

To: **Distribution List**

May 1, 2009

From: Edmund M. Campion, Jr., Senior Asset Manager



Subject: CHFA Policy on Annual Recertification for 100% Low-Income Housing Tax Credit and Tax-Exempt Bond Projects

The Housing and Economic Recovery Act of 2008 (HR 3221) was signed into law by President Bush on July 30, 2008. While HR 3221 makes a number of significant changes to the Low-Income Housing Tax Credit Program, one that is of most interest to current owners and managers of existing projects is the provision that waives the annual tenant recertification requirement for both housing credit and tax-exempt bond financed projects that are 100% low-income, provided no residential unit in the project is occupied by tenants who fail to satisfy the otherwise applicable income limits.

The purpose of this memorandum is fourfold: (1) Communicate that the Connecticut Housing Finance Authority (CHFA) has adopted a modified waiver of annual recertification for housing credit and tax-exempt bond projects that are 100% low-income; (2) Provide CHFA guidance on implementing the waiver for 100% projects; (3) Caution owners that there are risks in adopting the policy; and (4) Advise owners that the waiver applies only to 100% low-income projects. Specifically, owners of mixed-income projects containing market-rate units are not eligible for this waiver and must continue to perform initial certifications and annual recertifications. In addition, Assisted Living projects in the Demonstration Program are not eligible for the waiver.

The waiver of annual recertification change made by HR 3221 was effective for years ending after July 30, 2008. IRS regulations permit Housing Credit and Finance Agencies to adopt standards more stringent than the IRS Code, and CHFA is no exception. The following is a summary of CHFA requirements that an owner must comply with in order to effectuate the recertification waiver:

1. CHFA requires that owners continue to perform the initial tenant certification prior to move-in and one additional recertification upon the first anniversary date of any resident who had moved into the project in the previous year. CHFA is requiring the first anniversary recertification because most cases of fraud are discovered in regard to income and household composition during the time period between the initial certification and first recertification.
2. Regardless of the recertification waiver, CHFA must continue to track student status and changes in household composition and income. Therefore, CHFA is requiring that residents complete a self-certification form. The form is attached to this memorandum and must be completed beginning the year following the first anniversary recertification and for all certifications thereafter. CHFA does not require third party verification of any information on the form.
3. The information obtained from this form must be incorporated into the end of year status report that is submitted to Spectrum.

While many project owners feel that the recertification waiver for 100% projects is a welcome relief, and both a money and time saver, they must be aware that there are significant risks associated with it. The conservative approach would be to continue to do recertifications on 100% projects, despite the waiver provided in HR 3221, for the following reasons:

1. Not doing recertifications and finding out later that over-income tenants had moved in could mean that the property did not qualify for the recertification exemption. Therefore, the owner would have to go back and do all the recertifications for any year in which an over-income tenant moved in. This could result in serious ramifications for the project's credits. In addition, the owner may not know how many units were over the 140% Area Median Income (AMI) Limit and could be subject to tax credit loss or recapture in accordance with the next available unit rule 1.42-15(f).
2. Other affordable housing programs may require recertification, so owners will, at a minimum, still need to do recertifications if required by those programs.

In order to maximize long-term success and mitigate risk, if an owner implements the recertification waiver, the following guidelines are suggested:


1. Owners should establish a baseline point in time when all residents are clearly certified as low-income. This should be done prior to halting recertification. The owner should also identify units currently occupied by residents with incomes in excess of the 140% AMI level.
2. Once the **initial** and **anniversary** certifications of tenant eligibility have been completed, owners should ensure that the tenant approval process for new move-ins is strong and multilayered. Several approvals of all new move-ins will greatly reduce the potential for renting to ineligible households. The initial certification, coupled with strong approval procedures going forward, will minimize the risk of credit loss to a building.
3. Owners should make a decision regarding the level of due diligence to be undertaken to ensure that properties are 100% low-income.

CHFA reserves the right to require owners that have rented to ineligible households, or who have properties that demonstrate inadequate initial certification and documentation procedures, to reinstate the full annual recertification process.

While HR 3221 waives recertification in 100% low-income housing tax credit and tax-exempt bond projects, the change will impact the management of these projects. Prior to implementing any changes in management practices, owners should seek counsel from their tax and legal advisors and have discussion with their investors and syndicators.

As stated in the Code, Section 1.42.5(g), compliance with requirements of Section 42 is the responsibility of the owner of the building for which the credit is allowed. CHFA's obligation to monitor for compliance with the requirements of Section 42 does not make CHFA liable for an owner's noncompliance.

An owner that decides to implement the recertification waiver must do so by notifying CHFA and Spectrum in writing. Any questions regarding the waiver can be directed to Edmund M. Campion, Jr. at (860) 571-4265 or via email at edmund.campion@chfa.org.

Reviewed by: Greg Wentworth, Administrator – Multifamily Housing & Asset Management 

SELF-CERTIFICATION OF ANNUAL INCOME (LIHTC Only)

To be completed for the second annual recertification and all subsequent recertifications in 100% tax credit projects.

Property Name:		Unit:	
Household Name:		# of Persons in Household:	

REMAINDER OF FORM TO BE COMPLETED BY RESIDENT ONLY

HOUSEHOLD: Enter all household member name(s) and date(s) of birth below. Also note whether or not any household member is or will be a fulltime student in next 12 months. Continue on separate sheet of paper if necessary.

	Household Member Name	Date of Birth	Fulltime Student Next 12 Months? *
Head			<input type="checkbox"/> Yes <input type="checkbox"/> No
2.			<input type="checkbox"/> Yes <input type="checkbox"/> No
3.			<input type="checkbox"/> Yes <input type="checkbox"/> No
4.			<input type="checkbox"/> Yes <input type="checkbox"/> No
5.			<input type="checkbox"/> Yes <input type="checkbox"/> No
6.			<input type="checkbox"/> Yes <input type="checkbox"/> No
7.			<input type="checkbox"/> Yes <input type="checkbox"/> No
8.			<input type="checkbox"/> Yes <input type="checkbox"/> No

* If all occupants are full time students, attach completed Housing Student Status Verification form.

INCOME: Enter household income including income from assets of each adult household member. If some members have no income put "Zero." Every adult Household member must sign below to certify their gross annual income anticipated for the next 12 months. See NOTES on second page of this form. Continue on separate sheet of paper if necessary.

	Household Member Name	Total Gross Annual Income & Income from Assets	Signature of Adult(s)
Head			
2.			
3.			
4.			
5.			
6.			
7.			
8.			

Property Name:		Unit:	
Household Name:		# of Persons in Household:	

I agree to notify management IMMEDIATELY if:

- ♦ Anyone in my household becomes a fulltime student, and/or
- ♦ My household composition changes in any way.

I certify under penalties of perjury that the above information is true and complete to the best of my knowledge. I understand that false or incomplete information is a violation of the terms of my lease and is grounds for eviction. I agree to furnish any additional income or other documentation required by the property owner/management to document my/our household income:

Head of Household Signature	Print Name	Date
Other Household Adult Signature	Print Name	Date
Other Household Adult Signature	Print Name	Date
Other Household Adult Signature	Print Name	Date

NOTES

TYPES OF INCOME: Possible types of income include but are not limited to: wages, salary, tips, bonuses, commissions, military pay, public assistance, Social Security/SSI, retirement benefits, VA benefits, child support, regular gifts, unemployment, and some types of financial aid. Include what you receive now and what you anticipate receiving in the next 12 months. All income listed must be GROSS income (income before taxes and deductions).

INCOME FROM ASSETS: Income from assets must also be included in Total Gross Annual Income. Possible types of assets include, but are not limited to: checking accounts, savings accounts, cash on hand, money market accounts, certificates of deposit, stocks, bonds, 401(k) and real estate. Include the annual interest from these accounts in your total income.

TO BE COMPLETED BY MANAGEMENT

MOVE-IN:

Original Move-in Date: _____
 Set-aside %: _____
 Total Gross Income - _____
 All Household Members: \$ _____

CURRENT RECERTIFICATION:

Effective Date of Recertification: _____
 Household Portion of Rent: \$ _____
 Utility Allowance: \$ _____
 Subsidy portion: \$ _____
 Subsidy Type: _____

Signature of Management Representative	Print Name	Date
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