

GOVERNMENT CODE  
CHAPTER 2304. HOUSING REHABILITATION  
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2304.001. SHORT TITLE. This chapter may be cited as the Texas Housing Rehabilitation Act.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.002. PURPOSES. (a) The purposes of this chapter are to provide a means by which the deterioration of housing and the decline of residential areas throughout the state can be arrested and prevented.

(b) The purposes of this chapter are public purposes for which money may be borrowed, loaned, and spent.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.003. DEFINITIONS. In this chapter:

(1) "Borrower" means a household whose application for a housing rehabilitation loan is approved under this chapter by a local government.

(2) "Department" means the Texas Department of Housing and Community Affairs.

(3) "Fund" means the Texas housing rehabilitation loan fund.

(4) "Household" means one or more persons owning housing.

(5) "Housing" means a structure that is on a permanent foundation and that consists of one to four family units used only for residential purposes.

(6) "Housing rehabilitation" means the repair, renovation, or other improvement of housing to make the housing decent, safe, sanitary, and more habitable.

(7) "Housing rehabilitation loan" means a loan made under this chapter.

(8) "Local agency" means a:

(A) nonprofit organization whose principal purpose is to improve housing conditions; or

(B) local housing authority, urban renewal agency, or other public entity.

(9) "Local government" means a county or municipality.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.004. GENERAL POWERS OF DEPARTMENT. (a) The department has the powers necessary or appropriate to carry out the purposes of this chapter.

(b) The department may:

(1) make an agreement with any other person in carrying out its powers or duties under this chapter;

(2) spend funds appropriated to it by the legislature to pay for staff, travel expenses, supplies or equipment, or contracts for services necessary to carry out its powers or duties under this chapter; or

(3) seek and accept funds from any source.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.005. AUTHORITY OF DEPARTMENT TO ADOPT MINIMUM HOUSING CODE STANDARDS. The department shall adopt the minimum housing, building, fire, and related code standards that apply in designated areas for which a housing rehabilitation plan is approved by the department and for which local government standards are not in effect.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.006. LIMITATION ON CONSTRUCTION OF HOUSING OR ACQUISITION OF PROPERTY BY DEPARTMENT. (a) The department may not construct housing.

(b) The department may not acquire housing except to enforce a lien under Subchapter D.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.007. PROHIBITION ON BORROWING, INCURRING OBLIGATIONS, OR PLEDGING CREDIT. The department may not borrow money, incur monetary obligations, or pledge in any manner the credit or taxing power of the state or a political subdivision of the state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.008. ALLOCATION OF AVAILABLE LOAN FUNDS. If the amount of housing rehabilitation loans anticipated to be made in a fiscal year exceeds the estimated available funds for that year, the department shall allocate the estimated available funds for that year among the local governments that have filed housing rehabilitation area plans with the department. In allocating the

available funds, the department shall take into account the probable amount of housing rehabilitation loans to be made by each local government.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.009. RELATIONSHIP OF DEPARTMENT AND LOCAL GOVERNMENTS. (a) The department shall adopt standards and procedures for the administration of this chapter by a local government or local agency.

(b) The department may provide technical assistance to a local government.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.010. DESIGNATION OF LOCAL AGENCY BY LOCAL GOVERNMENT. The governing body of a local government may designate one or more local agencies to exercise a power or duty of the local government under this chapter. The governing body may withdraw the delegated power or duty at any time.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.011. EDUCATION PROGRAM CONDUCTED BY LOCAL GOVERNMENT. A local government engaged in housing rehabilitation under this chapter shall conduct a general education program to inform residents in designated areas of methods for maintaining their housing and of the availability of housing rehabilitation loans.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

#### SUBCHAPTER B. HOUSING REHABILITATION LOAN FUND

Sec. 2304.021. FUND. (a) The Texas housing rehabilitation loan fund is in the state treasury.

(b) The department may designate separate accounts in the fund and the purposes of the accounts.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.022. DEPOSITS TO FUND. The following money shall be credited to the fund:

(1) money appropriated by the legislature for housing rehabilitation loans;

(2) money received from other sources for the purpose of making housing rehabilitation loans;

(3) money received from borrowers as payments on their housing rehabilitation loans;

(4) income from the transfer of interests in property acquired in connection with housing rehabilitation loans; and

(5) interest earned on deposits and investments of the fund.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.023. PURPOSES OF FUND. The fund may be used only for:

(1) financing housing rehabilitation loans, including the administrative charge imposed under Section 2304.068 by a local government; and

(2) paying the expenses incurred by the department in connection with the acquisition or disposition of real property under this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.024. INVESTMENT AND DISBURSEMENT OF FUND. The comptroller shall invest and disburse the money credited to the fund on the written authorization of the executive director of the department.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 8.72, eff. Sept. 1, 1997.

#### SUBCHAPTER C. HOUSING REHABILITATION AREA PLAN

Sec. 2304.041. DESIGNATION OF AREA AND PREPARATION OF PLAN. (a) A local government may allow households in a specific area within its boundaries to apply for housing rehabilitation loans by:

(1) designating the specific area; and

(2) preparing a housing rehabilitation plan for the designated area.

(b) A local government may designate more than one area within its boundaries.

(c) The designation of an area must be made in accordance with the standards established by the department. The area plan must be in the form prescribed by the department.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.042. CONTENTS OF AREA PLAN. A housing rehabilitation area plan must contain relevant information about

the area, including:

(1) a description of the physical, social, and economic characteristics of the area;

(2) a description of the housing conditions in the area;

(3) an assessment of the need for housing rehabilitation loans in the area, including:

(A) the number and characteristics of households in the area; and

(B) the average and total loan amounts needed;

(4) a description of the methods by which the local government preparing the plan will determine whether the rehabilitation of housing in the area is economically feasible;

(5) a description of the methods by which:

(A) rehabilitation work will be supervised; and

(B) compliance with departmental regulations governing materials, fixtures, and rehabilitation contracts will be ensured;

(6) a description of the methods and procedures that will be used to enforce:

(A) local housing, building, fire, and related codes; or

(B) the standards adopted by the department under Section 2304.005, if codes of those types have not been enacted;

(7) an assessment of the need for additional public improvements and public services in the area and a description of the specific means by which the improvements and services will be provided; and

(8) a description of the methods by which private investment to improve conditions in the area will be encouraged.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.043. APPROVAL OF AREA PLAN. (a) A local government's area plan must be approved by resolution or order of the governing body of the local government and must be submitted to the department for review.

(b) The department shall approve the plan if the area meets the standards established by the department and if the plan contains the required information.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.044. REJECTION OF AREA PLAN. (a) The department shall return a housing rehabilitation area plan to the local government submitting it if the area for which the plan is prepared does not meet the department's standards or if the plan does not contain the required information. The department shall include with the returned plan a list of deficiencies.

(b) An area plan may be corrected and resubmitted for approval by the department.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

#### SUBCHAPTER D. HOUSING REHABILITATION LOANS

Sec. 2304.061. PRIMARY USE FOR LOAN. A housing rehabilitation loan must be used primarily to make housing comply with applicable state, county, or municipal housing codes or standards, including building, fire, health, housing maintenance, or similar codes.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.062. DEPARTMENT LOAN RULES. (a) The department shall adopt rules governing the making and servicing of a housing rehabilitation loan and the foreclosure of a loan in default. The rules must include:

(1) the requirement that a housing rehabilitation loan be evidenced by a promissory note payable to the state and be secured by a lien on real property in the state; and

(2) the standards under which a household in an area designated by a local government may qualify for a housing rehabilitation loan.

(b) In adopting the standards under Subsection (a)(2), the department shall take into account:

(1) household gross income;

(2) household income available for housing needs;

(3) household size;

(4) the value and condition of the housing to be rehabilitated; and

(5) the ability of households to compete successfully in the private housing market and to pay for sanitary, decent, and safe housing in that market.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.063. LOAN APPLICATION. A household may apply to the local government in which the household's housing is located for a housing rehabilitation loan if the housing is located in a designated area for which an area plan has been approved by the department.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.064. LOCAL GOVERNMENT APPROVAL OF LOAN. (a) A local government may approve or disapprove a housing rehabilitation loan application authorized by Section 2304.063. The approval or disapproval must be given in accordance with the rules adopted by the department under Section 2304.062.

(b) The local government shall notify the department of the approval of a loan application and the amount of the approved loan.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.065. DEPARTMENT APPROVAL. The department may not approve a housing rehabilitation loan unless it finds that:

(1) the benefit to an area designated under Section 2304.041 will exceed the financial commitment of the department; and

(2) the approval of the loan will be of benefit to the state and its taxpayers.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.066. DISBURSEMENT OF LOAN FUNDS. (a) The executive director of the department shall authorize the comptroller to disburse to a local government from the housing rehabilitation loan fund the amount of a housing rehabilitation loan approved by the local government under this chapter if the department receives from the local government a notice of the local government's approval of the loan.

(b) The executive director may not authorize the disbursement of funds for a housing rehabilitation loan if:

(1) the department finds that the local government that approved the loan is not making a good faith effort to substantially comply with the applicable housing rehabilitation area plan or the rules adopted by the department; or

(2) the remaining part of the fund allocated to the local government under Section 2304.008 is insufficient to allow the payment of the approved amount.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 8.73, eff. Sept. 1, 1997.

Sec. 2304.067. LIMIT ON AMOUNT OF LOAN. The amount of a housing rehabilitation loan may not exceed:

(1) the amount determined by subtracting the amount of all other outstanding indebtedness secured by the property covered by the loan from the market value of the rehabilitated property as determined by the local government approving the loan; or

(2) the amount determined by adding the amount of the housing rehabilitation contract made and approved under Subchapter E for the property to the amount of the administrative charge imposed under Section 2304.068 in connection with the loan.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.068. ADMINISTRATIVE CHARGE IMPOSED BY LOCAL GOVERNMENT. (a) A local government may impose a charge to cover its administrative expenses incurred in connection with a housing rehabilitation loan made by the local government.

(b) The local government may deduct the charge from the amount loaned.

(c) The charge may not exceed three percent of the amount of the contract for housing rehabilitation the borrower makes with a contractor.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.069. INTEREST RATE. (a) The department shall set the minimum and maximum interest rates for housing rehabilitation loans.

(b) A local government shall set the interest rate for a housing rehabilitation loan it approves under this chapter. The rate must be within the minimum and maximum rates set by the department.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.070. TERM OF LOAN. A local government shall set the term of a housing rehabilitation loan it approves under this chapter. The term may not exceed 20 years.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.071. INSTALLMENT PAYMENTS. A housing rehabilitation loan must be repaid in installments.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.072. LOAN TO BE SECURED. A housing rehabilitation loan must be secured as required by this chapter and the rules adopted under this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.073. OTHER LOAN CONDITIONS. For a housing rehabilitation loan a local government approves under this chapter, the local government shall establish other necessary conditions relating to the repayment of the loan according to this chapter and the regulations of the department.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.074. ADJUSTMENTS IF BORROWER UNABLE TO REPAY LOAN. A local government may allow for the deferment of payments or may adjust the interest rate or term of a housing rehabilitation loan approved by the local government if the borrower is unable to make the required payments.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.075. DISPOSITION OR ENCUMBRANCE OF PROPERTY BY BORROWER. The department may adopt regulations governing the disposition or further encumbrance by the borrower of property subject to a lien that secures a housing rehabilitation loan.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.076. CONDITIONS UNDER WHICH LOAN BECOMES IMMEDIATELY DUE. (a) A borrower must agree that if the borrower voluntarily destroys, moves from, or relinquishes ownership of the rehabilitated housing on or before the first anniversary of the date the rehabilitation is completed:

(1) the borrower's housing rehabilitation loan becomes immediately due and payable; and

(2) an interest surcharge is added sufficient to make the total interest paid equal an amount determined by the prevailing interest rates for rehabilitation loans from private sources at the time of the sale.

(b) The local government that approved the loan may waive the interest surcharge if:

(1) the local government finds that the borrower must sell the housing because of financial hardship or similar circumstances; and

(2) the department consents to the waiver.

(c) A local government that approved a housing rehabilitation loan may, with the consent of the department, take the following action if the borrower dies or the borrower sells or gives away property encumbered by the loan:

(1) declare all or part of any deferred payments due and payable;

(2) declare the balance of the loan due and payable;

or

(3) allow a buyer, donee, or other successor in title who qualifies under Section 2304.062 to assume the loan.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.077. ACQUISITION OF PROPERTY TO PROTECT LOAN. The department may acquire title to any project by foreclosure if necessary to protect a housing rehabilitation loan made for the project by the department and to pay the costs arising from the foreclosure.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.078. ACQUISITION OF PROPERTY TO ENFORCE LIEN. To enforce a lien under this chapter, the department may acquire housing by:

(1) foreclosure of a mortgage;

(2) a sale under a deed of trust; or

(3) a voluntary conveyance from a borrower in full or partial settlement of a housing rehabilitation loan.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.079. PUBLIC SALE OR AUCTION OF ACQUIRED PROPERTY. (a) If the department acquires housing in the enforcement of a lien under this chapter, it shall within six months after the acquisition offer the housing for public sale or auction.

(b) The department must provide notice of the public sale or auction by having a notice published in a newspaper of general circulation in the county in which the property is located. The notice must be published once a week for three consecutive weeks before the date of the sale or auction and must contain:

(1) a description of the property;  
(2) a description of the procedures for submitting competitive bids for the property; and  
(3) a statement of the time and location of the sale or auction.

(c) The department may reject any or all bids submitted for the property.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.080. PRIVATE SALE. (a) If a sale of property cannot be made by a public sale or auction as provided by Section 2304.079, the department may negotiate with a party for the expeditious sale of the property. In the negotiations, the department shall give priority to selling the property to a purchaser who will be required to pay ad valorem taxes on the property.

(b) If a sale to that kind of purchaser is not practicable, the department shall attempt to sell the property to a purchaser who is exempt from ad valorem taxes but who will make payments in lieu of taxes on the property.

(c) If neither type of purchaser is available, the department may sell the property to any purchaser.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.081. CONTRACT FOR SERVICING LOAN. A local government may contract with any entity for the servicing of a housing rehabilitation loan approved by the local government.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.082. AUDIT OF LOANS. The department shall audit the local administration of housing rehabilitation loans to determine if a good faith effort is being made to comply with the applicable housing rehabilitation plan and the rules adopted by the department.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

#### SUBCHAPTER E. HOUSING REHABILITATION CONTRACTS

Sec. 2304.101. STANDARDS FOR CONTRACTORS AND CONTRACTS. The department shall adopt standards for:

(1) the selection of contractors to perform housing rehabilitation under this chapter;

(2) housing rehabilitation contracts between borrowers and contractors; and

(3) materials and fixtures used in performing housing rehabilitation under this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.102. LOCAL GOVERNMENT APPROVAL AND SUPERVISION OF CONTRACTS. (a) A borrower and a contractor may not contract for housing rehabilitation that is to be financed by a housing rehabilitation loan unless the local government responsible for approving the loan approves the proposed contract in accordance with the standards adopted by the department.

(b) The local government shall supervise all work performed under the contract. The contractor is not entitled to payment until the work has been approved by the local government, and the borrower is not liable to the contractor for any work not approved by the local government.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.103. ADVERTISING REQUIREMENT FOR CERTAIN CONTRACTS. A contract for housing rehabilitation that involves the expenditure of more than \$3,000 and that is to be financed by loan funds applied by the department may not be made unless advertised in the same way as a contract under Chapter 252, Local Government Code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.104. PERFORMANCE AND PAYMENT BONDS. The provisions of Chapter 2253 relating to performance and payment bonds apply to a construction contract governed by this subchapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.