

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
**TDHCA Governing Board Approved Draft of proposing amendments to
10 TAC Chapter 10, Subchapter H, Income and Rent Limits**

Disclaimer

Attached is a draft of proposing amendments to 10 TAC Chapter 10, Subchapter H, Income and Rent Limits that was approved by the TDHCA Governing Board on October 26, 2023. The document attached reflects all changes proposed in tracked changes to facilitate review. This document, including its preamble, is scheduled to be published in the November 10, 2023 edition of the *Texas Register* and that published version will constitute the official version for purposes of public comment. The version herein is informational only and should not be relied upon as the basis for public comment.

In compliance with Texas Government Code, §2001.023(c), a summary of the proposed document is provided. This rule adds specific program reference for HOME-Match units, which are subject to the HOME Program Income and Rent Limits. Also in compliance with Texas Government Code, §2001.023(c), this cover sheet and summary are provided in both English and Spanish.

Public Comment

**Public Comment Period: Starts: 8:00 a.m. Friday, November 10, 2023
Ends 5:00 p.m. Monday, December 11, 2023**

Comments received after 5:00 p.m. on Monday, December 11, 2023 will not be accepted.

Written comments may be submitted, in hard copy or electronic formats to:

Texas Department of Housing and Community Affairs
Attn: Wendy Quackenbush
P.O. Box 13941
Austin, Texas 78711-3941
Email: wendy.quackenbush@tdhca.state.tx.us

Written comments may be submitted in hard copy or email formats within the designated public comment period. Those making public comment are encouraged to reference the specific draft rule, policy, or plan related to their comment as well as a specific reference or citation associated with each comment.

Please be aware that all comments submitted to the TDHCA will be considered public information.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
Street Address: 221 East 11th Street, Austin, TX 78701
Mailing Address: PO Box 13941, Austin, TX 78711-3941
Main Number: 512-475-3800 Toll Free: 1-800-525-0657
Email: info@tdhca.state.tx.us Web: www.tdhca.state.tx.us

Departamento de Vivienda y Asuntos Comunitarios de Texas
Borrador aprobado por la Junta Directiva del TDHCA de las modificaciones propuestas al subcapítulo H [“Límites de ingresos y alquiler”] del capítulo 10 del título 10 del Código Administrativo de Texas (TAC)

Descargo de responsabilidad

Se adjunta un borrador de las modificaciones propuestas al subcapítulo H [“Límites de ingresos y alquiler”] del capítulo 10 del título 10 del Código Administrativo de Texas (TAC), que fue aprobado por la Junta Directiva del TDHCA el 26 de octubre de 2023. El documento adjunto refleja todos los cambios propuestos en los cambios efectuados para facilitar la revisión. Este documento, incluyendo su preámbulo, está programado para publicarse en la edición del *Texas Register* del 10 de noviembre de 2023; esa versión publicada constituirá la versión oficial para fines de comentarios del público. La versión aquí mencionada es solo informativa y no debe considerarse como fundamento para comentarios del público

De conformidad con la sección (§) 2001.023 del Código de Gobierno de Texas, se facilita un resumen del documento propuesto: Esta regla agrega una referencia específica al programa para las unidades HOME-Match, que están sujetas a los límites de ingresos y alquiler del Programa HOME. Asimismo, de conformidad con la sección §2001.023(c) del Código de Gobierno de Texas, esta portada y resumen se ofrecen tanto en inglés como en español.

Comentarios del público

Periodo de comentarios del público: Inicio: 8:00 a. m., viernes 10 de noviembre de 2023
Finalización: 5:00 p. m., lunes 11 de diciembre de 2023

No se aceptarán los comentarios que se reciban después de las 5:00 p. m. del lunes 11 de diciembre de 2023.

Los comentarios por escrito pueden presentarse en formatos impreso o electrónico a la siguiente dirección:

Departamento de Vivienda y Asuntos Comunitarios de Texas
A la atención de: Wendy Quackenbush
P.O. Box 13941
Austin, Texas 78711-3941
Correo electrónico: wendy.quackenbush@tdhca.state.tx.us

Los comentarios por escrito pueden presentarse en formato impreso o por correo electrónico dentro del período designado de comentarios del público. Se anima a quienes formulen comentarios públicos a que hagan referencia al borrador de la regla, política o plan específico relacionado con su comentario, así como una referencia o cita específica asociada a cada comentario.

Tenga en cuenta que todos los comentarios enviados al TDHCA se considerarán información pública.

DEPARTAMENTO DE VIVIENDA Y ASUNTOS COMUNITARIOS DE TEXAS

Dirección: 221 East 11th Street, Austin, TX 78701
Dirección de correspondencia: P.O. Box 13941, Austin, TX 78711-3941
Número principal: 512-475-3800 Número gratuito: 1-800-525-0657

Correo electrónico: txhaf@tdhca.state.tx.us Web: www.tdhca.state.tx.us

BOARD ACTION REQUEST

COMPLIANCE DIVISION

OCTOBER 26, 2023

Presentation, discussion, and possible action on an order proposing amendments to 10 TAC Chapter 10, Uniform Multifamily Rules, Subchapter H, Income and Rent Limits and directing its publication for public comment in the *Texas Register*

RECOMMENDED ACTION

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

WHEREAS, 10 TAC Chapter 10 Subchapter H codifies the income and rent limits applicable to the multifamily programs administered by the Department, and this rule was acted upon in January 2023;

WHEREAS, the revision is to add specific program reference for HOME-Match units, which are subject to the HOME Program Income and Rent Limits, and to align HOME-Match units references with other rules and the Compliance Monitoring and Asset Management rules that are simultaneously to be presented at this meeting; and

WHEREAS, such proposed amendments will be published in the *Texas Register* for public comment from November 10, 2023, to December 11, 2023, and subsequently returned to the Board for final adoption;

NOW, therefore, it is hereby

RESOLVED, that the Executive Director and his designees, be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department to cause the proposed amendments of 10 TAC Chapter 10, Uniform Multifamily Rules, Subchapter H, Income and Rent Limits in the form presented to this meeting, to be published in the *Texas Register* and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing, including the preparation of the subchapter specific preambles.

BACKGROUND

The Department needs to update the rule regarding income and rent limits to incorporate HOME-Match units and codify existing Land Use Restriction Agreement (LURA) requirements under this Chapter. Additionally, this will align definitions and requirements of HOME-Match units among

the Compliance Monitoring and Asset Management rules, which are both under the umbrella of Chapter 10 Uniform Multifamily Rules.

Only the section noted in the recitals and proposed for action will be published in the *Texas Register* for public comment. Proposed substantive changes are explained below:

Summary of Proposed Change:

§10.1005 HOME, HOME-ARP, TCAP RF, and NSP. Staff is proposing to add the term “HOME-Match” to section (a) and to change the word “Developments” to “units” to provide better clarity on program Income and Rent Limits requirements and provide consistent definitions among the various rules used by the Department for its multifamily residential Developments.

(a) HOME, HOME-ARP, HOME-Match and TCAP RF units must use the HOME Program Income and Rent Limits that are calculated annually by HUD's Office of Policy Development and Research (PDR). The limits are made available for each Metropolitan Statistical Areas (MSA), Primary Metropolitan Statistical Areas (PMSA) and Area, District or County by State.

Upon Board approval, the proposed new Subchapter H, Income and Rent Limits, will be published in the *Texas Register* and released for public comment from October 27, 2023, through November 27, 2023. It is anticipated that the final new rule would be presented for approval at the Board meeting scheduled for January 11, 2024.

Attachment A: Preamble and proposed amendments of 10 TAC Chapter 10, Uniform Multifamily Rules, Subchapter H, Income and Rent Limits. The rule amendment of §10.1005

The Texas Department of Housing and Community Affairs (the Department) proposes amendments to §10.1005 Income and Rent Limits. The rule amendments add the term “HOME-Match” to section (a) and to change the word “Developments” to “units” to provide better clarity on program Income and Rent Limits requirements.

FISCAL NOTE. Mr. Bobby Wilkinson, Executive Director, has determined that, for each year of the first five years the amendment to the rule is in effect, enforcing or administering the amendment does not have any foreseeable implications related to costs or revenues of the state or local governments.

GOVERNMENT GROWTH IMPACT STATEMENT. Mr. Wilkinson also has determined that, for the first five years the amendment would be in effect:

1. The proposed amendment to the rule will not create or eliminate a government program;
2. The proposed amendment to the rule will not require a change in the number of employees of the Department;
3. The proposed amendment to the rule will not require additional future legislative appropriations;
4. The proposed amendment to the rule will result in neither an increase nor a decrease in fees paid to the Department;
5. The proposed amendment to the rule will not create a new regulation;
6. The proposed amendment to the rule will not repeal an existing regulation;
7. The proposed amendment to the rule will not increase or decrease the number of individuals subject to the rule’s applicability; and
8. The proposed amendment to the rule will neither positively nor negatively affect this state’s economy.

PUBLIC BENEFIT/COST NOTE. Mr. Wilkinson also has determined that, for each year of the first five years the amendment to the rule is in effect, the public benefit anticipated as a result of the action will be the clarification of a required definition and provide consistence among the various Uniform Multifamily Rules by the Department. There will not be any economic cost to any individual required to comply with the amendment.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES. The Department has determined that there will be no economic effect on small or micro-businesses or rural communities.

REQUEST FOR PUBLIC COMMENT. All comments or questions in response to this action may be submitted in writing from November 10, 2023, through December 11, 2023. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Wendy Quackenbush, Compliance Monitoring Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, or email wendy.quackenbush@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 pm Austin local (Central) time, December 11, 2023.

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

§10.1005 HOME, HOME-ARP, TCAP RF, and NSP

(a) HOME, HOME-ARP, HOME Match and TCAP RF Developments-units must use the HOME Program Income and Rent Limits that are calculated annually by HUD's Office of Policy Development and Research (PDR). The limits are made available for each Metropolitan Statistical Areas (MSA), Primary Metropolitan Statistical Areas (PMSA) and Area, District or County by State.

(1) Upon publication, the Department will determine which counties are in each MSA, PMSA, Area or District.

(2) Generally, PDR publishes income limits in tables identifying the following Area Median Gross Income (AMGI) by household size:

(A) Extremely Low-Income Limits which are generally 30% of median income, which will be shown as the 30% limit in the Department's income limits;

(B) Very Low-Income Limits which are generally 50% of median income, which will be shown as the 50% limit in the Department's income limits;

(C) 60% Limits; and

(D) Low-Income Limits which are generally 80% of the median income, but capped at the national median income with some exceptions which will be shown as the 80% limits in the Department's income limits.

(3) If not published, the Department will use the following methodology to calculate, without rounding, additional income limits from the HOME Program income limits released by PDR:

(A) To calculate the 30% AMGI, the 50% AMGI limit will be multiplied by .60 or 60%.

(B) To calculate the 40% AMGI, the 50% AMGI limit will be multiplied by .80 or 80%.

(C) To calculate the 60% AMGI, the 50% AMGI limit will be multiplied by 1.2 or 120%.

(b) PDR publishes High and Low HOME rent limits by bedroom size.

(c) PDR does not publish a 30% or 40% rent limits that certain HOME, HOME-ARP and TCAP RF Developments are required to use. These limits will be calculated using the same formulas described in §10.1004 of this subchapter (relating to Housing Tax Credit Properties, TCAP, Exchange and SHTF).

(d) In the event that PDR publishes rent limits after the HOME program income limits, the Department permits HOME, HOME-ARP and TCAP RF Developments to delay the implementation of the 30% and 40% rent limits until the High and Low HOME rent limits must be used.

(e) NSP income limits are published annually by HUD for each county with tables identifying the 50% AMGI and 120% AMGI for household size. If not published, the Department will use the following methodology to calculate, without rounding, additional income limits from the HOME Program income limits released by HUD:

(1) To calculate the 30% AMGI, the 50% AMGI limit will be multiplied by .60 or 60%.

(2) To calculate the 40% AMGI, the 50% AMGI limit will be multiplied by .80 or 80%.

(3) To calculate the 60% AMGI, the 50% AMGI limit will be multiplied by 1.2 or 120%.

(4) To calculate the 80% AMGI, the 50% AMGI limit will be multiplied by 1.6 or 160%.

(f) If the LURA for an NSP Development restricts rents, the amount of rent the Development Owner is permitted to charge will be the High or Low HOME rent published by PDR or calculated in the same manner described in §10.1004 of this subchapter using the HOME income limits.

(g) The LURA for HOME-ARP may require the rent and income limit to follow a different Department program during the state affordability period. In that case, rent will be calculated in the manner of the program identified in the LURA and described in this subchapter.