



Texas Department of Housing and Community Affairs

Legislation Text

File #: 913, **Version:** 1

Presentation, discussion, and possible action on order adopting the repeal and new 10 TAC Chapter 23, Single Family HOME Program, and directing its publication in the *Texas Register*

RECOMMENDED ACTION

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

WHEREAS, the proposed repeal and replacement of 10 TAC Chapter 23 was published in the *Texas Register* for public comment from November 22, 2024, through December 27, 2024, and public comment was received, staff has considered the comment, and is recommending to the Board the adoption of the rules with changes in response to public comment;

NOW, therefore, it is hereby

RESOLVED, that the repeal and new 10 TAC Chapter 23, Single Family HOME Program, with the preambles presented at this meeting, are hereby approved for publication in the *Texas Register*; and

FURTHER RESOLVED, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department to cause the actions to publish the adopted rules in the *Texas Register* and, in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing, including the preparation of subchapter specific preambles.

BACKGROUND

The Single Family HOME Program rules at 10 TAC Chapter 23 provide the administrative framework for all Single Family HOME Program activities, including Homeowner Reconstruction Assistance (HRA), Contract for Deed (CFD), Single Family Development (SFD), Tenant-Based Rental Assistance (TBRA), and Homebuyer Assistance with New Construction (HANC).

The purpose of repealing 10 TAC Chapter 23, Single Family HOME Program rule and proposing a new 10 TAC Chapter 23 is to update and implement procedures for implementation of the HOME Program. Changes were made to most subchapters; therefore, the Department is repealing and proposing a new Chapter to replace it instead of amending the existing Chapter. Staff has summarized the significant changes proposed to be made to the Single Family HOME Rule at 10 TAC Chapter 23 below. A black line version with all changes will be available on the Department's website during the public comment period.

The Department held two roundtable discussions on October 18, 2024, regarding the Single Family HOME Program. The roundtable discussions included the proposed changes to the HOME Single Family rule, with specific focus on construction cost limitations which had been an increasing area of concern for Administrators. Comments and suggestions received from the roundtable discussions were taken into consideration during the preparation of the proposed HOME Rule as presented at this meeting.

Summary of Significant Changes:

- Merges the threshold Application requirements into Subchapter B and removes these from the Activity specific subchapters.
- Increases the amount required for cash reserves to operate prior to reimbursement within the threshold application requirements.
- Increases construction cost limitations, including both hard costs and soft costs, and includes references to federal subsidy and value limitations.
- Adds in a requirement for waivers of customary fees charged by Applicants, which will be provided as Matching contributions for the HOME Program.
- Allows for Single Family Development to be offered as a non-CHDO development activity to increase the number of organizations that may be able to participate.
- Codifies ineligibility of payment of late fees for the TBRA Program.
- Updates the payment standard language for TBRA to include use of HUD's Small Area Fair Market Rent (SAFMR) in non-metropolitan areas when a SAFMR is published by HUD, and sets a compliance date for use of updated Fair Market Rents (FMRs) and SAFMRs to be January 1 of the year following the date of publication.
- Incorporates the compliance date for the Housing Opportunity Through Modernization Act (HOTMA) as it applies to Single Family HOME Program Activities. On December 20, 2024, after publication of the proposed rule, HUD published *Federal Register* Notice 2024-31401 (89 FR 106998). The notice extended the compliance date for Sections 102, 103, and 104 of the HOTMA regulations to January 1, 2026. The deadline in the proposed rule has been updated to incorporate the extended deadline as a technical correction to the rule.

The proposed rules were approved for publication for public comment by the Board at its meeting of November 7, 2024. Public comment was received and is included as Attachment C to this item. Staff received comment from Karen Walker of Langford Community Management Services, and Staff has summarized the comment, and the summary as well as the staff's response is provided in the preambles. Staff does recommend changes in response to the public comment.