



Tennessee Housing Development Agency

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Notice of Major Disaster Relief & Emergency Housing Relief Authorization

Tennessee received a [MAJOR DISASTER DECLARATION](#) on August 23, 2021 for the counties of Dickson, Hickman, Houston, and Humphreys with a Federal Emergency Management Agency (“FEMA”) "incident period" beginning on August 21, 2021. Therefore, in accordance with Revenue Procedures [2014-49](#) and [2014-50](#), the Tennessee Housing Development Agency (“THDA”) is permitting all Owners of low-income housing credit (“LIHC”) properties within the State of Tennessee to provide temporary emergency housing to “Displaced Individuals” (defined below) that were displaced from their principal residence located in the above counties due to the severe storms and flooding therein.

I: BACKGROUND

After a declaration of a Major Disaster by the President, Revenue Procedure 2014-49 (“RP 2014-49”) provides temporary relief from certain requirements of Section 42 of the Internal Revenue Code for Owners of LIHC buildings and Revenue Procedure 2014-50 (“RP 2014-50”) provides temporary relief from certain requirements of Section 142 of the Internal Revenue Code for Owners of LIHC buildings financed with exempt facility bonds under Section 142 (collectively, the “Revenue Disaster Procedures”).

Specifically, Sections 12, 13, and 14 of RP 2014-49 and Sections 6 and 7 of RP 2014-50 allow the Owners of LIHC properties to provide temporary housing for Displaced Individuals for a period of 12 months with approval from the state housing credit agency (“Emergency Housing Relief”). THDA hereby authorizes all LIHC Owners/Management Agents in Tennessee to utilize the Emergency Housing Relief authorized in the applicable Revenue Procedures for the duration of the Temporary Housing Period, as defined below.

Any Owner choosing to assist a Displaced Individual under the applicable Revenue Procedure(s) must adhere to all requirements outlined within the Revenue Procedure(s). A few of the requirements are outlined within this Authorization for context, but are not to be relied on by Owners to attain compliance with all requirements.

The Revenue Disaster Procedures also provide relief to Owners of projects affected by a Major Disaster.

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.
- 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. **Only Davidson, Williamson, and Wilson counties were designated as eligible for Individual Assistance, so by the definition of Displaced Individuals only Displaced Individuals from those counties may receive Emergency Housing Relief.**
- 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 THDA under section 12.02 of RP 2014-49 or section 5.02 of RP 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 August 21, 2021 and ends on August 31, 2022.**

III: EMERGENCY HOUSING RELIEF FOR DISPLACED INDIVIDUALS

If a Displaced Individual applies for residency at a Tennessee LIHC property, the Owner may allow the Displaced 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 LIHC income limits, then the Owner may either move the household in as a LIHC qualified household applying all of the rules under Section 42 or may apply the emergency housing relief rules under Sections 12, 13, and 14 of RP 2014-49.
2. If a Displaced Individual does not qualify as a low-income household under the applicable LIHC income limits, then the Owner may move the household into an available market rate unit or may move the household into a LIHC unit by applying the Emergency Housing Relief rules under Sections 12, 13, and 14 of RP 2014-49.

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 LIHC property's credit period, then during the Temporary Housing Period the unit is treated as a low-income unit for purposes of meeting the LIHC property'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 LIHC property's credit period, then the unit retains the status it had immediately before occupancy by the Displaced Individual. The unit does not affect the LIHC property's minimum set-aside or a building's applicable fraction.

If a Displaced Individual remains in a LIHC unit after the Temporary Housing Period ends, then the status of the unit must be reevaluated. At that 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 Procedure(s), 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. THDA will provide a mandatory form to use for this purpose. 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 a copy of THDA's approval to provide Emergency Housing Relief (i.e. a copy of this notice) **and** a copy of the Displaced Individual's certification/affidavit in the tenant's file. At the end of the Temporary Housing Period, the Owner must provide THDA a list of the names of all Displaced Individuals who were housed, including the dates occupancy began and ended, and, if applicable, the date each unit occupied by a Displaced Individual became occupied by a subsequent tenant. THDA will provide a form for this reporting.

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 Credit units may not be evicted or have their tenancy otherwise terminated solely to provide Emergency Housing Relief for a Displaced Individuals.

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.

VI: OTHER POSSIBLE RELIEF FOR OWNERS

1. If an Owner has a carryover allocation for a building located in a Major Disaster Area and the Incident Period began prior to the deadline in §42(h)(1)(E), THDA may grant the Owner an extension if the Owner cannot reasonably satisfy the deadline of § 42(h)(1)(E) because of the Major Disaster. If THDA

grants such extension, to satisfy the 10-percent basis requirement of §42(h)(1)(E)(ii), the Owner must incur more than 10 percent of the Owner's reasonable expected basis in the building (land and depreciable basis) no later than the expiration of the extension, which cannot extend beyond six (6) months from the original deadline.

2. If an Owner has a carryover allocation for a building located in a Major Disaster Area and the Major Disaster occurs on or after the date of the carryover allocation, THDA may grant the Owner an extension if the Owner cannot reasonably satisfy the deadline of § 42(h)(1)(E) because of the Major Disaster. If THDA grants such an extension, the Owner must place the building in service no later than the expiration of that extension, which cannot extend beyond December 31 of the year following the end of the two-year period described in § 42(h)(1)(E)(i).
3. If a building is beyond the first year of the credit period, and at the end of the taxable year, the building's qualified basis with respect to the taxpayer is less than the qualified basis with respect to the taxpayer at the end of the preceding taxable year, then the credits, if any, for the year of the reduction are determined using the reduced qualified basis, and the taxpayer's Federal income tax liability for the year of the reduction is increased by the credit recapture amount prescribed in § 42(j)(2). If the building's qualified basis is reduced by reason of a casualty loss, then under § 42(j)(4)(E), a building is not subject to recapture to the extent the loss is restored by reconstruction or replacement within a reasonable restoration period. THDA would determine what constitutes a reasonable restoration period in the case of a Major Disaster that causes a reduction in qualified basis that would result in recapture or loss of credit. The reasonable restoration period established by THDA must not extend beyond the end of the 25th month following the close of the month of the Major Disaster declaration.
4. For buildings during the first year of the credit period that are severely damaged or destroyed in a Major Disaster Area, or uninhabitable as a result of a Major Disaster, THDA has the discretion to treat the allocation as a returned credit to THDA in accordance with the requirements of § 1.42-14(d)(3) or to toll the beginning of the first year of the credit period under § 42(f)(1). The tolling period must not extend beyond the end of the 25th month following the close of the month of the Major Disaster declaration. Owners may not claim any low-income housing credit during the restoration period of these first-year buildings.

Questions about this notice should be directed to Chuck O'Donnell, Program Compliance Manager at codonnell@thda.org.

****THDA requires Owners and Management Companies of properties in the affected areas to consider listing all rental vacancies with TNHousingSearch.org, which is a free marketing resource, which is connecting displaced households with vacant housing units.****