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

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

The purpose of the amendment is to update the rule to provide clarity with how adherence to Section 401(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) will be implemented for multifamily HOME, HOME-ARP, and National Housing Trust Fund properties in the Department's portfolio as required by the federal direction provided in the 2025 grant agreements issued by the United States Department of Housing and Urban Development (HUD). PRWORA provides that an alien who is not a qualified alien is not eligible for any federal public benefit.

Tex. Gov't Code §2001.0045(b) does not apply to the amendment because it is subject to the exception under §2001.0045(c)(4) which excepts amendments that are necessary to receive a source of federal funds or to comply with federal law.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the amendment is in effect, the public benefit anticipated as a result of the changed sections would be ensuring compliance with federal guidance and ensuring that federal public benefits are only being received by qualified aliens, US Nationals or US citizens.

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

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

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

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

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

SUMMARY OF PUBLIC COMMENT AND INFORMATION RELATED TO COST, BENEFIT OR EFFECT. The Department requested comments on the rule and also requested information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis from any person required to comply with the proposed rule or any other interested person. The public comment period was held January 30 to March 3, 2026, to receive input on the proposed action.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§10.612 and §10.628 – Overcompliance (12)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Other Comments – Lack of Accessible Information (18)

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

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

Other Comments – Creating New Law (19)

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

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

Other Comments (3)(13)(14)

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

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

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

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

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

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

10.612 Tenant File Requirements

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The purpose of the rule is to is to provide clarity with how adherence to Section 401(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) will be implemented for multifamily HOME, HOME-ARP Rental and National Housing Trust Fund properties in the Department's portfolio as required by the federal direction provided in the 2025 grant agreements issued by the Unites States Department of Housing and Urban Development (HUD). PRWORA provides that an alien who is not a qualified alien is not eligible for any federal public benefit.

Tex. Gov't Code §2001.0045(b) does not apply to the rule because it is subject to the exception under §2001.0045(c)(4) which excepts rules that are necessary to receive a source of federal funds or to comply with federal law.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the rule is in effect, the public benefit anticipated as a result of the rule would be ensuring compliance with federal guidance and ensuring that federal public benefits are only being received by qualified aliens, US Nationals or US citizens.

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

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

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

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

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

SUMMARY OF PUBLIC COMMENT AND INFORMATION RELATED TO COST, BENEFIT OR EFFECT. The Department requested comments on the rule and also requested information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis from any person required to comply with the proposed rule or any other interested person. The public comment period was held January 30 to March 3, 2026, to receive input on the proposed action. Comment was received from 20 commenters: 1) Accolade Property Management; 2) American Civil

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§10.612 and §10.628 – Overcompliance (12)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Other Comments – Lack of Accessible Information (18)

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

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

Other Comments – Creating New Law (19)

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

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

Other Comments (3)(13)(14)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Owners must verify U.S. Citizen, U.S. National, or Qualified Alien status ("legal status") using the methods provided for in subsection (f) of this section for all residents that will be signing the lease.

(e) Implementation Timing.

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

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

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

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

(f) Verification Process Under PRWORA.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(h) Regardless of method of verification, the results of the verification performed or received by the Owner must be utilized by the Owner in determining household eligibility.