

ADVANCE RULE REVIEW NOTICE Rules for TFEE and Property Tax Lenders

The OCCC is seeking your input in reviewing the following rules in Title 7 of the Texas Administrative Code:

- Chapter 7 (relating to the Texas Financial Education Endowment)
- Chapter 89 (relating to property tax lenders)

Rule review is a standard process that occurs once every four years for each of the OCCC's rules. During rule review, the OCCC and the Texas Finance Commission review rules to determine whether they should continue to exist and whether they should be amended or updated.

Before publishing official notice of the rule review, the OCCC would like to know if stakeholders have any input on the rules for TFEE and property tax lenders.

- Should any of these rules be updated or changed?
- Do any of these rules make compliance difficult?
- Is the text ambiguous or out of date?
- Are any of these rules inconsistent with the statute (the Texas Finance Code and the Texas Tax Code)?
- Do the rules continue to be necessary and serve their original purpose?
- Do the rules create a barrier to market participation? Do the rules result in higher prices or reduced competition?

Regarding property tax lenders, the OCCC is considering whether to propose a rule to implement Section 32.06(a-8)(1) of the Texas Tax Code, which prohibits a property tax loan if the property "has been financed, wholly or partly, with a grant or below market rate loan provided by a governmental program or nonprofit organization and is subject to the covenants of the grant or loan." Some property tax lenders have requested guidance about the meaning of this provision.

Before preparing a rule proposal, the OCCC would like to gather additional information about grants and below market rate loans described by Section 32.06(a-8)(1). The OCCC invites input on the following questions:

- How are property tax lenders currently reviewing transactions to comply with this requirement? What constitutes due diligence?
- When property tax lenders conduct this review, what are examples of what they are seeing? What do these governmental and nonprofit loans look like?
- Should the term "market rate" be defined by reference to a standard, published rate (e.g., the yield for United States treasury securities, or the average prime offer rate)? If so, which rate should be used and why?

- Are there cases that are clearly “below market rate” and other cases that are harder to determine?
- Under what circumstances do these loans allow forgiveness of some or all interest?
- Under what circumstances should forgivable loans be considered “below market rate”?
- In connection with these loans or grants, what covenants apply to the real property?
- Does the word “financed” mean that the provision refers solely to grants and loans used to purchase the property, or does it also include other transactions where the real property serves as collateral for a loan?

The OCCC invites stakeholders to send informal feedback until May 7, 2021. During the month of June, there will be an opportunity to provide official comments on the rule review. If the rule review results in any proposed rule amendments, there will be additional opportunities to provide comments on the amendments.

Rule updates are available on the OCCC’s website at <https://occc.texas.gov/publications/rules>.

If you have any feedback on the rules in Title 7, Chapters 7 or 89 of the Texas Administrative Code at this time, please send an email to rule.comments@occc.texas.gov no later than 5:00 p.m. on May 7, 2021.

The OCCC appreciates the continuing input of stakeholders. This input is crucial to producing the best rules possible.