

Written comments on the proposal may be submitted to Rules Coordination Office, P.O. Box 13247, Mail Code 4102, Austin, Texas 78711-3247, or street address 701 W. 51st Street, Austin, Texas 78751; or emailed to mcsrulespubliccomments@hhs.texas.gov.

To be considered, comments must be submitted no later than 31 days after the date of this issue of the *Texas Register*. Comments must be (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) emailed before midnight on the last day of the comment period. If the last day to submit comments falls on a holiday, comments must be postmarked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 24R059" in the subject line.

STATUTORY AUTHORITY

The amendment is authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.033, which requires the Executive Commissioner of HHSC to adopt rules necessary to carry out the commission's duties under Chapter 531; Texas Human Resources Code §32.021(c), which requires the executive commissioner to adopt rules necessary for the proper and efficient operation of the medical assistance program; and Texas Human Resources Code §32.03117, which requires the executive commissioner by rule to ensure that, to the extent permitted by federal law, a hospital provider that provides outpatient department services to a medical assistance recipient is reimbursed separately under the medical assistance program for any non-opioid treatment provided as part of those services.

The amendment affects Texas Government Code §531.0055 and Texas Human Resources Code §32.03117.

§355.8549. Reimbursement to Hospitals and Physicians Who Dispense Drugs.

(a) Reimbursements to licensed physicians who dispense their own drugs and to hospitals with outpatient pharmacies are based on actual invoice cost, verifiable by audit, plus a dispensing fee assigned by the Texas Health and Human Services Commission (HHSC) [department] or the provider's usual and customary charge to the general public, whichever is lower.

(b) HHSC separately reimburses a hospital provider who provides outpatient department (OPD) services for any non-opioid treatment, as defined by Texas Human Resources Code §32.03117, when provided as part of an OPD service to a Medicaid recipient.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on July 17, 2024.

TRD-202403138

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Earliest possible date of adoption: September 1, 2024

For further information, please call: (512) 438-2910



TITLE 7. BANKING AND SECURITIES

PART 8. JOINT FINANCIAL REGULATORY AGENCIES

CHAPTER 151. HOME EQUITY LENDING PROCEDURES

7 TAC §151.1

The Finance Commission of Texas and the Texas Credit Union Commission (commissions) propose amendments to §151.1 (relating to Interpretation Procedures) in 7 TAC Chapter 151, concerning Home Equity Lending Procedures.

The rules in 7 TAC Chapter 151 govern the procedures for requesting, proposing, and adopting interpretations of the home equity lending provisions of Texas Constitution, Article XVI, Section 50 ("Section 50"). In general, the purpose of the proposed rule changes to 7 TAC Chapter 151 is to implement changes resulting from the commissions' review of the chapter under Texas Government Code, §2001.039. Notice of the review of 7 TAC Chapter 151 was published in the *Texas Register* on March 29, 2024 (49 TexReg 2095). The commissions received no official comments in response to that notice.

The rules in 7 TAC Chapter 151 are administered by the Joint Financial Regulatory Agencies ("agencies"), consisting of the Texas Department of Banking, Department of Savings and Mortgage Lending, Office of Consumer Credit Commissioner, and Texas Credit Union Department. The agencies distributed an early precomment draft of proposed changes to interested stakeholders for review. The agencies did not receive any informal precomments on the rule text draft.

Currently, §151.1(d) describes the requirements for formally requesting a home equity interpretation. Proposed amendments to §151.1(d)(1) would specify that any petition for the Finance Commission to issue a home equity interpretation must be sent to the Department of Savings and Mortgage Lending, replacing current language that refers to the Office of Consumer Credit Commissioner. The Department of Savings and Mortgage Lending has the primary responsibility to license and regulate companies providing mortgage loans in Texas. The agencies anticipate that the Department of Savings and Mortgage Lending will take a leading role in coordinating future home equity interpretations.

Wendy Rodriguez (Deputy Commissioner, Texas Department of Banking), Antonia Antov (Director of Operations, Department of Savings and Mortgage Lending), Mirand Diamond (Director of Licensing, Finance and Human Resources, Office of Consumer Credit Commissioner), and Michael Riepen (Commissioner, Texas Credit Union Department) have determined that for the first five-year period the proposed rule changes are in effect, there will be no fiscal implications for state or local government as a result of administering the rule changes.

Wendy Rodriguez (Deputy Commissioner, Texas Department of Banking), William Purce (Director of Mortgage Regulation, Department of Savings and Mortgage Lending), Karl Hubenthal (Assistant Director of Exam Operations, Office of Consumer Credit Commissioner), and Michael Riepen (Commissioner, Texas Credit Union Department) have determined that for the first five-year period the proposed rule changes are in effect, the public benefit anticipated as a result of the changes will be that the commissions' rules will provide clear guidance for interested parties to file a formal petition for a home equity interpretation.

The agencies do not anticipate any economic cost to persons who are required to comply with the amendments as proposed.

The agencies do not anticipate any adverse economic effect on small businesses, micro-businesses, or rural communities resulting from this proposal. But in order to obtain more complete information concerning the economic effect of these rule changes, the agencies invite comments from interested stakeholders and the public on any economic impacts on small businesses, as well as any alternative methods of achieving the purpose of the proposal while minimizing adverse impacts on small businesses, micro-businesses, and rural communities.

During the first five years the proposed rule changes will be in effect, the rule will not create or eliminate a government program. Implementation of the rule changes will not require the creation of new employee positions or the elimination of existing employee positions. Implementation of the rule changes will not require an increase or decrease in future legislative appropriations to the agencies, because the agencies are self-directed, semi-independent agencies that do not receive legislative appropriations. The proposed rule changes do not require an increase or decrease in fees paid to the agencies. The proposal would not create a new regulation. The proposal would not expand, limit, or repeal an existing regulation. The proposed rule changes do not increase or decrease the number of individuals subject to the rule's applicability. The agencies do not anticipate that the proposed rule changes will have an effect on the state's economy.

Comments on the proposal may be submitted in writing to Matthew Nance, General Counsel, Office of Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705 or by email to rule.comments@occc.texas.gov. To be considered, a written comment must be received on or before the 30th day after the date the proposal is published in the *Texas Register*. After the 30th day after the proposal is published in the *Texas Register*, no further written comments will be considered or accepted by the commissions.

The rule changes are proposed under Texas Finance Code, §11.308 and §15.413, which authorize the commissions to issue interpretations of Texas Constitution, Article XVI, §50(a)(5) - (7), (e) - (p), (t), and (u), subject to Texas Government Code, Chapter 2001. The rule changes are also proposed under Texas Government Code, §2001.021(b), which authorizes state agencies to adopt rules prescribing the procedure for submitting petitions for rulemaking.

The constitutional and statutory provisions affected by the proposal are contained in Texas Constitution, Article XVI, §50, and Texas Finance Code, Chapters 11 and 15.

§151.1. Interpretation Procedures

(a) Issuing interpretations. The Finance Commission and Credit Union Commission may on their own motion issue interpretations of Section 50(a)(5) - (7), (e) - (p), and (t), Article XVI of the Texas Constitution. The commissions will propose and adopt interpretations in accordance with the rulemaking requirements of Texas Government Code, Chapter 2001, Subchapter B.

(b) Agency recommendations. The Office of Consumer Credit Commissioner, Department of Banking, or Department of Savings and Mortgage Lending may recommend proposed interpretations to the Finance Commission. The Credit Union Department may recommend proposed interpretations to the Credit Union Commission. The four agencies may seek informal input from stakeholders and the other agencies before recommending a proposed interpretation to the commissions.

(c) Informal request for interpretation. A person may submit an informal request for an interpretation of Section 50(a)(5) - (7), (e) - (p), or (t), Article XVI of the Texas Constitution. An informal request may be submitted to the Office of Consumer Credit Commissioner, Department of Banking, Department of Savings and Mortgage Lending, or Credit Union Department. A request should:

- (1) cite the specific provision of the Texas Constitution to be interpreted;
- (2) explain the factual and legal context for the request; and
- (3) explain the requestor's opinion of how the request should be resolved.

(d) Petition for rulemaking. An interested person may formally request an interpretation of Section 50(a)(5) - (7), (e) - (p), or (t), Article XVI of the Texas Constitution by submitting a petition to initiate rulemaking.

(1) Any petition for the Finance Commission to issue an interpretation must be submitted to the Department of Savings and Mortgage Lending [Office of Consumer Credit Commissioner] and must include the information required by §9.82 of this title (relating to Petitions to Initiate Rulemaking Proceedings).

(2) Any petition for the Credit Union Commission to issue an interpretation must be submitted to the Credit Union Department and must include the information required by §97.500 of this title (relating to Petitions to Initiate Rulemaking Proceedings).

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on July 19, 2024.

TRD-202403202

Matthew Nance

General Counsel, Consumer Credit Commissioner

Joint Financial Regulatory Agencies

Earliest possible date of adoption: September 1, 2024

For further information, please call: (512) 936-7660



TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 67. STATE REVIEW AND APPROVAL OF INSTRUCTIONAL MATERIALS

SUBCHAPTER B. STATE REVIEW AND APPROVAL

19 TAC §67.43

The State Board of Education (SBOE) proposes new §67.43, concerning state review and approval of instructional materials. The new section would address the removal of a set of instructional materials from the lists of approved and rejected instructional materials outlined in Texas Education Code (TEC), §31.022.

BACKGROUND INFORMATION AND JUSTIFICATION: TEC, Chapter 31, addresses instructional materials in public education and permits the SBOE to adopt rules for the adoption, requisition, distribution, care, use, and disposal of instructional