

By: Campos

H.B. No. 3136

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the issuance by the Texas Department of Housing and
3 Community Affairs of certain federal forms for purposes of
4 allocating low income housing tax credits; authorizing an
5 administrative penalty.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Subchapter DD, Chapter 2306, Government Code, is
8 amended by adding Section 2306.67101 to read as follows:

9 Sec. 2306.67101. ISSUANCE OF INTERNAL REVENUE SERVICE FORM
10 8609; REPORT. (a) In this section:

11 (1) "Documentation packet" means the Internal Revenue
12 Service Form 8609 documentation packet required under this section.

13 (2) "Form 8609" means Internal Revenue Service Form
14 8609, or that form's successor.

15 (b) Not later than the 30th day after the date a development
16 owner submits to the department an Internal Revenue Service Form
17 8609 documentation packet under this section, the department shall
18 issue the owner an Internal Revenue Service Form 8609.

19 (c) The department shall establish procedures for a
20 development owner to prepare and submit to the department a
21 documentation packet to obtain Form 8609 for the purpose of
22 receiving an allocation of housing tax credits under this
23 subchapter.

24 (d) A documentation packet must include:

1 (1) an owner's statement of certification form:

2 (A) that is signed by the development owner and
3 notarized; and

4 (B) through which the development owner
5 certifies the accuracy of the information included in the
6 documentation packet;

7 (2) an owner's summary form that includes:

8 (A) the taxpayer identification number of the
9 development owner; and

10 (B) information on the ownership structure of the
11 development owner, the developer, or the development guarantor;

12 (3) a development cost schedule for the development;

13 (4) an independent auditor's report of the total
14 development cost and eligible basis of the development through
15 which the auditor certifies that the audit was conducted according
16 to generally accepted auditing standards and included:

17 (A) an examination of evidence supporting the
18 amounts and disclosures outlined in the cost certification;

19 (B) an assessment of the accounting principles
20 used and significant estimates made by the development owner; and

21 (C) an overall cost certification evaluation and
22 establishment of the total eligible basis;

23 (5) an independent auditor's report of bond financing
24 through which the auditor certifies the percentage of the
25 development's aggregate basis financed by tax-exempt bonds;

26 (6) a complete copy of the executed carryover
27 allocation agreement issued to the development owner by the

1 department;

2 (7) for a development that was awarded one or two
3 points for demonstrating nonprofit participation under the sponsor
4 characteristics of the application, documentation evidencing the
5 nonprofit participation;

6 (8) a placement in service form that contains
7 summarized information for the development on a
8 building-by-building basis;

9 (9) an architect certification of completion date and
10 date ready for occupancy form:

11 (A) that is completed and signed by the
12 development architect; and

13 (B) through which the development architect
14 certifies, for purposes of calculating the development's placed in
15 service date, the date of:

16 (i) the completion of the development's
17 buildings; and

18 (ii) the issuance of the certificate of
19 occupancy for the development; and

20 (10) a complete copy of the executed and recorded land
21 use restriction agreement for the development.

22 (e) If the department determines that a development owner
23 intentionally provided incorrect or inconsistent information in a
24 documentation packet submitted to the department under this
25 section, the department may assess an administrative penalty
26 against the owner in accordance with Subchapter B. In assessing an
27 administrative penalty under this subsection, the department may:

1 (1) impose a monetary penalty; or

2 (2) prohibit the owner or any person that has an
3 ownership interest in the development, except for a tax credit
4 purchaser or syndicator, from participating in the low income
5 housing tax credit program for a period of not more than two years.

6 (f) The department shall quarterly prepare and submit to the
7 legislature a written report that includes the following
8 information for the preceding quarter:

9 (1) the total number of submitted documentation
10 packets that the department is in the course of processing;

11 (2) the total number of Forms 8609 that the department
12 issued, aggregated by the total number issued:

13 (A) not later than the 15th day after the date a
14 documentation packet was submitted;

15 (B) on or after the 16th day but before the 31st
16 day after the date a documentation packet was submitted;

17 (C) on or after the 31st day but before the 61st
18 day after the date a documentation packet was submitted; and

19 (D) on or after the 61st day after the date a
20 documentation packet was submitted;

21 (3) a detailed statement of the reasons for the
22 department's delay in issuing Form 8609 in the time required by
23 Subsection (b), including complete copies of any requests for
24 information;

25 (4) the average time the department required for
26 issuing Form 8609;

27 (5) the total number of rejected applications for Form

1 8609; and

2 (6) a detailed statement of the reason for the
3 department's rejection of each application.

4 (g) The department shall adopt rules to implement this
5 section, including rules:

6 (1) prescribing the form and contents of the
7 documentation required by Subsections (d)(1), (2), (3), (4), (5),
8 (8), and (9); and

9 (2) specifying the manner, deadline, and fees for
10 submitting a documentation packet under this section.

11 SECTION 2. The changes in law made by this Act apply only to
12 an application for low income housing tax credits that is submitted
13 to the Texas Department of Housing and Community Affairs during an
14 application cycle that is based on the 2024 qualified allocation
15 plan or a subsequent plan adopted by the governing board of the
16 department under Section [2306.67022](#), Government Code. An
17 application that is submitted during an application cycle that is
18 based on an earlier qualified allocation plan is governed by the law
19 in effect on the date the application cycle began, and the former
20 law is continued in effect for that purpose.

21 SECTION 3. This Act takes effect September 1, 2023.