

# Texas Open Meetings Act Requirements for Housing Finance Corporations: An Overview

Prepared for  
**Texas Association of Local  
Housing Finance Agencies**  
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## Background and Effective Date

- ▶ On May 28, 2025, Texas Governor Greg Abbott signed HB 21/SB 867 into law, amending the Texas Housing Finance Corporations Act; the Act is effective immediately.
- ▶ The Act applies the Texas Open Meetings Act (TOMA) to actions under the Housing Finance Corporations Act.



# Applicability and Overview

- ▶ All regular, special, or called meetings of an HFC board must be open to the public.
- ▶ Meetings must follow TOMA procedural requirements, including:
  - ▷ Advance notice
  - ▷ Posted agendas
  - ▷ Public access
- ▶ Meetings are not public forums for general comment.
- ▶ If public comment is allowed:
  - ▷ Must be non-discriminatory
  - ▷ Reasonable rules on number of speakers and time limits may be applied

# Definition of a “Meeting”

- ▶ Under TOMA, a “meeting” is defined in two ways. A “meeting” requires a gathering of a quorum of the governmental body; and either:
  - ▷ deliberation about the governmental body’s public business or formal action is taken by the governmental body, or
  - ▷ an opportunity provided by the governmental body for board members to ask about, speak about, or listen to information relating to public business.
- ▶ A “meeting” does not include gatherings of a quorum at:
  - ▷ Social functions unrelated to public business;
  - ▷ Regional, state, or national conventions or workshops, ceremonial events, press conferences; or
  - ▷ Candidate forums, appearances, or debates to inform the electorate.
  - ▷ If no formal action is taken and public business is only incidental to the above gatherings
- ▶ TOMA requires that all regular, special, or called meetings be open to the public, unless an exception applies.



# Notice Requirements

- ▶ Written notice must include the date, time, place, and subjects to be discussed.
- ▶ Agenda must clearly inform the public of discussion topics.
- ▶ Notice must be posted at least 72 hours in advance in a public, accessible location (and online if the governmental body has a website). Requirement becomes 3 business days as of September 1, 2025 (H.B. 1522).
- ▶ Emergency meetings:
  - ▷ Notice may be posted at least 1 hour in advance
  - ▷ Must explain the emergency
  - ▷ Only emergency-related topics may be discussed
  - ▷ Emergencies include threats to health/safety or unforeseeable events (e.g., natural disasters, power failures, riots)

# Exceptions to the Open Meeting Requirements

- ▶ TOMA provides numerous exceptions to the requirement that meetings be open. Some frequently used exceptions that allow a governmental body to conduct a closed meeting are:
  - ▷ Consultation with Attorney
  - ▷ Deliberation Regarding Real Property
  - ▷ Personnel Matters
- ▶ Closed meetings must be announced during an open meeting and cite the applicable TOMA section for the exception.
- ▶ Final actions, decisions, or votes must occur in a TOMA-compliant open meeting.
- ▶ Certified agendas or recordings of closed meetings are required (except for attorney consultations).
- ▶ Agendas and recordings must be kept for at least two years.



# Telephonic and Videoconference Meetings

## Telephonic Meetings

- ▶ TOMA allows for telephonic meetings in limited circumstances. A meeting held by telephone conference call may be held only if:
  - ▷ an emergency or public necessity exists;
  - ▷ convening at one location of a quorum of the governmental body is difficult or impossible; or
  - ▷ the meeting is held by an advisory board. If any of these exceptions are met, the meeting must follow the above rules for giving the public notice, it must be recorded and such recording must be made available to the public, and it must be set up as a two-way conference to allow for public input.

# Telephonic and Videoconference Meetings

## Videoconference Meetings

- ▶ TOMA does not restrict a governmental body from holding a meeting via videoconference, but it sets forth specific rules including:
  - ▷ The video conference must adhere to the notice requirements specified above, and the meeting must allow two-way audio and video communication so members of the public may testify, and a recording of the meeting must be made available to the public.
  - ▷ Members of a governmental body must have their cameras on during the entire meeting.
  - ▷ For a governmental body that extends to less than three counties, a quorum of board members must be physically present at one location for the duration of the videoconference and for a governmental body that extends into three or more counties, the member of the governmental body presiding over the meeting must be physically present at one location of the meeting.
  - ▷ The videoconference must meet or exceed the minimum standards for audio and video signals set by the Texas Department of Information Resources.



# Minutes and Recordings

- ▶ Governmental bodies must prepare and keep minutes or make a recording of each open meeting. The minutes must:
  - ▷ state the subject of each deliberation; and
  - ▷ indicate each vote, order, decision, or other action taken.
- ▶ The minutes and recordings of an open meeting are public records and must be made available for public inspection and copying on request to the governmental body.
- ▶ For closed meetings, a governmental body must keep certified agendas or make recordings, except for consultations with their attorney. The presiding officer shall certify that the agenda is a true and correct record of the proceedings, and the certified agenda must include:
  - ▷ a statement of the subject matter of each deliberation;
  - ▷ a record of any further action taken; and
  - ▷ an announcement by the presiding officer at the beginning and the end of the meeting indicating the date and time.
- ▶ A recording must include announcements by the presiding officer at the beginning and the end of the meeting indicating the date and time. Agendas and recordings must be preserved for at least two years after the date of the closed meeting.



# Enforcement and Penalties

- ▶ Actions taken in violation of TOMA are voidable.
- ▶ Citizens, reporters, or the Attorney General can seek injunctions or orders to enforce compliance.
- ▶ Knowingly discussing public business in smaller groups that form a quorum is a misdemeanor (up to \$500 fine, 6 months jail time, or both).
- ▶ Holding a closed meeting without legal basis may also result in fines or jail time.
- ▶ Failing to record or draft an agenda for a closed meeting may lead to a Class C misdemeanor (up to \$500 fine).
- ▶ Unauthorized disclosure of closed meeting content may result in:
  - ▷ A Class B misdemeanor
  - ▷ Civil liability for actual damages
- ▶ Reasonable reliance on legal advice or a court opinion can be a defense.
- ▶ Honest mistakes or good-faith beliefs may also be a defense against penalties.



# Training

- ▶ Governmental body members must complete a free 1–2-hour TOMA training from the Texas Attorney General’s Office.
- ▶ Training covers open meeting requirements, notices, records, quorums, closed sessions, and penalties.
- ▶ Must be completed within 90 days of taking office.
- ▶ HFC board members should complete training by August 26, 2025.
- ▶ Upon completion, members receive a certificate that must be kept on file and provided upon public request.

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Ryan Bowen is a partner and member of Chapman's Public Finance Department. Ryan has experience serving as bond and underwriter's counsel in connection with a variety of bond financings and as investor's counsel with respect to the purchase of various state and local government obligations.

Ryan has experience serving as bond counsel and underwriter's counsel on private activity bond financings, including single family and multifamily housing bond transactions. His housing finance experience includes serving as partnership counsel in connection with multifamily financings involving the use of tax credits.

Ryan routinely advises banks and other institutional investors in connection with the structuring, purchase, placement and securitization of state and local government obligations structured as municipal bonds, loans and leases. He also has experience structuring trust vehicles to enable the securitization of tax-exempt assets.

Ryan has significant experience as counsel to providers of municipal reinvestment products, including representation of investment banks and special purpose entities providing fixed and floating rate investment agreements, repurchase agreements and forward delivery agreements to bond issuers in the public finance market.

Ryan routinely provides counsel on various securities law matters, including SEC and MSRB rules and regulations governing the municipal securities market and disclosure practices.

Prior to attending law school, Ryan worked as a consultant for PwC Consulting (formerly the consulting division of PricewaterhouseCoopers LLP) in Washington, DC.

## Education

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Nora O'Brien is a partner and member of Chapman's Public Finance Department. She represents clients in a wide variety of housing finance and other public finance transactions, serving as bond counsel, disclosure counsel, underwriter's counsel, and special counsel.

Nora has extensive experience advising on private activity bond financings, including single-family housing, multifamily housing, and 501(c)(3) nonprofit transactions. She also counsels clients on a range of financing structures, such as Mello-Roos community facilities district bonds, Marks-Roos joint financing authority bonds, certificates of participation, revenue bonds, and general obligation bonds.

A leader in the public finance community, Nora is a member of Women in Public Finance, where she currently serves on the Board of the San Diego Chapter and previously served as treasurer on the National Board. She is also a member of the National Association of Bond Lawyers, as well as the National Association of Local Housing Finance Agencies (NALHFA) and the Texas Association of Local Housing Finance Agencies (TALHFA), where she serves on the advisory committee. Nora has also spoken on public finance and bond-related topics at events hosted by these organizations.

In the community, Nora serves as Director of Programs for the Los Angeles Chapter of the Women's Affordable Housing Network, organizing events that support the organization's mission to empower and develop women working in the affordable housing sector.

Prior to joining Chapman, Nora practiced at Best Best & Krieger LLP, and she previously served as associate general counsel at the Illinois Finance Authority.

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Prior to joining Chapman, Rachael served as Director of Intergovernmental Affairs/Executive Agency Counsel at the New York City Administration for Children's Services, where she coordinated the agency's legislative activities and cultivated relationships to support the agency's goals.

## Education

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