



CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

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DATE: May 20, 2021

TO: Property Owners and Management Agents of Low-Income Housing Tax Credit (LIHTC) Projects

FROM: California Tax Credit Allocation Committee – Compliance Section

RE: Proposed Updates to Compliance Fine Schedule

This Memorandum (“Memo”) serves as guidance from the California Tax Credit Allocation Committee (“CTCAC” or “Committee”) to owners and property management agents of LIHTC properties in California regarding Compliance Fines for uncorrected violations of CTCAC policy or procedures.

In 2016, California Assembly Bill AB 1920 (“AB 1920”) authorized CTCAC to levy fines for non-compliance violations of the tax credit program. The intent of AB 1920 was to provide an administrative tool for CTCAC to ensure compliance for the duration of the 55-year extended-use period of requirements at LIHTC projects in cases where requirements were either not regulated by the IRS or no longer being regulated by the IRS. Currently, CTCAC reports non-compliance with federal program requirements to the IRS with a Form 8823 while the project is in their 15-year federal compliance period. For those violations reported to the IRS on Form 8823, CTCAC will not issue fines. The IRS does not enforce requirements of the State such as deeper targeting, and service amenities, or federal requirements following the 15-year federal compliance period.

The Committee adopted changes in the CTCAC regulations on December 14, 2016 establishing Section 10337(f) providing CTCAC the authority to issue compliance fines. The original [Fine Schedule](#) was published to the CTCAC website and adopted by the Committee on March 15, 2017.

CTCAC uses its discretion to determine the most appropriate sanction, whether it be negative points or fines based on the specific circumstances. For less egregious violations, the fine schedule provides a correction period - generally 30 days. For these violations, CTCAC will not impose a fine if the non-compliance is corrected during the correction period. For serious violations, an immediate fine will be assessed in addition to the requirement of correction. If the non-compliance issue remains uncorrected following the correction period, additional fines will be levied monthly.

All fines are subject to appeal in accordance to Section 10330(b)(2) of the CTCAC regulations. Section 10337(f) of the CTCAC regulations provides additional details related to the assessment and payment of the fines, as well as actions taken if the assessed fee not be paid within the required timeframe.

CTCAC has reviewed the previously approved fine schedule, and is proposing some updates to the language, and clarification on the amounts for several of the violations noted. The proposed Compliance Fine Schedule is included as Attachment A. Interested persons wishing to provide public comment on the updated fine schedule may submit written comments by email with the subject line "Proposed Compliance Fine Schedule" to anthony.zeto@treasurer.ca.gov, or deliver to the CTCAC office no later Tuesday, June 1, 2021. For email comments, it is preferable that they be in a Microsoft Word document or an electronic format that allows for copying. While CTCAC welcomes public comments, staff encourages commenters to be sparing and brief given the short timeframe for staff to turn around responses. If you agree with some changes and disagree with others, please remember to make both sets of comments so that CTCAC has a record of both favorable and unfavorable reactions.

Following adoption at the June 16, 2021 Committee meeting, any non-compliance resulting in a fine will be held to the updated fine schedule. CTCAC retains the authority to issue negative points for program violations, but will not levy fines in those cases.

If you have any questions regarding the policies or information noted above, please contact CTCAC Compliance Section Senior Program Managers Elizabeth Gutierrez-Ramos at elizabeth.gutierrez@treasurer.ca.gov or Shannon Nardinelli at shannon.nardinelli@treasurer.ca.gov.

ATTACHMENT A
Proposed Compliance Fine Schedule

All payments due within 30 days of assessment or completion of appeal

Compliance Period		Compliance Violation	Corrective Time Period	Initial Fine	Re-occurring Fine
Federal 15-Year	Extended-Use				
X		Failure to Provide Service Amenities	Immediate if not in place 6 months after the last building has been placed in service	Twice the financial gain, based on the service costs presented in the application or, if none, an assumed cost of \$20,000 per year	After 30 days, an additional twice the monthly financial gain.
X	X	Failure to submit Annual Operating Expense (AOE) Package	30-Day Corrective Period	\$250	\$50 per month until corrected
X	X	Failure to submit Tenant Demographic Data	30-Day Corrective Period	\$250	\$50 per month until corrected
X	X	Sale of Property or Change of Ownership Entity without TCAC Approval	Immediate	\$500	After 30 days, an additional \$500 per month until TCAC approval
X	X	Other Transfer Event completed without CTCAC Approval - (Refinance, Supplemental Loan,	Immediate	\$500	After 30 days, an additional \$500 per month until TCAC approval
X	X	Change of Property Management Company without CTCAC Approval	Immediate	\$500	\$500 per month until corrected
X	X	Change in Unit Mix without CTCAC Approval	Immediate	\$500	\$500 per month until corrected
X	X	Failure to use TCAC required Forms (TIC, TICQ, THIF, Under \$5K Asset, Child/Spousal Support Affidavit, etc.)	30-Day Corrective Period	\$250	\$100 per month until corrected
X	X	Failure to maximize utilization of accessible units, give priority for accessible units to persons residing in the complex or on waiting list who need the accessibility features	30-Day Corrective Period	\$250	\$100 per month until corrected
	X	Failure to submit Annual Owner Certification (AOC) Documents	30-Day Corrective Period	\$250	\$50 per month until corrected
	X	Uncorrected UPCS - Level 1	30-Day Corrective Period	\$100 per instance	\$50 per instance per month until corrected
	X	Uncorrected UPCS - Level 2	30-Day Corrective Period	\$250 per instance	\$50 per instance per month until corrected
	X	Uncorrected UPCS - Level 3	30-Day Corrective Period	\$300 per instance	\$50 per instance per month until corrected
	X	Uncorrected UPCS - Health and Safety Violations	Immediate	\$400 per instance	\$100 per instance per month until corrected
	X	Eligibility - Household not Income Eligible	30-Day Corrective Period	\$250 per instance	\$100 per instance per month until corrected
	X	Eligibility - Incorrect/Overcharged Rent of less than \$15	30-Day Corrective Period	\$100 per instance + overage rebated to tenants	\$100 per instance per month until corrected

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Compliance Period		Compliance Violation	Corrective Time Period	Initial Fine	Re-occurring Fine
Federal 15-Year	Extended-Use				
	X	Eligibility - Incorrect/Overcharged Rent of \$15 or more	Immediate	\$250 per instance + overage rebated to tenants	\$100 per instance per month until corrected
	X	Use of Ratio Utility Billing System (RUBS)	Immediate	\$250 + \$100 for every month the RUBS was in place. If over CTCAC maximum rent, must also rebate tenants for overage	\$100 per month until corrected
	X	Failure to submit Annual Owner Certification (AOC) Package	30-Day Corrective Period	\$250	\$50 per month until corrected
	X	Unit Vacant/Offline for more than 60 days	Immediate	\$250 if unit is vacant for more than 60 days, not turn-key ready, not being advertised, or being held for another entity	\$250 per instance per month until corrected
	X	Failure to Respond to Agency Request for Monitoring	Immediate if no response is received within 7 calendar days of rescheduled monitoring inspection notification letter	\$500	\$500 per month until corrected
	X	Violation of Student Rule Requirements	Immediate	\$250 per instance	\$100 per instance per month until corrected