



Statement of Policy

RE: Out of Jurisdiction Property Tax Exemption Transactions

TALHFA has become aware that some Housing Finance Corporations have been participating in the financing and ownership of multifamily housing developments outside of the jurisdiction of the HFCs' sponsoring political subdivisions, which typically result in exemptions from both ad valorem and sales taxation. While Chapter 394 of the Texas Local Government Code contains arguably ambiguous and conflicting language that could be construed to permit an HFC to operate outside the jurisdiction of its sponsoring political subdivisions, this operation is often done with little or no notification to the affected jurisdiction's local governments and HFCs.

TALHFA is confident that "out of jurisdiction" operations will be addressed by the Texas Legislature during the 89th legislative session. Accordingly, TALHFA is drafting proposed amendments to Chapter 394 that would limit the ability of HFCs to participate in the ownership of a multifamily development outside of the jurisdiction of its sponsoring political subdivisions. The proposed amendments would mirror the requirements of a housing authority under Chapter 392 of the Texas Local Government Code, which generally require a resolution and cooperation agreement from the applicable local government and the housing authority in whose jurisdiction the development is or will be located. The proposed amendments would allow the local HFC and applicable local government to weigh the benefits of the foreign HFC's participation against the impact such participation would have on local tax revenues.

This issue has been the subject of considerable negative press and has the potential to be a contentious issue in the forthcoming legislative session. Continued participation by HFCs in out of jurisdiction transactions increases the possibility that further amendments to Chapter 394 will be proposed that would inhibit the ability of HFCs to fulfill their mission of providing affordable housing. It is incumbent upon all HFCs to act responsibly to protect affordable housing throughout the state and to ensure the tools used to promote affordable housing are available to all HFCs.

Therefore, it is TALHFA's strong position that HFCs cease participation in the financing and ownership of all out of jurisdiction multifamily developments until the issue is addressed in the upcoming 89th legislative session.