

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS  
TDHCA Governing Board Approved Draft of  
§1.2 Department Complaint System to the Department

**Disclaimer**

Attached is a draft of proposed 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.2 Department Complaint System to the Department, that was approved by the TDHCA Governing Board on February 10, 2022. This action entails the repeal and replacement of the current rule. This document, including its preamble, is expected to be published in the February 25, 2022, edition of the *Texas Register* and that published version will constitute the official version for purposes of public comment and can be found at the following link: <https://www.sos.texas.gov/texreg/index.shtml>.

**Public Comment**

**Public Comment Period:** Start: 8:00 a.m. Austin local time on February 25, 2022  
End: 5:00 p.m. Austin local time on March 25, 2022

Comments received after 5:00 p.m. Austin local time on March 25, 2022, will not be accepted.

Written comments may be submitted, in hard copy or electronic formats within the designated public comment period to:

Texas Department of Housing and Community Affairs  
Attn: Brooke Boston  
Rules Comments  
P.O. Box 13941  
Austin, Texas 78711-3941  
**Email: [brooke.boston@tdhca.state.tx.us](mailto:brooke.boston@tdhca.state.tx.us)**

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 cite 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**  
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**Attachment 1: Preamble, including required analysis, for proposed repeal of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.2 Department Complaint System to the Department**

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.2 Department Complaint System to the Department. The purpose of the proposed repeal is to eliminate the current rule while replacing it with a more current version of the rule.

Tex. Gov't Code §2001.0045(b) does not apply to the rule proposed for action because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

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, Executive Director, has determined that, for the first five years the repeal would be in effect:

1. The repeal does not create or eliminate a government program but relates to the process to be used for persons wishing to file a complaint with the Department.
2. The repeal does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The repeal does not require additional future legislative appropriations.
4. The repeal will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.
6. The repeal will not expand or contract the applicability of an existing regulation.
7. The repeal will not increase or decrease the number of individuals subject to the rule's applicability.
8. The repeal will not negatively or positively affect the state's economy.

**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 repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

**c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043.** The repeal 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 repeal as to its possible effects on local economies and has determined that for the first five years the repeal would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

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 repeal is in effect, the public benefit anticipated as a result of the repealed and new sections would be an updated and more germane rule. There will not be economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held February 25, 2022, to March 25, 2022, to receive input on the proposed action. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or by email to [bboston@tdhca.state.tx.us](mailto:bboston@tdhca.state.tx.us). ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, March 25, 2022.

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

§1.2 Department Complaint System to the Department

**Attachment 2: Preamble, including required analysis, for proposed new 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.2 Department Complaint Process**

The Texas Department of Housing and Community Affairs (the Department) proposes new 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.2 Department Complaint Process. The purpose of the proposed rule is to: update definitions, clarify the applicability of the rule, improve the organization of the rule, clarify what occurs upon receipt of a complaint including when no contact information has been provided and when the complaint may involve a reasonable accommodation request, and make other procedural and minor revisions.

Tex. Gov't Code §2001.0045(b) does not apply to the rule proposed for action because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

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 new section would be in effect:

1. The new section does not create or eliminate a government program but relates to the process to be used for persons wishing to file a complaint with the Department.
2. The new section does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The new section does not require additional future legislative appropriations.
4. The new section will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The new section does not create a new regulation, except that it is replacing a section being repealed simultaneously to provide for revisions.
6. The new section will not expand nor contract an existing regulation.
7. The new section will not increase or decrease the number of individuals subject to the rule's applicability.
8. The new section will not negatively or positively affect the state's economy.

**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 new section and determined that the action will not create an economic effect on small or micro-businesses or rural communities.

**c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043.** The new section 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 new section as to its possible effect on local economies and has determined that for the first five years the new section would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

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 new section is in effect, the public benefit anticipated as a result of the new section would be an updated and more germane rule. There will not be economic costs to individuals required to comply with the new section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new section are in effect, enforcing or administering the rule does not have any foreseeable implications related to costs or revenues of the state or local governments.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held February 25, 2022, to March 25, 2022, to receive input on the proposed action. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or by email to [bboston@tdhca.state.tx.us](mailto:bboston@tdhca.state.tx.us). ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, March 25, 2022.

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

## §1.2 Department Complaint Process

(a) Purpose. The purpose of this section is to establish the procedures by which complaints are filed with the Department and how the Department handles those complaints under Department jurisdiction in compliance with Tex. Gov't Code §2306.066, Tex. Gov't Code, Chapter 2105, Subchapter C, and 24 CFR §91.115(h), as applicable.

(b) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Complainant--A Person filing a Complaint.

(12) Complaint--A complaint submitted to the Department in writing (via mailed letter, fax, email, or submitted online through the Department website) from a person that believes the Department has the authority to resolve the issue. ~~This excludes consumer complaints relating to manufactured housing.~~

(23) Complaint Coordinator--Department employee designated by the Executive Director or ~~their~~ his designee to monitor the Public Complaint System and coordinate activities related to complaints.

(34) Complaint Liaison--the Department employee(s) designated by each division or program to handle each division's or program's complaint-related issues.

(45) Department--The Texas Department of Housing and Community Affairs.

(56) Person--Any individual, other than an employee of the Department, and any partnership, corporation, association, governmental subdivision, or public or private organization of any character.

(67) Public Complaint System--Department-created system used to track ~~and process~~ complaints received by the Department.

(c) Applicability. Except as specifically adopted in whole or in part by rule or contractual provision this rule is not applicable to:

(1) consumer complaints relating to manufactured housing which are alternatively addressed by §80.73 of this title relating to Manufactured Housing Procedures for Handling Consumer Complaints; and

(2) Complaints filed in association with temporary Department programs for which a separate Complaint process has been established.

(d) Procedures.

(1) Complaint Submission. A ~~person~~ Person who has a Complaint may submit such Complaint in writing to the Department, for submission which will be directed to a Complaint Coordinator. If an accommodation because of a disability is needed in relation to the process of filing of a Complaint, the Person interested in filing the Complaint should refer to 10 TAC §1.1, Reasonable Accommodation Requests to the Department; if assistance is needed for non-English speaking persons, the Person interested in filing the Complaint should access the Department's Language Assistance webpage (<https://www.tdhca.state.tx.us/lap.htm>).

(24) Upon receipt of a Complaint:

(A) A Complaint Coordinator ~~shall~~ will enter the complaint in the Public Complaint System.;

(B) A Complaint Coordinator will review ~~and process~~ the ~~e~~Complaint, and as needed, forward the ~~e~~Complaint to the appropriate program or division Complaint Liaison(s).

(C) Notwithstanding any other provisions of this subsection, in the case of Complaints received by the Department in which no method of contacting the Complainant was provided, the Complaint Coordinator will close the Complaint in the Public Complaint System and provide a copy of the Complaint to the applicable program or division for informational purposes only.

(D) A Complaint Coordinator may also identify whether a Complaint received involves a potential Reasonable Accommodation request involving a Department recipient or property; in such cases the Complaint will be handled as provided for in §1.204 of this chapter relating to Reasonable Accommodations.

(E) Complaints that have potential Fair Housing Act violations may, at the Department's discretion, be also referred to the Texas Workforce Commission's Civil Rights Division.

(F) The Department will notify the Complainant of the status of the Complaint at least quarterly until there is a disposition of the Complaint, which is the final determination; there is no further process available, except as otherwise provided in state or federal law.

~~(32)~~ A Complaint Liaison ~~will~~shall investigate research and evaluate the issues identified in the Complaint, ~~and then~~ resolve ~~and/or~~ close the Complaint. ~~A~~The Complaint Liaison ~~shall~~will enter in the Public Complaint System summaries of each contact made with the eComplainant and any actions taken leading to complaint resolution. ~~in the Public Complaint System.~~

~~(43)~~ The Complaint Coordinator ~~may~~will submit periodic summary reports or analysis to the Executive Director or designee.

~~(54)~~ The Department ~~will~~shall provide to the Person filing the Complaint, and to each Person who is a subject of the Complaint (to the extent contact information is available), a link to copy of this rule, which serves as the Department's policy and procedures relating to complaint investigation and resolution.

~~(65)~~ The Department ~~will~~shall either notify the eComplainant of the resolution of the Complaint within 15 business days after the date the Complaint was received by the Department, or notify the eComplainant, within such period, of the date the eComplainant can expect a response to the Complaint.

~~(6) The Department shall notify the complainant of the status of the Complaint at least quarterly and until the final disposition of the Complaint.~~

(7) Additional Complaints submitted by the same Complainant describing an issue which has previously been closed, had a final resolution, and for which there is no substantively new information presented, will be considered resolved by the Department. A letter to this effect will be sent to the Complainant by the Department. In such cases, a new Complaint will not be opened in the system.

~~(87)~~ An information file about each eComplaint ~~will~~shall be maintained. The file must include:

- (A) the Complaint number;
- (B) the name of the Complainant~~person who filed the Complaint~~;
- (C) the date the Complaint was received by the Department;
- (D) the subject matter of the Complaint;
- (E) the name of each Person contacted in relation to the Complaint, if applicable;
- (F) a summary of the results of the review ~~or investigation~~ of the Complaint; ~~and~~

(G) the date the Complaint was closed; and

~~(HG) an explanation of the final resolution of the Complaint including the reason the file was closed, if the Department closed the file without taking action other than to investigate the Complaint.~~

~~(98)~~ A Complaint may be withdrawn by the eComplainant at any time.

~~(109)~~ A eComplainant may request and receive from the Department copies of any documentation or records collected by the Department with regard to the eComplaint, subject to the Texas Public Information Act.

~~(110)~~ Adherence to these procedures is not required by the Department if another procedure is required by law, or if the following of a procedure above would jeopardize an audit or Government undercover investigation.