
To: Real Estate Department Partners **Notice: RED-20-19**
From: Real Estate Department
Date: March 24, 2020 – Updated April 3, 2020, April 16, 2020, May 28, 2020, July 1, 2020, & **July 16, 2020**
Re: **Compliance Guidance for IHCD Funded Rental Properties re: COVID-19 UPDATE #5**

*IHCDA continues to monitor the situation with COVID-19 in Indiana as circumstances change and additional information becomes available. To provide transparency and customer service, IHCDA will update this RED Notice with any updates to policies or procedures. **Red font below indicates new or amended information as of July 16, 2020.***

Precautions are being made across the nation to minimize exposure to COVID-19 (commonly known as the coronavirus) by significantly reducing in-person interactions. IHCDA is providing additional guidance to remain in compliance with programmatic rules while also adhering to instructions given by the Governor's Office and the Center for Disease Control. This notice applies to rental properties with IHCD capital funding (Low Income Housing Tax Credits, HOME Investment Partnership Program, Housing Trust Fund, Development Fund, CDBG-D, etc.). Please check with other funders as appropriate.

Eviction Moratorium- Federal Requirement:

Section 4024 of the CARES Act prohibits evictions due to non-payment of rent for 120 days beginning on March 27, 2020 (date of enactment of the Act) for certain types of housing. During this 120-day period, owners may not initiate legal action (e.g. file evictions with the court) or issue notices to vacate. The earliest a tenant can be required to vacate is 30 days after the end of the 120-day period. Further, owners may not charge late fees or other penalties to tenants who are unable to pay rent.

This prohibition applies to any housing that:

1. Participates in a covered program under the Violence Against Women Act (VAWA), which includes but is not limited to, LIHTC, HOME, Housing Trust Fund, and Section 8;
2. Participates in the rural housing voucher program under section 542 of the Housing Act of 1949; or
3. Has a federally backed mortgage loan or federally backed multifamily mortgage loan.

The US Department of Housing and Urban Development (HUD) released a [COVID- 19 CARES Act FAQ](#) that addresses requirements at HOME-assisted properties. This FAQ also clarifies the federal eviction moratorium period expiration date of July 24, 2020.

Fees Assessed: Eviction Moratorium- Federal Requirement:

An owner or agent of a multifamily property covered by the CARES Act may only charge fees and penalties during the eviction moratorium if the charge is wholly unrelated to a tenant's nonpayment of rent. However, during the eviction moratorium, the CARES Act prohibits an



owner or agent from filing for possession of a unit for nonpayment of any rent, fee or charge. This holds true regardless of the date the fee or charge was initially assessed.

While the CARES Act is silent on what an owner or agent can charge after the eviction moratorium ends, HUD's interpretation of this provision is that fees and charges that could not be assessed during the eviction moratorium should not accrue and should not be charged after the moratorium ends; however, rents not paid during the moratorium, as well as fees assessed prior to the eviction moratorium, which took effect on March 27, 2020, may be collected.

Evictions or Foreclosure Proceedings- State Requirement:

No residential eviction proceedings or foreclosure actions may be initiated in Indiana during the public health emergency. This does not relieve the individual of obligations to pay rent or mortgage payments. For more information, please see [Executive Order 20-06](#). Tenants can find additional information about their rights or file a consumer complaint through the [Indiana Attorney General's Office](#). Per [Executive Order 20-33](#), the moratorium has been extended through July 31, 2020.

Income Exclusions:

On April 16, 2020 HUD's Office of Multifamily Housing issued the following guidance:

"Household stimulus payments of up to \$1,200 (which is technically an advance tax credit) and the temporary \$600 per week federal enhancement to unemployment insurance provided by the CARES Act are not to be included in calculations of income. However, HUD notes that regular payments of unemployment insurance (issued by the state) are treated as income, as is customary under program rules."

Late Recertifications:

It may be a challenge to obtain income verification documentation on time from tenants. If the recertification is completed after the anniversary date of move-in, simply document why the verification was completed late and mark "True and Effective as of" on the recertification TIC and income documentation. Continue to keep the effective date on the anniversary of the household move-in date. Since this is self-reported non-compliance, there will be no issuance of an 8823.

Electronic Signature:

IHCDA allows electronic signature on income verification documentation as well as leases and lease addendums.

Community Space at IHCDA Funded Properties:

To further minimize exposure to COVID-19, property management companies have the sole discretion to temporarily close common spaces and amenities. [Per IRS Notice 20-53, common areas and amenities can be "closed during some or all of the period from April 1, 2020 to December 31, 2020" without resulting in a reduction of the eligible basis of the building.](#)

Questions about this notice can be directed to Devyn Smith, Director of Real Estate Compliance, via devynsmith@ihcda.in.gov or 317-232-7025.

Please see [IHCDA's COVID-19 actions webpage](#) for additional information including public notices and program guidance.