

# IHCDA Tenants' Guide to HOME Rental Housing

## **INTRODUCTION**

This document is a reference guide for tenants living in rental housing under the HOME program. It is designed to provide a basic program overview and to answer frequently asked questions. This manual should be a useful resource for tenants to better understand the program.

**Please note, however, that this document is to be used only as a basic introduction. It should not be considered a complete guide to the HOME program. In addition, different properties under the program may be subject to different expectations depending on the specific terms and agreements between the property owner and the Indiana Housing and Community Development Authority (IHCDA).**

## **SCOPE**

This document covers program eligibility, rent restrictions, tenant protections, and tenant responsibilities under the HOME program. This manual is meant to be a resource for tenants or potential tenants of HOME housing. This manual does not discuss the full compliance requirements of the program.

Property owners or managers looking for a full description of program compliance requirements should refer to IHCDA's manual entitled *Federal Programs Ongoing Rental Compliance Manual*. Developers looking for information on how to apply for HOME funding should refer to IHCDA's current application policy and forms.

## **\*\*DISCLAIMER\*\***

The publication of this document is for convenience only. Your use or reliance upon any of the provisions or forms contained herein does not, expressly or impliedly, directly or indirectly, suggest, represent, or warrant that you as a prospective tenant (applicant) will be admitted into HOME rental housing, nor that you as a current tenant are meeting all of your tenant obligations since lease requirements and tenant rules will vary from property to property.

**IHCDA's obligation to monitor for compliance with the requirements of the federal program regulations does not make IHCDA or its subcontractors liable for a property owner or management agent's noncompliance.**

**IHCDA cannot provide legal advice or aid.**

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## **Part 1: Program Introduction**

The HOME program is a federal affordable housing program governed by US Department of Housing and Urban Development (HUD). The purpose of the program is to provide grant or loan funding to property owners/developers to create affordable rental housing. In exchange for the funding, the property owner must agree to restrict occupancy to program eligible households (see Part 2 below), to follow program rent restrictions (see Part 3 below), and to keep the housing safe and sanitary.

HOME funds are allocated from HUD to states or cities. For Indiana, the Indiana Housing and Community Development Authority (IHCDA) receives a HOME allocation to fund activities in cities and towns throughout the state that are not large enough to receive their own direct funding from HUD. IHCDA conducts compliance audits, inspections, and annual reviews on all HOME funded properties in its jurisdiction in order to ensure that the program rules are being followed.

IHCDA does not own or manage any properties and does not take any applications. Interested applicants must apply onsite at the property. IHCDA strongly recommends that any households looking for housing options use the online housing search tool Indiana Housing Now at [www.indianahousingnow.org](http://www.indianahousingnow.org).

## **Part 2: Program Eligibility**

A household must be income qualified in order to be eligible for HOME rental housing. Before discussing income eligibility, it is first important to understand the definition of household.

### **2.1 Household Size**

Income limits are based on the number of individuals that will be living in the unit. For purposes of determining household size, a household includes all individuals that will reside in the unit, whether or not those individuals are related. This includes individuals temporarily absent from the household (such as children away at school), unborn children, children in joint custody agreements that will reside in the unit at least 50% of the time, and foster children or foster adults. There are two special rules related to households:

- The household members get to choose whether or not to include a member who is permanently confined to hospital or nursing home.
- Military members away on active duty are only counted in household size if they are the head or co-head, or if they leave behind a spouse or dependent child in the unit.

Live-in aides and guests are not counted in household size.





## 2.2 Income Eligibility

Once household size has been determined, this number is used to determine the correct income limit to apply. HUD annually releases program income limits based on household size. Each county has its own set of income limits.

HOME program units are designated for households at 30%, 40%, 50%, or 60% of the area median income (AMI). A unit will be designated for occupancy at one of these levels. A unit can be occupied by a household with an income below the limit. Therefore, a unit designated at 60% could have a household at 30% AMI move into it, but a unit designated at 30% could NOT have a household at 60% AMI move into it.

Income eligibility is determined by looking at all earned income (such as employment), unearned income (such as Social Security, child support, other benefits, etc.), and asset income (such as interest from bank accounts). The total household income from all household members from all sources (except those sources specifically excluded by program regulations) must be at or below the income limit at the time of move-in.

Example: if a household has 4 members and they wanted to move into a unit designated at 50% area median income, the property manager would have to determine household income and make sure that the income is at or below the 4 person 50% income limit in effect. If household income was above this limit, then the household would not be eligible to move-in.

## 2.3 Student Eligibility

In 2013 HUD changed the HOME program regulations. The new regulations add a prohibition on housing for students for properties assisted with HOME funding after the effective date of the new rule. Therefore, households in which one adult household member is a full-time or part-time student may be ineligible to live in HOME-assisted units.

A household that contains an adult full-time or part-time student may still be eligible for HOME-assisted housing if certain exemptions are met. When applying for housing at properties affected by the student rule, each household must complete a student status questionnaire. The questionnaire will walk through all possible student exceptions. If no adults are students or if an allowable exception can be documented, then the household will be considered eligible.

## 2.4 Applying for HOME Rental Housing

An individual or household must apply for HOME rental housing at the property at which they wish to reside. The application process will include the completion of an income and asset questionnaire. Any income or asset sources identified must be verified through third-party sources by property management to calculate income. After eligibility has been verified, the household must sign a "Tenant Income Certification" form certifying that all information provided was true and that the calculated household income is accurate.

All households accepted into HOME rental housing must enter into a lease agreement.



## 2.5 Tenant Selection

All HOME rental properties must comply with the program regulations regarding income eligibility as described in Part 2.2 above, and with student status eligibility if applicable as described in Part 2.3 above.

In addition, each property may create additional eligibility screening requirements. Common examples include:

- criminal background checks;
- previous landlord history background checks;
- credit history requirements;
- limits on the number of household members permitted to reside in a unit based on number of bedrooms in the unit; and
- a minimum income requirement.

Each property must create a written “tenant selection criteria” document to explain how applications will be processed and evaluated. The same eligibility criteria must be applied to all applicants. The written tenant selection criteria policy will also outline the waiting list procedure used at the property.

## **Part 3: Rent Restrictions**

All HOME program units are rent-restricted. Units may be rent-restricted at 30%, 40%, 50%, or 60% of the area median income (AMI). A unit will be designated as rent-restricted at one of these levels. The US Department of Housing and Urban Development (HUD) annually releases program rent limits based on the number of bedrooms in the unit. Each county has its own set of rent limits.

If tenants are responsible for paying their own utilities, then the property must use a “utility allowance.” This is an estimate of the average monthly utility cost for a unit.

To determine the actual rent that can be charged, the property manager must deduct the utility allowance from the rent limit in the chart released by HUD.

For example, a household lives in a two-bedroom unit designated at 50%. The HUD chart says that the rent limit for a two-bedroom unit at 50% in that county is \$550. The utility allowance for a two-bedroom unit at the property is \$150. The maximum amount of rent that can be charged to the household is \$400 (\$550 rent limit minus \$150 utility allowance).

NOTE: Properties are protected against future decreases in rent limits that occur after they have executed their HOME award agreement. This means that determining a rent limit is not always as simple as pulling up the current HUD rent limit chart.



## **Part 4: Tenant Protections**

Tenants are provided a number of protections under the HOME program.

### **4.1 Rent Protection**

All HOME units are rent-restricted. See Part 3 above for more information. All tenants living in HOME program units must be given at least 30 days notice prior to a rent increase.

### **4.2 Protection Against Future Income Increases**

Income eligibility is based on the household income at the time of initial move-in. Subsequent income increases do not make the household ineligible to remain in the unit. However, if the property has a mix of HOME program units and market rate units, and if the HOME program units are designated as “floating”, then a household that exceeds 80% of the income limit may be converted to market rate status and lose its rent-restricted status.

### **4.3 Section 8 Vouchers Accepted**

HOME rental properties cannot refuse to accept Section 8 vouchers. However, voucher holders must meet all other eligibility and tenant selection criteria in order to be eligible for occupancy.

### **4.4 Fair Housing**

All HOME rental properties are subject to the federal Fair Housing Act. Properties may not discriminate based on the seven protected classes: race, color, national origin, familial status, disability, religion, or sex. In addition, the property must allow reasonable accommodation and reasonable modification requests in accordance with the Fair Housing Act requirement.

Furthermore, the HOME program is subject to the HUD protection entitled “Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity.” This law prohibits HOME-assisted properties from discriminating on the basis of sexual orientation (actual or perceived), gender identity, or marital status.

### **4.5 No Eviction Without Good Cause**

HOME properties may not evict or non-renew leases without good cause. Good cause is generally defined as material violations of the lease, such as non-payment of rent, damage to property, failure to follow property rules, interference with other tenants, or fraud. Ultimately good cause is up to the determination of the court if challenged. All tenants must be given at least 30 days notice prior to termination of tenancy.

Increases in income after move-in are not good cause for eviction or non-renewal.

### **4.6 Lease Protections**

The HOME program regulations prohibit certain lease language, such as clauses excusing owners from all responsibility, requiring the tenant to waive the right to file a lawsuit or to contest court decisions, stating that the tenant will be responsible for all court costs regardless of outcome, or waiving the right to protections required by the program. IHCD monitors all lease language to ensure these prohibited clauses are not included.



## **Part 5: Tenant Responsibilities**

All applicants and tenants are responsible for completely and accurately reporting information related to household size, income and asset sources, and student eligibility (if applicable). This includes complying with requests for information in a timely manner, both at the time of initial application as well as at annual recertification.

Withholding or providing false information is grounds for denial (for applicants) or eviction (for existing tenants).

Tenants are responsible for complying with all lease terms and property rules and regulations.

In addition, tenants need to understand that their units will likely be chosen at some time for inspections by IHCDA staff or contractors. The purpose of such inspections is to ensure that the property is being maintained in a condition that provides safe, decent, and sanitary housing. Tenants must comply when their units are selected for inspection.

## **Part 6: Common Misconceptions**

Below is a list of common misconceptions about the program:

- IHCDA does not take applications or maintain waiting lists for the HOME rental housing. Applications must go directly through the property.
- Rent is not based directly on household income as it is with some other HUD programs. Rather, rent is based upon a set-aside designation assigned to the unit. Therefore, two households with significantly different incomes can be asked to pay the same rent if they are residing in units designated at the same rent set-aside. See Part 3 for more information on rent limits.
- HOME rental housing is not a subsidy program. While HOME properties may receive other sources of funding that offer rental assistance, the HOME program on its own does not provide any rental assistance.

## **Part 7: Complaints**

Tenant complaints should always first be addressed to the onsite property management staff and/or property management company. When a complaint cannot be resolved between the tenant and the management, the tenant may contact IHCDA by calling 317-232-7777 or 800-872-0371 and asking to speak with the Constituent Liaison. All program related complaints or complaints about the physical condition of the property that are received by IHCDA will be investigated. However, legal issues not related to specific program requirements generally cannot be addressed by IHCDA.

Discrimination complaints should be directed to the Indiana Civil Rights Commission via 317-232-2600 or 800-628-2909. Information is available at [www.in.gov/icrc](http://www.in.gov/icrc).