount. In the event that the Subrecipient is administering a Reservation Agreement, and the amount of funds committed under the Contract exceeds $500,000, the amount of the fidelity bond must be increased to ensure that the amount meets or exceeds 10% of total funds reserved. The bond must be obtained from a company holding a certificate of authority to issue such bonds in the State of Texas.

(3) The fidelity bond coverage must include all persons authorized to sign or counter-sign checks or to disburse cash in an amount that exceeds $250. Persons who handle only amounts of less than $250 need not be bonded, nor is it necessary to bond officials who are authorized to sign payment vouchers, but are not authorized to sign or counter-sign checks or to disburse cash.

(4) The Subrecipient must receive an assurance letter from the bonding company or agency stating the type of bond, the amount and period of coverage, the positions covered, and the annual cost of the bond. Compliance must be continuously maintained thereafter. A copy of the actual policy shall remain on file with the Subrecipient and shall be subject to monitoring by the Department.

(5) Subrecipients are responsible for filing claims against the fidelity bond when a covered loss is discovered.

(6) The Department may take any one or more of the actions described in Chapter 2, of this Part, relating to Enforcement in association with issues identified as part of filing claims against the fidelity bond.

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 November 7, 2025.

TRD-202504057
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Earliest possible date of adoption: December 21, 2025
For further information, please call: (512) 475-3959

♦ ♦ ♦

10 TAC §1.410

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of 10 TAC Chapter 1, Subchapter D, Uniform Guidance for Recipients of Federal and State Funds, §1.410 Determination of Alien Status for Program Beneficiaries. The purpose of the proposed repeal is to eliminate the outdated rule and replace it simultaneously with a new rule that more closely aligns with Executive Order 14218 (Ending Taxpayer Subsidization of Open Borders) issued on February 19, 2025 by President Trump; A.G. Order No. 6335-2025 by the U.S. Attorney General (Revised Specification Pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996), the federal direction provided in 2025 grant agreements from the Unites States Department of Housing and Urban Development (HUD), and with Section 401(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) on Department programs, which provides that an alien who is not a qualified alien is not eligible for any federal public benefit.

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 implementation of Executive Order 14218 (Ending Taxpayer Subsidization of Open Borders) issued on February 19, 2025 by President Trump, A.G. Order No. 6335-2025 by the U.S. Attorney General (Revised Specification Pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996), and in the implementation and applicability of Section 401(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA).

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 November 21 to December 21, 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, December 21, 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.

§1.410. Determination of Alien Status for Program Beneficiaries.

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 November 7, 2025.

TRD-202504058
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Earliest possible date of adoption: December 21, 2025
For further information, please call: (512) 475-3959

♦ ♦ ♦

10 TAC §1.410

The Texas Department of Housing and Community Affairs (the Department) proposes new 10 TAC Chapter 1, Subchapter D, Uniform Guidance for Recipients of Federal and State Funds, §1.410 Determination of Alien Status for Program Beneficiaries. The purpose of the proposed rule is to eliminate the outdated rule and replace it simultaneously with a new rule that more closely aligns with Executive Order 14218 (Ending Taxpayer Subsidization of Open Borders) issued on February 19, 2025 by President Trump, A.G. Order No. 6335-2025 by the U.S. Attorney General (Revised Specification Pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996), the federal direction provided in 2025 grant agreements from the Unites States Department of Housing and Urban Development (HUD), and in the implementation and applicability of Section 401(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) on Department programs, which provides that an alien who is not a qualified alien is not eligible for any federal public benefit.

Tex. Gov't Code §2001.0045(b) does apply to the rule proposed because there are some costs associated with this action. However, in order to ensure compliance with Executive Order 14218, A.G. Order No. 6335-2025 by the U.S. Attorney General (Revised Specification Pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996), the federal HUD grant agreements, and PRWORA this rule is being revised. 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 verification of program participant eligibility as it relates to the implementation of Executive Order 14218 (Ending Taxpayer Subsidiza-

tion of Open Borders) issued on February 19, 2025 by President Trump, A.G. Order No. 6335-2025 by the U.S. Attorney General (Revised Specification Pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996), the federal direction provided in the Department's 2025 grant agreements from HUD, and in the implementation and applicability of Section 401(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA).

2. The rule may require a change in work that could require the creation of approximately 2 new employee positions to perform the client verifications.

3. The new section does 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 will increase the number of individuals subject to the rule's applicability as well as increase the number of Department subrecipients subject to the rule in an effort to ensure that public benefits are being used only for qualified households.

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 a rule that is in alignment with Executive Order 14218 (Ending Taxpayer Subsidization of Open Borders) issued on February 19, 2025 by President Trump, in compliance with direction provided by HUD for the HOME and NHTF programs, and in the implementation and applicability of Section 401(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) and therefore ensures that public benefits are not received by unqualified aliens. 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 November 21 to December 21, 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, December 21, 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.

§1.410. Determination of Alien Status for Program Beneficiaries.

(a) Purpose. The purpose of this section is to provide uniform Department guidance on Section 401(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), which provides that an alien who is not a Qualified Alien is not eligible for any federal or state public benefit.

(b) Definitions. The words and terms in this chapter shall have the meanings described in this subsection unless the context clearly indicates otherwise. Capitalized words used herein have the meaning assigned in the specific Chapters and Rules of this Title that govern the program under which program eligibility is seeking to be determined or assigned by federal or state law.

(1) Administrator--An entity that receives federal or state funds passed through the Department. The term includes, but is not limited, to a Subrecipient, State Recipient, Recipient, or a Developer of single-family housing for homeownership. The term also applies to a For Profit Entity having been procured by the Department to determine eligibility for federal or state funds and as otherwise reflected in the Contract.

(2) For Profit Entity--an Administrator that is neither a Public Organization nor a Nonprofit Charitable Organization.

(3) Nonprofit Charitable Organization--An entity that is organized and operated for purposes other than making gains or profits for the organization, its members or its shareholders, and is precluded from distributing any gains or profits to its members or shareholders; and is organized and operated for charitable purposes.

(4) Public Organization--An entity that is a Unit of Government or an organization established by a Unit of Government.

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

(6) State--The State of Texas or the Department, as indicated by context.

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

(c) Applicability for Federal Funds.

(1) The determination of whether a federal program, or activity type under a federal program, is a federal public benefit for purposes of PRWORA is made by the federal agency with administration of a program or activity. Block grants have been determined to be subject to PRWORA. The only circumstance in which the Department will not apply this section is in cases in which the PRWORA statute provides, or the administering federal agency has given clear direction, that an activity is explicitly not a federal public benefit and does not require verification.

(2) At the time of the publication of this rule, this rule applies to Contracts administered in the Single Family and Homeless Division and the Community Affairs Division for applicable federally funded Department programs including Low Income Home Energy Assistance Program, Department of Energy Weatherization Assistance Program, Community Services Block Grant Program, Community Development Block Grant Program, Emergency Solutions Grant Program, and to the extent used for single-family activities National Housing Trust Fund Program, Neighborhood Stabilization Program, the HOME Program and other programs as provided for in Administrator's Contracts or state guidance with an initial effective date on or after February 1, 2026, or for the Community Development Block Grant Program and HOME 2025 or later year funds added to an existing Contract. For those programs that operate reservation based funding methods this rule applies to Household Commitment Contracts with an initial effective date on or after February 1, 2026.

(3) The requirements of this section are applicable to Subrecipients of federal funds passed through the Department as described in paragraph (1) of this subsection. However, certain exemptions under PRWORA may exist on a case specific, or activity specific basis as further provided by the applicable federal agency.

(d) Applicability for State Funds. The Department has determined that State funds that are provided to a Subrecipient to be distributed directly to individuals, are a state public benefit. At the time of the publication of this rule, applicable state funded Department programs include TCAP-RF (to the extent used for single-family activities), the Homeless Housing and Services Program, the Amy Young Barrier Removal Program, and the Bootstrap Program and other programs as provided for in Administrator's Contracts or state guidance with an initial effective date on or after February 1, 2026. For those programs that operate reservation based funding methods this rule applies to Activity level commitment documents with an initial effective date on or after February 1, 2026.

(e) Exemptions and Benefit Calculations under PRWORA.

(1) If no exemptions under PRWORA are applicable to the activity type, as provided for by the federal agency or by the statute, then the Subrecipient must verify U.S. Citizen, U.S. National, or Qualified Alien status ("legal status") using the methods provided for in subsection (f) of this section and evaluate eligibility using the rules for the applicable program under this Title.

(2) Administrators should review Program Rules and Contracts for additional information, including how benefit calculations are adjusted for households in which not all members can be verified.

(f) Verification Process Under PRWORA for Programs with Subrecipients.

(1) Administrators may first seek to verify legal status through the use of several established documents as described more fully in guidance provided by the Department and in the Administrator's Contract. Only if unable to verify legal status with those documents will the SAVE system be utilized as described in this subsection.

(2) Public Organizations. Administrators that are Public Organizations are required to perform the verifications through the SAVE system.

(3) An Administrator is required to ensure compliance with the verification requirement as provided for in subparagraphs (A), (B) or (C) of this paragraph. Records must be maintained as required by subparagraph (D) of this paragraph. Notification of election of method must be provided in accordance with subparagraph (E) of this paragraph.

(A) The Subrecipient requesting from the household and transmitting to the Department, or a party contracted by the Department, sufficient information or documentation so that the Department or its vendor can perform such verification and provide a determination to the Subrecipient; OR

(B) As eligible, the Administrator electing to perform the verifications through the SAVE system, as authorized through the Department's access to such system; OR

(C) The Subrecipient electing to procure an eligible qualified organization to perform such verifications on its behalf, subject to Department approval.

(D) In the administration of subparagraph (A) of this paragraph, the Administrator must provide and maintain a sufficient method of electronic transmittal system that allows for such information to be provided to the Department or its vendor, and ensures the secure safekeeping of such paper and/or electronic files, and receipt of subsequent response back from the Department or its contracted party. In the administration of subparagraphs (B) or (C) of this paragraph, the Subrecipient or its procured provider must maintain sufficient evidence and documentation that verification has taken place so that such verification can be confirmed by the Department.

(E) Notification of Election of method under subsection (f)(4)(A) through (C) of this section by Nonprofit Charitable Organizations and For Profit Entities must be provided to the Department as specified in this subparagraph.

(i) For existing Applicants, Administrators with a Contract that is subject to Automatic Renewal, and Awardees or Administrators with a Reservation Contract. No later than 60 days after the effective date of this rule, all entities shall submit their election under subsection (f)(4)(A) through (C) of this section in writing to the applicable program director or his/her designee.

(ii) A new Applicant must make its election under subsection (f)(4)(A) through (C) of this section in its application, or if there is no Application prior to Contract execution.

(iii) For Administrators with no Application or Automatic Renewal once an election is made under this subsection or was made under a prior version of this rule, it does not need to be resubmitted or reelected, but will continue from the election made in the prior year unless the Administrator notifies the Department otherwise in writing at least three months prior to the renewal of the Contract (as applicable).

(iv) If an Administrator does not notify the Department of the election in writing by the deadline or refuses to abide by its election the Administrator will not be eligible to perform as an Admin-

istrator in the program, which is considered good cause for nonrenewal or termination of a Contract.

(g) The Department may further describe an Administrator's responsibilities under PRWORA, including but not limited to use of the SAVE system, in its Contract with the Administrator or in further guidance. Nothing in this rule shall be construed to be a waiver, ratification, or acceptance of noncompliant administration of a program prior to the rule becoming effective.

(h) Regardless of method of verification, the results of the verification performed or received by the Administrator must be utilized by the Administrator in determining household eligibility, benefits, income, or other programmatic designations as required by applicable federal program guidance or as determined by other Program Rules under this Title.

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 November 7, 2025.

TRD-202504059
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Earliest possible date of adoption: December 21, 2025
For further information, please call: (512) 475-3959

♦ ♦ ♦

CHAPTER 90. MIGRANT LABOR HOUSING FACILITIES

10 TAC §§90.1 - 90.9

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of 10 TAC Chapter 90 Migrant Labor Housing Facilities. The purpose of the proposed repeal is to eliminate the outdated rule and replace it simultaneously with a new more germane rule that now complies with, SB 243 (89th Regular Legislature) which added provisions to the Department's oversight and administration of Migrant Labor Housing Facilities. Changes include the addition of a new complaint process; notice; dismissal requirements; remediation of complaints in general and regarding certain violations; and prohibition on retaliation for facility-related complaints. Additionally, the new rule outlines a penalty structure for noncompliance and provide for interagency cooperation and outreach/education requirements.

Tex. Gov't Code §2001.0045(b) does apply to the rule proposed for action because costs may be associated with this action, however these changes are required to implement new statutory changes.

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 updates to implement SB 243.

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

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

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

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

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

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

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

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

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

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

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

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

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the changed sections would be a rule in compliance with statute. 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 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 repeal or any other interested person. The public comment period will be held November 21, 2025 to December 21, 2025, to receive input on the 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@td-hca.texas.gov. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local (Central) time, December 21, 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.

§90.1. Purpose.

§90.2. Definitions.

§90.3. Applicability.

§90.4. Standards and Inspections.

§90.5. Licensing.

§90.6. Records.

§90.7. Complaints.

§90.8. Civil Penalties and Sanctions.

§90.9. Dispute Resolution, Appeals, and Hearings.

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 November 7, 2025.

TRD-202504049
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Earliest possible date of adoption: December 21, 2025
For further information, please call: (512) 475-3959

♦ ♦ ♦

10 TAC §§90.1 - 90.9

The Texas Department of Housing and Community Affairs (the Department) proposes new 10 TAC Chapter 90 Migrant Labor Housing Facilities. The purpose of the new rule is to comply with, SB 243 (89th Regular Legislature) which added provisions to the Department's oversight and administration of Migrant Labor Housing Facilities. Changes include the addition of a new complaint process; notice; dismissal requirements; remediation of complaints in general and regarding certain violations; and prohibition on retaliation for facility-related complaints. Additionally, the new rule outlines a penalty structure for noncompliance and provide for interagency cooperation and outreach/education requirements.

Tex. Gov't Code §2001.0045(b) does apply to the rule proposed for action because costs may be associated with this action, however these changes are required to implement new statutory changes.

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 section would be in effect:

1. The rule will not create or eliminate a government program. The amended rule provides for an assurance that required licensing requirements tasked to the Department are clearly relayed to employers who house and license migrant labor housing facilities. Changes include new complaint procedures, a penalty structure, and outreach/education requirements.

2. The rule will require a change in the number of employees of the Department; the enactment of SB 243 included appropriations for three full time employees to perform the work associated with implementation of SB 243 and this rule.

3. The rule will require additional future legislative appropriations. The proposed amendment to the rule is in effect because the Texas Legislature in its 89th Regular Session passed SB 243. The Department was appropriated an additional $535,000 for per year of the biennium from General Revenue funds to implement the provisions of the legislation and receive three new FTEs. It is expected that the appropriation would continue in subsequent biennia to continue implementing the provisions.

4. The rule may result in some additional penalty fees paid to the Department in the case of noncompliant providers.

5. The rule is revising an existing regulation through repeal and readoption to implement the requirements of SB 243.

6. The rule action does repeal an existing regulation but only so that the regulation can be replaced with a newer rule that may be considered to "expand" the existing regulation on this activity because the change to the rule are necessary to ensure compliance with SB 243.

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

8. The rule will neither positively nor negatively 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 determined that this rule provides specific details on how complaints are processed, revised penalty schedule for noncompliance event(s), interagency cooperation and outreach/education. Other than in a case of small or micro-businesses subject to the proposed rule, economic impact of the rule is projected to be none. If rural communities are subject to the proposed new rule, the economic impact of the rule is projected to be none.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The new sections do 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 the effect on local employment would be that providers have a more compliant workplace.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the new sections are in effect, the public benefit anticipated as a result of the new section would be

a rule compliant with SB243. The only economic cost to any individual required to comply with the rule would be for those individuals or entities that choose to be noncompliant, in which case there may be fees for noncompliance events.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new sections are in effect, enforcing or administering the rule does not have any foreseeable implications related to costs or revenues other than already noted herein.

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 November 21, 2025, to December 21, 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@td-hca.texas.gov. ALL COMMENTS AND INFORMATION MUST BE RECEIVED BY 5:00 p.m. Austin local time, December 21, 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 new sections affect no other code, article, or statute.

§90.1. Purpose.

The purpose of Chapter 90 is to establish rules governing Migrant Labor Housing Facilities that are subject to being licensed under Tex. Gov't Code Chapter 2306, Subchapter LL (§§2306.921 - 2306.9340). It is recognized that aligning state requirements with the federal standards for migrant farmworker housing that must be inspected in order to participate in other state and federal programs, such as with the U.S. Department of Labor's H2-A visa program, allows for cooperative efforts between the Department and other state and federal entities to share information. This will reduce redundancies and improve the effectiveness of the required licensing.

§90.2. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Additionally, any words and terms not defined in this section but defined or given specific meaning in Tex. Gov't Code Chapter §§2306.921 - 2306.940, are capitalized. Other terms in 29 CFR §§500.130 - 500.135, 20 CFR §§654.404 et seq., and 29 CFR §1910.142 or used in those sections and defined elsewhere in state or federal law or regulation, when used in this chapter, shall have the meanings defined therein, unless the context herein clearly indicates otherwise.

(1) Act--The state law that governs the operation and licensure of Migrant Labor Housing Facilities in the state of Texas, found at Tex. Gov't Code, §§2306.921 - 2306.940.

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

(3) Business Day--Any day that is not a Saturday, Sunday, or a holiday observed by the State of Texas.

(4) Business hours--8:00 a.m. to 5:00 p.m., local time.

(5) Couple--A pair of individuals, whether legally related or not, that act as and hold themselves out to be a couple; provided, however, that nothing herein shall be construed as creating or sanctioning any unlawful relationship or arrangement.

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

(7) Designated Representative--Means an individual or organization to whom a Migrant Agricultural Worker has given written authorization to exercise the worker's right to file a complaint under Tex. Gov't Code §2306.934.

(8) Director--The Executive Director of the Department or designated staff.

(9) Family--A group of people, whether legally related or not, that act as and hold themselves out to be a Family; provided, however, that nothing herein shall be construed as creating or sanctioning any unlawful relationship or arrangement such as the custody of an unemancipated minor by a person other than their legal guardian.

(10) License--The document issued to a Licensee in accordance with the Act.

(11) Licensee--Any Person that holds a valid License issued in accordance with the Act.

(12) Occupant--Any Person, including a Worker, who uses a Migrant Labor Housing Facility for housing purposes.

(13) Provider--Any Person who provides for the use of a Migrant Labor Housing Facility by Migrant Agricultural Workers, whether the Facility is owned by the Provider, or is contractually obtained (or otherwise established) by the Provider. An agricultural industry employer or a contracted or affiliated entity may be a Provider if it owns, contracts, or pays for the use of a Migrant Labor Housing Facility by Migrant Agricultural Workers, regardless of whether any rent or fee is required to be paid by a Worker. A common short-term property rental owner or operator that does not exclusively rent to Migrant Agricultural Workers is not a Provider solely because they have rented to Migrant Agricultural Workers. The Provider is the operator under Tex. Gov't Code §2306.928.

(14) State Office of Administrative Hearings (SOAH)--Is an independent and neutral agency for hearing and mediating administrative disputes and appeals in Texas in accordance with Tex. Gov't Code §2001, Tex. Gov't Code §2003, and 1 TAC §155.

(15) Worker--Also known as Migrant Agricultural Worker, being an individual who is:

(A) working or available for work seasonally or temporarily in primarily an agricultural or agriculturally related industry, and

(B) moves one or more times from one place to another to perform seasonal or temporary employment or to be available for seasonal or temporary employment.

§90.3. Applicability.

(a) All Migrant Labor Housing Facilities in the state of Texas, which may include hotels and other public accommodations if owned by or contracted for by Providers must be inspected and comply with the requirements in this chapter and 29 CFR §§500.130, 500.132 - 500.135, without the exception provided in 29 CFR §500.131.

(b) Where agricultural employers own, lease, rent, otherwise contract for, or obtain under other working arrangements, Facilities "used" by individuals or Families that meet the criteria described in

the Act, the employer as Provider of said housing, "establishes" and becomes the "operator" of a Migrant Labor Housing Facility, and is the responsible entity for obtaining and "maintaining" the License on such Facility, as those terms are used in Tex. Gov't Code §2306.921 - 2306.922.

(c) An applicant for a License must facilitate an inspection by the Department with the owner of the property(ies) at which the Migrant Labor Housing Facility is located, or the inspection will be considered failed.

(d) Owners or operators of homeless shelters, public camp grounds, youth hostels, hotels and other public or private accommodations that do not contract for services with Providers to house Workers are not required to be licensed.

(e) No License would be required where a Worker is housed exclusively with his/her Family using their own structure, trailer, or vehicle, but temporarily residing on the land of another.

(f) A Facility may include multiple buildings on scattered or noncontiguous sites, as long as the scattered sites are in a reasonable distance from each other, and the work location and the buildings are operated as one Facility by the Provider.

§90.4. Standards and Inspections.

(a) Facilities must follow the appropriate housing standard as defined in 29 CFR §500.132, (the Employment and Training Administration (ETA) and Occupational Safety and Health Administrations (OSHA) housing standards also referred to as the "ETA and OSHA Housing Standards"), or if applicable the Range Housing standard as defined in 20 CFR §655.235 or Mobile Housing Standards as defined in 20 CFR §655.304. The inspection checklists setting forth those standards are available on the Department's website at https://www.tdhca.texas.gov/migrant-labor-housing-facilities.

(b) Inspections of the Facilities of applicants for a License and Licensees may be conducted by the Department under the authority of Tex. Gov't Code §2306.928 upon reasonable notice and using the appropriate inspection forms noted in subsection (a) of this section. Inspections may be conducted by other State or Federal agencies, on behalf of the Department, on forms promulgated by those agencies.

(c) In addition to the standards noted in subsection (a) of this section, all Facilities must comply with the following additional state standards:

(1) Facilities shall be constructed in a manner to insure the protection of Occupants against the elements. Facilities shall be maintained in good repair and in a sanitary condition. All doors to the exterior shall have working locks and all windows shall have working interior latches. Each unit shall have a working smoke detector. Fire extinguishing equipment shall be provided in an accessible place located within 100 feet from each Facility. Such equipment shall provide protection equal to a 2 1/2 gallon stored pressure of five gallon pump type water extinguisher. Such equipment shall also have a service tag that indicates no more than a year has passed since last servicing if rechargeable, and that the extinguisher is no more than 12 years old and properly charged if non-rechargeable or disposable. A working carbon monoxide detector must be present in all units that use gas or other combustible fuel.

(2) Combined cooking, eating, and sleeping arrangements must have at least 100 SF per person (aged 18 months and older); the portion of the Facility for sleeping areas must include at least a designated 50 square feet per person.

(3) Facilities for Families with children must have a separate room or partitioned area for adult Family members.

(4) In dormitory-type facilities, separate sleeping accommodations shall be provided for each sex. In Family housing units, separate sleeping accommodations shall be provided for each Family unit.

(5) Facilities previously used to mix, load, or store pesticides and toxic chemicals may not be used for cooking, dishwashing, eating, sleeping, housing purposes, or other similar purposes.

(6) In a central mess or multifamily feeding operation, the kitchen and mess hall shall be constructed in accordance with any applicable local or state rules on food services sanitation.

(7) Beds, bunks, or cots shall have a clear space of at least 12 inches from the floor. Triple-deck bunks shall be prohibited. Single beds shall be spaced not closer than 36 inches laterally or end to end. Bunk beds shall be spaced not less than 48 inches laterally or 36 inches end to end. There shall be a clear ceiling height above a mattress of not less than 36 inches. The clear space above the lower mattress of the bunk beds and the bottom of the upper bunk shall not be less than 27 inches.

(8) Bathrooms, in aggregate shall have a minimum of one showerhead per 10 persons and one lavatory sink per six persons. Showerheads shall be spaced at least three feet apart to insure a minimum of nine square feet of showering space per showerhead.

(9) In all communal bathrooms separate shower stalls shall be provided.

(10) Mechanical clothes washers with dryers or clothes lines shall be provided in a ratio of one per 50 persons. In lieu of mechanical clothes washers, one laundry tray (which is a fixed tub (made of slate, earthenware, soapstone, enameled iron, stainless steel, heavy duty plastic, or porcelain) with running water and drainpipe for washing clothes and other household linens) or tub per 25 persons may be provided.

(11) All Facility sites shall be provided with electricity. The electrical systems shall conform to all applicable codes and shall be sufficient to provide the electricity with sufficient amperage to operate all required and available features, including but not limited to lighting, stoves, hot water heaters, heating systems, portable heaters, refrigeration, and such other devices as may be connected to wall type convenience outlets.

(12) A separate bed and clean mattress must be provided for each individual Worker or Couple. If a single bed is provided to a Couple, it may not be smaller than a full size.

§90.5. Licensing.

(a) Tex. Gov't Code §2306.922 requires the licensing of Migrant Labor Housing Facilities.

(b) Any Person who wants to apply for a License to operate a Facility may obtain the application form from the Department. The required form is available on the Department's website at https://www.tdhca.texas.gov/migrant-labor-housing-facilities.

(c) An application must be submitted to the Department prior to the intended operation of the Facility, but no more than 60 days prior to said operation. Applications submitted to the Department that are not complete, due to missing items and/or information, expire 90 days from Department receipt. In this circumstance, the fees paid are ineligible for a refund.

(d) The fee for a License is $250 per year, except in such cases where the Facility was previously inspected and approved to be utilized for housing under a State or Federal migrant labor housing program, and that such inspection conducted by a State or Federal agency is pro-

vided to the Department. Where a copy of such inspection conducted by a State or Federal agency is less than 90 days old, has no material deficiencies or exceptions, and is provided to the Department prior to the Department's scheduled inspection, the application fee shall be reduced to $75. However, if an inspection or re-inspection by the Department is required at the sole determination by the Department, the full application fee may apply.

(e) The License is valid for one year from the date of issuance unless sooner revoked or suspended. Receipt of a renewal application that is fully processed resulting in the issuance of a renewed license shall be considered as revoking the previous license, with the effective and expiration dates reflecting the renewal. All licenses have the same effective date as their issuance.

(f) Fees 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. If any check or other instrument given in payment of a licensing fee is returned for any reason, any License that has been issued in reliance upon such payment being made is null and void.

(g) A fee, when received in connection with an application is earned and is not subject to refund. At the sole discretion of the Department, refunds may be requested provided the fee payment or portion of a payment was not used toward the issuance of a License or conducting of an inspection.

(h) Upon receipt of a complete application and fee, the Department shall review the existing inspection conducted by a State or Federal agency, if applicable and/or schedule an inspection of the Facility by an authorized representative of the Department. Inspections shall be conducted during Business Hours on weekdays that the Department is open, and shall cover all units that are subject to being occupied. Inspections by other State or Federal agencies in accordance with the requirements in 29 CFR §§500.130 - 500.135 may be accepted by the Department for purposes of this License, only if notice is given to the Department prior to the inspection in order for the Department to consider the inspection as being conducted by an authorized representative of the Department in accordance with Tex. Gov't Code §2306.928. In addition, a certification of the additional state standards described in 10 TAC §90.4(c), relating to Standards and Inspections, must be provided by the applicant, along with any supplemental documentation requested by the Department, such as photographs.

(i) The Person performing the inspection on behalf of the Department shall prepare a written report of findings of that inspection. The Department, when it determines it is necessary based on risk, complaint, or information needed at time of application, may conduct follow-up inspections.

(1) If the Person performing the inspection finds that the Facility, based on the inspection, is in compliance with 10 TAC §90.4, relating to Standards and Inspections, and the Director finds that there is no other impediment to licensure, the License will be issued.

(2) If the Person performing the inspection finds that although one or more deficiencies were noted that will require timely corrective action which may be confirmed by the Provider without need for re-inspection, and the Director finds that there is no other impediment to licensure, the License will be issued subject to such conditions as the Director may specify. The applicant may, in writing, agree to these conditions, request a re-inspection within 60 days from the date of the Director's letter advising of the conditions, provide satisfactory documentation to support the completion of the corrective action as may be required by the Department, or treat the Director's imposing of conditions as a denial of the application.

(3) If the Person performing the inspection finds that one or more deficiencies were noted that will require timely corrective action and the deficiencies are of such a nature that a re-inspection is required, the applicant shall address these findings and advise the Department, within 60 days from the date of written notice of the findings, of a time when the Facility may be re-inspected. If a re-inspection is required, the License may not be eligible for the reduced fee described in subsection (d) of this section and the balance of the $250 fee must be remitted to the Department prior to the re-inspection. If Occupants are allowed to use the Facility prior to the re-inspection the applicant must acknowledge the operation of the Facility in violation of these rules, and pay a fee to the Department as laid out in §90.8 of this chapter (relating to Civil Penalties and Sanctions) through the date the Facility is approved by the inspector, and eligible for licensing. If the results of the re-inspection are satisfactory and the Director finds that there is no other impediment to licensure, the License will be issued. If it is the determination of the Director that the applicant made all reasonable efforts to complete any repairs and have the property re-inspected in a timely manner, the penalty for operating a Facility without a License may be reduced to an amount determined by the Director, but not less than $50 per person per day.

(4) If the person performing the inspection finds that the Facility is in material noncompliance with §90.4 of this chapter (relating to Standards and Inspections), or that one or more imminent threats to health or safety are present, the Director may deny the application. In addition, the Department may also take action in accordance with §90.8, relating to Civil Penalties and Sanctions.

(5) If access to all units subject to inspection is not provided or available at time of inspection, the inspection will automatically fail.

(j) If the Director determines that an application for a License ought to be granted subject to one or more conditions, the Director shall issue an order accompanying the License, and such order shall:

(1) Be clearly incorporated by reference on the face of the License;

(2) Specify the conditions and the basis in law or rule for each of them; and

(3) Such conditions may include limitations whereby parts of a Facility may be operated without restriction and other parts may not be operated until remedial action is completed and documented in accordance with the requirements set forth in the order.

(k) Correspondence regarding an application should be addressed to: Texas Department of Housing and Community Affairs, Attention: Migrant Labor Housing Facilities, P.O. Box 12489, Austin, Texas 78711-2489 or migrantlaborhousing@tdhca.texas.gov.

(l) The Department shall inform the applicant in writing, (which may be electronically) addressed to a contact provided on the most recent application, of what is needed to complete the application and/or if a deviation found during the inspection requires a correction in order to qualify for issuance of a License.

(m) For Providers that are housing Workers in hotels or apartments, failing to provide beds or meals as reported during the application process will, if occupied at the time of inspection and upon the Department's confirmation, result in the finding of noncompliance of not meeting state or federal housing standards as defined in the subchapter.

(n) Any changes to an issued License (such as increasing occupancy and/or adding a building or unit) may be made at the sole determination of the Department, based on current rules and policy, within 30 days of the License issuance. Any changes requested more than

30 days after License issuance will require the submission of an application for renewal, new inspection, and new fee payment, per the applicable rate.

(o) An applicant or Licensee that wishes to appeal any order of the Director, including the appeal of a denial of an application for a License or an election to appeal the imposing of conditions upon a License, may appeal such order by sending a signed letter to the Director within thirty (30) days from the date specified on such order, indicating the matter that they wish to appeal.

§90.6. Records.

(a) Each Licensee shall maintain and upon request make available for inspection by the Department, the following records:

(1) Copies of all correspondence to and from the Department. This shall include the current designation of each Provider;

(2) A current list of the Occupants of the Facility and the date that the occupancy of each commenced;

(3) Documentation establishing that all bedding facilities were sanitized prior to their being assigned to the current occupant; and

(4) Copies of any and all required federal, state, or local approvals and permits, including but not limited to any permits to operate a waste disposal system or a well or other water supply, and any correspondence to or from such approving or permitting authorities.

(b) All such records shall be maintained for a period of at least three years.

(c) A Licensee shall post in at least one conspicuous location in a Facility or in at least one building per site for a scattered site Facility:

(1) A copy of the License;

(2) A decal provided by the Department with the licensing program logo and the year for which the License was granted; and

(3) A complaint procedure poster or notice in at least 20 point bold face type using the form provided on the Department's website at https://www.tdhca.texas.gov/migrant-labor-housing-facilities.

(4) For hotels, the License and poster described in paragraph (3) of this subsection may be posted in the lobby or front desk area only if this area is clearly visible, allows for easy reading of the aforementioned documents, and is readily accessible to the hotel guests and general public. If the hotel refuses to allow this posting, the License and poster described in this paragraph then must be posted in each room used to house the Workers.

§90.7. Complaints.

(a) If the Department receives any complaint, it shall investigate it by appropriate means, including the conducting of a complaint inspection. Any complaint inspection will be conducted after giving the Provider notice of the inspection and an opportunity to be present. The complainant will be contacted by the Department as soon as possible but no later than 10 days after making a complaint and such a call may be relayed to local authority(ies) if a possible life threatening safety or health issue is involved. Complaints received by the Department:

(1) will be accepted through the Department 's Internet website, in person at any Department office, or by telephone to 1-833-522-7028, or written notice to the Department (either through mail or electronic mail); and

(2) May be made in English, Spanish, or other language, as needed.

(3) May only be submitted by:

(A) An occupant of the Facility that is the subject of the complaint;

(B) A prospective occupant of the Facility that is the subject of the complaint;

(C) The Designated Representative of a person described by subparagraph (A) or (B) of this paragraph; or

(D) An individual, including the owner or tenant of an adjacent property, that has observed a clear violation of this chapter.

(b) On receipt of a complaint, the Department not later than the fifth day after the date on which the Department receives a complaint, the Department shall notify the Provider by electronic mail that is the subject of the complaint. Notice under this subsection must include:

(1) the date that the complaint was received;

(2) the subject matter of the complaint;

(3) the name of each person contacted in relation to the complaint, if any; and

(4) the timeline for remedying a complaint that is not otherwise dismissed by the Department.

(c) If the Department is unable to make contact with a Provider of a Facility for the purpose of serving a notification of a complaint, the Department shall serve the notification of the complaint via registered or certified mail, return receipt requested.

(d) If the Department determines that a complaint is unfounded or does not violate the standards adopted by rule, the Department may dismiss the complaint and shall include a statement of the reason for the dismissal in the record of the complaint. The Department shall provide timely notice of any dismissal of the complaint, including the explanation for the dismissal, to the Provider of the Facility that is the subject of the complaint.

(e) A Designated Representative may not be required to reveal the name of any Worker on whose behalf the representative submitted a complaint under this section if the Department reviews the written authorization establishing the representation and verifies that the representative is authorized to submit the complaint. The Department will verify the Designated Representative is authorized through the following process:

(1) A written authorization must be submitted to the Department, using a Department-provided form or another document containing the following:

(A) The name of the Designated Representative, their contact information, and the name of any applicable organization they are representing.

(B) The complainant's name and contact information, if authorized to disclose.

(C) Whether the complainant wishes and authorizes the Designated Representative to disclose their name.

(D) The complainant's employer, contact information, and housing address.

(E) The length of time the authorization is valid for, not to exceed one year, as well as the effective date of the authorization.

(F) A list of the communications the Designated Representative is authorized to conduct on the complainant's behalf.

(G) The signature of both the complainant and the Designated Representative. The complainant's signature may be redacted by the Designated Representative if confidentiality is requested.

(2) If the written authorization indicates that a complainant wishes to maintain confidentiality, the Department will conduct a virtual conference with the Designated Representative and the complainant, to confirm the validity of the written representation authorization, and to discuss any other details of the authorization, as needed.

(f) The Department may seek to protect the identity of any complainant from disclosure, but cannot guarantee a complainant's identity would not be subject to disclosure under the law. However, as stated and conditioned in subsection (e) of this section, a Designated Representative may not be required to reveal the name of any Worker on whose behalf the representative submitted a complaint.

(g) A person who owns, establishes, maintains, operates, or otherwise provides a Facility, or a Person who employs a Worker who occupies a Facility may not retaliate against a person for filing a complaint or providing information in good faith relating to a possible violation of this chapter.

(h) Remediation of a complaint:

(1) Not later than the seventh day after the date that notice is received under Tex. Gov't Code §2306.934, the Provider of a Facility shall remedy the complaint.

(2) Proof or remediation, at the Department's sole discretion and determination will be submitted in the form of visual evidence (such as photos/videos, invoices/receipts, etc.), sworn affidavit, and/or follow up inspection by the Department's designated inspectors, prior to the end of the prescribed corrective action period.

(3) For a Provider of a Facility who receives notice under Tex. Gov't Code §2306.934(e) or who does not submit proof of remediation in the manner provided by Subsection (b) of this section, the Department shall have the Facility inspected as soon as possible following the seventh day after the date notice is received under Tex. Gov't Code §2306.934 to ensure remediation of the complaint.

(i) Remediation of a Complaint Regarding Certain Violations: This section applies only to a complaint that alleges a violation that the Department determines poses an imminent hazard or threat to the health and safety of the occupants of the Facility, including violations of rules adopted by the Department concerning sanitation. Examples include but are not limited to: failure to provide minimum square footage per person, insufficient or substandard bedding, bed sharing, insufficient kitchen facilities or meals not provided, insufficient waste disposal, and interruption in or access to water.

(1) Not later than the 30th day after the date notice is received under Tex. Gov't Code §2306.934, the Provider of a Facility that is the subject of a complaint described by Subsection (h) of this section shall remedy the complaint.

(2) The Department may refer a complaint described herein to a local authority for immediate inspection of the Facility.

(3) The Provider must relocate or provide for the relocation to another Facility of the occupants of a Facility that is the subject of a complaint under Subsection (h) of this section if the remediation of that complaint is projected to take longer than a period of 30 days. The relocation must be completed within seven days. A Facility to which a Person is relocated under this subsection:

(A) must meet the standards described in §90.4 of this chapter (relating to Standards and Inspections);

(B) must be located in the same vicinity as the vacated Facility;

(C) any moving expenses shall be paid by the Provider; and

(D) Provider shall hand-deliver or send via certified mail, return receipt requested, a written notice in both English and Spanish (or any other language that may be the primary language of the workers involved). This notice shall be in plain language and detail timeframes, procedure for payments/reimbursements, likely time frames for moving, and all relevant phone numbers and other contact information, including the Department's complaint line. Providers must arrange a reader to communicate with illiterate Workers.

(E) These relocation procedures and requirements shall not apply when the Workers housed are temporarily in the United States under an H-2A visa authorized by 8 U.S.C. Section 1101(a)(15)(H)(ii)(a).

(j) The Department may conduct interviews, including interviews of Providers and Occupants, and review such records as it deems necessary to investigate a complaint.

(k) Any violations not resolved in the time frame above will be subject to the enforcement procedure described in §90.8 of this chapter (relating to Civil Penalties and Sanctions).

(l) Complaints regarding Migrant Labor Housing Facilities will be addressed under this section, and not §1.2 of this title (relating to Department Complaint System to the Department).

§90.8. Civil Penalties and Sanctions.

(a) When the Director finds that the requirements of the Act or these rules are not being met, he or she may assess civil penalties or impose other sanctions as set forth herein. Nothing herein limits the right, as set forth in the Act, to seek injunctive and monetary relief through a court of competent jurisdiction.

(b) A civil penalty collected by the Department, the county attorney for the county in which the violation occurred, or the attorney general, at the request of the Department, shall be deposited to the credit of the general revenue fund and may be appropriated only to the Department for the enforcement of this chapter.

(c) For violations that present an imminent threat to health or safety or if licensee has a history of violations, if not promptly addressed, the Director may suspend or revoke the affected License.

(d) For violations that the Department determines pose an imminent hazard or threat to the health and safety of the occupants of the facility, including violations of rules adopted by the Department concerning sanitation, the Provider will need to follow the relocation procedure described in 10 TAC §90.7(i)(3) (relating to Complaints).

(e) For each violation of the Act or rules a civil penalty according to the attached penalty schedule but not less than $50 for each Person occupying the Facility in violation of this chapter for each day that the violation occurs will be assessed at the Department's sole determination.

(f) An action to collect a civil penalty under this section may be brought by:

(1) the Department through the contested case hearing process described by Tex. Gov't Code § 2306.930(b);

(2) the county attorney for the county in which the violation occurred, or the attorney general, at the request of the Department; or

(3) a Migrant Agricultural Worker if:

(A) a complaint regarding the violation for which the civil penalty is sought has been submitted under Tex. Gov't Code §2306.934; and

(B) at the time the complaint is submitted, the worker:

(i) lives in the Facility that is the subject of the complaint; and

(ii) is not temporarily in the United States under an H-2A visa authorized by 8 U.S.C. Section 1101(a)(15)(H)(ii)(a).

(g) An action to collect a civil penalty under this section may not be brought while:

(1) a contested case hearing brought by the Department under Tex. Gov't Code §2306.930(b) and relating to the same Facility is pending;

(2) an action for injunctive relief relating to the same violation is pending under Tex. Gov't Code §2306.932;

(3) an action brought by a county attorney or the attorney general and relating to the same migrant labor housing facility is pending; or

(4) the Provider of the Facility that is the subject of the action is:

(A) Awaiting for the Facility to be inspected under Tex. Gov't Code §2306.935(c) to confirm remediation of the violation that is the subject of the action; or

(B) providing housing at a Facility under Tex. Gov't Code §2306.936(d) to which the Migrant Agricultural Workers who occupied the Facility that is the subject of the action have been relocated under the procedures described in 10 TAC §90.7(i)(3).

(h) A civil penalty under this section begins accruing on the earlier of:

(1) for a violation with a remediation period described by Tex. Gov't Code §2306.935, the day that:

(A) the Department determines based on information submitted under Tex. Gov't Code §2306.935(b) that the Provider has failed to remedy the violation; or

(B) an inspection described by Tex. Gov't Code §2306.935(c) establishes that the Provider has failed to remedy the violation; or

(2) for a violation with a remediation period described by Tex. Gov't Code §2306.936, the 31st day following the date that notification of the complaint is received from the Department, unless the Provider has relocated under Tex. Gov't Code §2306.936(d) the Migrant Agricultural Workers who occupied the Facility that is the subject of the complaint.

(i) The Department shall issue a civil penalty invoice in accordance with the attached schedule for any findings of noncompliance that remain uncorrected as of the accrual dates noted above, provided that the TDHCA Compliance Division has not approved a corrective plan or extension. These invoices will be sent by electronic mail and US Postal Service to the addresses provided on the most recent TDHCA license application. A civil penalty invoice must be paid within 30 days of issuance by the Department.

(j) In the event that there are multiple findings of noncompliance subject to civil penalties that fall under multiple groups in the schedule in subsection (n) of this section, the civil penalty shall be for the higher penalty amount.

(k) Failure to timely pay a civil penalty invoice shall cause the TDHCA Compliance Division to refer the unpaid invoice to the TDHCA Legal Division. The Legal Division will first attempt to resolve the matter informally. If the Legal Division is unable to resolve the matter informally, the Director, with the approval of the Board, shall cause a contested case 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. Alternatively, the Department may request that an action to collect the civil penalty be brought by the county attorney for the county in which the violation occurred, or the attorney general.

(l) The court in a suit brought under this chapter may award reasonable attorney's fees to the prevailing party.

(m) Civil penalties assessed regarding Migrant Labor Housing Facilities will be addressed under this section. Nothing herein limits the right, as set forth in the Act, to seek injunctive and monetary relief through a court of competent jurisdiction.

(n) Civil penalty assessment schedule for Migrant Labor Housing Facilities Migrant Labor Housing Facilities Findings of Noncompliance.

(1) Group 1: The collective civil penalty assessments per person occupying a Facility for each day that any of the following Group 1 findings of noncompliance occurs shall be: $50.00 per Person per day for a first-time assessment, $75.00 per Person per day for a second-time assessment, and $100.00 per Person per day for subsequent assessments.

(A) Housing workers in an unlicensed facility. It will not be considered a Finding of noncompliance if a TDHCA License application has already been submitted.

(B) Not meeting state or federal housing standards as defined in this chapter, if occupied at the time of inspection.

(C) Housing more Workers than licensed to house, and/or using other housing facilities/buildings that have not been inspected and/or included in current Licenses.

(D) Imminent hazard or threat to the health and safety of the Facility occupants, as determined by the Department.

(E) Failure to relocate workers to another Facility when complaint remediation or noncompliance corrections will take longer than 30-days, including:

(i) Failure to meet occupancy standards when relocating Workers.

(ii) Failure to relocate Workers within the same vicinity as the original vacated facility.

(iii) Failure to require a rent payment from a displaced Worker that does not exceed the rent charged for the vacated facility.

(F) Failure to display License or Department provided posting materials. This Finding will only be applicable for follow up and complaint inspections.

(2) Group 2: The collective civil penalty assessments per person occupying a Facility for each day that any of the following Group 4 Findings occur shall be: $500.00 per complainant per day for a first-time assessment, and $1,000.00 per person per day for subsequent assessments.

(A) Failure to respond to a complaint notification from the Department within the required specified time frame.

(B) Failure to remedy a complaint within the specified time.

(C) Failure to allow a Department inspection.

§90.9. Dispute Resolution, Appeals, and Hearings.

(a) A Licensee is entitled to appeal any order issued by the Director, including any order as a result of an inspection or a complaint and any order denying a License or issuing a License subject to specified conditions.

(b) In lieu of or during the pendency of any appeal, a Licensee may request to meet with the Director or, at his or her option, his or her designee to resolve disputes. Any such meeting may be by telephone or in person. Meetings in person shall be in the county where the Facility affected is located, unless the Licensee agrees otherwise.

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

(d) All administrative appeals are contested cases subject to, and to be handled in accordance with, Chapters 2306 and 2001, Tex. Gov't Code.

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

Filed with the Office of the Secretary of State on November 7, 2025.

TRD-202504050
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Earliest possible date of adoption: December 21, 2025
For further information, please call: (512) 475-3959

♦ ♦ ♦

TITLE 16. ECONOMIC REGULATION

PART 2. PUBLIC UTILITY COMMISSION OF TEXAS

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS

SUBCHAPTER D. RECORDS, REPORTS, AND OTHER REQUIRED INFORMATION

The Public Utility Commission of Texas (commission) proposes to repeal and replace 16 Texas Administrative Code (TAC) §25.88, relating to Retail Market Performance Measure Reporting. This proposed rule will implement Public Utility Regulatory Act (PURA) §39.168 as enacted by HB 1500 §24 during the Texas 88th Regular Legislative Session. Additionally, the proposed rule streamlines the reporting of competitive retail market data to the commission by Retail Electric Providers (REPs), ERCOT, and Transmission and Distribution Utilities (TDUs). Specifically, it mandates that data provided by REPs and ERCOT be reported according to customer classifications defined in 16 TAC §25.43, thereby standardizing reporting practices across reporting entities. Further, the amended rule reduces redundant data submission requirements for certain entities.

Growth Impact Statement

The agency provides the following governmental growth impact statement for the proposed rule, as required by Texas Government Code §2001.0221. The agency has determined that for each year of the first five years that the proposed rule is in effect, the following statements will apply:

(1) the proposed rule will not create a government program and will not eliminate a government program;

(2) implementation of the proposed rule will not require the creation of new employee positions and will not require the elimination of existing employee positions;

(3) implementation of the proposed rule will not require an increase and will not require a decrease in future legislative appropriations to the agency;

(4) the proposed rule will not require an increase and will not require a decrease in fees paid to the agency;

(5) the proposed rule will create a new regulation, but it will repeal a similar, existing regulation;

(6) the proposed rule will repeal and replace regulation on reporting retail market performance measures;

(7) the proposed rule will change the number of individuals subject to the rule's applicability; and

(8) the proposed rule will not affect this state's economy.

Fiscal Impact on Small and Micro-Businesses and Rural Communities

There is no adverse economic effect anticipated for small businesses, micro-businesses, or rural communities as a result of implementing the proposed rule. Accordingly, no economic impact statement or regulatory flexibility analysis is required under Texas Government Code §2006.002(c).

Takings Impact Analysis

The commission has determined that the proposed rule will not be a taking of private property as defined in chapter 2007 of the Texas Government Code.

Fiscal Impact on State and Local Government

Iliana De La Fuente, Attorney, Rules and Projects, has determined that for the first five-year period the proposed rule is in effect, there will be no fiscal implications for the state or for units of local government under Texas Government Code §2001.024(a)(4) as a result of enforcing or administering the sections.

Public Benefits

Ms. De La Fuente has determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the section will be increased transparency of the performance of the retail electric market which will lead to more effective oversight of the market by the commission while reducing the administrative burden on commission staff. There will not be any probable economic costs to persons required to comply with the rule under Texas Government Code §2001.024(a)(5).

Local Employment Impact Statement

For each year of the first five years the proposed section is in effect, there should be no effect on a local economy; therefore, no local employment impact statement is required under Texas Government Code §2001.022.

Costs to Regulated Persons

Texas Government Code §2001.0045(b) does not apply to this rulemaking because the commission is expressly excluded under subsection §2001.0045(c)(7).

Public Hearing

The commission will conduct a public hearing on this rulemaking if requested in accordance with Texas Government Code §2001.029. The request for a public hearing must be received by November 28, 2025. If a request for public hearing is received, commission staff will file in this project a notice of hearing.

Public Comments

Interested persons may file comments electronically through the interchange on the commission's website. Comments must be filed by November 28, 2025. Comments should be organized in a manner consistent with the organization of the proposed rules. The commission invites specific comments regarding the effects of the proposed rule, including the costs associated with, and benefits that will be gained by, implementation of the proposed rule. The commission also requests any data, research, or analysis from any person required to comply with the proposed rule or any other interested person. The commission will consider the information submitted by commenters and the costs and benefits of implementation in deciding whether to modify the proposed rules on adoption. All comments should refer to Project Number 56736.

Each set of comments should include a standalone executive summary as the last page of the filing. This executive summary must be clearly labeled with the submitting entity's name and should include a bulleted list covering each substantive recommendation made in the comments.

To assist the commission in its continued monitoring of the performance of the retail market, commission Staff requests responses to the following questions:

1. Are the Retail Market Performance Measures, and their associated schedule parts, provided by the commission in the filing package sufficient to monitor the competitive Texas retail electricity market? If not, what else should the commission consider in its Retail Performance Measures?

2. What else should the commission consider in its implementation of PURA §39.168 and the new §25.88?

16 TAC §25.88

Statutory Authority

The repeal of §25.88 is proposed under Public Utility Regulatory Act (PURA) §14.001, which grants the commission the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by this title that is necessary and convenient to the exercise of that power and jurisdiction; §14.002, which authorizes the commission to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; §14.003, which provides authority to require reports of a public utility; §15.023, which provides for commission imposition of an administrative penalty against a person regulated under PURA who violates PURA or a rule adopted under PURA; §39.001, which sets forth the legislative policy and purpose of PURA Chapter 39, Restructuring of Electric Utility Industry; §39.101, which sets forth customer safeguards; §39.151, which subjects to commission review procedures established by an independent operator relating to the reliability of the regional electrical network and accounting for the production and delivery of electricity among generators and all other market participants; §39.168, which requires REPs and its affiliates to annually report to the commission certain retail sales metrics; §39.352, which sets forth standards for certification of REPs; §39.356, which provides for suspension, revocation, or amendment of a REP's certificate; and §39.357, which provides for the imposition of administrative penalties on a REP for violations described by §39.356.

Cross Reference to Statute: Public Utility Regulatory Act §14.001, 14.002, 14.003, 15.023, 39.001, 39.101, 39.151, 39.168, 39.352, 39.356, and 39.357.

§25.88. Retail Market Performance Measure Reporting.

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 November 7, 2025.

TRD-202504047
Andrea Gonzalez
Rules Coordinator
Public Utility Commission of Texas
Earliest possible date of adoption: December 21, 2025
For further information, please call: (512) 936-7244

♦ ♦ ♦

16 TAC §25.88

Statutory Authority

The new §25.88 is proposed under Public Utility Regulatory Act (PURA) §14.001, which grants the commission the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by this title that is necessary and convenient to the exercise of that power and jurisdiction; §14.002, which authorizes the commission to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; §14.003, which provides authority to require reports of a public utility; §15.023, which provides for commission imposition of an administrative penalty against a person regulated under PURA who violates PURA or a rule adopted under PURA; §39.001, which sets forth the legislative policy and purpose of PURA Chapter 39, Restructuring of Electric Utility Industry; §39.101, which sets forth customer safeguards; §39.151, which subjects to commission review procedures established by an independent operator relating to the reliability of the regional electrical network and accounting for the production and delivery of electricity among generators and all other market participants; §39.168, which requires REPs and its affiliates to annually report to the commission certain retail sales metrics; §39.352, which sets forth standards for certification of REPs; §39.356, which provides for suspension, revocation, or amendment of a REP's certificate; and §39.357, which provides for the imposition of administrative penalties on a REP for violations described by §39.356.

Cross Reference to Statute: Public Utility Regulatory Act §14.001, 14.002, 14.003, 15.023, 39.001, 39.101, 39.151, 39.168, 39.352, 39.356, and 39.357.

§25.88. Retail Market Performance Measure Reporting.

(a) Applicability. This section applies to the Electric Reliability Council of Texas (ERCOT), retail electric providers (REPs), and transmission and distribution utilities (TDUs) except TDUs that provide only wholesale transmission service.

(b) Filing requirements. Using forms prescribed by the commission, a reporting entity must report activities as required by this section.

(1) Each entity must provide an electronic version of its retail market performance measures report (report) in a manner prescribed by the commission and follow any reporting instructions provided by the commission. The report and any accompanying documentation must be filed in the native format of the file.

(2) The report must be filed no later than the 30th day following the end of the preceding quarterly reporting period. Quarterly periods begin on January 1, April 1, July 1, and October 1.

(3) The reporting entity may designate, as confidential, information within its report that it considers to be confidential. Within its report, the reporting entity must designate, as confidential, any information relating specifically to any other entity unless the commission has determined that such information is not competitively sensitive or the disclosing entity has given the reporting entity express written permission to release such information publicly.

(c) Retail Market Performance Measures. The report requires reporting entities to provide data and documentation regarding the following performance measures:

(1) Competitive market indicators;

(2) Technical market mechanics; and

(3) Field performance statistics.

(d) Supporting documentation. Each Report must include:

(1) Analysis. Each report must include an analysis or explanation of the reporting entity's data and performance for the quarterly reporting period for any retail market performance measure that does not meet the expected performance level. The explanation or analysis must include the change in performance over the past quarterly reporting period and an explanation of circumstances that may have affected the reporting entity's performance.

(2) Report attestation. Each report submitted to the commission must be accompanied by a signed, notarized affidavit by an executive officer as defined in §25.107. The affidavit must attest that all material provided in the report is true, correct, and complete.

(3) Supporting documents available for inspection. Each supporting document, including records, books, and memoranda must be made available for inspection by the commission or commission staff upon request. Supporting documents must be maintained for a period of 24 months after the report date.

(e) Other reports.

(1) Additional reports requested by staff. The commission or commission staff may require a reporting entity to submit additional reports to allow the commission to analyze the changing dynamics of the retail electric market or to obtain information on specific issues that may require additional diagnostic review.

(2) Supplemental information. Upon request by the commission or commission staff, a reporting entity must provide any additional information that relates to its report. Such requests will provide a reasonable deadline that takes into account the information requested.

(3) Additional reports requested by ERCOT. ERCOT may require reporting entities to provide to ERCOT additional information that relates to market performance for specific analytical or diagnostic purposes.

(f) Enforcement by the commission.

(1) Failure to timely file an accurate report. The commission may impose all applicable administrative penalties under §22.246 of this title for failure of a reporting entity to timely file an accurate performance measures report.

(2) Technical market mechanics.

(A) Prohibited conduct. Each entity must complete within the parameters set forth in the ERCOT Protocols and/or the Standard Tariff for Retail Delivery Service under §25.214 of this title (relating to Terms and Conditions of Retail Delivery Service Provided by Investor Owned Transmission and Distribution Utilities), at least 98% of all its technical market transactions in each transaction category identified in the filing package.

(B) Penalties. If a reporting entity violates subparagraph (A) of this paragraph, the commission may impose the following penalties, as appropriate:

(i) Administrative penalties under PURA, Chapter 15, Subchapter B, consistent with §22.246 of this title;

(ii) Any penalty against ERCOT as established by commission rule and as authorized by PURA §39.151; or

(iii) Suspension, revocation, or amendment of a REP's certificate or registration as authorized by PURA §39.356 and §25.107 of this title (relating to Certification of Retail Electric Providers (REPs)).

(g) Public information. The commission may produce a summary report on the performance measures using the information collected as a result of these reporting requirements. Any such report will only contain public information. The commission may post the report on the commissions website or provide the report to any interested entity.

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

Filed with the Office of the Secretary of State on November 7, 2025.

TRD-202504048
Andrea Gonzalez
Rules Coordinator
Public Utility Commission of Texas
Earliest possible date of adoption: December 21, 2025
For further information, please call: (512) 936-7244

♦ ♦ ♦

TITLE 19. EDUCATION

PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

CHAPTER 21. STUDENT SERVICES
SUBCHAPTER B. DETERMINATION OF RESIDENT STATUS

19 TAC §§21.21 - 21.30

The Texas Higher Education Coordinating Board (Coordinating Board) proposes the repeal of Texas Administrative Code, Title 19, Part 1, Chapter 21, Subchapter B, §§21.21 - 21.30, concerning Determination of Resident Status. Specifically, the rules being repealed are superseded by the rules in Chapter 13, Subchapter K, which were adopted in October 2025 and became effective November 2025. Under the newly adopted §13.193, the changes implemented with the adoption of Subchapter K, are effective as to resident tuition determinations made after the census date of the regular Fall 2025 semester, with determinations made before this date governed by the applicable state or federal law (including as modified by court order) at the time of the determination.

The Coordinating Board is authorized by Texas Education Code, §54.075, to adopt rules necessary to carry out the purposes of Texas Education Code, Chapter 54, Subchapter B.

Dr. Charles W. Contero-Puls, Assistant Commissioner for Student Financial Aid Programs, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Dr. Charles W. Contero-Puls, Assistant Commissioner for Student Financial Aid Programs, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be the improved rule clarity by elimination of outdated rules. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

(1) the rules will not create or eliminate a government program;

(2) implementation of the rules will not require the creation or elimination of employee positions;

(3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rules will not require an increase or decrease in fees paid to the agency;

(5) the rules will not create a new rule;

(6) the rules will not limit an existing rule;

(7) the rules will not change the number of individuals subject to the rule; and

(8) the rules will not affect this state's economy.

Comments on the proposed rule or information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research or analysis, may be submitted to Dr. Charles W. Contero-Puls, Assistant Commissioner for Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at SFAPPolicy@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The repeal is proposed under Texas Education Code, Section 54.075, which provides the Coordinating Board with the authority to adopt rules necessary to carry out the purposes of Texas Education Code, Chapter 54, Subchapter B.

The proposed repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 21, Subchapter B.

§21.21. Authority and Purpose.
§21.22. Definitions.
§21.23. Effective Date of this Subchapter.
§21.24. Determination of Resident Status.
§21.25. Information Required to Initially Establish Resident Status.
§21.26. Continuing Resident Status.
§21.27. Reclassification Based on Additional or Changed Information.
§21.28. Errors in Classification.
§21.29. Residence Determination Official.
§21.30. Special Procedures for Determining Compliance.

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 November 10, 2025.

TRD-202504076
Nichole Bunker-Henderson
General Counsel
Texas Higher Education Coordinating Board
Earliest possible date of adoption: December 21, 2025
For further information, please call: (512) 427-6365

♦ ♦ ♦

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 102. EDUCATIONAL PROGRAMS
SUBCHAPTER EE. COMMISSIONER'S RULES CONCERNING PILOT PROGRAMS

19 TAC §102.1056

The Texas Education Agency (TEA) proposes the repeal of §102.1056, concerning the dropout recovery pilot program. The proposed repeal would remove the rule because its authority, Texas Education Code (TEC), §39.407 and §39.416, was repealed by Senate Bill (SB) 1376, 86th Texas Legislature, Regular Session, 2019.

BACKGROUND INFORMATION AND JUSTIFICATION: Under TEC, §39.416 (formerly §39.366), the commissioner of education exercised rulemaking authority to adopt rules to administer the High School Completion and Success Initiative through the adoption of §102.1056. This rule established and implemented the pilot program to provide eligible entities with grants to identify and recruit students who had dropped out of Texas public schools and provide them services designed to enable them to earn a high school diploma or demonstrate

college readiness. SB 1376, 86th Texas Legislature, Regular Session, 2019, repealed TEC, §§39.407, 39.411, and 39.416. The proposed repeal of §102.1056 is necessary because the authorizing statutes no longer exist. Furthermore, funding for the pilot program ceased years before the authorizing statutes were repealed.

FISCAL IMPACT: Monica Martinez, associate commissioner for standards and programs, has determined that for the first five-year period the proposal is in effect, there are no additional costs to state or local 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 repeal an existing regulation by removing a rule authorizing a pilot program for which statutory authority no longer exists.

The proposed rulemaking 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 expand or limit 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: Ms. Martinez 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 remove a rule for which statutory authority no longer exists. 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 data and reporting impact.

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: The public comment period on the proposal begins November 21, 2025, and ends December 22, 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 November 21, 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/.

STATUTORY AUTHORITY. The repeal is proposed under former Texas Education Code (TEC), §39.407, which addressed the strategic plan of the High School Completion and Success Initiative Council and included rulemaking authority for the commissioner of education; former TEC, §39.411(c), which addressed the recommendations of the High School Completion and Success Initiative Council, including implementation of those recommendations via a grant-making process; and former TEC, §39.416, which provided the commissioner of education with rulemaking authority for former TEC, Chapter 39, Subchapter M, High School Completion and Success Initiative.

CROSS REFERENCE TO STATUTE. The repeal implements former Texas Education Code, §§39.407, 39.411(c), and 39.416.

§102.1056. Dropout Recovery Pilot Program.

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

Filed with the Office of the Secretary of State on November 4, 2025.

TRD-202503980
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Earliest possible date of adoption: December 21, 2025
For further information, please call: (512) 475-1497

♦ ♦ ♦

TITLE 22. EXAMINING BOARDS

PART 23. TEXAS REAL ESTATE COMMISSION

CHAPTER 533. PRACTICE AND PROCEDURE
SUBCHAPTER B. GENERAL PROVISIONS RELATING TO PRACTICE AND PROCEDURE

22 TAC §533.11

The Texas Real Estate Commission (TREC) proposes a new 22 TAC §533.11, Temporary Suspensions, in Chapter 533, Practice and Procedure.

Sections 1101.662 and 1102.408 of the Texas Occupations Code require the Commission to temporarily suspend a license when a license holder's continued practice would constitute a continuing threat to the public welfare. The new rule is proposed to clarify the process as to when and how a temporary suspension is utilized.

The proposed new rule was recommended by the Commission's Enforcement Committee.

Abby Lee, General Counsel, has determined that for the first five-year period the proposed new rule is in effect there will be no fiscal implications for the state or for units of local government

as a result of enforcing or administering the sections. There is no adverse economic effect anticipated for small businesses, micro-businesses, rural communities, or local or state employment as a result of implementing the proposed new rule. There is no significant economic cost anticipated for persons who are required to comply with the proposed new rule. Accordingly, no Economic Impact Statement or Regulatory Flexibility Analysis is required.

Ms. Lee also has determined that for each year of the first five years the section as proposed is in effect, the public benefit anticipated as a result of enforcing the section will be greater accuracy and clarity in the rules.

Except as otherwise provided, for each year of the first five years the proposed new rule is in effect, the rule will not:

create or eliminate a government program;

require the creation of new employee positions or the elimination of existing employee positions;

require an increase or decrease in future legislative appropriations to the agency;

require an increase or decrease in fees paid to the agency;

expand, limit or repeal an existing regulation;

increase or decrease the number of individuals subject to the rule's applicability;

positively or adversely affect the state's economy.

The proposal technically create a new regulation, however, the authority and general process to issue a temporary suspension currently exists under sections 1101.662 and 1102.408, Occupations Code.

The Commission requests comments on the proposal, including information related to the cost, benefit, or effect of the proposal, including any applicable data, research, or analysis, from any person required to comply with the proposal or any other interested person, which may be submitted through the online comment submission form at https://www.trec.texas.gov/rules-and-laws/comment-on-proposed-rules, to Abby Lee, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, or via email to general.counsel@trec.texas.gov. The deadline for comments is 30 days after publication in the *Texas Register*.

The new rule is proposed under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102. The new rule is also proposed under Texas Occupations Code, §§1101.662 and 1102.408 which require the Commission to temporarily suspend a license when a license holder's continued practice would constitute a continuing threat to the public welfare.

The statutes affected by this proposal are Texas Occupations Code, Chapters 1101 and 1102. No other statute, code or article is affected by the proposed new rule.

§533.11. Temporary Suspensions.

(a) Disciplinary Panel.

(1) The three Commission members of the Enforcement Committee appointed by the chair of the Commission shall serve as the disciplinary panel (the "Panel") under §1101.662 and §1102.408, Texas Occupations Code.

(2) The chair of the Commission may appoint a Commission member to act as an alternate member of the Panel in the event a member of the Panel is recused or unable to attend a temporary suspension proceeding.

(b) Motion for Temporary Suspension.

(1) Commission staff may request the Panel temporarily suspend a license in accordance with paragraph (2) of this subsection if:

(A) the Commission has opened a complaint against a license holder; and

(B) credible evidence shows:

(i) a license holder may continue to engage in conduct that may violate Chapters 1101 or 1102, Texas Occupations Code, ("Chapters 1101 or 1102") or Commission rules; and

(ii) the license holder's conduct involves recent or current activity requiring a license under Chapters 1101 or 1102.

(2) Commission staff must request a temporary suspension proceeding in writing by filing a motion for temporary suspension with the Commission's general counsel.

(c) Temporary Suspension Proceeding.

(1) The Panel shall post notice of the temporary suspension proceeding pursuant to §551.045 of the Texas Government Code and §1101.662(d) or §1102.408(d), Texas Occupations Code, and hold the temporary suspension proceeding as soon as possible.

(2) The Panel may make a determination regarding a temporary suspension without notice to the license holder or hearing pursuant to §1101.662(c) or §1102.408(c), Texas Occupations Code, or may, if appropriate in the judgment of the chair of the Panel, provide the license holder with three days' notice of a temporary suspension hearing.

(3) The requirement under §1101.662(c)(1) or §1102.408(c)(1), Texas Occupations Code, that "institution of proceedings for a contested case hearing is initiated simultaneously with the temporary suspension" is satisfied if, on the same day the motion for temporary suspension is filed under subsection (b)(2) of this section, the licensed holder that is the subject of the temporary suspension motion, and SOAH, as applicable, is sent a Notice of Alleged Violation that alleges facts precipitating the need for a temporary suspension.

(4) The Panel may receive information, including testimony, in oral or written form.

(5) Documentary evidence must be submitted to the Commission's general counsel in electronic format at least 24 hours in advance of the time posted for the temporary suspension proceeding in all cases where the Panel will be meeting via teleconference.

(6) If a hearing is held following notice to a license holder, oral arguments will be conducted in accordance with the following:

(A) Commission staff will have the burden of proof and shall open and close.

(B) The party responding to the motion for temporary suspension may offer rebuttal arguments.

(C) Parties may request an opportunity for additional rebuttal subject to the discretion of the chair of the Panel.

(D) The chair of the Panel may set reasonable time limits for any oral arguments and evidence to be presented by the parties.

(E) The Panel may question witnesses and attorneys at the members' discretion.

(F) Information, including testimony, that is clearly irrelevant, unreliable, or unduly inflammatory will not be considered

(7) A temporary suspension proceeding is ancillary to a disciplinary proceeding regarding alleged violations of Chapters 1101 or 1102, Texas Occupations Code, or Commission rules and is not dispositive concerning any such violations.

(d) Determination by Panel.

(1) The determination of the Panel may be based not only on evidence admissible under the Texas Rules of Evidence, but may be based on evidence that is:

(A) necessary to ascertain facts not reasonably susceptible of proof under those rules;

(B) not precluded by statute; and

(C) of a type on which a reasonably prudent person commonly relies in the conduct of the person's affairs.

(2) The Panel shall temporarily suspend a license if the Panel determines from information presented to the Panel that the license holder's continued practice would constitute a continuing threat to the public welfare in accordance with §1101.662 and §1102.408, Texas Occupations Code, and this section.

(e) Temporary Suspension Order.

(1) If the Panel suspends a license, it shall do so by order and the suspension shall remain in effect for the period of time stated in the order, not to exceed the date a final order issued by the Commission in the underlying contested case proceeding becomes effective.

(2) The Panel order must recite the factual and legal basis for imminent peril warranting temporary suspension.

(f) Motion for Rehearing on the Temporary Suspension.

(1) If credible and verifiable information that was not presented to the Panel at a temporary suspension proceeding, which contradicts information that influenced the decision of the Panel to order a temporary suspension, is subsequently presented to the Panel with a motion for rehearing on the suspension, the chair of the Panel will schedule a rehearing on the matter.

(2) The chair of the Panel will determine, in the chair's sole discretion, whether the new information meets the standard set out in this subsection.

(3) A rehearing on a temporary suspension will be limited to presentation and rebuttal of the new information.

(4) The chair of the Panel may set reasonable time limits for any oral arguments and evidence to be presented by the parties.

(5) Panel members may question witnesses and attorneys.

(6) Evidence that is clearly irrelevant, unreliable, or unduly inflammatory will not be considered.

(7) Any temporary suspension previously ordered will remain in effect, unless the Panel holds a rehearing on the matter and issues a new order rescinding the temporary suspension.

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 November 6, 2025.

TRD-202504039
Abby Lee
General Counsel
Texas Real Estate Commission
Earliest possible date of adoption: December 21, 2025
For further information, please call: (512) 936-3057

♦ ♦ ♦

CHAPTER 535. GENERAL PROVISIONS
SUBCHAPTER R. REAL ESTATE INSPECTORS

22 TAC §535.214

The Texas Real Estate Commission (TREC) proposes amendments to 22 TAC §535.214, Education and Experience Requirements for a License, in Chapter 535, General Provisions.

The proposed changes clarify that qualifying education must be completed prior to beginning the Texas Practicum. This proposal helps ensure that applicants have foundational knowledge that can be applied to the Practicum's required inspections.

The proposed changes were recommended by the Texas Real Estate Inspector Committee.

Abby Lee, General Counsel, has determined that for the first five-year period the proposed amendments are in effect there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the sections. There is no adverse economic effect anticipated for small businesses, micro-businesses, rural communities, or local or state employment as a result of implementing the proposed amendments. There is no significant economic cost anticipated for persons who are required to comply with the proposed amendments. Accordingly, no Economic Impact Statement or Regulatory Flexibility Analysis is required.

Ms. Lee also has determined that for each year of the first five years the sections as proposed are in effect, the public benefit anticipated as a result of enforcing the section will be greater clarity and consistency in the rules.

For each year of the first five years the proposed amendments are in effect, the amendments will not:

create or eliminate a government program;

require the creation of new employee positions or the elimination of existing employee positions;

require an increase or decrease in future legislative appropriations to the agency;

require an increase or decrease in fees paid to the agency;

create a new regulation;

expand, limit or repeal an existing regulation;

increase or decrease the number of individuals subject to the rule's applicability;

positively or adversely affect the state's economy.

The Commission requests comments on the proposal, including 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 proposal or any other interested person, which may be submitted through the online comment submission form at https://www.trec.texas.gov/rules-and-laws/comment-on-proposed-rules, to Abby Lee, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, or via email to general.counsel@trec.texas.gov. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102. The amendments are also proposed under Texas Occupations Code, §1102.111, which authorizes the Commission to provide by rule for the substitution of relevant experience and additional education in obtaining a license.

The statute affected by this proposal is Texas Occupations Code, Chapter 1102. No other statute, code or article is affected by the proposed amendments.

§535.214. Education and Experience Requirements for a License.

(a) Sponsored Experience and Education Requirements for a Real Estate Inspector License. To become licensed as a real estate inspector a person must:

(1) satisfy the 90-hour education requirement for licensure by completing the following coursework:

(A) Property and Building Inspection Module I, total 40 hours;

(B) Property and Building Inspection Module II, total 40 hours; and

(C) Business Operations and Professional Responsibilities Module, total 10 hours;

(2) have been licensed as an apprentice inspector on active status for a total of at least three months within the 12 month period before the filing of the application;

(3) complete 25 inspections; and

(4) pass the licensure examinations set out in §535.209 of this subchapter (relating to Examinations).

(b) Sponsored Experience and Education Requirements for a Professional Inspector License. To become licensed as a professional inspector, a person must:

(1) satisfy the 134-hour education requirement for licensure by completing the following coursework:

(A) Property and Building Inspection Module I, total 40 hours;

(B) Property and Building Inspection Module II, total 40 hours;

(C) Business Operations and Professional Responsibilities Module, total 10 hours;

(D) Texas Law Module, total 20 hours; and

(E) Texas Standards of Practice Module, total 24 hours;

(2) have been licensed as a real estate inspector on active status for a total of at least 12 months within the 24 month period before the filing of the application;

(3) complete 175 inspections; and

(4) pass the licensure examinations set out in §535.209 of this subchapter.

(c) Sponsored Experience Criteria. To meet the experience requirements for licensure under subsections (a) or (b) of this section, or to sponsor apprentice inspectors or real estate inspectors:

(1) the Commission considers an improvement to real property to be any unit capable of being separately rented, leased or sold; and

(2) an inspection of an improvement to real property that includes the structural and equipment/systems of the unit constitutes a single inspection.

(d) Substitute Experience and Education Requirements for a Real Estate Inspector License. As an alternative to subsection (a) of this section, to become a licensed real estate inspector, a person must:

(1) complete a total of 114 hours of qualifying inspection coursework, which must include the following:

(A) Property and Building Inspection Module I, total 40 hours;

(B) Property and Building Inspection Module II, total 40 hours;

(C) Business Operations and Professional Responsibilities Module, total 10 hours; and

(D) Texas Standards of Practice Module, total 24 hours; and

(2) complete the Texas Practicum, as defined by subsection (h) of this section; and

(3) pass the licensure examinations set out in §535.209 of this subchapter; and

(4) be sponsored by a professional inspector.

(e) Substitute Experience and Education Requirements for a Professional Inspector License. As an alternative to subsection (b) of this section, to become a licensed professional inspector, a person must:

(1) complete a total of 154 hours of qualifying inspection coursework, which must include the following:

(A) Property and Building Inspection Module I, total 40 hours;

(B) Property and Building Inspection Module II, total 40 hours;

(C) Business Operations and Professional Responsibilities Module, total 10 hours;

(D) Analysis of Findings and Reporting Module, total 20 hours;

(E) Texas Law Module, total 20 hours;

(F) Texas Standards of Practice Module, total 24 hours; and

(2) complete the Texas Practicum as defined by subsection (h) of this section; and

(3) pass the licensure examinations set out in §535.209 of this subchapter.

(f) Courses completed for a real estate inspector license under this section shall count towards the identical qualifying inspection coursework for licensure as a professional inspector.

(g) Experience Credit. The Commission may award credit for education required under subsections (d) and (e) of this section to an applicant who:

(1) has three years of experience in a field directly related to home inspection, including but not limited to installing, servicing, repairing or maintaining the structural, mechanical and electrical systems found in improvements to real property; and

(2) provides to the Commission two affidavits from persons who have personal knowledge of the applicant's work, detailing the time and nature of the applicant's relevant experience.

(h) Texas Practicum.

(1) An applicant must complete all required qualifying inspection coursework before beginning the Texas Practicum.

(2) [~~(1)~~] To receive credit for completion, the Texas Practicum must:

(A) be supervised by a licensed inspector who has:

(i) been actively licensed as a professional inspector for at least five years; and

(ii) at least three years of supervisory or training experience with inspectors; or

(iii) performed a minimum of 200 real estate inspections as a Texas professional inspector;

(B) consist of:

(i) a minimum of five complete and in-person inspections, totaling 40 hours, including the preparation by the applicant of a written inspection report for each completed inspection; and

(ii) no more than four students per supervising inspector; and

(C) include a review of each inspection report prepared by the applicant in which the supervising inspector must find that each report:

(i) is considered satisfactory for release to an average consumer; and

(ii) demonstrates an understanding of:

(I) report writing;

(II) client interaction;

(III) personal property protection; and

(IV) concepts critical for the positive outcome of the inspection process.

(3) [~~(2)~~] An applicant may request credit for completing the Texas Practicum by submitting to the Commission the credit request form approved by the Commission.

(4) [~~(3)~~] Audits.

(A) The Commission staff may conduct an audit of any information provided on the credit request form, including verifying that the supervising inspector meets the qualifications in paragraph (2)(A) [~~(1)(A)~~] of this subsection.

(B) The following acts committed by a supervising inspector conducting the Texas Practicum are grounds for disciplinary action:

(i) making material misrepresentation of fact;

(ii) making a false representation to the Commission, either intentionally or negligently, that an applicant completed the Texas Practicum in its entirety, satisfying all requirements for credit.

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 November 6, 2025.

TRD-202504040
Abby Lee
General Counsel
Texas Real Estate Commission
Earliest possible date of adoption: December 21, 2025
For further information, please call: (512) 936-3057

♦ ♦ ♦

TITLE 28. INSURANCE

PART 1. TEXAS DEPARTMENT OF INSURANCE

CHAPTER 5. PROPERTY AND CASUALTY INSURANCE

SUBCHAPTER E. TEXAS WINDSTORM INSURANCE ASSOCIATION

The Texas Department of Insurance (TDI) proposes new 28 TAC §5.4013 and amendments to §§5.4011, 5.4012, 5.4601, 5.4603, 5.4622, and 5.4642, concerning the adoption of the 2024 *International Residential Code* (IRC) and 2024 *International Building Code* (IBC), to update the building standards for structures that the Texas Windstorm Insurance Association (TWIA) insures. Sections 5.4011 - 5.4013, 5.4601, 5.4603, 5.4622, and 5.4642 implement Insurance Code §2210.251(b) and §2210.252. The 2024 editions of the IRC and IBC apply to construction, repairs, or additions that begin on or after March 1, 2026.

EXPLANATION. New §5.4013 and amendments to §§5.4011, 5.4012, 5.4601, 5.4603, 5.4622, and 5.4642 are necessary to adopt the 2024 IRC and IBC and make conforming changes to adopted forms. These amendments are also necessary to correct applicable dates for the 2006 and 2018 IRC and IBC because an emergency rule adopted under 28 TAC §35.3 in response to the coronavirus delayed the effective date. Insurance Code §2210.251(b) requires the commissioner to adopt the 2003 IRC and allows for the adoption of subsequent editions of and supplements to the IRC published by the International Code Council (ICC). Insurance Code §2210.252 allows the commissioner to supplement by rule the plan of operation building specifications with the structural provisions of the IRC, as well as to adopt by rule a subsequent edition of or supplement to the IRC.

Descriptions of the sections' proposed amendments follow.

Section 5.4011. Amendments to §5.4011 update contact information for the ICC and information on where the current IRC and

IBC are published. They also correct information in the text concerning the applicable dates for the 2006 IRC and IBC by changing the applicability end date from April 1, 2020, to September 1, 2020.

Section 5.4012. Amendments to §5.4012 update and correct information in the text concerning the applicable dates for the 2018 IRC and IBC by changing the applicability start date from April 1, 2020, to September 1, 2020, and setting the applicability end date as March 1, 2026.

Section 5.4013. New §5.4013 adopts the 2024 IRC and IBC, which apply to construction that begins on or after March 1, 2026. Proposed subsection (b) of §5.4013 provides an exemption from §5.4013(a) for repairs, alterations, and additions necessary for the preservation, restoration, rehabilitation, or continued use of a historic structure. Subsection (b)(1) - (3) defines the attributes that make a structure a historic structure. These subsections are consistent with previously adopted building code requirements.

Section 5.4601. Amendments to §5.4601 update the definition of "windstorm building code standards" to include the requirements in §5.4013 and the adoption of the 2024 IRC and IBC, as well as correct the applicable dates for the 2006 and 2018 IRC and IBC.

Section 5.4603. Amendments to §5.4603 adopt by reference updated forms relevant to the 2024 IRC and IBC, as well as require certain forms be submitted to TDI electronically using the Windstorm system. The amendments also provide that reference to a form's prefix refers to all forms with that prefix unless otherwise stated.

Section 5.4622. An amendment to §5.4622 replace the reference to Form WPI-2-BC-6 with a general reference to all WPI-2 forms.

Section 5.4642. Amendments to §5.4632 replace the reference to Form WPI-2-BC-6 with reference to all WPI-2 forms.

In addition to the section-specific changes previously described, the proposal includes nonsubstantive rule drafting and formatting changes throughout for plain language and to conform the sections to the agency's current style and improve clarity. These changes include adding titles for cited Insurance Code and Administrative Code sections, removing unneeded form references, and lowercasing "commissioner."

TDI invited public comment on an informal draft posted on its website on August 8, 2025. No comments were received.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. James D. "Donny" Cox, Inspections director, Property and Casualty Division, 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 them, other than that imposed by statute. Mr. Cox made this determination because the sections as proposed do not add to or decrease state revenues or expenditures. Although local governments do not generally have to enforce or comply with the sections as proposed, compliance is necessary to receive TWIA coverage. Compliance is further explained in the Public Benefit and Cost Note section of this proposal.

Mr. Cox 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 sections as proposed are in effect, Mr. Cox expects that enforcing them will have the public benefits of ensuring that (1) TDI's rules conform to Insurance Code §2210.251(b) and §2210.252; and (2) new construction incorporates advances in technology, which enables greater understanding of wind engineering. Studies conducted after recent hurricanes have shown that construction practices required in the newer editions of the building codes result in structures that perform better in high-wind events, mitigating property damage and related risk to human life caused by wind and hail. The 2024 IRC and IBC provide current guidance and clarification for construction in the designated catastrophe areas. When the updated codes are properly employed, consistency and uniformity in the design, construction, and inspection of residences and businesses participating in the windstorm inspection process will result.

Mr. Cox expects that the sections as proposed will impose a minimal economic cost on persons required to comply with the new and amended sections. Costs include (1) purchase of the code books or online access to the code books for use as a reference, (2) labor to become familiar with the updated codes, and (3) the construction costs associated with meeting the codes' requirements. The sections as proposed modify but do not add to the current rule requirements for conducting inspections and gathering substantiating information. Thus, this cost note does not consider those costs.

Engineers and construction supervisors may need to purchase copies of the 2024 IRC and the IBC from the ICC. A copy of the 2024 IRC book costs $203, and one month of online access costs $10.40. A copy of the 2024 IBC book costs $234, and one month of online access costs $10.40.

TDI anticipates that there may be labor costs to familiarize qualified inspectors and other stakeholders with the codes' 2024 editions. Some appointed qualified inspectors are already somewhat familiar with the 2024 versions of the IRC and IBC. These codes are similar to existing adopted codes for windstorm inspections, and qualified inspectors are also familiar with codes adopted by local ordinances, including the communities that have already adopted the 2024 code versions.

According to the U.S. Bureau of Labor Statistics (BLS), the hourly mean wage in the Coastal Plains Region of Texas nonmetropolitan area is $43.76 for civil engineers, $33.64 for civil engineering technicians, and $37.07 for first-line supervisors of construction trades and extraction workers (U.S. Department of Labor (DOL), BLS, Occupational Employment Statistics, May 2024 Metropolitan and Nonmetropolitan Area Occupational Employment and Wage Estimates, Coastal Plains Region of Texas nonmetropolitan area; *see* https://data.bls.gov/oes/#/area/4800006). The BLS shows the hourly mean wage in the Houston area is $53.10 for civil engineers, $39.44 for civil engineering technicians, and $37.69 for first-line supervisors of construction trades and extraction workers (DOL, BLS, Occupational Employment Statistics, May 2024 Metropolitan and Nonmetropolitan Area Occupational Employment and Wage Estimates, Houston-Pasadena-The Woodlands, Texas metropolitan area; *see* https://data.bls.gov/oes/#/area/0026420). TDI estimates that affected individuals will require an average of eight hours to become familiar with the 2024 IRC and IBC. These individuals are in the best position to estimate the potential cost.

Replacement of one standardized building code by another is part of the nationwide construction industry's natural cost progression. Actual additional costs to comply with the revised standards will vary on the basis of each property's individual circumstances. Costs from slightly increased materials will be off-

set by greater efficiencies created by technological advances in the manufacturing and assemblage of building components, improved construction methods, and other standardization and modernization measures. This will offer greater protection to insureds and lower repair costs resulting from a wind event.

No individual or entity is required to comply with the proposed new section; only structures that are insured through TWIA must be built in compliance with the new standards. However, in many areas of the Texas sea coast's designated catastrophe areas, voluntary wind insurance is difficult to obtain, leaving many property owners with no other option than to insure through TWIA.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TDI has determined that the sections as proposed may have an adverse economic effect or a disproportionate economic impact on small or micro businesses, and on rural communities. The cost analysis in the Public Benefit and Cost Note section also applies to these small and micro businesses and rural communities. TDI estimates that the sections as proposed may affect approximately 556 small or micro businesses and about 110 rural communities.

As of August 20, 2025, there were 556 appointed qualified inspectors. And there were approximately 37 professional engineers as of that date who only certify completed improvements. Almost all these inspectors and engineers will qualify as small and micro businesses. As stated in the Public Benefit and Cost Note section, TDI anticipates that each person acting as a qualified inspector or professional engineer would incur some costs because of this proposal. Those costs would result from acquiring copies of the revised adopted codes and the labor costs associated with becoming familiar with them.

Rural communities may be affected by these rules, too. There are about 110 general-law and home-rule cities in the affected coastal counties. Some rural communities may have already adopted the 2024 IRC and IBC. However, in many parts of the Texas sea coast's designated catastrophe areas, voluntary wind insurance is difficult to obtain, leaving many property owners with no other option than to insure through TWIA. Some rural communities may have their property insured by TWIA and thus may be affected by the same costs as detailed in the Public Benefit and Cost Note section.

The proposal's primary objective is to benefit the public by ensuring that new construction incorporates advances in technology and promotes greater understanding of wind engineering. This will help reduce property damage and related risk to human life caused by wind and hail. TDI considered the following alternatives to minimize any adverse impact on small or micro businesses and rural communities while accomplishing the proposal's objectives:

(1) not proposing the new and amended sections;

(2) proposing a different requirement for small or micro businesses and rural communities; and

(3) exempting small or micro businesses and rural communities from the proposed requirements that could create an adverse impact.

Not proposing the new and amended sections. This proposal's purpose is to benefit the public by ensuring that new construction incorporates advances in technology and enables greater understanding of wind engineering. Without this proposal and the adoption of amended rules for these subchapters, no one who uses a TWIA-insured structure would benefit from improved engineering requirements. Instead, they would be required to continue following outdated standards set in 2018.

Failure to propose and adopt the new and amended rules would also undermine the purpose of Insurance Code §2210.251 and §2210.252. For these reasons, TDI has rejected this option.

Proposing a different requirement for small or micro businesses and rural communities. TDI believes that proposing different standards for small and micro businesses and rural communities than those included in this proposal would not provide a better option for these businesses. Alternative standards would be less relevant and effective and would lead to confusion. Adopting modified versions of the proposed building codes, or an earlier version of the proposed building codes, would not benefit small and micro businesses or rural communities. This option would create confusion as to which codes are applicable. The proposed buildings codes are more current, and exceptions would mean that building codes for buildings owned by small and micro businesses or in rural communities would be more vulnerable to wind and hail and lead to higher losses to TWIA. Adopting uniform building codes helps building owners, contractors, and TWIA apply consistent standards.

The potential for public harm resulting from adopting different regulatory requirements for small and micro businesses and rural communities would outweigh any potential benefit. For these reasons, TDI has rejected this option.

Excluding small or micro businesses and rural communities from the proposed requirements that could create an adverse impact. As addressed in the Public Benefit and Cost Note section, anticipated costs under the proposal are the result of adopting the 2024 editions of the IRC and the IBC. If small or micro businesses and rural communities were excluded, they would not incur the anticipated costs, but the building codes would not be uniform among TWIA's insureds. Some buildings would fall under the new standards, and others the old. Because structures built to older building codes are more vulnerable to wind and hail, it could lead to higher losses for TWIA and would make it more difficult for TWIA to predict losses.

Excluding small or micro businesses and rural communities from these provisions' applicability would create potential harm for affected persons and the public that would outweigh the potential benefits. It is also not practical to exclude them. For these reasons, TDI has rejected this option.

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 sections as proposed are necessary to implement legislation. The proposed rulemaking implements Insurance Code §2210.251(b) and §2210.252, as added by House Bill 2017, 79th Legislature, 2015.

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 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 positively 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 December 23, 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. 2861 at 10 a.m. central time, on December 16, 2025, in Room 2.034 of the Barbara Jordan State Office Building, 1601 Congress Avenue, Austin, Texas 78701.

DIVISION 1. PLAN OF OPERATION

28 TAC §§5.4011 - 5.4013

STATUTORY AUTHORITY. TDI proposes amendments to §5.4011 and §5.4012 and new §5.4013 under Insurance Code §2210.251(b), §2210.252, and 36.001.

Insurance Code §2210.251(b) requires the commissioner to adopt the 2003 IRC and allows for the adoption of subsequent editions and supplements to the IRC published by the ICC.

Insurance Code §2210.252 allows the commissioner to supplement by rule the plan of operation building specifications with the structural provisions of the IBC, as well as to adopt by rule a subsequent edition of the IBC.

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. §§5.4011, 5.4012, and 5.4013 implement Insurance Code §2210.251(b) and §2210.252.

§5.4011. Applicable Building Code Standards in Designated Catastrophe Areas for Structures Constructed, Repaired, or to Which Additions Are Made On and After January 1, 2008, and before September [~~April~~] 1, 2020.

(a) To be eligible for catastrophe property insurance, structures located in the designated catastrophe areas specified in §5.4008 of this title (relating to Applicable Building Code Standards in Designated Catastrophe Areas for Structures Constructed, Repaired or to Which Additions Are Made On and After September 1, 1998, and before February 1, 2003) and which are constructed, repaired, or to which additions are made on and after January 1, 2008, and before September [~~April~~] 1, 2020, must comply with the 2006 Editions of the International Residential Code and the International Building Code, as each is revised by the 2006 Texas Revisions, and all of which are adopted by reference to be effective January 1, 2008. The codes are published by and available from the International Code Council at iccsafe.org or by calling toll-free 1-888-422-7233, and the 2006 Texas Revisions to the 2006 Edition of the International Residential Code are available from the Windstorm Inspections Program of the Inspections Office at TDI and on the TDI website at www.tdi.texas.gov. [~~The codes are published by and available from the International Code Council, Publications, 4051 West Flossmoor Road, Country Club Hills, Illinois, 60478-5795, (Telephone: 888-422-7233), and the 2006 Texas Revisions to the 2006 Edition of the International Residential Code and the 2006 Texas Revisions to the 2006 Edition of the International Building Code are available from the Windstorm Inspections Section of the Inspections Division, Texas Department of Insurance, 333 Guadalupe, P.O. Box 149104, MC 104-INS, Austin, Texas, 78714-9104 and on the Texas Department of Insurance website at www.tdi.texas.gov.~~] The following wind speed requirements must apply.[~~:~~]

(1) Areas seaward of the intracoastal canal. To be eligible for catastrophe property insurance, structures located in designated catastrophe areas which are seaward of the intracoastal canal and constructed, repaired, or to which additions are made on and [~~or~~] after January 1, 2008, and before September [~~April~~] 1, 2020, must be designed and constructed to resist a 3-second gust of 130 miles per hour.

(2) Areas inland of the intracoastal canal and within approximately 25 miles of the Texas coastline and east of the specified boundary line and certain areas in Harris County. To be eligible for catastrophe property insurance, structures located in designated catastrophe areas specified in §5.4008(b)(2)(A) and (B) of this title [~~(relating to Applicable Building Code Standards in Designated Catastrophe Areas for Structures Constructed, Repaired or to Which Additions Are Made On and After September 1, 1998, and before February 1, 2003)~~] and constructed, repaired, or to which additions are made on and [~~or~~] after January 1, 2008, and before September [~~April~~] 1, 2020, must be designed and constructed to resist a 3-second gust of 120 miles per hour.

(3) Areas inland and west of the specified boundary line. To be eligible for catastrophe property insurance, structures located in designated catastrophe areas specified in §5.4008(c) of this title [~~(relating to Applicable Building Code Standards in Designated Catastrophe Areas for Structures Constructed, Repaired or to Which Additions Are Made On and After September 1, 1998, and before February 1, 2003)~~] and constructed, repaired, or to which additions are made on and [~~or~~] after January 1, 2008, and before September [~~April~~] 1, 2020, must be designed and constructed to resist a 3-second gust of 110 miles per hour.

(b) Repairs, alterations, and additions necessary for the preservation, restoration, rehabilitation, or continued use of a historic structure may be made without conformance to the requirements of subsection (a) of this section. For [~~In order for~~] a historic structure to be exempted, at least one of the following conditions must be met.[~~:~~]

(1) The structure is listed or is eligible for listing on the National Register of Historic places.

(2) The structure is a Recorded Texas Historic Landmark (RTHL).

(3) The structure has been specifically designated by official action of a legally constituted municipal or county authority as having special historical or architectural significance, is at least 50 years

old, and is subject to the municipal or county requirements relative to construction, alteration, or repair of the structure, in order to maintain its historical designation.

§5.4012. Applicable Building Code Standards in Designated Catastrophe Areas for Structures Constructed, Repaired, or to Which Additions Are Made On and After September [~~on or after April~~] 1, 2020, and Before March 1, 2026.

(a) To be eligible for catastrophe property insurance, structures located in the designated catastrophe areas specified in paragraphs (1), (2), and (3) of this subsection that are constructed, repaired, or to which additions are made on and [~~or~~] after September [~~April~~] 1, 2020, and before March 1, 2026, must comply with the 2018 editions of the *International Residential Code* and the *International Building Code,* which are adopted by reference and applicable beginning September [~~April~~] 1, 2020. The codes are published by and available from the International Code Council at iccsafe.org or by calling toll-free 1-888-422-7233. The designated catastrophe areas are those areas:

(1) [~~Areas~~] seaward of the intracoastal canal;

(2) [~~Areas~~] inland of the intracoastal canal and within approximately 25 miles of the Texas coastline and east of the specified boundary line and certain areas in Harris County as described in §5.4008(b)(2)(A) and (B) of this title (relating to Applicable Building Code Standards in Designated Catastrophe Areas for Structures Constructed, Repaired or to Which Additions Are Made On and After September 1, 1998, and before February 1, 2003); and

(3) [~~Areas~~] inland and west of the specified boundary line as described in §5.4008(c) of this title.

(b) Repairs, alterations, and additions necessary for the preservation, restoration, rehabilitation, or continued use of a historic structure may be made without conformance to the requirements of subsection (a) of this section. For a historic structure to be exempted, at least one of the following conditions must apply to the structure.[~~:~~]

(1) The structure is listed or is eligible for listing on the National Register of Historic Places.

(2) The structure is a Recorded Texas Historic Landmark by the Texas Historical Commission.

(3) The structure has been designated by official action of a legally constituted municipal or county authority as having special historical or architectural significance, is at least 50 years old, and is subject to the municipal or county requirements relative to construction, alteration, or repair of the structure to maintain its historical designation.

§5.4013. Applicable Building Code Standards in Designated Catastrophe Areas for Structures Constructed, Repaired, or to Which Additions Are Made On and After March 1, 2026.

(a) To be eligible for catastrophe property insurance, structures located in the designated catastrophe areas specified in paragraphs (1), (2), and (3) of this subsection that are constructed, repaired, or to which additions are made on and after March 1, 2026, must comply with the 2024 editions of the *International Residential Code* and the *International Building Code,* which are adopted by reference and applicable beginning March 1, 2026. The codes are published by and available from the International Code Council at iccsafe.org or by calling toll-free 1-888-422-7233. The designated catastrophe areas are those areas:

(1) seaward of the intracoastal canal;

(2) inland of the intracoastal canal and within approximately 25 miles of the Texas coastline and east of the specified boundary line and certain areas in Harris County as described in §5.4008(b)(2)(A) and (B) (relating to Applicable Building Code Standards in Designated Catastrophe Areas for Structures Constructed, Repaired or to Which Additions Are Made On and After September 1, 1998, and before February 1, 2003) of this title; and

(3) inland and west of the specified boundary line as described in §5.4008(c) of this title.

(b) Repairs, alterations, and additions necessary for the preservation, restoration, rehabilitation, or continued use of a historic structure may be made without conformance to the requirements of subsection (a) of this section. For a historic structure to be exempted, at least one of the following conditions must apply to the structure.

(1) The structure is listed or is eligible for listing on the National Register of Historic Places.

(2) The structure is an RTHL by the Texas Historical Commission.

(3) The structure has been designated by official action of a legally constituted municipal or county authority as having special historical or architectural significance, is at least 50 years old, and is subject to the municipal or county requirements relative to construction, alteration, or repair of the structure to maintain its historical designation.

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 November 10, 2025.

TRD-202504070
Jessica Barta
General Counsel
Texas Department of Insurance
Earliest possible date of adoption: December 21, 2025
For further information, please call: (512) 676-6555

DIVISION 7. INSPECTIONS FOR WINDSTORM AND HAIL INSURANCE

28 TAC §§5.4601, 5.4603, 5.4622, 5.4642

STATUTORY AUTHORITY. TDI proposes amendments to §§5.4601, 5.4603, 5.4622, and 5.4642 under Insurance Code §§2210.251(b), 2210.252, and 36.001.

Insurance Code §2210.251(b) requires the commissioner to adopt the 2003 IRC and allows for the adoption of subsequent editions and supplements to the IRC published by the ICC.

Insurance Code §2210.252 allows the commissioner to supplement by rule the plan of operation building specifications with the structural provisions of the IBC, as well as to adopt by rule a subsequent edition of the IBC.

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. §§5.4601, 5.4603, 5.4622, and 5.4642 implement Insurance Code §2210.251(b) and §2210.252.

§5.4601. Definitions.

The following definitions apply to this subchapter:

(1) Applicant--A person who submits a new or renewal application for appointment as an appointed qualified inspector.

(2) Appointed qualified inspector--An engineer licensed by the Texas Board of Professional Engineers and appointed by TDI as a qualified inspector under Insurance Code §2210.254(a)(2), concerning Qualified Inspectors.

(3) Appointed qualified inspector number--A number TDI assigns to each appointed qualified inspector.

(4) Constructed or construction--The act of building or erecting a structure or repairing (including reroofing), altering, remodeling, or enlarging an existing structure.

(5) Completed improvement--

(A) An improvement in which the original transfer of title from the builder to the initial owner of the improvement has occurred; or

(B) if a transfer under subparagraph (A) of this paragraph is not contemplated, an improvement that is substantially completed.

(6) Improvement--The construction of or repair (including reroofing), alteration, remodeling, or enlargement of a structure to which the plan of operation applies.

(7) Ongoing improvement--

(A) An improvement in which the original transfer of title from the builder to the initial owner of the improvement has not occurred; or

(B) if a transfer under subparagraph (A) of this paragraph is not contemplated, an improvement that is not substantially completed.

(8) Substantially completed--An improvement for which the final framing stage, including attachment of component and cladding items and installation of windborne debris protection, has been completed. If the improvement's windborne debris protection consists of wood structural panels, all the panels must be present at the improvement's location but need not be installed.

(9) TDI inspector--A qualified inspector authorized under Insurance Code §2210.254(a)(1) and employed by TDI.

(10) TDI--The Texas Department of Insurance.

(11) Texas Board of Professional Engineers and Land Surveyors, Texas Board of Professional Engineers, or TBPE--House Bill 1523, 86th Legislature, [~~Regular Session,~~] 2019, abolished the Texas Board of Professional Land Surveying and transferred its functions to the renamed Texas Board of Professional Engineers and Land Surveyors, effective September 1, 2019. All references to the Texas Board of Professional Engineers or the TBPE in this division are references to the Texas Board of Professional Engineers and Land Surveyors.

(12) Association--The Texas Windstorm Insurance Association.

(13) Windstorm building code standards--The requirements for building construction in §§5.4007 - 5.4013 [~~5.4012~~] of this title (relating to Applicable Building Code Standards in Designated Catastrophe Areas for Structures Constructed, Repaired or to Which Additions Are Made Prior to September 1, 1998; Applicable Building Code Standards in Designated Catastrophe Areas for Structures Constructed, Repaired or to Which Additions Are Made On and After September 1, 1998, and before February 1, 2003; Applicable Building Code Standards in Designated Catastrophe Areas for Structures Constructed, Repaired or to Which Additions Are Made On and After February 1, 2003 and before January 1, 2005; Applicable Building Code Standards in Designated Catastrophe Areas for Structures Constructed, Repaired or to Which Additions Are Made On and After January 1, 2005, and before January 1, 2008; Applicable Building Code Standards in Designated Catastrophe Areas for Structures Constructed, Repaired or to Which Additions Are Made On and After January 1, 2008, and before September [~~April~~] 1, 2020; [~~and~~] Applicable Building Code Standards in Designated Catastrophe Areas for Structures Constructed, Repaired, or to Which Additions Are Made On and After September [~~or after April~~] 1, 2020, and Before March 1, 2026; and Applicable Building Code Standards in Designated Catastrophe Areas for Structures Constructed, Repaired, or to Which Additions Are Made On and After March 1, 2026; respectively).

§5.4603. Windstorm Inspection Forms.

(a) TDI adopts the following forms by reference and will make them available on its website.

(1) Application for Certificate of Compliance, Form WPI-1, effective April 2024, for ongoing improvements. Information requested by Form WPI-1 can be found in §5.4621(1) of this title, relating to Certification of Ongoing Improvements Inspected by Appointed Qualified Inspectors.

(2) [~~Inspection Verification, Form WPI-2-BC-6. TDI adopts by reference the~~] Inspection Verification, Form WPI-2-BC-6, effective April 2021, [~~January 1, 2017,~~] for use in windstorm inspection[~~,~~] for structures constructed, repaired, or to which additions are made on and after January 1, 2008, and before September [~~April~~] 1, 2020. Information requested by Form WPI-2-BC-6 can be found in §5.4621(4) of this title.

(3) Inspection Verification, Form WPI-2-BC-7, effective January 2026, for use in windstorm inspection for structures constructed, repaired, or to which additions are made on and after September 1, 2020, and before March 1, 2026. Information requested by Form WPI-2-BC-7 can be found in §5.4621(4) of this title.

(4) Inspection Verification, Form WPI-2-BC-8, effective January 2026, for use in windstorm inspection for structures constructed, repaired, or to which additions are made on and after March 1, 2026. Information requested by Form WPI-2-BC-8 can be found in §5.4621(4) of this title.

(5) Application for Certificate of Compliance for Completed Improvement, Form WPI-2E, effective January 2026. Information requested by Form WPI-2E can be found in §5.4604(a) and (b) of this title, relating to Certification Form for Completed Improvement.

[~~(b)~~] [~~Application, inspection, and renewal forms. TDI will make available the following forms on its website:~~]

(6) [~~(1)~~] Application for Appointment as a Qualified Inspector, Form AQI-1, effective January 2024 [~~January 1, 2017~~]. Information requested by Form AQI-1 can be found in §5.4609(b) of this title, relating to Application for Qualified Inspector Appointment.[~~;~~]

(7) [~~(2)~~] Application Renewal [~~Application~~] for Appointment as a Qualified Inspector, Form AQI-R, effective June 2025. Information requested by Form AQI-R can be found in §5.4610(b)(1) of this title, relating to Renewal of Qualified Inspector Appointment. [~~January 1, 2017;~~]

[~~(3) Application for Certificate of Compliance for Ongoing Improvement, Form WPI-1, January 1, 2017;~~]

[(4) Certification Form for Completed Improvement, Form WPI-2E, effective June 1, 2020; and]

[(5) Inspection Verification, Form WPI-2, effective April 1, 2020, for structures constructed, repaired, or to which additions are made on and after April 1, 2020.]

(b) [(c)] TDI inspection and certification forms. When appropriate, TDI will issue the following forms:

(1) Field Form, Form WPI-7;[, effective April 1, 2020; and]

(2) Certificate of Compliance for Ongoing Improvement, Form WPI-8[, effective January 1, 2017]; and

(3) Certificate of Compliance for Completed Improvement (Engineered), Form WPI-8E.

(c) The information required by the forms listed in subsection (a)(1) - (5) of this section must be submitted to TDI electronically using the Windstorm system, which is available on the TDI website. TDI will accept a completed Form WPI-1 or WPI-2 emailed to windstorm@tdi.texas.gov only when the Windstorm system is nonfunctional, unless the individual submitting is not a licensed professional engineer.

(d) In this subchapter, the first four alphanumeric characters in the designation of a form listed in this section, such as "WPI-2," refer to all forms with that prefix unless otherwise specified by all the characters in the designation.

§5.4622. Inspection Verification.

In submitting an Inspection Verification, Form WPI-2, [or a Form WPI-2-BC-6,] an appointed qualified inspector verifies that:

(1) the ongoing improvement:

(A) complies with the wind load requirements of the applicable building code; or

(B) conforms to a design of the ongoing improvement that complies with the wind load requirements of the applicable building code under the plan of operation and that has a seal affixed by a professional engineer licensed by the Texas Board of Professional Engineers and Land Surveyors; or

(C) does not comply with the wind load requirements of the applicable building code; and

(2) if the ongoing improvement meets the requirements of paragraph (1)(A) or (B) of this section, the appointed qualified inspector is able to provide TDI with information and evidence substantiating compliance.

§5.4642. Disciplinary Action.

(a) Revocation or denial of appointment. After notice and opportunity for hearing, the commissioner [Commissioner] may revoke an appointed qualified inspector's appointment or deny an appointed qualified inspector's application for appointment if:

(1) the applicant or appointed qualified inspector violates or fails to comply with the Insurance Code or any rule in this chapter;

(2) the applicant has made a material misrepresentation in the appointment application;

(3) the applicant has attempted to obtain an appointment by fraud or misrepresentation; or

(4) the applicant or appointed qualified inspector has made a material misrepresentation in any form, report, or other information required to be submitted to TDI, including an Application for Certificate of Compliance for Ongoing Improvement, Form WPI-1; a construction inspection report; an Inspection Verification, Form WPI-2; [an Inspection Verification, Form WPI-2-BC-6;] or a Certification Form for Completed Improvement, Form WPI-2E.

(b) Cease and desist order. The commissioner [Commissioner], ex parte, may enter an emergency cease and desist order under Insurance Code Chapter 83, concerning Emergency Cease and Desist Orders, against an appointed qualified inspector, or a person acting as an appointed qualified inspector, if:

(1) the commissioner [Commissioner] believes that:

(A) the appointed qualified inspector has:

(i) failed to demonstrate, through submitting or failing to submit to TDI, substantiating information as described in §5.4626 of this title (relating to Substantiating Information), that an ongoing improvement or a portion of an ongoing improvement subject to inspection meets the requirements of Insurance Code Chapter 2210, concerning Texas Windstorm Insurance Association, and TDI rules; or

(ii) refused to comply with requirements imposed under this chapter or TDI rules; or

(B) a person acting as an appointed qualified inspector is acting without appointment under Insurance Code §2210.254, concerning Qualified Inspectors, or §2210.2551, concerning Enforcement Authority; Rules [§2210.255]; and

(2) the commissioner [Commissioner] determines that the conduct described by paragraph (1) of this subsection is fraudulent, hazardous, or creates an immediate danger to the public.

(c) Alternative sanctions. Under Insurance Code §2210.2551(b) and §2210.256(b), concerning Disciplinary Proceedings Regarding Appointed Inspectors and Certain Other Persons, the commissioner [Commissioner], instead of revocation or denial, may impose one or more of the following sanctions if the commissioner [Commissioner] determines from the facts that the alternative sanction would be fair, reasonable, or equitable:

(1) suspension of the appointment for a specific period, not to exceed one year; or

(2) issuance of an order directing the appointed qualified inspector to cease and desist from the specified activity or failure to act determined to be in violation of Insurance Code Chapter 2210, Subchapter F, concerning Property Inspections for Windstorm and Hail Insurance, or rules of the commissioner [Commissioner] adopted under Insurance Code Chapter 2210, Subchapter F.

(d) Failure to comply with order. Under Insurance Code §2210.2551(b) and §2210.256(d), if the commissioner [Commissioner] finds, after notice and a hearing, that an appointed qualified inspector has failed to comply with an order issued under subsections (a), (b), or (c) of this section, the commissioner [Commissioner] will, unless the commissioner's [Commissioner's] order is lawfully stayed, revoke the appointed qualified inspector's appointment.

(e) Informal disposition. The commissioner [Commissioner] may informally dispose of any matter under this section or under §5.4612 of this title (relating to Appointment as Qualified Inspector) by consent order or default.

(f) Automatic cancellation. If the Texas Board of Professional Engineers and Land Surveyors revokes or suspends an engineer's license, the engineer's appointment as an appointed qualified inspector is automatically canceled.

(g) Reasonable penalty. If TDI finds that a person acting as an appointed qualified inspector under Insurance Code §2210.254 has failed to provide complete and accurate information regarding an inspection for a certificate of compliance under Insurance Code §2210.2515, concerning Issuance of Certificates of Compliance, then TDI may impose a reasonable penalty on the inspector, including prohibiting the inspector from applying for certificates of compliance under Insurance Code §2210.2515.

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 November 10, 2025.

TRD-202504072
Jessica Barta
General Counsel
Texas Department of Insurance
Earliest possible date of adoption: December 21, 2025
For further information, please call: (512) 676-6555

♦ ♦ ♦

TITLE 34. PUBLIC FINANCE

PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

CHAPTER 16. COMPTROLLER GRANT PROGRAMS

SUBCHAPTER B. TEXAS BROADBAND DEVELOPMENT OFFICE

DIVISION 1. BROADBAND DEVELOPMENT MAP

34 TAC §§16.21 - 16.24

The Comptroller of Public Accounts proposes amendments to §16.21, concerning broadband development map, §16.22, concerning map challenges; criteria, §16.23, concerning challenge process; deadlines, and §16.24, concerning challenge determinations.

The legislation enacted within the last four years that provides the statutory authority for these sections are Senate Bill 1238, 88th Legislature, R.S., 2023 and Senate Bill 1405, 89th Legislature, R.S., 2025.

The amendments to §16.21 remove the requirement for the office to create, update or publish a map if the office adopts a map produced by the Federal Communications Commission and include conforming changes.

The amendments to §16.22 provide that a challenge may occur only if the office does not adopt a map produced by the Federal Communications Commission and remove references to a challenge process if the office adopts a map produced by the Federal Communications Commission.

The amendments to §16.23 remove unnecessary deadlines related to the office adopting a map produced by the Federal Communications Commission and remove unnecessary notice procedures. The amendments maintain the challenge procedures for a map the office creates for future use in the event the office chooses to create its own map.

The amendments to §16.24 modify the name of the section to more specifically reflect the outcome of the challenge process.

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

Mr. Reynolds also has determined that the proposed amended rules would have no fiscal impact on the state government, units of local government, or individuals. The proposed amended rules would benefit the public by improving the clarity and implementation of the sections. There would be no anticipated economic cost to the public. The proposed amended rules would have no fiscal impact on small businesses or rural communities.

You may submit comments on the proposal or information related to the cost, benefit, or effect of the proposal, including any applicable data, research or analysis to Bryant Clayton, Director, Broadband Development Office P.O. Box 13528 Austin, Texas 78711 or to the email address: broadband@cpa.texas.gov. The comptroller must receive your comments or other information no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The amendments are proposed under Government Code, §490I.0109, which permits the comptroller to adopt rules as necessary to implement Chapter 490I regarding the Texas Broadband Development Office.

The amendments implement Government Code, Chapter 490I.

§16.21. Broadband Development Map.

(a) The comptroller shall create, update annually, and publish on the comptroller's website a broadband development map depicting the availability of broadband service for each broadband serviceable location in this state. The office shall use the best available information, including information available from the Federal Communications Commission, political subdivisions, and broadband service providers, to create or update the map. The office is not required to create, update, or publish a map if the office adopts a map produced by the Federal Communications Commission that enables the office to identify unserved, underserved, and served locations.

[~~(b) Except as provided by subsection (c) of this section, for the purpose of developing the broadband development map, the scope of a designated area in this state shall consist of a county.~~]

[~~(c) If the comptroller determines that developing the broadband development map at the county level is not technically feasible or practical, the comptroller may develop the map using a smaller geographic unit for which information is available from the Federal Communications Commission.~~]

(b) [~~(d)~~] The comptroller shall, at a minimum, display for each designated area on the broadband development map:

(1) each unserved, underserved, and served broadband serviceable location;

(2) an indication of whether each broadband serviceable location is ineligible to receive funding on account of an existing federal commitment to deploy qualifying broadband service;

(3) the number of broadband service providers that serve the designated area;

(4) an indication of whether the designated area has access to internet service that is not broadband service, regardless of the technology used to provide the service;

(5) each public school campus with an indication of whether the public school campus has access to broadband service; and

(6) the number and percentage of unserved, underserved, and served broadband serviceable locations within the designated area.

§16.22. Map Challenges; Criteria.

(a) Subject to subsection (c) of this section and only if the comptroller does not adopt the map produced by the Federal Communications Commission as provided under Government Code, §490I.0105(q), a broadband service provider or a political subdivision of this state may challenge the designation of a broadband serviceable location located in this state and petition the office to reclassify the location on the broadband development map.

(b) A challenge submitted under this section must be submitted on forms and contain the information prescribed by the office. The office shall publish on its website the requirements and criteria for submitting a challenge under this section.

(c) A challenge seeking reclassification of a broadband serviceable location may only be made on the following basis:

(1) that reliable broadband service at the location is or is not available within 10 business days of a request for service;

(2) that the actual speed of the fastest available service tier at the location does or does not meet the broadband service speed thresholds as established by Government Code, §490I.0105(a);

(3) that the actual round-trip latency of broadband service at the location exceeds 100 milliseconds;

(4) that the availability of reliable broadband service at the location is subject to a data cap that results in actual speeds of the fastest available service tier falling below the broadband service speed thresholds as established by Government Code, §490I.0105(a); or

(5) that the location is or is not subject to an existing federal commitment to deploy qualifying broadband service to the location.

~~[(d) If the comptroller adopts a map produced by the Federal Communications Commission as provided under Government Code, §490I.0105(q), a challenge may only be submitted under this section if the person or entity submitting the challenge provides evidence that the person or entity previously submitted a successful challenge to the Federal Communications Commission for the broadband serviceable locations for which the entity is seeking a reclassification.]~~

§16.23. Challenge Process; Deadlines.

(a) A challenge under this subchapter must be submitted to the office not later than the 60th day after the broadband development map is published or updated on the comptroller's website. ~~[If the comptroller adopts a map produced by the Federal Communications Commission as provided under Government Code, §490I.0105(q), a challenge under this subchapter must be submitted not later than the 30th day after the entity seeking to challenge a location submitted a successful challenge to the Federal Communications Commission.]~~

(b) The office may reject a challenge without further action if the challenge is not submitted on forms prescribed by the office or does not otherwise comply with this division or any criteria established by the office as provided by this subchapter.

(c) The office shall provide notice of an accepted challenge to each affected political subdivision and broadband service provider by posting notice of the challenge on the comptroller's website. For the purposes of this section, an affected political subdivision or broadband service provider shall be deemed to have received notice on the date the notice is posted on the comptroller's website.

(d) Not later than the 45th day after the date that the office posts the notice required under subsection (c) of this section, an impacted political subdivision or a broadband service provider may provide information to the office showing whether the broadband serviceable locations that have been challenged should or should not be reclassified.

(e) Not later than the 75th day after the date that the office posts the notice required under subsection (c) of this section, the office shall determine whether to reclassify the challenged broadband serviceable locations and shall update the map as necessary.

~~[(f) In addition to the notice required under subsection (c) of this section, the office shall send written notice of the challenges that have been received under this subchapter to each political subdivision and broadband service provider that subscribes to an email distribution list managed by the office for the purpose of receiving notices from the office. Notwithstanding this subsection, the date the notice is received shall be deemed to be the date a notice issued under subsection (c) of this section is posted on the comptroller's website.]~~

§16.24. Reclassification ~~[Challenge]~~ Determinations.

(a) The office shall consider the following in making a determination of whether to reclassify a broadband serviceable location:

(1) the availability of reliable broadband service;

(2) an evaluation of actual Internet speed test and reliability data;

(3) the existence or non-existence of an existing federal commitment to deploy qualifying broadband service to a location; and

(4) any other information the office determines may be useful in determining whether a location should be reclassified.

(b) A broadband serviceable location that is classified as a served location solely because the location is subject to an existing federal commitment to deploy qualifying broadband service may be reclassified if:

(1) federal funding is forfeited or the recipient of the funding is disqualified from receiving the funding; and

(2) the location is otherwise eligible to receive funding under the program.

(c) A determination made by the office under this subsection is not a contested case for purposes of Government Code, Chapter 2001.

(d) If within one year after making an award the office determines that at the time of making the award a broadband serviceable location was not eligible to receive funding under this subchapter, the office may proportionately reduce the amount of the award and the grant recipient shall be required to return any grant funds that were awarded as a result of the classification error. Prior to making a decision to reduce the amount of the award, the office shall provide an opportunity to the award recipient to demonstrate cause for why the award should not be reduced. The office shall reduce the amount required to be returned

under this subsection if the office determines, in its sole discretion, that the grant funds or any portion thereof were expended in good faith.

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 November 5, 2025.

TRD-202504004
Victoria North
General Counsel for Fiscal and Agency Affairs
Comptroller of Public Accounts
Earliest possible date of adoption: December 21, 2025
For further information, please call: (512) 475-2220

DIVISION 2. BROADBAND DEVELOPMENT PROGRAM

34 TAC §§16.30, 16.31, 16.35 - 16.38, 16.40 - 16.42, 16.46

The Comptroller of Public Accounts proposes amendments to §16.30, concerning definitions, §16.31, concerning notice of funds availability, §16.35, concerning program eligibility requirements, §16.36, concerning application process generally, §16.40, concerning evaluation criteria, §16.41, concerning application protest process, §16.42, concerning awards; grant agreement, and §16.46, concerning forms; notices. The Comptroller of Public Accounts also proposes new §16.37, concerning direct contract and grant awards, and new §16.38, concerning fixed amount awards. The new sections replace §16.37, concerning overlapping applications or project areas, and §16.38, concerning overlapping project areas in noncommercial applications, which the comptroller will repeal in a separate rulemaking.

Legislation enacted within the last four years providing statutory authority for these sections are Senate Bill 1238, 88th Legislature, R.S., 2023 and Senate Bill 1405, 89th Legislature, R.S., 2025.

The amendments to §16.30 remove the "application protest period" and "designated area" definitions, add the "gigabit-level broadband service" definition, and add the "interested party" definition, which was previously in §16.41. The amendments modify the "served location" definition for brevity. The amendments to the "unserved location" definition provide speed requirements for public schools and community anchor institutions.

The amendments reword §16.31 for brevity and modify the publication process. The amendments remove the requirement for a notice of funds availability to state the minimum and maximum amounts of grant funds available for each application. The amendments clarify that eligibility criteria will be in each notice of funds availability.

The amendments to §16.35 change the title to "Competitive Grant Limitations." The amendments remove eligibility criteria details as unnecessary because §16.31 requires a notice of funds availability to include eligibility criteria. The amendments modify non-commercial provider limitations to competitive grants for the deployment of last-mile broadband service projects in subsection (b).

The amendments to §16.36 add "competitive grant" in the title and in subsection (b) to specify that this section applies to competitive grants. The amendments change "protest" to "publishing" to describe the 30-day period in subsection (d). The amendments describe notification after the challenge process and requests for additional information in subsections (f) and (g) respectively. The amendments remove certain provisions related to the challenge process for placement in §16.30 and §16.41.

New §16.37 describes the office's ability to award direct contract or grant awards on a non-competitive basis to a political subdivision in subsection (a). The section permits the office to award a direct contract or grant award with a grant agreement and to require information be submitted electronically in subsection (b).

New §16.38 describes fixed amount awards in subsection (a). The section permits the office to award a fixed amount award for competitive and direct grants without regard to the Texas Acquisition Threshold as defined in the Texas Grant Management Standards in subsection (b).

The amendments to §16.40 remove the reference to Government Code, §490I.0105 in subsection (a)(4) as required by Senate Bill 1405, 89th Legislature, R.S., 2025.

The amendments to §16.41 change the title of the section to "Application Challenge Process" to reflect the more commonly used term and make conforming changes throughout the section. The amendments in subsection (a) provide that only applications related to last-mile broadband infrastructure projects are subject to the challenge process and only the location may be challenged. The amendments describe under what circumstances a successfully challenged application may be amended and resubmitted in subsections (d) and (g). The amendments add subsections (g), (h) and (i) that are transferred from §16.36(f), (g) and (i) respectively, and make a conforming change to subsection (i).

The amendment to §16.42 adds the statutory requirement for last-mile infrastructure grant recipients to make reasonable efforts to restore private property affected by a broadband infrastructure project in subsection (d).

The amendments to §16.46 allow notice by certified mail and make conforming changes in subsections (c) and (d). The amendments remove subsection (e) relating to §16.34 that was previously repealed.

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

Mr. Reynolds also has determined that the proposed amended rules and the proposed new rules would have no fiscal impact on the state government, units of local government, or individuals. The proposed amended rules would benefit the public by improving the clarity and implementation of the sections. The proposed amended rules would update and streamline broadband development program administration. The proposed new rules would benefit the public by providing greater flexibility in broadband project funding and facilitating broadband deployment in eligible areas. There would be no significant economic cost to the pub-

lic. The proposed amended rules and proposed new rules would have no fiscal impact on small businesses or rural communities.

You may submit comments on the proposal or information related to the cost, benefit, or effect of the proposal, including any applicable data, research or analysis, to Bryant Clayton, Director, Broadband Development Office, P.O. Box 13528 Austin, Texas 78711 or to the email address: broadband@cpa.texas.gov. The comptroller must receive your comments or other information no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The amendments are proposed under Government Code, §490I.0109, which permits the comptroller to adopt rules as necessary to implement Chapter 490I regarding the Texas Broadband Development Office.

The amendments implement Government Code, Chapter 490I.

§16.30. Definitions.

As used in this subchapter and in these rules, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise:

(1) Applicant--A person that has submitted an application for an award under this subchapter.

~~[(2) Application protest period--A period of at least thirty days beginning on the first day after an application is posted under §16.36(d) of this subchapter.]~~

(2) [~~(3)~~] Broadband development map--The map adopted or created under Government Code, §490I.0105.

(3) [~~(4)~~] Broadband service--Internet service that delivers transmission speeds capable of providing:

(A) a download speed of not less than 100 Mbps; or

(B) an upload speed of not less than 20 Mbps; and

(C) network round-trip latency of less than or equal to 100 milliseconds based on the 95th percentile of speed measurements.

(4) [~~(5)~~] Broadband serviceable location--A business or residential location in this state at which broadband service is, or can be, installed, including a community anchor institution.

(5) [~~(6)~~] Census block--The smallest geographic area for which the U.S. Bureau of the Census collects and tabulates decennial census data as shown on the most recent on Census Bureau maps.

(6) [~~(7)~~] Commercial broadband service provider--A broadband service provider engaged in business intended for profit, a telephone cooperative, an electric cooperative, or an electric utility that offers broadband service or middle-mile broadband service for a fare, fee, rate, charge, or other consideration.

(7) [~~(8)~~] Community anchor institution--An entity such as a school, library, health clinic, health center, hospital or other medical provider, public safety entity, institution of higher education, public housing organization, or community support organization that facilitates greater use of broadband service by vulnerable populations, including, but not limited to, low-income individuals, unemployed individuals, children, the incarcerated, and aged individuals.

(8) Gigabit-level broadband service--Internet service that delivers transmission speeds capable of providing:

(A) a download speed of not less than 1000 Mbps; or

(B) an upload speed of not less than 20 Mbps; and

(C) network round-trip latency of less than or equal to 100 milliseconds based on the 95th percentile of speed measurements.

~~[(9) Designated area--A census block or other area as determined under §16.21 of this subchapter.]~~

(9) [~~(10)~~] Grant funds--Grants, low-interest loans, and other financial incentives awarded to applicants under this subchapter for the purpose of expanding access to and adoption of broadband service.

(10) [~~(11)~~] Grant recipient--An applicant who has been awarded grant funds under this subchapter.

(11) Interested party--A person, including an individual, corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, or any other legal entity, that resides, is located, or conducts business in the project area subject to challenge. The term includes a broadband service provider that is not located in the project area but who proposes to provide broadband service in the project area.

(12) Mbps--Megabits per second.

(13) Middle mile infrastructure--Any broadband infrastructure that does not connect directly to an end-user location, including a community anchor institution. The term includes:

(A) leased dark fiber, interoffice transport, backhaul, carrier-neutral internet exchange facilities, carrier-neutral submarine cable landing stations, undersea cables, transport connectivity to data centers, special access transport, and other similar services; and

(B) wired or private wireless broadband infrastructure, including microwave capacity, radio tower access, and other services or infrastructure for a private wireless broadband network, such as towers, fiber, and microwave links.

(C) The term does not include provision of Internet service to end-use customers on a retail basis.

(14) Non-commercial broadband service provider--A broadband service provider that is not a commercial broadband service provider.

(15) Office--The Broadband Development Office created under Government Code, §490I.0102.

(16) Project area--The area, consisting of one or more broadband serviceable locations, identified by an applicant in which the applicant proposes to deploy broadband service or middle mile infrastructure.

(17) Public school--A school that offers a course of instruction for students in one or more grades from prekindergarten through grade 12 and is operated by a governmental entity.

(18) Qualifying broadband service--Broadband service that meets the minimum speed, latency and reliability thresholds prescribed by the office in each applicable notice of funds availability.

(19) Reliable broadband service--Broadband service that is accessible to a location via:

(A) fiber-optic technology;

(B) Cable Modem/ Hybrid fiber-coaxial technology;

(C) digital subscriber line (DSL) technology; or

(D) terrestrial fixed wireless technology utilizing entirely licensed spectrum or using a hybrid of licensed and unlicensed spectrum.

(20) Served location--A broadband serviceable location that is neither an unserved nor an underserved location [has access to reliable broadband service that exceeds the minimum threshold for an underserved location or a location that is subject to an existing federal commitment to deploy qualifying broadband service].

(21) Underserved location--A broadband serviceable location that has access to reliable broadband service but does not have access to reliable broadband service with the capability of providing:

(A) a download speed of not less than 100 Mbps;

(B) an upload speed of not less than 20 Mbps; and

(C) a network round-trip latency of less than or equal to 100 milliseconds based on the 95th percentile of speed measurements as established under Government Code, §490I.0101.

(22) Unserved location--A broadband serviceable location that:

(A) does not have access to reliable broadband service; or

(B) is a public school or community anchor institution and does not have access to reliable broadband service that is gigabit-level broadband service.

§16.31. Notice of Funds Availability.

(a) The office shall [use one or more methods as necessary to] provide notice of the availability of funds for competitive grant awards and may publish the notice on [, including publication in] the [*Texas Register* or] *Electronic State Business Daily website* or[. The comptroller may make available a copy of the notice of funds availability on] the comptroller's website. [For the purposes of these rules, the date the notice of funds availability is issued is the earlier of the first day the notice is published in the *Texas Register* or on the *Electronic State Business Daily* website.]

(b) The notice of funds availability published under subsection (a) of this section shall include:

(1) the total amount of grant funds available for award;

[(2) the minimum and maximum amount of grant funds available for each application;]

(2) [(3)] eligibility criteria [requirements];

(3) [(4)] application requirements;

(4) [(5)] award and evaluation criteria; and

(5) [(6)] the date by which applications must be submitted to the office;

(c) The notice may include:

(1) limitations on the geographic distribution of grant funds;

(2) the anticipated date of award; and

(3) any other information the office determines is necessary for award.

§16.35. Competitive Grant Limitations [Program Eligibility Requirements].

[(a) Eligible participants of the program include:]

[(1) political subdivisions of this state;]

[(2) commercial broadband service providers;]

[(3) non-commercial broadband service providers; and]

[(4) partnerships between political subdivisions of this state, commercial broadband service providers, noncommercial broadband service providers, or any combination thereof.]

(a) [(b)] The office may not award grant funds for deployment of last-mile broadband service for a broadband serviceable location to a non-commercial broadband service provider [an otherwise eligible participant under subsection (a)(3) of this section] if a commercial broadband service provider has submitted an eligible application for the same location.

(b) [(c)] For the purposes of this subchapter, a joint application submitted by any combination of a political subdivision, commercial broadband service provider, or a non-commercial broadband service provider that includes at least one commercial broadband service provider shall be deemed to be an application submitted by a commercial broadband service provider.

§16.36. Competitive Grant Application Process Generally.

(a) No award for competitive grant funding will be disbursed by the office except pursuant to an application submitted in accordance with this subchapter.

(b) An application for competitive grant funding under this subchapter shall be submitted on the forms and in the manner prescribed by the office. The office may require that applications be submitted electronically.

(c) Prior to publication of application information pursuant to Government Code, §490I.0106(e), the office may undertake an examination to determine whether the application appears on its face to comply with applicable program requirements. The office may reject and take no further action on an application that does not appear to comply with applicable program requirements on its face.

(d) The office shall for a period of at least 30 days publish on its website information from each accepted application, including the applicant's name, the project area targeted for expanded broadband service access or adoption by the application, and any other information the office considers relevant or necessary. The information will remain on the website for a period of at least 30 days before the office makes a decision on the application.

(e) During the 30-day application publishing [protest] period described by subsection (d) of this section [for an application], the office shall accept from any interested party a written protest of the application relating to whether the applicant or project is eligible for an award or should not receive an award based on the criteria prescribed by the office. A protest of an application must be submitted as provided under §16.41 of this subchapter.

(f) After the publishing period in subsection (d) of this section and any challenge process under §16.41 of this subchapter, the office will notify grant recipient(s). [Notwithstanding any deadline for submitting an application, if the office upholds a protest on the grounds that one or more of the broadband serviceable locations in a project area is not eligible to receive funding, the applicant may resubmit an amended application as provided under §16.41 of this subchapter without the challenged broadband serviceable locations not later than 30 days after the date that the office upheld the protest. An amended application may not include additional areas or broadband serviceable locations not already included in the original application.]

(g) During the application review process, the office may require an applicant to submit additional information the office determines is necessary to make an award decision. [If the office upholds a protest and the applicant resubmits an application in accordance with subsection (f) of this section, the resubmitted application is not subject to further protest.]

[(h) For the purposes of this section "interested party" means a person, including an individual, corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, or any other legal entity, that resides, is located, or conducts business in the project area subject to protest and also includes a broadband service provider that is not located in the project area but who proposes to provide broadband service in the project area.]

[(i) Notwithstanding subsection (e) of this section, a broadband service provider who has not provided information requested by the office under Government Code, §490I.0105 or §490I.01061, may not submit a protest of an application made under this subchapter.]

§16.37. Direct Contract or Grant Awards.

(a) The office may make a direct contract or grant award on a non-competitive basis to a political subdivision of this state.

(b) No award for direct funding will be disbursed by the office except pursuant to a contract or grant agreement executed in accordance with this subchapter. The office may require that information regarding the award be submitted electronically.

§16.38. Fixed Amount Awards.

(a) For the purposes of this subchapter, a fixed amount award is a type of grant agreement pursuant to which the office provides a specific amount of funding without regard to actual costs incurred under the award.

(b) Pursuant to Government Code, § 783.007(b) allowing for variances from the uniform assurances and standard financial conditions, the office may determine the amount per award and provide a fixed amount award for competitive and direct grants without regard to the Texas Acquisition Threshold as defined in the Texas Grant Management Standards. All other uniform assurances and standard financial conditions developed pursuant to Government Code, § 783.006 remain applicable to local governments receiving financial assistance from the office.

§16.40. Evaluation Criteria.

(a) The office shall establish the eligibility and award criteria applicable for each round of competitive grant funding by publishing the criteria in a notice of funds availability as provided by §16.31 of this subchapter. In establishing eligibility and award criteria, the office shall:

(1) prioritize applications that expand access to and adoption of broadband service in designated areas in which the highest percentage of broadband serviceable locations are unserved or underserved locations;

(2) prioritize applications that expand access to broadband service in public and private primary and secondary schools and institutions of higher education;

(3) prioritize applications that connect end-user locations with end-to-end fiber optic facilities that meet speed, latency, reliability, consistency, scalability, and related criteria as the office shall determine;

(4) give preference to applicants that provide the information requested by the office under Government Code, [§490I.0105 and] §490I.01061; and

(5) take into consideration whether an applicant has forfeited federal funding for defaulting on a project to deploy qualifying broadband service.

(b) In addition to the evaluation criteria provided under subsection (a) of this section, the office may include and provide preferences for the following evaluation criteria in the notice of funds availability:

(1) application participant(s) experience;

(2) technical specifications including broadband transmission speeds (Mbps upload and download) that will be deployed as a result of the project;

(3) estimated project completion date;

(4) the availability of matching funds including amount, percentage, and source of matching funds;

(5) cost effectiveness and overall impact as measured by the total project cost, the total number of prospective broadband service locations to be served by the project, the proportion of unserved and underserved locations to be served by the project compared to the number of serviceable locations within the designated area(s) the project is located, the proportion of recipients to be served by the project compared to the population of the designated area(s) in which the project is located, and the project cost per prospective broadband service recipient;

(6) geographic location including, but not limited to, rural areas where because of population density the cost of broadband expansion is characterized by disproportionately high capital and operational costs;

(7) community, non-profit, or cooperative support or participation in the project;

(8) affordability of broadband services in the areas in which the proposed project is located prior to the deployment of broadband services as a result of the project;

(9) consumer price of broadband services that applicant proposes to deploy as a result of the project;

(10) participation in federal programs that provide low-income consumers with subsidies for broadband services;

(11) small business and historically underutilized business involvement or subcontracting participation; and

(12) any additional factors the office may determine are necessary to further the expansion and adoption of broadband service.

(c) Notwithstanding subsection (a)(3) of this section, the office may consider an application for a broadband infrastructure project that does not employ end-to-end fiber optic facilities if the use of an alternative technology:

(1) is proposed for a high-cost area;

(2) may be deployed at a lower cost than deploying fiber optic technology; or

(3) meets the speed, latency, reliability, consistency, scalability, and related criteria as the office shall determine for each applicable notice of funds availability.

§16.41. Application Challenge [~~Protest~~] Process.

(a) The office shall publish on the office's website criteria and requirements for submitting a challenge under this section for applications related to last-mile broadband infrastructure projects. An interested party may only challenge an application on the basis that the application includes broadband serviceable locations that are ineligible for an award. The inclusion of a location in a project may only be challenged if [~~An application protest may only be made on the following basis~~]:

(1) the number of served locations included in a proposed project exceeds twenty percent of the total number of locations to which

service would be deployed by the project; or [~~applicant is ineligible to receive an award;~~]

(2) the broadband serviceable location is subject to an existing federal commitment to deploy qualifying broadband service to the location. [~~application contains broadband serviceable locations that are not eligible to receive funding because of an existing federal commitment to deploy qualifying broadband service to the location; or~~]

[~~(3) the project is ineligible to receive or should not receive an award based on the criteria prescribed by the office as provided by §16.40(a) of this subchapter.~~]

(b) A challenge [~~protest~~] submitted under this section shall be submitted electronically in the manner and on the forms prescribed by the office and shall be accompanied by all relevant supporting documentation. The interested [~~protesting~~] party submitting the challenge bears the burden to establish that a location [~~an applicant or project should not receive or~~] is ineligible for an award [~~based on the criteria prescribed by the office~~].

(c) The office shall review the protest and make a determination as to whether the protest should be upheld. The office shall provide notice of its determination to each affected applicant, including the right, if any, to submit an amended application under subsection (d) of this section.

(d) If the office upholds a challenge [~~protest~~] on the basis [~~that one or more broadband serviceable locations are not eligible to receive funding under the criteria~~] prescribed by the office, an applicant may amend and resubmit an application without the challenged locations and re-scope the application or project area if, after the protest is upheld:

(1) the remaining number of broadband serviceable locations in the project area is greater than 50% of the original number of locations in the project area; or

(2) [~~the remaining number of broadband serviceable locations in the project area is less than 50% of the original number of locations in the project area and~~] the office permits, at its sole discretion, the applicant to amend the application.

(e) If an amended application without the challenged locations is not received by the office by the 30th day after receiving notice of the determination under subsection (c) of this section, the office may remove the application from grant funding consideration.

(f) A determination made by the office under this section is not a contested case for purposes of Government Code, Chapter 2001.

(g) Notwithstanding any deadline for submitting an application, if the office upholds a challenge, the applicant may resubmit an amended application as provided under this subchapter without the challenged broadband serviceable locations not later than 30 days after the date that the office upheld the protest. An amended application may not include additional areas or broadband serviceable locations not already included in the original application.

(h) If the office upholds a challenge and the applicant resubmits an application in accordance with subsection (g) of this section, the resubmitted application is not subject to further challenges.

(i) Notwithstanding section §16.36(e) of this subchapter, a broadband service provider who has not provided information requested by the office under Government Code, §490I.01061, may not submit a challenge of an application made under this subchapter.

§16.42. Awards; Grant Agreement.

(a) All award decisions shall be made at the sole discretion of the office and are not appealable or subject to protest.

(b) Grants for the deployment of broadband infrastructure awarded under this subchapter may only be used for capital expenses, purchase or lease of property, and other expenses, including backhaul and transport, that will facilitate the provision or adoption of broadband service.

(c) A grant recipient shall have 30 days from the date of award to negotiate and sign the grant agreement. The comptroller may extend the deadline to fully execute the grant agreement upon a showing of good cause by the grant recipient(s). If the grant agreement is not signed by the grant recipient and received by the office by the later of the 30th day after the award of the grant agreement or the extended deadline date, the office may rescind the award.

(d) For last-mile infrastructure projects, the grant recipient must make a reasonable effort to restore the private property affected by the project to the condition the property was in before the beginning of the project.

§16.46. Forms; Notices.

(a) Unless otherwise required by law, the office may prescribe all forms or other documents required to implement this subchapter and may require that the forms or other documents be submitted electronically.

(b) Any notice required by these rules to be sent by the office may be provided electronically and the office is entitled to rely on an email address provided by an applicant, grant recipient or other person, including a political subdivision or broadband service provider, for all purposes relating to notification. Applicants and grant recipients must provide an email address that is designated for receipt of notices from the office.

(c) If notice cannot be sent electronically, the office shall provide notice by regular or certified U.S. Mail and the office is entitled to rely on the mailing address currently on file for all purposes relating to notification.

(d) Service of notice by the office is complete and receipt is presumed on:

(1) the date the notice is sent, if sent before 5:00 p.m. by electronic mail;

(2) the date after the notice is sent, if sent after 5:00 p.m. by electronic mail; or

(3) three business days after the date it is placed in the mail, if sent by regular or certified U.S. Mail.

[~~(e) When multiple recipients receive notice under §16.34(a) of this subchapter resulting in more than one date of service as determined under subsection (d) of this section, the date that a broadband provider receives notice for the purpose of §16.34 of this subchapter is the latest service date for that notice.~~]

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 November 5, 2025.

TRD-202504005
Victoria North
General Counsel for Fiscal and Agency Affairs
Comptroller of Public Accounts
Earliest possible date of adoption: December 21, 2025
For further information, please call: (512) 475-2220

♦ ♦ ♦

34 TAC §§16.37 - 16.39

The Comptroller of Public Accounts proposes to repeal §16.37, concerning overlapping applications or project areas, §16.38, concerning special rule for overlapping project areas in non-commercial applications, and §16.39, concerning application requirements.

The legislation enacted within the last four years that provides the statutory authority for these sections are Senate Bill 1238, 88th Legislature, R.S., 2023 and Senate Bill 1405, 89th Legislature, R.S., 2025.

The comptroller proposes to repeal §§16.37 - 16.39 since they are no longer needed as information related to application requirements will be in each respective notice of funds availability.

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

Mr. Reynolds also has determined that the proposed repeal of the rules would have no fiscal impact on the state government, units of local government, or individuals. The proposed repeal of the rules coupled with the planned inclusion of information related to application requirements in each respective notification of funds availability, would benefit the public by eliminating unnecessary rules. There would be no anticipated economic cost to the public. The proposed repeal of the rules would have no fiscal impact on small businesses or rural communities.

You may submit comments on the proposal to Bryant Clayton, Director, Broadband Development Office, at broadband@cpa.texas.gov or at P.O. Box 13528, Austin, Texas 78711-3528. Any person required to comply with this proposal, or any other interested person, may submit information related to the cost, benefit, or effect of the proposal, including any applicable data, research, or analysis to the same mailing or email address. The comptroller must receive your comments or other information no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The repeal is proposed under Government Code, §490I.0109, which permits the comptroller to adopt rules as necessary to implement Chapter 490I regarding the Texas Broadband Development Office.

The repeal implements Government Code, Chapter 490I.

§16.37. Overlapping Applications or Project Areas.

§16.38. Special Rule for Overlapping Project Areas in Noncommercial Applications.

§16.39. Application Requirements.

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

Filed with the Office of the Secretary of State on November 5, 2025.

TRD-202504003
Victoria North
General Counsel for Fiscal and Agency Affairs
Comptroller of Public Accounts
Earliest possible date of adoption: December 21, 2025
For further information, please call: (512) 475-2220

♦ ♦ ♦

SUBCHAPTER F. RURAL AMBULANCE SERVICE GRANT PROGRAM

34 TAC §§16.500 - 16.506

The Comptroller of Public Accounts proposes new §16.500, concerning definitions; §16.501, concerning applications; §16.502, concerning comptroller review; §16.503, concerning grant agreement; §16.504, concerning authorized uses of grant funds; §16.505, concerning reporting and compliance; and §16.506, concerning fiscal year 2026 application period. These new sections will be located in 34 Texas Administrative Code, Chapter 16, new Subchapter F, Rural Ambulance Service Grant Program.

The legislation enacted in the last four years that provides statutory authority is House Bill 3000, 89th Legislature, R.S., 2025. House Bill 3000 establishes a new grant program to provide certain rural counties financial assistance to purchase ground ambulances.

Section 16.500 provides definitions.

Section 16.501 describes the application process.

Section 16.502 describes comptroller review.

Section 16.503 describes the requirements for grant agreements.

Section 16.504 describes the authorized uses of grant funds and limitations on uses of grant funds.

Section 16.505 describes reporting requirements and available remedies for noncompliance.

Section 16.506 describes the Fiscal Year 2026 application period.

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

Mr. Reynolds also has determined that the proposed new rules would have no significant fiscal impact on the state government, units of local government, or individuals. The proposed new rules would benefit the public by disseminating and clarifying the requirements and application process of the Rural Ambulance Service Grant Program. There would be no significant anticipated economic cost to the public. The proposed new rules would have no fiscal impact on small businesses or rural communities.

You may submit comments on the proposal or information related to the cost, benefit, or effect of the proposal, including

any applicable data, research or analysis, to Russell Gallahan, Manager, Local Government & Transparency, P.O. Box 13528 Austin, Texas 78711 or to the email address: ambulance.grants@cpa.texas.gov. The comptroller must receive your comments or other information no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The new sections are proposed under Local Government Code, §130.914, which requires the comptroller to adopt rules to implement a new grant program to provide financial assistance to certain rural counties for ambulance service.

The new sections implement Local Government Code, §130.914.

§16.500. Definitions.

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

(1) Accessories--Equipment required for emergency medical service vehicles to provide treatment and transportation of adult, pediatric and neonatal patients as described in 25 TAC Chapter 157, Subchapter B, Emergency Medical Services Provider Licenses.

(2) Ambulance--A vehicle registered with the Texas Department of State Health Services as an emergency medical service vehicle excluding watercraft and air ambulances.

(3) Applicant--A qualified county that applies for a grant under Local Government Code, §130.914.

(4) Fiscal year--The twelve consecutive calendar months during which an applicant tracks its finances for budget and accounting purposes.

(5) Grant--A rural ambulance service grant awarded under Local Government Code, §130.914 and this subchapter.

(6) Grant agreement--An agreement between the comptroller and a grant recipient that governs the terms of a grant.

(7) Grant program--The rural ambulance service grant program established by Local Government Code, §130.914.

(8) Grant recipient--A qualified county that receives a grant under this subchapter.

(9) Per capita income--The per capita income based on the U.S. Bureau of Economic Analysis data for the year that correlates with the most recent federal census data.

(10) Per capita taxable property value--The per capita taxable property value based on the Texas Comptroller of Public Accounts data for the year that correlates with the most recent federal census data.

(11) Population--The population shown by the most recent federal decennial census.

(12) Qualified county--A county with a population of 68,750 or less.

(13) Qualified rural ambulance service provider--A private safety entity or public agency as those terms are defined by Health and Safety Code, §772.001, licensed by the Texas Department of State Health Services to provide emergency medical services and operating in a qualified county.

(14) Unemployment rate--The unemployment rate based on the Texas Workforce Commission data for the year that correlates with the most recent federal census data.

§16.501. Applications.

(a) Applicants must:

(1) apply using the comptroller's prescribed electronic form;

(2) provide information that the comptroller determines necessary to make an award decision; and

(3) certify compliance with the requirements of Local Government Code, §130.914 and this subchapter.

(b) The application period begins on the 60th day before the first day of the applicant's fiscal year and ends on the 30th day of the applicant's fiscal year.

(c) The county judge of the applicant must:

(1) electronically sign the application; and

(2) certify that all information in the application is true and correct.

(d) The applicant may propose, in order of preference, more than one qualified rural ambulance service provider that provides ground ambulance services to the qualified county.

(e) For each proposed qualified rural ambulance service provider that is a private entity, the applicant must submit with its application a written agreement between the qualified county and private entity requiring ground ambulance services be provided within the jurisdiction of the qualified county. The agreement must be in effect at the time of the application.

§16.502. Comptroller Review.

(a) The comptroller must review the application for completeness. The comptroller may require the applicant to submit additional information. The applicant must submit the required information within 14 calendar days of the request.

(b) The comptroller may reject an application without further consideration if:

(1) the application is incomplete or does not comply with this subchapter;

(2) the applicant fails to submit any additional information required under subsection (a) of this section within 14 calendar days of the request; or

(3) the application does not comply with this subchapter.

(c) The comptroller must evaluate the applicant's ability to otherwise obtain the money necessary to provide adequate ground ambulance services by using the following formula:

(1) the sum of the following:

(A) the Statewide Unemployment Rate, divided by the Qualified County Unemployment Rate, divided by 100;

(B) the Qualified County Per Capital Taxable Value, divided by the State Per Capital Taxable Value, divided by 100; and

(C) the Qualified County Per Capita Personal Income, divided by the State Per Capita Income, divided by 100;

(2) divided by 3.

(d) If the applicant submits more than one qualified rural ambulance service provider in its application, the comptroller will, upon any award, approve a single qualified rural ambulance service provider from the application.

(e) When making award decisions, the comptroller must consider:

(1) whether an applicant received a grant under this grant program in previous years;

(2) the applicant's ability to otherwise obtain the money necessary to provide adequate ground ambulance services as calculated under subsection (c) with priority given to lower scoring applications;

(3) whether all rural ambulance service providers identified in the application will receive other grant funds under this grant program during the same fiscal year; and

(4) the applicant's demonstrated compliance with other applicable laws or other state grant programs.

(f) Award and funding decisions are in the comptroller's sole discretion and are not appealable or subject to protest.

§16.503. Grant Agreement.

(a) Funding is contingent on legislative appropriations and may result in the inability to execute a grant agreement.

(b) The comptroller must notify the grant recipient of the award decision and provide a grant agreement to the applicant for signature within 30 days of that notification.

(c) A grant agreement must require the comptroller to disburse funds as soon as practicable and must require funds to be expended during the grant period.

(d) An official of the grant recipient who is authorized to bind the grant recipient must electronically sign the grant agreement.

§16.504. Authorized Uses of Grant Funds.

(a) For grants awarded under Local Government Code, §130.914 and under this subchapter, grants may only be used for the state purpose of ensuring adequate ground ambulance services.

(b) The grant may only be used to purchase:

(1) additional ambulances, including necessary accessories and modifications;

(2) necessary accessories and modification to refurbish ambulances that the qualified county or its qualified rural ambulance service providers currently possesses; and

(3) necessary registration fees.

(c) Pre-award expenses are not allowable under a grant awarded under Local Government Code, §130.914 and this subchapter.

(d) Once grant funds are received, a grant recipient may not reduce funding to their qualified rural ambulance service provider for the following fiscal year.

§16.505. Reporting and Compliance.

(a) A grant recipient must submit an annual compliance report certifying compliance and detailing expenditures using the comptroller's electronic form. The grant recipient must provide evidence of continued ground ambulance services in its compliance report, including any changes to their qualified rural ambulance service provider.

(b) The comptroller may require supporting documentation regarding expenditures and any other information required to substantiate that grant funds are being used for the intended purpose and that the grant recipient complied with the grant agreement and this subchapter. The grant recipient must submit the documentation within 14 calendar days of the request. The authorized official is responsible for providing the required documentation.

(c) Grant recipients must comply with:

(1) the grant agreement terms and conditions;

(2) Local Government Code, §130.914 requirements; and

(3) all state or federal statutes, rules, regulations, or guidance applicable to the grant, including this subchapter.

(d) If the comptroller finds that a grant recipient failed to comply with any requirement described in subsection (c) of this section, the comptroller may:

(1) require the grant recipient to cure the failure to comply to the comptroller's satisfaction;

(2) require the grant recipient to return some or all of the grant;

(3) withhold funds from the current grant or future grants awarded to the recipient until the deficiency is corrected;

(4) disallow all or part of the cost of the purchase that does not comply;

(5) terminate the grant agreement in whole or in part;

(6) bar the grant recipient from future consideration for grants under this subchapter; or

(7) exercise any other legal remedies available at law.

(e) An official of the grant recipient who is authorized to bind the grant recipient must electronically sign the compliance report and must certify that all information in the compliance report is true and correct.

§16.506. Fiscal Year 2026 Application Period.

Notwithstanding anything to the contrary in this subchapter, the Fiscal Year 2026 application period for all applicants is the thirty-day period beginning on the later of January 1, 2026 or the date the application is first made available.

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 November 5, 2025.

TRD-202504006
Victoria North
General Counsel for Fiscal and Agency Affairs
Comptroller of Public Accounts
Earliest possible date of adoption: December 21, 2025
For further information, please call: (512) 475-2220

♦ ♦ ♦

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 13. TEXAS COMMISSION ON FIRE PROTECTION

CHAPTER 401. ADMINISTRATIVE PRACTICE AND PROCEDURE

The Texas Commission on Fire Protection (Commission) proposes amendments to 37 Texas Administrative Code, Chapter 401, Administrative Practice and Procedure, §§401.1, 401.3, §401.7, 401.9, 401.11, 401.13, 401.19, 401.21, 401.23, 401.31, 401.41, 401.53, 401.57, 401.59, 401.61, 401.63, 401.67, 401.105, 401.111, 401.113, 401.115, 401.117, 401.119,

401.121, 401.127, 401.129, and 401.131, and the repeal of §401.17.

Background and Purpose

The proposed amendments clarify internal references, correct grammatical inconsistencies, and update terminology for clarity and consistency throughout Chapter 401. Specifically, the amendments standardize capitalization of "Commission," modernize section titles, and remove obsolete or redundant cross-references.

Fiscal Note and Impact on State and Local Government

Michael Wisko, Agency Chief, has determined that for each year of the first five-year period these amendments are in effect, there will be no fiscal impact on state or local government as a result of enforcing or administering these rules.

Public Benefit and Cost Note

Mr. Wisko has also determined that for each of the first five years these amendments are in effect, the anticipated public benefit will be clearer and more consistent rule language. There are no anticipated economic costs to individuals required to comply with the proposed rules.

Local Economy Impact Statement

There is no anticipated effect on local employment or the local economy for the first five years the amendments are in effect; therefore, no local employment impact statement is required under Texas Government Code § 2001.022.

Economic Impact on Small Businesses, Micro-Businesses, and Rural Communities

The Commission has determined that there will be no effect on small or micro-businesses or rural communities as a result of implementing these amendments; therefore, no economic impact statement or regulatory flexibility analysis is required under Texas Government Code § 2006.002.

Government Growth Impact Statement

Under Texas Government Code § 2001.0221, the Commission has determined that during the first five years the amendments are in effect:

The rules will not create or eliminate a government program;

The rules will not create or eliminate any existing employee positions;

The rules will not require an increase or decrease in future legislative appropriations;

The rules will not result in an increase or decrease in fees paid to the agency;

The rules will not create a new regulation;

The rules will not expand, limit, or repeal an existing regulation;

The rules will not increase the number of individuals subject to the rule; and

The rules are not anticipated to have an adverse effect on the state's economy.

Takings Impact Assessment

The Commission has determined that the proposed amendments do not restrict or burden private real-property rights and therefore do not constitute a taking under Texas Government Code § 2007.043.

Costs to Regulated Persons

The proposed amendments do not impose additional costs on regulated persons, including another state agency, a special district, or a local government, and therefore are not subject to Texas Government Code § 2001.0045.

Environmental Impact Statement

The Commission has determined that the proposed amendments do not require an environmental impact analysis because the amendments are not major environmental rules under Texas Government Code § 2001.0225.

Request for Public Comment

Comments on the proposed amendments may be submitted in writing within 30 days of publication of this notice in the *Texas Register* to:

Frank King, General Counsel

Texas Commission on Fire Protection

P.O. Box 2286, Austin, Texas 78768

Email: frank.king@tcfp.texas.gov

SUBCHAPTER A. GENERAL PROVISIONS AND DEFINITIONS

37 TAC §§401.1, 401.3, 401.7, 401.9, 401.11, 401.13

The Texas Commission on Fire Protection proposes these rules under Texas Government Code, Chapter 419, which provides the Commission with the authority to adopt rules for the administration of its powers and duties.

No other statutes, articles, or codes are affected by this proposal.

§401.1. Purpose and Scope.

(a) Purpose. The purpose of this chapter is to provide a system of procedures for practice before the Commission [~~commission~~] that will promote the just and efficient disposition of proceedings and public participation in the decision-making process. The provisions of this chapter shall be given a fair and impartial construction to attain these objectives.

(b) Scope.

(1) This chapter shall govern the initiation, conduct, and determination of proceedings required or permitted by law in matters regulated by the Commission [~~commission~~], whether instituted by order of the Commission [~~commission~~] or by the filing of an application, complaint, petition, or any other pleading.

(2) This chapter shall not be construed so as to enlarge, diminish, modify, or otherwise alter the jurisdiction, powers, or authority of the Commission [~~commission~~], its staff, or the substantive rights of any person.

(3) This chapter shall not apply to matters related solely to the internal personnel rules and practices of this agency.

(4) To the extent that any provision of this chapter is in conflict with any statute or substantive rule of the Commission [~~commission~~], the statute or substantive rule shall control.

(5) In matters referred to the State Office of Administrative Hearings (SOAH), hearings or other proceedings are governed by 1 TAC Chapter 155 (relating to Rules of Procedures) adopted by SOAH.

To the extent that any provision of this chapter is in conflict with SOAH Rules of Procedures, the SOAH rules shall control.

§401.3. Definitions.

The following terms, when used in this chapter, shall have the following meanings, unless the context or specific language of a section [~~clearly~~] indicates otherwise:

(1) Advisory Committee--An advisory committee that is required to assist the Commission [~~commission~~] in its rule-making functions [~~function~~] and whose members are appointed by the Commission [~~commission~~] pursuant to Government Code, §419.008, or other law.

(2) Agency--Includes the Commission [~~commission~~], the Agency Chief, and all divisions, departments, and employees thereof.

(3) Agency Chief--The Agency Chief appointed by the Commission [~~commission~~] pursuant to Government Code, §419.009.

(4) APA--Government Code, Chapter 2001, The Administrative Procedure Act, as it may be amended from time to time.

(5) Applicant--A person, including the Commission [~~commission~~] staff, who seeks action from the Commission [~~commission~~] by written application, petition, complaint, notice of intent, appeal, or other pleading that initiates a proceeding.

(6) Application--A written request seeking a license from the Commission [~~commission~~], a petition, complaint, notice of intent, appeal, or other pleading that initiates a proceeding.

(7) Authorized Representative--A person who enters an appearance on behalf of a party, or on behalf of a person seeking to be a party or otherwise to participate in a Commission [~~commission~~] proceeding.

(8) Chairman--The Commissioner [~~commissioner~~] who serves as presiding officer of the Commission [~~commission~~] pursuant to Government Code, §419.007.

(9) Commission--The Texas Commission on Fire Protection.

(10) Commissioner--One of the appointed members of the decision-making body defined as the Commission [~~commission~~].

(11) Complainant--Any person, including the Commission's General Counsel [~~commission's legal staff~~], who files a signed written complaint intended to initiate a proceeding with the Commission [~~commission~~] regarding any act or omission by a person subject to the Commission's [~~commission's~~] jurisdiction.

(12) Contested Case--A proceeding, including but not restricted to, the issuance of certificates, licenses, registrations, permits, etc., in which the legal rights, duties, or privileges of a party are to be determined by the agency after an opportunity for adjudicative hearing.

(13) Days--Calendar days, not working days, unless otherwise specified in this chapter or in the Commission's [~~commission's~~] substantive rules.

(14) Division--An administrative unit for the regulation of specific activities within the Commission's [~~commission's~~] jurisdiction.

(15) Hearings Officer--An administrative law judge on the staff of the State Office of Administrative Hearings assigned to conduct a hearing and to issue a proposal for decision, including findings of fact and conclusions of law, in a contested case pursuant to Government Code, Chapter 2003.

(16) License--Includes the whole or part of any agency permit, certificate, approval, registration, [~~license~~] or similar form of permission required or permitted by law.

(17) Licensee--A person who holds an agency permit, certificate, approval, registration, license, or similar form of permission required or permitted by law.

(18) Licensing--Includes the agency process respecting the granting, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license.

(19) Party--Each person or agency named or admitted to as a party in a contested case.

(20) Person--Any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than the Commission [~~commission~~].

(21) Pleading--A written document submitted by a party, or a person seeking to participate in a proceeding, setting forth allegations of fact, claims, requests for relief, legal argument, and/or other matters relating to a Commission [~~commission~~] proceeding.

(22) Preliminary Staff Conference--A conference with Commission [~~commission~~] staff for the purpose of showing compliance with all requirements of law, or to discuss informal disposition of any complaint or contested case.

(23) Presiding Officer--The chairman, the acting chairman, the Agency Chief, or a duly authorized hearings officer.

(24) Proceeding--Any hearing, investigation, inquiry, or other fact-finding or decision-making procedure, including the denial of relief or the dismissal of a complaint.

(25) Respondent--A person under the Commission's [~~commission's~~] jurisdiction against whom any complaint or appeal has been filed or who is under formal investigation by the Commission [~~commission~~].

(26) SOAH--State Office of Administrative Hearings.

§401.7. Construction.

(a) A provision of a rule referring to the Commission [~~commission~~] or the chairman, or a provision of a rule referring to the Agency Chief as the presiding officer, is construed to apply to the Commission [~~commission~~] or chairman, if the matter is within the jurisdiction of the Commission [~~commission~~], or to the Agency Chief, if the matter is within the jurisdiction of the Agency Chief.

(b) Unless otherwise provided by law, any duty imposed on the Commission [~~commission~~], the chairman, or the Agency Chief may be delegated to a duly authorized representative. In such a case, the provisions of any rule referring to the Commission [~~commission~~], the chairman, or the Agency Chief shall be construed to also apply to the duly authorized representative of the Commission [~~commission~~], the chairman, or the Agency Chief.

§401.9. Records of Official Action.

All official acts of the Commission [~~commission~~] or the Agency Chief shall be evidenced by a recorded or written record. Official action of the Commission [~~commission~~] or the Agency Chief shall not be bound or prejudiced by any informal statement or opinion made by any member of the Commission [~~commission~~], the Agency Chief, or the employees of the agency.

§401.11. Conduct of Commission and Advisory Committee Meetings.

(a) Statements concerning items which are part of the Commission's [~~commission's~~] posted agenda. Persons who desire to make presentations to the Commission [~~commission~~] concerning

matters on the agenda for a scheduled Commission [~~commission~~] or an advisory [~~fire fighter advisory~~] committee meeting shall complete registration cards, which shall be made available at the entry to the place where the scheduled meeting is to be held. The registration cards shall include blanks in which all of the following information must be disclosed:

(1) name of the person making a presentation;

(2) a statement as to whether the person is being reimbursed for the presentation; and if so, the name of the person or entity on whose behalf the presentation is made;

(3) a statement as to whether the presenter has registered as a lobbyist in relationship to the matter in question;

(4) a reference to the agenda item which the person wishes to discuss before the Commission [~~commission~~];

(5) an indication as to whether the presenter wishes to speak for or against the proposed agenda item; and

(6) a statement verifying that all factual information to be presented shall be true and correct to the best of the knowledge of the speaker.

(b) Discretion of the presiding officer. The presiding officer of the Commission [~~commission~~] or the advisory committee, as the case may be, shall have discretion to employ any generally recognized system of parliamentary procedures, including, but not limited to, Robert's Rules of Order for the conduct of Commission [~~commission~~] or committee meetings, to the extent that such parliamentary procedures are consistent with the Texas Open Meetings Act or other applicable law and these rules. The presiding officer shall also have discretion in setting reasonable limits on the time to be allocated for each matter on the agenda of a scheduled Commission [~~commission~~] meeting or advisory committee meeting and for each presentation on a particular agenda item. If several persons wish to address the Commission [~~commission~~] or an advisory committee on the same agenda item, it shall be within the discretion of the chairperson to request that persons who wish to address the same side of the issue coordinate their comments, or limit their comments to an expression in favor of views previously articulated by persons speaking on the same side of an issue.

(c) Requests for issues to be placed on an agenda for discussion. Persons who wish to bring issues before the Commission [~~commission~~] shall first address their request in writing to the Agency Chief. Such requests should be submitted at least 15 days in advance of a Commission [~~commission~~] or an [~~fire fighter~~] advisory committee meeting [~~meetings~~]. The decision whether to place a matter on an agenda for discussion before the full Commission [~~commission~~], or alternatively, before an [~~the fire fighter~~] advisory committee, or with designated staff members, shall be within the discretion of the appropriate presiding officer.

§401.13. Computation of Time.

(a) Computing Time. In computing any period of time prescribed or allowed by these rules, by order of the Agency, or by any applicable statute, the period shall begin on the day after the act, event, or default in controversy and conclude on the last day of such computed period, unless it be a Saturday, Sunday, or a legal holiday, in which event, the period runs until the end of the next day which is neither a Saturday, Sunday, nor a legal holiday. A party or attorney of record notified under §401.61 of this title (relating to Record) is deemed to have been notified on the date that the [~~which~~] notice is sent.

(b) Extensions. Unless otherwise provided by statute, the time for filing any pleading, except a notice of protest, may be extended by order of the Agency Chief or designee, upon the following conditions:

(1) A written motion must be duly filed with the Agency Chief or designee prior to the expiration of the applicable period of time allowed for such filings.

(2) The written motion must show good cause for such extension and that the need is not caused by the neglect, indifference, or lack of diligence on the part of the movant.

(3) A copy of any such motion shall be served upon all other parties of record to the proceeding contemporaneously with the filing thereof.

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 November 7, 2025.

TRD-202504061
Mike Wisko
Agency Chief
Texas Commission on Fire Protection
Earliest possible date of adoption: December 21, 2025
For further information, please call: (512) 936-3812

♦ ♦ ♦

SUBCHAPTER B. RULEMAKING PROCEEDINGS

37 TAC §401.17

The Texas Commission on Fire Protection proposes this repeal under Texas Government Code, Chapter 419, which provides the Commission with the authority to adopt rules for the administration of its powers and duties.

No other statutes, articles, or codes are affected by this proposal.

§401.17. Requirements.

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

Filed with the Office of the Secretary of State on November 7, 2025.

TRD-202504112
Mike Wisko
Agency Chief
Texas Commission on Fire Protection
Earliest possible date of adoption: December 21, 2025
For further information, please call: (512) 936-3812

♦ ♦ ♦

37 TAC §401.19

The Texas Commission on Fire Protection proposes this rule under Texas Government Code, Chapter 419, which provides the Commission with the authority to adopt rules for the administration of its powers and duties.

No other statutes, articles, or codes are affected by this proposal.

§401.19. Petition for Adoption of Rules.

(a) Any person may petition the Commission [~~commission~~] requesting the adoption of a new rule or an amendment to an existing rule as authorized by the APA, §2001.021.

(b) Petitions shall be sent to the Agency Chief. Petitions shall be deemed sufficient if they contain:

(1) the name and address of the person or entity on whose behalf the application is filed;

(2) specific reference to the existing rule which is proposed to be changed, amended, or repealed;

(3) the exact wording of the new, changed, or amended proposed rule with new language underlined and deleted language in brackets [~~dashed out~~];

(4) the proposed effective date; and

(5) a justification for the proposed action set out in narrative form with sufficient particularity to inform the Commission [~~commission~~] and any other interested person of the reasons and arguments on which the petitioner is relying.

(c) The Agency Chief shall direct that the petition for adoption of rules be placed on the next agenda for discussion by the Commission [~~commission or the fire fighter advisory committee~~] with subject matter jurisdiction in accordance with §401.11 of this title (relating to Conduct of Commission and Advisory Committee Meetings).

(d) A request for clarification of a rule shall be treated as a petition for a rule change. The Commission [~~commission~~] staff may request submission of additional information from the applicant to comply with the requirements of 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 November 7, 2025.

TRD-202504113
Mike Wisko
Agency Chief
Texas Commission on Fire Protection
Earliest possible date of adoption: December 21, 2025
For further information, please call: (512) 936-3812

♦ ♦ ♦

SUBCHAPTER C. EXAMINATION APPEALS PROCESS

37 TAC §401.21, §401.23

The Texas Commission on Fire Protection proposes these rules under Texas Government Code, Chapter 419, which provides the Commission with the authority to adopt rules for the administration of its powers and duties.

No other statutes, articles, or codes are affected by this proposal.

§401.21. Examination Challenge.

(a) An examinee who seeks to challenge the failure of an examination must submit a written request to the Agency Chief or his designee to discuss informal disposition of the complaint(s).

(b) An examination may be challenged only on the basis of examination content, failure to comply with the Commission's [~~commission~~] rules by a certified training facility, or problems in the administration of the examination.

(c) The written request must identify the examinee, the specific examination taken, the date of the examination, and the basis of the appeal.

(d) An examinee who challenges the content of an examination must identify the subject matter of the question(s) challenged and is not entitled to review the examination due to the necessity of preserving test security.

(e) The request must be submitted within 30 days from the date the grade report is posted on the website.

(f) Commission staff shall schedule a preliminary staff conference with the applicant in accordance with §401.41 of this title (relating to Preliminary Staff Conference) to discuss the challenge within 30 days of the request or as soon as practical. The examinee may accept or reject the settlement recommendations of the Commission [~~commission~~] staff. If the examinee rejects the proposed agreement, the examinee must request in writing a formal administrative hearing as described in Subchapter F of this chapter (relating to Contested Cases) within 30 days of the action complained of.

§401.23. Examination Waiver Request.

(a) An individual who is required to take a Commission [~~commission~~] examination may petition the Commission [~~commission~~] for a waiver of the examination if the person's certificate or eligibility expired because of a good-faith [~~good faith~~] clerical error on the part of the individual or an employing entity.

(b) The waiver request must include a sworn statement together with any supporting documentation that evidences the applicant's good faith efforts to comply with the Commission's [~~commission~~] requirements and that failure to comply was due to circumstances beyond the control of the certificate holder or applicant.

(c) Commission staff shall schedule a preliminary staff conference with the applicant in accordance with §401.41 of this title (relating to Preliminary Staff Conference) to discuss the waiver request within 30 days of the request, or as soon as practical. The applicant may accept or reject the settlement recommendations of the Commission [~~commission~~] staff. If the examinee rejects the proposed agreement, the applicant must request in writing a formal administrative hearing as described in Subchapter F of this chapter (relating to Contested Cases) within 30 days of the action complained of.

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 November 7, 2025.

TRD-202504114
Mike Wisko
Agency Chief
Texas Commission on Fire Protection
Earliest possible date of adoption: December 21, 2025
For further information, please call: (512) 936-3812

♦ ♦ ♦

SUBCHAPTER D. DISCIPLINARY PROCEEDINGS

37 TAC §401.31

The Texas Commission on Fire Protection proposes this rule under Texas Government Code, Chapter 419, which provides the Commission with the authority to adopt rules for the administration of its powers and duties.

No other statutes, articles, or codes are affected by this proposal.

§401.31. Disciplinary Proceedings in Contested Cases.

(a) If the Commission [~~commission~~] staff recommends administrative penalties or any other sanction for alleged violations of laws or rules, the respondent may request a preliminary staff conference.

(b) Commission staff shall schedule a preliminary staff conference with the applicant to discuss the alleged violations of laws or rules within 30 days of the request or as soon as practical. The respondent may accept or reject the settlement recommendations of the Commission [~~commission~~] staff. If the respondent rejects the proposed agreement, the respondent must request in writing a formal administrative hearing as described in Subchapter F of this chapter (relating to Contested Cases) within 30 days of the notice of the staff's recommended disciplinary action.

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 November 7, 2025.

TRD-202504115
Mike Wisko
Agency Chief
Texas Commission on Fire Protection
Earliest possible date of adoption: December 21, 2025
For further information, please call: (512) 936-3812

♦ ♦ ♦

SUBCHAPTER E. PREHEARING PROCEEDINGS

37 TAC §401.41

The Texas Commission on Fire Protection proposes this rule under Texas Government Code, Chapter 419, which provides the Commission with the authority to adopt rules for the administration of its powers and duties.

No other statutes, articles, or codes are affected by this proposal.

§401.41. Preliminary Staff Conference.

(a) General. After receipt of notice of alleged violations of laws or rules administered or enforced by the Commission [~~commission~~] and its staff, the holder of the certificate, applicant, or regulated entity may request a conference with the Commission's [~~commission's~~] staff for the purpose of showing compliance with all requirements of law, or to discuss informal disposition of any complaint or contested case.

(b) Representation. The certificate holder, applicant, or regulated entity may be represented by counsel or by a representative of his or her choice. The Commission [~~commission~~] shall be represented by one or more members of its staff and by the Commission's General Counsel [~~commission legal counsel~~].

(c) Informal Proceedings. The conference shall be informal[~~,~~] and will not follow procedures for contested cases. The Commission's [~~commission's~~] representative(s) may prohibit or limit attendance by other persons; may prohibit or limit access to the Commission's [~~commission's~~] investigative file by the licensee, the licensee's representative, and the complainant, if present; and may record part or all of the staff conference. At the discretion of the Commission's [~~commission's~~] representative(s), the licensee, the licensee's representative, and the Commission [~~commission~~] staff may question witnesses; make relevant statements; and present affidavits, reports, letters, statements of persons not in attendance, and such other evidence as may be appropriate.

(d) Settlement Conference. At the discretion of the Commission's [~~commission's~~] representative(s), the preliminary staff conference may be concluded and a settlement conference initiated to discuss staff recommendations for informal resolution of the issues. Such recommendations may include any disciplinary actions authorized by law, including administrative penalties, restitution, remedial actions, or such reasonable restrictions that may be in the public interest. These recommendations may be modified by the Commission's [~~commission's~~] representative(s) based on new information, a change of circumstances, or to expedite resolution in the interest of protecting the public. The Commission's [~~commission's~~] representative(s) may also recommend that the investigation be closed or referred for further investigation.

(e) Proposed Consent Order. The licensee may accept or reject the settlement recommendations of the Commission [~~commission~~] staff. If the licensee accepts the recommendations, the licensee shall execute a settlement agreement in the form of a proposed consent order as soon thereafter as practicable. If the licensee rejects the proposed agreement, the matter may be scheduled for a hearing as described in Subchapter F of this chapter.

(f) Approval of Consent Order. Following acceptance and execution of the settlement agreement recommended by staff, said proposed agreement shall be submitted to the Agency Chief for approval. If the order is approved, it shall be signed by the Agency Chief. If the proposed order is not approved, the licensee shall be so informed, and the matter shall be referred to the Commission [~~commission~~] staff for appropriate action to include dismissal, closure, further negotiation, further investigation, or a formal hearing.

(g) Preliminary Notice. A revocation, suspension, annulment, denial, or withdrawal of a certificate or license is not effective unless, before the institution of contested case proceedings, the holder of the certificate receives preliminary notice of the facts or conduct alleged to warrant the intended action and an opportunity to show compliance with all requirements of law.

(h) Request for Formal Hearing. Except as otherwise provided by law, if an applicant's original application or request for a certificate is denied, he or she shall have 30 days from the date of denial to make a written request for a formal hearing, and if so requested, the formal hearing will be granted and the provisions of the APA and this chapter with regard to contested cases shall apply.

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 November 7, 2025.

TRD-202504116
Mike Wisko
Agency Chief
Texas Commission on Fire Protection
Earliest possible date of adoption: December 21, 2025
For further information, please call: (512) 936-3812

♦ ♦ ♦

SUBCHAPTER F. CONTESTED CASES

37 TAC §§401.53, 401.57, 401.59, 401.61, 401.63, 401.67

The Texas Commission on Fire Protection proposes these rules under Texas Government Code, Chapter 419, which provides the Commission with the authority to adopt rules for the administration of its powers and duties.

No other statutes, articles, or codes are affected by this proposal.

§401.53. Contested Case Hearing.

(a) The Commission [~~commission~~] appoints SOAH to be its finder of fact in contested cases. The Commission [~~commission~~] does not delegate to the hearings officer and retains for itself the right to determine the sanctions and make the final decision in a contested case.

(b) SOAH hearings of contested cases shall be conducted in accordance with the APA by a hearings officer assigned by SOAH. Jurisdiction over the case is acquired by SOAH when the Commission [~~commission~~] staff files a request to docket case.

(c) The Commission [~~commission~~] may serve the notice of hearing on the respondent at his or her last known address as shown by Commission [~~commission~~] records. The notice may be served by registered U.S. mail or by certified mail, return receipt requested.

§401.57. Filing of Exceptions and Replies to Proposal for Decision.

(a) Once the SOAH hearing of the contested case is concluded, a proposal for decision shall be issued by the SOAH hearings officer assigned to the case. A copy of the proposal for decision [~~in a contested case~~] shall be simultaneously delivered or mailed by certified mail, return receipt requested, to each party representative of record.

(b) Exceptions to the proposal for decision shall be filed within 20 days of the date of the proposal for decision.

(c) Replies to exceptions shall be filed within 15 calendar days after the date of filing of the exceptions and briefs.

(d) The exceptions shall be specifically and concisely stated. The evidence relied upon shall be stated with particularity, and any evidence or arguments relied upon shall be grouped under the exceptions to which they relate.

(e) The SOAH hearings officer will rule on all exceptions, briefs, replies, and requests for extension of time and notify the parties of decisions and any amendments to the proposal for decision.

§401.59. Orders.

After the time for filing exceptions and replies to exceptions expires, the SOAH hearings officer's proposal for decision will be considered by the Agency Chief and either adopted or modified and adopted. All final decisions or orders of the Commission [~~commission~~] or the Agency Chief shall be in writing and signed. A final decision shall include findings of fact and conclusions of law separately stated. Findings of fact, if set forth in statutory language, shall be accomplished by a concise and explicit statement of the underlying facts supporting the findings. Parties shall be notified either personally or by certified mail of any decision or order, and a copy of the decision or order shall be delivered or mailed to any party and to his or her authorized representative.

§401.61. Record.

(a) The record in a contested case includes the matters listed in the APA, Government Code, §2001.060.

(b) Proceedings, or any part of them, shall be transcribed upon [~~on~~] written request of any party. The party requesting the proceeding to be transcribed shall make the initial payment for the transcription. Ultimately, however, the Commission [~~commission~~] or Agency Chief has the authority to assess, in addition to an administrative penalty, the costs of transcribing the administrative hearing.

(c) Appeal. The costs of transcribing the testimony and preparing the record for an appeal by judicial review shall be paid by the party who appeals.

§401.63. Final Decision and Orders.

(a) Commission action. A copy of the final decision or order shall be delivered or mailed to any party and to the attorney of record.

(b) Recorded. All final decisions and orders shall be in writing. A final order shall include findings of fact and conclusions of law, separately stated.

(c) Changes stated in final order. If the hearings officer's proposed findings of fact or conclusions of law are modified, the final order shall reflect the specific reason and legal basis for each change made.

(d) In general. Any party aggrieved by [~~of~~] a final decision or order of the executive director in a contested case may appeal to the Commission [~~commission~~] after the decision or order complained of is final. An appeal to the Commission [~~commission~~] for review of action of the executive director shall be made within 30 days from the date that the writing evidencing the official action or order complained of is final and appealable, but for good cause shown, the Commission [~~commission~~] may allow an appeal after that date. A motion for rehearing is not a prerequisite for an appeal to the Commission [~~commission~~].

(e) Oral argument. On the request of any party, the Commission [~~commission~~] may allow oral argument prior to the final determination of an appeal of a decision or order of the executive director.

(f) If the executive director's final decision or order is appealed to the Commission [~~commission~~], the matter shall be set for the next available Commission [~~commission~~] meeting and the Commission [~~commission~~] shall take action in open session. A copy of the Commission [~~commission~~] decision shall be delivered or mailed to any party and to the attorney of record.

§401.67. Motions for Rehearing.

(a) In the absence of a finding of imminent peril, a motion for rehearing is a prerequisite to a judicial appeal. A motion for rehearing must be filed by a party within 20 days after the date the party representative is notified of the final decision or order.

(b) Replies to a motion for rehearing must be filed with the agency within 30 days after the date the party representative is notified of the final decision or order.

(c) Agency action on the motion for rehearing must be taken within 45 days after the date a party representative is notified of the final decision or order. If agency action is not taken within the 45-day period, the motion for rehearing is overruled by operation of law 45 days after the date the party representative is notified of the final decision or order.

(d) The Commission [~~commission~~] may rule on a motion for rehearing at a meeting or by mail, telephone, telegraph, facsimile transmission, or another suitable means of communication. The motion shall be deemed overruled by operation of law, unless a majority of the commissioners serving vote to grant the motion within the time provided by law for ruling on the motion for rehearing.

(e) The agency may, by written order, extend the period of time for filing the motions or replies and taking agency action, except that an extension may not extend the period for agency action beyond 90 days after the date a party representative is notified of the final order or decision.

(f) In the event of an extension, the motion for rehearing is overruled by operation of law on the date fixed by the order, or in the absence of a fixed date, 90 days after the date the party representative is notified of the final decision or order.

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 November 7, 2025.

TRD-202504117
Mike Wisko
Agency Chief
Texas Commission on Fire Protection
Earliest possible date of adoption: December 21, 2025
For further information, please call: (512) 936-3812

♦ ♦ ♦

SUBCHAPTER G. CONDUCT AND DECORUM, SANCTIONS, AND PENALTIES

37 TAC §401.105

The Texas Commission on Fire Protection proposes this rule under Texas Government Code, Chapter 419, which provides the Commission with the authority to adopt rules for the administration of its powers and duties.

No other statutes, articles, or codes are affected by this proposal.

§401.105. Administrative Penalties.

(a) Following the hearing the administrative law judge shall issue a proposal for decision containing findings of fact [~~facts~~] and conclusions of law. While the administrative law judge may recommend a sanction, findings of fact and conclusions of law are inappropriate for sanction recommendations, and sanction recommendations in the form of findings of fact and conclusions of law are an improper application of applicable law and these rules. In all cases, the Commission [~~commission~~] or Agency Chief has the discretion to impose the sanction that best accomplishes the Commission's legislatively assigned [~~commission's legislatively assigned~~] enforcement goals. The Commission [~~commission~~] or Agency Chief is the ultimate arbiter of the proper penalty.

(b) The Commission [~~commission~~], acting through the Agency Chief may, after notice and hearing required by Government Code, Chapter 2001, Administrative Procedure Act, impose an order requiring payment of an administrative penalty or monetary forfeiture in an amount not to exceed $1,000 for each violation of Government Code, Chapter 419, or rule promulgated there under, as provided by Government Code, §419.906.

(c) In determining the amount of the administrative penalty or monetary forfeiture, the Commission [~~commission~~] or the Agency Chief shall consider the following penalty matrix:

(1) the seriousness of the violation, including, but not limited to, the nature, circumstances, extent, and gravity of the prohibited act, and the hazard or potential hazard created to the health and safety of the public;

(2) the economic damage to property or the public's interests or confidences caused by the violation;

(3) the history of previous violations;

(4) any economic benefit gained through the violation;

(5) the amount necessary to deter future violations;

(6) the demonstrated good faith of the person, including efforts taken by the alleged violator to correct the violation;

(7) the economic impact of the imposition of the penalty or forfeiture on the person; and

(8) any other matters that justice may require.

(d) The Commission [~~commission~~] or Agency Chief retains the right to increase or decrease the amount of an administrative penalty based on the circumstances in each case. In particular, the Commission [~~commission~~] or Agency Chief may increase the amount of administrative penalties when the respondent has committed multiple violations (e.g., some combination of different violations). Any party aggrieved by [~~of~~] a final decision or order of the Agency Chief in a contested case may appeal to the Commission [~~commission~~] after the decision or order complained of is final. An appeal to the Commission [~~commission~~] for review of the action of the Agency Chief shall be made within 30 days from the date that the writing evidencing the official action or order complained of is final and appealable, but for good cause shown, the Commission [~~commission~~] may allow an appeal after that date. A motion for rehearing is not a prerequisite for an appeal to the Commission [~~commission~~].

(e) Oral argument. On the request of any party, the Commission [~~commission~~] may allow oral argument prior to the final determination of an appeal of a decision or order of the Agency Chief.

(f) If the Agency Chief's final decision or order is appealed to the Commission [~~commission~~], the matter shall be set for the next available Commission [~~commission~~] meeting.

(g) Because it is the policy of the Commission [~~commission~~] to pursue expeditious resolution of complaints when appropriate, administrative penalties in uncontested cases may be less than the amounts assessed in contested cases. Among other reasons, this may be because the respondent admits fault, takes steps to rectify matters, timely responds to Commission [~~commission~~] concerns, or identifies mitigating circumstances, and because settlements avoid additional administrative costs.

(h) The Commission [~~commission~~] or Agency Chief may impose an administrative penalty alone or in addition to other permitted sanctions.

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 November 7, 2025.

TRD-202504145
Mike Wisko
Agency Chief
Texas Commission on Fire Protection
Earliest possible date of adoption: December 21, 2025
For further information, please call: (512) 936-3812

♦ ♦ ♦

SUBCHAPTER H. REINSTATEMENT

37 TAC §§401.111, 401.113, 401.115, 401.117, 401.119

The Texas Commission on Fire Protection proposes these rules under Texas Government Code, Chapter 419, which provides the Commission with the authority to adopt rules for the administration of its powers and duties.

No other statutes, articles, or codes are affected by this proposal.

§401.111. Application for Reinstatement of License or Certificate.

(a) At the expiration of one year from the date of revocation or suspension, or upon the conclusion of any specified period of suspension, the Commission [~~commission~~] may consider a request for reinstatement by the former licensee or certificate holder (applicant).

(b) The request for reinstatement must be submitted to the Commission's [~~commission~~] office in writing and should include a short and plain statement of the reasons why the applicant believes the license should be reinstated.

(c) Upon denial of any application for reinstatement, the Commission [~~commission~~] may not consider a subsequent application until the expiration of one year from the date of denial of the prior application.

(d) In taking action to revoke or suspend a license or certificate, the Commission [~~commission~~] may, in its discretion, specify the terms and conditions upon which reinstatement shall be considered.

§401.113. Evaluation for Reinstatement.

In considering reinstatement of a suspended or revoked license or certificate, the Commission [~~commission~~] will evaluate:

(1) the severity of the act that [~~which~~] resulted in revocation or suspension of the license or certificate;

(2) the conduct of the applicant subsequent to the revocation or suspension of the license or certificate;

(3) the lapse of time since revocation or suspension;

(4) the degree of compliance with all conditions the Commission [~~commission~~] may have stipulated as a prerequisite for reinstatement;

(5) the degree of rehabilitation attained by the applicant as evidenced by sworn notarized statements sent directly to the Commission [~~commission~~] from qualified people who have personal and professional knowledge of the applicant; and

(6) the applicant's present qualifications to perform duties regulated by the Commission [~~commission~~].

§401.115. Procedure upon Request for Reinstatement.

(a) An applicant for reinstatement of a revoked or suspended license or certificate must personally appear before an administrative law judge designated by the Commission [~~commission~~] at a scheduled date and time to show why the license or certificate should be reinstated.

(b) Upon submission of proof of past revocation or suspension of the applicant's license or certificate, the applicant has the burden of proof to show present fitness and/or rehabilitation to perform duties regulated by the Commission [~~commission~~].

(c) Upon receipt of a written request for reinstatement as required by §401.111 of this title (relating to Application for Reinstatement of License or Certificate), the applicant will be notified of a date and time of an appearance before the administrative law judge.

§401.117. Commission Action Possible upon Reinstatement.

After evaluation, the Commission [~~commission~~] may:

(1) deny reinstatement of a suspended or revoked license or certificate;

(2) reinstate a suspended or revoked license or certificate and probate the practitioner for a specified period of time under specific conditions;

(3) authorize reinstatement of the suspended or revoked license or certificate;

(4) require the satisfactory completion of a specific program of remedial education approved by the Commission [~~commission~~]; and/or

(5) reinstate a suspended or revoked license or certificate after verification through examination of required knowledge and skills appropriate to the suspended or revoked license or certificate. All applicable procedures shall be followed and all applicable fees shall be paid.

§401.119. Failure To Appear for Reinstatement.

An applicant for reinstatement of a revoked or suspended license or certificate who makes a commitment to appear before the administrative law judge[,] and fails to appear at a hearing set with notice by the agency[,] shall not be authorized to appear before the administrative law judge before the expiration of six months. For good cause shown, the Agency Chief may authorize an exception to this rule.

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 November 7, 2025.

TRD-202504118
Mike Wisko
Agency Chief
Texas Commission on Fire Protection
Earliest possible date of adoption: December 21, 2025
For further information, please call: (512) 936-3812

♦ ♦ ♦

SUBCHAPTER I. NOTICE AND PROCESSING PERIODS FOR CERTIFICATE APPLICATIONS

37 TAC §401.121, §401.127

The Texas Commission on Fire Protection proposes these rules under Texas Government Code, Chapter 419, which provides the Commission with the authority to adopt rules for the administration of its powers and duties.

No other statutes, articles, or codes are affected by this proposal.

§401.121. Purpose of Establishing Time Periods.

In order to minimize delays, this subchapter establishes time periods within which the Commission [~~commission~~] shall review and process certificate applications efficiently and provides for an appeal process should the agency violate these periods in accordance with the Government Code, Chapter 2005.

§401.127. Appeal.

(a) Hearing.

(1) Notice. An applicant who does not receive notice as to the complete or deficient status of a certificate application within the period established in this subchapter for such application may petition for a hearing to review the matter.

(2) Processing. An applicant whose permit is not approved or denied within the period established in this subchapter for such certificate may petition for a hearing to review the matter.

(3) Procedure. A hearing under this section shall be in accordance with the Administrative Procedure Act and Subchapter E of this chapter (relating to Contested Cases).

(b) Petition. A petition filed under this section must be in writing and directed to the Agency Chief. The petition shall identify the applicant, indicate the type of certificate sought and the date of the application, specify each provision in this subchapter that the agency has violated, and describe with particularity how the agency has violated each provision. The petition shall be filed with the office of the Agency Chief.

(c) Decision. An appeal filed under this section shall be decided in the applicant's favor if the Agency Chief finds that:

(1) the agency exceeded an established period under this subchapter; and

(2) the agency failed to establish good cause for exceeding the period.

(d) Good cause. The agency is considered to have good cause for exceeding a notice or processing period established for a permit if:

(1) the number of certificates to be processed exceeds by 15% or more the number of certificates processed in the same calendar quarter of the preceding year;

(2) the agency must rely on another public or private entity for all or part of its certificate processing, and the delay is caused by the other entity;

(3) the hearing and decision-making process results in a reasonable delay under the circumstances;

(4) the applicant is under administrative review;

[~~(5)~~] or any other conditions exist giving the agency good cause for exceeding a notice or processing period.

(e) Commission review. A permit applicant aggrieved by a final decision or order of the Agency Chief concerning a period established by these sections may appeal to the Commission [~~commission~~] in writing after the decision or order complained of is final, in accordance with §401.63 of this title (relating to Final Decision and Orders).

(f) Relief.

(1) Complete or deficient status. An applicant who maintains a successful appeal under subsection (c) of this section for agency failure to issue notice as to the complete or deficient status of an application shall be entitled to notice of application status.

(2) Certificate approval or denial. An applicant who maintains a successful appeal under subsection (c) of this section for agency failure to approve or deny a certificate shall be entitled to such approval or denial of the certificate and to full reimbursement of all filing fees that have been paid to the agency in connection with 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 November 7, 2025.

TRD-202504119
Mike Wisko
Agency Chief
Texas Commission on Fire Protection
Earliest possible date of adoption: December 21, 2025
For further information, please call: (512) 936-3812

♦ ♦ ♦

SUBCHAPTER J. CHARGES FOR PUBLIC RECORDS

37 TAC §401.129

The Texas Commission on Fire Protection proposes this rule under Texas Government Code, Chapter 419, which provides the Commission with the authority to adopt rules for the administration of its powers and duties.

No other statutes, articles, or codes are affected by this proposal.

§401.129. Charges for Public Records.

(a) The Commission [~~commission~~] is subject to Texas Government Code, Chapter 552, Texas Public Information Act. The Act gives the public the right to request access to government information.

(b) The Commission [~~commission~~] adopts by reference Title 1, Part 13, Chapter 70, Cost of Copies of Public Information, as promulgated by the Office of the Attorney General.

(c) The Agency Chief may waive or reduce a charge for copies when furnishing the information benefits the general public.

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 November 7, 2025.

TRD-202504120
Mike Wisko
Agency Chief
Texas Commission on Fire Protection
Earliest possible date of adoption: December 21, 2025
For further information, please call: (512) 936-3812

♦ ♦ ♦

SUBCHAPTER K. HISTORICALLY UNDERUTILIZED BUSINESSES

37 TAC §401.131

The Texas Commission on Fire Protection proposes this rule under Texas Government Code, Chapter 419, which provides the Commission with the authority to adopt rules for the administration of its powers and duties.

No other statutes, articles, or codes are affected by this proposal.

§401.131. Historically Underutilized Businesses.

The Commission [~~commission~~] adopts by reference Title 34, Part 1, Chapter 20, Texas Procurement and Support Services, Subchapter B, Historically Underutilized Business Program, as promulgated by the Comptroller of Public Accounts.

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 November 7, 2025.

TRD-202504121
Mike Wisko
Agency Chief
Texas Commission on Fire Protection
Earliest possible date of adoption: December 21, 2025
For further information, please call: (512) 936-3812

♦ ♦ ♦

CHAPTER 429. FIRE INSPECTOR AND PLAN EXAMINER

SUBCHAPTER B. MINIMUM STANDARDS FOR PLAN EXAMINER

37 TAC §429.203

The Texas Commission on Fire Protection (the Commission) proposes amendments to 37 Texas Administrative Code, Chapter 429, Fire Inspector and Plan Examiner, concerning §429.203, Minimum Standards for Plan Examiner I Certification.

BACKGROUND AND PURPOSE

The proposed amendment to §429.203 adds subsection (1), requiring individuals to hold certification as a Basic Inspector prior to obtaining Plan Examiner I certification. The amendment also updates numbering and formatting for clarity and consistency with current Commission standards.

FISCAL NOTE / IMPACT ON STATE AND LOCAL GOVERNMENT

Michael Wisko, Agency Chief, has determined that for each year of the first five-year period the proposed amendment is in effect, there will be no fiscal impact to state or local governments as a result of enforcing or administering these amendments.

PUBLIC BENEFIT AND COST NOTE

Mr. Wisko has also determined that for each of the first five years the proposed amendment is in effect, the public benefit will be improved clarity in certification requirements and consistency in Commission rules. There are no anticipated economic costs to individuals required to comply with the amendment.

LOCAL ECONOMY IMPACT STATEMENT

There is no anticipated effect on local economies; therefore, no local employment impact statement is required under Texas Government Code §§2001.022 and 2001.024(a)(6).

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

The proposed rule has no impact on small businesses, micro-businesses, or rural communities. No regulatory flexibility analysis is required under Texas Government Code §2006.002.

GOVERNMENT GROWTH IMPACT STATEMENT

The Commission has determined that during the first five years the proposed amendment is in effect:

(1) The rule will not create or eliminate a government program;

(2) The rule will not require an increase or decrease in future legislative appropriations;

(3) The rule will not result in an increase or decrease in fees paid to the agency;

(4) The rule will not create a new regulation;

(5) The rule will not expand, limit, or repeal an existing regulation;

(6) The rule will not increase the number of individuals subject to the rule; and

(7) The rule is not anticipated to have an adverse effect on the state's economy.

TAKINGS IMPACT ASSESSMENT

The Commission has determined that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action and therefore does not require a takings impact assessment under Texas Government Code §2007.043.

COSTS TO REGULATED PERSONS

The proposed amendment does not impose a cost on regulated persons, including other state agencies, special districts, or local governments, and therefore is not subject to Texas Government Code §2001.0045.

ENVIRONMENTAL IMPACT STATEMENT

The Commission has determined that this proposal does not require an environmental impact analysis because it is not a major environmental rule under Texas Government Code §2001.0225.

REQUEST FOR PUBLIC COMMENT

Written comments regarding this proposal may be submitted within 30 days of publication in the *Texas Register* to:

Frank King, General Counsel

Texas Commission on Fire Protection

P.O. Box 2286, Austin, Texas 78768

Email: frank.king@tcfp.texas.gov

STATUTORY AUTHORITY

This proposal is made under Texas Government Code §§419.008 and 419.032, which authorize the Commission to adopt rules for the administration of its powers and duties.

CROSS-REFERENCE TO STATUTE

No other statutes, articles, or codes are affected by this proposal.

§429.203. Minimum Standards for Plan Examiner I Certification.

In order to be certified as a Plan Examiner I, an individual must:

(1) hold certification as a Basic Inspector; and

(2) [~~(1)~~] possess valid documentation as a Plan Examiner I from either:

(A) the International Fire Service Accreditation Congress; or

(B) the National Board on Fire Service Professional Qualifications issued by the Texas A&M Engineering Extension Service using the 2009 or later edition of the NFPA standard applicable to this discipline and meeting the requirements as specified in §439.1(a)(2) of this title (relating to Requirements-General); or

(3) [~~(2)~~] complete a Commission-approved [~~commission approved~~] Plan Examiner I training program and successfully pass the Commission [~~commission~~] examination as specified in Chapter 439

of this title (relating to Examinations for Certification). An approved training program shall consist of one of the following:

(A) completion of the Commission-approved [~~commission approved~~] Plan Examiner I Curriculum, as specified in the Commission's [~~commission's~~] Certification Curriculum Manual; or

(B) successful completion of an out-of-state, NFA, and/or military training program which has been submitted to the Commission [~~commission~~] for evaluation and found to meet the minimum requirements as listed in the Commission-approved [~~commission approved~~] approved Plan Examiner I Curriculum as specified in the Commission's [~~commission's~~] Certification Curriculum Manual; or

(C) documentation of the receipt of a Plan Examiner I certificate issued by the State Firemen's and Fire Marshals' Association of Texas that is deemed equivalent to a Commission-approved [~~commission approved~~] approved Plan Examiner I curriculum.

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 November 7, 2025.

TRD-202504045
Mike Wisko
Agency Chief
Texas Commission on Fire Protection
Earliest possible date of adoption: December 21, 2025
For further information, please call: (512) 936-3812

♦ ♦ ♦

CHAPTER 435. FIRE FIGHTER SAFETY

37 TAC §435.7

The Texas Commission on Fire Protection (the Commission) proposes amendments to 37 Texas Administrative Code, Chapter 435, Fire Fighter Safety, §435.7 - Implementation of Mandatory NFPA Standards. The purpose of the amendments is to clarify language related to the implementation of NFPA standards, allow for plan submission and Commission approval for extensions, and update the expiration date for subsection (b). The amendments also include grammatical and formatting updates for consistency across Chapter 435.

BACKGROUND AND PURPOSE

The proposed amendments clarify language related to the implementation of NFPA standards, allow for plan submission and Commission approval for extensions, and update the expiration date for subsection (b). The amendment also includes minor grammatical and formatting updates for consistency.

FISCAL NOTE IMPACT ON STATE AND LOCAL GOVERNMENT

Michael Wisko, Agency Chief, has determined that for each year of the first five-year period, the proposed amendments is in effect, there will be no significant fiscal impact to state government or local governments because of enforcing or administering these amendments as proposed under Texas Government Code §2001.024(a)(4).

PUBLIC BENEFIT AND COST NOTE

Mr. Wisko has also determined under Texas Government Code §2001.024(a)(5) that for each year of the first five years the proposed amendments is in effect, the public benefit will be accurate, clear, and concise rules.

LOCAL ECONOMY IMPACT STATEMENT

There is no anticipated effect on the local economy for the first five years that the proposed amendments is in effect; therefore, no local employment impact statement is required under Texas Government Code §2001.022 and 2001.024(a)(6).

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

Mr. Wisko has determined there will be no impact on rural communities, small businesses, or micro-businesses as a result of implementing the proposed amendments. Therefore, no economic impact statement or regulatory flexibility analysis is required under Texas Government Code §2006.002.

GOVERNMENT GROWTH IMPACT STATEMENT

The agency has determined under Texas Government Code §2006.0221 that during the first five years the proposed amendments is in effect:

(1) the rules will not create or eliminate a government program;

(2) the rules will not create or eliminate any existing employee positions;

(3) the rules will not require an increase or decrease in future legislative appropriation;

(4) the rules will not result in a decrease in fees paid to the agency;

(5) the rules will not create a new regulation;

(6) the rules will not expand a regulation;

(7) the rules will not increase the number of individuals subject to the rule; and

(8) the rules are not anticipated to have an adverse impact on the state's economy.

TAKINGS IMPACT ASSESSMENT

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

COSTS TO REGULATED PERSONS The proposed amendments do not impose a cost on regulated persons, including another state agency, a special district, or a local government, and, therefore, are not subject to Texas Government Code §2001.0045.

ENVIRONMENTAL IMPACT STATEMENT

The Commission has determined that the proposed amendments do not require an environmental impact analysis because the amendments are not major environmental rules under Texas Government Code §2001.0225.

REQUEST FOR PUBLIC COMMENT

Comments regarding the proposed amendments may be submitted, in writing, within 30 days following the publication of this

notice in the *Texas Register*, to Frank King, General Counsel, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768, or e-mailed to frank.king@tcfp.texas.gov.

STATUTORY AUTHORITY

The proposed amendment is proposed under Texas Government Code §419.008(f), which provides the Commission may appoint an advisory committee to assist it in the performance of its duties, and under Texas Government Code §419.008(a), which provides the Commission may adopt rules for the administration of its powers and duties.

CROSS-REFERENCE TO STATUTE

No other statutes, articles, or codes are affected by these amendments.

§435.7. Implementation of Mandatory NFPA Standards.

(a) Allow implementation of TCFP-mandated NFPA standards at the Commissioner's discretion up to 365 days from the effective date of the new NFPA standard.

(b) Extensions to meet mandated NFPA standards may be granted upon plan submission and Commission approval.

(c) Insufficient funding will not justify delays.

(d) Subsection (b) of this section expires on September 1, 2027.

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 November 7, 2025.

TRD-202504046
Mike Wisko
Agency Chief
Texas Commission on Fire Protection
Earliest possible date of adoption: December 21, 2025
For further information, please call: (512) 936-3812

♦ ♦ ♦

CHAPTER 437. FEES

37 TAC §437.3

The Texas Commission on Fire Protection (the Commission) proposes amendments to 37 Texas Administrative Code, Chapter 437, Firefighter Safety, §437.3 - Certification Application Processing Fees.

BACKGROUND AND PURPOSE

The proposed amendments update the language regarding the waiver of certification application processing fees for military service members, veterans, and spouses to align with current statutory requirements. The amendments remove redundant subsections and consolidates the waiver provision for clarity and consistency with Texas Occupations Code Chapter 55.

FISCAL NOTE IMPACT ON STATE AND LOCAL GOVERNMENT

Michael Wisko, Executive Director, has determined that for each year of the first five years the proposed amendments are in effect, there will be no fiscal impact to state or local governments as a result of enforcing or administering this rule.

PUBLIC BENEFIT AND COST NOTE

Mr. Wisko has also determined that for each year of the first five years the rule is in effect, the public benefit will be accurate, clear, and concise rule language that aligns with current statutory provisions. There is no anticipated economic cost to individuals required to comply with the proposed amendment.

LOCAL ECONOMY IMPACT STATEMENT

No adverse impact on local employment or the local economy is expected as a result of enforcing or administering this rule. Therefore, no local employment impact statement is required under Texas Government Code §2001.022 and §2001.024(a)(6).

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

The proposed rule has no impact on small businesses, micro-businesses, or rural communities. Accordingly, no regulatory flexibility analysis is required under Texas Government Code §2006.002.

GOVERNMENT GROWTH IMPACT STATEMENT

The agency has determined under Texas Government Code §2001.0221 that for each year of the first five years the proposed rule is in effect:

(1) the rule will not create or eliminate a government program;

(2) the rule will not require an increase or decrease in future legislative appropriations;

(3) the rule will not result in a change in the number of agency employee positions;

(4) the rule will not affect fees paid to the agency;

(5) the rule will not create, expand, or limit any regulation;

(6) the rule will not affect the number of individuals subject to the rule; and

(7) the rule will not have an impact on the state's economy.

TAKINGS IMPACT ASSESSMENT

The Commission has determined that the proposed amendments do not restrict or burden private real property rights and therefore does not constitute a taking under Texas Government Code §2007.043.

COSTS TO REGULATED PERSONS

The proposed amendments do not impose a cost on regulated persons, including another state agency, special district, or local government. Therefore, this rulemaking is not subject to Texas Government Code §2001.0045.

ENVIRONMENTAL IMPACT STATEMENT

The Commission has determined that this proposed rulemaking does not require an environmental impact analysis because it is not a major environmental rule under Texas Government Code §2001.0225.

REQUEST FOR PUBLIC COMMENT

Comments regarding this proposal may be submitted in writing within 30 days following the publication of this notice in the *Texas Register* to:

Frank King, General Counsel,

Texas Commission on Fire Protection,

P.O. Box 2286, Austin, Texas 78768,

or emailed to frank.king@tcfp.texas.gov

STATUTORY AUTHORITY

This rule is proposed under Texas Government Code §419.008, which authorizes the Commission to adopt rules for the administration of its powers and duties.

CROSS-REFERENCE TO STATUTE

Texas Government Code §419.008 and Texas Occupations Code Chapter 55.

§437.3. Certification Application Processing Fees.

(a) A non-refundable application processing fee of $85 is required for each certificate issued by the Commission [~~commission~~]. If a certificate is issued within the time provided in §401.125 of this title (relating to Processing Periods), the fee will be applied to the certification. If the certificate is denied, the applicant must pay a new certification application processing fee to file a new application.

(b) The regulated employing entity shall be responsible for all certification application processing fees required as a condition of appointment.

(c) Nothing in this section shall prohibit an individual from paying a certification application processing fee for any certificate which he or she is qualified to hold, providing the certificate is not required as a condition of appointment (see subsection (b) of this section concerning certification fees).

(d) A facility that provides training for any discipline for which the Commission [~~commission~~] has established a curriculum must be certified by the Commission [~~commission~~]. The training facility will be charged a separate certification application processing fee for each discipline or level of discipline for which application is made.

(e) The certification application processing fee is waived for a military service member, military veteran, or military spouse.

[~~(e) The certification application processing fee is waived for a military service member or military veteran whose military service, training, or education substantially meets the requirements for commission certification, and is applying for the first time for a certification required by commission rules for appointment to duties.~~]

[~~(f) The certification application processing fee is waived for a military service member, military veteran, or military spouse who holds a current license or certification issued by another jurisdiction that has requirements substantially equivalent to the requirements for commission certification, and is applying for the first time for a certification required by commission rules for appointment to duties.~~]

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 November 7, 2025.

TRD-202504051
Mike Wisko
Agency Chief
Texas Commission on Fire Protection
Earliest possible date of adoption: December 21, 2025
For further information, please call: (512) 936-3812

♦ ♦ ♦

PART 15. TEXAS FORENSIC SCIENCE COMMISSION

CHAPTER 651. DNA, CODIS, FORENSIC ANALYSIS, AND CRIME LABORATORIES
SUBCHAPTER C. FORENSIC ANALYST LICENSING PROGRAM

37 TAC §651.203, §651.207

The Texas Forensic Science Commission (Commission) proposes amendments to 37 Texas Administrative Code §651.203, Forensic Disciplines Subject to Commission Licensing; Categories of Licensure and §651.207, Forensic Analyst and Forensic Technician Licensing Requirements, Including Initial License Term and Fee, Minimum Education and Coursework, General Forensic Examination, Proficiency Monitoring, and Mandatory Legal and Professional Responsibility Training to: 1) correct a missing term in the title of §651.203; 2) remove the fee for a temporary forensic analyst license; and 3) clarify the Toxicologist (Interpretive) category of licensure is a type of forensic analyst license. The change reflects a vote taken by the Commission at its October 24, 2025 quarterly meeting.

Background and Justification. The proposed amendments relate to the elimination of an existing $100.00 fee for an application for temporary forensic analyst license. The amendments are needed to increase efficiency for certain criminal cases where prosecutors must utilize the forensic analysis and related testimony from accredited laboratories located outside of Texas that typically do not perform casework in Texas. Where a criminal action involves evidence in multiple states, the evidence may be collected and tested in one state but subsequently admitted in a Texas court. To enable those accredited out-of-state laboratories and qualified analysts to testify in compliance with the requirements of the Texas Code of Criminal Procedure articles 38.01 and 38.35, the Commission recognizes the out-of-state laboratory's accreditation and grants a temporary license to the forensic analyst who will testify in the case. This rule change eliminates the application fee associated with the license because Commission staff has observed it creates an unnecessary administrative burden on the agencies requesting the license(s). It is in the interest of public safety and efficiency for the Commission to eliminate the fee. The proposed amendments related to the Toxicologist (Interpretive) category of licensure are necessary to clarify to end users in the criminal justice system that a Toxicologist (Interpretive) license covers all analyst and technician level activities as the highest category of licensure in toxicology offered by the Commission. Under the current rules, the title of the license Toxicologist (Interpretive) does not include the term "analyst," which could imply the license does not cover "analyst" level activities. The changes provide clarity that the license category covers all analyst and technician level categories of analysis for the toxicology discipline. Finally, the rule amends the title for rule §651.203 to add the missing word "Discipline" to "Forensic Subject to Commission Licensing; Categories of Licensure."

Fiscal Note. Leigh M. Tomlin, Associate General Counsel of the Commission, has determined that for each year of the first five years the proposed amendments are in effect, there will be no fiscal impact to state or local governments, as a result of the enforcement or administration of the amendments. The Commission has only issued two temporary licenses at $100.00 each since the inception of the forensic analyst licensing program in

2019, and the amendments do not impose any costs to state or local governments.

Local Employment Impact Statement. The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code §2001.022.

Public Benefit. Ms. Tomlin has also determined that for each year of the first five years the new rule is in effect, the anticipated public benefit is that the Commission will charge no fees for temporary licenses in criminal cases that cross state borders, particularly where the evidence is collected and analyzed in one state and subsequently admitted in a Texas criminal case. The changes better facilitate efficient resolution of the criminal action in Texas in these cases. Regarding the Toxicologist (Interpretive) licensure category title changes, the changes provide legal end-users in the criminal justice system with better clarity on the scope of activities permitted by a licensed Toxicologist (Interpretive).

Fiscal Impact on Small and Micro-businesses and Rural Communities. There is no adverse economic effect anticipated for small businesses, micro-businesses, or rural communities, as a result of implementing the proposed rule. Accordingly, no economic impact statement or regulatory flexibility analysis is required under Texas Government Code §2006.002(c).

Takings Impact Assessment. Ms. Tomlin 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 and, therefore, does not constitute a taking or require a takings impact assessment under the Government Code §2007.043.

Government Growth Impact Statement. Ms. Tomlin has determined that for the first five-year period, implementation of the proposed amendments will have no government growth impact as described in Title 34, Part 1, Texas Administrative Code §11.1. Pursuant to the analysis required by Government Code §2001.221(b): 1) the proposed amendments do not create or eliminate a government program; 2) implementation of the proposed amendments do not require the creation of new employee positions or the elimination of existing employee positions; 3) implementation of the proposed amendments do not increase or decrease future legislative appropriations to the agency; 4) the proposed amendments do not require a fee; 5) the proposed amendments do not create a new regulation; 6) the proposed amendments do not increase the number of individuals subject to regulation; and 7) the proposed amendments have a negligible effect on the state's economy.

Environmental Rule Analysis. The Commission has determined that the proposed rules are not brought with specific intent to protect the environment or reduce risks to human health from environmental exposure; thus, the Commission asserts that the proposed rules are not a "major environmental rule," as defined in Government Code §2001.0225. As a result, the Commission asserts the preparation of an environmental impact analysis, as provided by §2001.0225, is not required.

Request for Public Comment. The Commission invites comments on the proposal from any member of the public. Please submit comments to Leigh M. Tomlin, 1701 North Congress Avenue, Suite 6-107, Austin, Texas 78701 or leigh@fsc.texas.gov. Comments must be received by December 23, 2025 to be considered by the Commission.

Statutory Authority. The rule amendments are proposed under the general rulemaking authority provided in Code of Criminal Procedure, Article 38.01 §3-a and its authority to license forensic analysts under §4-a(b).

Cross reference to statute. The proposal affects Tex. Code Crim. Proc. art. 38.01.

§651.203. Forensic Disciplines Subject to Commission Licensing; Categories of Licensure.

(a) Forensic analysis/recognized accreditation. This section describes the forensic disciplines for which accreditation by an accrediting body recognized by the Commission is required by Article 38.01, Code of Criminal Procedure and for which licensing is therefore also required.

(b) By discipline. An individual may apply to the Commission for a Forensic Analyst License for one or more of the disciplines set forth in this section. The specific requirements for obtaining a license in any of the following disciplines may differ depending upon the categories of analysis within the discipline for which the individual is qualified to perform independent casework as set forth in §651.207 of this subchapter (relating to Forensic Analyst Licensing Requirements Including License Term, Fee and Procedure for Denial of Application and Reconsideration). An individual's license shall designate the category or categories of licensure for which the individual has been approved for independent casework and for which the individual has met the requirements set forth in §651.207 of this subchapter as follows:

(1) Seized Drugs. Categories of analysis may include one or more of the following: qualitative determination, quantitative measurement, weight measurement, and volume measurement; Categories of Licensure: Seized Drugs Analyst; Seized Drugs Technician;

(2) Toxicology. Categories of analysis may include one or more of the following: qualitative determination and quantitative measurement; Categories of Licensure: Toxicology Analyst Alcohol only (Non-interpretive); Toxicology Analyst (General, Non-interpretive); Toxicology Analyst [~~Toxicologist~~] (Interpretive); Toxicology Technician;

(3) Forensic Biology. Categories of analysis may include one or more of the following: DNA-STR, DNA-YSTR, DNA-Mitochondrial, DNA-massively parallel sequencing, body fluid identification, relationship testing, microbiology, individual characteristic database, and nucleic acids other than human DNA; Categories of Licensure: DNA Analyst; Forensic Biology Screening Analyst; Analyst of Nucleic Acids other than Human DNA; Forensic Biology Technician;

(4) Firearms/Toolmarks. Categories of analysis may include one or more of the following: physical comparison, determination of functionality, length measurement, trigger pull force measurement, qualitative chemical determination, distance determination, ejection pattern determination, product (make/model) determination; Categories of Licensure: Firearms/Toolmarks Analyst; Firearms/Toolmarks Technician;

(5) Materials (Trace). Categories of analysis may include one or more of the following: physical determination, chemical determination, chemical comparison, product (make/model) determination, gunshot residue analysis, footwear and tire tread analysis, and fire debris and explosives analysis (qualitative determination); Categories of Licensure: Materials (Trace) Analyst; Materials (Trace) Technician.

(c) Cross-disciplines. A laboratory may choose to assign a particular discipline or category of analysis to a different administrative section or unit in the laboratory than the designation set forth in this subchapter. Though an individual may perform a category of analysis under a different administrative section or unit in the laboratory,

the individual still shall comply with the requirements for the discipline or category of analysis as outlined in this subchapter.

(d) Analysts and Technicians Performing Forensic Analysis on Behalf of the United States Government. Any forensic analyst or technician who performs forensic analysis on behalf of a publicly funded laboratory or law enforcement entity operating under the authority of the United States Government is deemed licensed to perform forensic analysis in Texas for purposes of this subchapter.

§651.207. Forensic Analyst and Forensic Technician Licensing Requirements, Including Initial License Term and Fee, Minimum Education and Coursework, General Forensic Examination, Proficiency Monitoring, and Mandatory Legal and Professional Responsibility Training.

(a) Issuance. The Commission may issue an individual's Forensic Analyst or Forensic Technician License under this section.

(b) License Term. A Forensic Analyst or Forensic Technician license holder must renew the license holder's license after the initial date of issuance, every two years on the day before the issuance of the initial license with the exception of §651.208(b) of this subchapter (relating to Renewal Term).

(c) Application. Before being issued a Forensic Analyst or Forensic Technician License, an applicant must:

(1) demonstrate that he or she meets the definition of Forensic Analyst or Forensic Technician set forth in this subchapter;

(2) complete and submit to the Commission a current Forensic Analyst or Forensic Technician License Application form;

(3) pay the required fee(s) as applicable:

(A) Initial Application fee of $220 for Analysts and $150 for Technicians/Screeners;

(B) Biennial renewal fee of $200 for Analyst and $130 for Technicians/Screeners;

(C) Pro-rated Fees for Certain License Renewals. This subsection applies to licensees initially licensed before January 1, 2024 who are renewing on or before December 31, 2026. Application fee of $220 for Analysts and $150 for Technicians for the twenty-four months of the Initial License Term. If the Analyst or Technician's renewed license term under §651.208(b) of this subchapter exceeds twenty-four months, the Analyst or Technician shall pay an additional prorated amount of $8.33 per month (for Analysts) and $5.42 per month (for Technicians) for each month exceeding two years. If the Analyst or Technician's Initial License Term under §651.208(b) of this subchapter is less than twenty-four months, the Analyst or Technician shall pay a prorated amount of $8.33 per month (for Analysts) and $5.42 per month (for Technicians) for each month in the Initial License Term;

~~[(D) Temporary License fee of $100;]~~

(D) [~~(E)~~] Provisional License fee of $110 for Analysts and $75 for Technicians; An applicant who is granted a provisional license and has paid the required fee will not be required to pay an additional initial application fee if the provisional status is removed within one year of the date the provisional license is granted;

(E) [~~(F)~~] License Reinstatement fee of $220;

(F) [~~(G)~~] De Minimis License fee of $200 per ten (10) licenses;

(G) [~~(H)~~] Uncommon Forensic Analysis License fee of $200 per ten (10) licenses; and/or

(H) [~~(I)~~] Special Exam Fee of $50 for General Forensic Analyst Licensing Exam, required only if testing beyond the three initial attempts or voluntarily taking the exam under the Unaccredited Forensic Discipline Exception described in subsection (g)(5)(C) of this section;

(4) provide accurate and current address and employment information to the Commission and update the Commission within five (5) business days of any change in address or change of employment. Licensees are required to provide a home address, email address, and employer name and address on an application for a license. If a forensic analyst or forensic technician departs employment, experiences a gap in employment, is no longer actively performing casework, or temporarily assumes non-forensic analysis, administrative duties from an accredited laboratory, or has ninety (90) days or less to reinstate an expired license pursuant to §651.209(a) of this subchapter (relating to Forensic Analyst and Forensic Technician License Expiration), the licensee's status is deemed inactive and will be designated as inactive in the Commission's online database of licensees, until such time that the licensee notifies the Commission of their employment by an accredited laboratory as a forensic analyst or forensic technician, or has a change in job duties requiring the licensee to resume active casework; and

(5) provide documentation that he or she has satisfied all applicable requirements set forth under this section.

(d) Minimum Education Requirements.

(1) Seized Drugs Analyst. An applicant for a Forensic Analyst License in seized drugs must have a baccalaureate or advanced degree in chemical, physical, biological science, chemical engineering or forensic science from an accredited university.

(2) Seized Drugs Technician. An applicant for a Forensic Analyst License limited to the seized drug technician category must have a minimum of an associate's degree or equivalent.

(3) Toxicology (Toxicology Analyst (Alcohol Only, Non-interpretive), Toxicology Analyst (General, Non-interpretive), Toxicology Analyst [~~Toxicologist~~] (Interpretive)). An applicant for a Forensic Analyst License in toxicology must have a baccalaureate or advanced degree in a chemical, physical, biological science, chemical engineering or forensic science from an accredited university.

(4) Toxicology Technician. An applicant for a Forensic Analyst License limited to the toxicology technician category must have a minimum of an associate's degree or equivalent.

(5) Forensic Biology (DNA Analyst, Forensic Biology Screener, Nucleic Acids other than Human DNA Analyst, Forensic Biology Technician). An applicant for any category of forensic biology license must have a baccalaureate or advanced degree in a chemical, physical, biological science or forensic science from an accredited university.

(6) Firearm/Toolmark Analyst. An applicant for a Forensic Analyst License in firearm/toolmark analysis must have a baccalaureate or advanced degree in a chemical, physical, biological science, engineering or forensic science from an accredited university.

(7) Firearm/Toolmark Technician. An applicant for a Forensic Analyst License limited to firearm/toolmark technician must have a minimum of a high school diploma or equivalent degree.

(8) Materials (Trace) Analyst. An applicant for a Forensic Analyst License in materials (trace) must have a baccalaureate or advanced degree in a chemical, physical, biological science, chemical engineering or forensic science from an accredited university. A Materials (Trace) Analyst performing only impression evidence analyses must have a minimum of a high school diploma or equivalent degree.

(9) Materials (Trace) Technician. An applicant for a Forensic Analyst License limited to materials (trace) technician must have a minimum of a high school diploma or equivalent degree.

(10) Foreign/Non-U.S. degrees. The Commission shall recognize equivalent foreign, non-U.S. baccalaureate or advanced degrees. The Commission reserves the right to charge licensees a reasonable fee for credential evaluation services to assess how a particular foreign degree compares to a similar degree in the United States. The Commission may accept a previously obtained credential evaluation report from an applicant or licensee in fulfillment of the degree comparison assessment.

(11) If an applicant does not meet the minimum education qualifications outlined in this section, the procedure in subsection (f) or (j) of this section applies.

(e) Specific Coursework Requirements.

(1) Seized Drugs Analyst. An applicant for a Forensic Analyst License in seized drugs must have a minimum of sixteen-semester credit hours (or equivalent) in college-level chemistry coursework above general coursework from an accredited university. In addition to the chemistry coursework, an applicant must also have a three-semester credit hour (or equivalent) college-level statistics course from an accredited university or a program approved by the Commission.

(2) Toxicology. An applicant for a Forensic Analyst License in toxicology must fulfill required courses as appropriate to the analyst's role and training program as described in the categories below:

(A) Toxicology Analyst (Alcohol Only, Non-interpretive). A toxicology analyst who conducts, directs or reviews the alcohol analysis of forensic toxicology samples, evaluates data, reaches conclusions and may sign a report for court or investigative purposes, but does not provide interpretive opinions regarding human performance must complete a minimum of sixteen-semester credit hours (or equivalent) in college-level chemistry coursework above general coursework from an accredited university.

(B) Toxicology Analyst (General, Non-interpretive). A toxicology analyst who conducts, directs or reviews the analysis of forensic toxicology samples, evaluates data, reaches conclusions and may sign a report for court or investigative purposes, but does not provide interpretive opinions regarding human performance, must complete a minimum of sixteen-semester credit hours (or equivalent) in college-level chemistry coursework above general coursework that includes organic chemistry and two three-semester credit hour (or equivalent) college-level courses in analytical chemistry and/or interpretive science courses that may include Analytical Chemistry, Chemical Informatics, Instrumental Analysis, Mass Spectrometry, Quantitative Analysis, Separation Science, Spectroscopic Analysis, Biochemistry, Drug Metabolism, Forensic Toxicology, Medicinal Chemistry, Pharmacology, Physiology, or Toxicology.

(C) Toxicology Analyst [~~Toxicologist~~] (Interpretive). A toxicology analyst [~~toxicologist~~] who conducts, directs or reviews the analysis of forensic toxicology samples, evaluates data, reaches conclusions, signs reports, and/or provides interpretive opinions regarding human performance related to the results of toxicological tests (alcohol and general) for court or investigative purposes must complete a minimum of sixteen-semester credit hours (or equivalent) in college-level chemistry coursework above general coursework that includes organic chemistry, one three-semester credit hour (or equivalent) course in college-level analytical chemistry (Analytical Chemistry, Chemical Informatics, Instrumental Analysis, Mass Spectrometry, Quantitative Analysis, Separation Science or Spectroscopic Analysis) and one three-semester credit hour (or equivalent) college-level courses in interpretive science. (Biochemistry, Drug Metabolism, Forensic Toxicology, Medicinal Chemistry, Pharmacology, Physiology, or Toxicology).

(D) An applicant for a toxicology license for any of the categories outlined in subparagraphs (A) - (C) of this paragraph must have a three-semester credit hour (or equivalent) college-level statistics course from an accredited university or a program approved by the Commission.

(3) DNA Analyst. An applicant for a Forensic Analyst License in DNA analysis must demonstrate he/she has fulfilled the specific coursework requirements of the Federal Bureau of Investigation's Quality Assurance Standards for Forensic DNA Testing Laboratories effective at the time of the individual's application. An applicant must also have a three-semester credit hour (or equivalent) college-level statistics course from an accredited university or a program approved by the Commission.

(4) Firearm/Toolmark Analyst. An applicant must have a three-semester credit hour (or equivalent) college-level statistics course from an accredited university or a program approved by the Commission. No other specific college-level coursework is required.

(5) Materials (Trace) Analyst. An applicant for a Forensic Analyst License in materials (trace) for one or more of the chemical analysis categories of analysis (chemical determination, physical/chemical comparison, gunshot residue analysis, and fire debris and explosives analysis) must have a minimum of sixteen-semester credit hours (or equivalent) in college-level chemistry coursework above general coursework from an accredited university. In addition to chemistry coursework for the chemical analysis categories, all materials (trace) license applicants must also have a three-semester credit hour (or equivalent) college-level statistics course from an accredited university or a program approved by the Commission. An applicant for a Forensic Analyst License in materials (trace) limited to impression evidence is not required to fulfill any specific college-level coursework requirements other than the statistics requirement.

(6) Exemptions from specific coursework requirements. The following categories of licenses are exempted from coursework requirements:

(A) An applicant for the technician license category of any forensic discipline set forth in this subchapter is not required to fulfill any specific college-level coursework requirements.

(B) An applicant for a Forensic Analyst License limited to forensic biology screening, nucleic acids other than human DNA and/or Forensic Biology Technician is not required to fulfill the Federal Bureau of Investigation's Quality Assurance Standards for Forensic DNA Testing or any other specific college-level coursework requirements.

(f) Requirements Specific to Forensic Science Degree Programs. For a forensic science degree to meet the Minimum Education Requirements set forth in this section, the forensic science degree program must be either accredited by the Forensic Science Education Programs Accreditation Commission (FEPAC) or if not accredited by FEPAC, it must meet the minimum curriculum requirements pertaining to natural science core courses and specialized science courses set forth in the FEPAC Accreditation Standards.

(g) Waiver of Specific Coursework Requirements and/or Minimum Education Requirements for Lateral Hires, Promoting Analysts and Current Employees. Specific coursework requirements and minimum education requirements are considered an integral part of the li-

censing process; all applicants are expected to meet the requirements of the forensic discipline(s) for which they are applying or to offer sufficient evidence of their qualifications as described below in the absence of specific coursework requirements or minimum education requirements. The Commission Director or Designee may waive one or more of the specific coursework requirements or minimum education requirements outlined in this section for an applicant who:

(1) has five or more years of credible experience in an accredited laboratory in the forensic discipline for which he or she seeks licensure; or

(2) is certified by one or more of the following nationally recognized certification bodies in the forensic discipline for which he or she seeks licensure;

(A) The American Board of Forensic Toxicology;

(B) The American Board of Clinical Chemistry;

(C) The American Board of Criminalistics;

(D) The International Association for Identification; or

(E) The Association of Firearm and Toolmark Examiners; and

(3) provides written documentation of laboratory-sponsored training in the subject matter areas addressed by the specific coursework requirements.

(4) An applicant must request a waiver of specific coursework requirements and/or minimum education requirements at the time the application is filed.

(5) An applicant requesting a waiver from specific coursework requirements and/or minimum education requirements shall file any additional information needed to substantiate the eligibility for the waiver with the application. The Commission Director or Designee shall review all elements of the application to evaluate waiver request(s) and shall grant a waiver(s) to qualified applicants.

(h) General Forensic Analyst Licensing Exam Requirement.

(1) Exam Requirement. An applicant for a Forensic Analyst License must pass the General Forensic Analyst Licensing Exam administered by the Commission.

(A) An applicant is required to take and pass the General Forensic Analyst Licensing Exam one time.

(B) An applicant may take the General Forensic Analyst Licensing Exam no more than three times. If an applicant fails the General Forensic Analyst Licensing Exam or the Modified General Forensic Analyst Licensing Exam three times, the applicant has thirty (30) days from the date the applicant receives notice of the failure to request special dispensation from the Commission as described in subparagraph (C) of this paragraph. Where special dispensation is granted, the applicant has 90 days from the date he or she receives notice the request for exam is granted to successfully complete the exam requirement. However, for good cause shown, the Commission or its Designee at its discretion may waive this limitation.

(C) Requests for Exam. If an applicant fails the General Forensic Analyst Licensing Exam or Modified General Forensic Analyst Licensing Exam three times, the applicant must request in writing special dispensation from the Commission to take the exam more than three times. Applicants may submit a letter of support from their laboratory director or licensing representative and any other supporting documentation supplemental to the written request.

(D) If an applicant sits for the General Forensic Analyst Licensing Exam or the Modified General Forensic Analyst Licensing Exam more than three times, the applicant must pay a $50 exam fee each additional time the applicant sits for the exam beyond the three initial attempts.

(E) Expiration of Provisional License if Special Dispensation Exam Unsuccessful. If the 90-day period during which special dispensation is granted expires before the applicant successfully completes the exam requirement, the applicant's provisional license expires.

(2) Modified General Forensic Analyst Licensing Exam. Technicians in any discipline set forth in this subchapter may fulfill the General Forensic Analyst Licensing Exam requirement by taking a modified exam administered by the Commission.

(3) Examination Requirements for Promoting Technicians. If a technician passes the modified General Forensic Analyst Licensing Exam and later seeks a full Forensic Analyst License, the applicant must complete the portions of the General Forensic Analyst Exam that were not tested on the modified exam.

(4) Credit for Pilot Exam. If an individual passes the Pilot General Forensic Analyst Licensing Exam, regardless of his or her eligibility status for a Forensic Analyst License at the time the exam is taken, the candidate has fulfilled the General Forensic Analyst Licensing Exam Requirement of this section should he or she later become subject to the licensing requirements and eligible for a Forensic Analyst License.

(5) Eligibility for General Forensic Analyst Licensing Exam and Modified General Forensic Analyst Licensing Exam.

(A) Candidates for the General Forensic Analyst Licensing Exam and Modified General Forensic Analyst Licensing Exam must be employees of a crime laboratory accredited under Texas law or employed by an agency rendering them eligible for a voluntary license under §651.222 *(Voluntary Forensic Analyst Licensing Requirements Including Eligibility, License Term, Fee, and Procedure for Denial of Initial Application or Renewal Application and Reconsideration)* of this subchapter to be eligible to take the exam.

(B) Student Examinee Exception. A student is eligible for the General Forensic Analyst Licensing Exam one time if the student:

(i) is currently enrolled in an accredited university as defined in §651.202 of this subchapter (relating to Definitions);

(ii) has completed sufficient coursework to be within 24 semester hours of completing the requirements for graduation at the accredited university at which the student is enrolled; and

(iii) designates an official university representative who will proctor and administer the exam at the university for the student.

(C) Crime Laboratory Management and Unaccredited Forensic Discipline Exception. An Employee of a crime laboratory accredited under Texas law who is either part of the crime laboratory's administration or management team or authorized for independent casework in a forensic discipline listed below is eligible for the General Forensic Analyst Licensing Exam and Modified General Forensic Analyst Licensing Exam:

(i) forensic anthropology;

(ii) the location, identification, collection or preservation of physical evidence at a crime scene;

(iii) crime scene reconstruction;

(iv) latent print processing or examination;

(v) digital evidence (including computer forensics, audio, or imaging);

(vi) breath specimen testing under Transportation Code, Chapter 724, limited to analysts who perform breath alcohol calibrations; and

(vii) document examination, including document authentication, physical comparison, and product determination.

(i) Proficiency Monitoring Requirement.

(1) An applicant must demonstrate participation in the employing laboratory's process for intra-laboratory comparison, inter-laboratory comparison, proficiency testing, or observation-based performance monitoring requirements in compliance with and on the timeline set forth by the laboratory's accrediting body's proficiency monitoring requirements as applicable to the Forensic Analyst or Forensic Technician's specific forensic discipline and job duties.

(2) A signed certification by the laboratory's authorized representative that the applicant has satisfied the applicable proficiency monitoring requirements, including any intra-laboratory comparison, inter-laboratory comparison, proficiency testing, or observation-based performance monitoring requirements of the laboratory's accrediting body as of the date of the analyst's application, must be provided on the Proficiency Monitoring Certification form provided by the Commission. The licensee's authorized representative must designate the specific forensic discipline in which the Forensic Analyst or Forensic Technician actively performs forensic casework or is currently authorized to perform supervised or independent casework by the laboratory or employing entity.

(j) Mandatory Legal and Professional Responsibility Course:

(1) All Forensic Analyst and Forensic Technician License applicants must complete the current Commission-sponsored mandatory legal and professional responsibility update at the time of their application or demonstrate that they have taken the training within the 12-month period preceding the date of their application.

(2) Mandatory legal and professional responsibility training topics may include training on current and past criminal forensic legal issues, professional responsibility and human factors, courtroom testimony, disclosure and discovery requirements under state and federal law, and other relevant topics as designated by the 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 November 5, 2025.

TRD-202504001
Leigh Tomlin
Associate General Counsel
Texas Forensic Science Commission
Earliest possible date of adoption: December 21, 2025
For further information, please call: (512) 936-0661

♦ ♦ ♦

37 TAC §651.216

The Texas Forensic Science Commission (Commission) proposes amendments to 37 Texas Administrative Code §651.216, Disciplinary Action, to harmonize language related to disciplinary actions by the Commission with the disciplinary action authority granted to the Commission in Code of Criminal Procedure, Article 38.01, Section 4-c. The changes reflect a vote taken by the Commission at its October 24, 2025 quarterly meeting.

Background and Justification. The proposed amendments align the Commission's rules for disciplinary actions related to licensees with the Commission's current statutory authority for disciplinary actions against a licensee in Code of Criminal Procedure, Article 38.01, Section 4-c. The Commission's current rule for licensees related to disciplinary actions begins with the term "Professional Misconduct," which may imply the Commission can only take disciplinary action against a licensee after a professional misconduct finding. Further, the rule does not reference "professional negligence" as another finding by which the Commission may take appropriate disciplinary action against a licensee. Code of Criminal Procedure, Article 38.01, Section 4-c authorizes the Commission to take disciplinary action on a determination by the Commission that a license holder has committed *professional negligence* or professional misconduct, violated the Commission's code of professional responsibility, or otherwise violated Code of Criminal Procedure, Article 38.01, or other rule or order of the Commission. The changes proposed herein reflect this authority.

Fiscal Note. Leigh M. Tomlin, Associate General Counsel of the Commission, has determined that for each year of the first five years the proposed amendments are in effect, there will be no fiscal impact to state or local governments, as a result of the enforcement or administration of the amendments. The amendments do not impose any costs to state or local governments.

Local Employment Impact Statement. The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code §2001.022.

Public Benefit. Ms. Tomlin has also determined that for each year of the first five years the new rule is in effect, the anticipated public benefit is that members of the criminal justice community and other stakeholders will better understand the Commission's authority with respect to disciplinary actions against licensees.

Fiscal Impact on Small and Micro-businesses and Rural Communities. There is no adverse economic effect anticipated for small businesses, micro-businesses, or rural communities, as a result of implementing the proposed rule. Accordingly, no economic impact statement or regulatory flexibility analysis is required under Texas Government Code §2006.002(c).

Takings Impact Assessment. Ms. Tomlin 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 and, therefore, does not constitute a taking or require a takings impact assessment under the Government Code §2007.043.

Government Growth Impact Statement. Ms. Tomlin has determined that for the first five-year period, implementation of the proposed amendments will have no government growth impact as described in Title 34, Part 1, Texas Administrative Code §11.1. Pursuant to the analysis required by Government Code § 2001.221(b): 1) the proposed amendments do not create or eliminate a government program; 2) implementation of the proposed amendments do not require the creation of new employee positions or the elimination of existing employee

positions; 3) implementation of the proposed amendments do not increase or decrease future legislative appropriations to the agency; 4) the proposed amendments do not require a fee; 5) the proposed amendments do not create a new regulation; 6) the proposed amendments do not increase the number of individual's subject to regulation; and 7) the proposed amendments have a negligible effect on the state's economy.

Environmental Rule Analysis. The Commission has determined that the proposed rules are not brought with specific intent to protect the environment or reduce risks to human health from environmental exposure; thus, the Commission asserts that the proposed rules are not a "major environmental rule," as defined in Government Code §2001.0225. As a result, the Commission asserts the preparation of an environmental impact analysis, as provided by §2001.0225, is not required.

Request for Public Comment. The Commission invites comments on the proposal from any member of the public. Please submit comments to Leigh M. Tomlin, 1701 North Congress Avenue, Suite 6-107, Austin, Texas 78701 or leigh@fsc.texas.gov. Comments must be received by December 23, 2025 to be considered by the Commission.

Statutory Authority. The rule amendments are proposed under the general rulemaking authority provided in Code of Criminal Procedure, Article 38.01 §3-a and pursuant its authority to investigate and make a determination of whether professional negligence or professional misconduct occurred under § 4; take disciplinary action under § 4-c, and its authority to license forensic analysts under §4-a(b).

Cross reference to statute. The proposal affects Tex. Code Crim. Proc. art. 38.01.

§651.216. Licensee Disciplinary Actions [~~Action~~].

(a) Disciplinary Actions [~~Professional Misconduct Finding~~]. On a determination by the Commission that a license holder or applicant for a license has committed professional negligence or professional misconduct as defined by §651.302 of this chapter (relating to Definitions) and under Article 38.01, Code of Criminal Procedure or violated Article 38.01, Code of Criminal Procedure, or a rule or order of the Commission, the Commission may, as applicable:

(1) revoke or suspend the person's license;

(2) refuse to renew the person's license;

(3) reprimand the license holder; or

(4) deny the person a license.

(b) Probation. The Commission may place on probation a person whose license is suspended. If a license suspension is probated, the Commission may require the license holder to:

(1) report regularly to the Commission on matters that are the basis of the probation; or

(2) continue or review continuing professional education until the license holder attains a degree of skill satisfactory to the Commission in those areas that are the basis of the probation.

(c) Factors in Determining Possible Adverse Action.

(1) In determining the appropriate disciplinary action against a license holder or in assessing whether a prospective applicant must be granted a license, the Commission may consider the following factors:

(A) the seriousness of the violation;

(B) the individual's disciplinary history;

(C) the harm or potential harm to the laboratory or criminal justice system as a whole;

(D) attempted concealment of the act by the individual;

(E) any other relevant factors.

(2) The Commission considers the following factors in determining whether a less severe or less restrictive disciplinary action is warranted:

(A) candor in addressing the violation, including self-reported and voluntary admissions of the misconduct or violation;

(B) acknowledgement of wrongdoing and willingness to cooperate with the Commission;

(C) changes made by the individual to ensure compliance and prevent future misconduct;

(D) rehabilitative potential;

(E) other relevant circumstances reducing the seriousness of the misconduct; or

(F) other relevant circumstances lessening responsibility for the misconduct.

(3) The license holder or license applicant will have the burden to present evidence regarding any mitigating factors that may apply.

(4) This rule will not be construed to deny any licensee or applicant subject to disciplinary action by the Commission the right to introduce mitigating evidence in a hearing before the Judicial Branch Certification Commission. This rule also will not be construed to deny the Texas Forensic Science Commission the right to introduce any evidence supporting any of the factors described above in a hearing before the Judicial Branch Certification Commission.

(d) A license holder has a right to notice and appeal to the Judicial Branch Certification Commission as described in Subchapter E of this chapter.

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 November 5, 2025.

TRD-202504002
Leigh Tomlin
Associate General Counsel
Texas Forensic Science Commission
Earliest possible date of adoption: December 21, 2025
For further information, please call: (512) 936-0661

♦ ♦ ♦