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.

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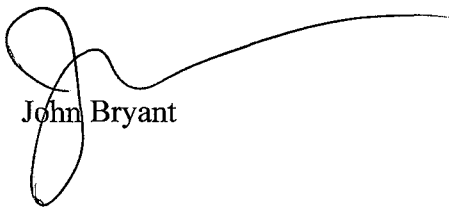
The proposed rules contradict TDHCA's fundamental mission to provide safe and affordable housing for all Texans. Beyond their direct harm to immigrant families, they will create significant administrative burdens for property owners and housing providers, reduce occupancy rates in federally assisted 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]

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[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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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

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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
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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.

TAAHP | TEXAS AFFILIATION OF AFFORDABLE HOUSING PROVIDERS

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.

TAAHP | TEXAS AFFILIATION OF AFFORDABLE HOUSING PROVIDERS

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

TAA 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.

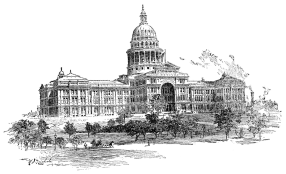
Commented [WP19]: Delayed/manual/inconclusive outcomes require a standardized escalation and documentation pathway so owners can prove the case was properly advanced and monitors can review against a consistent checklist.

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

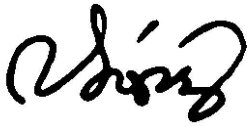
Rep. Suleman Lalani
House District 76
Co-Chair, AAPI Legislative Caucus

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

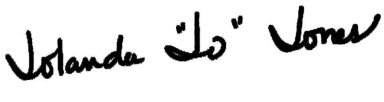
Rep. Lulu Flores
House District 51

Rep. Erin Zwiener
House District 45

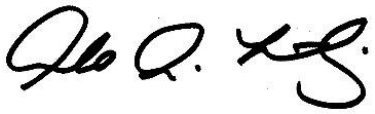
Rep. Josey Garcia
House District 124

Rep. Christina Morales
House District 145

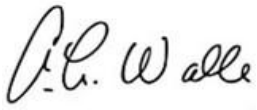
Rep. Vikki Goodwin
House District 47



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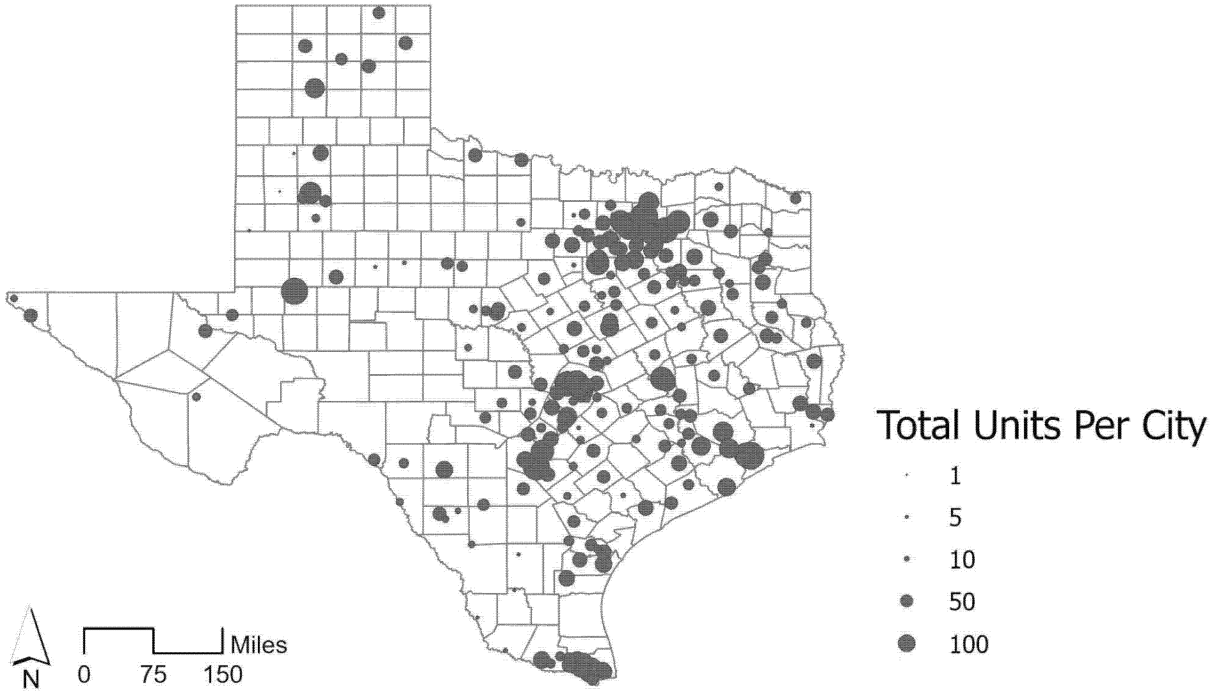
[4] The Addendum 1 to the September 15, 2025 Federal Award Agreements for both HOME and the NHTF cite only the eligibility and verification requirements of PRWORA and neither HUD, DHS, nor the Attorney General have established additional requirements that would require this attestation.

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].