



To: Real Estate Department Partners
From: Real Estate Department
Date: August 3, 2023

Notice: **RED-22-43**

Re: Response to Kentucky flooding- Emergency Housing Relief Authorization

In accordance with Revenue Procedures [2014-49](#) and [2014-50](#), the Indiana Housing and Community Development Authority (“IHCDA”) is permitting all owners of low-income housing tax credit (“LIHTC”) properties within the State of Indiana to provide temporary emergency housing to displaced individuals affected by July 2022 Kentucky severe storms, flooding, landslides, and mudslides.

The July 2022 Kentucky severe storms, flooding, landslides, and mudslides received a [Major Disaster Declaration](#) on July 29, 2022, with a FEMA “incident period” beginning on July 26, 2022

I: BACKGROUND

Revenue Procedure 2014-49 provides temporary relief from certain requirements of Section 42 of the Internal Revenue Code for owners of LIHTC buildings after the declaration of a Major Disaster by the President. Revenue Procedure 2014-50 provides temporary relief from certain requirements of Section 142 of the Internal Revenue Code for owners of bond projects or bond/LIHTC projects. Specifically, Sections 12 and 13 of Rev Proc 2014-49 and Section 6 of Rev Proc 2014-50 (“Emergency Housing Relief”) allow the owners of LIHTC properties to provide temporary housing for displaced individuals for a period of 12 months with approval from the state housing credit agency. **Through this RED Notice, IHCDA hereby authorizes all LIHTC owners/management agents in the State of Indiana to utilize the emergency housing relief authorized in the applicable Revenue Procedures for the duration of the temporary housing period, as defined below.**

II: KEY DEFINITIONS

- **DISPLACED INDIVIDUAL:** An individual who is displaced from his or her principal residence as a result of a Major Disaster and whose principal residence was located in a Major Disaster Area designated as eligible for Individual Assistance by FEMA.
- **MAJOR DISASTER:** An event for which the President has declared a major disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq.



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- **MAJOR DISASTER AREA:** Any city, county, or other local jurisdiction for which a Major Disaster has been declared by the President and which has been designated by FEMA as eligible for Individual Assistance, Public Assistance, or both.
- **TEMPORARY HOUSING PERIOD:** The period, if any, beginning on the first day of the incident period, as determined by FEMA, and ending on the date determined by the Agency under section 12.02 of Revenue Procedure 2014-49 or section 5.02 of Revenue Procedure 2014-50. The Temporary Housing Period cannot exceed 12 months from the end of the month in which the President declared the Major Disaster. ****The relevant Temporary Housing Period for this emergency housing relief begins on July 26, 2022 and ends on July 31, 2023.****

III: EMERGENCY HOUSING RELIEF FOR DISPLACED INDIVIDUALS

If a displaced individual applies for residency at a LIHTC property, the owner may allow the individual to move into an income-restricted unit regardless of income qualification. The displaced individual may be treated in one of two ways:

1. If a displaced individual qualifies as a low-income household under the applicable LIHTC income limits, then the Owner may either move the household in as a LIHTC qualified household or may apply the emergency housing relief rules described in this notice.
2. If a displaced individual does not qualify as a low-income household under the applicable LIHTC income limits, then the owner may move the household into an available market rate unit or may move the household into a LIHTC unit by applying the emergency housing relief rules described in this notice.

If a displaced individual is provided emergency housing relief during a time that is within both the temporary housing period and the first year of the project's credit period, then during the temporary housing period the unit is treated as a low-income unit for purposes of meeting the project's minimum set-aside and qualified basis.

If a displaced individual is provided emergency housing relief during the temporary housing period but after the first year of the project's credit period, then the unit retains the status it had immediately before occupancy by the displaced individual. The unit does not affect the project's minimum set-aside or the building's applicable fraction.

If a displaced individual remains in a LIHTC unit after the temporary housing period ends, then the status of the unit must be reevaluated. At this time, the owner must obtain all required income qualification documents to support the household's continued status as a qualified low-income household. The household is treated as a new move-in and must go through an initial qualification. The effective date of the initial qualification must be no later than the day after the temporary housing period ends.

IV: REPORTING AND DOCUMENTATION REQUIREMENTS

To comply with the emergency housing relief provisions under the applicable Revenue Procedures, the owner must obtain and maintain certain information concerning each displaced individual temporarily housed. The information must be contained in a statement signed by the

displaced individual under penalties of perjury. IHCD is providing a mandatory form, which is posted under this RED Notice as “Exhibit A”. The information gathered must include:

- Name of the displaced individual(s)
- The address of the principal residence at the time of the Major Disaster of the displaced individual(s)
- The displaced individual(s) Social Security Number
- A statement that he or she was displaced from his or her principal residence as a result of a Major Disaster and that his or her principal residence was located in a city, county, or other local jurisdiction that is covered by the President’s declaration of a Major Disaster and that is designated as eligible for Individual Assistance by FEMA because of the Major Disaster.

The owner must maintain in the tenant file a copy of the agency’s approval to provide emergency housing relief (i.e. a copy of this notice) and a copy of the displaced individual’s certification/affidavit. At the end of the temporary housing period, the owner must report to IHCD a list of the names of all displaced individuals that were housed, including the dates that their occupancy began and ended. The mandatory Disaster Tenant Tracking Report is posted under this RED Notice as “Exhibit B.”

When updating the property’s tenant event reporting through IHCD Online, the owner/management agent must include a comment in the “note section” that the tenant is a displaced resident from the Hurricane Irma Major Disaster Declaration.

V: MISC. COMPLIANCE REQUIREMENTS

RENT RESTRICTIONS

Rents for any low-income housing tax credit units used to house displaced individuals must not exceed the maximum gross rent allowable for compliance under Section 42(g)(2).

PROTECTION OF EXISTING TENANTS

Existing tenants in occupied low-income housing tax credit units may not be evicted or have their tenancy otherwise terminated solely to provide emergency housing relief for a displaced individual.

SUSPENSION OF NON-TRANSIENT REQUIREMENTS

The non-transient use requirement of Section 42 (i)(3)(B)(i) shall not apply to any unit providing temporary housing to a displaced individual.

NEXT AVAILABLE UNIT RULE

During the temporary housing period, for purposes of determining compliance with the next available unit rule under Section 42(g)(2)(D)(ii), the owner disregards any unit occupied by a displaced individuals.

Questions about this notice should be directed to Matt Rayburn, Deputy Executive Director and Chief Real Estate Development Officer via mrayburn@ihcda.in.gov or Carol Farzetta, Director of Real Estate Compliance via cfarzetta@ihcda.in.gov.