

NYS HOME Program Small Rental Development Initiative (SRDI) Guidance on Changes in HOME Rents

New York State enacted the “Housing Stability and Tenant Protection Act of 2019” and in 2020, due to the corona virus pandemic, has issued moratoriums on evictions. Please be aware and follow all New York State tenancy laws regarding rent increases and the timing for notification to Tenants, which may be different than federal HOME regulations. The guidance below is based on federal HOME regulations and is specific to NYS HOME funded SRDI rental projects.

I. Maximum Rent Limits

HOME Program rent limits are the maximum rents that can be charged to an income-eligible Tenant household residing in a HOME-assisted unit. The HOME program has two rent limits:

- a) High HOME rent limits
- b) Low HOME rent limits

The HOME rent limits include Tenant paid utilities. The Owner must deduct Tenant paid utilities from the published HOME rent limits to determine the maximum rent that can be charged for the HOME-assisted unit.

II. Low HOME Rents

Low HOME Rent units are occupied by Very Low-Income (VLI) Tenants at 50% or less Area Median Income (AMI). Rents are maintained at the Low HOME Rent Limits per bedroom size and adjusted for Tenant paid utilities. Low HOME rents apply to a minimum of 20% of the units in properties with five or more HOME-assisted units:

These units must have rents that do not exceed the lesser of:

- a) Low HOME rent as calculated by HUD, with adjustments for the number of bedrooms and Tenant paid utilities; or
- b) Fair Market Rent (FMR) for the unit bedroom size, calculated annually by HUD. Should the FMR be lower than the Low HOME rent calculation, the FMR is then considered the Low HOME rent.

III. High HOME Rents

High HOME Rent units are occupied by Low-Income (LI) households defined in SRDI as income above 50% AMI up to 80% AMI. Rents are maintained at the High HOME Rent limits.

These units must have rents that do not exceed the lesser of:

- a) High HOME rent as calculated by HUD, with adjustments for the number of bedrooms and Tenant paid utilities or:
- b) The Fair Market Rent (FMR) established annually by HUD. If the FMR is lower than

the High HOME rent calculation but greater than the Low HOME rent calculation, the FMR is then considered the High HOME rent.

IV. Rent increases might occur when:

- a) HUD-published rent limits increase
- b) The Tenant paid utilities and utility allowances decrease

V. Rent decreases might occur when:

- a) The HUD-published rent limits decrease
- b) If the Tenant pays utilities and the utility allowance increases causing the total rent plus the utility allowance to be more than the HUD published rent limits.

VI. HOME-Assisted Fixed Units

At the time of initial commitment of HOME funds, Owners were notified that all SRDI units have been designated as “Fixed” units. Properties with Fixed HOME units are those in which specific units are designated as HOME-assisted for the duration of the Period of Affordability (POA) and do not change.

VII. Maintaining HOME Unit Mix and Occupancy Income Targets:

Throughout the POA, Owners must maintain HOME’s occupancy (targeted income households) and unit mix (number of High and Low HOME rent units) as approved in the project operations budget at the time of contact completion.

VIII. Vacated HOME-Assisted Units

When a fixed HOME-assisted unit is vacated, the Owner must take the following steps to fill the vacancy:

- a) Rent a High HOME Rent unit that is vacated to a new qualified low-income (LI) Tenant at a rent that does not exceed the High HOME rent limit, as adjusted for bedroom size and tenant paid utilities.
- b) Rent a Low HOME Rent unit that is vacated to a new qualified very low-income (VLI) Tenant at a rent that does not exceed the Low HOME rent limit, as adjusted for bedroom size and tenant paid utilities.

IX. Over-Income Tenant Household

When an Owner recertifies a Tenant’s income and it has increased, in the HOME program, a Tenant is considered over-income when:

- a) The Tenant’s household income increases over the current applicable HUD

published income limit calculation by family size for qualification to rent the High/Low HOME unit.

When a Tenant is over-income residing in a High HOME unit (income recertified at above 80% AMI), the unit is considered temporarily out of compliance with HOME's occupancy and unit mix requirements. Temporary noncompliance due to an increase in an existing Tenant's income is permissible, but the Owner must take steps to restore the correct occupancy income targets and High and Low HOME unit mix in the property as soon as possible.

The Owner must adjust the rent of the over-income Tenant in the High HOME unit so that it pays 30% of its monthly adjusted income for rent and utilities, even if it is higher than the fair market rent. There is no rent cap for over income tenants in "Fixed" units. The rent must be adjusted as soon as the Tenant's lease permits and be in accordance with the terms of the lease.

Per HOME Program requirements, Owners may not evict or terminate the tenancy of a household because their income has increased.

Owners are never required to charge rents that are lower than the rent limits that were in effect at the time the NYS HOME Program and the HTFC made its initial commitment of HOME funds to the property.

X. NYS Homes and Community Renewal Statewide Asset Management Unit (SAMU)

During the POA, SRDI project occupancy income targets and HOME rents will be monitored for compliance by NYS Homes and Community Renewal's Statewide Asset Management Unit (SAMU). All rent increases must be approved by SAMU prior to implementation. Decreases in rents do not need to be approved by SAMU other than in the annual update to the project's operations budget.

- a) Annually, Owners must provide SAMU with an updated operations budget to include updated HUD income and HOME rent limits and any changes in utility allowances.
- b) Changes in rents; the Owner will submit proposed rents to SAMU but may not implement the changed rents until SAMU approves.
- c) Prior to implementation, changes in rent require a minimum of 30 days' notice to Tenants or longer as provided by law.
- d) See Rent Increase and Budget Forms available on the SAMU website at: <https://hcr.ny.gov/asset-management>