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80+ LIHTC Program Definitions

140% Rule

Also called the "Available Unit Rule" or "Next Available Unit Rule," the 140% Rule is triggered when a household's income goes over 140% of the current maximum income limit for the household size. The next available comparable or smaller units must be leased to qualifying low-income households until the applicable fraction is restored. An owner may continue to claim credits for such a unit provided the unit remains rent restricted.

4350.3 HUD Handbook

The HUD Handbook 4350.3 is the handbook used as a basis for LIHTC income calculation requirements. Chapter 5 and Appendix 3 of Handbook 4350.3 are the most referenced sections.

4 Percent Credit

Also referred to as the 30 percent credit, the 4 percent credit is the credit percentage available for acquisition of housing, or for new construction and rehabilitation projects with a federal subsidy ('federal subsidy' updated with HERA).

9 Percent Credit

Also referred to as the 70 percent credit, the 9 percent credit is the credit percentage available for new construction or rehabilitation projects without a federal subsidy ('federal subsidy' updated with HERA).

20/50 Minimum Set Aside

The 20/50 minimum set aside is a project election made by the owner on Form 8609 where at least 20 percent of the units must be both rent restricted and occupied by residents whose income is less than or equal to 50 percent of area median gross income.

40/60 Minimum Set Aside

The 40/60 minimum set aside is a project election made by the owner on Form 8609 where at least 40 percent of the units must be both rent restricted and occupied by residents whose income is less than or equal to 60 percent of area median gross income.

-A-

Affidavit

An affidavit is a written declaration made by an applicant/resident used for the household qualification process.

Affordable Housing

Affordable housing is a general term used for low-income housing projects. For HUD purposes, this is housing for which the occupant(s) is/are paying no more than 30 percent of his or her income for gross housing costs, including utilities. Some jurisdictions may define affordable housing based on other criteria. This term is also commonly used to describe LIHTC communities.

Applicable Fraction

Expressed as a percentage, the applicable fraction is the percentage of a building that is determined to be low-income. It is the lesser of the unit fraction or the floor space fraction.

Area Median Gross Income (AMGI)

Area median gross income is the gross income level for an area where one-half of the household's incomes fall below the median income and one-half falls above the median income. HUD estimates the median family income for an area every year. HUD uses the

median income for families to calculate income limits for eligibility in a variety of housing programs, including the LIHTC income limits.

Asset

An asset is generally considered an item of value that is accessible to the household and can be converted into cash.

Available Unit Rule

See 140% Rule

- B -

Building Identification Number (BIN)

Building Identification Number is the number assigned by the Housing Finance Agency to each building. The first two letters represent the state. The next two numbers indicate the allocation year. The last set of numbers is specific to that building.

Blighted Structure

A blighted structure is one that exhibits objectively determinable signs of deterioration sufficient enough to constitute a threat to human health, safety, and public welfare.

Bond Financing

Bonds are interest-bearing certificates issued to raise money. Generally, the holder of the bonds or the investor is promised a specified sum of money through a specified repayment schedule. Bond recipients have a minimum set aside requirement of 20/50 or 40/60.

Bond Issuer

A bond issuer is the government or non-profit entity responsible for issuing bonds.

Building Code

A building code is a set of building construction requirements developed and administered by national and local bodies to ensure that buildings meet certain minimum standards for structural integrity, safety, design, and durability.

Census Tract

A census tract is part of a county or area delineated by a local group of census data users, or the geographical staff of a regional census center in accordance with Census Bureau guidelines.

Census Tract Number

A census tract number is a four-digit basic number, followed by an optional two-digit decimal suffix, which is used to uniquely identify a census tract within a county or area.

Clarification Record

A clarification record is a form used by the on-site staff to clarify file verification documents.

Community Development Block Grant Program (CDBG)

Created under the Housing and Community Development Act of 1974, this program provides grant funds to local and state governments to develop viable urban communities by providing decent housing with a suitable living environment, and expanding economic opportunities to assist low- and moderate-income residents.

Compliance Period

The compliance period is the 15 year period over which a project must continue to meet LIHTC requirements in order to avoid tax credit recapture. The compliance period begins with the first taxable year of the credit period.

Credit Percentage

The credit percentage is a fluctuating rate published by Treasury each month. This rate is multiplied by a building's qualified basis to establish the annual tax credits. When the owner locks into the rate, it is fixed for the credit period. There are two categories of credit percentages, commonly referred to as 4 or 9% credits. 4% credits are related to 'federally subsidized' projects (definition updated with HERA) and all acquisition credits. All other projects have 9% credits.

Credit Period

The credit period is the 10 year period over which the LIHTC is claimed subject to long-term compliance requirements. This period begins the year the property is placed in service or the next year if credits are deferred.

- D -

Difficult Development Area (DDA)

A DDA is any area designated by HUD as an area that has high construction, land, and utility costs relative to the area median gross income.

Dilapidated Housing

Dilapidated housing is a housing unit that does not provide safe and adequate shelter, and in its present condition endangers the health, safety or well-being of the occupants.

- E -

Eligible Basis

Eligible basis is the cost of development & construction eligible for tax credits. It excludes land and commercial space but includes costs for residential rental units. It can include amenities and common areas as long as these facilities are provided to all residents without fees.

Eminent Domain

Eminent Domain is an exercise of the power of government or quasi-government agencies (such as airport authorities, highway commissions, community development agencies, and utility companies) to take private property for public use.

Enterprise Income Verification

The EIV system provides access for managers of Section 8 housing to verify resident income. HUD policies clearly state that verifications obtained through the EIV may not be used to support the income certification in any other program, including the LIHTC program.

Extended Use Agreement / Extended Low-Income Housing Commitment

The extended use agreement is the agreement between the owner of projects receiving a tax credit allocation after 12/31/89 and the HFA, where the owner agrees the project will maintain use for low-income households for a minimum of an additional 15 years beyond the compliance period.

Extended Use Period

The extended use period is the 15- year or longer period after the compliance period during which the project must remain affordable as specified in the extended use agreement.

- F -

Fair Housing Act

This is the 1968 act (amended in 1974 and 1988) providing the HUD Secretary with fair housing enforcement and investigation responsibilities. It is a law that prohibits discrimination in all facets of the housing process on the basis of race, color, national origin, religion, sex, familial status, or disability.

Fair Market Rent

The Fair Market Rent is the payment standard amounts for the Housing Choice Voucher program, to determine initial renewal rents for some expiring project-based Section 8 contracts, to determine initial rents for housing assistance payment contracts in the Moderate Rehabilitation Single Room Occupancy program, and to serve as a rent ceiling in the HOME rental assistance program.

Fair Market Value

The amount of money that would be paid for a project in a sale between a willing seller, who does not have to sell, and a willing buyer, who does not have to buy.

Floor Space Fraction

Also known as the square footage fraction, this is obtained by dividing the total floor space of the low-income units in the building by the total floor space of all residential units in the building.

Foreclosure

A foreclosure occurs when a lender or other party gains ownership of a property through exercising its contractual rights, either through the courts or by accepting a deed in lieu of foreclosure.

Full-Time Student

A full-time student is one that has or will attend an accredited educational institution five or more months in the calendar year, or will be a full-time student according to the policies of the educational institution.

Full-Time Student Household

A full-time student household is one that is comprised entirely of full-time students. This household is prohibited; however there are 5 exceptions to this rule.

Full-Time Student Household Exceptions

There are five exceptions to the full-time student rule:

1. Student is receiving assistance under Title IV of the Social Security Act (TANF)
2. Student was previously in Foster Care
3. Student is enrolled in a government sponsored job training program
4. Students are married and eligible to file a joint return
5. Students are a single parent with at least one dependent child. The parent is not the dependent of another individual, and the child(ren) is only a dependent of the resident or the other, non-resident parent.

- G -

Grant

A grant is funds received from a private foundation or charitable group, federal, state or local government that do not have to be repaid.

Gross Rent

Gross rent is the resident paid rent plus the utility allowance and any non-optional charges. It excludes amounts received from a rental assistance program.

- H -

Housing & Economic Recovery Act (HERA) or HR3221

The Housing and Economic Recovery Act of 2008, commonly referred to as HERA, was designed primarily to address the subprime mortgage crisis. Section 3221 applies to the LIHTC Program.

HOME (Home Investment Partnership Program)

The HOME Program provides grants to states and localities to fund a wide range of activities that build, buy, and/or rehabilitate affordable housing for rent or homeownership, or to provide direct rental assistance to low-income households.

Household

A household is an individual or group of individuals residing in a residential rental unit.

Housing Finance Agency (HFA)

An HFA is a state or local agency responsible for allocating and monitoring the LIHTC to owners.

HUD

According to the U.S. Department of Housing and Urban Development website, "HUD's mission is to create strong, sustainable, inclusive communities and quality affordable homes for all. HUD is working to strengthen the housing market to bolster the economy and protect consumers; meet the need for quality affordable rental homes; utilize housing as a platform for improving quality of life; build inclusive and sustainable communities free from discrimination; and transform the way HUD does business."

- I - J - K -

Income (Household)

For LIHTC purposes, household income is the annual anticipated total income from all sources received by the family head, spouse, and by each additional member of the family (even if temporarily absent), including all income from assets for the 12-month period following the effective date of certification of income. Some income exclusions apply. The HUD Handbook 4350.3 is generally the source of guidance when determining resident income. The LIHTC program uses gross income, not adjusted income.

Income Limits

Based on household size, income limits are the annual amount of income that a household cannot exceed.

- L -

Lease Agreement

A lease is a contractual arrangement calling for the lessee (user) to pay the lessor (owner) for the use of a tangible property.

Low Income Housing Tax Credit Program (LIHTC or LIHC)

The LIHTC Program is a dollar-for-dollar tax incentive program enacted by Congress as part of the Tax Reform Act of 1986. It was intended to increase the availability of low-income housing. The program provides an income tax credit to owners of newly constructed or substantially rehabilitated low-income rental housing projects.

- M -

Manager's Unit

The manager's unit is a unit designated solely for occupancy by a full-time manager (or on site staff person) and/or courtesy officer. It is considered common space, so this unit is removed from the building's numerator and denominator for purposes of determining the applicable fraction. Rent cannot be charged for such a unit. This unit usually requires HFA approval.

Market Value

Market value of an asset is the current value of an asset. For real property, it is the amount an able, willing buyer would be willing to pay a seller in an arm's length transaction.

Maximum Allowable Income

The maximum allowable income the income limit is determined by HUD based on the area, household size, and other factors.

Maximum Allowable Rent

The maximum allowable rent is a bedroom size calculation based on the applicable income limits of 1.5 persons per bedroom. Resident paid rent plus the applicable utility allowance cannot exceed the maximum allowable rent.

Metropolitan Statistical Area (MSA)

A MSA is an area with at least one urbanized area of 50,000 or more population, plus adjacent territory that has a high degree of social and economic integration with the core, as measured by commuting ties.

Minimum Set-Aside

The minimum set-aside is the minimum number of units in a project that must be qualified. This irrevocable election is made by the owner on Form 8609. There are two common options: 20/50 or 40/60. An infrequently used option is 15/40 (deep rent skewed).

- N -

Next Available Unit Rule

See 140% Rule

Non-compliance

Non-compliance is failure or refusal to comply, as with a law, regulation, or term of a contract.

Non-transiency

Non-transiency refers to executed initial lease agreements being a minimum of six full months. Transitional Housing for the Homeless, including Single Room Occupancy units, is an exception to this rule.

- O - P -

Placed-In-Service Date

The placed-in-service (PIS) date is the date a building is considered fit and available for occupancy. The PIS date is noted on the building's Form 8609. There are specific rules for PIS dates for new construction, acquisition of buildings, and rehabilitations.

Public Housing Agency

Any state, county, municipality, or other governmental entity or public body, agency or instrumentality of these entities that is authorized to engage or assist in the development or operation of low-income housing under the U.S. Housing Act of 1937

- Q -

Qualified Basis

The qualified basis is the basis amount determined by multiplying the eligible basis by building's applicable fraction.

Qualified Census Tract (QCT)

Any census tract (or equivalent geographic area defined by the Census Bureau) in which at least 50 percent of households have an income less than 60 percent of the area median gross income, or have a poverty rate of at least 25 percent.

Qualified Contract

A qualified contract is a bona fide contract to acquire a LIHTC project for the sum of the existing debt, adjusted investor equity and other capital contributions, less project cash distributions.

Qualified Household / Unit

A qualified household or unit is a unit that is suitable for occupancy, rent restricted, occupied by a qualified household that is student restricted, and is non-transient.

Qualified Low-Income Project

A qualified low-income project is a residential rental project that satisfies the elected minimum set-aside test. A qualified low-income project is composed of multiple buildings or a single building depending on the election made by the owner on Form 8609.

- R -

Recertification

A recertification is the annual certification process conducted for LIHTC residents. There are some exceptions for 100% low income projects.

Regulatory Agreement

A regulatory agreement is an agreement entered into between the borrower, bond issuer and trustee specifying the rent and income restrictions for the bonds to retain their tax exempt status.

Rehabilitation Expenditures

Rehabilitation expenditures are amounts incurred in improving or making additions to property in connection with the rehabilitation of an existing building.

Resident Rental Unit

A resident rental unit is space in a LIHTC project that consists of a: (1) living space; and (2) cooking space; and (3) bathing space. Single room occupancies are exempt.

Restrictive Covenant

See Extended Use Agreement

Review of Documents

A second-party verification (or a "Review of Documents" as it is termed by HUD) can be used when a third-party verification is delayed beyond two weeks, and in other circumstances when authorized by the HUD Handbook 4350.3.

- S -

Scattered Site Project

A scattered site project is a qualified low-income housing project located on multiple sites.

Supportive Service

Supportive service is a general term used for service provided under a planned program of services designed to provide residents assistance in various areas.

- T -

Tax Credit

A tax credit is a dollar for dollar credit against a tax liability.

Third Party Verification

A third-party verification is a verification of information received that does not involve the office staff or the applicant/resident. Example: Verification of Employment completed by the applicant's employer.

Transitional Housing for the Homeless

Transitional Housing for the Homeless is a program for housing that has as its purpose facilitating the movement of homeless individuals and families to permanent housing within a reasonable amount of time (usually 24 months). Transitional housing includes housing primarily designed to serve deinstitutionalized homeless individuals and other homeless individuals with mental or physical disabilities, and homeless families with children.

- U -

Unit Vacancy Rule (UVR)

The Unit Vacancy Rule states that no units of smaller or comparable size can be rented to non-LIHTC qualified households in the project as long as there is a vacant LIHTC unit. According to the Tax Reform Act of 1986 and subsequent regulations, three conditions must be met to continue claiming credits on a vacant LIHTC unit: (1) the unit has previously been qualified by a LIHTC qualified household; (2) reasonable attempts are being made to rent the unit; and (3) no other low-income units of comparable or smaller size are rented to non-qualifying households.

Universal Design

Universal design is a design concept that encourages the construction or rehabilitation of housing and elements of the living environment in a manner that makes them usable by all people, regardless of ability, without the need for adaptation or specialized design.

Utility Allowance

The utility allowance is an allowance given to residents for utilities they pay including: heat, water heating, other electric (lights, outlets), air conditioning, water, sewer, oil, gas, trash and/or resident-provided appliances. Items like telephone, cable, security are excluded. It is the average cost of resident utilities using an approved method of determination.

- V -

Vacant Unit

A vacant unit is unit from which a qualified household has moved.

-W-X-Y-Z-

Zoning

Zoning is the classification of land by types of uses permitted and prohibited in a given district, and by densities and intensities permitted and prohibited, including regulations regarding building location on lots.

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