

# 2013 HOME Final Rule: Rental Changes

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# Background



- HOME Program started in 1992
- HOME reached 1,000,000 units in 2012, but:
  - ✓ Best practices of 20 years of program implementation
  - ✓ OIG audits require tightened rules
  - ✓ Washington Post article highlighted unfinished units
  - ✓ General pressure to cut all domestic programs
- Congress cut funding 38% in 2012 (52% since 2009) & imposed deadlines
- Final Rule published 7/24/13, effective 8/23/13

# Effective Dates



- Rule changes apply to projects to which HOME funds are **committed** on/after **August 23, 2013**, except:
  - Property standards
  - Utility allowance
  - Both delayed to 1/24/15
- Only key changes discussed in this session
  - Watch for "Building HOME" courses over next 6 mos.

# Definitions & Deadlines



- Commitment definition
  - Underwriting required
  - CHDO reservation must be “project commitment”
- Project completion & occupancy deadlines

# Project Commitment



- PJs may not commit HOME funds to new construction or rehabilitation project until:
  - ✓ All necessary financing secured
  - ✓ Budget & production schedule established
  - ✓ Underwriting and subsidy layering completed
  - ✓ Construction expected to start within 12 mos
- Preliminary awards okay, but not entered into IDIS
  - ✓ ADOH: funding commitments in place within 120 days of the preliminary award; commitment occurs at closing

# Underwriting/Subsidy Layering



- PJs must ensure long-term sustainable projects with subsidy layering and underwriting guidelines including:
  - ✓ Market assessment
  - ✓ Developer capacity and fiscal soundness
  - ✓ Project feasibility (& sustainability)
- PJs must also adopt homebuyer policies, including buyer underwriting guidelines

# CHDO Reservation



- Reservation: must be project commitment
  - ✓ Must certify as CHDO at time of project commitment
- Own, Develop, and Sponsor roles redefined
  - ✓ CHDO (or subsidiary) can own without developing
  - ✓ LIHTC: CHDO must be sole managing GP/MM ; if transfer, must be to another CHDO
- CHDO must demonstrate paid staff capacity in relation to its "role"

# Project Completion Deadline



- Projects must be completed within 4 years of the date the written agreement is executed
  - ✓ PJs may request a one-year extension by submitting information about:
- A project is “complete” when:
  - Construction work complete;
  - Property standards met
  - Final drawdown of HOME funds disbursed
  - Project completion in IDIS (occupancy not required\*)

# Other Rental Development Changes



- Some pre-development costs: 24 months prior
- Student housing/dormitory prohibition
- SRO clarifications: local requirements & rents
- Assisted unit designation prior to occupancy
- Property standards: effective 1/24/15
  - Useful life, inspections

# Rental Occupancy Changes



- Occupancy deadlines
- Rents & utility allowance changes
- Property standards
- Monitoring: inspections & financial oversight
- Workouts

# Initial Occupancy Requirement



- HOME rental units must achieve initial occupancy within 18 months of project completion (§92.252)
  - For units not leased within 6 months, PJ must report on current marketing efforts and, if appropriate, submit an enhanced marketing plan to HUD
  - If a unit has no initial occupancy within 18 months, PJ must repay HOME funds invested in that unit

# HOME Rents



- PJ must approve project rents & utility allowances annually
  - HUD requires HUD Utility Schedule Model or project-specific calculation
  - ADOH requires Certified RESNET Home Energy Raters
- Prohibits project owners from charging fees not customarily charged in rental housing
  - But may charge reasonable application fees, parking & services (if voluntary and for services provided)

# Tenants



- Income: examine at least 2 months of source documentation
- May only terminate tenancy for cause (performance of lease requirements)
  - ✓ Can't terminate for tenant being over income on recertification or refusing to purchase unit
- Preferences for special populations

# Property Standards & Inspections



- PJ inspection standards effective 1/24/15:
  - Comply with state/local codes (or UPCS)
- Owner must "certify" annually that the units are suitable for occupancy (annual report to PJ)
- PJ must conduct ongoing inspections & file reviews (§92.504(d)):
  - At construction completion
  - Within 12 months of completion and
  - At least every 3 years thereafter

# Monitoring



- PJs may charge reasonable monitoring costs
  - ✓ Monitoring fees must be included in underwriting
- PJs must annually review financial condition of rental projects with 10 or more HOME units
- Monitoring schedule changed (first year and every 3 years)

# Troubled Project Workouts



- New rule for rental projects that become financially unviable in affordability period
  - HUD can approve changes by administrative action
  - Underwriting requirement intended to reduce risks of troubled projects
- If 100% HOME-assisted units, HUD may approve conversion of HOME-assisted unit to manager's unit, if cost allocation/subsidy limits permit

# Links



- HOME: [www.hud.gov/homeprogram/](http://www.hud.gov/homeprogram/)
- Final Rule:
  - ✓ <https://www.hudexchange.info/home/>
- Mailing lists
  - ✓ <https://www.hudexchange.info/maillinglist/>
  - ✓ Watch for notices, guidance and trainings
- Rental compliance guide:
  - ✓ <https://www.hudexchange.info/resource/2395/compliance-in-home-rental-projects-a-guide-for-property-owners/>

# New Project Timeline

