

CHAPMAN
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HFC Bootcamp

Annual Conference of the Texas Association of Local Housing Finance Agencies

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Texas Housing Finance Corporations Act

- ▶ Local housing finance corporations are formed and operate under the provisions of the Texas Housing Finance Corporations Act, Chapter 394, Texas Local Government Code (the “Act” or “Chapter 394”).
- ▶ **Purpose.** Pursuant to the Act, the purpose of a local housing finance corporation is to “provide a means to finance the cost of residential ownership and development that will provide decent, safe, and sanitary housing for residents of local governments.” *Section 394.002.*
- ▶ **Legal Status.** Housing finance corporations constitute public instrumentalities and nonprofit corporations and are not considered municipalities, counties or other political corporations or subdivisions of the State of Texas. *Section 394.015(d).*



Texas Housing Finance Corporations Act

- ▶ **Board of Directors.** All powers of the housing finance corporation are vested in a board of directors. All directors must be residents of a local government sponsoring the housing finance corporation and *may* be a member of the governing body, an officer or an employee of the local government. *Section 394.021(a).*
- ▶ **Powers.** “A housing finance corporation may exercise any powers incidental to or necessary for the performance of the powers prescribed [in the Act] and may exercise other powers necessary or appropriate to carry out the purpose for which the corporation is organized.” *Section 394.031.*

Texas Housing Finance Corporations Act

- ▶ **Powers (continued).** Powers enumerated under the Act include the power to: (i) make contracts necessary or convenient to the exercise of its powers, (ii) incur liabilities, (iii) borrow money, (iv) issue notes, bonds and other obligations and (v) secure such obligations by mortgage of the corporation's assets. *Section 394.032(a).*
- ▶ A housing finance corporation may also (i) plan, research, study, develop and promote the establishment of residential development *Section 394.032(b)* and (ii) make donations for the public welfare or for charitable, scientific or educational purposes. *Section 394.032(c).*
- ▶ **Exemption from Taxation.** A housing finance corporation and all property owned by it are exempt from license fees, recording fees and *all other taxes* imposed by the State of Texas or any political subdivision. *Section 394.905.* Exemption includes sales and ad valorem property taxes.



HFC Board of Directors

- ▶ Members of an HFC Board of Directors have a duty to the HFC
 - ▷ Responsible for adhering to HFC mission
 - ▷ Must act in good faith with reasonable degree of care
 - ▷ Avoid conflicts of interest
- ▶ HFCs should obtain appropriate level of directors and officers' insurance for its officers and bylaws should provide for indemnification



Other State Law Considerations

- ▶ **Open Meetings Act.** Housing finance corporations do not fit within the definition of “Governmental Body” under the Texas Open Meetings Act. See *Section 551.001(3), Texas Government Code*. In other words, housing finance corporations are NOT subject to the requirements of the Texas Open Meetings Act.
- ▶ **Open Records Act.** Pursuant to a decision of the Texas Attorney General, the Texas Open Records Act does apply to housing finance corporations. See *Open Records Decision No. 601*.
- ▶ **Public Funds Investment Act.** The funds of a housing finance corporation must be invested in accordance with the Texas Public Funds Investment Act. Housing finance corporations must enact an investment policy and appoint an investment officer pursuant to such act.



Continuing Disclosure

- ▶ Underwriters in a "primary offering" must obtain and review a "deemed final" official statement by an issuer or "obligated person"
 - ▷ Obligated person can be issuer or other party committed to repayment of municipal securities
- ▶ Underwriters must determine that issuers/obligated persons have entered into a written agreement to file annual financial and operating information of the type included in the official statement, together with timely notice of certain "material events" (i.e. continuing disclosure)
- ▶ Underwriters must have reasonable basis for recommendations and belief that issuers/obligated persons will comply with continuing disclosure obligations

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Ryan Bowen is a partner in Chapman's National 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.

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University of Miami School of Law, J.D., *cum laude*, 2005

Indiana University, B.S., Finance, 2000

Admitted

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Texas

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