



Tennessee Housing Development Agency

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MEMORANDUM:

TO: Participants in Tennessee Housing Development Agency's
Low-Income Housing Credit Program

FROM: Donna Duarte, Director of Program Compliance

DATE: December 31, 2008

SUBJECT: Housing and Economic Recovery Act of 2008

Changes have been made effecting properties that have received an award of low-income housing credits by the Tennessee Housing Development Agency ("THDA") as a result of the Housing and Economic Recovery Act of 2008 ("HERA"). This memorandum details the actions that will be taken by THDA Compliance Monitors to monitor program compliance. Other participants in the direct financing or organizational ownership may have differing views and requirements, for which THDA assumes no responsibility.

Bill Section 3004 – Income Limits for Rural Properties

The bill references an amended national nonmetropolitan income limit of \$49,300. Since this exceeds the Tennessee non-metro medium limit, the income limits should be based on the national nonmetropolitan income limit for all non-metro areas in the state.

Bill Section 3004 – Student Status and Foster Care

The bill allows an eligibility exception to the full-time student status rule for any individual that previously received foster care. THDA will consider as a qualified household individuals that can prove previous foster care eligibility and are full-time students. A modification is being made to the Student Verification form required by THDA.

Bill Section 3004 - General Public Use

The bill allows that members of a specified group under a Federal, State, or Local program or policy which support housing for the group not violate the General Public Use requirement of Internal Revenue Code Section 42. The bill further clarifies that housing for artists and writers does not violate the General Public Use requirement of Section 42.

Bill Section 3004 - Bond Posting Requirement

The bill eliminates the requirement to post a bond at the time of a transfer of ownership on a housing credit project, if it is reasonably expected that the building will continue to be operated as a low-income

building. The recapture period is also extended to three years beyond the time when the owner notifies the IRS of a recapture event. A modification is being made to the Attachment B – Transfer of Ownership form required by THDA to omit the bond posting identification.

Bill Section 3005 – Treatment of Military Housing Allowance

The bill allows for certain areas around military installations to omit the basic housing allowance in income qualification calculations. There were no areas in Tennessee which met the definition that was disclosed in the legislation.

Bill Section 3008 – Merging Housing Credit and Multifamily Bond Requirements

The bill reflects changes in the multifamily bond requirements to match them with the housing credit requirements. Specifically, the Next Available Unit / 140% rule is changed to be met building by building instead of project. The Student exceptions in the housing credit program apply to the multifamily bond program. Multifamily bonds can be used to finance single room occupancy projects.

Bill Section 3009 – Income Limits and the HUD Hold Harmless Policy

The bill allows for a minimum increase in median incomes and appears to reset the clock for some projects in the same area. At this time, THDA is hopeful that the legislation will be implemented in the income limit allowances for 2009. However, THDA will issue follow up guidance if this is not correct.

Bill Section 3010 – Annual Tenant Income Certifications

The bill allows for 100% low income projects to be exempt from annual tenant income certifications. THDA will allow all 100% low income projects, as defined in the land use restrictive covenant for the project, to be exempt from annual tenant income certifications after the anniversary of the first annual recertification date. It is the expectation that all households continuing tenancy after the first year of tenancy will be recertified including income and will be continually certified as to student status, household composition, and total rent, including utility allowances as is the current process. A modification is being made to the Household Income Certification form required by THDA.

Bill Section 2608 - Data Collection Requirement

The bill requires state allocating agencies to begin collecting and reporting demographic and ethnicity data on tenants of housing credit properties. The data to be collected will be determined by the Department of Housing and Urban Development (“HUD”). A member of THDA’s Program Compliance Division is working with a national group to assist HUD implement this requirement in the industry. Further information may be required of owners to comply with this section of the bill.