

By: Menéndez

S.B. No. 1812

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.