

THE HFA INSTITUTE 2025



**MRBs and
Other Federal
Homeownership
Programs**
JANUARY 15 – 17



Housing Credit
JANUARY 14 – 16

Breaking News from HUD

January 13, 2025

9:00 – 10:30 AM ET



**Section 8 and
Other Federally
Assisted
Multifamily
Housing**
JANUARY 15 – 17



**HOME and
Housing Trust
Fund**
JANUARY 12 – 14





HOME Investment Partnerships Program Final Rule Overview

January 13, 2025

HOME Program Rulemaking

- In 2022, OAHP undertook a comprehensive review of HOME statute and regulations looking for unexercised flexibilities and reexamining original statutory interpretations.
- Developed and published a proposed rule on May 29, 2024
- Received 109 written comments plus comments from 6 listening sessions
- HUD carefully considered public comments and developed a final rule.
 - Published on January 6, 2025
 - Effective on February 5, 2025
 - PJs must comply with most requirements by February 5, 2026



Major Improvements in Final Rule

- Reduces Unnecessary Burden Associated with Income Determinations
- Simplifies HOME Rental Housing Requirements and Aligns with LIHTC and Other HUD Programs
- Simplifies TBRA and Makes TBRA Work Better for Tenants, Landlords, and Participating Jurisdictions
- Strengthens Tenant Protections
- Modernizes and Simplifies Homeownership
- Modernizes Maximum Per Unit Subsidy Limit and Incentivizes Green Building
- Makes HOME Easier to Use to Increase the Supply of Housing by Addressing Pre-Development Costs
- Improves Availability and Capacity of CHDOs





Streamline Income Determinations

Income Determinations- Rental Units

Aligns HOME income requirements with LIHTC and other HUD rental programs

- Reduces burden of determining income eligibility of families applying/living in HOME units

Establishes income safe harbors. PJs **may use as applicable to family/unit.**

Income safe harbors permit PJs to accept income determinations (initial and recertifications) made by:

- Other federal programs in HOME units assisted by Federal/State project-based rental subsidy (e.g., PBV, HUD-VASH, PBRA, section 202, section 811, etc.),
- Another entity in HOME units developed with LIHTC, and
- Provider of other public assistance (federal, state, local) to family (e.g., TANF, WIC, SNAP, Medicaid, local rental assistance), made within previous 12 months.

Income safe harbors are in addition to other flexibilities already permitted under HOME (self-certification, PHA determinations for HCV)

** When income requirements overlap, PJs must comply with most restrictive requirement*



Income Determinations- TBRA

Reduces frequency of income determinations from annual to every 2 years

- Biennial income examinations reduces burden on administrators and families

PJs have two options for determining family's annual income before calculating adjusted income under 24 CFR 5.611:

- Calculate annual income using at least 2 months source documents or
- Accept income determination made by provider of other public assistance (federal, state, local) to family (e.g., TANF, WIC, SNAP, Medicaid, LIHTC unit) made within previous 12 months

** When income requirements overlap, PJ must comply with most restrictive requirement*



Income Determinations- Small-Scale Rental

Reduces frequency of income determinations from annual to every 3 yrs

PJs will follow new Alternate Income Examination Cycle – chart that describes how and when income must be determined during the period of affordability

PJs can use any income safe harbor that applies (initial/recertifications) made by:

- PHA, owner, or rental subsidy providers in HOME units also assisted by Federal or State project-based rental subsidy programs,
- PHA or other providers of federal TBRA (e.g., HCV, HOPWA TBRA), and
- Provider of other public assistance to the family (e.g., TANF, Medicaid, LIHTC, WIC, SNAP. local rental subsidy program), made within previous 12 months

Income safe harbors are in addition to other flexibilities already permitted in HOME (self-certification)

** When income requirements overlap, PJs must comply with most restrictive requirement*



Which Income Rule Do I Implement?

- On 12/31/2024, HUD delayed compliance date for HOTMA Final Rule until **1/1/2026**, ([FR-6057-N-06](#)) for all CPD programs.

Pre-HOTMA	HOTMA	2025 HOME Rule
<ul style="list-style-type: none">• Calculate income using old Part 5 income rule.• FR Notice permits PJs to use income safe harbors w/o implementing all HOTMA.	<ul style="list-style-type: none">• PJ must set its own compliance date based on readiness.• Implement as early as 1/1/2024, no later than 1/1/2026.	<ul style="list-style-type: none">• PJ must set its own compliance date based on readiness.• Implement as early as 2/5/2025, no later than 2/5/2026.





Improve Availability and Capacity of CHDOs

CHDO Board

Broadens who can count toward 1/3 minimum low-income board representation, making CHDO set-aside more accessible to nonprofit organizations.

- Adds “*designees of low-income neighborhood organizations*” to permit participation by groups such as Legal Aid, tenants’ rights, other civil rights organizations, DV groups, etc.
- Adds “*low-income beneficiaries of HUD programs*” as an explicitly named group of eligible board members to maintain board accountability to low-income community residents.

Narrows who counts toward 1/3 public official limitation on governing board from officials or employees of “any governmental entity” to officials or employees of “the PJ or governmental entity that created the CHDO.”



CHDO Capacity

Staff Capacity Requirement

- Permits nonprofit organizations that cannot meet demonstrated experience requirement solely through paid employees with housing development experience to supplement capacity of paid staff with that of board members/officers who will work directly on the HOME-assisted project.

Develop and Sponsor Roles

- Permits CHDO developers and sponsors to share certain development responsibilities with other nonprofit/for-profit organizations to enhance capacity, while still requiring CHDO to retain decision-making authority (expressly outlined in written agreement). Responsibilities are:
 - site selection,
 - obtaining permit approvals and all project financing,
 - selecting architects, engineers, and general contractors,
 - overseeing project progress, and
 - determining the reasonableness of costs.



Other CHDO Changes

Eliminated requirement that CHDO continue to own project through period of affordability

- If PJ determines and documents that CHDO no longer has capacity to own/manage the project for full period of affordability and there are no other CHDOs within the jurisdiction with capacity to own/manage project for POA
- Applies only to Developer and Sponsor Roles, not Owner

Based on commenter feedback, final rule eliminates proposed language to permit organizations with statewide service area to be designated a CHDO

- Individual waivers are possible



Operating Assistance for Nonprofits

Corrects drafting error in 2013 rule that created an impediment to organizations seeking to become CHDOs accessing operating expense assistance to obtain required capacity

- New paragraph § 92.208(c) states that an organization that meets CHDO definition in § 92.2 except for capacity requirement in paragraph (9) may receive HOME funds for operating expenses to develop demonstrated capacity and qualify as a CHDO.





Simplify HOME Rental Housing Requirements and Align with LIHTC and Other HUD Programs

Implement HERA Provisions for HOME Rents

HUD previously implemented statutory High and Low HOME Rents as caps on the gross rent received by owners of HOME units. HERA permits owner of HOME unit receiving rental assistance to charge permissible HCV, PBV, or PBRA rent instead of max. of the HOME rent limit.

Final rule defines “HOME rent” as *rent paid by tenant*

- Better aligns HOME with LIHTC and HUD rental assistance programs
- Permits higher gross rents, increasing rental revenue to owners and improving project financial viability without affecting tenant contribution
- Eliminates need for PJs to monitor or enforce HOME requirements on PHAs administering rental assistance used in HOME units.



Further Alignment with LIHTC

- Low HOME Rent (30% of 50% of AMI) does not have to be charged in a LIHTC/HOME unit if it has a rent not greater than the gross rent for rent-restricted residential units as determined under [26 U.S.C. 42\(g\)\(2\)](#).



Align Utility Allowance Requirements

Final rule adds PHA-established utility allowance to list of acceptable utility allowances for HOME rental projects.

- Aligns HOME and Section 8 project-based vouchers (PBV) requirements - eliminating the need for HOME waivers and providing PJs an additional option for establishing utility allowances on all HOME rental projects.



Streamlined Small Rental Projects Requirements

Simplifies HOME requirements for small rental housing (1-4 total units)

- Reduces Frequency of Income Determinations – from annual to every 3 years, with documentation required every 6 years.
- Eases Physical Inspection Schedule/Protocol
 - Inspections every 3 years rather than risk-based schedule
 - PJs not required to adopt a more frequent inspection schedule if health and safety deficiencies are identified.
- Alternative Waiting List Requirement
 - PJ-adopted policy to identify tenants when vacancies occur
- Nondiscrimination and VAWA requirements continue to apply





Simplify TBRA and Make TBRA Work Better for Tenants, Landlords, and PJs

TBRA Updates to Benefit Tenants

- **Facilitates the use of HOME TBRA for in-place eligible tenants**
 - Permits TBRA contracts to start on the first day of the lease or the first month TBRA is provided to an eligible household.
- **Permits PJs to establish hardship policies that provides exceptions to the minimum tenant contribution requirement**
 - Facilitates the use of TBRA for extremely low-income or homeless families.
- **Eliminates requirement for annual income recertification**
 - Reduces burden on families and supports wealth-building.



TBRA Updates to Simplify Administration

Clarifies PJs must execute TBRA contract with both landlord and family (separate or Tri-party agreements).

- Distinguishes between new contracts, amendments and renewals and the circumstances which require a new income examination

Allows PJs to Accept Physical Inspections Performed for Under Another Funding Source Using HQS (eventually NSPIRE).

- Reduces burden of PJ of conducting a duplicative physical inspection.
- Reduces burden on landlord of undergoing multiple inspections and may increase landlord willingness to participate in HOME TBRA program.

PJs may implement any applicable income safe harbor:

- Accept income determination made by a form of public assistance (e.g., TANF, SNAP, Medicaid, LIHTC unit, WIC) made within previous 12 months.





Strengthen Protections of HOME Tenants and TBRA Recipients

Strengthen Tenant Protections

Establishes specific tenant protections and disables common provisions of standard lease templates that weaken tenant rights

Requires use of one of 3 new lease addenda for HOME rental housing, TBRA or security deposit assistance only

- HUD will issue 3 addenda via forthcoming CPD Notice
- Compliance required no earlier than February 5, 2025, and no later than February 5, 2026
 - Cannot amend existing written agreements or TBRA rental assistance contracts- including security deposit assistance only - executed prior to February 5, 2025, to incorporate the new tenancy addenda
- Security deposit assistance only addendum includes statutorily prohibited lease terms
- Rental housing and TBRA addenda include expanded tenant protections



Tenant Protections: Rental Housing and TBRA

- Rental housing and TBRA addenda include requirements in following areas:
 - Physical condition of unit and project
 - Use and occupancy of unit and project
 - Required notice to tenant
 - Tenant's right to available legal proceedings and remedies
 - Protection against unreasonable interference and retaliation
 - Exercise of rights under tenancy
 - Confidentiality
 - Prohibition on discrimination
 - Security deposits
 - Termination of tenancy



Security Deposits

Establishes new security deposit requirements

- Security deposits must be refundable and no more than 2 months' rent
- If owner charges any amount against tenant's security deposit, must provide tenant with list of all items charged and amount charged
- After deducting amount charged, owner must promptly refund the unused balance to the tenant

Use of surety bonds, security deposit insurance and similar instruments explicitly prohibited

- TBRA Addendum only: Not applicable to tenants already under a lease that have fulfilled the security deposit requirements before entering into TBRA contract



Termination of Tenancy

Termination of tenancy req'ts are incorporated into HOME tenancy addenda

- For HOME rental housing and TBRA:
 - Prohibits owner from performing a constructive eviction, creating hostile living environment, or refusing to allow for reasonable accommodation
 - Requires owner to provide written or other accessible notice to vacate at least 30 days prior to termination
 - Defines good cause

Permits owners of HOME-assisted rental housing to follow grounds for termination established for Housing Choice Vouchers, Project-Based Voucher, and Project-Based Rental Assistance programs rather than the HOME regulatory standards when funding sources combined





Modernize and Simplify Homeownership

Homebuyer Sales Deadline

Final rule extends deadline for sale of HOME-assisted homebuyer unit from 9 months to 12 months after construction completion

- Extending deadline from 9 to 12 months provides additional time for PJs to identify homebuyers and complete sale without undermining program integrity
- After deadline unit must be converted to HOME rental or PJ must repay HOME investment



Homebuyer Resale Provisions

Statutory resale provisions require homebuyer that sells during period of affordability to sell to low-income homebuyer at price that is: 1) affordable to a reasonable range of low-income homebuyers; and 2) provides the original homebuyer a fair return on their investment

- Requirements difficult to implement and ideally will be reformed via statute

Final rule establishes four compliant model resale provisions that PJs may adopt to meet statutory requirements:

- itemized formula
- appraisal formula
- index formula
- fixed-rate formula



Lease Purchase (LP) Projects

Clarifies requirements for PJs administering HOME lease-purchase programs.

- Timing of income determinations
 - Homebuyer must qualify as low-income when LP agreement is executed.
 - If homebuyer also receiving HOME TBRA, PJ is not required to reexamine income during lease-purchase term.
- If homebuyer fails to acquire housing within 36-months, owner must sell to another eligible low-income homebuyer within 48 months of original LP purchase agreement.
 - Owner is prohibited from selling the unit through another LP agreement.
 - PJ may provide HOME homeownership assistance to next buyer.
 - Housing is subject to HOME rental requirements in § 92.252 if owner is unable to sell unit within 48 months of execution date of the LP agreement.





Clarify Community Land Trusts Definition and Provide Preemptive Purchase Right

CLT Definition

Establishes new definition of community land trust (CLT) to replace outdated and problematic HOME statutory definition. The new definition:

- Eliminates widespread confusion about HOME requirements among CLTs and CLT advocacy groups and makes clear that a wide range of CLTs can take advantage of new preemptive purchase right provision.



CLT Preemptive Purchase Right

Incorporates FY 2016 HUD Appropriation Act permitting CLTs to exercise preemptive purchase rights to preserve affordability, including but not limited to right to purchase housing in lieu of foreclosure.

- PJs may permit CLTs to exercise such rights if:
 - CLT obtains ownership of housing subject to existing affordability restrictions
 - Housing resold to eligible homebuyer within 12 months
 - Period of affordability (POA) continues
 - PJ cannot provide additional HOME funds to CLT to obtain ownership, rehab unit, hold unit pending resale to eligible homebuyer, or provide homeownership assistance
 - PJ may directly assist next eligible homebuyer with HOME funds
 - POA based on homeownership assistance PJ provides to homebuyer





Property Standards and Inspections

Accept NSPIRE Inspections for Rehab Projects

Permits PJs to accept a final (post-rehab) inspection and ongoing periodic inspection conducted by another funding source subject to NSPIRE.

- Proposed rule limited this flexibility to NSPIRE inspections for other HUD programs; final rule permits any NSPIRE inspection to be accepted by a PJ, reducing burden of duplicative inspections for both PJs and project owners.
- PJs must still conduct initial and progress inspections of rehabilitation projects and determine compliance with its rehabilitation standards and state and local codes, ordinances, and zoning requirements, as required by statute.



Energy Efficiency

Clarifies that statutory minimum energy standards apply to new construction projects.

- HUD and USDA issued a notice of final determination on April 26, 2024, which establishes the 2021 IECC and ASHRAE 90.1-2019 energy codes as the minimum energy standards.
 - HOME new construction projects with commitments on or after November 24, 2024, must comply with the final determination
 - Projects with commitments prior to the compliance date must comply with previous standards



Carbon Monoxide and Smoke Detection

Strengthens property standards by requiring the installation of carbon monoxide and smoke detection.

- Carbon monoxide detection requirements will align with NSPIRE and Section 8 voucher program. Specific standards will be established by Federal Register notice
- Smoke detection requirements align with NFPA 72 and NSPIRE
 - Specific requirements for the locations of smoke detectors
 - Must have an alarm system designed for hearing-impaired persons
 - Smoke detection must be hardwired with exception for rehabilitation and acquisition of standard housing

Final rule permits PJ to provide a written exception to allow an owner to install smoke detector with 10-year non rechargeable, nonreplicable battery if hardwired smoke detectors place an undue financial burden or installation is infeasible.



Homebuyer Acquisition Property Standards

Eliminates requirement that homebuyer acquisition project (e.g., downpayment assistance) meet HOME property standards before transfer.

- Permits housing to be transferred to homebuyer before compliance with HOME property standards if:
 - Agreement requires repairs to be completed within 6 months after transfer; and
 - Funds to complete rehabilitation have been secured.

Final rule maintains the 6-month period for acquisition-only homeownership projects to meet applicable property standards but provides PJs the ability to grant extensions of up to 6 months when necessary.



Inspection Sample Size

Establishes the sample size for ongoing periodic inspections of HOME-assisted rental housing during the period of affordability.

- Inspections must
 - Be based on a random sample of HOME units with a mix of sizes
 - Comply with the sample size chart in the final rule
 - Include the inspectable areas for each building containing HOME units





Modernize Maximum Per Unit Subsidy Limit and Incentivize Green Building

Maximum Per Unit Subsidy Limits

HOME statute requires HUD to establish maximum per unit subsidy limits for HOME-assisted units based on the maximum amount HUD will insure under the defunct 221(d)(3) multifamily mortgage insurance program.

HUD will publish method for determining limits in Federal Register.

- Initially, HUD will set the limit at 270% of the Section 234 mortgage insurance limits – an increase of approximately 12.5% over the current limit (equivalent to 240% of the Section 234 limit).

HUD will post limits annually on the HUD.gov website



Green/Resilient Building Incentives

Established 10 percent per unit subsidy limit increase for HOME-funded projects that incorporate green or resilience standards.

- Commenters stated that the proposed 5 percent increase in the maximum per-unit subsidy would be insufficient to cover the costs associated with meeting nationally-recognized green building standards.

HUD will publish the qualifying standards in the Federal Register.





Permit PJs to Reimburse the Cost of Environmental Studies, Assessments, Reviews or other Predevelopment Costs

Permit Reimbursement as Pre-Development Cost

Permit PJs to reimburse the cost of environmental studies, assessments, or reviews incurred up to 24 months before commitment of HOME funds as an eligible pre-development cost.

- In response to commenters' suggestions, HUD broadened the list of project-related soft costs that could be added, including:
 - costs to process and settle financing for the project, including private lender origination fees, credit reports, fees for title evidence, legal fees, private appraisal fees and fees for independent cost estimates
 - accounting fees, filing fees for zoning or planning review and approval, and other lender-required third-party reporting fees.





Program Administration Changes

Period of Affordability

Revises the dollar thresholds that define the periods of affordability to account for inflation and the increase in the cost of construction in response to public comments.

Old Threshold	< \$15,000	\$15,000 - \$40,000	\$40,000 +
New Threshold	< \$25,000	\$25,000 - \$50,000	\$50,000 +
Homeownership	5 years	10 years	15 years
Rental (other than below)	5 years	10 years	15 years
Rental (New Construction)	20 years	20 years	20 years
Rental (Rehabilitation involving refinancing)	15 years	15 years	15 years



Pre-Award Costs

Pre-Award Costs

- Permits a PJ to incur eligible administrative and planning costs as of the beginning of its program year or the date HUD receives the PJ's consolidated plan describing the HOME allocation to which the costs will be charged, whichever is later.
- Permits a PJ to incur administrative and planning costs as of the earlier of the beginning of its program year or the date that HUD receives the PJ's consolidated plan in any year in which an appropriation is less than 90 days from a PJ's program year start date.



Prohibited Activities and Fees

Prohibited Activities and Fees - Expands, revises, and clarifies the prohibited activities and fees for which HOME funds cannot be used.

- Maximum per-unit subsidy limit applicable to a project receiving additional HOME funds within one year of project completion is the limit applicable at project underwriting.
- Prohibits use of HOME funds for surety bonds, security deposit insurance, or similar instruments in lieu of or in addition to a security deposit.
- Prohibits project owners from charging fees to inspect units or correct deficiencies in the property condition of units or common areas of the project that were not caused by the tenant.
- Details the fees that owners are permitted to charge tenants.



Reallocations and IDIS

Reallocations by Formula

- Allows HUD to reallocate by formula HOME funds that become available due to voluntary grant reductions.
 - Specifies that PJs from which the reductions in funds occurred are not included in the reallocation of these funds.

Program Disbursement and Information System

- Requires PJ to enter complete project set-up information before funding an activity in IDIS.
- Removes the requirement that a PJ provide satisfactory project completion information within 120 days of the final project drawdown.



Match

Match - Clarifies the requirements a PJ must meet when using excess match contributions earned in a previous year, also referred to as “carry-over” match to meet a later year’s HOME match obligation.

- Requires a PJ to have documentation supporting the source, eligibility, and value of match contributions that have been carried over from previous years at the time it applies the contribution toward its match obligation.
- Requires the PJ to maintain records related to the source, eligibility, and amount of match contributions for 5 years from the date it applies the match credit toward its match liability.



Grant Closeout

Grant Closeout - Establishes program-specific procedures and better aligns programmatic and administrative requirements for grant closeout. Specifies the procedures and actions that must be completed by a PJ and HUD to close out a grant.

- Explains that the closeout requirements of 2 CFR part 200 apply to the HOME program, with the exception where such requirements conflict with the HOME requirements.
- Codifies the current closeout process for HOME grants and describes the process, including the requirements that must be completed by the PJ prior to initiating closeout.
- Clarifies that certain requirements survive grant closeout, such as the PJ's project oversight responsibilities.



2025 HOME Rule: Effective and Compliance Dates

Effective Date	February 5, 2025
Applicability	Rule applies to projects for which HOME funds are committed on or after 2/5/2025.
Compliance Date	PJs must set compliance date: as early as 2/5/2025, and no later than 2/5/2026.
Exceptions for Income Determinations	PJs may continue to calculate income in accordance with pre-HOTMA or HOTMA rules until compliance date set by PJ.
Applicability Limitations	<p>PJs May NOT implement or amend written agreements of projects with commitments existing prior to February 5, 2025, to incorporate any of the following provisions:</p> <ul style="list-style-type: none">• § 92.206(d)(1) and (2)- Pre-development Costs• § 92.250(c)- increase in maximum Subsidy Limits• § 92.252 and § 92.254 – Revised Dollar Threshold for Period of Affordability• § 92.253- Tenant Protection Addenda• § 92.300- Role of CHDO in owner, developer or sponsor



Questions?

- Stayed tuned for additional HUD guidance
- Subscribe to the HUD exchange to get alerts
 - <https://www.hudexchange.info/maillinglist/subscribe/>

