

**New Hampshire Housing Finance Authority
LIHTC Compliance and Monitoring Policy**

Post Year 15

Extended Use Period

Properties awarded housing credits prior to 1990 had a compliance period of 15 years. A change in federal law required an additional 15 years of compliance, which is known as the extended use period. As a result, IRC Section 42(h)(6) establishes that properties that were awarded housing credits in 1990 or afterwards must comply with program restrictions for a total of 30 years or more, subject to certain exceptions. These restrictions are embodied in a recorded real estate document called the Land Use Restriction Agreement (LURA).

After year 15 of the Compliance Period has ended, there may be no tax impact in the event of noncompliance. Owners must follow all provision of the LURA, unless modified in writing by the Authority. Noncompliance of provisions of the LURA could have a negative impact on future scoring.

Compliance and Monitoring After Year 15

Properties funded with other funding sources, will continue to be monitored according to the monitoring requirements established for those programs. The extended use monitoring plan is only applicable to LIHTC properties.

The following details the changes in monitoring and compliance. Areas of monitoring and compliance not addressed in this chapter have not changed.

LIHTC Properties Pre – 1990

During the three-year period after the expiration of the compliance period, owners will be required to submit an annual certification that no residents have been evicted or displaced for other than good cause and the rents have not been raised above the tax credit maximum rents. A new document replaces the [Owner's Certificate of Continuing Program Compliance](#), see chapter covering Required Forms in this manual or website; www.nhhfa.org, for Pre-1990 Owner's Certificate of Continuing Program Compliance, Certification is due March 1st for three years after expiration of the compliance period.

LIHTC Properties Post – 1990

The following guidelines will be in place for compliance activities during the extended compliance period, year 16 and beyond. These guidelines will apply to those properties that have completed the initial 15 year compliance period.

Applicable Fraction

No change. The applicable fraction is the smaller of either the unit fraction or floor space fraction and represents the low-income portion of the building.

Project vs. Building Rule

All building rules will become project rules except The Next Available Unit Rule. The Next Available Unit Rule will be a Building Rule.

Next Available Unit Rule

No change. The rule states that if a tenant's income in a low-income unit increases above 140% of the current qualifying income limit, the next available unit of comparable or smaller size must be rented to a qualified low-income resident at restricted rent.

Unit Transfers

Affordable unit transfers from building to building will be allowed without recertification. Building must be part of a multiple building project (see 8909 Part II question 8b) and each unit must qualify. File must demonstrate that household has not exceeded the 140% income limit.

Move-in

An initial certification, including third party verification consistent with HUD Section-8, Occupancy 4350.3 Rev.1 guidelines will continue to be required for initial occupancy. Student status will be certified at move-in only.

Student Status

Student eligibility required at move-in only. Certification of student status is not required annually thereafter.

Income Restrictions

No change. The income required to be eligible is based on household income limits adjusted for family sizes for the area in which the project is located.

Rent Restrictions

The unit must continue to be rent restricted so that the tenant paid portion of rent plus the utility allowance does not exceed the applicable rent limit. This applies to LIHTC units only. LIHTC units funded with HOME funds must include tenant rental assistance/subsidy in the calculation of tenant portion. Rents will be calculated by bedroom size not family size.

Tenant Income Certification (TIC)

Continue to complete a TIC for all move-ins and annual certifications.

Status Report

No change. The status report is required to give the Authority a complete snapshot of the resident and the annual activity that has occurred. The Status Report is required to be sent electronically and submitted annually by February 1st.

Annual certification

Requirements for annual certifications will be in the form of a self certification, a completed TIC will serve as the self certification. Annual certifications are not required for 100% LIHTC properties. Student status is not required other than at move-in.

Resident File and Management Inspection

The compliance inspection of files will be performed every four (4) years. The Authority shall inspect the tenant income certification(s) of new move-in files and the rent record for each LIHTC tenant. Monitoring will include a review of new move-in information for LIHTC tenant files, equivalent to at least 10% of low-income tenant files.

Special Condition Restrictions

Special Conditions within the LURA must be maintained. Certificate of Special Conditions is due annually by March 1st.

Physical Inspections

New Hampshire Housing will inspect each property at least once every four (4) years, conducting a physical inspection of at least 10% of the LIHTC units in the developments as well as the common areas, mechanical rooms, and exteriors of the property to insure compliance with HUD's Uniform Physical Condition Standards (UPCS) that have been adopted by NHH. The Authority reserves the right to inspect more units if needed. In the event the Authority has completed a physical inspection of the property to fulfill other funding requirements, within the last two years, that inspection report will be used.

The LIHTC units to be inspected or reviewed will be selected in a manner that will not give owners of LIHTC projects advance notice of what unit will be inspected. NHHFA will provide an owner reasonable notice of impending inspection. The same unit/same file requirement will be removed.

Certifications

Annual certification of compliance by the owners will continue to be required. A new document will replace the [Owner's Certificate of Continuing Program Compliance](#), see website for document, www.nhhfa.org.

Training

Annual LIHTC training is not required. NHHFA highly recommends that LIHTC staff continue ongoing LIHTC training.

Monitoring Fees

There is no change in the monitoring fees. The current fee schedule will be utilized.

Noncompliance

In addition to other remedies allowed by law, the Authority may designate the owner of, and any party responsible for, properties remaining in noncompliance (after any opportunity to cure) as being not in good standing with the Authority.

Upon completion of the Extended Use Period, during the three-year period after the expiration of the Extended Use Period, owners will be required to submit a certification that no residents have been evicted or displaced for other than good cause and the rents have not been raised above the tax credit maximum rents.

Owners and management agents must keep careful track of when a development, and in some cases certain buildings within a development, transition from the Compliance Period into the Extended Use Period. Premature implementation of the Extended Use Period compliance and monitoring guidelines may result in noncompliance with IRC Section 42 for which New Hampshire Housing would be required to file IRS form 8823.

This policy will be reviewed periodically and may be modified to facilitate better administration of the Low Income Housing Tax Credit Program. Furthermore, the Authority may waive or make adjustments to any items contained within, on a case by case basis, for good cause shown to address unforeseen circumstances.

Any waiver granted by the Authority under this policy may be subject to the rights of any third party beneficiary of the applicable Declaration of the Land Use Restrictive Agreement for Low Income Housing Credits to seek enforcement of any of the applicable provisions thereof.