

<u>TITLE 10</u>	COMMUNITY DEVELOPMENT
<u>PART 1</u>	TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
<u>CHAPTER 60</u>	COMPLIANCE ADMINISTRATION
<u>SUBCHAPTER C</u>	ADMINISTRATIVE PENALTIES

§60.307	Penalty	Table
.....		1
§60.308	Factors for Modifying Recommended	Penalty
.....		3
§60.309		Debarment
.....		3

§60.307 Penalty Table

The Department has developed penalties in accordance with Texas Government Code §2306.042 and lists the violations and the maximum administrative penalties. Penalties begin to accrue on the day after the last day of the corrective action period.

[Figure: 10 TAC §60.307](#)

Event of Noncompliance	Administrative penalty up to:
Failure to comply with the Next Available Qualifying Unit Rule.	\$50 per violation.
Owner failed to execute required lease provisions, including language required by §60.110 of this chapter.	\$50 per violation.
Development substantially changed the scope of services presented at initial application without prior department approval.	\$500 per violation.
Change in ownership or General Partner without Department approval.	\$500 per violation.
Determination of a violation under the Fair Housing Act.	\$1,000 per violation.
Administrative reporting of Uniform Physical Condition Standards (“UPCS”) violation.	\$50 per unit per day or \$50 per day per violation not in a unit but on the property.
Development evicted or terminated tenancy of a low income tenant for other than good cause.	\$1,000 per violation.
Failure to provide notary public as promised at application.	\$500 per violation.
Failure to maintain or provide Annual Eligibility Certification.	\$50 per violation.
Household income above income limit upon initial occupancy.	\$1,000 per violation.
Major violations of the UPCS or local health, safety, and building codes.	\$1,000 per unit per day or \$1,000 per day per violation not within a unit but on the property.
Pattern of minor violations of the UPCS or local health, safety, and building codes.	\$250 per unit per day or \$250 per day per violation not within a unit but on the property.

Event of Noncompliance	Administrative penalty up to:
Owner failed to submit annual certification.	\$1,000 per violation.
Changes in eligible basis.	\$500 per day per violation.
Project failed to meet minimum set-aside requirement (20/50, 40/60 test).	\$1,000 per day per violation.
Gross rent(s) exceed tax credit limits.	\$250 per unit per day per violation.
Project not available to the general public.	\$1,000 per day per violation.
Household income increased above income limit and an available unit was rented to market rate tenant.	\$500 per violation.
Project is no longer in compliance and is no longer participating in the low-income housing tax credit program.	\$1,000 per day per violation.
Owner failed to execute and record extended-use agreement within time prescribed by 26 U.S.C. §42(h)(6)(J).	\$1,000 per day per violation.
Low-income units occupied by nonqualified full-time students.	\$1,000 per violation.
Owner failed to maintain or provide tenant income certification and documentation.	\$250 per violation.
Owner did not properly calculate utility allowance.	\$50 per unit per day per violation.
Owner has failed to respond to agency requests for monitoring reviews and fees.	\$1,000 per day per violation.
Low-income units used on a transient basis.	\$250 per violation.
Failure to comply with additional rent and occupancy restrictions.	\$250 per day per violation.
Failure to comply with §60.308 of this chapter, minimum income to rent standards of 2.5 time tenant's rent.	\$500 per violation.
Violation(s) of Unit Vacancy Rule.	\$250 per violation.
Unit not available for rent. Unit used for non-residential purposes.	\$1,000 per unit per violation.
No evidence of, or failure to certify to, material participation of a nonprofit organization or Historically Utilized Business ("HUB").	\$5 per day per violation.
No evidence of provision of supportive services.	\$5 per day per violation.
Noncompliance with senior project age restrictions.	\$5 per day per violation.
Not meeting the prescribed special needs set-aside restriction.	\$1,000 per violation.
Failure to rent to Section 8 program households.	\$1,000 per violation.
Failure to provide Affirmative Marketing Plan.	\$5 per day per violation.
Failure to establish and maintain reserve account.	\$250 per day per violation.
Household income increased above 80 percent at recertification and owner failed to properly determine rent (HOME only).	\$50 per unit per day per violation.

Event of Noncompliance	Administrative penalty up to:
Failure to provide annual HQS inspection for HOME units.	\$500 per violation.

§60.308 Factors for Modifying Recommended Penalty

The factors identified in §2306.042 of the Texas Government Code shall be used to make any deviations from the maximum administrative penalties provided for in the matrix set forth in Figure: 10 TAC §60.307 of this chapter (relating to Penalty Table).

§60.309 Debarment

A Responsible Person may be debarred from participation in the low income housing tax credit program as provided for in §2306.6721 of the Texas Government Code.

(1) Recommendation for inclusion on the debarment list is made by referral from Department Division Directors. An Administrator, Affiliated Party, Person, or Responsible Party may also submit a referral to a Department Division Director for consideration.

(2) Before a person is recommended for debarment they shall be given written notice of the matter, setting forth the facts and circumstances justifying debarment under §2306.6721 of the Texas Government Code, and will be given a reasonable opportunity to cure the matter, if it is susceptible to cure.

(3) If the matter is not cured or not susceptible to cure, then upon recommendation by the Committee, the Executive Director may issue a notice of recommended debarment for the appropriate time period.

(4) In instances where the specific matters raised have been cured but the Responsible Person has demonstrated a significant pattern or practice of non-compliance compounded with a lack of being timely responsive, the Executive Director may still recommend debarment, despite the cure of individual matters. The recommended term of debarment shall be for the greater of:

(A) the period of any HUD debarment, if HUD debarment is the basis for debarment;

(B) up to five (5) years for materially violating any condition imposed by the Department in connection with the allocation of tax credits, or for material non-compliance with or repeatedly violating a land use restriction agreement regarding a development supported with a housing tax credit allocation; or

(C) up to ten (10) years or until fulfillment of all conditions of incarceration and/or probation, whichever is greater.

(5) The person debarred shall have twenty (20) days from the date of the notice of recommended debarment to appeal the debarment to the Governing Board of the Department

by sending written notification of appeal to the Executive Director, briefly stating the grounds for the appeal. If the person does not timely file an appeal to the Governing Board, the Executive Director's debarment recommendation becomes final.

(6) The Governing Board may decrease the term of any debarment for good cause stated on the record in the motion making the adjustment.