Texas Department of Housing and Community Affairs

Governing Board

Board Action Request

File #: 1377 **Agenda Date:** 4/9/2026 **Agenda #:** 39.

Presentation, discussion, and possible action on an order adopting the amendment of 10 TAC Chapter 10, Uniform Multifamily Rules, Subchapter F Compliance Monitoring, §10.612 Tenant File Requirements; an order adopting new §10.628 Verification of Occupant Legal Status for HOME, HOME-ARP Rental and NHTF Developments; and directing their publication in the *Texas Register*

RECOMMENDED ACTION

WHEREAS, pursuant to Tex. Gov't Code §2306.053, the Texas Department of Housing and Community Affairs (the Department) is authorized to adopt rules governing the administration of the Department and its programs;

WHEREAS, Section 401(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) provides that an alien who is not a qualified alien is not eligible for federal public benefits, and Department of Justice (DOJ) guidance provides that each federal agency is required to identify which of their programs are considered federal public benefits for this purpose;

WHEREAS, the U.S. Department of Housing and Urban Development (HUD) in its 2025 federal Grant Agreements for the National Housing Trust Fund (NHTF) and HOME Programs has clarified that PRWORA does apply to those programs, and in a subsequent announcement included HOME-ARP in the programs to which PRWORA would be applicable;

WHEREAS, under separate rule action the Department has initiated the applicability of PRWORA for Community Affairs, Homelessness and Single Family activities, including HOME, and this action is now to ensure compliance with this guidance for the Department's HOME, HOME-ARP Rental and NHTF multifamily portfolio of properties;

WHEREAS, the rule actions herein are specific only to Developments in the Department's portfolio that have HOME, HOME-ARP Rental or NHTF financing or land use restriction agreements, and no action at this time is being taken relating to the Department's Low Income Housing Tax Credit multifamily portfolio; and

WHEREAS, staff drafted a revision of one rule section, and proposed one new rule section on this subject, which were both released for public comment between January 30 through March 3, 2026, comment was received and a reasoned response to all comment is provided in the rule preamble attached;

NOW, therefore, it is hereby

RESOLVED, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the proposed actions herein in the form presented to this meeting, to be published in the *Texas Register*, and in connection therewith, make such non-substantive technical

corrections as they may deem necessary to effectuate the foregoing including any requested revisions to the preambles.

BACKGROUND

Two primary laws directly address noncitizen eligibility for federal housing programs. The first is Section 214 of the Housing and Community Development Act of 1980, as amended. It applies to specified programs; primarily, federal rental assistance programs administered by the Department of Housing and Urban Development (HUD) and the Department of Agriculture (USDA), including the Public Housing, Housing Choice Voucher, Section 8 project-based rental assistance programs, and rural rental assistance. The law makes eligible for assistance certain categories of noncitizens, including most categories of immigrants, while excluding unauthorized immigrants and those in most types of temporary status (e.g., tourists, students, and temporary workers).

The second law is Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA, P.L. 104-193). Section 401(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), provides that an alien who is not a qualified alien is not eligible for any federal public benefit. The Department of Justice (DOJ) provided guidance that each federal agency is required to identify which of their programs are considered federal public benefits for this purpose.

The primary method for verification of qualified status is through checking on a series of allowable documentation and/or through a system called SAVE (Systematic Alien Verification for Entitlements), which historically has been a fee-based inter-governmental initiative designed to help federal, state, tribal, and local government agencies confirm citizenship, U.S. national and qualified alien status prior to granting benefits. SAVE access is granted directly to the Department and other governmental entities.

In September HUD provided the Department with its 2025 federal Grant Agreements for the National Housing Trust Fund and HOME Programs which reflect that PRWORA does apply to those programs, among others. Subsequently in an announcement on November 26, 2025, HUD included HOME-ARP in the programs to which PRWORA would be applicable.

In prior Board action rules were proposed that implement the applicability of PRWORA for the single family HOME activities. This action now implements the applicability of PRWORA for the multifamily HOME, HOME ARP Rental, and NHTF portfolio.

All properties in the Department's portfolio that have HOME, HOME-ARP Rental or NHTF units will now be required to adhere to this rule. The rule will require that all persons signing a lease must have been verified as having qualified legal status - either as a US citizen, US National, or a qualified alien. It should be noted that this requirement will not apply to survivors of domestic violence, sexual assault, stalking, and/or dating violence, more specifically populations protected by the Violence Against Women Act (VAWA) and the Family Violence Prevention and Services Act (FVPSA). This requirement will be applicable for the length of the state and federal affordability period.

A property must perform verification based on a series of acceptable documents, or if still needed, through the SAVE system. Properties will be required to participate in using the SAVE system, unless specifically not permitted to, or may procure a separate party to perform such

verification services on their behalf. Only if not permitted to utilize the SAVE system, will a property have the option of submitting the household for verification by the Department (directly or through a third-party contractor), which would still require the property to gather and transmit - but not verify - the appropriate client level information and documentation.

There are two sections of the Compliance rule being addressed in this action. The first amends an existing section, and is prefaced by an amendment preamble, and is then provided reflecting only those changes made since the published version. The second rule is a newly added section of rule and is prefaced by a preamble for new rule actions.

These rules were released for public comment through March 3, 2026. Significant public comment was received and those comments are addressed in the reasoned response in the attached preambles. It should be noted that the public comment summary for each preamble is identical as commenters tended to comment on the two actions together.

Attachment 1: Preamble, including required analysis, for adoption of amendment to 10 TAC Chapter 10, Uniform Multifamily Rules, Subchapter F Compliance Monitoring, §10.612 Tenant File Requirements

The Texas Department of Housing and Community Affairs (the Department) adopts the amendment of 10 TAC Chapter 10, Uniform Multifamily Rules, Subchapter F Compliance Monitoring, §10.612 Tenant File Requirements.

The purpose of the amendment is to update the rule to provide clarity with how adherence to Section 401(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) will be implemented for multifamily HOME, HOME-ARP, and National Housing Trust Fund properties in the Department's portfolio as required by the federal direction provided in the 2025 grant agreements issued by the United States Department of Housing and Urban Development (HUD). PRWORA 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 amendment because it is subject to the exception under §2001.0045(c)(4) which excepts amendments that are necessary to receive a source of federal funds or to comply with federal law.

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 amendment would be in effect:

1. The amendment does not create or eliminate a government program but relates to changes to an existing activity: the implementation and applicability of Section 401(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) in the Department's HOME, HOME-ARP and NHTF properties.

2. The amendment will require additional work that creates one or more new employee positions. One position will be used to coordinate all issues surrounding PRWORA across multiple programs at the Department, including creating and providing training, developing forms and notices in collaboration with legal staff, providing vendor support if needed, updating and developing the documentation charts and checklists to be used by properties, assisting Compliance staff in developing monitoring tools, and setting up properties with access to the SAVE system. Additional staffing needs may vary depending on what portion of tenants requiring verification are submitted to the Department for verification and what portion are performed by properties. Per the rule, properties are required to perform the verifications themselves unless not permitted to do so (for instance if they have been federally debarred they may be precluded from accessing the SAVE system). Under that premise, it is anticipated that the Department will not have significant verifications to perform. In either case the costs of all new positions are federal eligibly reimbursable expenses under the applicable program grants (because PRWORA is now applicable to HOME, HOME-ARP, NHTF, ESG and CSBG, in addition to previous programs which were already subject to PRWORA, administrative funds may be utilized from those programs to support the staffing needs). The amendment does not generate a reduction in work that would eliminate any employee positions.

3. The amendment does not require additional future legislative appropriations; the added position(s) are absorbed with existing appropriated administrative funds.

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

5. The amendment is creating a new regulation because it is necessary to receive a source of federal funds or to comply with federal law.

6. The amendment does expand an existing regulation to provide additional requirements, however the expanded regulations are required to comply with federal law.

7. The amendment does increase the number of individuals subject to the rule's applicability. Through this rule the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) will be implemented for multifamily HOME, HOME-ARP Rental and National Housing Trust Fund properties in the Department's rental portfolio as required by the federal direction provided in the 2025 grant agreements issued by the Unites States Department of Housing and Urban Development (HUD). PRWORA provides that an alien who is not a qualified alien is not eligible for any federal public benefit. Therefore, individuals not previously subject to this verification will now require verification of US Citizen, US National, or Qualified Alien status.

8. Effect on the state's economy. Public comment received on the rule suggests that the rule action creates measurable operational costs that can affect property performance at scale. They believe that even modest increases in unit vacancies or turnover across the affected portfolio (approximately 391 properties) can reduce rental revenue and increase operating costs, raising the risk of financial distress at impacted developments. The comments suggest that those impacts can flow through to local economies through reduced local spending, tighter rental supply, and a potential decrease in local property tax collections. Additionally, commenters suggest that requiring verification of eligible status for households will force mixed status families to choose between staying together or being evicted and when families lose access to housing the adult's ability to maintain stable employment is compromised as well as the children's ability to stay in school. Commenters suggest both of these issues create immediate and long-term economic impacts on the state.

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

The Department has evaluated the amendment and received comment that the amendment will create an economic effect on small or micro-businesses or rural communities. Comment suggests that the rule requirements are not reduced for small operators or rural properties and that in fact, they may be faced with more household verifications because they tend to more frequently utilize the programs that are applicable. Small operators and rural properties often have limited onsite capacity, increasing the proportional burden and the risk of findings. When verifications escalate to nonrenewal and a household will not vacate, properties can incur foreseeable enforcement costs for court and attorney fees, staff time and the costs of turning over a unit.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The amendment 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 amendment as to its possible effects on local economies and has received public comment that there may be an economic effect on local employment. As noted above, comment suggests that requiring verification of eligible status will force mixed status families to choose between staying together or being evicted and if families lose access to housing, the adult's ability to maintain stable employment is compromised. Further, commenters noted that for tenants having to handle document retrieval, notices, follow-up, and dispute resolution, it can require time off work or missed wages, particularly for hourly workers and households with limited transportation or limited access to document-issuing agencies. When verification delays or disputes

prevent a household from leasing a unit or contribute to housing loss, households may be forced to relocate farther from work or leave the city entirely, disrupting commute time, childcare arrangements, and schedule reliability. That potentially increases missed shifts and turnover risk for local employers.

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 amendment is in effect, the public benefit anticipated as a result of the changed sections would be ensuring compliance with federal guidance and ensuring that federal public benefits are only being received by qualified aliens, US Nationals or US citizens.

Comment was also received that denotes public costs. They suggest that this rule only applies to HOME, HOME-ARP Rental, and NHTF developments in TDHCA's monitored portfolio, while comparable units administered by local jurisdictions using the same federal programs may not be subject to the same state-level procedures. That unevenness can encourage program shopping, concentrating administrative burden and compliance risk in TDHCA's portfolio and increasing lease-up and vacancy friction at impacted properties. Because of the new requirements there also may be reduced owner participation in the programs. If TDHCA-administered resources carry additional tenant-facing requirements beyond what similarly situated programs require elsewhere, some owners may be less willing to pursue TDHCA HOME, HOME-ARP Rental, or NHTF financing, which would directly reduce production and preservation capacity.

One of the costs commenters noted was the impacts expected on mixed-status households and the resulting harm to eligible members. According to commenters, HUD's Regulatory Impact Analysis for its proposed Section 214 rule reports that within mixed families, 70% of members are eligible and 30% are ineligible, and that among eligible members, 65% are children. Even when the policy objective is compliance, verification failures, delays, or nonresponses can reduce assistance for otherwise eligible members. Because most eligible members in mixed-status households are children, these disruptions and reductions can fall disproportionately on children.

As a further cost, a household that does not currently have access to documents that confirm their legal status may have to take steps to obtain copies of birth certificates, or other applicable documents and pay associated fees for those items.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson has determined that for each year of the first five years the amendment is in effect, enforcing or administering the amendment may have some costs to the Department, to the extent that the Department will be adding one or more staff members as described more fully earlier in this preamble.

One of the commenters applied HUD's Paperwork Reduction Act benchmark to this rule and concluded that there would be significantly increased property and portfolio costs. They noted that the property costs will include routine verification plus follow-up workload for delayed or disputed cases and documentation requirements. If this rule is applied not only to units assisted with the applicable federal program funds, but all units in those properties, those costs will be more significant. There may also be downstream costs when disputes escalate, including vacancy loss and legal and court-related costs.

SUMMARY OF PUBLIC COMMENT AND INFORMATION RELATED TO COST, BENEFIT OR EFFECT. The Department requested comments on the rule and also requested 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 was held January 30 to March 3, 2026, to receive input on the proposed action.

Comment was received from 20 commenters: 1) Accolade Property Management; 2) American Civil Liberties Union – Texas; 3) Roger Arriaga (hearing commenter); 4) Representative John Bryant; 5) Children's Defense Fund – Texas; 6) City of El Paso, Department of Human and Community Development; 7) Every Texan (hearing commenter); 8) Foundation Communities and New Hope Housing; 9) Brian Gamble (hearing commenter); 10) Representative Barbara Gervin-Hawkins; 11) Representative Mary Gonzalez; 12) Laredo Immigrant Alliance; 13) Whitney Parra (hearing commenter); 14) Kathleen Petty (hearing commenter); 15) City of Pharr, Grants Management and Community Development; 16) Texas Affiliation of Affordable Housing Providers and Texas Apartment Association; 17) Texas House Democratic Caucus; 18) Texas Housers; 19) US Hispanic Contractor's Association; and 20) Maria Watkins (hearing commenter).

The comments from the Texas House Democratic Caucus (Commenter 17), reflect the input from the following 29 Texas House Representative Members: Gene Wu; Donna Howard; Ramón Romero, Jr.; Joe Moody; Suleman Lalani; Jessica González; Mihaela Plesa; Ron Reynolds; Senfronia Thompson; Ray Lopez; Lulu Flores; Erin Zwiener; Josey Garcia; Christina Morales; Vikki Goodwin; Jolanda Jones; Armando Martinez; Armando Walle; Jon Rosenthal; Diego Bernal; John Bucy III; Toni Rose; Alma Allen; Rafael Anchía; Ana Hernandez; Chris Turner; Cassandra Garcia Hernandez; Salman Bhojani; and Linda Garcia.

In the following summary of comment, the numbers denote the commenters who made comments on that topic. For instance, if a comment is followed by five numbers, the five noted commenters that match those numbers are the entities or individuals who made those comments.

Comments on Preamble and Required Rule Analysis (5)(13)(16)(18)

Government Growth Impact Statement: Commenter 16 suggests that TDHCA should reconcile staffing assumptions – one preamble provided indicated that there were no staffing needs, while the other preamble anticipated 1 to 2 positions. They requested that the preamble specify whether TDHCA will absorb the work or add staffing and provide detail on the federal administrative funds that will support the position. They also requested that TDHCA address training, standardized forms/notices, secure submission methods, vendor support and monitoring tools. Commenter 13 also brought up this issue in the public hearing.

Adverse Economic Impact on Small Businesses and Rural Communities: Commenter 16 suggests that the Department's 'no economic effect' determination should be reconsidered. The rule requirements do not scale down for small operators or rural properties with limited onsite capacity, increasing the proportional burden and the risk of findings. When verifications escalate to nonrenewal and a household will not vacate, properties can incur foreseeable enforcement costs for court and attorney fees, staff time and the costs of turning over a unit.

Effect on State's Economy, Local Employment Impact Statement: Commenter 16 feels TDHCA's statements concluding no effect on the state's economy and no local employment impact should be amended. The proposed requirements create measurable operational costs that can affect property performance at scale. Even modest increases in vacancies or turnover across the affected portfolio can reduce rental revenue and increase operating costs, raising the risk of financial distress at impacted developments. Those impacts can flow through to local economies through reduced local spending, tighter rental supply, and a potential decrease in local property tax collections.

Commenter 5 also disagrees with the preamble of the rule that said the rule actions would not affect the state's economy. They suggest that the rules will force mixed status families to choose between staying together or being evicted and it will make children that are US citizens at risk of homelessness. When families lose access to housing the adult's ability to maintain stable

employment is compromised as well as the children's ability to stay in school; both of these issues create immediate and long-term economic impacts on the state.

Commenter 16 suggests TDHCA should also acknowledge foreseeable local employment impacts. For tenants having to handle document retrieval, notices, follow-up, and dispute resolution, it can require time off work or missed wages, particularly for hourly workers and households with limited transportation or limited access to document-issuing agencies. More significantly, when verification delays or disputes prevent a household from leasing a unit or contribute to housing loss, households may be forced to relocate farther from work or leave the city entirely, disrupting commute time, childcare arrangements, and schedule reliability. That potentially increases missed shifts and turnover risk for local employers and should be reflected in the local employment impact discussion. Commenter 18 also states that contrary to the Department's assertion, there will clearly be economic costs for households to comply with these sections.

Public Benefit/Cost: Commenter 16 indicates that this rule only applies to HOME, HOME-ARP Rental, and NHTF developments in TDHCA's monitored portfolio, while comparable units administered by local jurisdictions using the same federal programs may not be subject to the same state-level procedures. That unevenness can encourage program shopping, concentrating administrative burden and compliance risk in TDHCA's portfolio and increasing lease-up and vacancy friction at impacted properties. The fiscal note should acknowledge the risk of reduced owner participation. If TDHCA-administered resources carry additional tenant-facing requirements beyond what similarly situated programs require elsewhere, some owners may be less willing to pursue TDHCA HOME, HOME-ARP Rental, or NHTF financing, which would directly reduce production and preservation capacity.

Commenter 16 also asks that TDHCA acknowledge impacts on mixed-status households and the resulting harm to eligible members. HUD's Regulatory Impact Analysis for its proposed Section 214 rule reports that within mixed families, 70 percent of members are eligible and 30 percent are ineligible, and that among eligible members, 65 percent are children. Even when the policy objective is compliance, verification failures, delays, or nonresponses can reduce assistance for otherwise eligible members. Because most eligible members in mixed-status households are children, these disruptions and reductions can fall disproportionately on children. The public benefit/cost note should reflect this as a public cost.

Fiscal Note: The fiscal note should address both Department implementation costs and regulated-entity compliance costs. Department costs include training, standardized forms and notices, secure submission methods, escalation support, and monitoring protocols. Regulated-entity costs include routine verification plus follow-up workload for delayed or disputed cases and documentation requirements, with significant sensitivity to scope if practices spill beyond the assisted-unit universe. TDHCA should also acknowledge foreseeable downstream costs when disputes escalate, including vacancy loss and legal and court-related costs.

Commenter 16 has applied HUD's Paperwork Reduction Act benchmark to support how this rule has costs. As part of that comment they estimate significantly increased property and portfolio costs. They specifically request that TDHCA should acknowledge this cost in its fiscal note.

Staff Response: Staff has revised the rule preambles in response to the feedback provided.

§10.612 and §10.628 – Overall Opposition and Request to Withdraw or Delay the Rules (2)(4)(5)(6)(7)(10)(11) (12)(17)(18)(19)

Multiple commenters suggest that because more guidance is expected from HUD, it is premature to proceed with the rules; particularly, that since HUD has indicated that it will release more guidance so the Department should wait until that occurs (5)(12)(18). Commenter 12 believes the Department is overcomplying by preceding HUD guidance. Commenter 5 and 18 suggests that the rulemaking should be paused until further HUD guidance is available. They suggest that the Department acting prior to additional federal guidance may create legal liability for the state.

Commenter 2 believes the rule as written raises preemption concerns and would result in the wrongful denial of eligible tenants. They also raised concerns that landlords and public housing authorities will have to collect information that could potentially expose individuals to enforcement and the ability for immigrant communities to access safe and affordable housing.

Commenter 2 asserts that the rule fails to adhere to Section 401(a) of PRWORA and may cause eligible families to be excluded. The guidance from TDHCA provides no information on the verification process nor indicates any acceptable documentation from tenants who are qualified aliens, while only accepting proof of US citizenship as valid documentation. If the current documentation list is used, individuals may have their applications erroneously denied or be wrongfully evicted.

Commenter 7 also noted that one in four children live in mixed status families and they will be affected by this policy and the rule rollout is premature. They note that according to a 2024 Texas kids count, Hispanic or Latino children in Texas are 36% more likely to live in households facing high cost of living burdens.

Commenters 4, 6, 10 , 11 , 17 and 18 were strongly opposed to the rules and urged TDHCA to withdraw them. The rule will have a chilling effect on mixed-status households which will discourage entire households from seeking the housing stability they are legally entitled to receive. The rule will cause fear and confusion statewide. U.S. citizen children in mixed status households will be left without stable homes, violence survivors will be forced to choose between safety and status, elderly immigrants will be severed from their safety net, and working families will be pushed into greater housing insecurity.

Commenters 4, 7 and 18 believe that the rules will erode trust between immigrant communities and public institutions. Commenters 4 and 10 also noted that the rule contradicts the Department's fundamental mission. Commenter 6 felt that the rule will undermine efforts to prevent homelessness and maintain housing stability.

Commenter 11 indicates that eligibility for federal subsidized housing has never been restricted to US citizens and embedding immigration enforcement into state housing rules undermines legislative intent and misdirects limited state resources. Commenter 11 believes through this rule the Department jeopardizes an estimated 9,000 to 28,000 units statewide.

Commenters 4, 10 and 17 urged that the Department discuss these concerns with affected communities and advocates prior to taking further rule actions.

Commenter 19 feels the rule changes cause a cascading effect on Texas Communities, workplaces, schools, healthcare and individual security and safety. There will be a direct impact on lawful DACA recipients. They also feel that the rule changes will cause economic destabilization as DACA workers facing loss of housing will cripple industries relying on lawful DACA workers. There will be widespread evictions and forced displacement. These restrictions will affect mixed-status households most significantly, and ultimately affect landlords when there are losses to housing and workforce.

Commenters 5 and 8 suggest that TDHCA should clarify that nonprofit charitable housing providers are exempt from PRWORA verification requirements, but they also acknowledge that the Notice creates confusion because it does not relieve states from ensuring all programs are compliant with PRWORA. They feel that this ambiguity is a reason that the rulemaking should be delayed until further guidance is released. They think that it will be very difficult for the Department to provide clarity without HUD having provided that clarity first.

Staff Response: Per the HUD notice of November 26, 2025, and the 2025 federal funding agreements states are not relieved from the requirements to ensure that all relevant programs are in compliance with PRWORA. HUD places the burden on TDHCA to ensure compliance with PRWORA, even before "new guidelines" are issued by HUD. Therefore, staff does not recommend withdrawing or deferring the rule. TDHCA does not believe it is 'overcomplying' but rather fully complying. Should additional federal guidance be released that provides any greater specificity on how PRWORA should be applied to the programs, TDHCA will certainly adhere to that guidance. The TDHCA rule changes are specific enough to reflect adherence to the requirements of the federal funding agreements and to properly put program participants on notice, but still provide sufficient leeway for further guidance to be issued to our program participants should federal guidance be forthcoming. No change is recommended to the rule in response to this topic of comment.

As it relates to the comment that eligible families may be excluded because the guidance from the Department relating to allowable documentation does not indicate acceptable documentation from tenants who are qualified aliens, but only US citizens, the document includes US Citizenship and US national Department is consistently looking to improve and update the guidance. Commenter 2 is encouraged to contact Gavin Reid (gavin.reid@tdhca.texas.gov) at the Department to provide specific suggested additions or revisions to the guidance.

The Department does not interpret enforcement of federal requirements as contradictory to its mission. Safeguarding the state's ability to access HOME, NHTF, and HOME-ARP funds through compliance with federal requirements is essential to keeping these funds available to qualified Texans.

As it relates to the impact on households, effects are associated with PRWORA, not necessarily the Department's applicability of PRWORA. By pushing the effective date of the rule to August 1, 2026, more notice is provided for households.

As it relates to the comments that the Department should discuss issues of the rule and its implementation with affected communities and advocates, TDHCA hosted a public hearing and a public comment period which was announced through the Department's email distribution groups. The Department will continue to seek input as documentation guidance is developed.

As it relates to the suggested exemption for nonprofit organizations, because the Department is still accountable for ensuring the PRWORA requirements as satisfied, the Department will clarify in the rule that in the case of properties in which the ownership entity is a nonprofit organization the property will have the option of either performing verifications themselves under §10.628(f)(2)(A), or gathering the required documentation and having the Department perform the verification under §10.628(f)(2)(B).

Concerns with the SAVE System (2)(5)(18)

Commenters 2, 5 and 18 indicate that the rule mandates the use of SAVE; however they believe the SAVE system is faulty, raises privacy and security concerns, increases risk of datamining, and has errors that render it an unreliable source for legal status. According to one source it has an error rate of at least 14%. Commenter 18 also raises concerns that SAVE is inaccurate, constantly changing

and generates unclear reports. They are concerned also that federal employees and federal immigration enforcement officials may use SAVE to track individuals. The SAVE system's reliance on social security data does not provide definitive status information and is prone to inaccuracies. Commenter 18 is also concerned that SAVE error rates will result in eligible Texans losing access to housing.

Commenters 5 and 18 believes that the use of SAVE where additional verification is needed may cause excessive wait times up to 3 weeks for a household awaiting housing assistance, adding to precarious housing situations or adding additional housing costs.

Staff Response: When verification is unable to be satisfied using the documents provided by a household, the only system available to the Department for verification, and therefore available to properties, is the SAVE system. No changes to the rule are made in response to these comments.

§10.612 and §10.628 – Administrative and Cost Burden (4)(6)(7)(11)(12)(15)(17)(18)

Commenters noted two primary categories of costs and burden – those on property owners and providers, and those on households.

Commenters 4, 7 and 18 noted that the rules will create administrative burdens and costs for property owners and providers, including costs associated with reduced occupancy. Commenter 6 also thinks the rule requirements will increase staffing, training and monitoring responsibilities that will divert resources away from direct service delivery. Commenters 11, 12, 15 and 17 noted that the verification process will impose steep burdens on local governments and program administrators.

Commenter 18 feels that the requirements are an unfunded mandate that will significantly impact developments across the state. There will be unavoidable delays and costs related to document collection, internal review, errors and appeals. Having to check for legal status will be an entirely new process for most properties. There will also be costs associated with creating new processes, staff training, ensuring system compatibility. These steps will be particularly difficult for smaller owners many of which are located in rural areas.

Commenter 18 also thought that costs would be significant because properties would not have access to SAVE through the existing Memorandum of Agreement between TDHCA and Department of Homeland Security. If they can't access SAVE themselves, properties would have to submit their household verifications to TDHCA for processing. The system and method they would need to use would likely be substantial and fall more on small or micro-businesses and rural communities.

Commenter 12 also notes the administrative burden on Texans who will have to sacrifice work hours to obtain these benefits. Commenters 4, 7 and 18 note that the rule will create delays and increase costs for tenants. Commenters 7 and 18 also note the delays and costs for tenants as they seek to procure the correct documentation, which is disproportionately difficult for the low-income vulnerable populations served by these funding sources. Households may not have the funds or free time to get to government offices to secure the needed documentation.

Staff Response: To clarify the comments that reference cost to service providers, program administrators and local governments, this rule applies only to a specific portfolio of multifamily properties. The rule is not applicable to local service providers, administrators or local governments. The preamble of this rule has been expanded to reflect some of the commenter's concerns with the costs and burdens noted.

As it relates to the incidental costs that will be borne by the properties or households, it is not within the Department's authority to simply not apply the federal requirements. The Department will assist

properties in training their staff on documentation requirements and SAVE access in an effort to minimize the work added for properties and to ease the experience for households.

It should be noted that in response to Commenter 18, their suggestion that properties will not have access to SAVE is incorrect; multifamily properties will have access to SAVE through the Department's Memorandum of Agreement and are required to use SAVE rather than submit households to the Department for verification. System updates and transmittal methods are anticipated to be minimal because of this.

No changes to the rule are made in response to these comments.

§10.612 and §10.628 – Overcompliance (12)

Commenter 12 suggests that passing the responsibility for verifying immigration documentation to development owners and managers will lead to overcompliance as properties ensure they follow the guidelines.

Staff Response: While the Department is taking no action to promote properties' 'overcompliance' it does expect properties to fully comply. No changes to the rule are made in response to this comment.

§10.612 and §10.628 – Evolving Federal Direction (16)

Commenter 16 states that pending litigation and evolving federal direction are also relevant to this rule's rollout. PRWORA related federal requirements and enforcement may shift through court orders or updated federal guidance after TDHCA has begun implementation. They note that TDHCA has treated federal notices as effective immediately, while other states are delaying rule changes until litigation is resolved. They believe this creates a real risk that owners will expend significant resources implementing procedures that later require adjustment, and that tenant files already in process will be treated inconsistently unless TDHCA can issue uniform transitional instructions.

***Staff Response*:** To ensure federal compliance the Department is implementing the rule promptly and is not waiting on litigation resolution in other states. If additional federal guidance is released, the Department will remain compliant and disseminate clear instructions or propose any necessary rule adjustments. No changes to the rule are made in response to these comments.

§10.612 and §10.628 – Increased Legal and Compliance Exposure, Concerns of Discrimination and Eviction (5)(6)(8)(15)(18)

Commenters 5 and 15 suggest that the rule may cause discriminatory assumptions to be made about tenants or their guests, in violation of the Fair Housing Act. Commenter 6 believes that requiring housing providers to collect and verify immigration documentation may cause Owners and local governments to face fair housing complaints or legal liability if documentation practices are not applied consistently.

Commenter 18 references the National Housing Law Project's brief on immigration requirements and believes that if PRWORA is applied improperly the Department could be subject to discrimination claims under federal civil rights laws.

Commenter 8 also believes it is critical in issuing a rule that touches on issues of race and national origin that the rule is narrowly tailored to ensure its obligation to not discriminate. Their suggested revisions (relating to narrowing the verifications only to the funded units in the property and limiting it to only new properties) will help address that concern. Commenter 8 also feels that the Department's duty to not make housing unavailable based on race and national origin is not met

because the rule does not address enforcement and implies that residents should be evicted based on their national origin.

Commenter 8 specifically suggests that the following sentence be added: "Owners are not required to evict tenants or refuse to renew leases of tenants pursuant to this rule. Owners may be required to ensure that occupants who are not qualified aliens are moved to Units that are not receiving HOME, HOME-ARP Rental or NHTF funding."

Staff Response: The Department denies any direct or indirect allegation of illegal race or national origin discrimination. Properties are expected to use documentation requested from households in all covered units, regardless of race or national origin, to objectively verify those documents against guidance provided by the Department. If that documentation requested does not allow a property to confirm legal status, then the property will enter the household in the SAVE system. In response to Commenter 8, the Department cannot say that properties will not be required to evict tenants or refuse to renew leases under this rule; if a household at lease renewal is unable to be confirmed for legal status, the property will be in a position to not renew the lease for good cause because the household will not meet a HOME, HOME-ARP Rental, or NHTF requirement. No changes to the rule are made in response to these comments.

§10.612(a)(6) – Rule Prohibiting "harboring" of non-qualified aliens (5)(16)(18)

Commenters 5 and 18 noted that the rule prohibiting harboring of an unqualified alien was not required by federal law, nor in federal guidance, and as such should be removed from the rule to avoid having a chilling effect on access to housing for eligible families. Commenter 5 noted that they saw a similarly chilling effect in 1996 and 2019 when similar policy changes occurred. They note that the Department has not provided any reason or justification for the inclusion of this clause in the rule, and that it is unclear what provision in the Department's enabling statute allows it to impose such a requirement.

Commenters 5 and 18 also noted the term 'harboring' is vague and that without the rule explaining what conduct would meet the definition of 'harboring,' it will create fear and confusion that will increase homelessness and housing instability for children, youth and mixed status households. The vagueness of this section, noted by Commenter 18, leaves too much interpretation for developments, property owners and residents who are not legal experts which could lead to wrongful evictions or denial of housing. Commenter 5 notes that simply hosting an undocumented visitor in one's home or even living with an undocumented family member would not constitute harboring under 8 U.S.C. §1324. They strongly urge that this requirement be removed from the rule.

Commenter 18 notes that harboring an alien in the US is already a violation of law under 8 USC §1324, so it is not necessary to require tenants to sign a lease attesting that they will follow one specific law.

Commenter 16 states that this requirement imports an undefined criminal-law concept into a lease without an objective monitorable compliance standard. It will be explained and applied inconsistently across properties, increase fair housing and other liability risk, and create tenant confusion about ordinary lawful conduct. They suggest alternatively that lease signers certify that the information and documentation submitted for verification is true and complete, acknowledge consequences for knowingly providing false information, and agree to notify the Owner when lease signers change so any new signatory can be verified.

Staff Response: To address some of the concerns raised, this section of the rule has been revised to remove reference to "harboring" specifically since that may be perceived as triggering the federal definition for harboring at 8 USC Section 1324. The rule now references that if a household member is staying in the unit, to the extent that they would need to be added to the lease under the property's

rules or terms of the lease (typically more than five days), then the lease must be updated to include such individuals, and any further required analysis of household income and legal status must be promptly performed by the property. The signers of the lease must attest that such household member has legal status. The Department will provide the lease attestation form for Owners to provide to tenants.

Other Comments – Lack of Accessible Information (18)

Commenter 18 was concerned that the information about the new requirements is inaccessible. The HUD grant agreements which TDHCA references in its materials are not publicly available. HHS and HUD notices reference future guidance that is also not yet available. They note that it is unclear who will be training developments.

Staff Response: Information has been made public as allowable. Documents that are in TDHCA's possession and not subject to exception or exemption may be requested through an open records request.

Other Comments – Creating New Law (19)

Commenter 19 suggests that by formulating these rules, TDHCA is surpassing its authority and superseding the law-making legislative body.

Staff Response: TDHCA is authorized by Tex. Gov't Code §2306.053 to adopt rules governing the administration of the Department and its programs.

Other Comments (3)(13)(14)

Commenter 14 attended the hearing and sought information on how to access TDHCA grants and assistance for a proposed property concept, and also requested a list of existing assisted properties.

Commenter 13 asked whether the household verification form and other guidance around documentation has been created and made available yet for the multifamily properties. They note that they would like to make comment on those and wanted to know when that would be available.

Commenter 13 asked if the plan was to give SAVE access to all 391 properties subject to this rule.

Commenter 3 asked in the hearing if HUD's release of 214 guidance would prompt the Department to align with that guidance going forward.

Staff Response: Commenter 14 was individually contacted to assist them with their interest in the Department. The household verification form and other documents will be made available and their input will be sought as those are crafted. Yes, other than federally debarred entities, the intent is to provide SAVE user access to all properties subject to the rule. HUD's release of 214 guidance is not applicable to these programs or properties unless otherwise triggered for a property by other layered funding on that property.

STATUTORY AUTHORITY. The amendment is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the amendment affects no other code, article, or statute.

10.612 Tenant File Requirements

(a) At the time of program designation as a low income household (or Qualified Population for HOME-ARP Rental), typically at initial occupancy, Owners must create and maintain a file that at a minimum contains:

(1) A Department approved Income Certification form signed by all adults. At the time of program designation as a low income household or Qualified Population, Owners must certify and document household income. In general, all low-income households and Qualified Populations for HOME-ARP Rental must be certified prior to move in. The Department requires the use of the TDHCA Income Certification form, unless the Development also participates in the USDA - Rural Development or a Project Based HUD Program, in which case, the other program's Income Certification form will be accepted;

(2) Documentation to support the Income Certification form including, but not limited to, applications (one per adult or married couple), first hand or third party verification of income and assets, and documentation of student status (if applicable). The application must provide a space for applicants to indicate if they are a veteran. In addition, the application must include the following statement: "Important Information for Former Military Services Members. Women and men who served in any branch of the United States Armed Forces, including Army, Navy, Marines, Coast Guard, Air Force, Reserves or National Guard, may be eligible for additional benefits and services. For more information please visit the Texas Veterans Portal at https://veterans.portal.texas.gov/";

(3) The Department permits Owners to use check stubs or other firsthand documentation of income and assets provided by the applicant or household in lieu of third party verification forms. It is not necessary to first attempt to obtain a third party verification form. Owners should scrutinize these documents to identify and address any obvious attempts at forgery, alteration, or generation of falsified documents;

(4) A lease with all necessary addendums to ensure that compliance with applicable federal regulations and §10.613 of this subchapter (relating to Lease Requirements);

(5) For HOME, HOME-ARP Rental, and NHTF Developments, in accordance with §10.628 of this subchapter (relating to Verification of Occupant Legal Status for HOME, HOME-ARP Rental, and NHTF Developments) documentation to support that legal status of all persons signing the lease has been verified; and

(6) For HOME, HOME-ARP Rental, and NHTF Developments, in accordance with §10.628 of this subchapter, an attestation, as provided by the Department for use by Developments, signed by all parties signing the lease that to their knowledge there are no occupants of the Unit that would be required to be included on the lease under the property's lease stipulations, that do not have qualified legal status under PRWORA. ~~they are not harboring an illegal immigrant in violation of federal law.~~

(b) Annually thereafter on the anniversary date of the household's move in or initial designation:

(1) Throughout the Affordability Period, all Owners of Housing Tax Credit, TCAP, and Exchange Developments must collect and maintain current data on each household that includes the

number of household members, age, ethnicity, race, disability status, student status, and rental assistance (if any). This information can be collected on the Department's Annual Eligibility Certification form, the Income Certification form, HUD Income Certification form, USDA-Rural Development Income Certification form (as applicable).

(2) During the Compliance Period for all Housing Tax Credit, TCAP, and Exchange Developments and throughout the Affordability Period for all Bond Developments and HOME, TCAP RF, and HOME-ARP Units Owners must collect and maintain current student status data for each low-income household. This information must be collected within 120 days before the anniversary of the effective date of the original Income Certification and can be collected on the Department's Annual Eligibility Certification or the Department's Certification of Student Eligibility form or the Department's Income Certification form. Throughout the Compliance Period for HTC, TCAP, and Exchange developments, low-income households comprised entirely of full-time students must qualify for a HTC program exception, and supporting documentation must be maintained in the household's file. For Bond Developments, if the household is not an eligible student household, it may be possible to re-designate the full-time student household to an Eligible Tenant (ET). For HOME, TCAP RF, and HOME-ARP Units an individual does not qualify as a low income or very low income family if the individual is a student who is not eligible to receive Section 8 assistance under 24 CFR §5.612.

(3) The types of Developments described in subparagraphs (A) - (D) of this paragraph are required to recertify annually the income of each low-income household using a Department approved Income Certification form and documentation to support the Income Certification (see subsection (a)(1) - (2) of this section):

(A) Mixed income Housing Tax Credit, TCAP and Exchange projects (as defined by line 8(b) of IRS Form(s) 8609 and accompanying statements, if any) that have not completed the 15 year Compliance Period.

(B) All Bond Developments with less than 100% of the Units set aside for households with an income less than 50% or 60% of area median income. If subsequent legislation allows for the use of the Average Income minimum set aside for the Bond program, the income threshold will increase to 80% area median income.

(C) THTF Developments with Market Rate Units. However, THTF Developments with other Department administered programs will comply with the requirements of the other program.

(D) HOME, TCAP RF, NHTF, and HOME-ARP Developments. Refer to subsection (c) of this section.

(c) Ongoing tenant file requirements for HOME, TCAP RF, NHTF, and HOME-ARP Developments:

(1) HOME, TCAP RF, NHTF, and HOME-ARP Developments must complete a recertification with verifications of each assisted Unit every sixth year of the Development's Affordability Period. The recertification is due on the anniversary of the household's move-in date. For purposes of this section the beginning of a HOME, TCAP RF, NHTF, HOME-ARP Development Affordability Period is the effective date in the HOME, TCAP RF, NHTF, and HOME-ARP LURA. Example 612(1): A HOME Development with a LURA effective date of May 2020, will have the following years of the affordability period:

(A) Year 1: May 15, 2020 - May 14, 2021;

(B) Year 2: May 15, 2021 - May 14, 2022;

(C) Year 3: May 15, 2022 - May 14, 2023;

(D) Year 4: May 15, 2023 - May 14, 2024;

(E) Year 5: May 15, 2024 - May 14, 2025;

(F) Year 6: May 15, 2025 - May 14, 2026;

(G) Year 7: May 15, 2026 - May 14, 2027;

(H) Year 8: May 15, 2027 - May 14, 2028;

(I) Year 9: May 15, 2028 - May 14, 2029;

(J) Year 10: May 15, 2029 - May 14, 2030;

(K) Year 11: May 15, 2030 - May 14, 2031; and

(L) Year 12: May 15, 2031 - May 14, 2032.

(2) In the scenario described in paragraph (1) of this subsection, all households in HOME, TCAP RF, NHTF, and HOME-ARP Units must be recertified with source documentation during the sixth and twelfth years or between May 15, 2025, to May 14, 2026, and between May 15, 2031, and May 14, 2032.

(3) In the intervening years the Development must collect a self-certification within 120 days before the anniversary of the effective date of the original Income Certification from each household that is assisted with HOME, TCAP RF, NHTF, and HOME-ARP funds. The Development must use the Department's Income Certification form, unless the property also participates in the Rural Development or a project Based HUD program, in which case, the other program's Income Certification form will be accepted. If the household reports on their self-certification that their annual income exceeds the current 80% applicable income limit or there is evidence that the household's written statement failed to completely and accurately provide information about the household's characteristics and/or income, then an annual income recertification with verifications is required.

(d) Tenant File requirements for HOME-ARP Qualified Populations Units. Files for households assisted under the HOME-ARP program as Qualified Population must document evidence that the households meet the definition of:

(1) Homeless as defined in 24 CFR §91.5;

(2) At-risk of homelessness as defined in 24 CFR §91.5;

(3) Fleeing, or Attempting to Flee, Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking, as defined in CPD Notice 21-10;

(4) Other Families Requiring Services or Housing Assistance to Prevent Homelessness, which are households who have previously been qualified as homeless, are currently housed due to temporary, or emergency assistance, including financial assistance, services, temporary rental assistance or some type of other assistance to allow the household to be housed, and who need additional housing assistance or supportive services to avoid a return to homelessness;

(5) At Greatest Risk of Housing Instability as cost burdened, which are households who have an annual income that is less than or equal to 30% of the area median income, as determined by HUD and is experiencing severe cost burden (i.e. is paying more than 50% of monthly household income toward housing costs.); or

(6) At Greatest Risk of Housing Instability, which meets the definition of at-risk of homelessness as defined in 24 CFR §91.5, but with an income up to 50% AMI.

Attachment 2: Preamble, including required analysis, for adoption of new 10 TAC Chapter 10, Uniform Multifamily Rules, Subchapter F Compliance Monitoring, §10.628 Verification of Occupant Legal Status for HOME, HOME-ARP Rental and NHTF Developments

The Texas Department of Housing and Community Affairs (the Department) adopts new 10 TAC Chapter 10, Uniform Multifamily Rules, Subchapter F Compliance Monitoring, §10.628 Verification of Occupant Legal Status for HOME, HOME-ARP Rental and NHTF Developments.

The purpose of the rule is to is to provide clarity with how adherence to Section 401(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) will be implemented for multifamily HOME, HOME-ARP Rental and National Housing Trust Fund properties in the Department's portfolio as required by the federal direction provided in the 2025 grant agreements issued by the Unites States Department of Housing and Urban Development (HUD). PRWORA 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 because it is subject to the exception under §2001.0045(c)(4) which excepts rules that are necessary to receive a source of federal funds or to comply with federal law.

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 rule would be in effect:

1. The rule does not create or eliminate a government program but relates to changes to an existing activity: the implementation and applicability of Section 401(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) in the Department's HOME, HOME-ARP and NHTF properties.

2. The rule will require additional work that creates one or more new employee positions. One position will be used to coordinate all issues surrounding PRWORA across multiple programs at the Department, including creating and providing training, developing forms and notices in collaboration with legal staff, providing vendor support if needed, updating and developing the documentation charts and checklists to be used by properties, assisting Compliance staff in developing monitoring tools, and setting up properties with access to the SAVE system. Additional staffing needs may vary depending on what portion of tenants requiring verification are submitted to the Department for verification and what portion are performed by properties. Per the rule, properties are required to perform the verifications themselves unless not permitted to do so (for instance if they have been federally debarred they may be precluded from accessing the SAVE system). Under that premise, it is anticipated that the Department will not have significant verifications to perform. In either case the costs of all new positions are federal eligibly reimbursable expenses under the applicable program grants (because PRWORA is now applicable to HOME, HOME-ARP, NHTF, ESG and CSBG, in addition to previous programs which were already subject to PRWORA, administrative funds may be utilized from those programs to support the staffing needs). The amendment does not generate a reduction in work that would eliminate any employee positions.

3. The rule does not require additional future legislative appropriations; the added position(s) are absorbed with existing appropriated administrative funds.

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

5. The rule is creating a new regulation because it is necessary to receive a source of federal funds or to comply with federal law.

6. The rule does expand an existing regulation to provide additional requirements, however the expanded regulations are required to comply with federal law.

7. The rule does increase the number of individuals subject to the rule's applicability. Through this rule the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) will be implemented for multifamily HOME, HOME-ARP Rental and National Housing Trust Fund properties in the Department's rental portfolio as required by the federal direction provided in the 2025 grant agreements issued by the Unites States Department of Housing and Urban Development (HUD). PRWORA provides that an alien who is not a qualified alien is not eligible for any federal public benefit. Therefore, individuals not previously subject to this verification will now require verification of US Citizen, US National, or Qualified Alien status.

8. Effect on the state's economy. Public comment received on the rule suggests that the rule action creates measurable operational costs that can affect property performance at scale. They believe that even modest increases in unit vacancies or turnover across the affected portfolio (approximately 391 properties) can reduce rental revenue and increase operating costs, raising the risk of financial distress at impacted developments. The comments suggest that those impacts can flow through to local economies through reduced local spending, tighter rental supply, and a potential decrease in local property tax collections. Additionally, commenters suggest that requiring verification of eligible status for households will force mixed status families to choose between staying together or being evicted and when families lose access to housing the adult's ability to maintain stable employment is compromised as well as the children's ability to stay in school. Commenters suggest both of these issues create immediate and long-term economic impacts on the state.

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 rule and received comment that the amendment will create an economic effect on small or micro-businesses or rural communities. Comment suggests that the rule requirements are not reduced for small operators or rural properties and that in fact, they may be faced with more household verifications because they tend to more frequently utilize the programs that are applicable. Small operators and rural properties often have limited onsite capacity, increasing the proportional burden and the risk of findings. When verifications escalate to nonrenewal and a household will not vacate, properties can incur foreseeable enforcement costs for court and attorney fees, staff time and the costs of turning over a unit.

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

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

The Department has evaluated the rule as to its possible effects on local economies and has received public comment that there may be an economic effect on local employment. As noted above, comment suggests that requiring verification of eligible status will force mixed status families to choose between staying together or being evicted and if families lose access to housing, the adult's ability to maintain stable employment is compromised. Further, commenters noted that for tenants having to handle document retrieval, notices, follow-up, and dispute resolution, it can require time off work or missed wages, particularly for hourly workers and households with limited transportation or limited access to document-issuing agencies. When verification delays or disputes

prevent a household from leasing a unit or contribute to housing loss, households may be forced to relocate farther from work or leave the city entirely, disrupting commute time, childcare arrangements, and schedule reliability. That potentially increases missed shifts and turnover risk for local employers.

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 rule is in effect, the public benefit anticipated as a result of the rule would be ensuring compliance with federal guidance and ensuring that federal public benefits are only being received by qualified aliens, US Nationals or US citizens.

Comment was also received that denotes public costs. They suggest that this rule only applies to HOME, HOME-ARP Rental, and NHTF developments in TDHCA's monitored portfolio, while comparable units administered by local jurisdictions using the same federal programs may not be subject to the same state-level procedures. That unevenness can encourage program shopping, concentrating administrative burden and compliance risk in TDHCA's portfolio and increasing lease-up and vacancy friction at impacted properties. Because of the new requirements there also may be reduced owner participation in the programs. If TDHCA-administered resources carry additional tenant-facing requirements beyond what similarly situated programs require elsewhere, some owners may be less willing to pursue TDHCA HOME, HOME-ARP Rental, or NHTF financing, which would directly reduce production and preservation capacity.

One of the costs commenters noted was the impacts expected on mixed-status households and the resulting harm to eligible members. According to commenters, HUD's Regulatory Impact Analysis for its proposed Section 214 rule reports that within mixed families, 70% of members are eligible and 30% are ineligible, and that among eligible members, 65% are children. Even when the policy objective is compliance, verification failures, delays, or nonresponses can reduce assistance for otherwise eligible members. Because most eligible members in mixed-status households are children, these disruptions and reductions can fall disproportionately on children.

As a further cost, a household that does not currently have access to documents that confirm their legal status may have to take steps to obtain copies of birth certificates, or other applicable documents and pay associated fees for those items.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson has determined that for each year of the first five years the rule is in effect, enforcing or administering the rule may have some costs to the Department, to the extent that the Department will be adding one or more staff members as described more fully earlier in this preamble.

One of the commenters applied HUD's Paperwork Reduction Act benchmark to this rule and concluded that there would be significantly increased property and portfolio costs. They noted that the property costs will include routine verification plus follow-up workload for delayed or disputed cases and documentation requirements. If this rule is applied not only to units assisted with the applicable federal program funds, but all units in those properties, those costs will be more significant. There may also be downstream costs when disputes escalate, including vacancy loss and legal and court-related costs.

SUMMARY OF PUBLIC COMMENT AND INFORMATION RELATED TO COST, BENEFIT OR EFFECT. The Department requested comments on the rule and also requested 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 was held January 30 to March 3, 2026, to receive input on the proposed action. Comment was received from 20 commenters: 1) Accolade Property Management; 2) American Civil

Liberties Union – Texas; 3) Roger Arriaga (hearing commenter); 4) Representative John Bryant; 5) Children's Defense Fund – Texas; 6) City of El Paso, Department of Human and Community Development; 7) Every Texan (hearing commenter); 8) Foundation Communities and New Hope Housing; 9) Brian Gamble (hearing commenter); 10) Representative Barbara Gervin-Hawkins; 11) Representative Mary Gonzalez; 12) Laredo Immigrant Alliance; 13) Whitney Parra (hearing commenter); 14) Kathleen Petty (hearing commenter); 15) City of Pharr, Grants Management and Community Development; 16) Texas Affiliation of Affordable Housing Providers and Texas Apartment Association; 17) Texas House Democratic Caucus; 18) Texas Housers; 19) US Hispanic Contractor's Association; and 20) Maria Watkins (hearing commenter).

The comments from the Texas House Democratic Caucus (Commenter 17), reflect the input from the following 29 Texas House Representative Members: Gene Wu; Donna Howard; Ramón Romero, Jr.; Joe Moody; Suleman Lalani; Jessica González; Mihaela Plesa; Ron Reynolds; Senfronia Thompson; Ray Lopez; Lulu Flores; Erin Zwiener; Josey Garcia; Christina Morales; Vikki Goodwin; Jolanda Jones; Armando Martinez; Armando Walle; Jon Rosenthal; Diego Bernal; John Bucy III; Toni Rose; Alma Allen; Rafael Anchía; Ana Hernandez; Chris Turner; Cassandra Garcia Hernandez; Salman Bhojani; and Linda Garcia.

In the following summary of comment, the numbers denote the commenters who made comments on that topic. For instance, if a comment is followed by five numbers, the five noted commenters that match those numbers are the entities or individuals who made those comments.

Comments on Preamble and Required Rule Analysis (5)(13)(16)(18)

Government Growth Impact Statement: Commenter 16 suggests that TDHCA should reconcile staffing assumptions – one preamble provided indicated that there were no staffing needs, while the other preamble anticipated 1 to 2 positions. They requested that the preamble specify whether TDHCA will absorb the work or add staffing and provide detail on the federal administrative funds that will support the position. They also requested that TDHCA address training, standardized forms/notices, secure submission methods, vendor support and monitoring tools. Commenter 13 also brought up this issue in the public hearing.

Adverse Economic Impact on Small Businesses and Rural Communities: Commenter 16 suggests that the Department's 'no economic effect' determination should be reconsidered. The rule requirements do not scale down for small operators or rural properties with limited onsite capacity, increasing the proportional burden and the risk of findings. When verifications escalate to nonrenewal and a household will not vacate, properties can incur foreseeable enforcement costs for court and attorney fees, staff time and the costs of turning over a unit.

Effect on State's Economy, Local Employment Impact Statement: Commenter 16 feels TDHCA's statements concluding no effect on the state's economy and no local employment impact should be amended. The proposed requirements create measurable operational costs that can affect property performance at scale. Even modest increases in vacancies or turnover across the affected portfolio can reduce rental revenue and increase operating costs, raising the risk of financial distress at impacted developments. Those impacts can flow through to local economies through reduced local spending, tighter rental supply, and a potential decrease in local property tax collections.

Commenter 5 also disagrees with the preamble of the rule that said the rule actions would not affect the state's economy. They suggest that the rules will force mixed status families to choose between staying together or being evicted and it will make children that are US citizens at risk of homelessness. When families lose access to housing the adult's ability to maintain stable employment is compromised as well as the children's ability to stay in school; both of these issues create immediate and long-term economic impacts on the state.

Commenter 16 suggests TDHCA should also acknowledge foreseeable local employment impacts. For tenants having to handle document retrieval, notices, follow-up, and dispute resolution, it can require time off work or missed wages, particularly for hourly workers and households with limited transportation or limited access to document-issuing agencies. More significantly, when verification delays or disputes prevent a household from leasing a unit or contribute to housing loss, households may be forced to relocate farther from work or leave the city entirely, disrupting commute time, childcare arrangements, and schedule reliability. That potentially increases missed shifts and turnover risk for local employers and should be reflected in the local employment impact discussion. Commenter 18 also states that contrary to the Department's assertion, there will clearly be economic costs for households to comply with these sections.

Public Benefit/Cost: Commenter 16 indicates that this rule only applies to HOME, HOME-ARP Rental, and NHTF developments in TDHCA's monitored portfolio, while comparable units administered by local jurisdictions using the same federal programs may not be subject to the same state-level procedures. That unevenness can encourage program shopping, concentrating administrative burden and compliance risk in TDHCA's portfolio and increasing lease-up and vacancy friction at impacted properties. The fiscal note should acknowledge the risk of reduced owner participation. If TDHCA-administered resources carry additional tenant-facing requirements beyond what similarly situated programs require elsewhere, some owners may be less willing to pursue TDHCA HOME, HOME-ARP Rental, or NHTF financing, which would directly reduce production and preservation capacity.

Commenter 16 also asks that TDHCA acknowledge impacts on mixed-status households and the resulting harm to eligible members. HUD's Regulatory Impact Analysis for its proposed Section 214 rule reports that within mixed families, 70 percent of members are eligible and 30 percent are ineligible, and that among eligible members, 65 percent are children. Even when the policy objective is compliance, verification failures, delays, or nonresponses can reduce assistance for otherwise eligible members. Because most eligible members in mixed-status households are children, these disruptions and reductions can fall disproportionately on children. The public benefit/cost note should reflect this as a public cost.

Fiscal Note: The fiscal note should address both Department implementation costs and regulated-entity compliance costs. Department costs include training, standardized forms and notices, secure submission methods, escalation support, and monitoring protocols. Regulated-entity costs include routine verification plus follow-up workload for delayed or disputed cases and documentation requirements, with significant sensitivity to scope if practices spill beyond the assisted-unit universe. TDHCA should also acknowledge foreseeable downstream costs when disputes escalate, including vacancy loss and legal and court-related costs.

Commenter 16 has applied HUD's Paperwork Reduction Act benchmark to support how this rule has costs. As part of that comment they estimate significantly increased property and portfolio costs. They specifically request that TDHCA should acknowledge this cost in its fiscal note.

Staff Response: Staff has revised the rule preambles in response to the feedback provided.

§10.612 and §10.628 – Overall Opposition and Request to Withdraw or Delay the Rules (2)(4)(5)(6)(7)(10)(11) (12)(17)(18)(19)

Multiple commenters suggest that because more guidance is expected from HUD, it is premature to proceed with the rules; particularly, that since HUD has indicated that it will release more guidance so the Department should wait until that occurs (5)(12)(18). Commenter 12 believes the Department

is overcomplying by preceding HUD guidance. Commenter 5 and 18 suggests that the rulemaking should be paused until further HUD guidance is available. They suggest that the Department acting prior to additional federal guidance may create legal liability for the state.

Commenter 2 believes the rule as written raises preemption concerns and would result in the wrongful denial of eligible tenants. They also raised concerns that landlords and public housing authorities will have to collect information that could potentially expose individuals to enforcement and the ability for immigrant communities to access safe and affordable housing.

Commenter 2 asserts that the rule fails to adhere to Section 401(a) of PRWORA and may cause eligible families to be excluded. The guidance from TDHCA provides no information on the verification process nor indicates any acceptable documentation from tenants who are qualified aliens, while only accepting proof of US citizenship as valid documentation. If the current documentation list is used, individuals may have their applications erroneously denied or be wrongfully evicted.

Commenter 7 also noted that one in four children live in mixed status families and they will be affected by this policy and the rule rollout is premature. They note that according to a 2024 Texas kids count, Hispanic or Latino children in Texas are 36% more likely to live in households facing high cost of living burdens.

Commenters 4, 6, 10 , 11 , 17 and 18 were strongly opposed to the rules and urged TDHCA to withdraw them. The rule will have a chilling effect on mixed-status households which will discourage entire households from seeking the housing stability they are legally entitled to receive. The rule will cause fear and confusion statewide. U.S. citizen children in mixed status households will be left without stable homes, violence survivors will be forced to choose between safety and status, elderly immigrants will be severed from their safety net, and working families will be pushed into greater housing insecurity.

Commenters 4, 7 and 18 believe that the rules will erode trust between immigrant communities and public institutions. Commenters 4 and 10 also noted that the rule contradicts the Department's fundamental mission. Commenter 6 felt that the rule will undermine efforts to prevent homelessness and maintain housing stability.

Commenter 11 indicates that eligibility for federal subsidized housing has never been restricted to US citizens and embedding immigration enforcement into state housing rules undermines legislative intent and misdirects limited state resources. Commenter 11 believes through this rule the Department jeopardizes an estimated 9,000 to 28,000 units statewide.

Commenters 4, 10 and 17 urged that the Department discuss these concerns with affected communities and advocates prior to taking further rule actions.

Commenter 19 feels the rule changes cause a cascading effect on Texas Communities, workplaces, schools, healthcare and individual security and safety. There will be a direct impact on lawful DACA recipients. They also feel that the rule changes will cause economic destabilization as DACA workers facing loss of housing will cripple industries relying on lawful DACA workers. There will be widespread evictions and forced displacement. These restrictions will affect mixed-status households most significantly, and ultimately affect landlords when there are losses to housing and workforce.

Commenters 5 and 8 suggest that TDHCA should clarify that nonprofit charitable housing providers are exempt from PRWORA verification requirements, but they also acknowledge that the Notice creates confusion because it does not relieve states from ensuring all programs are compliant with PRWORA. They feel that this ambiguity is a reason that the rulemaking should be delayed until further

guidance is released. They think that it will be very difficult for the Department to provide clarity without HUD having provided that clarity first.

Staff Response: Per the HUD notice of November 26, 2025, and the 2025 federal funding agreements states are not relieved from the requirements to ensure that all relevant programs are in compliance with PRWORA. HUD places the burden on TDHCA to ensure compliance with PRWORA, even before "new guidelines" are issued by HUD. Therefore, staff does not recommend withdrawing or deferring the rule. TDHCA does not believe it is 'overcomplying' but rather fully complying. Should additional federal guidance be released that provides any greater specificity on how PRWORA should be applied to the programs, TDHCA will certainly adhere to that guidance. The TDHCA rule changes are specific enough to reflect adherence to the requirements of the federal funding agreements and to properly put program participants on notice, but still provide sufficient leeway for further guidance to be issued to our program participants should federal guidance be forthcoming. No change is recommended to the rule in response to this topic of comment.

As it relates to the comment that eligible families may be excluded because the guidance from the Department relating to allowable documentation does not indicate acceptable documentation from tenants who are qualified aliens, but only US citizens, the document includes US Citizenship and US national Department is consistently looking to improve and update the guidance. Commenter 2 is encouraged to contact Gavin Reid (gavin.reid@tdhca.texas.gov) at the Department to provide specific suggested additions or revisions to the guidance.

The Department does not interpret enforcement of federal requirements as contradictory to its mission. Safeguarding the state's ability to access HOME, NHTF, and HOME-ARP funds through compliance with federal requirements is essential to keeping these funds available to qualified Texans.

As it relates to the impact on households, effects are associated with PRWORA, not necessarily the Department's applicability of PRWORA. By pushing the effective date of the rule to August 1, 2026, more notice is provided for households.

As it relates to the comments that the Department should discuss issues of the rule and its implementation with affected communities and advocates, TDHCA hosted a public hearing and a public comment period which was announced through the Department's email distribution groups. The Department will continue to seek input as documentation guidance is developed.

As it relates to the suggested exemption for nonprofit organizations, because the Department is still accountable for ensuring the PRWORA requirements as satisfied, the Department will clarify in the rule that in the case of properties in which the ownership entity is a nonprofit organization the property will have the option of either performing verifications themselves under §10.628(f)(2)(A), or gathering the required documentation and having the Department perform the verification under §10.628(f)(2)(B).

Concerns with the SAVE System (2)(5)(18)

Commenters 2, 5 and 18 indicate that the rule mandates the use of SAVE; however they believe the SAVE system is faulty, raises privacy and security concerns, increases risk of datamining, and has errors that render it an unreliable source for legal status. According to one source it has an error rate of at least 14%. Commenter 18 also raises concerns that SAVE is inaccurate, constantly changing and generates unclear reports. They are concerned also that federal employees and federal immigration enforcement officials may use SAVE to track individuals. The SAVE system's reliance on social security data does not provide definitive status information and is prone to inaccuracies.

Commenter 18 is also concerned that SAVE error rates will result in eligible Texans losing access to housing.

Commenters 5 and 18 believes that the use of SAVE where additional verification is needed may cause excessive wait times up to 3 weeks for a household awaiting housing assistance, adding to precarious housing situations or adding additional housing costs.

Staff Response: When verification is unable to be satisfied using the documents provided by a household, the only system available to the Department for verification, and therefore available to properties, is the SAVE system. No changes to the rule are made in response to these comments.

§10.612 and §10.628 – Administrative and Cost Burden (4)(6)(7)(11)(12)(15)(17)(18)

Commenters noted two primary categories of costs and burden – those on property owners and providers, and those on households.

Commenters 4, 7 and 18 noted that the rules will create administrative burdens and costs for property owners and providers, including costs associated with reduced occupancy. Commenter 6 also thinks the rule requirements will increase staffing, training and monitoring responsibilities that will divert resources away from direct service delivery. Commenters 11, 12, 15 and 17 noted that the verification process will impose steep burdens on local governments and program administrators.

Commenter 18 feels that the requirements are an unfunded mandate that will significantly impact developments across the state. There will be unavoidable delays and costs related to document collection, internal review, errors and appeals. Having to check for legal status will be an entirely new process for most properties. There will also be costs associated with creating new processes, staff training, ensuring system compatibility. These steps will be particularly difficult for smaller owners many of which are located in rural areas.

Commenter 18 also thought that costs would be significant because properties would not have access to SAVE through the existing Memorandum of Agreement between TDHCA and Department of Homeland Security. If they can't access SAVE themselves, properties would have to submit their household verifications to TDHCA for processing. The system and method they would need to use would likely be substantial and fall more on small or micro-businesses and rural communities.

Commenter 12 also notes the administrative burden on Texans who will have to sacrifice work hours to obtain these benefits. Commenters 4, 7 and 18 note that the rule will create delays and increase costs for tenants. Commenters 7 and 18 also note the delays and costs for tenants as they seek to procure the correct documentation, which is disproportionately difficult for the low-income vulnerable populations served by these funding sources. Households may not have the funds or free time to get to government offices to secure the needed documentation.

Staff Response: To clarify the comments that reference cost to service providers, program administrators and local governments, this rule applies only to a specific portfolio of multifamily properties. The rule is not applicable to local service providers, administrators or local governments. The preamble of this rule has been expanded to reflect some of the commenter's concerns with the costs and burdens noted.

As it relates to the incidental costs that will be borne by the properties or households, it is not within the Department's authority to simply not apply the federal requirements. The Department will assist properties in training their staff on documentation requirements and SAVE access in an effort to minimize the work added for properties and to ease the experience for households.

It should be noted that in response to Commenter 18, their suggestion that properties will not have access to SAVE is incorrect; multifamily properties will have access to SAVE through the Department's Memorandum of Agreement and are required to use SAVE rather than submit households to the Department for verification. System updates and transmittal methods are anticipated to be minimal because of this.

No changes to the rule are made in response to these comments.

§10.612 and §10.628 – Overcompliance (12)

Commenter 12 suggests that passing the responsibility for verifying immigration documentation to development owners and managers will lead to overcompliance as properties ensure they follow the guidelines.

Staff Response: While the Department is taking no action to promote properties' 'overcompliance' it does expect properties to fully comply. No changes to the rule are made in response to this comment.

§10.612 and §10.628 – Evolving Federal Direction (16)

Commenter 16 states that pending litigation and evolving federal direction are also relevant to this rule's rollout. PRWORA related federal requirements and enforcement may shift through court orders or updated federal guidance after TDHCA has begun implementation. They note that TDHCA has treated federal notices as effective immediately, while other states are delaying rule changes until litigation is resolved. They believe this creates a real risk that owners will expend significant resources implementing procedures that later require adjustment, and that tenant files already in process will be treated inconsistently unless TDHCA can issue uniform transitional instructions.

***Staff Response*:** To ensure federal compliance the Department is implementing the rule promptly and is not waiting on litigation resolution in other states. If additional federal guidance is released, the Department will remain compliant and disseminate clear instructions or propose any necessary rule adjustments. No changes to the rule are made in response to these comments.

§10.612 and §10.628 – Increased Legal and Compliance Exposure, Concerns of Discrimination and Eviction (5)(6)(8)(15)(18)

Commenters 5 and 15 suggest that the rule may cause discriminatory assumptions to be made about tenants or their guests, in violation of the Fair Housing Act. Commenter 6 believes that requiring housing providers to collect and verify immigration documentation may cause Owners and local governments to face fair housing complaints or legal liability if documentation practices are not applied consistently.

Commenter 18 references the National Housing Law Project's brief on immigration requirements and believes that if PRWORA is applied improperly the Department could be subject to discrimination claims under federal civil rights laws.

Commenter 8 also believes it is critical in issuing a rule that touches on issues of race and national origin that the rule is narrowly tailored to ensure its obligation to not discriminate. Their suggested revisions (relating to narrowing the verifications only to the funded units in the property and limiting it to only new properties) will help address that concern. Commenter 8 also feels that the Department's duty to not make housing unavailable based on race and national origin is not met because the rule does not address enforcement and implies that residents should be evicted based on their national origin.

Commenter 8 specifically suggests that the following sentence be added: "Owners are not required to evict tenants or refuse to renew leases of tenants pursuant to this rule. Owners may be required to ensure that occupants who are not qualified aliens are moved to Units that are not receiving HOME, HOME-ARP Rental or NHTF funding."

Staff Response: The Department denies any direct or indirect allegation of illegal race or national origin discrimination. Properties are expected to use documentation requested from households in all covered units, regardless of race or national origin, to objectively verify those documents against guidance provided by the Department. If that documentation requested does not allow a property to confirm legal status, then the property will enter the household in the SAVE system. In response to Commenter 8, the Department cannot say that properties will not be required to evict tenants or refuse to renew leases under this rule; if a household at lease renewal is unable to be confirmed for legal status, the property will be in a position to not renew the lease for good cause because the household will not meet a HOME, HOME-ARP Rental, or NHTF requirement. No changes to the rule are made in response to these comments.

§10.628(b) – Relating to Applicability of the Rule to Existing Properties (8)(9)
Commenter 8 requests that the rule only be applicable to future properties funded with NHTF, HOME and HOME-ARP. The commenter also requests that the rule clarify that the reference to HOME developments is limited to TDHCA HOME funds, not local. Commenter 9 also asked for clarity around what was meant by saying that properties subject to 214 satisfied the rule's verification requirements.

Staff Response: While not revising the rule to only apply to future properties, the rule has been clarified to reflect that it only applies to Department-funded HOME activities. Also, clarity has been added to the rule for properties subject to 214 that the individual does not require further verification if they have been verified using the 214 screening process.

§10.628(b) – Relating to Floating Units (1)(5)(8)(16)(18)
Commenters 1, 5, 8, 16 and 18 requested that the rule be amended to clarify that verification requirements are only applicable to lease signers on units designated as assisted with HOME, HOME-ARP, or NHTF, not to all units in the property. Unit designations are clearly established through Department systems, and it is readily identifiable which households are benefiting from these programs. Commenter 1, 16 and 18 state that applying this requirement to all Units within a property, particularly on a retroactive basis, could have significant unintended consequences, will increase workload and cause tenant-facing disruption. Commenter 5 states that voluntarily extending these new verification procedures to many more households who happen to live in buildings where other tenants receive federally funded housing assistance will unnecessarily increase the financial and administrative burden for both housing providers and for low-income families. It may also result in the displacement of a substantial number of households statewide. Commenter 16 suggests specific documentation to place in the file to affirm that the unit is a designated assisted units, including the effective date of each unit designation and the household occupying the unit as of that date.

Commenter 16 applies HUD's Paperwork Reduction Act benchmark to support why this rule should be applied only to units with those programs and not all units in the property. They estimate that there will be approximately 11,408 staff hours and more than $590,000 for a one-time cycle of checking status on only the 9,126 assisted units. This increases to 36,118 hours and an estimated $1.8 million cost when applied to all units in affected developments. Commenter 16 provided a property-level example of this.

Commenter 16 further notes that rural properties tend to have higher assisted-unit shares and are overwhelmingly funded with HOME, meaning many rural sites will be more affected even under a narrower application of the rule; they have fewer staff resources to absorb fixed per-lease requirements. Urban properties are larger and more layered, including more NHTF and HOME-ARP, which increases operational complexity and the likelihood of administrative error if the rule is not explicit.

Staff Response: Currently the rule states that if a property has received HOME, HOME-ARP or NHTF funds ("program units"), and has floating units, all units in the property will be required to have PRWORA verification performed. It is not totally accurate for commenters to suggest that the requirements are not applicable to all units in the property. As with other federal requirements applicable to floating units, requirements are made applicable to all units to ensure that all residential floating units have the capacity to be HOME, NHTF, or HOME-ARP Rental units because a Development Owner must have the legal ability to swap designations with an equivalent sized unit in the Development if a household becomes noncompliant per specific program rules, such as going over the income designation or violating the student rule. If the rule were revised to only be applicable to the program units, there is a risk to the Department that HUD will determine that the Department is not appropriately administering the requirements for floating units.

§10.628(e) – Implementation Timing (7)(16)(18)(20)

Commenter 16 requests that this section be revised to provide a specific date as the effective date for the rule rather than just referencing 'the effective date' as without a specific date this may be interpreted differently.

Commenter 16 also asks that TDHCA specifically address when the rule is triggered for renewals because some leases are renewed months prior to their lease expiration. Without a clear standard, owners will face conflicting expectations about whether finalized lease files must be reopened or whether verification can wait until the next renewal cycle. Without this specificity there will be inconsistent tenant treatment and inconsistent monitoring outcomes. For HOME units, a formal lease renewal may not occur because leases can continue month to month, and full income recertification can be less frequent than annual. In those cases, owners need a defined recurring compliance touchpoint, such as the annual HOME review or annual household certification event, so "recertification or renewal" is not a null trigger.

Commenter 16 suggests that the triggering event be the fully executed lease document (when the last required signature is executed) that implements the assisted designation for that specific Unit not the lease term start or occupancy. Their suggestion is the objective file-based event TDHCA can monitor. Commenter 18 supports the need for greater specificity in how this rule applies in relation to leases being signed.

Commenter 18 and Commenter 7 recommends that the rule not apply to tenants who signed their leases prior to the rule going into effect but only those households that move in after the rule becomes effective. Commenter 18 and 20 also wanted to clarify that household members do not need to be re-qualified at every recertification, but only once.

Staff Response: To ensure adequate time for Owners to sign agreements relating to SAVE access, further develop forms and attestations, provide training, and improve the guidance from the Department as it relates to documentation, the Department is making the rule effective August 1, 2026. The rule also now adds clarity for when a unit recertification/renewal is effective for purposes of this rule and in relation to when a lease renewal may be signed. The rule has been clarified to

specify that household members who have been verified once do not have to be reverified at lease renewal. Only any new signers of the lease will need to be verified.

§10.628(f)(2)(D) – Transmittal, Security, and Record Retention (16)

Commenter 16 suggests that as drafted, §10.628(f)(2)(D) relies on discretionary standards such as "sufficient" transmittal systems and "sufficient" evidence that verification occurred. In practice, that invites inconsistent implementation across Owners and vendors, encourages over collection and over retention of sensitive personal information, and makes monitoring subjective because TDHCA staff will be left to decide case by case what was "sufficient." This is especially risky because the rule authorizes three different verification pathways that generate different records and involve different parties. A single, vague recordkeeping standard will not produce consistent files.

Commenter 16 suggests that the tenant file standard should instead be objective and method specific. Owners need to know exactly what must be kept for each method of verification, and TDHCA needs a uniform checklist that can be applied consistently during monitoring. Clear minimum documentation requirements reduce rework, reduce disputes and findings driven by missing or inconsistent paperwork, and better protect confidentiality by limiting retention to what is necessary to confirm compliance. Commenter 16 made specific suggested file documentation items for each category.

Staff Response: The Department agrees that clarity around "sufficiency" and clearer documentation requirements are beneficial for properties and monitoring staff. Revisions have been made to the rule.

§10.628(f)(2)(F)–(K) Pending, delayed, or disputed verification; appeals (9)(16)(18)

Commenter 16 notes that the proposed rule does not provide a uniform statewide process for cases in which verification does not immediately yield a confirmed result, which is a material gap because delayed, manual, and inconclusive outcomes are foreseeable. Under SAVE, the turnaround time is often outside an Owner's control under Department, vendor, or third-party workflows. HUD's proposed Section 214 framework similarly anticipates secondary verification and time extensions, confirming that non-instant results are a normal feature of verification administration. Without uniform statewide rules for notices, escalation, timelines, and file documentation, Owners will develop inconsistent site-level practices, applicants will be treated differently across properties, and TDHCA monitoring will become subjective, increasing disputes, vacancy friction, and avoidable compliance findings. They recommend specific additions to the rule to require written notice when legal status is not confirmed, establish uniform procedures for delayed, manual, or inconclusive results, define applicant processing while verification is pending, provide extension criteria and documentation, establish a dispute and cure process with roles and timeframes, and include a compliance safe harbor so an Owner is not cited solely because results are delayed when the Owner timely initiated verification, provided required notices, followed TDHCA procedures, and maintained required documentation.

They reference that the Texas Tribune reported that in the voting context, more than 5% of people flagged by SAVE as noncitizens were ultimately confirmed to be U.S. citizens in counties that conducted follow-up review. They suggest that in some small counties, most people flagged turned out to be eligible. Because verification is more complex than a binary citizenship check, making clear statewide procedures is essential. Commenter 16 requests that uniform standards be applied for non-confirmed results, including required written notices, timelines and extension criteria, documentation requirements, a dispute/cure process, and a compliance safe harbor when an Owner timely initiates verification and follows the TDHCA procedures, but results are delayed outside the Owner's control.

Commenter 16 recommends adding new sections §10.628(f)(2)(F) through (K), as submitted with their comment, to require written notice when legal status is not confirmed, establish uniform procedures for delayed, manual, or inconclusive results, define applicant processing while verification is pending, provide extension criteria and documentation, and establish a dispute and cure process with roles and timeframes.

Commenter 18 also noted that the rule does not address the need for notice to households when denied based on SAVE status, but that the Memorandum of Agreement does require that. So the rule being silent on this is problematic. Commenter 18 also feels that an appeal process would be beneficial. They estimate that up to 1,440 appeals may be generated from SAVE appeals. Commenter 9 also questions the lack of specificity around an appeal process when a property is appealing a SAVE determination.

Staff Response: The Department agrees that notice to tenants is required. There is also a need for more clear processes for delayed verifications, inconclusive verifications, timeframes for households submitting more information to Department disputes and appeals. These items will be addressed in forthcoming revisions to 10 TAC §10.802, Written Policies and Procedures, which will be presented to the Board in May 2026.

Other Comments – Lack of Accessible Information (18)

Commenter 18 was concerned that the information about the new requirements is inaccessible. The HUD grant agreements which TDHCA references in its materials are not publicly available. HHS and HUD notices reference future guidance that is also not yet available. They note that it is unclear who will be training developments.

Staff Response: Information has been made public as allowable. Documents that are in TDHCA's possession and not subject to exception or exemption may be requested through an open records request.

Other Comments – Creating New Law (19)

Commenter 19 suggests that by formulating these rules, TDHCA is surpassing its authority and superseding the law-making legislative body.

Staff Response: TDHCA is authorized by Tex. Gov't Code §2306.053 to adopt rules governing the administration of the Department and its programs.

Other Comments (3)(13)(14)

Commenter 14 attended the hearing and sought information on how to access TDHCA grants and assistance for a proposed property concept, and also requested a list of existing assisted properties.

Commenter 13 asked whether the household verification form and other guidance around documentation has been created and made available yet for the multifamily properties. They note that they would like to make comment on those and wanted to know when that would be available.

Commenter 13 asked if the plan was to give SAVE access to all 391 properties subject to this rule.

Commenter 3 asked in the hearing if HUD's release of 214 guidance would prompt the Department to align with that guidance going forward.

Staff Response: Commenter 14 was individually contacted to assist them with their interest in the Department. The household verification form and other documents will be made available and their

input will be sought as those are crafted. Yes, other than federally debarred entities, the intent is to provide SAVE user access to all properties subject to the rule. HUD's release of 214 guidance is not applicable to these programs or properties unless otherwise triggered for a property by other layered funding on that property.

STATUTORY AUTHORITY. The rule is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the new rule affects no other code, article, or statute.

§10.628. Verification of Occupant Legal Status for HOME, HOME ARP Rental, and NHTF Developments.

(a) Purpose. The purpose of this section is to provide uniform Department guidance on the applicability and implementation of 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) Applicability. This rule is effective beginning on August 1, 2026. This rule applies to existing and future National Housing Trust Fund, TDHCA HOME-ARP Rental and TDHCA HOME Developments for their state and federal affordability periods. For Developments with floating HOME, HOME-ARP Rental and NHTF Units, all prospective tenants intended to be on any Unit's lease must be verified as required by this section. For Developments with fixed HOME, HOME-ARP Rental and NHTF Units only prospective tenants intended to be on the lease for the fixed Units must be verified as required by this section. Populations that are documented by the Development as covered by the Violence Against Women Act (VAWA) or the Family Violence Prevention and Services Act (FVPSA) are excepted from having verification under this rule performed, unless required to do so under federal guidance.

(c) 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) 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).

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

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

(d) Owners 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 for all residents that will be signing the lease.

(e) Implementation Timing.

(1) For All HOME, HOME ARP Rental, and NHTF Developments the Owner must confirm qualified legal status for each person signing the lease at initial lease-up of thea Unit.

(2) For All HOME, HOME ARP Rental, and NHTF Developments that have Units occupied on or after August 1, 2026, the Owner must confirm qualified legal status for each person signing the lease and at the time of the first Unit recertification or lease renewal that occurs after the effective date of this rule. For purposes of this section, Unit recertification or lease renewal is defined as the effective date of the renewed lease.

(3) After verification has occurred under paragraphs (1) or (2) of this subsection, Vverification does not need to be reconfirmed thereafter for a household member at subsequent Unit recertification or lease renewal if there is no changes to the household members having signed the lease. have changed; aAny new lease signatories to the lease at the time of subsequent Unit recertification or lease renewal must be confirmed to have qualified for legal status.

(4) To the extent that a household is denied tenancy or that an existing~~the~~ household no longer qualifies to reside in the Unit, notification requirements as provided for in §10.613 of this title (relating to Lease Requirements), must be met. To the extent that denial of a lease or nonrenewal of a lease is based solely or in part of the SAVE response, the household must be provided adequate written notice of the denial and the information necessary to contact the Department of Homeland Security (DHS) so that the household may have the opportunity to correct their immigration records in a timely manner, if necessary, as provided for in 10 TAC §10.802 Written Policies and Procedures.

(f) Verification Process Under PRWORA.

(1) Owners must first attempt to verify the legal status~~ of each person signing the lease through the use~~ using the acceptable ~~of several established~~ documents and procedures ~~as~~ described in subparagraph (A) of this paragraph. ~~more fully in guidance provided by the Department~~. If the Owner cannot verify ~~unable to verify~~ legal status through the acceptable documentation and verification is not satisfied under subparagraph (B) of this paragraph relating to Section 214 verification, the Owner must complete verification under paragraph (2) of this subsection.~~of each person signing the lease with those documents the Owner must utilize the SAVE system as described in this subsection.~~

(A) The Owner must verify the legal status of each person signing the lease by reviewing the documentation and following the documentation checklist or flowchart provided by the Department.

(B) If a household member has been verified in accordance with ~~Verification of a Household member under~~ the screening process required by Section 214 of the Housing and Community Development Act of 1980, as amended, that verification satisfies the requirement of this section for that household member. ~~will satisfy verification for purposes of this section.~~

(2) If the Owner is unable to verify legal status for any person ~~of each person~~ signing the lease through the methods described in paragraph (1) of this subsection~~with those documents,~~ the Owner~~s~~ must complete verification using one of the methods described in subparagraphs (A), (B) or (C). Owners authorized to utilize the SAVE system are required to complete verification through the SAVE system ~~ensure compliance with the verification requirement~~ as provided for in subparagraph (A) of this paragraph, except that in the case of Development Owners that are private nonprofit organizations, the Owner has the option of verification through subparagraphs (A), (B) or (C) of this paragraph . If an Owner is not authorized to utilize the SAVE system, Owners must select an option under subparagraphs (B) or (C) of this paragraph. Records must be maintained as required by each subparagraph ~~(D)~~ of this paragraph.

(A) The Owner electing to perform the verifications through the SAVE system, and is authorized to use SAVE~~if authorization is permitted by USCIS~~, in which case the Owner must maintain the SAVE case number for each person verified, complete any forms required by the Department, retain the initial SAVE response, and retain documentation of any request for additional verification and the subsequent SAVE response(s) on final result; ~~OR~~

(B) Owner requesting that verification be performed by the Department ~~from the household and transmitting to the Department,~~ or a party contracted by the Department. Owner must collect from the household and transmit to the Department~~;~~ the appropriate~~sufficient~~ information and~~or~~ documentation using the method and system required by the Department so that the Department

or its vendor can perform such verification and provide a determination to the Owner. The Owner must maintain proof of submission including the date of submission and the subsequent response or determination returned by the Department, vendor or its contracted party; or~~OR~~

(C) Owner electing to procure an eligible qualified organization or service to perform such verifications on its behalf, subject to Department approval. The Owner or its procured provider must maintain the SAVE case number for each person verified, complete any forms required by the Department, retain the initial SAVE response, and retain documentation of any request for additional verification and the subsequent SAVE response(s) on final result.

~~(D) In the administration of subparagraph (B) of this paragraph, the Owner 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 Owner 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.~~

(D~~E~~) Notification of Election of method under subparagraphs (B) or (C) of this paragraph by Owners must be provided to the Department as specified in this subparagraph.

(i) For existing Developments not permitted to access the SAVE system, no later than July 1, 2026, ~~60 days after the effective date of this rule,~~ an Owner shall submit their election under subparagraph (B) or (C) of this paragraph in writing to the Compliance division.

(ii) For newly constructed/reconstructed Developments, an Owner must make their election under subparagraph (B) or (C) of this paragraph in its Application, or if there is no Application prior to the issuance of certificates of occupancy.

(iii) For an incoming Owner, an election must be made as part of the Ownership Transfer Notification, as part of 10 TAC §10.406.

(iv) Once an election is made under this subsection it does not need to be resubmitted or reelected, but will continue from the election made in the prior year unless the Owner notifies the Department otherwise in writing at least one month prior to the implementation of the change at the Development.

(E) Owners must execute an agreement with the Department that authorizes the Development's delegation of access to the SAVE system. Owners must follow that agreement relating to providing notice to tenants about how their documentation will be used and data privacy requirements.

(g) The Department may further describe an Owner's responsibilities under PRWORA, including but not limited to use of the SAVE system, in its Contract 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 Owner must be utilized by the Owner in determining household eligibility.

March 3, 2026

Brooke Boston
Texas Department of Housing and Community Affairs
Compliance Monitoring Rule Comments
P.O. Box 13941
Austin, TX 78711-3941

RE: Compliance Monitoring Rule Comments for rule 10.628

Ms. Boston,

The following is our comment on adding 10.628 to 10 TAC Subchapter F:

- 10.628 Verification of Occupant Legal Status for HOME, HOME ARP Rental and NHTF Developments

  (b) For Developments with floating HOME, HOME ARP Rental and NHTF units, all prospective tenants intended to be on any Unit's lease must be verified as required by this section. For Developments with fixed HOME, HOME ARP Rental and NHTF Units only prospective tenants intended to be on the lease for the fixed Units must be verified as required by this section

  We believe this rule should be amended to clarify that verification requirements apply only to Units designated as HOME, HOME-ARP, or NHTF, regardless of whether those Units are floating or fixed. Unit designations are clearly established through CMTS, and it is readily identifiable which households are benefiting from these programs. Accordingly, verification should be limited to households residing in HOME, HOME-ARP, and NHTF Units.
  Applying this requirement to all Units within a property, particularly on a retroactive basis, could have significant unintended consequences. Expanding the rule in this manner may result in the displacement of a substantial number of households statewide and create administrative burdens that are not aligned with program intent.

  For these reasons, we respectfully request that the rule be revised to apply only to designated HOME, HOME-ARP, and NHTF Units.

We hope that you take our comments in consideration and thank you for your time.

Sincerely,

Dena Moreland
Compliance Director
Accolade Property Management
1707 E Beltline
Suite 101
Coppell, TX 75019

ACLU Texas

March 03, 2026

Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701-2410

(Via email: Brooke.Boston@tdhca.texas.gov)

Re: Texas Department of Housing and Community Affairs Proposed Rule, 10 TAC Chapter 10, Uniform Multifamily Rules, Subchapter F Compliance Monitoring §10.612 Tenant File Requirements and §10.628 Verification of Occupant Legal Status for HOME and NHTF Developments

The ACLU of Texas is a statewide civil rights organization dedicated to protecting and advancing the civil rights and civil liberties of all Texans, no exceptions. We write to express our concerns regarding the Texas Department of Housing and Community Affairs (TDHCA) proposed rule issued on January 16, 2026. As currently written, the rule raises preemption concerns and would result in the wrongful denial of eligible tenants; would rely heavily on a faulty SAVE system that raises privacy and security concerns and is an unreliable indicator of citizenship status; and would require landlords and public housing authorities to collect information that could potentially expose individuals to enforcement and create a chilling effect for immigrant communities and their ability to access safe and affordable housing.

Under the proposed rule, all owners of HOME, HOME-ARP, and National Housing Trust Fund (NHTF) properties must verify if all individuals on the lease of the respective properties are U.S. Citizens, U.S. Nationals, or are eligible as a 'qualified alien.' But the rule both fails to adhere to Section 401(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) and would risk excluding eligible families and individuals. PRWORA defines a 'qualified alien' as someone who is either: lawfully admitted for permanent residence under the Immigration and Nationality Act (INA); granted asylum; a refugee; paroled into the U.S. under section 212(d)(5) of the INA; granted withholding of removal; or is granted conditional entry under section 203(a)(7) of the INA. Guidance from TDHCA provides no information on the verification process nor indicates any acceptable documentation from prospective or current tenants who may be eligible as a qualified alien.

This rule also makes everyday landlords essentially do the work of federal immigration enforcement officials. Not only will property owners carry the burden of federal enforcement, but the proposal is difficult to follow. Under TDHCA's current proposed guidance, to verify whether an individual is a U.S. Citizen, U.S. national, or is eligible as a qualified alien, "owners must verify legal status through the use of several established documents as described more fully in guidance provided by the Department." But TDHCA's current guidance on 'Acceptable Documentation for Establishing Legal Status or U.S. Citizenship and Identity for Specific TDHCA Programs' repeatedly fails to include any guidance related to individuals who may qualify for occupancy as a 'qualified alien' while only accepting proof of U.S. citizenship as valid documentation. Consequently, owners may erroneously deny applications or wrongfully evict individuals and families that are otherwise eligible to rent HOME, HOME-ARP, and NHTF properties.

This proposed rule would also mandate the use of the SAVE System in many situations to verify the immigration status of anyone that is seeking to occupy one of the affected properties. However, this database raises privacy concerns, increases the risk of datamining, and has errors that render it an unreliable source to determine citizenship status. All information entered into the SAVE database will be retained for 10 years and will include individual identifiers such as Social Security numbers, drivers' license numbers, passport numbers, financial information, as well as information regarding the benefit their seeking: "background check, driver's license/state identification, education grant/loan/work study, Employment Authorization, housing assistance, Medicaid/Medical Assistance, Social Security number issuance, and voter verification". [1] This information, potentially accessible across federal agencies, would also make it possible for federal employees and federal immigration enforcement officials to track individuals, including U.S. citizens and their families.

Additionally, SAVE relies on social security data and other consolidated information but may not accurately indicate an individual's citizenship status. The Social Security Administration has indicated that while it maintains citizenship data, it "merely represents a snapshot of the individual's citizenship status at the time of their interaction with SSA" and does not "provide definitive information about an individual's citizenship status." Further, SSA has stated it is "not the agency responsible for making citizenship determinations" and "is not the custodian of U.S. citizenship records." [2] Moreover, the information consolidated in SAVE from across federal agencies is prone to inaccuracies such as incorrect, incomplete, or outdated information.

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[1] 90 Fed. Reg. 48948 (Oct. 30, 2025), available at https://www.federalregister.gov/documents/2025/10/31/202519735/privacy-act-of-1974-system-of-records

[2] Letter from SSA Off. of Gen. Counsel to Fair Elections Ctr. 2 (July 13, 2023), SSA-Touhy-Decision-letter.July-13-2023-signed.pdf

As currently written, the ACLU of Texas opposes this proposed rule and respectfully requests TDHCA to delay this rule from taking effect. This rule will impact thousands of current and prospective tenants and potentially limit the availability of safe, secure, and affordable housing for eligible individuals and their families.

JOHN BRYANT
STATE REPRESENTATIVE

February 25, 2026

Mr. Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78701

RE: Public Comment on Proposed Amendments to 10 TAC §10.612 (Tenant File Requirement) and 10 TAC §10.628 (Verification of Occupant Legal Status for HOME, HOME-ARP, and NHTF Developments)

Dear Mr. Wilkinson:

I write to express my strong opposition to the proposed amendments to 10 TAC Section 10.612 (Tenant File Requirements) and to the new 10 TAC Section 10.628 (Verification of Occupant Legal Status for HOME, HOME-ARP, and NHTF Developments), currently open for public comment through March 3, 2026.

These proposed rules are not neutral administrative updates. They represent a deliberate policy choice to utilize the state's affordable housing infrastructure as a tool to target, surveil, and exclude Texas immigrant communities. I urge the TDHCA to withdraw them immediately.

Texas is home to one of the largest immigrant populations in the nation. The vast majority of these households are "mixed-status," containing U.S. citizens and lawful permanent residents living alongside family members of varying immigration statuses. By imposing occupant-level immigration verification requirements as a precondition for assistance, Section 10.628 creates a dangerous chilling effect. This will inevitably discourage entire households—including eligible U.S. citizen children—from seeking the housing stability they are legally entitled to receive.

The consequences of this policy will be profound: U.S. citizen children left without stable homes, domestic violence survivors forced to choose between safety and status, elderly immigrants severed from their safety net, and working families pushed deeper into housing insecurity. These are not hypothetical risks; they are the predictable outcomes of a policy designed to exclude.

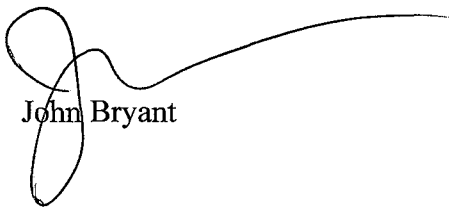
DISTRICT 114 – DALLAS
CAPITOL: ROOM 4S.3 • 1100 CONGRESS AVENUE • AUSTIN, TEXAS 78701 | 512-463-0576
MAILING: P.O. BOX 2910 • AUSTIN, TEXAS 78768-2910
DISTRICT: 6301 GASTON AVENUE • SUITE 1110 • DALLAS, TEXAS 75214 | (214) 440-1438
JOHN.BRYANT@HOUSE.TEXAS.GOV • HOUSE.TEXAS.GOV

The proposed rules contradict TDHCA's fundamental mission to provide safe and affordable housing for all Texans. Beyond their direct harm to immigrant families, they will create significant administrative burdens for property owners and housing providers, reduce occupancy rates in federally assisted developments, and erode trust between immigrant communities and public institutions across all program areas, not just housing.

I am available to discuss these concerns further and urge the Department to engage with affected communities and housing advocates before taking any action that would undermine the stability of Texas families.

Thank you for your attention to this critical matter. Please contact my office should you require any additional information.

Truly yours,



John Bryant

Public Comment
Texas Department of Housing and Community Affairs
Title 10 Texas Administrative Code §10.612, concerning Tenant File Requirements; and Title 10 Texas Administrative Code §10.628, concerning Verification of Occupant Legal Status for HOME, HOME-ARP, and NHTF developments
March 3, 2026

My name is Trudy Taylor Smith, and I am the senior administrator of Policy and Advocacy for Children's Defense Fund-Texas (CDF-TX). We are a nonprofit advocacy organization dedicated to advancing child-wellbeing and building community so that young people grow up with dignity, hope, and joy. CDF-TX thanks the Texas Department of Housing and Community Affairs (TDHCA) for this opportunity to share our concerns about the proposed amendments and their harmful impacts on children and youth in our state.

1. **The rule prohibiting "harboring" is not required by law or under federal guidance, and it should be removed to avoid a chilling effect on access to housing assistance for eligible families.**

CDF-TX recommends the removal of the proposed 10 TAC §10.612(a)(6), which requires all parties signing the lease to attest that "they are not harboring an illegal immigrant in violation of federal law." First, such an attestation is not required to comply with section 401(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) or "the federal direction provided in the 2025 grant agreements issued by the United States Department of Housing and Urban Development (HUD)," which is the stated purpose of the proposed rules.[1] Second, requiring all parties signing a lease to attest that they are not committing this federal crime, without defining the elements of this criminal offense or explaining what conduct would meet the definition of "harboring," will create unnecessary fear and confusion that increase family homelessness and housing instability for children and youth in immigrant and mixed status households.

Simply hosting an undocumented visitor in one's home or even living with an undocumented family member would not constitute "harboring" under 8 U.S.C. § 1324. Yet property owners, property managers, and nonprofit housing providers lack legal expertise to accurately interpret and apply federal criminal law. Therefore, this vague language could lead to tenants being wrongfully evicted or denied housing due to misunderstandings of the law or discriminatory assumptions about tenants or their guests

[1] Texas Department of Housing and Community Affairs. "Proposed Rules." 51 Tex. Reg. 353, 355 (Jan. 23, 2026). https://www.sos.texas.gov/texreg/archive/January232026/Proposed%20Rules/10.COMMUNITY%20DEVELOPMENT.html#3.

that are based on personal characteristics such as race, color, or country of origin. Discrimination in housing based on such characteristics is prohibited under the Fair Housing Act,[2] and the 2025 grant agreements between HUD and TDHCA stipulate that TDCHA agrees "not to operate any programs that violate any applicable Federal anti-discrimination laws."[3]

Similarly, requiring prospective tenants to sign an attestation about this immigration-related offense as part of the process of obtaining housing assistance could generate fear and confusion that creates a chilling effect on access for individuals and families who need and qualify for that assistance under law. CDF-TX has seen chilling effects and harmful impacts on children from similar policy changes in the past, including the enactment of PRWORA in 1996 and the 2019 public charge rule.[4] In a "qualitative study of 32 geographically diverse organizations in Texas," CDF-TX found that between 2016 and 2019, anti-immigrant policies caused many mixed-status families to "fear enrolling even their citizen children in federal benefits programs for which they qualify."[5] Immigration law and policy are complex, and most people lack the legal expertise to understand how specific federal laws and regulations may apply to their situation. Therefore, both qualified immigrants and naturalized U.S. citizens may be intimidated by wording that seems to imply any potential negative consequences related to immigration status.

2. **TDHCA should pause rulemaking until further HUD guidance is available. If TDHCA proceeds with the proposed amendments, the agency should at least clarify that nonprofit charitable housing providers are exempt from PRWORA verification requirements.**

CDF-TX is also concerned that the proposed rules do not include an explicit exemption for nonprofit charitable housing providers from the requirement to verify the status of the tenants they serve, as set out in federal law under 8 U.S.C. § 1642(d). The 2025 HUD PRWORA Notice affirms the exemption for nonprofit charitable organizations administering federal public benefits, but the Notice also creates confusion by stating that "it does not relieve states or other governmental [*sic*] from the requirements to ensure that all relevant programs are in compliance with PWRORA." [6]

---

[2] United States, Department of Housing and Urban Development. "Housing Discrimination Under the Fair Housing Act." https://www.hud.gov/helping-americans/fair-housing-act-overview. Accessed Feb. 25, 2026.
[3] Federal Award Agreements between U.S. Department of Housing and Urban Development, Office of Community Planning and Development, and the State of Texas, Texas Department of Housing and Community Affairs, at p. 5.
[4] Bernstein, Hamutal, et al. "Amid Confusion over the Public Charge Rule, Immigrant Families Continued Avoiding Public Benefits in 2019." Urban Institute. May 2020. https://www.urban.org/sites/default/files/publication/102221/amid-confusion-over-the-public-charge-rule-immigrant-families-continued-avoiding-public-benefits-in-2019_3.pdf. Accessed Feb. 26, 2026.
[5] Anderson, Cheasty. "Public Charge and Private Dilemmas: Key Challenges and Best Practices for Fighting the Chilling Effect in Texas, 2017-2019." Children's Defense Fund-Texas, Nov. 2020, p. 1, Bellaire, TX, www.childrensdefense.org/wp-content/uploads/2024/10/Public-Charge-and-Private-Dilemmas-TX_FINAL-020.pdf. Accessed Nov. 25, 2025.
[6] United States, Housing and Urban Development Department. "Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA); Interpretation of 'Federal Public Benefit.'" 90 Fed. Reg.

Seemingly acknowledging this lack of clarity, the Notice then explains:

> "As a result, HUD will be issuing new guidelines related to the verification for benefits provided through its housing assistance and grant programs, including for benefits distributed by charitable non-profit organizations. HUD will be relying in [*sic*] guidance issued by the Department of Homeland Security once that is published."[7]

CDF-TX recommends that the TDHCA await the forthcoming HUD guidelines related to verification for benefits, following publication of anticipated guidance from the Department of Homeland Security, before implementing changes to its administrative rules regarding verification of benefits. It will be extremely difficult for TDHCA to "provide clarity with how adherence to Section 401(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) will be implemented"[8] before the HUD itself has issued new federal guidelines to provide clarity on this issue.

Moreover, as the National Housing Project has pointed out, "[i]f a benefits granting agency engages in the improper application of PRWORA's verification requirements, they could be subject to discrimination claims under federal civil rights laws as well as any applicable state or local laws."[9] Therefore, acting before the forthcoming federal guidelines have been issued could potentially create legal liability for the state.

If TDHCA elects to move forward with amending its rules regarding verification of status at this time, then CDF-TX recommends that the amended rules include language making clear that under federal statute, nonprofit charitable housing providers are exempt from the requirement to verify the status of the tenants they serve.

3. TDHCA should mitigate harm to Texas children and families by applying citizenship and immigration status verification only to HUD multifamily units, not to all units at a properties with HUD multifamily units.

CDF-TX opposes the proposed language at §10.628(b) that would apply the proposed rule to all units at properties with floating HOME, HOME-ARP, or NHTF units. 9,126

54,365 (Nov. 26, 2025). https://www.govinfo.gov/content/pkg/FR-2025-11-26/pdf/2025-21120.pdf. Accessed Feb. 24, 2026.

[7] *Ibid*.

[8] Texas Department of Housing and Community Affairs. "Proposed Rules." 51 Tex. Reg. 353 (Jan. 23, 2026). https://www.sos.texas.gov/texreg/archive/January232026/Proposed%20Rules/10.COMMUNITY%20DEVELOPMENT.html#3.

[9] National Housing Law Project. "Immigration Requirements: Assistance Programs for Housing and Homelessness, Energy, Disaster, and Water (ESG, CoC, CDBG, HOME, FEMA, RUSH, LIHEAP)" at pp. 2-3. Dec. 12, 2025. https://www.nhlp.org/wp-content/uploads/Immigration-Restrictions_Other-Programs.pdf. Accessed Feb. 25, 2026.

designated units in Texas will be affected by the proposed amendments,[10] but the policy decision to include all units at properties covered by these rules that have floating HOME, HOME-ARP, or NHTF unit designations increases the total number of affected units to 28,795 units according to Texas Housers' review of TDHCA data, or 28,895 units according to TDHCA's public statement.[11]

Since PRWORA verification requirements only apply to federal public benefits, there is no need to require eligibility verification under PRWORA for tenants who do not live in units that are attached to federal HOME, HOME-ARP, and NHTF funding. Voluntarily extending these new verification procedures to an additional 19,669 or 19,769 households who happen to live in buildings where other tenants receive federally funded housing assistance will unnecessarily increase the financial and administrative burden for both housing providers and for low-income families. Obtaining the necessary documentation will require both prospective and current tenants to expend significant time, money, and energy. This means additional barriers to accessing secure, affordable housing for the low-income families these federal programs are designed to serve.

As of February 25, 2026, U.S. Citizenship and Immigration Services' (USCIS) website stated that in cases where additional verification is needed through the Systematic Alien Verification for Entitlements (SAVE) system, the current response time is 16 federal workdays.[12] Forcing a family in need of housing assistance to wait for more than three weeks to access a unit could prolong precarious or dangerous housing situations, expose families to potential homelessness, and cause increased financial strain or even lead families to go into debt as they incur additional housing costs while waiting for completion of the verification process.

The increased verification requirements could also generate fear and confusion among naturalized U.S. citizens and qualified immigrants, discouraging many eligible families from seeking the housing assistance they need to provide safety and stability for their children. As illustrated by the example of the 2019 public charge policy discussed above, policies aimed at non-qualified immigrants or those who are undocumented create chilling effects on access to vital supports for qualified immigrants and U.S. citizens as well.

Finally, the SAVE verification system has been shown to have a significant error rate in Texas, which means that eligible individuals who are subjected to verification of status through this system may be improperly excluded from available housing. According to recent reporting from the Texas Tribune and ProPublica, the SAVE system has demonstrated an error rate of at least 14% in identifying U.S. citizens as potential

[10] Texas Affiliation of Affordable Housing Providers, "TDHCA Advances Multifamily PRWORA Rulemaking on Immigration Eligibility Verification." Feb. 12, 2026. https://taahp.org/tdhca-advances-multifamily-prwora-rulemaking-on-immigration-eligibility-verification/.

[11] Texas Affiliation of Affordable Housing Providers, *supra* note 8.

[12] United States. Citizenship and Immigration Services. "SAVE Verification Response Time." https://www.uscis.gov/save/about-save/save-verification-response-time. Accessed Feb. 25, 2026.

noncitizens in Denton County, and across the state, "more than 5% of the voters SAVE identified as noncitizens proved to be citizens."[13]

For all these reasons, CDF-TX recommends changing the wording of the proposed 10 TAC §10.628(b) such that only prospective tenants intended to be on the lease for HOME, HOME-ARP Rental and NHTF Units must be verified as required by this section.

4. The proposed changes will have a negative impact on the Texas economy.

Respectfully, CDF-TX disagrees with Mr. Wilkinson's assessment that the proposed amendment to 10 TAC §10.612 and the new section 10 TAC §10.628 "will not negatively or positively affect the state's economy."[14] We believe it is important to be transparent about the true impact of amendments to TDHCA's rules, even when certain changes may be required by changes in federal policy.

According to HUD analysis, 23% of all mixed families receiving federal housing assistance live in Texas.[15] More than a third of all Texas children have at least one immigrant parent,[16] and more than 11% of all U.S. citizen children live with at least one undocumented parent.[17] By requiring verification of eligible status for all tenants on a lease for HOME, HOME-ARP Rental or NHTF Units, the proposed changes to TDHCA's rules will force mixed status families to choose between staying together or being evicted, and it will make many U.S. citizens—including children—homeless. Homelessness and housing instability place children's health and well-being at significant risk.[18]

When families lose access to housing, adults' ability to maintain stable employment to provide for their families is compromised, as is the ability of children and youth to remain in school. This creates both immediate and long-term economic impacts for our state's economy.

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[13] Fifield, Jen, and Despart, Zach. "A federal tool to check voter citizenship keeps making mistakes. It led to confusion in Texas." *The Texas Tribune*. Feb 13, 2026. https://www.texastribune.org/2026/02/13/save-voter-citizenship-tool-mistakes-confusion/,

[14] Texas Department of Housing and Community Affairs. "Proposed Rules." 51 Tex. Reg. 353, 356 (Jan. 23, 2026). https://www.sos.texas.gov/texreg/archive/January232026/Proposed%20Rules/10.COMMUNITY%20DEVELOPMENT.html#3.

[15] United States, Department of Housing and Urban Development. "Regulatory Impact Analysis. Amendments to Further Implement Provisions of the Housing and Community Development Act of 1980. Proposed Rule Docket No: FR-6124-P-01." Apr. 15, 2019. https://nlihc.org/sites/default/files/2019-05/Noncitizen-RIA-Final-April-15-2019.pdf.

[16] MPI website currently down: https://www.migrationpolicy.org/programs/data-hub/charts/children-immigrant-families?width=1000&height=850&iframe=true

[17] American Immigration Council, "Map the Impact: Immigrants in Texas." https://map.americanimmigrationcouncil.org/locations/texas/. Accessed Feb. 19, 2026.

[18] Hartswick Finch, Emma M, et al. "Housing Instability and Homelessness in Pediatrics: A Narrative Review of Health Impacts and Multi-level Interventions." Academic Pediatrics, Volume 26, Issue 1, 103142. https://www.academicpedsjnl.net/article/S1876-2859(25)00367-5/abstract. Accessed Feb. 26, 2026.

Conclusion

In conclusion, CDF-TX strongly recommends delaying rulemaking on the updated federal interpretation of PRWORA verification requirements until key federal guidance necessary for implementation is released.

Recognizing the significant harms of denying affordable housing to eligible children in mixed status families, CDF-TX recommends that if TDHCA does proceed with rulemaking at this time, the agency should take the following steps to mitigate family homelessness and other negative impacts:

(a) remove the requirement for all parties to a lease to sign an attestation concerning "harboring" under the proposed 10 TAC §10.612(a)(6);

(b) add language under the proposed 10 TAC §628 to explicitly state that nonprofit charitable housing providers are exempt from the requirement to verify the status of the tenants they serve, as set out in federal law under 8 U.S.C. § 1642(d); and

(c) limit the application of the PRWORA status verification requirement to units that are attached to federal HOME, HOME-ARP, and NHTF funding rather than requiring verification of status for tenants in all units located on properties with units tied to HOME, HOME-ARP, and NHTF funding;

Thank you for the opportunity to comment on this important matter. If you have any questions about anything in this comment, please contact Trudy Taylor Smith, senior administrator of Policy and Advocacy, CDF-TX, by email at ttaylorsmith@childrensdefense.org or by phone at 512.333.4961.

Sincerely,

Trudy Taylor Smith

Department of Community and Human Development

February 5th, 2026

Texas Department of Housing and Community Affairs
Attn: Brooke Boston
brooke.boston@tdhca.texas.gov

Re: Public Comment – Proposed Tenant Legal Status Verification Requirements (HOME / HOME-ARP / NHTF)

Dear Ms. Boston,

On behalf of the City of El Paso's Community and Human Development Department, thank you for the opportunity to comment on the proposed rules requiring HOME, HOME-ARP, and NHTF recipients to verify the legal status of all tenants.

Our department administers federally funded housing and public service programs, including HOME, HOME-ARP and the Homeless Housing and Services Program (HHSP), and works closely with nonprofit partners and property owners to deliver housing stability and homelessness prevention services across our community.

While TDHCA's authority does not extend to the City's direct HUD formula funds as a Participating Jurisdiction, many of our partners receive both State- and City-administered funding. As a result, changes to State-administered requirements may still create operational impacts locally, as providers often standardize compliance practices across their full portfolios.

Based on our operational experience, we respectfully share the following concerns:

1. **Administrative and cost burden.** The proposed verification, documentation, and recertification requirements will increase staffing, training, and monitoring responsibilities for both local administrators and subrecipients. These added compliance demands may divert limited resources away from direct service delivery.
2. **Increased legal and compliance exposure.** Requiring housing providers to collect and verify immigration documentation introduces responsibilities outside traditional housing program administration. Owners and local governments may face Fair Housing complaints or liability if documentation practices are applied inconsistently, and the City would assume additional oversight and enforcement risk as the funding administrator.
3. **Access and participation impacts.** Additional documentation requirements may discourage otherwise eligible households from seeking assistance due to confusion or fear, potentially reducing participation in HOME- and HOME-ARP-funded housing and undermining efforts to prevent homelessness and maintain housing stability.

Nickole H. Rodriguez, Director
City 3 | 801 Texas Ave., 3rd Fl. | El Paso, Texas 79901 | (915) 212-0038

Department of Community and Human Development

We respectfully encourage TDHCA to consider these operational and community impacts and to provide clear guidance and safeguards should the rules move forward.

Thank you for your continued partnership and consideration.

Sincerely,

Nickole H. Rodriguez
Director
Community and Human Development
City of El Paso

Nickole H. Rodriguez, Director
City 3 | 801 Texas Ave., 3rd Fl. | El Paso, Texas 79901 | (915) 212-0038

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PERSONAL FAX: +1 512 682 7961
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March 3, 2026

TDHCA (Via Email to Jeremy.stremler@tdhca.texas.gov)
Attn: Housing Resource Center
Rule Comments
PO Box 13941
Austin, Texas 78711-3941

Re: Comments on 10 TAC Chapter 10, Subchapter G, 10.628 Verification of Occupancy Legal Status for HOME, HOME-ARP Rental, and NHTF Developments)

Dear Mr. Stremler:

The Department has proposed a rule requiring verification of legal status of all the occupants of any housing development funded with National Housing Trust Fund, HOME-ARP Rental, or HOME funds. On behalf of our clients, Foundation Communities and New Hope Housing, we urge the Department to make the following revisions to the proposed rule:

"10.628(b). Applicability. This rule applies to ~~existing and~~ future National Housing Trust Fund, HOME-ARP Rental and TDHCA HOME Developments for their state and federal affordability periods. For Developments with floating HOME, HOME-ARP Rental and NHTF Units, all prospective tenants intended to be on any TDHCA HOME-funded, HOME-ARP Rental-funded, or NHTF-funded Unit's lease must be verified as required by this section."

As background, on November 26, 2025, HUD issued an interpretation of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 ("PRWORA"). That statute requires providers of a nonexempt "Federal public benefit" to verify that a person applying for the benefit is a U.S. citizen, a U.S. National, or a qualified alien. The statute specifically exempts nonprofits:

"(d)NO VERIFICATION REQUIREMENT FOR NONPROFIT CHARITABLE ORGANIZATIONS
Subject to subsection (a), a nonprofit charitable organization, in providing any Federal public benefit (as defined in section 1611(c) of this title) or any State or local public benefit (as defined

in section 1621(c) of this title), is not required under this chapter to determine, verify, or otherwise require proof of eligibility of any applicant for such benefits."

Beyond the text of the PRWORA statute, it is critical for the Department to issue a rule that touches on issues of race and national origin in a manner that is narrowly tailored. As you are well aware, the Department has long-standing obligations not to discriminate based on race or national origin, pursuant to Title VI of the Civil Rights Act of 1964, the Fair Housing Act, and other antidiscrimination laws. The revisions requested above--exclude existing developments from verification, and require only apartment units receiving federal assistance to verify occupants' legal status-would thread that needle These clarifications honor the letter and spirit of the PRWORA law, and grandfathering existing developments is especially justified when a statute and the regulations implementing it have been given a new interpretation after 30 years of being interpreted not to apply to subsidy for construction of affordable housing.

An additional comment arises from the Department's duty under the Fair Housing Act not to make housing unavailable based on race or national origin. Because the proposed rule does not address enforcement and implies that residents should be evicted based on their national origin, New Hope Housing and Foundation Communities urge the Department to include the following statement in the proposed rule: "Owners are not required to evict tenants or refuse to renew leases of tenants pursuant to this rule. Owners may be required to ensure that occupants who are not qualified aliens are moved to Units that are not receiving HOME, HOME-ARP Rental, or NHTF Funding."

Regards,

DUANE MORRIS LLP

Scott A. Marks, P.C.
Partner

Exhibit A

JW Letter

See attached.

STATE REPRESENTATIVE
BARBARA GERVIN-HAWKINS

DISTRICT 120
BEXAR COUNTY

February 23, 2026

Bobby Wilkinson, Executive Director
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701

Dear Executive Director Wilkinson,

I write as a member of the Texas House of Representatives to express my strong opposition to the proposed amendments to 10 TAC Section 10.612 (Tenant File Requirements) and the new 10 TAC Section 10.628 (Verification of Occupant Legal Status for HOME, HOME-ARP, and NHTF Developments), currently open for public comment through March 3, 2026.

These proposed rules are not neutral administrative updates. They represent a deliberate policy choice to use the state's affordable housing infrastructure as a tool to target, surveil, and exclude Texas immigrant communities and we urge TDHCA to withdraw them.

Texas is home to one of the largest immigrant populations in the nation, and the majority of immigrant households are mixed-status, meaning they include U.S. citizens and lawful permanent residents alongside family members with varying immigration statuses. By imposing occupant-level immigration verification requirements as a precondition for housing assistance, Section 10.628 creates a chilling effect that will discourage entire households, including eligible U.S. citizen members, from seeking housing assistance they are legally entitled to receive.

The consequences will be profound and immediate: U.S. citizen children left without stable housing, domestic violence survivors forced to choose between safety and status, elderly immigrants severed from the safety net, and working families pushed deeper into housing insecurity. These are not hypothetical harms, they are the predictable and foreseeable outcomes of exactly this kind of policy.

TDHCA's mission is to provide safe, decent, and affordable housing for all Texans. These proposed rules contradict that mission at every level. Beyond their direct harm to immigrant families, they will create significant administrative burdens for property owners and housing providers, reduce occupancy rates in federally assisted developments, and erode trust between immigrant communities and public institutions across all program areas, not just housing.

COMMITTEES: APPROPRIATIONS • REDISTRICTING • WAYS & MEANS
CAPITOL OFFICE: P.O. BOX 2910 • AUSTIN, TEXAS 78768-2910 • *phone* (512) 463-0708
BARBARA.GERVIN-HAWKINS@HOUSE.TEXAS.GOV

STATE REPRESENTATIVE
BARBARA GERVIN-HAWKINS

DISTRICT 120
BEXAR COUNTY

I am available to discuss these concerns and urge TDHCA to engage with affected communities before taking further action.

Respectfully,

Barbara Gervin-Hawkins

State Representative Barbara Gervin-Hawkins
Texas House District 120

COMMITTEES: APPROPRIATIONS • REDISTRICTING • WAYS & MEANS
CAPITOL OFFICE: P.O. BOX 2910 • AUSTIN, TEXAS 78768-2910 • *phone* (512) 463-0708
BARBARA.GERVIN-HAWKINS@HOUSE.TEXAS.GOV

TEXAS HOUSE *of* REPRESENTATIVES

Mary E. González, PhD
State Representative, District 75

February 23, 2026

Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78701

To Whom It May Concern,

Housing policy must remain guided by necessity, not nationality. **This letter is submitted in strong opposition to the proposed amendments to 10 TAC §10.612 and §10.628.** The changes would substantially expand immigration status screening and tenant file requirements across the HOME, HOME-ARP Rental, and National Housing Trust Fund (NHTF) Developments, producing consequences that would be severely detrimental to Texans who need affordable housing.

Eligibility for federally subsidized housing has **never** been restricted solely to U.S. citizens. Embedding immigration enforcement mechanisms in state housing rules undermines legislative intent and misdirects limited state resources. TDHCA's role is to ensure compliance with housing affordability and fair housing standards, not to serve as an immigration enforcement agency. By extending its reach, TDHCA jeopardizes an estimated 9,000 to 28,000 units statewide. As drafted, the proposed amendments undermine housing program integrity, deny assistance to qualified households, and cause fear and confusion in communities across Texas. The additional verification and compliance layers impose steep administrative burdens on local governments and program administrators.

Texas cannot afford to adopt policies that restrict access to critical housing under the pretext of immigration compliance. Thank you for the opportunity to submit these comments and for your careful attention to the serious impacts of this proposal. Please feel free to contact my office with any questions by email at mary.gonzalez@house.texas.gov or by phone at (915) 851-6632.

Sinceramente,

Mary E. González, PhD
State Representative
House District 75

P.O. Box 2910 · Austin, Texas 78768-2910 · phone (512) 463-0613 · mary.gonzalez@house.texas.gov
District Office: 1498 Main Street · San Elizario, Texas 79849 · phone (915) 851-6632

Laredo Immigrant Alliance

Empower • Engage • Educate • Organize

March 03, 2026

Texas Department of Housing and Community Affairs
P.O. Box 13941
Austin, Texas 78711-3941

RE: TDHCA's proposed rule on PRWORA compliance for HUD multifamily properties

To whom it may concern,

We appreciate the opportunity to comment on the department's proposed rule that would impact HOME, HOME-ARP, and NHTF-funded developments.

The Laredo Immigrant Alliance believes that the proposed rules are overcomplying with HUD guidelines before there are more clear directions established by HUD. The federal agency has stated they are waiting on further guidance from the Department of Homeland Security before establishing their own detailed guidelines. The passage of these rules in order to comply with PRWORA will lead to burdensome responsibilities for administrators of these programs, but also for working class Texan families that will also be negatively impacted attempting to navigate the red tape in order to obtain the help they desperately need. This will cost Texans money in time spent in more administrative work, but also Texans who will have to sacrifice working hours to obtain these benefits or risk not receiving the benefits they need to survive.

Immigration law is complicated enough for attorneys who have spent years practicing it. Passing the responsibility to development owners and managers to verify immigration documentation, no matter what method is used, will lead to overcompliance to ensure they follow the guidelines if passed. This will lead many working-class families to figure out and obtain the documents they need, and the right process to appeal, which takes time and money.

The Laredo Immigrant Alliance requests these rules to be delayed until further guidance by HUD. We appreciate your time and consideration. Thank you.

From: Napoleon Coca
To: Brooke Boston
Subject: Proposed Change to 10 TAC § 10.612 (Tenant File Requirements)
Date: Friday, January 30, 2026 4:44:49 PM
Attachments: Outlook-xi2nbk11.png

Dear Ms. Boston,

Thank you for the opportunity to provide public comment on the proposed changes to the HOME, HOME-ARP, and NHTF tenant requirements.

The City of Pharr supports policies intended to strengthen program integrity and improve outcomes. At the same time, as a border community with significant affordable housing needs here in the City of Pharr, we want to share concerns about the practical impacts these proposed rules may have on housing delivery.

While we understand TDHCA's intent, the additional paperwork, cost, and legal exposure could make it more difficult to provide affordable housing in communities like Pharr. These requirements may discourage housing providers from participating and could unintentionally limit access for families who otherwise qualify.

If the rules move forward, clear and practical guidance will be essential/needed so owners and cities can comply without unnecessary risk while continuing to serve those most in need.

Respectfully,

Napoleon Daniel Coca

Director
Grants Management & Community Development (GMCD)
118 S. Cage Blvd, 2nd Floor
Pharr, Texas 78577
(956) 402-4190 Ext. 1601
(956) 451-2882 Mobile

mail in error, please notify me via return e-mail and telephone at 956-402-4000, and permanently delete and purge the original and any copy thereof. This e-mail, with attachments hereto, if any, is intended only for receipt and use by the addressee(s) named herein and may contain legally privileged and/or confidential information. Regardless of address or routing, if you are not the intended recipient, then you are hereby notified that any use, copying, reproduction, dissemination, distribution, or transmission of this e-mail, and any attachments hereto, is strictly prohibited. Whereas all reasonable steps have been taken to ensure the accuracy and confidentiality of the information and data submitted herein, the City of Pharr and its employees are not liable if information or data is corrupted or does not reach its intended destination.

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TAAHP | TEXAS AFFILIATION OF AFFORDABLE HOUSING PROVIDERS

TAA TEXAS APARTMENT ASSOCIATION

March 3, 2026

Ms. Brooke Boston, Deputy Executive Director
Texas Department of Housing and Community Affairs
P.O. Box 13941
Austin, Texas 78711
brooke.boston@tdhca.state.tx.us

Re: Public Comment on Proposed PRWORA Implementation Rulemaking for Multifamily HOME, HOME-ARP Rental, and NHTF Developments

Dear Ms. Boston:

On behalf of the Texas Affiliation of Affordable Housing Providers (TAAHP) and the Texas Apartment Association (TAA), thank you for the opportunity to comment on TDHCA's proposed PRWORA implementation rulemaking for multifamily HOME, HOME-ARP Rental, and National Housing Trust Fund (NHTF) developments. Our members—owners, developers, compliance professionals, and property management teams—will carry out these requirements at move-in and through ongoing file maintenance and monitoring.

This letter focuses on the changes that will most improve clarity, consistency, and administrability while reducing avoidable resident fear and operational risk. We are also submitting a separate annotated redline with proposed rule text edits and brief explanations.

Thank you for considering these comments. We welcome continued discussion and are available to provide practical implementation examples, including mixed-finance and floating-unit scenarios, to support a clear and administrable final rule.

Sincerely,

Roger Arriaga
TAAHP Executive Director

Chris Newton
TAA Executive Vice President

About the Texas Affiliation of Affordable Housing Providers (TAAHP)
The Texas Affiliation of Affordable Housing Providers (TAAHP) is a non-profit trade association serving more than 800 affordable housing industry professionals involved in the financing, design, development, and management of affordable housing communities in Texas through public/private partnerships.

About the Texas Apartment Association (TAA)
The Texas Apartment Association (TAA), representing more than 12,000 housing owner/operators statewide is a non-profit trade association that provides exceptional advocacy, education and communication for the Texas rental housing industry. We serve all types of rental professionals, including property owners, builders, developers, property management firms and service providers.

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TAA TEXAS APARTMENT ASSOCIATION

I. Executive Summary

TAAHP and TAA submit this comment letter on TDHCA's proposed PRWORA verification rules and the related preamble analyses, including fiscal cost and impact considerations. This executive summary is limited to our three highest-priority issues for revision because they will have the greatest effect on implementation feasibility, statewide consistency, and objective, file-based monitoring across TDHCA's HOME, HOME-ARP Rental, and NHTF portfolio.

1. Limit verification to assisted units, not property-wide

Section 10.628(b) should explicitly state that PRWORA verification applies only to persons signing the lease for units designated as HOME, HOME-ARP Rental, or NHTF assisted. As drafted, the floating unit language can be read and implemented as a property-wide screening requirement even when only a subset of units are assisted, increasing workload and tenant-facing disruption without improving assisted-unit compliance.

Applying HUD's Paperwork Reduction Act benchmark (1.25 hours per response at $52/hour) to TDHCA's portfolio data shows why §10.628(b) must be unit-based. Also, these figures are conservative because HUD's burden estimate is per person completing verification steps, and §10.628 applies to each lease signer. If households average two lease signers, the one-time burden roughly doubles.

- **Unit-based scope (assisted units only):** 9,126 assisted units across 391 developments, approximately 11,408 staff hours and $593,190 for a one-time cycle.
- **Property-wide scope (all units in affected developments):** 28,895 total units, approximately 36,118 staff hours and $1,878,175 for a one-time cycle.

Recommendation: Amend §10.628(b) to limit verification to lease signers in HOME, HOME-ARP Rental, and NHTF assisted units only, and for floating units require verification only when a unit is designated as assisted. Require a minimum audit trail in the tenant file showing the designated assisted units, the effective date of each unit designation, and the household occupying the unit as of that date (e.g., executed TIC).

2. Establish uniform procedures for pending, delayed or disputed verification

The proposed rule does not provide a uniform statewide process for cases where verification does not immediately yield a confirmed result. That gap will drive inconsistent site practices, inconsistent treatment of applicants and residents, and subjective monitoring outcomes, because delayed and disputed results are foreseeable under SAVE. Recently, the Texas Tribune reported that in the voting context, more than 5% of people flagged by SAVE as noncitizens were ultimately confirmed to be U.S. citizens in counties that conducted follow-up review. PRWORA verification is more complex than a binary citizenship check, making clear statewide procedures essential.

Recommendation: Add uniform standards for non-confirmed results, including required written notices, timelines and extension criteria, documentation requirements, a dispute/cure process, and a compliance safe harbor when an Owner timely initiates verification and follows TDHCA procedures but results are delayed outside the Owner's control.

3. Amend the "harboring" lease attestation

The proposed "not harboring an illegal immigrant" lease attestation should be amended. It imports an undefined criminal-law concept into a lease without an objective, monitorable compliance standard. In practice, it will be explained and applied inconsistently across properties, increase fair housing and other liability risk, and create tenant confusion about ordinary, lawful conduct. It also does not improve §10.628 verification outcomes, which are achieved through verification of lease signers and documentable tenant file requirements.

Recommendation: Amend the "harboring" attestation with a verification-tethered, file-based certification. Lease signers certify that the information and documentation submitted for §10.628 verification is true and complete, acknowledge consequences for knowingly providing false information, and agree to notify the Owner when lease signers change so any new signatory can be verified.

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TEXAS APARTMENT ASSOCIATION

II. Core Rule Text Recommendations

§10.612(a)(6) Tenant File Requirements — Required Attestation

> (6) For HOME, HOME-ARP Rental, and NHTF Developments, in accordance with §10.628 (relating to 10.628 Verification of Occupant Legal Status for HOME, HOME-ARP Rental, and NHTF Developments) an attestation signed by all parties signing the lease that they are not harboring an illegal immigrant in violation of federal law.

The proposed "not harboring an illegal immigrant" attestation imports a criminal law concept into a lease document without defining the standard or tying it to an objective, monitorable compliance control. As drafted, it is unworkable in practice, extremely burdensome, and counterproductive to TDHCA's stated compliance objectives.

The undefined term is likely to be interpreted differently across properties and program administrators, leaving residents unsure what they are being asked to certify and increasing the risk of fair housing complaints and other liability. Residents could reasonably ask whether ordinary, lawful situations could be misread as "harboring." If a tenant hires a babysitter, lets a child's church friend sleep over, or temporarily shelters a neighbor fleeing domestic violence, could any of that be construed as a violation? That ambiguity invites inconsistent enforcement and creates a chilling effect that falls hardest on working families, while weakening the informal support networks that help households stay stable and move forward.

Ultimately, this attestation adds uncertainty without improving §10.628 verification outcomes, which are already addressed through verification of lease signers and documentable tenant file requirements.

Recommendation

Replace the "harboring" attestation with a verification tethered attestation that is file based and monitorable. Lease signers certify that information and documentation submitted for §10.628 verification is true and complete, acknowledge consequences for knowingly providing false information, and agree to notify the Owner when lease signers change so any new signatory can be verified.

§10.628(b) Applicability — Keep verification unit-based (not property-wide)

> (b) Applicability. This rule applies to existing and future National Housing Trust Fund, HOME-ARP Rental and HOME Developments for their state and federal affordability periods. For Developments with floating HOME, HOME-ARP Rental and NHTF Units, all prospective tenants intended to be on any Unit's lease must be verified as required by this section. For Developments with fixed HOME, HOME-ARP Rental and NHTF Units only prospective tenants intended to be on the lease for the fixed Units must be verified as required by this section. Populations that are documented by the Development as covered by the Violence Against Women Act (VAWA) or the Family Violence Prevention and Services Act (FVPSA) are excepted from having verification under this rule performed, unless required to do so under federal guidance.

The central implementation issue is scope. Section 10.628 should state clearly that PRWORA verification applies only to persons signing the lease for Units that are designated as HOME, HOME ARP Rental, or NHTF assisted. As drafted, the floating unit sentence can be read and operationally implemented as a property wide screening requirement even when only a subset of units are assisted, increasing workload and tenant facing disruption without improving assisted unit compliance.

Paperwork Cost Burden

To quantify the workload impact of scope, we use HUD's own Paperwork Reduction Act burden methodology outlined in their recently released proposed Section 214 verification rule. In that proposed rule, HUD tabulates estimated paperwork burden for verification activities and uses 1.25 burden hours per response and an hourly labor cost of $52 (about $65 per verification event) as a standardized benchmark.

Applying that benchmark to TDHCA's portfolio data illustrates why §10.628(b) must be unit based:

> **Unit based scope (assisted units only):** 9,126 assisted units across 391 developments, approximately 11,408 staff hours and $593,190 for a one-time cycle.
>
> **Property wide scope (all units in affected developments):** 28,895 total units, approximately 36,118 staff hours and $1,878,175 for a one-time cycle.

A site level example makes the spillover concrete. A San Antonio property has 321 total units but only 30 NHTF assisted units. Under a unit-based approach, the paperwork burden is approximately 37.5 hours and $1,950. Under a property wide interpretation, it is approximately 401.25 hours and $20,865. The difference, approximately 363.75 staff hours and $18,915, is driven solely by expanding verification to 291 units that are not assisted units subject to PRWORA under this rule.

These figures are conservative because HUD's burden estimate is per person completing verification steps, and §10.628 applies to each lease signer. If households average two lease signers, the one-time burden roughly doubles. TDHCA should acknowledge this in its fiscal note and estimate average lease signers or present a sensitivity range.

Scope Risk by Geography and Program Mix

Rural properties tend to have higher assisted-unit shares and are overwhelmingly HOME, meaning many rural sites will be near fully affected even under a unit-based rule and will have fewer staff resources to absorb fixed per-lease requirements. Urban properties are larger and more layered, including more NHTF and HOME-ARP, which increases operational complexity and the likelihood of administrative error if the rule is not explicit. In major metro counties, the primary risk is spillover beyond assisted units; for example, in Travis County the affected properties include 714 assisted units but 3,292 total units. Overall, the 391-property portfolio is predominantly mixed-income, making precise unit-coverage tracking and clear, monitorable documentation standards essential.

Recommendation

Revise §10.628(b) to state explicitly that verification is required only for persons signing the lease for a Unit designated as HOME, HOME-ARP Rental, or NHTF assisted. For floating unit Developments, clarify that verification is triggered when the assisted designation is assigned to a specific Unit, as shown by the Development's Unit designation documentation and the executed lease document or other executed document implementing that assisted designation.

§10.628(e) Implementation Timing

> (e) Implementation Timing. All HOME, HOME ARP Rental, and NHTF Developments must confirm legal status at initial lease-up of a Unit and at the time of the first Unit recertification or lease renewal that occurs after the effective date of this rule. Verification does not need to be confirmed thereafter for a household if no changes to the household members having signed the lease have changed; any new signatories to the lease at the time of subsequent Unit recertification or lease renewal must be confirmed for legal status. To the extent that the household no longer qualifies to reside in the Unit notification requirements as provided for in §10.613, must be met.

The timing framework in §10.628(e) is directionally correct, but it still needs sufficient precision to ensure uniform statewide implementation and consistent monitoring. The phrase "first Unit recertification or lease renewal that occurs after the effective date" will be applied differently unless TDHCA specifies the controlling date that determines when

a renewal "occurs," which is especially important for leases and renewals being executed now before the rule becomes effective. Without a clear execution date standard, owners will face conflicting expectations about whether finalized lease files must be reopened or whether verification can wait until the next renewal cycle, creating inconsistent tenant treatment and inconsistent monitoring outcomes.

This subsection also needs clearer triggers for common operational realities. For HOME units, a formal lease renewal may not occur because leases can continue month to month, and full income recertification timing can be less frequent than annual. In those cases, owners need a defined recurring compliance touchpoint, such as the annual HOME review or annual household certification event, so "recertification or renewal" is not a null trigger. In floating unit Developments or other structures where a Unit becomes assisted after the effective date, timing should follow the fully executed lease document that implements the assisted designation for that specific Unit, because that is the objective file-based event TDHCA can monitor.

Pending litigation and evolving federal direction are also relevant to implementation timing. PRWORA related federal requirements and enforcement may shift through court orders or updated federal guidance after TDHCA has begun implementation. In August 2025, in State of New York v. U.S. DOJ, a court filed stipulation temporarily paused enforcement and application of the new PRWORA "federal public benefit" interpretation in the plaintiff jurisdictions, which include Washington, D.C. and 21 states. Texas is not a plaintiff jurisdiction, and TDHCA has treated federal notices as effective immediately here while other states are delaying rule changes until the litigation is resolved. This creates a real risk that owners will expend significant resources implementing procedures that later require adjustment, and that tenant files already in process will be treated inconsistently unless TDHCA can issue uniform transition instructions.

Recommendation
Adopt the attached markup to §10.628(e), which (1-3) establishes initial lease-up, post-effective-date recertification/ renewal, and newly designated Unit triggers; (4) defines "lease renewal" by full execution, meaning the last required signature, so timing is based on signature date rather than lease term start or occupancy; (5) limits reverification to new lease signers; and (7) transition guidance authority for material federal changes or controlling court orders.

§10.628(f)(2)(D) Transmittal, Security, and Record Retention

> (D) In the administration of subparagraph (B) of this paragraph, the Owner 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 Owner 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.

As drafted, §10.628(f)(2)(D) relies on discretionary standards such as "sufficient" transmittal systems and "sufficient" evidence that verification occurred. In practice, that invites inconsistent implementation across Owners and vendors, encourages over collection and over retention of sensitive personal information, and makes monitoring subjective because TDHCA staff will be left to decide case by case what was "sufficient." This is especially risky here because the rule authorizes three different verification pathways that generate different records and involve different parties. A single, vague recordkeeping standard will not produce consistent files.

The tenant file standard should instead be objective and method specific. Owners need to know exactly what must be kept for each pathway, and TDHCA needs a uniform checklist that can be applied consistently during monitoring. Clear minimum documentation requirements reduce rework, reduce disputes and findings driven by missing or inconsistent paperwork, and better protect confidentiality by limiting retention to what is necessary to confirm compliance.

Recommendation
Replace the discretionary "sufficient" standard with minimum documentation requirements aligned to each verification method. For SAVE under paragraph (2)(A), require retention of the SAVE case number or unique identifier, the initial response, and any subsequent responses or final result where additional verification is requested. For TDHCA or vendor verification under paragraph (2)(B), require secure electronic transmittal and retention of proof of submission, including the submission date and confirmation number, plus the subsequent response or determination returned. For TDHCA approved third party verification under paragraph (2)(C), require documentation identifying the verifier and evidence of TDHCA approval, the verification request for each lease signer required to be verified, and the verification result or determination provided to the Owner.

§10.628(f)(2)(F)–(K) Pending, delayed, or disputed verification

The proposed rule does not provide a uniform statewide process for cases in which verification does not immediately yield a confirmed result. That is a material gap because delayed, manual, and inconclusive outcomes are foreseeable under SAVE, and turnaround time is often outside an Owner's control under Department, vendor, or third-party workflows. HUD's proposed Section 214 framework similarly anticipates secondary verification and time extensions, confirming that non-instant results are a normal feature of verification administration.

Recent Texas experience with SAVE underscores the need for uniform procedures. The Texas Tribune reviewed how Texas used SAVE in the voting context, where the only question was whether a voter was a U.S. citizen. Even with this simple, binary check, SAVE sometimes incorrectly flagged eligible voters. In 97 of 177 Texas counties that investigated further—by cross-checking DPS records or sending notices—over 5% of those flagged as noncitizens were actually U.S. citizens. In some small counties, most people flagged turned out to be eligible. This is important because PRWORA verification is even more complex than a basic citizenship check. It requires confirming whether someone is a U.S. citizen, a U.S. national, or a Qualified Alien, which may involve multiple types of documentation, various visa or status categories, and a greater chance of pending or disputed results.

Without uniform statewide rules for notices, escalation, timelines, and file documentation, Owners will develop inconsistent site-level practices, applicants will be treated differently across properties, and TDHCA monitoring will become subjective, increasing disputes, vacancy friction, and avoidable compliance findings.

Recommendation:
Add new §10.628(f)(2)(F) through (K), as reflected in the markup, to require written notice when legal status is not confirmed, establish uniform procedures for delayed, manual, or inconclusive results, define applicant processing while verification is pending, provide extension criteria and documentation, establish a dispute and cure process with roles and timeframes, and include a compliance safe harbor so an Owner is not cited solely because results are delayed when the Owner timely initiated verification, provided required notices, followed TDHCA procedures, and maintained required documentation.

III. Comments on Preamble & Required Rule Analyses

Attachment 1 (proposed amendments to §10.612) and Attachment 2 (proposed new §10.628) contain substantially similar required-analysis language. To streamline review, the comments below apply to both attachments except where noted.

Government Growth Impact Statement

TDHCA should reconcile staffing assumptions: Attachment 1 states no staffing change, while Attachment 2 anticipates 1–2 new positions. The analyses should state whether TDHCA will absorb the workload or add staffing (temporary or ongoing). If federal administrative funds are cited, identify the source, duration, and covered costs. TDHCA should also account for major non-personnel drivers such as training, standardized forms/notices, secure submission methods, vendor support, and monitoring tools.

TAAHP | TEXAS AFFILIATION OF AFFORDABLE HOUSING PROVIDERS

TEXAS APARTMENT ASSOCIATION

Adverse Economic Impact on Small Businesses & Rural Communities; Regulatory Flexibility

TDHCA's "no economic effect" determination should be reconsidered. The proposed requirements impose fixed per-lease and per-renewal compliance steps that do not scale down for small operators or rural properties with limited onsite capacity, increasing the proportional burden and the risk of technical findings. Where verification issues escalate to nonrenewal and a household does not vacate, owners can also incur foreseeable enforcement costs. Stakeholders note that enforcing removals can be costly. For example, court and attorney fees can range from $1,350 to $3,500 per case, while filing and staff time can add another $671 per action. These figures do not include the significant costs of turning over a unit.

Effects on the State's Economy; Local Employment Impact Statement

TDHCA's statements concluding no effect on the state's economy and no local employment impact should be amended. The proposed requirements create measurable operational costs that can affect property performance at scale. Even modest increases in vacancies or turnover across the affected portfolio can reduce rental revenue and increase operating costs, raising the risk of financial distress at impacted developments. Those impacts can flow through to local economies through reduced local spending, tighter rental supply, and potential effects on local property tax collections.

TDHCA should also acknowledge foreseeable local employment impacts. Document retrieval, notices, follow-up, and dispute resolution can require time off work or missed wages, particularly for hourly workers and households with limited transportation or limited access to document-issuing agencies. More significantly, when verification delays or disputes prevent a household from leasing a unit or contribute to housing loss, households may be forced to relocate farther from work or leave the city entirely, disrupting commute time, childcare arrangements, and schedule reliability. That increases missed shifts and turnover risk for local employers and should be reflected in the local employment impact discussion.

Public Benefit/Cost

This rule only applies to HOME, HOME-ARP Rental, and NHTF developments in TDHCA's monitored portfolio, while comparable units administered by local jurisdictions using the same federal programs may not be subject to the same state-level procedures. That unevenness can encourage program shopping, concentrating administrative burden and compliance risk in TDHCA's portfolio and increasing lease-up and vacancy friction at impacted properties. In addition, the note should acknowledge the risk of reduced owner participation. If TDHCA-administered resources carry additional tenant-facing requirements beyond what similarly situated programs require elsewhere, some owners may be less willing to pursue TDHCA HOME, HOME-ARP Rental, or NHTF financing, which would directly reduce production and preservation capacity.

Lastly, TDHCA should acknowledge impacts on mixed-status households and the resulting harm to eligible members. HUD's Regulatory Impact Analysis for its proposed Section 214 rule reports that within mixed families, 70 percent of members are eligible and 30 percent are ineligible, and that among eligible members, 65 percent are children. Even when the policy objective is compliance, verification failures, delays, or nonresponses can reduce assistance for otherwise eligible members. Because most eligible members in mixed-status households are children, these disruptions and reductions can fall disproportionately on children. The public benefit/cost note should reflect this as a public cost.

Fiscal Note

The fiscal note should address both Department implementation costs and regulated-entity compliance costs. Department costs include training, standardized forms and notices, secure submission methods, escalation support, and monitoring protocols. Regulated-entity costs include routine verification plus follow-up workload for delayed or disputed cases and documentation requirements, with significant sensitivity to scope if practices spill beyond the assisted-unit universe. TDHCA should also acknowledge foreseeable downstream costs when disputes escalate, including vacancy loss and legal and court-related costs.

10.612 Tenant File Requirements

(a) At the time of program designation as a low income household (or Qualified Population for HOME-ARP Rental), typically at initial occupancy, Owners must create and maintain a file that at a minimum contains:

(1) A Department approved Income Certification form signed by all adults. At the time of program designation as a low income household or Qualified Population, Owners must certify and document household income. In general, all low-income households and Qualified Populations for HOME-ARP Rental must be certified prior to move in. The Department requires the use of the TDHCA Income Certification form, unless the Development also participates in the USDA - Rural Development or a Project Based HUD Program, in which case, the other program's Income Certification form will be accepted;

(2) Documentation to support the Income Certification form including, but not limited to, applications (one per adult or married couple), first hand or third party verification of income and assets, and documentation of student status (if applicable). The application must provide a space for applicants to indicate if they are a veteran. In addition, the application must include the following statement: "Important Information for Former Military Services Members. Women and men who served in any branch of the United States Armed Forces, including Army, Navy, Marines, Coast Guard, Air Force, Reserves or National Guard, may be eligible for additional benefits and services. For more information please visit the Texas Veterans Portal at https://veterans.portal.texas.gov/";

(3) The Department permits Owners to use check stubs or other firsthand documentation of income and assets provided by the applicant or household in lieu of third party verification forms. It is not necessary to first attempt to obtain a third party verification form. Owners should scrutinize these documents to identify and address any obvious attempts at forgery, alteration, or generation of falsified documents; ~~and~~

(4) A lease with all necessary addendums to ensure that compliance with applicable federal regulations and §10.613 of this subchapter (relating to Lease Requirements);

(5) For HOME, HOME-ARP Rental, and NHTF Developments, in accordance with §10.628 (relating to 10.628 Verification of Occupant Legal Status for HOME, HOME-ARP Rental, and NHTF Developments) documentation to support that legal status of all persons signing the lease- has ~~–~~been verified; and

(6) For HOME, HOME-ARP Rental, and NHTF Developments, in accordance with §10.628 (relating to 10.628 Verification of Occupant Legal Status for HOME, HOME-ARP Rental, and NHTF Developments) an attestation signed by all parties signing the lease that: ~~they are not harboring an illegal immigrant in violation of federal law.~~

(A) The information and documentation provided by the household for purposes of eligibility and verification under §10.628 is true and complete to the best of their knowledge;

(B) The household understands that they may be subject to prosecution for providing false or fraudulent information under appliable law;

~~(6)~~(C) The household will notify the Owner of any change to the persons signing the lease, including the addition of a lease signer, as required by §10.613 (relating to Lease Requirements) and Department guidance.

(b) Annually thereafter on the anniversary date of the household's move in or initial designation:

(1) Throughout the Affordability Period, all Owners of Housing Tax Credit, TCAP, and Exchange Developments must collect and maintain current data on each household that includes the number of household members, age, ethnicity, race, disability status, student status, and rental assistance (if any). This

Commented [WP1]: We recommend removing the "not harboring an illegal immigrant" language because it imports an undefined criminal-law concept into the lease that is not objective or auditable, will be applied inconsistently across properties, and increases resident confusion and fair housing/liability risk—without improving §10.628 verification, which is already addressed through verification of lease signers and tenant-file documentation.

Commented [WP2]: If TDHCA requires an attestation, it should use standardized, rule-level language that is limited to lease signers and clearly tied to §10.628 verification so properties administer it uniformly statewide.

Commented [WP3]: Reinforces that lease signers are responsible for the accuracy of submitted verification information and provides a clear basis to address knowing misrepresentation without introducing ambiguous criminal-law concepts.

Commented [WP4]: Requiring notice when lease signers change allows verification to occur only when a new signatory is added, avoiding unnecessary repeat verifications and aligning file updates with §10.613 and guidance.

10.628 Verification of Occupant Legal Status for HOME, HOME ARP Rental, and NHTF Developments (ALL NEW)

(a) Purpose. The purpose of this section is to provide uniform Department guidance on the applicability and implementation of 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) Applicability. This rule applies to existing and future National Housing Trust Fund, HOME-ARP Rental and HOME Developments for their state and federal affordability periods. Only prospective tenants intended to be on the lease for a Unit that is designated as HOME, HOME-ARP Rental, or NHTF-assisted must be verified as required by this section. The Owner must maintain records sufficient to document set-aside satisfaction and unit designation, including the executed Tenant Income Certification (TIC) and any Department-required designation or re-designation documentation. ~~For Developments with floating HOME, HOME-ARP Rental and NHTF Units, all prospective tenants intended to be on any Unit's lease must be verified as required by this section. For Developments with fixed HOME, HOME-ARP Rental and NHTF Units only prospective tenants intended to be on the lease for the fixed Units must be verified as required by this section.~~ Populations that are documented by the Development as covered by the Violence Against Women Act (VAWA) or the Family Violence Prevention and Services Act (FVPSA) are excepted from having verification under this rule performed, unless required to do so under federal guidance.

(c) 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) 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).

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

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

(d) Owners 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 for all residents that will be signing the lease.

(e) Implementation Timing. ~~All HOME, HOME-ARP Rental, and NHTF Developments must confirm legal status at initial lease-up of a Unit and at the time of the first Unit recertification or lease renewal that occurs after the effective date of this rule. Verification does not need to be confirmed thereafter for a household if no changes to the household members having signed the lease have changed; any new signatories to the lease at the time of subsequent Unit recertification or lease renewal must be confirmed for legal status. To the extent that the household no longer qualifies to reside in the Unit notification requirements as provided for in §10.613, must be met.~~

(1) For a Unit that is designated as HOME, HOME-ARP Rental, or NHTF-assisted, the Owner must confirm legal status for each person signing the lease at initial lease-up of the Unit.

(2) For a Unit designated as HOME, HOME-ARP Rental, or NHTF-assisted that is occupied on the effective date of this rule, the Owner must confirm legal status for each person signing the lease at the first Unit recertification or lease renewal executed after the effective date.

(3) If, after the effective date, a Unit becomes designated as HOME, HOME-ARP Rental, or NHTF-assisted, the Owner must confirm legal status for each person signing the lease upon full execution of the first lease document that implements the assisted designation, including a new lease, lease renewal, unit transfer agreement, or lease amendment reflecting the designation, in accordance with Department guidance.

Commented [WP5]: This language is necessary to prevent the rule from being applied as a property-wide screening requirement in mixed-finance developments. HOME/HOME-ARP/NHTF compliance is unit-based: the verification obligation should attach only when a household is being leased into a designated assisted unit (including floating units as they move), not to every household in the development simply because a small subset of units is assisted.

Commented [WP6]: Specify the minimum "audit trail": documentation showing (1) which units count toward the set-aside, (2) the effective date of any unit designation, and (3) the household occupying the assisted unit at that time (e.g., executed TIC + designation record). This preserves monitorability without expanding verification to non-assisted units.

Commented [WP7]: I reformatted the "Implementation Timing" provision from a single, dense paragraph into seven numbered subparagraphs for readability and consistent administration. The intent is not to change the substance, but to separate distinct triggers and requirements into discrete items so owners can implement the rule uniformly and TDHCA can monitor compliance against clear, documentable events.

(4) For purposes of this subsection, A lease renewal occurs on the date it is fully executed by the required parties (the date of the last required signature). Only renewals executed on or after the effective date of this rule trigger verification; the lease term start date or occupancy date does not.

(5) After confirmation under paragraph (1), (2), or (3) of this subsection, verification does not need to be reconfirmed for a household at subsequent Unit recertification or lease renewal if there is no change in the persons signing the lease. Any person who becomes a new lease signatory must be confirmed for legal status in accordance with Department guidance.

(6) To the extent that the household no longer qualifies to reside in the Unit, notification requirements as provided for in §10.613 must be met.

(7) The Department may issue guidance describing transition procedures for Developments, households, and tenant files in the event of material changes in applicable federal requirements, federal guidance, or controlling court orders affecting implementation of this section.

~~(e)~~(f) Verification Process Under PRWORA.

(1) Owners must first attempt to verify the legal status of each person signing the lease using the acceptable documentation and procedures described in Department guidance under subparagraph (A). If the Owner cannot establish legal status through subparagraph (A), and verification is not satisfied under subparagraph (B) (Section 214 verification), the Owner must complete verification under paragraph (2) of this subsection ~~Owners must verify legal status through the use of several established documents as described more fully in guidance provided by the Department. If unable to verify legal status of each person signing the lease with those documents the Owner must utilize the SAVE system as described in this subsection. Verification of a Household member under Section 214 of the Housing and Community Development Act of 1980, as amended, will satisfy verification for purposes of this section~~.

(A) The Owner must verify the legal status of each person signing the lease by reviewing the acceptable documentation and following the documentation checklist or flowchart described in the Department guidance.

~~(1)~~(B) Section 214 Verification. If a household member has been verified in accordance with Section 214 of the Housing and Community Development Act of 1980, as amended, that verification satisfies the requirements of this section for that household member. The owner is not required to obtain duplicative verification for that household member under this section unless required by federal law.

Commented [WP8]: Defining renewal by the date of full execution (last required signature) resolves common timing edge cases and prevents retroactive application based on lease-term start dates or move-in/occupancy timing.

Commented [WP9]: Once the persons signing the lease have been verified, repeated verification at every subsequent recertification or renewal adds administrative burden without improving compliance outcomes. The meaningful change in risk occurs when a new person becomes legally responsible under the lease; limiting reconfirmation to new lease signatories supports consistent, nondiscretionary administration and reduces operational delays and inconsistent screening practices.

Commented [WP10]: Because applicable federal requirements and guidance may evolve and litigation outcomes may affect implementation, a transition-procedures clause supports predictable, effective-dated administration and reduces the risk of destabilizing pending files or inconsistent enforcement during midstream changes.

Commented [WP11]: I reorganized this section so the rule communicates a clear order of operations and prevents inconsistent implementation. The current paragraph blends multiple pathways (document review, Section 214, and SAVE) in a way that can be read as overlapping or duplicative, which makes it harder for staff to apply uniformly and harder for TDHCA to monitor. Structuring it so subsection (1) covers the non-SAVE pathways and subsection (2) cleanly governs SAVE (and its options) improves clarity, reduces unnecessary repeat screening, and supports consistent statewide administration.

Commented [WP12]: This clause establishes the primary, default verification pathway most owners will use. It confirms that verification begins with reviewing acceptable citizenship/identity documentation using a Department checklist/flowchart, so owners have a clear first step.

Commented [WP13]: This clarification is crucial to prevent duplicative verification on layered properties already using Section 214. Without it, owners could be forced to run two parallel systems for the same household member, increasing delays, errors, and inconsistent outcomes. The “Section 214 satisfies” rule is objective, administrable, and avoids unnecessary burden unless federal law requires otherwise.

(2) ~~If unable to verify legal status of each person signing the lease with those documents,~~ If the Owner is unable to verify legal status for any persons signing the lease through the methods described in paragraph (1) of this subsection, including review of the documents described in Department guidance, and verification is not otherwise satisfied under paragraph(1)(B), the Owner must complete verification using one of the methods described in subparagraph (A)-(C). Owners authorized to utilize the SAVE system are required to complete verification through the SAVE system ~~ensure compliance with the verification requirement~~ as provided for in subparagraph (A). If an Owner is not authorized to utilize the SAVE system, Owners must select an option under subparagraph (B) or (C) of this paragraph. Records must be maintained as required by subparagraph (D) of this paragraph.

(A) The Owner electing to perform the verifications through the SAVE system, if authorization is permitted by USCIS; OR

(B) Owner 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 Owner; OR

(C) Owner electing to procure an eligible qualified organization or service to perform such verifications on its behalf, subject to Department approval

~~(C) :~~

(D) Transmittal, security and record retention. Records required under this subparagraph must be maintained in a manner that protects confidentiality and allows the Department to confirm compliance. ~~In the administration of subparagraph (B) of this paragraph, the Owner 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 Owner 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.~~

i. In the administration of paragraph (2)(A) of this subsection, the Owner must maintain: (1) the SAVE case number for each person verified; (2) the initial SAVE response; and (3) where applicable, documentation of any request for additional verification and the subsequent SAVE response(s) or final result.

ii. In the administration of paragraph (2)(B) of this subsection, the Owner must transmit required information to the Department or its vendor using a secure electronic transmittal method and must maintain: (1) proof of submission, including the date of submission and a confirmation number; and (2) the subsequent response or determination returned by the Department, its vendor, or its contracted party.

~~(D)~~iii. In the administration of paragraph (2)(C) of this subsection, the Owner or its procured provider must maintain: (1) documentation identifying the verifier used and evidence of Department approval; (2) documentation of the verification request submitted for each person signing the lease required to be verified under this section; and (3) the verification result or determination provided to the Owner.

(E) Notification of Election of method under subsection (f)(2)(B) or (C) of this section by Owners must be provided to the Department as specified in this subparagraph.

(i) For existing Developments no later than 60 days after the effective date of this rule, an Owner shall submit their election under subsection (f)(3)(B) or (C) of this section in writing to the Compliance division.

(ii) For newly constructed/reconstructed Developments, an Owner must make their election under

Commented [WP14]: I broke this provision into subparts because the existing paragraph bundles three different verification pathways and their documentation duties into one sentence, which makes it easy to miss what applies when. Separating (i)–(iii) aligns the record-retention and secure transmittal requirements to the specific method used under (2)(A), (2)(B), or (2)(C), so owners know exactly what to keep and TDHCA can monitor against a clear, file-based checklist rather than inconsistent "email trail" practices.

Commented [WP15]: This requirement is necessary because SAVE results can be instantaneous or can move into manual/additional verification. Requiring retention of the SAVE case identifier, initial response, and any subsequent responses creates an auditable trail showing that verification was initiated and completed (or is pending) without forcing owners to invent recordkeeping practices.

Commented [WP16]: When the Department or its vendor performs verification, owners do not control processing time. Requiring proof of submission and the returned determination prevents owners from being cited for delays outside their control and gives monitors a uniform, file-based standard instead of subjective "email trail" disputes.

Commented [WP17]: Minimum documentation is needed to prove verification was completed for each required lease signer. Requiring the verifier, the request, and the result prevents non-verifiable compliance and supports consistent statewide monitoring.

subsection (f)(3)(B) or (C) of this section in its Application, or if there is no Application prior to the issuance of certificates of occupancy.

1) For an incoming Owner, an election must be made as part of the Ownership Transfer Notification, as part of 10 TAC §10.406.

2) Once an election is made under this subsection it does not need to be resubmitted or reelected, but will continue from the election made in the prior year unless the Owner notifies the Department otherwise in writing at least one month prior to the implementation of the change at the Development.

(F) Initial Verification response not confirming legal status; required written notice. If verification under subparagraph (A), (B), or (C) of this paragraph does not confirm the legal status of a person signing the lease, the Owner must provide written notice to the applicant: (i) states the results received and that additional verification or review is required; (ii) identifies any additional documentation or information required and any applicable deadlines; and (iii) notifies the person that they may seek correction of records with any agency that issued or maintains records relevant to verification at any point in the verification process.

(G) Additional verification procedures, delayed, manual or inclusive Cases. The Department shall describe in guidance uniform procedures for delayed, manual, or inconclusive verification results under subparagraph (A), (B), or (C) of this paragraph, including required documentation and resubmission/escalation steps.

(H) Applicant processing while verification is pending. The Department shall describe in guidance procedures for applicant processing while verification is pending under subparagraph (A), (B), or (C) of this paragraph, including whether a Unit may be held, whether the Owner may proceed to the next applicant, and how waitlist order and applicant disposition must be documented and maintained.

(I) Extensions of time. The Department shall describe in guidance procedures for extensions of time for submission of documentation or information needed to complete verification, including: (i) whether and when an extension may be granted; (ii) any maximum extension period; and (iii) documentation requirements for any extension granted.

(J) Disputes of verification results. The Department shall describe in guidance a uniform process for disputes of verification results under subparagraph (A), (B), or (C) of this paragraph, including: (i) required notices; (ii) documentation that may be submitted to contest or cure a result; (iii) roles and responsibilities of the Owner, the Department or its vendor, and any third-party verifier; and (iv) timeframes for dispute resolution and interim handling while a dispute is pending

(K) Compliance while verification is pending. For purposes of compliance monitoring, an Owner may not be determined noncompliant solely because verification results have not yet been issued or finalized under subparagraph (A), (B), or (C) of this paragraph, provided the Owner: **(i)** timely initiated verification using the elected method; **(ii)** provided notices required under subparagraph (F) of this paragraph; **(iii)** complied with Department procedures described in guidance under subparagraphs (G)–(J) of this paragraph; and **(iv)** maintained documentation required under subparagraph (D) of this paragraph.

(g) The Department may further describe an Owner's responsibilities under PRWORA, including but not limited to use of the SAVE system, in its Contract 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 Owner must be utilized by the Owner in determining household eligibility.

Commented [WP18]: This notice requirement establishes a uniform minimum due-process step when legal status is not confirmed, including what result was received, what additional steps are required, and the applicant's ability to correct relevant records.

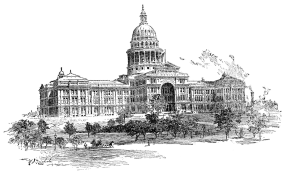
Commented [WP19]: Delayed/manual/inconclusive outcomes require a standardized escalation and documentation pathway so owners can prove the case was properly advanced and monitors can review against a consistent checklist.

Commented [WP20]: Pending verification directly affects leasing decisions; guidance is needed to prevent inconsistent unit-hold and waitlist practices and to require uniform documentation of applicant disposition.

Commented [WP21]: An extensions framework prevents arbitrary deadlines by standardizing when extensions are available, how long they may last, and what documentation supports them.

Commented [WP22]: A uniform dispute/cure process is needed to resolve contested or potentially erroneous results consistently across methods, with defined roles, allowable submissions, timelines, and interim handling.

Commented [WP23]: This provision is necessary to prevent owners from being cited for delays outside their control when verification is pending, delayed, or under dispute. It is not a waiver of compliance: it conditions protection on timely initiation, required notices, following guidance, and maintaining documentation—creating a clear, enforceable standard for "proof of compliance while pending."



TEXAS HOUSE DEMOCRATIC CAUCUS

February 22, 2026

Bobby Wilkinson, Executive Director
Texas Department of Housing and Community Affairs
221 East 11th Street, Austin, TX 78701

Dear Executive Director Wilkinson,

We write as members of the Texas House of Representatives to express our strong opposition to the proposed amendments to 10 TAC Section 10.612 (Tenant File Requirements) and the new 10 TAC Section 10.628 (Verification of Occupant Legal Status for HOME, HOME-ARP, and NHTF Developments), currently open for public comment through March 3, 2026. These proposed rules are not neutral administrative updates. They represent a deliberate policy choice to use the state's affordable housing infrastructure as a tool to target, surveil, and exclude Texas immigrant communities and we urge TDHCA to withdraw them.

Texas is home to one of the largest immigrant populations in the nation, and the majority of immigrant households are mixed-status, meaning they include U.S. citizens and lawful permanent residents alongside family members with varying immigration statuses. By imposing occupant-level immigration verification requirements as a precondition for housing assistance, Section 10.628 creates a chilling effect that will discourage entire households, including eligible U.S. citizen members, from seeking housing assistance they are legally entitled to receive.

The consequences will be profound and immediate: U.S. citizen children left without stable housing, domestic violence survivors forced to choose between safety and status, elderly immigrants severed from the safety net, and working families pushed deeper into housing insecurity. These are not hypothetical harms, they are the predictable and foreseeable outcomes of exactly this kind of policy.

TDHCA's mission is to provide safe, decent, and affordable housing for all Texans. These proposed rules contradict that mission at every level. Beyond their direct harm to immigrant families, they will create significant administrative burdens for property owners and housing providers, reduce occupancy rates in federally assisted developments, and erode trust between immigrant communities and public institutions across all program areas, not just housing.
We are available to discuss these concerns and urge TDHCA to engage with affected communities before taking further action.

Sincerely,

Rep. Gene Wu
House District 137
Chair, Texas HDC

Rep. Donna Howard
House District 48
Chair, Texas Women's Health Caucus

Rep. Ramón Romero Jr.
House District 90
Chair, Mexican American Legislative Caucus

Rep. Joe Moody
House District 78
Speaker Pro Tempore

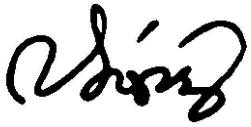
Rep. Suleman Lalani
House District 76
Co-Chair, AAPI Legislative Caucus

Rep. Jessica González
House District 104
Chair, Texas LGBT Caucus

Rep. Mihaela Plesa
House District 70
Vice Chair, Texas HDC

Rep. Ron Reynolds
House District 27
Second Vice Chair, Texas HDC

Rep. Senfronia Thompson
House District 141



Rep. Ray Lopez
House District 125

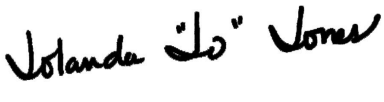
Rep. Lulu Flores
House District 51

Rep. Erin Zwiener
House District 45

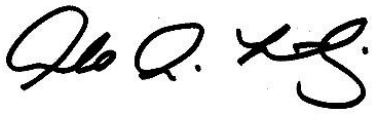
Rep. Josey Garcia
House District 124

Rep. Christina Morales
House District 145

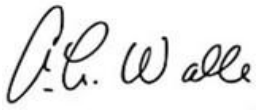
Rep. Vikki Goodwin
House District 47



Rep. Jolanda Jones
House District 147



Rep. Armando "Mando" Martinez
House District 39



Rep. Armando Walle
House District 140

Rep. Jon Rosenthal
House District 135

Rep. Diego Bernal
House District 123

Rep. John Bucy III
House District 136

Rep. Toni Rose
House District 110

Rep. Alma Allen
House District 131

Rep. Rafael Anchía
House District 103

Rep. Ana Hernandez
House District 143

Rep. Chris Turner
House District 101

Rep. Cassandra Garcia Hernandez
House District 115

Rep. Salman Bhojani
House District 92

Rep. Linda Garcia
House District 107

TEXAS HOUSERS
TEXAS LOW INCOME HOUSING INFORMATION SERVICE

1800 W 6th Street
Austin, TX 78703

TexasHousers.org

March 3, 2026

Attn: Brooke Boston
Texas Department of Housing and Community Affairs
P.O. Box 13941
Austin, Texas 78711-3941

RE: Proposed §10.612 Tenant File Requirements and §10.628 Verification of Occupant Legal Status for HOME and NHTF Developments

To whom it may concern:

Thank you for the opportunity to comment on the agency's proposed rules regarding PRWORA compliance at HOME, HOME-ARP, and NHTF-funded developments.

In summary, we believe that the rule as written will lead to likely harm for eligible residents and providers, and that it would be responsible of the agency to delay the adoption of this proposed rule until these issues have been sufficiently addressed.

1. This proposed rulemaking is premature and getting out in front of HUD guidelines. TDHCA should pause rulemaking until further HUD guidance is available.
2. Legal status verification should only be applied to designated HOME, HOME-ARP, and NHTF units.
3. The rule prohibiting "harboring" is not required by federal regulations or guidance. It is vague and confusing and should be removed.
4. The rule should not apply to tenants who signed their lease prior to the rule going into effect but move in after it goes into effect.
5. Legal status verification requirements will increase costs and administrative burden for owners and operators of housing and will create delays and increase costs for tenants in need of housing. SAVE error rates will result in eligible Texans losing access to housing.
6. Information regarding PRWORA-related rule updates has been inaccessible or is not yet available.

Texas Housers is a 501(c)(3) nonprofit organization founded in 1988 to work for housing justice and fair and equal treatment by government of communities. Our mission is to support low-income Texans' efforts to achieve the American dream of a decent, affordable home in a quality neighborhood of their choosing. We work toward these goals through research, policy, and collaboration with community organizations.

The following comments detail Texas Housers' concerns.

Thank you,

Sidney Beaty
Research Analyst
Texas Housers
sidney@texashouing.org

Ben Martin
Deputy Director
Texas Housers
ben@texashousing.org

Pause premature agency rulemaking

Both the July HHS and November HUD PRWORA notices acknowledge that further guidance is necessary to fully implement new legal status verification requirements. The HUD notice explicitly references expected HUD and DHS guidance: "HUD will be issuing new guidelines related to the verification for benefits provided through its housing assistance and grant programs, including for benefits distributed by charitable non-profit organizations. HUD will be relying in [sic] guidance issued by the Department of Homeland Security once that is published." As such, TDHCA should delay the adoption of this rulemaking until expected HUD and DHS guidance.[1]

The National Housing Law Project's brief on immigration requirements in housing programs cautions that "If a benefits granting agency engages in the improper application of PRWORA's verification requirements, they could be subject to discrimination claims under federal civil rights laws as well as any applicable state or local laws." Texas is so far the only state to update rules ahead of additional guidance needed for implementation. By moving too quickly ahead of forthcoming federal guidance, the agency exposes residents, providers, and the agency itself to unnecessary risk and harm.

Because the full scope of federal reinterpretation of PRWORA requirements is not yet clear, it is difficult for developments and advocates to understand the impact of these rule changes and provide thoughtful comment. However, it is clear that TDHCA should be cautious to not implement rule changes that will result in substantial harm without adequate federal guidance and regulation to shape the implementation of federal requirements.

Texas Housers strongly recommends delaying rulemaking on the updated federal interpretation of PRWORA verification requirements until key federal guidance necessary for implementation is released. Until this guidance is released, it is not clear that these regulations are necessary to receive a source of federal funds or to comply with federal law.

Remove unnecessary and vague harboring language

Texas Housers strongly opposes the inclusion of §10.612(a)(6) requiring tenants to sign a lease attesting "...that they are not harboring an illegal immigrant in violation of federal law" because it is vague, confusing, and not necessary to comply with federal PRWORA requirements. As stated by TDHCA staff at the January 2026 Board Meeting, this section "...is

[1] Given that the language of the Federal Award Agreements TDHCA cites as requiring these rule changes specifically requires the Recipient to "administer its grant in accordance with all applicable immigration restrictions and requirements, including the eligibility and verification requirements that apply under title VI of [PRWORA] and any applicable requirements that HUD, the Attorney General, or the U.S. Citizenship and Immigration Services may establish from time to time to comply with PRWORA"; implementing these rule and policy changes before HUD or other federal agencies have established new requirements is what might result in TDHCA noncompliance with these agreements.

not a federal requirement that that clause be signed, because HUD's guidance at this point is not that specific."

Lacking eligible immigration status for HUD programs is not the same thing as lacking legal status under federal immigration law. A person with a student visa, for example, is not eligible for HUD assisted housing, but is legally present in the United States. Proposed TAC §10.612(a)(6) is unrelated to the requirements of §10.628 that require verification of eligible immigrations status under PRWORA for specific HUD programs and TDHCA has not provided any reasoning or justification for its inclusion in the proposed rule. Under TDHCA's enabling statute, Texas Government Code Sec. 2306.002 "[t]he highest priority of the department is to provide assistance to individuals and families of low and very low income who are not assisted by private enterprise or other governmental programs so that they may obtain affordable housing or other services and programs offered by the department." It is unclear what provision of TDHCA's enabling statute allows it to impose an attestation of compliance with federal criminal law unrelated to eligibility on housing providers and tenants.

Lack of federal regulations and guidance requiring this language is not the only reason it is unnecessary. Per 8 USC §1324, harboring an alien that is in the US in violation of the law is already against federal law.[2] It is not necessary to require tenants to sign a lease attesting that they will follow a specific law. This sets a bizarre and unprecedented standard – TDHCA may as well require that tenants attest in a signed lease that they will not forge documents, drive without a license, or commit murder.

The proposed language is too vague as written. It is unclear what definition of "harboring" developments might rely on. As written, the guidance leaves too much to interpretation for individual developments and property managers, as well as residents, none of whom are legal experts. This will create confusion and may lead to overly punitive implementation at individual developments, potentially opening developments to fair housing complaints.

Imagine a scenario where a tenant faces eviction due to noncompliance with the "harboring" lease clause. In this case, who is responsible for interpreting the definition of "harboring" in the context of a Notice to Vacate or in an eviction case proceeding? What if the resident is not aware that the person who is visiting their home does not have appropriate legal status? Is the resident still at risk of losing their housing? How is the development supposed to determine whether or not the visitor has appropriate legal status - which is appropriate legal status under federal immigration law, not appropriate legal status for HUD program eligibility - in the first place?[3]

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[2] It is not clear whether the proposed rule is referring to 8 USC §1324, and we do not assume that it is.
[3] For example, in its December 2025 letter to Public Housing Authorities, related to a reporting requirement that is not imposed on private parties, the determination that someone is not lawfully present in the United States requires that PHAs make "a finding of fact, or conclusion of law, supported by a determination from DHS or the Executive Office of Immigration Review (e.g., a Final Order of Deportation)." This finding must be part of a formal determination subject to administrative review and does not have weight "outside the context of the alien's eligibility for that particular benefit." See, e.g. 65 Fed. Reg. 58301.

This section of the rule is not specifically required by the federal regulation and guidance that are the stated reasons for these proposed rule updates and so it should not be included.[4] §10.612(a)(6) should be removed from the proposed rule entirely because it creates extensive unnecessary confusion that both providers and residents will struggle to comply with.

Apply verification requirements only to required units

Texas Housers opposes language at §10.628(b) that would apply the proposed rule to all units at properties with floating HOME, HOME-ARP, or NHTF units. TDHCA has stated that requiring verification at all units as opposed to just the specific program units will drastically increase the number households requiring verification from 9,126 units to 28,895 units. This significantly expands the administrative and financial burden the rule updates will place on both developments and low-income tenants alike.

As the verification requirements only apply to HOME, HOME-ARP, and NHTF funding, they should only apply to households in designated units specifically attached to those funding sources. Although the physical designated unit may change, the development is aware of which units are designated as HUD multifamily units at any given time and can verify the status of tenants in those specific units.

We recommend the following changes to 10 TAC §10.628(b): "~~For Developments with floating HOME, HOME-ARP Rental and NHTF Units, all prospective tenants intended to be on any Unit's lease must be verified as required by this section. For Developments with fixed HOME, HOME-ARP Rental and NHTF Units o~~Only prospective tenants intended to be on the lease for designated HOME, HOME-ARP Rental and NHTF ~~the fixed~~ Units must be verified as required by this section."

Clarify the timeline for new tenants

The proposed language does not explicitly address the applicability of rules to tenants who may have signed their lease prior to the rule taking effect but not yet moved into their unit. Lack of clarity on this issue could result in confusion for developments and an unexpected loss of housing for low-income tenants. The rule should explicitly only apply to tenants who sign their lease *after* the rule goes into effect. The rule should also be updated to clarify that only new signatories require verification at recertification or lease renewal to ensure that previously-verified household members do not need to undergo reverification.

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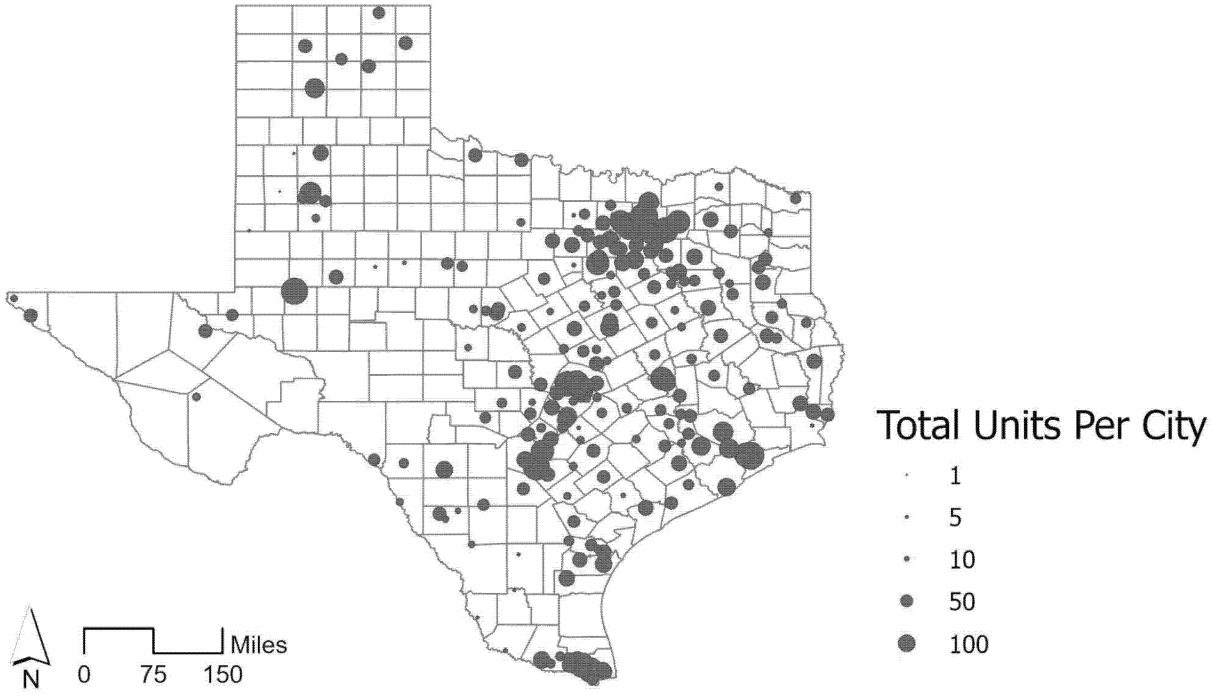
[4] The Addendum 1 to the September 15, 2025 Federal Award Agreements for both HOME and the NHTF cite only the eligibility and verification requirements of PRWORA and neither HUD, DHS, nor the Attorney General have established additional requirements that would require this attestation.

TDHCA should add the following language to §10.628(e): "Residents who have signed a lease prior to this rule taking effect will not require verification if their move-in date takes place after this rule takes effect."

TDHCA should also update §10.628(e) to clearly state that "~~any~~ only new signatories to the lease at the time of subsequent Unit recertification or lease renewal must be confirmed for legal status."

Proposed rules will create significant administrative and financial burden

The proposed rule changes will have a significant negative impact on low-income Texans with qualifying legal status who live in – or could live in – TDCHA-funded multifamily properties as well as the development owners and managers. As with the prior PRWORA-related rule updates, this rule change represents a large expansion of the applicability of verification requirements that will result in delays securing and/or loss of housing for vulnerable people. Texas Housers' review of TDHCA-funded development data finds that the proposed rule, as written, impacts 28,795 units at 389 properties in 128 counties.[5]



[5] Based on data received in response to PIR. Two properties, Samano in Brownsville (CMTS #5624) and Burnet Place Apartments in Austin (CMTS #5631), have both HOME-ARP and NHTF units.

Burden on developments

The new requirements are an unfunded mandate that will significantly impact TDHCA-funded developments across the state. Regardless of which method of verification documentation a development owner selects, there will be built-in, unavoidable delays and costs associated with document collection, internal review, submission, external review, additional external review, potential errors and appeals, etc. Unless they operate developments that include a subsidy covered by Section 214 of the HCDA, verification of citizenship or eligible immigration status will be an entirely new process for housing providers. Texas Housers' review of TDHCA and HUD data found that of the 274 properties we were able to identify layered funding sources for, 86 have either public housing, Project-Based Section 8, or USDA rural rental assistance units covered by Section 214. The majority of developments likely do not have experience with verification requirements.

In addition to the ongoing costs listed above, implementing these rules will impose significant costs in the form of creating new processes, staff training, reviewing systems for compliance with newly imposed privacy and technology requirements, and potentially the purchase of new software or technology and hiring new staff or contractors. These steps will be particularly burdensome for smaller development owners with less capacity, many of which are located in rural areas.

Burden on tenants

Delays will affect not just those who are ineligible, but also eligible beneficiaries. Prospective and current tenants will need to procure the correct documentation, which is disproportionately difficult for the low-income vulnerable populations these funding sources are meant to serve – NHTF funding specifically targets households with incomes at or below 30% AMI.

Extremely low-income households may need to prioritize other necessary costs that prevent them from paying fees for documents, or they may lack transportation or free time to get to government offices they need to visit to secure ID. Transportation has a more severe impact on rural tenants that may need to travel further. Over half of the developments impacted by this rule (208) are in rural places per TDHCA's definition, accounting for 4,254 HOME, HOME-ARP, and NHTF units and 9,533 total units.

If additional verification is required using SAVE, it takes an average of 16 federal workdays to get a response.[6] TDHCA's SAVE MOA with USCIS states that "Response time to complete additional verification requests may vary" based on USCIS capacity, available resources, and applicant circumstances. Delays means more time until a tenant can move into an affordable unit, which may prolong precarious housing situations or incur additional housing costs.

[6] 16 days as of 3/3/26.

Contrary to the Department's assertion in the public benefit/cost note required by Tx. Gov't Code 2001.024(a)(5), there will clearly be economic costs for individuals to comply with the amended section.

Issues with SAVE

SAVE is relatively new and, like the proposed rules, is being implemented prematurely. The National Association of Housing and Redevelopment Officials (NAHRO) notes several significant issues with SAVE such as inaccurate, constantly changing, and unclear reports; technical difficulties; and inadequate guidance. Propublica and the Texas Tribune recently found that SAVE had an error rate of 14% in Denton County and 5% statewide. SAVE especially struggles to verify individuals with acquired citizenship – TDHCA's SAVE MOA with USCIS even states that "SAVE may only be able to verify acquired US citizens in certain situations." SAVE errors will cause headaches for developments and, worse, will result in eligible tenants losing access to affordable housing.

Although staff responses to public comments on prior PRWORA rule updates indicate that appeals will be addressed through each program's rules, thus far the proposed legal status verification rules do not address the need for an appeals process related to legal status verification. In other words, this rule relies on a system that has been shown to have a high error rate, and the agency has not only failed to account for this, but also has failed to articulate a process to appeal an erroneous SAVE determination.

Per the USCIS MOA, applicants must use TDHCA's "existing process to appeal [a] denial" - but the general appeals process described at 10 TAC §1.7 requires that the Executive Director respond to each appeal. SAVE's high error rate suggests this could become a burden. A very rough estimate based on 28,795 impacted households and a 5% statewide error rate – assuming each error results in one appeal per household – means up to 1,440 appeals, which will each require a response from TDHCA's Executive Director.

While the proposed rule states that owners can elect one of three methods of verification, it is not clear that all of these methods are actually available. For example, §10.628(f)(2)(C) gives owners the option to "procure an eligible qualified organization or service to perform such verifications on its behalf, subject to Department approval", but the department has already certified, per its MOA with USCIS, that "it cannot procure the immigration status verification services requested pursuant to this MOA reasonably and expeditiously through ordinary business channels."

Access to the SAVE system is currently limited to "registered federal, state, territorial, tribal, and local government agencies" so it is likely that the only actually available option for most owners will be §10.628(f)(2)(B).[7] This option involves the development owner requesting information from the household and transmitting it to TDHCA, which requires, under

[7] The SAVE website only describes eligibility for agencies; the process for HUD-assisted multifamily properties to gain access appears to be to email an individual at HUD.

§10.628(f)(2)(D), "a sufficient method of electronic transmittal system that allows for such information to be provided to the Department or its vendor" with a level of security for electronic and paper files appropriate to this kind of information. It is not clear from the rule what kind of system owners would be required to have and maintain, but costs imposed by this requirement are likely substantial and more likely to fall on small or micro-businesses and rural communities. The proposed rule gives owners only 60 days after the rule goes into effect to determine whether there is an eligible qualified service that can provide verifications (subject to an undescribed Department approval process) or whether its technology and systems meet an (undescribed) standard for submitting documents to TDHCA.

The premature implementation of these rules will harm both developments who provide affordable housing and especially the low-income tenants who depend on those developments.

Lack of accessible information

Texas Housers wishes to express concern that information about new requirements at both the federal and state level is inaccessible and obscured in contracts and guidance. TDHCA's recent PRWORA rule updates have all cited HUD grant agreements as the reason updates were needed immediately, before anticipated HUD guidance could be made available. These grant agreements are not publicly available.

The HHS and HUD notices that expanded the applicability of PRWORA reference future guidance that is not yet available. §10.628(g) of this proposed rule states that TDHCA may include further information on Owner responsibilities in its contract or further guidance, which are not yet available.

TDHCA's SAVE MOA with USCIS (which is not publicly available) states that USCIS will train TDHCA staff on laws, policies, and procedures, but none of the publicly available documents, guidance, or rules state who will be training developments ultimately responsible for collection of materials necessary to verify. The MOA also states that TDHCA must "Provide all benefit-applicants who are denied based solely or in part on the SAVE response with adequate written notice of the denial and the information necessary to contact DHS" to correct their records if necessary, but TDHCA's proposed rule and currently available state guidance do not mention any requirements to notify tenants or potential tenants of verification status.

Federal legal status verification requirements and federal benefit rules are complicated enough without so much of the key information being scattered and buried in inaccessible documents. By proposing this rule prematurely and haphazardly and obscuring access to relevant guiding documents, TDHCA will be introducing unnecessary risks to residents, property operators, and the agency itself.

U.S. HISPANIC CONTRACTORS ASSOCIATION

Tel. 512.627-5444 ● Email: FuentesCon@aol.com

Feb. 24, 2026

Re: Texas Housing Rule Change

To Whom it may Concern,

The recent TDHCA rule changes cause a negative cascading affect on Texas communities, workplaces, services, schools, healthcare, and individual security and safety.

Direct impact on lawful DACA recipients:

DACA recipients make up a significant part of our economy. They are not illegals or non-American. They are our nurses, electricians, teachers, entrepreneurs, builders and so much more. Their families are our neighboring homeowners and their children are your kids' teammates and classroom friends.
Yet they are being treated as if they don't belong here. For the past several years their legal status has been in flux, and now their security is being threatened more than ever.
Due to many recent changes, ongoing litigation, and changing compliance guidelines-including changes to the U.S. Citizenship and Immigration Services Agency, DACA status renewals are backlogged, putting people, families and children at risk of basic life necessities-housing, employment, and personal security. Lawful DACA recipients are directly impacted by the USCIS 's workload delays and delayed lawful status renewals and today's TDHCA action is furthering that harm.
Despite complying with renewal applications being completed accurately and submitted on time, Texas DACA recipients face dangers during the delayed processing, and this TDHCA rule change action is one of those dangers.

Bypassing the elected legislative body in creating new law:

TDHCA is an agency that is created to oversee and carry out the laws made by the elected legislative body. By formulating and instituting these legal changes in the TDHCA administrative rules, TDHCA is essentially creating laws, in effect surpassing its authority and superseding the law-making body that the people of Texas elected. This is not only an injustice to DACA recipients, it is an injustice to Texas voters and an affront to Texas legislators. We used to be better than this and I'm here today to say that we should still be better than this, for the people, the economy, and for the continued stability and prosperity of Texas.

The rule changes threatens to cause economic destabilization in Texas:

A loss of housing, combined with other inevitable losses, would cripple industries relying on lawful Texas DACA workers, causing significant turnover and economic shock.
Texas DACA recipients contribute roughly 8 billion in household income and pay nearly 2 billion in federal, state, and local taxes annually. The roughly 56,000 DACA recipients who are homeowners contribute over $760 million in mortgage payments annually, alongside property taxes.
With approximately **100,000 DACA recipients** living and working in Texas, their disenfranchisement will be felt across industries. These individuals are deeply embedded in the state's workforce, 97% of eligible individuals are gainfully-employed. More than 100,000 DACA recipients who call Texas home, they are parents to 52,000 U.S.-born children. Entire families will be negatively impacted by a sudden imposed inability to rent, buy, or keep their family homes.

Impact on housing and rental markets:

The Guardian recently reported that If DACA recipients in Texas were prohibited from renting housing, it would likely cause mass displacement, increased homelessness, and severe economic disruption. Such a restriction, often linked to broader anti-immigrant policy proposals, would likely force thousands into the shadows or out of the state, resulting in a loss of over $6 billion in annual economic activity.
Restrictions on rental housing for non-citizens or specifically DACA recipients would, according to studies on similar proposals, likely result in widespread evictions and forced displacement for thousands of residents, including children and aging parents.

Because many lawful Texas DACA recipients live in mixed-status households, TDHCA's unduly burdensome restrictions on housing will affect U.S. citizen spouses and children, putting them at risk as well. DACA recipients facing such housing insecurity, will inevitably impact landlords if tenants are abruptly and unexpectedly forced to move. Will Texas then use already-stretched taxpayer dollars to subsidize all of these losses to housing and related impacted industry? It is estimated that 30% of DACA recipients are homeowners. They have mortgages, property insurance and pay local taxes. Across the US, DACA recipients who are homeowners contribute over $760 million in mortgage payments annually.

In closing:

Creating these ad hoc proof of lawful presence barriers is wholly and unequivocally a poor decision for the Texas economy, community, stability, and most importantly for the families that will be unfairly and unjustly displaced. For these reasons and in good conscience, we implore the TDHCA to withdraw these rule changes until the legislative body can properly and fully take up the issue and contemplate its full negative cascading impact on Texas families, businesses, voters, and taxpayers.

Thank you for your time.

Frank Fuentes
512 627-5444
Chairman, U.S Hispanic Contractors Association

Transcript of Public Hearing Held on February 24, 2026 (1:00 pm) on 10 TAC Sections 10.612 and 10.628

**********DISCLAIMER!!!**********

THIS IS NOT A LEGAL DOCUMENT.

THIS FILE MAY CONTAIN ERRORS.

>> Hi. This is Brooke Boston with the Texas Department of Housing and Community Affairs. We'll start in just a minute.

It looks like some of the listen-only people attending have little hazard signs in front of their name. Does that mean --

>> That means they have us minimized and they have something else in front of Go-To.

>> Okay. Interesting thing to know.

>> Yes. I've got one person that's emailed me asking how to get in, so I've let them know.

It looks like they were able to get in.

>> We'll start at 1:05.

>> All right. We're going to go ahead and get started.

My name is Brooke Boston and I'll be hosting our hearing today. Thank you, everyone, for coming to attend. This is a public hearing on 10 TAC sections 10.612 and 10.628. First I'd like to introduce ourselves. My name is Brooke Boston, I'm our executive deputy director. I have with us Wendy Quackenbush, our director of compliance, Amy Hammond, our compliance manager, and Cara Pollei, our team lead.

Cara will be helping host this, and if you have any questions along the way, you can message along the side.

As you know, the board approved a draft rule at its January board meeting that is out for comment right now. We received a request to hold a hearing on this item and are doing so today.

As is the case with most public hearings, this is not so much a conversation as a place to make formal public comment, which we will listen to and then respond to later in writing in our reasoned response which is provided in our preamble to the rule adoption document that goes to our board and subsequently on the Texas register.

This hearing is being transcribed so that we will be able to respond to the responses.

I'll start by giving some background and then we'll open it up for public comment.

This rule relates to a Federal Law called the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, it's called PRWORA. That law provides that an alien who's not a qualified alien, is not eligible for Federal public benefits. The US Department of Justice directs that each Federal Agency is required to identify which of their programs are considered Federal public benefits for this purpose.

In its 2025 Federal grant agreements between the department and HUD, HUD clarified that PRWORA does apply to Home and National Housing Trust Fund. In a subsequent announcement HUD also included HomeARP in those programs which PRWORA would be applicable. This rule provides compliance for the department's home, HomeARP and NHTF multi-family rental portfolio of properties.

This rule is not applicable to properties that are solely housing tax credit properties. The rule will require that all persons signing a lease must have been verified as having legal status, either as a U.S. citizen, a U.S. National or a qualified alien. This requirement will be applicable to all existing and future properties for the length of the state and Federal affordability periods.

A property must confirm legal status through verification based on a series of applicable documents, or if still needed, through a system called SAVE, the Systematic Alien Verification for Entitlements Program. SAVE access is granted directly to the department and other governmental entities. We in turn grant access to those we contract with or have LURAs with to perform those verifications themselves.

There are two rules open for comment that we are discussing today. The first is Section 10.612 called Tenant File Requirements.

This rule revision relates to what must be kept in a tenant file by a property for Home, HomeARP and NHTF developments. The property will need to include in the file documentation to support the legal status of all persons signing a lease has been verified, and an attestation signed by all parties signing a lease that they are not harboring an illegal immigrant or housing an unqualified alien in violation of Federal Law. The other section is 10.628. This is a new section and is entitled Verification of Occupant Legal Status for Home and NHTF developments. It provides the detail of how this policy will be implemented. In that section we outline the timing of the rule, confirmation of legal status must occur at the initial lease-up of a unit, and the time of the first unit recertification or lease renewal that occurs after the rule becomes effective. Confirmation will only need to occur for that household thereafter if there are changes to the household members who signed the lease.

It should be noted that this requirement does not apply to survivors of domestic violence, sexual assault, stalking and/or dating violence, more specifically populations protected by the Violence Against Women's Act, VAWA, and the Family Violence Prevention and Services Act, the FVPSA. The verifications need to occur for every person signing a lease.

At recertification, if a household does not qualify, the notices in 10.613 of our rules must be followed, which provides that to terminate or refuse to renew tenancy in a Home, TCAP RF, NSP and HomeARP development, the owner must serve notice to the tenant specifying the grounds for the action at least 30 days before the termination of tenancy.

Procedurally a property will first seek to confirm legal status through viewing

documentation provided by the household using a documentation checklist or flowchart that the department provides. If those documents cannot establish legal status, then the property is required to use the SAVE system to seek the household -- that individual's legal status.

Only if a property is not allowed to access SAVE will they then have the option of having someone do it for them or send to TDHCA to perform the SAVE review.

TDHCA will put in place an interface method for how the needed information will be transmitted between a property and the department.

Public comment on these rules is due to the department by 5:00 on March 3rd. That comment should be submitted to Brooke, BROOKE.boston@tdhca.texas.gov.

After that deadline, as I mentioned, staff will prepare a written response to all comments received, whether it was received in writing or received as part of the testimony today. The rule will then be presented to our board for adoption at the April board meeting. Over the next few weeks and probably over the next month or so we will be releasing forms and guidance on the department's website for how a property can -- for the forms that the property will need to verify legal status and for the attestation forms relating to harboring.

We will be providing trainings as needed. We will craft an attestation form that the properties will use and we will be working with the monitoring team in compliance on how the monitoring checklist will be updated.

As I mentioned, this is being described so that we'll be able to have good records afterwards of all the comment and testimony that got received.

With that I will begin to accept public comment. Please raise your hand and Cara will allow you to unmute yourselves. Then state your name and any organization that you may be representing. Please keep comment to roughly three minutes so everyone who intends to speak has an opportunity to. And with that we'll get started.

>> The raise your hand option is down in the bottom. There's a little button that says react. We do have Kathleen Petty.

>> Yes, ma'am, thank you for your time.

I am new to grants in this form. I've done grants previously as a teacher, but I was told when I first started looking into this grant that there would be help, as you have kind of gone over, I'm grateful for the help, but I am also just kind of wondering how do we start the grant process? I've done a Master's degree so it's similar to writing a business plan. I've done a business plan. So can you help me out in guidance on how to do this grant, please?

>> So to clarify, this is a hearing that's just taking input on two rules. There's not actually a specific grant opportunity involved. These are properties that already have funding from TDHCA through specific grant programs, and the properties already have the funding. And this rule is about some additional requirements that they have to now follow.

>> I see. Well, it will be good and enlightening for future use, that's for sure.

Who would I contact in order to help me walk through this process, please?

>> Could you be more specific about what process you mean? Are you a property that has our funds?

>> No, but I am working on a property for those who have developmental disabilities. It's a 26-door property more or less. It will house 52 individuals.

>> Okay. Are you planning on applying for TDHCA's Home or National Housing Trust Funds to help support that?

>> Yes, please, I would like to do that.

>> Okay. I think it would be good if we could just get your information separately and we'll have someone from the agency follow up with you.

>> Great. I would love that. My phone number -- I don't want to give it out, 435 area code. 669-6752. My email address is Y as in yak, O as in Oscar, W as in water buffalo, Z as in zebra, A as in alligator, Yowza@gmail.com. So yes.

>> All right, Kathleen. We'll definitely have someone follow up with you.

>> Thank you, Brooke, for your time and everybody else on the panel. I appreciate you being very patient with me.

>> Of course.

Does anybody else want to speak and provide testimony on the rules that we're discussing? If so, please raise your hand.

>> Jamie Puente.

>> Hello. This is Jaime Puente and I represent Every Texan. We are a statewide non-profit, nonpartisan public advocacy organization, and one of the things that we were hoping to contribute is to' reminder to the agency that nearly one in four children in Texas live in a mixed status family. So that's U.S. citizens, children living in a mixed status family. And they are going to be affected by this policy should their parents who may or may not be undocumented, one or more, not qualify under this new rule. So the children here are going to -- is what we would like to bring attention to, specifically because some of this proposed rulemaking is premature and getting ahead of the HUD guidelines.

And so, you know, pausing this rulemaking until further HUD guidance is available is preferable to Every Texan.

One of the things we also would like to point out according to our 2024 Texas kids count, Hispanic or Latino children in Texas are 36% more likely to live in households facing high costs of living burdens.

So this is going to -- this is going to affect families that are already facing a high cost of

living.

And with children under six, under the age of six, with no parent in the labor force, right, like we're talking about a very, very vulnerable portion of the population.

And so, you know, the rule should only apply to tenants who signed their lease after the rule goes into effect. It should not apply to tenants who signed their lease prior to the rule going into effect. Just -- you know, that's kind of a standard process in terms of, you know, rulemaking and policymaking in this state. We usually don't apply things retroactively. It's applied in a forward-looking motion.

And so one of the things -- you know, so again, legal status verification finally will substantially increase the cost and administrative burden for owners. And so this is placing a big burden on people that are already dealing with low margins and are supporting families in a low-income status. So this is going to burden Texans, right, and especially U.S. citizens, Texans, children, the most with these new rules. Thank you.

>> Thank you very much, Jaime. We'll definitely include that in all of our public testimony.

Are there others who would like to speak? If so, please raise your hand.

We'll give folks a couple of minutes to think about that and decide if they want to speak. Normally as soon as testimony stops, we would just stop a hearing, but I know we just started so we'll wait a couple of minutes and see if anyone else chooses to speak.

>> Ryan Gamble. You should be able to unmute.

>> Hi everyone. Thanks for taking the time to meet with us. We really appreciate it.

The question really is in regard to appeals process, both for applicants and for current residents who then come upon recertification or a lease renewal and need to provide citizenship documents. Has there been any discussion of what a timeline might look like? Whether it's based on HUD's recently published revisions for Section 214 or some other metric? Basically is there any kind of latitude that you would be willing to discuss or include in the rules that would provide a better timeline if a property wishes to appeal a SAVE determination?

>> We will -- thank you for the question. We will definitely address that in the reasoned response, and we -- I have received comment from others already asking for a little bit more information or detail in the rule about an appeal process.

>> Thank you.

>> Maria Watkins, you can unmute.

>> Hi. So I just have a question on the resetter and renewal requirement to reverify citizenship after move-in. It's my understanding currently for, like, the project by Section 8 HUD side of things, they only require verification of citizenship at move-in. And so I was wondering if this change to the rule is a TDHCA interpretation or if it's how the legislation has come over and is requiring it?

>> Thank you for that question. We'll make sure to address that in reasoned response.

>> Okay, thank you.

>> Maria, did you want to speak again?

>> No. I was trying to put myself back on mute. I didn't mean to raise my hand again. Thank you.

>> Thanks.

>> Is there anyone else who would like to speak and provide testimony?

>> Whitney Parra?

>> Hi. Hi y'all. Like Ryan said, thank you so much for hosting this. We really appreciate it.

I think I've asked before, but just to make sure, I know that y'all will be using a lot of the same resources that y'all have created for the other PRWORA kind of phases for the rulemaking that have been put out. Have y'all been able to complete any of it for the multi-family side? I was specifically asking because I know for some of those other phases, y'all are using that household status verification form, and so I'm wondering if that is what y'all plan to use for multi-family? Because I think you had suggested that we can provide public comment on some of those other resources, so I wanted to check in if, one, y'all have completed the ones for multi-family, that way whatever we comment on is the most accurate?

And then two, we can get -- just to make sure -- wondering if y'all would be using that household status verification form for this as well?

>> Yeah, good question. We will be creating a form that is similar to that, that is tailored specifically to our properties and multi-family as opposed to single-family. We have not done so yet, so I think if there are specific comments, like if you know there are things about the version you've seen that you find problematic, telling us that now would be very helpful as we craft the new multi-family versions.

>> Okay. That makes sense.

And I did have another question.

>> Yeah.

>> Oh, yes. Just to make sure, I think in the last roundtable y'all had discussed it. Does TDHCA plan to give SAVE access to all of those 391 properties? Is that one of the options? I just wasn't sure, kind of checking through my notes.

>> Yes, we are.

>> Okay, great.

>> Only in the rare case where a property is not allowed to be set up in SAVE. So maybe they've been debarred federally. But otherwise our expectation is that property will get set up in SAVE. And if they want to do that through a management company as opposed to property by property, that's a decision of the property and the management company.

>> Got it.

Okay, great.

And I think just the -- I think that's all I have. I might have another one, but I might just come back.

>> Okay.

>> Thank you.

>> Looks like Kathleen Petty has raised her hand again. Kathleen, you can unmute.

>> Thank you for another opportunity. I did have a question piggybacked upon the person before. So you have properties that are already qualified for these grants or a list of them? And that's my first question. And is there a website that I can go to to check them out?

>> So this isn't -- this isn't properties qualifying for grants. So the way the TDHCA's portfolio of properties works is when a property or a developer is interested in developing a property and willing to make a portion of the units affordable to low-income people, they apply to us and we then in turn, some of them, are able to get funding from us or Housing Tax Credits. And if they do, then when it's built or reconstructed we enter into something we call a land use restriction agreement, which means they then have to continue to follow all of our regulations and Federal requirements:

The hearing today is about a set of requirements that are applicable to some of those properties that already received our funding.

>> Okay. So that's kind of what I thought previously because I am going to develop this land. I'm looking at properties right now with my general contractor. And this area of Texas really lacks for this. They have it on the Arkansas side, because I live in Texarkana. They have everything on the Arkansas side, but the Texans that live on this side, the family members and those who are affected by it sit at home all day and do nothing. And so to make a long story short, because there's a red tape between the two states, even though we're one city.

So I want to change that because there is a 10-year waiting list for group homes in the State of Texas for these individuals. And I just want to work with the community and just get some stuff done here. There's so many things, good things we can do. So that's my thought.

And thank you for taking my question again. I was like, well, if you have properties already to go and certified, then I best be looking at those properties. So that's my thought process. Thank you very much again.

>> Yes, Kathleen, we'll definitely follow up with you afterwards and talk to you about the list

of existing properties that offer low-income housing that are in our portfolio in your area, and then also someone can talk you through if you wanted to try and pursue an application yourself, what that would look like.

>> Thank you. Thank you, thank you.

>> Cara, you're muted. I didn't know if you were --

>> Sorry, yes.

Whitney, you should be able to unmute.

>> Okay, perfect. I remembered my question.

So this is on question -- this is for attachment 1, so that's the 10.612, the tenant file requirements. So on here you listed that y'all were not going to add any new employee positions, but in the next attachment you put there could be one to two new full-time employees.

I wanted some clarification because I did see that TDHCA already posted a rule for PRWORA manager.

So what y'all are estimating now, because this rule hasn't passed yet, I'm guessing that PRWORA is for these other two phases for those other programs. So what you're putting for this now, would that be like a certain -- like a specific one just for multi-family? You know, that was my question.

>> The position that was posted is kind of to help coordinate all of it across all the different programs. Now that it's being implemented in our single-family, community affairs and multi-family, some of the multi-family portfolio, we just wanted someone who this is their whole focus on getting it rolled out, being sure we're being consistent across the different programs, you know, updating the documentation requirements, making sure the forms are ready and usable and that kind of stuff.

>> Got it. So what you are putting here in the comment is about getting those one or two positions. That would be specifically for like the verification for how all that process is going to roll out, correct?

>> Yes. I'll have to double-check where you're talking about. Sometimes -- I may have been inconsistent across one of the preambles versus the other, and have said it didn't require FTEs.

>> One preamble, the first one, that one didn't say anything. For that one it said y'all were not going to add anything.

And then for the next one it was, so I was a little confused and then I saw the posted job and I was like, is this all the same person? I was a little confused. So yeah, happy that you clarified that.

>> Yeah, yeah. We'll do that.

>> Okay. Great. That was my last question. I appreciate that.

>> Okay.

>> Roger, I apologize, I'm not going to attempt your last name, so if you can say that for us.

>> Can you hear me? Roger. I just unmuted. Very good. Thank you. And I appreciate the hearing that you're putting together today.

My question is general. I saw that HUD is proposing a rule change regarding Section 214. And what I'm wondering is the extent to which what you are hearing today is relating to that or that's a separate initiative that you will later be aligning with at some point after this rule has moved forward? That's my question.

>> Section 214 does not apply to the programs that these rules are about.

>> Okay.

>> Yeah. So it's different. And you know -- our observation would be probably that because HUD did release the 214 guidance, they may be forthcoming soon with further guidance that may apply to these properties, but they have not done so yet.

>> These are mutually independent, I guess, actions then. Okay, thank you.

>> Yes. Now, there could be a property in our portfolio that has Home or NHTF or HomeARP that is using 214 because of other funding they have on the property.

>> In which case --

>> Our programs don't have that.

>> I guess in those situations the Federal rule would supersede.

>> Well, interestingly one of the clauses in our rule right now is that if a property is compliant with 214 that it would then be considered consistent with this rule.

>> Okay.

>> Yeah.

>> Thank you for that.

>> Yeah.

>> All right. Ryan Gamble, you can unmute.

>> Hi, thanks again. I think he just clarified my question there at the end. And really just so compliance with Section 214 under whatever HUD's guidance is at the time is sufficient to meet the requirements, is -- am I understanding correctly?

>> Ryan, actually, and I think you and I talked about this at a separate meeting at one point.

>> We did.

>> And we are going to clarify that clause. It's not just if the property is subject to 214, it's if a household has been verified in accordance with 214.

>> And it's the latter that you'll be clarifying?

>> Yes.

>> Yes? Okay, perfect. Thank you.

>> Would anyone else like to speak? I'll give people a minute to think about it.

All right. Well, if no one else has any testimony they would like to make, then we will officially close the public hearing on 10 TAC Section 10.612 and 10.628.

I would remind you that anything that you said on the call today will be considered formal public comment and will be responded to; however, if you think of other things that you would like to comment on, you have until March 3rd at 5:00.

And that comment should be submitted to Brooke.Boston@tdhca.texas.gov.

And you can also find information about this on our website under items open for public comment.

And with that I thank you very much. Thank you for participating.

[End of hearing].