



---

MORTGAGE BANKERS ASSOCIATION

November 24, 2025

Texas Department of Housing and Community Affairs  
Attn: Wendy Quackenbush  
Rule Comments  
P.O. Box 13941  
Austin, Texas 78711-3941  
[wendy.quackenbush@tdhca.texas.gov](mailto:wendy.quackenbush@tdhca.texas.gov)

The Mortgage Bankers Association (MBA)<sup>1</sup> appreciates the opportunity to comment on the proposed new 10 TAC Subchapter J, Housing Finance Corporation Compliance Monitoring, §§10.1201 through 10.1207, in accordance with Texas Government Code §2306.053, to implement the requirements of HB 21.

MBA must restate its opposition to the provisions that revise current law to revoke exemptions that have previously been granted. If currently financed HFC projects lose their tax exemptions due to retroactive application of changes to the HFC law on which economic viability of the project was based, it would result in mortgage defaults and claims of current multifamily mortgages, as these mortgages relied on the certainty of existing Texas state law to underwrite those loans. **This will undermine the multifamily lending industry's comfort level in financing any property tax exemption in the State of Texas going forward.** Moreover, this will result in less multifamily production in Texas, resulting in lower supply, and higher prices. This law will reduce affordability across the state.

That said, MBA has several specific comments on the regulations.

#### **Minimum Percentage of Restricted Units in Each Unit Type**

The statute requires the percentage of restricted units in each unit type to be “the same” for market rate and income-restricted units. However, the proposed rules change the language to state the percentage must be “the same or greater.” MBA is concerned about how this might be interpreted and the implication of rounding percentage calculations within each unit type. **The rules should follow the language of the statute requiring the “percentage of restricted**

---

<sup>1</sup> The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 275,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets, to expand homeownership, and to extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of more than 2,000 companies includes all elements of real estate finance: independent mortgage banks, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies, credit unions, and others in the mortgage lending field. For additional information, visit MBA's website: [www.mba.org](http://www.mba.org).

units in each unit type to be the same for market rate and income-restricted units.” The rules should also provide clarity by explicitly allowing rounding within each unit type up or down to a whole unit such that the overall minimum percentage requirements pertaining to restricted units across the entire development is maintained.

#### **Rent Reduction Calculation**

The proposed rule excludes HCV and vacant units in being credited toward the overall rent reduction. However, the language in Section II (a) and (b) suggest how to treat vacant units contradicts excluding vacant units and is confusing. **The Maximum Market Rent and Restricted Rents should be applied to BOTH vacant units or those occupied by a HCV tenant in calculating the 50% public benefit test.**

#### **Public Benefit Test**

The proposed rule suggests that the auditor should estimate the ad valorem taxes for a property acquired by an HFC that would have been imposed with a “stated escalation factor.” This assumes that the ad valorem taxes would always increase, however, it is possible that the value of the property and thus the ad valorem taxes could decrease or stay the same from the previous year. This also penalizes properties acquired by an HFC where new rent restrictions are being imposed since the assessed value of a property with lower restricted rent levels should be less than one charging higher market rate rents. The final rule should use a more holistic approach similar to the draft rule guidance for new construction transactions which would result in a more accurate estimate of ad valorem taxes. **Proposed language: “For occupied Developments acquired by an HFC, estimated ad valorem taxes should generally be based on an independent appraisal, third property tax report, published appraisal district value, or other means acceptable to the Department; taking into account actual taxes applicable prior to the acquisition by the HFC.”**

Given there is ongoing litigation regarding this law, MBA urges the Texas Department of Housing and Community Affairs to use restraint in pushing these new rules forward. Given that the Texas Supreme Court, in *Robinson v. Crown Cork & Seal Co.*, 335 S.W.3d 126, 139 (Tex. 2010), has stated “the rules should not change after the game has been played,” MBA believes this litigation is in good standing to vacate these provisions from applying to existing HFC properties.

MBA strongly urges the Department of Housing and Community Affairs to manage these rules carefully. The future of affordable housing in Texas may depend on it.

Respectfully,



William Kooper  
Vice President  
State Government Affairs and Industry Relations