

THE HFA INSTITUTE 2021

HOME Rental Compliance

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National Council of
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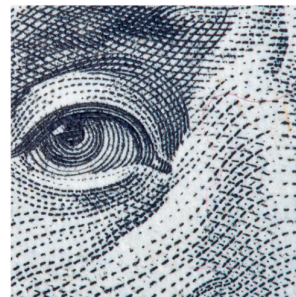
**MRBs and
Other Federal
Homeownership
Programs**
FEBRUARY 1 – 3



Housing Credit
FEBRUARY 3 – 5



**Section 8 and
Other Federally
Assisted
Multifamily
Housing**
FEBRUARY 8 – 10



**HOME and
Housing Trust
Fund**
FEBRUARY 10 – 12



Welcome

- Sponsored by:
 - HUD, Office of Affordable Housing Programs
 - NCSHA
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Agenda

- HOME Written Agreement Required Provisions
- Income, Rents, and Utility Allowances
- Affordability Period
- Program Requirements & Project Requirements
- COVID-19 Waivers and Suspensions
- Resources

HOME Final Rule Part 92 - Rental Housing Requirements

Section 92.252

- Low-income/very low-income occupancy
- Affordable rents (High & Low HOME units)
- Affordability period (based on activity & amount of HOME funds)
 - Rent and income restrictions apply through affordability period

Income Targeting

- Two phases of income targeting:
 - At initial occupancy (program rule)
 - Over life of the affordability period
- Requirement also depends on number of HOME units in project
- At no time may new tenants in HOME units have incomes greater than 80% of median
 - Existing HOME unit tenant incomes may increase
 - Must not “kick out” existing HOME tenant due to income increase
- Some projects will have an extended use period of affordability after HOME has been completed

Income Eligibility Levels

- HOME defines two key levels of income for tenants:
 - Very Low Income (VLI): established by HUD at 50% of Area Median Income (AMI)
 - Low Income (LI): established by HUD at 80% of AMI
- 60% of AMI is only applicable to initial occupancy of HOME rental properties (program rule)

What Counts As Income

- Two definitions
 - Section 8 (Part 5)
 - IRS Adjusted Gross Income
- Must anticipate income for next 12 months
- PJ selects one for each rental project
- Income definition remains same throughout affordability period

Use the Income Calculator on HUD Exchange

HOME Income Limits

- “Household” is all occupants of unit – not just related family members
- HUD issues income limits annually
 - Vary by jurisdiction and adjusted by household size
- PJ responsible for informing owner/manager of annual income limit updates

Gross v. Adjusted Income

- Gross income used for eligibility
 - Income inclusions & exclusions based on chosen definition
- Adjusted income used in limited circumstances:
 - Deducts specific amounts for topics such as elderly, disabled, dependents
 - Used for:
 - Over-income tenant rent
 - TBRA
 - Some URA calculations

Income Verification

- Owners must verify initial tenant income using source documentation
 - Verification is good for 6 months
- Acceptable source documents:
 - Wage statements (2 months required)
 - Interest statements
 - Unemployment compensation statements
 - Third party verification from employer, bank, etc.

Income Recertification

- Must recertify rental income at least annually:
 - Must review source documents every 6th year of the affordability period
 - For other years can use:
 - Source documents
 - Written statement from household
 - Statement from administrator of another program
- Recertify at:
 - Anniversary date of initial verification;
 - Lease renewal; or
 - Annual schedule where all tenant incomes are verified at one point

HOME Rent Limits

- Key terms in looking at High and Low HOME rents:
 - **HOME rent limits** – maximum rent cap (High and Low HOME rents) published by HUD for each PJ by bedroom size
 - **Maximum rent** – the most an owner is permitted to charge for rent once tenant-paid utilities are deducted; never more than the HOME limit
 - **Contract rent** – the actual rent in the lease charged to household by owner; can never exceed the maximum rent but may be less

HOME Rent Limits (cont.)

- HOME rent may not apply for certain special unit types (more later)
- HOME rent limits may go up or down over time
- Owner is not required to accept rents lower than initial rents in the written agreement

HOME Rent Example

	EFFICIENCY	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
LOW HOME	482	564	690	796	888	980	1072
HIGH HOME	482	564	722	918	947	1089	1231
FAIR MARKET RENT	482	564	722	918	947	1089	1231
50% RENT LIMIT	536	574	690	796	888	980	1072
65% RENT LIMIT	678	728	874	1002	1099	1193	1289

Utilities

- Published HOME rents include the cost of utilities
- Must adjust max rent limits if tenant pays utilities
 - Subtract utility allowance to determine limit for rent paid by tenant
- PJs must determine the utility allowance for HOME –assisted rental units by using either:
 - The HUD Utility Schedule Model (HUSM); or,
 - A project specific methodology
- HOMEfires – Vol 13 No 2, May 2016 provides further guidance including identifying four other acceptable utility models

Designate Fixed or Floating Units

- Only units receiving HOME \$ are subject to HOME requirements
- For properties with HOME and non-HOME units, must select “fixed” or “floating” HOME units
 - Fixed = HOME units for duration of affordability period
 - Floating = unit numbers change but always have same portion of HOME units
- Fixed or floating is designated in written agreement

Tenant Protection: Lease Requirements

- PJ must review and approve leases
- Leases are required for all tenants
- One year term at minimum
 - Unless mutually agreed upon
- The lease must include:
 - Rent, and
 - Procedures for adjustments to rents

HOME Units and Affordability Period

- Number of HOME-assisted units described in the written agreement
 - All units HOME-assisted, or
 - Some units determined to be HOME-assisted through a cost allocation process
- Affordability period based on HOME investment per unit
- Above minimum # units required - PJ's discretion
- Project must maintain unit mix thru affordability period

Affordability & Compliance

	HOME Investment Per Unit	Length of Compliance/Affordability period
Rental housing acquisition and/or rehabilitation	Less than \$15,000	5 years
	\$15,000 - \$40,000	10 years
	More than \$40,000	15 years
New construction of rental housing	Any \$	20 years
Refinancing of rental housing	Any \$	15 years

* Pay-off of the HOME assistance does not end the affordability period

Program Rule

- HOME requirements related to beneficiaries:
 - All assisted households at or below 80% AMI
 - Eligibility is determined at initial occupancy and recertified on an annual basis
- 90% of HOME rental and TBRA households must have incomes at/below 60% of AMI at initial rent up of property

Project Rule

- Projects with 5 or more HOME-assisted units:
 - At least 20% of units must occupied by households at/below 50% of AMI
[Note: can have more than 20%!]
 - Determination of appropriate unit type is based on gross income of household
 - Rents must be at low HOME rent level
 - Balance of units may be at/below 80% of AMI with high HOME rent level

Deed and Use Restrictions

- HOME rental affordability restrictions must be imposed by deed or other restrictions on the property that run with the title to the land for at least the minimum affordability period
- Must apply without regard to any loan, repayment, or transfer
- Rights of purchase and other methods may supplement

Rental Occupancy Deadline

- HOME units must be occupied by income-eligible tenants within 18 months of project completion
- Market evaluation prior to funding to determine if proposed number of units can be absorbed in market within timeline
- HUD will track HOME units not occupied within 6-months – PJ to provide strategy to meet deadline
- PJ must repay HOME investment for units not occupied within 18-month term

Other HOME Requirements

Program Requirements

- §92.202 - Site & neighborhood standards
- §92.205 - Forms of assistance, subsidy limits, cost allocation
- §92.205(c) - Minimum HOME per unit investment
- §92.206 - Eligible costs
- §92.214 - Prohibited activities and fees

Project Requirements

- §92.250(a) - Maximum per unit HOME investment
- §92.250(b) - Project underwriting
- §92.251 - Property standards and inspections
- §92.253 - Tenant protections and preferences

Maximum Subsidy Limits

- Minimum = \$1,000 per unit
- Maximum investment is capped by the HUD published per unit subsidy limits
 - Calculated based on the amount of HOME investment in the unit– does not cover all other sources of financing
- PJ may not invest more than the actual cost of HOME units (cost allocation)

Underwriting

- A PJ is required to have written underwriting guidelines
- At a minimum, collect and review:
 - Development budget
 - Sources and uses statement
 - Cost Allocation
 - Operating pro-forma
- Compare projects against PJ's guidelines, which take into account:
 - Market
 - Targeting: geography and project type
 - Targeting: income levels/mixed-income
 - Trade off between volume and quality
 - PJ tolerance for risk

Property Standards

- If HOME \$ is spent, the unit must be brought up to “standard”
- Three types of codes or requirements may apply:
 - Building and Rehabilitation Codes
 - Rehabilitation Standards
 - Ongoing Property Condition/Habitability Codes or Housing Quality Standards
- Building codes & rehab standards apply to project development
- Property condition standards/codes apply for acquisition only activities and throughout affordability period (ongoing property condition)

Rehabilitation Standards

- Required by the HOME Program
- Developed locally, but may use existing model
- Defines the type and quality of materials and workmanship for rehabilitation projects
- Specifies the type of repairs to be carried out
- May define performance standard for items that are not addressed such as remaining useful life

Capital Needs Assessment

- Capital needs assessment required under the new HOME rule for rental rehab projects with 26 or more total units
- If remaining useful life of component(s) is less than affordability period:
 - An adequate replacement reserve must be established
 - Underwriting must include regular payments to reserve account

Ongoing Property Standards

- Sets basic conditions for decent, safe and sanitary housing
- Basis for inspection during affordability period
- Minimum standards for on-going rental habitation (not construction)
 - State and local property condition/habitability
 - HOME inspectable items and areas based on Uniform Physical Conditions Standards (UPCS) inspection protocol (to be issued by HOME)
 - Must include on-going LBP maintenance
 - Also includes UFAS standards for handicapped access
- PJs may adopt more stringent standards

Ongoing Property Standards (cont.)

- For pre-1978 structures:
 - Must notify prospective tenants of LBP presence & LBP hazards
 - Also must give LBP pamphlet
 - Be prepared for response to any Elevated Blood Lead Level (EBLL) identified children (LSHR Amendment)
 - On-going basis, maintain units through:
 - Visual assessment
 - Lead hazard reduction
 - Clearance
 - Notification of tenants if work done
 - Keep records

HOME Project Completion Deadline

- 4-year project completion deadline – begins at the project commitment (dated written agreement)
- PJs may request 1-year extension by providing:
 - Information on status of the project
 - Steps being taken to overcome obstacles to completion
 - Proof of adequate funding to complete project
 - Schedule with milestones for completion
- Otherwise, must repay HOME investment

Definition of Project Completion

- A project is “complete” when:
 - All construction work complete and property standards met
 - Final drawdown of HOME funds disbursed
 - Rental Housing, only:
 - Project can be completed in IDIS with units marked vacant
 - Beneficiary data must be entered as units rent up

Broadband

- Broadband Final rule effective for HOME projects for new commitments on or after January 19, 2017
- Required for buildings with 4 or more rental units
- Applies for both new construction and substantial rehabilitation
- Waivers possible where infeasible
- See resource list for link

Other HOME Requirements

Administrative Requirements

- §92.2 - Definition of commitment
- §92.502 - Project set-up in IDIS
- §92.504(b) & (c) - Written agreements with owners, developers & sponsors
- §92.508 - Recordkeeping

CHDO Requirements

- §92.2 - Definition of CHDO
- §92.300 - CHDO set-aside
- §92.208 - CHDO operating assistance
- §92.301 - CHDO project-specific assistance and seed money loans

COVID-19 Waivers & Suspensions

<p>Waiver of 2 Month Income Documentation</p>	<p>Permits use of self-certification of income</p>	<p>3/27/20-9/30/21</p>	<ul style="list-style-type: none"> • Must document if the applicant has experienced financial hardship due to pandemic (e.g., lost employment or reduced income). • Self-certification can be used to document annual income of: <ul style="list-style-type: none"> • New applicants of HOME-assisted rental units • New applicants of HOME Tenant-Based Rental Assistance (TBRA) programs, including emergency and short-term TBRA • Existing TBRA tenants requiring assistance under an emergency TBRA program • Existing tenants of HOME rental units up for income re-examination (annual and 6th year redeterminations) • Prior applicants denied assistance due to the inclusion of excludable unemployment benefits • Self-certification must include all income including unemployment and emergency benefits (exclude: IRS Economic Impact Payments, Federal Pandemic Unemployment Compensation; Lost Wages Supplement Payment Assistance). • Must conduct rent and income reviews within 120 days after waiver period.
<p>On-Site Inspection of HOME- Assisted Rental Projects</p>	<p>Extends periodic inspection and timeframes</p>	<p>Until 9/30/21</p>	<ul style="list-style-type: none"> • Resumes on-site physical inspections within 120 days of end of extended waiver period.
<p>Four Year Project Completion</p>	<p>Extends 4-year project completion deadline</p>	<p>4/10/20-9/30/21</p>	<ul style="list-style-type: none"> • Extends the 4-year project completion deadline for projects with completion deadlines between listed dates, including projects with HUD-approved extensions in effect on or after 4/10/2020.

Resources

Helpful Resources

HUD Exchange HOME Main Page

<https://www.hudexchange.info/programs/home/>

eBuilding HOME

<https://www.hudexchange.info/trainings/building-home/>

COVID-19 Income Form

<https://www.hudexchange.info/programs/home/covid-19/#income-determination>

HOME Income Limits

<https://www.hudexchange.info/manage-a-program/home-income-limits/>

HOME Income Forms

<https://www.hudexchange.info/programs/home/to-pics/income-determination/>

Determining Income Webinar June 2018

<https://www.hudexchange.info/trainings/courses/determining-income-for-the-home-program-session-1/2532/>

HOME Rent Limits

<https://www.hudexchange.info/programs/home/home-rent-limits/>

HUD Exchange Listserv

<https://www.hudexchange.info/mailinglist/>

Helpful Resources (cont.)

Notices

COVID-19

<https://www.hudexchange.info/resource/6016/cpd-memo-availability-waivers-suspensions-home-requirements-covid-19/>

<https://www.hudexchange.info/resource/6063/flexibilities-waivers-granted-by-the-cares-act-and-mega-waiver-and-guidance/>

Four Year Completions

<https://www.hudexchange.info/resource/5964/notice-cpd2001-four-year-completion-requirement-for-home-assisted-projects/>

HOME Fires

HOME Monitoring Fee

<https://www.hudexchange.info/resource/5700/homefires-vol-14-no-2-guidance-on-establishing-a-home-monitoring-fee/>

HOME Utility Allowances

<https://www.hudexchange.info/resource/5034/homefires-vol-13-no-2-guidance-on-how-to-establish-utility-allowances-for-home-assisted-rental-units/>

Helpful Resources (cont.)

HOME Written Model Guidebooks

Compliance in HOME Rental Projects: A Guide for PJs:

https://files.hudexchange.info/resources/documents/ComplianceinHOMERentalProjects_GuideforPJs.pdf

Compliance in HOME Rental Projects: A Guide for Owners:

https://files.hudexchange.info/resources/documents/ComplianceinHOMERentalProjects_GuideforPropertyOwners.pdf

HUD 1780-CPD, Technical Guide for Determining Income and Allowances for the HOME Program:
<https://www.hudexchange.info/resource/786/technical-guide-for-determining-income-and-allowances-for-the-home-program/>

CPD Income Eligibility Calculator

<https://www.hudexchange.info/incomecalculator/>

User Manual

https://files.hudexchange.info/resources/documents/CPDIncomeEligibilityCalculator_User_Manual.pdf

Part 5 Income Inclusions and Exclusions

<https://www.hudexchange.info/resource/5180/part-5-section-8-income-inclusions-and-exclusions/>