

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

TDHCA Governing Board Approved Draft of
10 TAC Chapter 28, Taxable Mortgage Program**Disclaimer**

Attached is a proposed rule action for 10 TAC Chapter 28, Taxable Mortgage Program. This rule action was approved by the TDHCA Governing Board on June 4, 2026. This document, including its preambles, is expected to be published in the June 19, 2026, edition of the *Texas Register* and that published version will constitute the official version for purposes of public comment and can be found at the following link: <https://www.sos.texas.gov/texreg/index.shtml>.

In compliance with §2001.023, Texas Government Code, a summary of the proposed action follows:

Chapter 27 lays out the parameters for administration of the Texas First Time Homebuyer Program. A very similar rule in content is Chapter 28, which lays out the parameters for administration of the Taxable Mortgage Program.

The Texas Regulatory Efficiency Office (TREG) coordinates with state agencies to review agency rules and recommends potential amendments to, or repeals of, those rules. In April 2026, TREG released a draft Regulatory Efficiency Review (RER) report of possible regulatory changes that the Texas Department of Housing and Community Affairs (the Department) could make to improve efficiency in some of its rules. The recommendations in the report were not mandates or directives, but rather ideas and opportunities for improvement. TREG requested that the Department share these ideas with stakeholders for a 14-day period to garner feedback, which occurred from April 30, 2026 to May 14, 2026.

The report included a recommendation, initiated by the Department, that because of the nearly identical content of Chapters 27 and 28, these rules could be combined into one rule governing both programs to improve regulatory efficiency. No feedback on the suggestion was received during the 14-day input period. Therefore, under a separate action staff has recommended revisions to Chapter 27 that incorporate the TMP and retitle that chapter. Under this action Chapter 28 is being proposed for repeal. These actions together will streamline regulations, improve clarity and remove unnecessary language.

Therefore, the rule action will be made available for public comment from June 19, 2026, to July 20, 2026, and returned to the Board for final approval.

Public Comment

Public Comment Period: Start: 8:00 a.m. Austin local time on June 19, 2026
End: 5:00 p.m. Austin local time on July 20, 2026

Comments received after 5:00 p.m. Austin local time on July 20, 2026, will not be accepted. Written comments may be submitted electronically within the designated public comment period to: brooke.boston@tdhca.state.tx.us.

Those making public comment are encouraged to reference the specific draft rule, policy, or plan related to their comment as well as a specific reference or cite associated with each comment. Please be aware that all comments submitted to the TDHCA will be considered public information.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

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Departamento de Vivienda y Asuntos Comunitarios de Texas

Borrador aprobado por la Junta Directiva del TDHCA

respecto al capítulo 28 ["Programa de Hipotecas Tributarias"] del título 10 del Código Administrativo de Texas (TAC)

Descargo de responsabilidad

Se adjunta una propuesta de acción reglamentaria respecto al capítulo 28 ["Programa de Hipotecas Tributarias"] del título 10 del Código Administrativo de Texas (TAC). Esta acción reglamentaria recibió aprobación por parte de la Junta Directiva del Departamento de Vivienda y Asuntos Comunitarios de Texas (TDHCA) el 4 de junio de 2026. Se espera que este documento, incluyendo sus preámbulos, se publique en la edición del *Texas Register* del 19 de junio de 2026. Esa versión publicada constituirá la versión oficial para fines de comentarios públicos y se puede encontrar en el siguiente enlace: <https://www.sos.texas.gov/texreg/index.shtml>.

De conformidad con la sección [§] 2001.023 del Código de Gobierno de Texas, se incluye a continuación un resumen de la acción reglamentaria propuesta:

El capítulo 27 establece los parámetros para la administración del Programa de Compradores Primerizos de Vivienda en Texas. Una regla muy similar en cuanto a contenido es el capítulo 28, que establece los parámetros para la administración del Programa de Hipotecas Tributarias (TMP).

La Oficina de Eficiencia Reglamentaria de Texas (TREG) se coordina con las agencias estatales con el fin de revisar las reglas de las agencias y recomienda posibles modificaciones o derogaciones de dichas reglas. En abril de 2026, la TREG publicó un borrador del informe de revisión de eficiencia reglamentaria (RER) respecto a los posibles cambios reglamentarios que el Departamento de Vivienda y Asuntos Comunitarios de Texas (el Departamento) podría efectuar para mejorar la eficiencia de algunas de sus reglas. Las recomendaciones del informe no eran mandatos ni directivas, sino más bien ideas y oportunidades de mejora. La TREG solicitó al Departamento que compartiera estas ideas con las partes interesadas durante un período de 14 días para recabar comentarios, lo cual tuvo lugar del 30 de abril de 2026 al 14 de mayo de 2026.

El informe incluía una recomendación, impulsada por el Departamento, de que, debido al contenido prácticamente idéntico de los capítulos 27 y 28, estas reglas podrían combinarse en una sola que rija ambos programas para mejorar la eficiencia reglamentaria. No se recibió ninguna respuesta a la sugerencia durante el período de 14 días para la presentación de comentarios. Por lo tanto, en una acción separada, el personal ha recomendado reformas al capítulo 27 que incorporen el Programa TMP y cambien el título de dicho capítulo. En el marco de esta acción, se propone la derogación del capítulo 28. Estas acciones en conjunto simplificarán la reglamentación, mejorarán la claridad y eliminarán texto innecesario.

Por lo tanto, la acción reglamentaria estará disponible para comentarios del público desde el 19 de junio de 2026 hasta el 20 de julio de 2026, y se remitirá a la Junta para su aprobación definitiva.

Comentarios del público

Periodo de comentarios del público: Inicio: 8:00 a. m., hora local de Austin, del 19 de junio de 2026
Finalización: 5:00 p. m., hora local de Austin, del 20 de julio de 2026

No se aceptarán los comentarios que se reciban después de las 5:00 p. m., hora local de Austin, del 20 de julio de 2026. Los comentarios por escrito pueden enviarse de manera electrónica dentro del período designado de comentarios del público a brooke.boston@tdhca.state.tx.us.

Se anima a quienes formulen comentarios públicos a que hagan referencia al borrador de la regla, política o plan específico relacionado con su comentario, así como una referencia o cita específica asociada a cada comentario. Tenga en cuenta que todos los comentarios enviados al TDHCA se considerarán información pública.

DEPARTAMENTO DE VIVIENDA Y ASUNTOS COMUNITARIOS DE TEXAS

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Attachment 1: Preamble, including required analysis, for the proposed repeal of 10 TAC Chapter 28, Taxable Mortgage Program

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of 10 TAC Chapter 28, Taxable Mortgage Program. The purpose of the proposed repeal is to eliminate an unnecessary rule while ensuring the administration of the Taxable Mortgage Program is still addressed in rule, which will be in Chapter 27, as being proposed under separate action.

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

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

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

1. Robert Wilkinson, Executive Director, has determined that, for the first five years the repeal will be in effect, the repeal does not create or eliminate a government program, but relates to the repeal of a duplicative regulation that can be covered sufficiently by another chapter, Chapter 27, which is being proposed with revisions under a separate action.

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

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

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

5. The repeal is not creating a new regulation.

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

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

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

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

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

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

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

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

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repealed section would be a more efficient rule that governs both the FTHB Program and TMP under Chapter 27 (taking place under separate action). There will be no economic costs to individuals required to comply with the repealed section.

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

REQUEST FOR PUBLIC COMMENT. The Department requests comments on the repeal. The public comment period will be held June 19, 2026, to July 20, 2026, to receive input on the proposed action. Comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston at brooke.boston@tdhca.texas.gov. ALL COMMENTS AND INFORMATION MUST BE RECEIVED BY 5:00 p.m., Austin local (Central) time, July 20, 2026.

STATUTORY AUTHORITY. The repeal is proposed pursuant to TEX. GOV'T CODE §2306.053, which authorizes the Department to adopt rules. Except as described herein the proposed repealed sections affect no other code, article, or statute.

10 TAC Chapter 28, Taxable Mortgage Program

§28.1. Purpose

§28.2. Definitions

§28.3. Restrictions on Residences Financed and Applicant

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Attachment 2: Copy of the Current Chapter 28, Taxable Mortgage Program

§28.1. Purpose

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

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

§28.2. Definitions

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

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

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

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

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

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

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

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

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

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

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

(11) Program--The Taxable Mortgage Program.

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

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

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

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

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

§28.3. Restrictions on Residences Financed and Applicant

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

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

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

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

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

(f) Lien Position Requirements.

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

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

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

§28.4. Occupancy and Use Requirements

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

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

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

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

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

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

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

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

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

Mortgage guaranty insurance premiums, VA guaranty fees, VA funding fees, RHS guaranty fees, hazard or flood insurance premiums, abstract fees, tax service fees, recording or registration fees, escrow fees, and file preparation fees.

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

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

§28.6. Criteria for Approving Participating Mortgage Lenders

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

(1) FHA;

(2) RHS;

(3) VA; or

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

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

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

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

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

§28.7. Resale of the Residence

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

§28.8. Conflicts with Bond Indentures and Applicable Law

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

§28.9. Waiver

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

