



HOME Final Rule – 1/6/25 (Effective 2/5/25)

On May 29, 2024, HUD published the HOME Investment Partnerships Program proposed rule in the Federal Register. NCDAA submitted comments on certain specific aspects of the proposed rule that our members expressed support for or concern about. On January 6, 2025, HUD issued the Final Rule which will become effective in 30 days, on February 5, 2025. PJs must comply with most requirements within 1 year of the effective date – by February 5, 2026.

The following is a summary of some of the key changes to the HOME program included in the Final Rule. For the detailed language on these and other changes please refer to the Final Rule. Here is a link to the document as published in the Federal Register:

<https://www.federalregister.gov/documents/2025/01/06/2024-29824/home-investment-partnerships-program-program-updates-and-streamlining>

Maximum Per-Unit Subsidy Limits

HUD proposed to develop a new methodology for establishing new Maximum Per-Unit subsidy limits through a future separate Notice. In the interim, HUD proposes to use Section 234 mortgage limits for elevator condominium units as the base. HUD adopted NCDAA's recommendation that the cap of 240% of the base limits for high-cost areas should instead be set at the higher 270% cap in the as permitted by the latest HUD Annual Revisions to Base City High-Cost Percentage and High-Cost Areas Notice.

Exception to the Maximum Per-Unit Subsidy Limits To Meet proposed Green Building Standards

HUD proposed to issue new green building standards through a future separate notice. The Proposed Rule provided an incentive for projects meeting the green building standards by allowing them to exceed the per-unit subsidy limits by 5%. NCDAA and others raised concerns that a 5% exception may not be enough of an incentive, especially since neither the new per-unit subsidy limits nor the new green building standards have been issued. In the interim, HUD has increased the green building exception to the maximum per-unit subsidy limits from 5% to 10%.

Periods of Affordability

In the Proposed Rule HUD requested comment and suggestions regarding the current affordability periods required for rehabilitation or acquisition of existing housing based on the amount of HOME-assistance per-unit. HUD did not propose specific adjustments. NCDAA commented that the \$ amounts have not been adjusted since the HOME program began and costs have increased substantially since then. NCDAA suggested that at minimum, HUD should adjust the \$ amounts based on inflation. In the final rule HUD basically increased the existing thresholds by \$10,000:

- Projects receiving less than \$25,000 in HOME funds per unit will require a 5-year period of affordability, an increase from the current \$15,000 threshold.
- Projects receiving \$25,000 to \$50,000 per unit will require an affordability period of 10 years.
- Projects receiving more than \$50,000 per unit will require an affordability period of 15 years.
- For new construction, the affordability period remains unchanged at 20 years regardless of the amount of HOME-funds provided.

Administrative costs

The Proposed Rule included some provisions to reduce and streamline monitoring and inspection requirements. NCDCA supported these changes but commented that as the number of new HOME units requiring monitoring and inspection increases over time while funding for the HOME program continues to be reduced, the 10% cap on administrative costs is no longer adequate. NCDCA suggested either increasing the administrative cap or possibly exempting ongoing monitoring and inspection costs from the administrative cap. HUD pointed out that the 10% administrative cap is statutory and that they cannot exempt or redefine such costs. However, HUD did point out that PJs can charge projects a fee to cover these costs.

Resale and Recapture Requirements

HUD has adopted the changes to resale and recapture requirements proposed in the Proposed rule. HUD is changing when the resale/recapture requirement begins for homebuyers from the time when all information required by IDIS is completed to when the resale or recapture documents are recorded for each homebuyer. Otherwise, the period for meeting the homebuyer affordability restrictions would be delayed until all units were sold and the project was completed in IDIS.

HUD also increased the time limit for sale of units where a PJ or a CLT exercises its pre-emptive purchase rights from 6 months to 12 months. NCDCA commented that both PJs and CLTs should have 6 months rather than limiting CLTs to just 6 months.

Timeline to meet Property Standards

The Final Rule gives PJs the ability to allow homebuyers purchasing substandard housing with HOME funds up to 12 months (instead of just 6 months) to meet the PJs property standards.

CHDOs

The Final Rule does not change the statutory requirement that at least 15% of a PJs HOME allocation be set-aside for projects owned, sponsored or developed by CHDOs. It did expand the definition of the types of organizations that could satisfy the requirement that at least one third of the members of an organization's board must be "representatives of the low-income community" in order to qualify as a CHDO. Specifically, the Final Rule states that individuals representing organizations serving low-income persons, even if those persons do not live in low-income neighborhoods, should be able to meet the requirement that the CHDO board is accountable to low-income community residents. Also allows the staff-capacity requirement to be met with board volunteers. NCDCA supported the proposed changes but stated that we doubt that this will result in

any significant increase in the number of organizations seeking and qualifying for CHDO designation and that CHDO set-aside funds may continue to be unused and recaptured.

Income Determinations

The Final Rule provides PJs with additional flexibility regarding when and how income determinations are made. Rental Projects: For HOME rental units with federal or state project-based rental subsidies PJs may use accept the income determinations made for those programs. HOME rental units developed with LIHTC may use the LIHTC income determinations. Rental Units developed with HOME-only may use income determinations required by the other forms of public assistance (TANF, Medicaid, etc.) if the determination was made within 1the previous 2 months. For TBRA income determinations only need to be done every 2 years and PJs can accept determinations made for other public assistance programs. For small-scale rental projects (1-4 units) income determinations are only required every 3 years.

Rent Limits

The Final Rule adopts the changes made by the Housing and Economic Recovery Act of 2008 (HERA). This allows projects to receive the full Housing Choice Voucher or Project-Based Voucher rents rather than just the High or Low HOME rent amounts.

Small Rental Projects

Income Determinations and Physical Inspections are only required every 3 years. Owners no longer have to maintain a waiting list.

Tenant Protections

HUD establishes mandatory lease addenda with separate provisions for HOME-assisted rental units, TBRA and security-deposit only programs. Key element is requiring just cause for eviction or non-renewal of lease. NCDA had cautioned that requiring new tenant protections for TBRA assistance that exceed state and local laws may result in landlords refusing TBRA tenants.

Pre-development Costs

PJs will be allowed to reimburse specific pre-development costs incurred for up to 24 months before commitment of HOME funds. The list of allowable pre-development soft costs has been expanded to include accounting fees and fees for filing zoning and planning reviews.