

MARYLAND REGISTER

Proposed Action on Regulations

Comparison to Federal Standards Submission and Response

Name: Mark S Petrauskas
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In accordance with Executive Order 01.01.1996.03 and memo dated July 26, 1996, the attached document is submitted to the Department of Business and Economic Development for review.

The Proposed Action is not more restrictive or stringent than corresponding federal standards.

COMAR Codification: 05.12.01..02-.07, .09-.11, .14-.16, .18-.22

Corresponding Federal Standard:

24 CFR Part 92

Discussion/Justification:

The changes to the HOME regulations are necessary to conform to recent changes in the federal HOME regulations.

TO BE COMPLETED BY DBED

- Agree

-Disagree

Comments:

I do not have the subject matter expertise on this matter. However, I believe DHCD does and trust their assertion that the proposed State regulation is not more stringent than the Federal regulation

Name: Sandy Popp

Date: 8/28/2014

-Submit to Governor's Office

Governor's Office Response

Comments:

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	08/28/2014	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 9/19/2014

2. COMAR Codification

Title Subtitle Chapter Regulation

05 12 01 .02-.07, .09-.11, .14-.16, .18-.22

3. Name of Promulgating Authority

Department of Housing and Community Development

4. Name of Regulations Coordinator

Mark S Petrauskas

Telephone Number

410-514-7834

Mailing Address

100 Community Place

City	State	Zip Code
Crownsville	MD	21032

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5. Name of Person to Call About this Document

Honora W. Sutor

Telephone No.

410-514-7819

Email Address

Sutor@mdhousing.org

6. Check applicable items:

New Regulations

Amendments to Existing Regulations

Date when existing text was downloaded from COMAR online: August 1, 2014.

Repeal of Existing Regulations

Recodification

Incorporation by Reference of Documents Requiring DSD Approval

Reproposal of Substantively Different Text:

: Md. R
(vol.) (issue) (page nos) (date)

Under Maryland Register docket no.: --P.

7. Is there emergency text which is identical to this proposal:

Yes No

8. Incorporation by Reference

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Honora W. Sutor, Assistant Attorney General, (telephone #410-514-7819) on August 1, 2014. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Raymond A. Skinner

Title

Secretary

Telephone No.

410-514-7005

Date

August 7, 2014

**Title 05
DEPARTMENT OF HOUSING AND COMMUNITY
DEVELOPMENT**

Subtitle 12 FEDERAL HOUSING PROGRAMS

05.12.01 Maryland HOME Program

Authority: Housing and Community Development Article, §4-211(a)(8) and (9); State Finance and Procurement Article, §§5-7B-01—5-7B-10; Annotated Code of Maryland Executive Order 01.01.1998.04

Notice of Proposed Action

□

The Secretary of Housing and Community Development proposes to amend Regulations .02-.07, .09-.11, .14-.16, .18-.22 under COMAR 05.12.01 Maryland HOME Program.

Statement of Purpose

The purpose of this action is to conform the regulations to recent changes in the federal HOME regulations (24 CFR Part 92) and to revise the HOME multifamily program to conform to recent changes made for the Rental Housing Program as a result of the Multifamily Rental Housing Programs Efficiency Act (Laws of Maryland 2014, HB 453), which is administered in conjunction with the HOME multifamily program.

Comparison to Federal Standards

There is a corresponding federal standard to this proposed action, but the proposed action is not more restrictive or stringent.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Dale Quisgard, HOME Program Manager, Department of Housing and Community Development, 100 Community Place, Crownsville, MD 21032, or call 410-514-7456, or email to Quisgard@mdhousing.org, or fax to 410-514-7291. Comments will be accepted through October 19, 2014. A public hearing has not been scheduled.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 2014

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

Yes

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

Federal funds

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

E. If these regulations have no economic impact under Part A, indicate reason briefly:

There is no economic impact because the proposed regulations are being made to conform the regulations to recent changes in the federal HOME regulations (24 CFR Part 92) and for the HOME multifamily program to conform to recent changes made for the Rental Housing Program as a result of the Multifamily Rental Housing Programs Efficiency Act (Laws of Maryland 2014, HB 453), which is administered in conjunction with the HOME multifamily program. No funding changes are being made.

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

The proposed regulations have no economic impact on small businesses because the changes are being made to conform the regulations to recent changes in the federal HOME regulations (24 CFR Part 92) and for the HOME multifamily program to conform to recent changes made for the Rental Housing Program as a result of the Multifamily Rental Housing Programs Efficiency Act (Laws of Maryland 2014, HB 453), which is administered in conjunction with the HOME multifamily program.

G. Small Business Worksheet:

Attached Document:

Title 05 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Subtitle 12 FEDERAL HOUSING PROGRAMS

Chapter 01 Maryland HOME Program

Authority: Housing and Community Development Article, §4-211(a)(8) and (9); State Finance and Procurement Article, §§5-7B-01—5-7B-10; Annotated Code of Maryland Executive Order 01.01.1998.04

.01 (text unchanged)

.02 Objectives.

The objectives of the Maryland HOME Program are to:

A. (text unchanged)

B. Finance programs, projects, and activities that fill a need not met by the [DHCD] *Department's* housing programs, but that promote the development and rehabilitation of housing for homeowners, renters, and special populations; and

C. (text unchanged)

.03 Definitions.

A. The terms appearing in 24 CFR *Part* 92 have the meanings defined there and, in addition, the meanings used in this chapter.

B. Terms Defined.

(1) "Administration" means the Community Development Administration, a unit of the Division of Development Finance of the Department.

[1] (2)- [4] (5) (text unchanged)

[5] (6) ["Department (DHCD)"]

(a) "Department" means the Department of Housing and Community Development, a principal department of the State.

(b) "Department" includes the Administration.

[6] (7) "DHCD housing programs" means collectively the [Multifamily] Rental Housing [Programs] Program, the Single Family Programs, the Multifamily Bond Program, the Low Income Housing Tax Credit Program, and the Shelter and Transitional Facilities Grant Program, all as authorized under the Housing and Community Development Article, Annotated Code of Maryland, and this title.

[7] (8) (text unchanged)

[(8) "Family" means an individual or a group of individuals who occupy a dwelling unit as their permanent residence.]

(9) – (12) (text unchanged)

(13) ["Household" means one or more persons occupying a housing unit].

(a) "Household" means one or more individuals who occupy the same residential dwelling unit as their permanent residence.

(b) "Household" includes a family as defined in 24 CFR §5.403, as amended.

(14) – (15) (text unchanged)

(16) ["Income eligible household" means].

(a) "Income eligible household" means a household whose gross annual income does not exceed the income limits for low income families or very low income families as set forth in 24 CFR §92.2.

(b) "Income eligible household" does not include a student who is not eligible to receive Section 8 assistance under 24 CFR §5.612.

(17) (text unchanged)

[(18) "Moderate rehabilitation" means the rehabilitation of residential property at an average cost for the project of less than \$25,000 per dwelling unit.]

(19) "Multifamily Rental Housing Programs" means the:

(a) Multi-Family Rehabilitation Program of the Maryland Housing Rehabilitation Program authorized under Housing and Community Development Article, Title 4, Subtitle 9, Annotated Code of Maryland;

(b) Nonprofit Rehabilitation Program authorized under Housing and Community Development Article, §4-929, Annotated Code of Maryland;

(c) Rental Housing Production Program authorized under Housing and Community Development Article, Title 4, Subtitle 15, Annotated Code of Maryland; and

(d) Elderly Rental Housing Program authorized under Housing and Community Development Article, Title 4, Subtitle 4, Annotated Code of Maryland.]

[(20)] (18) – [(21)] (19) (text unchanged)

[(22)] (20) "Participating jurisdiction" means a jurisdiction that:

(a) (text unchanged)

(b) As of October 1, [2005] 2013, consisted of Baltimore City and Anne Arundel, Baltimore, Harford, Howard, Montgomery, and Prince George's counties.

[(23)](21) (text unchanged)

(22) "Program Guide" means the Multifamily Rental Financing Program Guide adopted by the Department, as amended from time to time.

[(24)] (23) (text unchanged)

[(25)] (24) Reconstruction.

(a) – (b) (text unchanged)

(c) "Reconstruction" includes housing that was destroyed and is rebuilt on the same lot if HOME funds are committed within 12 months of the date of destruction.

[(26)] (25) – [(28)] (27) (text unchanged)

[(29)] (28) "Single Family Programs" means the:

(a) – (i) (text unchanged)

(j) Special Housing Opportunities Program authorized under Housing and Community Development Article, §§4-244—4-245, Annotated Code of Maryland; [and]

(k) Federal Lead Hazard Reduction Program authorized under Housing and Community Development Article, §4-211(a)(8) and (9), Annotated Code of Maryland[.]; and

(l) Accessible Homes for Senior Homeowners Grant Program authorized under Housing and Community Development Article, §4-931, Annotated Code of Maryland.

[(30)] (29) "Single room occupancy housing" means housing consisting of single room dwelling units which are the primary residence of the occupant or occupants and, if [the housing is being]:

(a) *The housing is being:*

(i) Newly constructed, converted from nonresidential space, or reconstructed, each unit contains food preparation facilities or sanitary facilities, or both; or

[(b)] (ii) Acquired or rehabilitated, the building contains at least sanitary facilities for the use of occupants.

(b) *A project's designation as single room occupancy housing must not be inconsistent with the building's zoning and building code classification.*

[(31)] (30) (text unchanged)

[(32)] (32) "Substantial rehabilitation" means the rehabilitation of residential property at an average cost for the project in excess of \$25,000 per dwelling unit.]

[(33)] (31) (text unchanged)

[(34)] (32) "Transitional housing" means housing that:

(a) Provides housing, together with appropriate supportive services, to people, including deinstitutionalized people with disabilities, homeless individuals with disabilities, and homeless [families] *households* with children; and

(b) Assists individuals and [families] *households* to live independently within a certain time period.

[(35)] (33) (text unchanged)

.04 Eligible Projects and Activities— Federal Criteria.

A. All projects and activities funded with HOME funds shall meet the general eligibility criteria in 24 CFR *Part* 92, which is incorporated by reference.

B. (text unchanged)

C. Eligible activities are:

(1) – (4) (text unchanged)

(5) [Moderate rehabilitation] *Rehabilitation*;

[(6)] Substantial rehabilitation;]

[(7)] (6)– [(9)] (8) (text unchanged)

[(10)] (9) Tenant-based rental assistance under the provisions of the Maryland HOME Initiatives Program Fund set forth in Regulation .05C of this chapter, including assistance with security deposits *and utility deposit assistance, but only if utility deposit assistance is provided with tenant-based rental assistance or security deposit payment*;

[(11)] (10) Preconstruction costs under Regulation .09C and D of this chapter; [and]

[(12)] (11) Operating expenses of community housing development organizations (CHDOs)[.]; *and*

(12) *Public housing projects, only to the extent permitted under 24 CFR §92.213.*

D. Ineligible activities are:

(1) – (3) (text unchanged)

[(4)] Public housing maintenance, operation, or modernization;]

[(5)] (4) (text unchanged)

[(6)] (5) Projects previously assisted by HOME funds (except for tenant-based rental assistance or assistance to first-time home buyers) during the period of affordability required under Regulation .15D of this chapter or the period specified in Regulation .17D(2) of this chapter, except within 1 year of completion if the total HOME funds in the project do not exceed the maximum allowable subsidy amount *and except as permitted by 24 CFR §92.210 for troubled HOME assisted rental housing projects*;

[(7)] (6) [Facilities] *Housing* for students;

[(8)] (7) Emergency shelters; [and]

(8) *Halfway houses*;

(9) *Dormitories (including farmworker dormitories)*; *and*

[(9)] (10) Transaction costs of privately refinanced debt.

.05 Eligible Projects and Activities—State Criteria.

A. – C. (text unchanged)

D. [Local] *Political Subdivisions; Notice and Contribution [and Support]*.

(1) For rental housing development projects, the project shall comply with the [local] *political subdivision notice and contribution [and support]* requirements in COMAR 05.05.01.07.

(2) (text unchanged)

.06 Eligible Recipients.

A. (text unchanged)

B. Otherwise eligible recipients who are suspended or debarred from the Department's *or HUD's* programs may not be approved.

C. If an eligible recipient [is primarily a religious organization or controlled by a religious organization, the recipient shall covenant that the project funded through HOME will be used solely for secular purposes and be made available to all people regardless of religion] *engages in explicitly religious activities, including activities that involve overt religious content such as worship, religious instruction, or proselytization, then the recipient must perform such*

activities and offer such services outside of programs that are supported with federal financial assistance and separately, in time or location, from the programs or services funded with HOME funds, and participation in any such explicitly religious activities must be voluntary for the program beneficiaries of the HOME-funded programs or services.

.07 Eligible Costs.

HOME funds may be used to pay any costs permitted by 24 CFR Part 92. HOME funds generally may be used to pay for the following costs:

A. The actual hard costs of new construction, including the costs of complying with Regulation .14[B] of this chapter;

B. Rehabilitation hard costs to[:] *meet the property standards for rehabilitation projects in Regulation .14 of this chapter.*

- [(1) Correct substandard conditions,
- (2) Make essential improvements,
- (3) Make energy-related repairs or improvements,
- (4) Make handicapped improvements,
- (5) Abate lead paint hazards,
- (6) Replace major house systems,
- (7) Reconstruct existing housing, and
- (8) Make improvements to facilitate the ability of senior citizens to remain in their housing;]

C. The cost of refinancing existing debt secured by housing that is being rehabilitated with HOME funds:

(1) For single-family (one-to-four family) owner-occupied housing, if the overall housing costs of the sponsor will be reduced and made more affordable *and if the rehabilitation cost is greater than the amount of debt that is refinanced*, and

(2) (text unchanged)

D- F. (text unchanged)

[G. The cost of acquiring unimproved real property;]

[H.] G. Cost of acquiring vacant land or the cost of demolishing improvements *as permitted in 24 CFR §92.205*;

[I.] H. Reasonable and necessary soft costs related to the development of the project such as:

(1) Architectural, engineering, and related professional fees *incurred not more than 24 months before the HOME funds were committed to the project*,

(2) - (8) (text unchanged)

(9) For new construction or [substantial] rehabilitation of a rental housing development project, the cost of funding an initial operating deficit reserve to meet shortfalls in project income during an initial rent-up period of up to 18 months, provided that unexpended funds are returned to the HOME Investment Trust Fund, and

(10) (text unchanged)

[J.] I. (text unchanged)

[K.] J. Operating expenses of CHDOs, if the Department does not:

(1) (text unchanged)

(2) Fund, in any fiscal year, more than the greater of 50 percent of, or \$50,000 towards, the *total* operating expenses of a CHDO, including funds for organizational support, housing education, and [administrative funds] *operating expenses provided under 24 CFR §92.208.*

.08 (text unchanged)

.09 Allocation of Funds—Community Housing Development Organizations.

A. Eligible Organizations. Community housing development organizations are eligible if they meet the [following] criteria *set forth in 24 CFR §92.2[:]*.

[(1) Are private nonprofit organizations;

(2) Are organized under State laws;

(3) Have no part of their net earnings inuring to the benefit of any member, founder, contributor, or individual;

(4) Are neither controlled by, nor under the direction of, individuals or entities seeking to derive profit or gain from the organization, but may be sponsored or created by a for-profit entity, if:

(a) The for-profit entity is not an entity whose primary purpose is the development or management of housing, such as a builder, developer, or real estate management firm,

(b) The for-profit entity does not have the right to appoint more than one-third of the membership of the organization's governing body and board members appointed by the for-profit entity may not appoint the remaining two-thirds of the board members, and

(c) The community housing development organization is free to contract for goods and services from vendors of its own choosing;

(5) Have a tax exemption ruling from the Internal Revenue Service under §501(c)(3) or (4) of the Internal Revenue Code of 1986;

(6) Do not include a public body or an instrumentality of a public body;

(7) Meet applicable federal standards of financial accountability that conform to those described under 24 CFR §92.2 in the definition of community housing development organization;

(8) Have among the CHDO purposes the provision of decent housing that is affordable to low-income and moderate-income persons, as evidenced in their charter, articles of incorporation, resolutions, or bylaws;

(9) Maintain accountability to low-income community residents by:

(a) Maintaining at least one-third of their governing boards' membership for residents of low-income neighborhoods, other low-income community residents, or elected representatives of low-income neighborhood organizations, and

(b) Providing a formal process for low-income program beneficiaries to advise the organization in its decisions regarding the design, siting, development, and management of affordable housing;

(10) Have a demonstrated capacity for carrying out activities assisted with HOME funds, as evidenced by:

(a) Hiring experienced, accomplished key staff members who have successfully completed similar projects, or

(b) Engaging a consultant with the same type of experience and adopting a plan to train appropriate key staff members of the organization; and

(11) Have a history of serving the community within which housing to be assisted with HOME funds is to be located.]

B. CHDO Set Asides.

(1) Fifteen percent of the total allocation to the HOME Investment Trust Fund shall be reserved for [24 months for] *and used by* [community housing development organizations] *CHDOs in accordance with 24 CFR §92.300*. Up to 10 percent of the funds reserved for CHDOs may be reserved for loans made under §§C and D of this regulation.

[(2)] (2) The CHDO shall be:

(a) For a homeownership project, the:

(i) Developer, or

(ii) Sponsor; and

(b) For a rental housing development project, the:

(i) Sole owner,

(ii) Managing general partner of the owner partnership, or

(iii) The sole parent of a wholly owned for-profit subsidiary which subsidiary is the managing general partner of the partnership.]

[(3)] (2) (text unchanged)

(a) – (d) (text unchanged)

C. Eligible Uses—Technical Assistance and Site Control.

(1) – (2) (text unchanged)

(3) Loans under this section may be used to pay:

(a) – (c) (text unchanged)

(d) Legal, architectural, and engineering fees; [and]

(e) *Engagement of a development team;*

(f) *Option to acquire property; and*

[(e)] (g) Site control and title clearance.

(4) *Loans under this section may not be used to pay for the general operational expenses of a CHDO.*

[(4)] (5) (text unchanged)

D. Eligible Uses—Seed Money Loans.

(1) (text unchanged)

(2) A CHDO may apply to use HOME funds to provide CHDOs with funds to pay reasonable and customary preconstruction costs of a project[.], *including, but not limited to, the costs of:*

(a) *Obtaining firm construction loan commitments;*

(b) *Architectural plans and specifications;*

(c) *Zoning approvals;*

(d) *Engineering studies; and*

(e) *Legal fees.*

(3) In order to qualify for a loan under of this section, a CHDO is required to have:

(a) Control of the site *evidenced by a deed, sales contract, or an option contract to acquire the property;*

(b) – (c) (text unchanged)

(4) (text unchanged)

E. (text unchanged)

.10 Terms and Conditions of Financial Assistance—General.

A. (text unchanged)

B. Maximum Amount of Financial Assistance.

(1) The maximum amount of financial assistance to a single project or activity generally may not exceed the lesser of:

(a) [\$1,500,000] \$2,000,000; or

- (b) An amount equal to the greater of the per unit dollar limits:
 - (i) Set under §221(d)(3)(iii) of the National Housing Act *for elevator-type projects that apply to the area in which the housing is located*, or
 - (ii) (text unchanged)
- (2) In the discretion of the Department, a higher amount than the amount identified in §B(1)(a) of this regulation may be approved if:
 - (a) (text unchanged)
 - (b) The project serves more than the required number of income eligible [families] *households*;
 - (c) – (e) (text unchanged)
- C. (text unchanged)
- D. Term. The maximum term of financial assistance for HOME funds disbursed as loans is one of the following:
 - (1) (text unchanged)
 - (2) A term not to exceed 18 months if the HOME funds are used to fund an operating deficit for a new construction or [substantial] rehabilitation rental housing development project;
 - (3) (text unchanged)
- E. Interest Rate.
 - (1) (text unchanged)
 - (2) For rental housing development projects, interest rates for each loan shall be established based on the underwriting for each project *and in accordance with the Program Guide*. The maximum interest rate on a loan shall be at a rate which does not impair the financial viability of the project or the capability of the sponsor to provide rents which are affordable to income eligible households. The interest rate may be as low as zero percent, based upon projected cash flows for the proposed project.
- F. Repayment.
 - (1) – (2) (text unchanged)
 - (3) In the case of repayments for terminated projects, a project shall be terminated and HOME funds disbursed as loans shall be repaid to the Department before maturity upon the earlier to occur of:
 - (a) – (b) (text unchanged)
 - (c) For rental housing developments, termination of the project or activity before completion, unless the loan was to a CHDO *under Regulation .09C or D of this chapter* and the Department waives repayment, in whole or in part, [on the basis that project development cannot be completed due to factors reasonably beyond the control of a CHDO] *under that Regulation*.
- G. Security for Capital Assistance Loans.
 - (1) – (2) (text unchanged)
 - (3) Loans made to CHDOs under Regulation .09C and D of this chapter [may not] *will* be required to be secured by a recorded mortgage [or] deed of trust, [at the option of the Department, so long as the obligations of the CHDO are secured by a recorded] *or* declaration of covenants *if the CHDO owns the site or obtains ownership of the site as a result of receipt of the loan*.
- H. (text unchanged)
 - I. *Reduction of Units. After project completion, the number of units designated as HOME-assisted may be reduced only in the following circumstances:*
 - (1) *In accordance with 24 CFR §92.210 with respect to troubled HOME projects; or*
 - (2) *In a project consisting of all HOME-assisted units, one unit may be subsequently converted to an on-site manager's unit if (a) the conversion will contribute to the stability or effectiveness of the housing, and (b) notwithstanding the loss of one HOME-assisted unit, the costs charged to the HOME program do not exceed the actual costs of the HOME-assisted units and do not exceed the subsidy limit in Regulation .10(B) of this chapter.*

.11 Terms and Conditions—Distribution of Sales Proceeds/Equity Sharing.

- A. As a condition to receipt of HOME funds disbursed as loans, a homeowner who receives HOME funds for house acquisition is required to enter into an agreement concerning the distribution of net proceeds upon the sale of the house as described in Regulation .17[B(6)]B-1 of this chapter.
- B. – E. (text unchanged)

.12 - .13 (text unchanged)

.14 Property Standards.

- A. *The following standards apply to projects to which funds are committed prior to January 24, 2015:*
 - (1) All housing assisted with HOME funds shall meet the housing quality standards set forth in 24 CFR §982.401.
 - [B.] (2) Newly constructed or [substantially] rehabilitated housing shall meet the standards set forth in 24 CFR §92.251 and all applicable local codes, ordinances, rehabilitation standards, and zoning ordinances.
 - [C.] (3) (text unchanged)
 - [(1)] (a)- [(3)] (c)(text unchanged)
 - [D.] (4) (text unchanged)

- [(1)] (a)- [(2)] (b) (text unchanged)
- [E.] (5) (text unchanged)
- [(1)] (a) - [(4)] (d) (text unchanged)
- [(a)] (i) - [(b)] (ii) (text unchanged)
- [(5)] (e) (text unchanged)

B. *The following standards apply to projects to which funds are committed on or after January 24, 2015:*

(1) *New construction projects. New construction projects must meet the requirements set forth in 24 CFR §92.251(a).*

(2) *Rehabilitation Projects.*

(a) *Rehabilitation projects must meet the Department's rehabilitation property standards, which are available either directly from the Department or on the Department's website.*

(b) *The construction contract(s) and construction documents must describe the work to be undertaken in adequate detail so that inspections can be conducted. Written cost estimates will be reviewed and will be approved only if costs are determined to be reasonable.*

(c) *An initial property inspection will be conducted to identify any deficiencies that must be addressed. The Department or its designee will conduct progress and final inspections to determine that work was completed in accordance with work write-ups and the Department's rehabilitation standards.*

(3) *Acquisition of Existing Housing.*

(a) *Existing housing that is acquired with HOME assistance for rental housing, and that was newly constructed or rehabilitated less than 12 months before the date of commitment of HOME funds, must meet the property standards of paragraph (1) or paragraph (2) of this section, as applicable. Compliance will be documented based upon a review of approved building plans and certificates of occupancy, and an inspection that is conducted no earlier than 90 days before the commitment of HOME assistance.*

(b) *All other existing housing that is acquired with HOME assistance for rental housing must meet the rehabilitation property standards requirements of paragraph (2) of this section. Compliance will be documented based upon an inspection that is conducted no earlier than 90 days before the commitment of HOME assistance.*

(c) *Existing housing that is acquired for homeownership, including down-payment assistance, must meet the Department's homeownership property standards, which are available either directly from the Department or on the Department's website. Compliance with these standards will be documented based upon an inspection that is conducted no earlier than 90 days before the commitment of HOME assistance.*

(4) *Housing occupied by tenants receiving HOME tenant-based rental assistance must meet the standards contained in 24 CFR § 982.401, or the successor requirements as established by HUD.*

(5) *Manufactured housing. Construction of all manufactured housing including manufactured housing that replaces an existing substandard unit under the definition of "reconstruction" must meet the requirements set forth in 24 CFR §92.251(e).*

(6) *Ongoing property condition standards for rental housing. All HOME-funded rental housing must meet the Department's ongoing property condition standards for rental housing throughout the affordability period. These standards are available either directly from the Department or on the Department's website.*

.15 Affordable Rental Housing Requirements—Rent and Occupancy Restrictions.

A. (text unchanged)

B. *Rent Limits. The following rent limits apply to rent plus utilities or utility allowance, as applicable.*

(1) Except as provided in §B(2) of this regulation, to qualify as affordable housing and a recipient of HOME funds, project rents may not exceed the lesser of:

(a) Fair market rent established by HUD for the area[, less the monthly allowance for utilities and services];

(b) An amount that does not exceed 30 percent of the adjusted income of a [family] household whose gross income equals 65 percent of median income as determined by HUD and adjusted for[

(i) The] the number of bedrooms in the unit[, and

(ii) A monthly allowance for utilities and services]; or

(c) (text unchanged)

(2) Unless a unit has been allocated federal low-income housing tax credits, if the income of an existing tenant of a HOME-assisted unit exceeds 80 percent of area median income adjusted for [family] household size, the rent charged for the HOME unit shall be adjusted to the lesser of:

(a) (text unchanged)

(b) 30 percent of the [family's] household's adjusted monthly income, as recertified annually.

C. *Additional Rent Limitations for Single Room Occupancy Housing.*

(1) *For single room occupancy housing that has both sanitary and food preparation facilities, the maximum HOME rent is based on the zero-bedroom fair market rent. The housing must meet the requirements of paragraphs A and B of this section.*

(2) *For single room occupancy housing that has no sanitary or food preparation facilities or only one of the two, the maximum HOME rent is based on 75 percent of the zero-bedroom fair market rent. The project is not required to*

have low HOME rents in accordance with paragraph B(1) or (2) of this section, but must meet the occupancy requirements of paragraph D of this section.

[C.]D. Occupancy Requirements.

(1) Multiple Unit HOME Projects.

(a) A HOME project with five or more rental units, or scattered multiple HOME projects under common ownership containing five or more rental units, is required to meet the requirements of §[C]D(1)(b)—(e) of this regulation.

(b) At least 20 percent of the units in the project shall be occupied by income eligible households[, as defined in Regulation .03B(15) of this chapter] *which qualify as very low income families as defined in 24 CFR §92.2.*

(c) For the units described under §[C]D(1)(b) of this regulation, rent [may not exceed the lesser of the following:

(i) The greater of 30 percent of the occupying household's monthly adjusted income, or 30 percent of a gross family income equal to 50 percent of the median income for the area, as determined by HUD; and

(ii) The rent calculated under §B of this regulation] *must meet the requirements set forth in 24 CFR §92.252(b).*

(d) All units in the project which do not meet the requirements of §[C]D(1)(b) and (c) of this regulation shall be occupied by households with annual incomes that do not exceed 80 percent of area median income adjusted for [family] household size. However, a qualified household may continue to occupy a unit in a project if the household's income exceeds 80 percent of area median income and the rent is adjusted as set forth in §B(2) of this regulation.

(2) Regardless of changes in fair market rents and in median income over time, the rent limits set forth in §§B and [C]D(1)(c) of this regulation are not required to be lower than the HOME rent for the project in effect at the time of project commitment.

(3) Small HOME Projects. A HOME project with one to four rental units shall be occupied by households with annual incomes that do not exceed 80 percent of area median income adjusted for [family] household size.

(4) HOME Projects as Part of an Undertaking.

(a) If a loan is made for a project which is only a portion of the undertaking being acquired, constructed, or rehabilitated by an eligible recipient in part with HOME funds, the following formula shall be used to determine the minimum number of rental housing units which shall meet the occupancy requirements of §[C]D(1) of this regulation:

(i) – (iii) (text unchanged)

(iv) Equals the number of units in the HOME project subject to the requirement of §[C]D(1) of this regulation.

(b) (text unchanged)

[D.] E. Restrictive Covenants.

(1) – (2) (text unchanged)

(3) The document setting forth the restrictive covenants specified in §[D]E(1) and (2) of this regulation shall provide that, upon foreclosure by, or a deed in lieu of foreclosure to, an after recorded deed of trust securing the lender, the restrictive covenants shall be terminated if:

(a) – (c) (text unchanged)

F. HOME-assisted rental housing shall be occupied by income eligible households within six months following the date of project completion.

G. Records and Reports. The owner of rental housing must annually provide the Department with information on rents and occupancy of HOME-assisted units to demonstrate compliance with paragraphs A-F of this section. If the rental housing project has floating HOME units, the owner must provide the Department with information regarding unit substitution and filling vacancies so that the project remains in compliance with HOME rental occupancy requirements.

.16 Rental Housing Requirements—Landlord Obligations.

A. Nondiscrimination. Households having vouchers *under the Section 8 Tenant-Based Assistance: Housing Choice Voucher Program (24 CFR Part 982)* or other tenant-based rental assistance, *including the HOME tenant-based rental assistance program*, may not be excluded from units in the HOME project *because of the status of the prospective tenant as a holder of such voucher or other tenant-based assistance document.*

B. (text unchanged)

C. Lease Terms.

(1) (text unchanged)

(2) The lease shall be reviewed and approved by the Department to confirm that it does not contain an agreement by the tenant:

(a) – (f) (text unchanged)

(g) To waive any appeal rights or otherwise challenge a court decision concerning the lease; [and]

(h) To pay legal fees or costs if the tenant wins in court[.]; *and*

(i) *To accept supportive services that are offered (other than a tenant in transitional housing).*

(3) Lease Termination. A lease may only be terminated or a renewal be refused upon 30 days written notice and after:

- (a) – (b) (text unchanged)
- (c) Completion of [a] *the tenancy period for transitional housing or failure to follow any required transitional housing supportive services plan*; or
- (d) Other good cause, *which does not include an increase in the tenant's income or refusal of the tenant to purchase the housing.*

D. Property Maintenance.

[The] (1) *During the period of affordability, the owner of HOME-assisted rental housing shall maintain the premises in compliance with [all applicable housing quality standards and local code requirements] Regulation .14A(1) or .14B(6) of this chapter, as applicable.*

(2) *The Department or its designee will inspect the property in accordance with the requirements contained in 94 CFR §92.504.*

(3) *The property owner must annually certify to the Department that each building and all HOME- assisted units in the project are suitable for occupancy and are in compliance with the Department's property standards.*

E. Tenant Selection. The owner of a rental housing development project assisted with HOME funds [shall adopt] *must comply with the Department's affirmative marketing requirements, including the adoption of written tenant selection policies and criteria that:*

(1) [Are consistent with the purpose of service to income eligible households] *Limit the housing to income eligible households;*

(2) [Reasonably relate to the applicant's ability to perform under the lease and the Program requirements] *Are reasonably related to the tenant's ability to perform the obligations of the lease;*

(3) – (4) (text unchanged)

F. *Affirmative Fair Housing Marketing Plan. Each project shall submit for review and approval by the Department an affirmative fair housing marketing plan in accordance with the requirements of the Program Guide. The Department shall monitor the project's compliance with the approved plan.*

G. *Prohibited Fees. Project owners may not charge fees that are not customarily charged in rental housing, except that rental project owners may charge:*

(1) *Reasonable application fees to prospective tenants;*

(2) *Parking fees to tenants only if such fees are customary for rental housing projects in the neighborhood; and*

(3) *Fees for services such as bus transportation or meals, as long as the services are voluntary and fees are charged for services provided.*

.17 (text unchanged)

.18 Tenant-Based Rental Assistance Requirements.

A. (text unchanged)

B. Tenant-Based Rental Assistance—General Conditions.

(1) – (6) (text unchanged)

(7) *Housing occupied by a household receiving HOME tenant-based rental assistance under this regulation shall meet the housing quality standards set forth in 24 CFR §982.401 or the successor requirements as established by HUD.*

C. Rental Assistance.

(1) - (3) (text unchanged)

(4) Monthly Assistance.

(a) The amount of the monthly assistance may not exceed the difference between:

(i) A rent standard for the unit size established by the Department or its designee, which standard [may be not less than 80 percent of the published §8 Existing Housing fair market rent (in effect when the payment standard amount is adopted) for the unit size, or more than the fair market rent or HUD-approved community-wide exception rent (in effect when the Department or its designee adopts its rent standard amount) as set by HUD for the unit size or an amount based] *must be based on the Section 8 Housing Choice Voucher Program (24 CFR Part 982) or on local market conditions; and*

(ii) (text unchanged)

(b) (text unchanged)

(5) *In any case when assistance under §8 of the United States Housing Act of 1937 becomes available [to the Department or its designee], recipients of tenant-based rental assistance under this regulation shall qualify for tenant selection preferences to the same extent as when they received the HOME tenant-based rental assistance under this regulation.*

D. (text unchanged)

.19 Application Procedures.

A. – B. (text unchanged)

C. Timing.

(1) (text unchanged)

(2) *Maryland HOME Initiatives Program Fund applications shall be made in accordance with application and competition cycles published by the Department. The Department shall notify nonprofit organizations, CHDO,*

developers, local governments, and other interested persons of application cycles. Notification may be by direct mailing, notices in newspapers with major Statewide circulation, or other methods selected by the [Administration] Department.

.20 Processing Procedures.

A. (text unchanged)

B. Maryland HOME Initiatives Program Fund Processing.

(1) (text unchanged)

(2) Threshold Requirements. Applications may not be considered for funding unless they meet the following minimum requirements:

(a) The application shall be consistent with 24 CFR *Part* 92;

(b) – (e) (text unchanged)

(f) The [Administration] Department shall determine, based on the documentation provided with the application, if the project or program is feasible; the [Administration's] Department's review will include financial, construction, and management reviews; and

(g) The applicant shall demonstrate:

(i) That the project or program meets all of the requirements of 24 CFR *Part* 92;

(ii) (text unchanged)

(iii) The ability to satisfy all long-term monitoring, record-keeping, and reporting requirements which are required by 24 CFR *Part* 92.

(3) - (5) (text unchanged)

(6) The Department shall specify a time limit within which that loan shall be closed in the case of projects or funds shall be committed and expended in the case of programs, which time limit may be extended in the Department's sole discretion. If closing does not occur within the time limit specified in the commitment or if the recipient fails to commit and expend the funds within the time limit provided in the commitment letter, the Department may use the funds committed for the loan or program for any other loan or program permitted by these regulations and 24 CFR *Part* 92.

C. All applications for projects to use HOME funds through the [multifamily] rental housing [programs] program or for rental housing development projects shall be processed in accordance with the published processing procedures as stated in COMAR 05.05.01.19—26, provided that this chapter shall prevail in the event of a conflict between any provision under COMAR 05.05.01.19—26 and any provision of this chapter.

D. Rejection.

(1) – (2) (text unchanged)

(3) If an application for HOME funds through the [multifamily] rental housing [programs] program or for a rental housing development project is rejected, the project sponsor shall be notified in accordance with COMAR 05.05.01[.25].26.

E. Reconsideration.

(1) (text unchanged)

(2) Applicants rejected under §D(3) of this regulation may request reconsideration of a rejection in accordance with COMAR 05.05.01[.25].26.

(3) An initial decision or reconsideration of a decision is not a contested case within the meaning of the Administrative Procedure Act or COMAR [05.04.02]05.01.01.

F. Loan and Grant Documents.

(1) (text unchanged)

(2) For HOME loans made for rental housing development projects, the loan documents shall comply with COMAR 05.05.01[.26].27.

.21 Nondiscrimination and Drug-Free and Alcohol-Free Workplace.

A. [Recipients of HOME funds may not discriminate against a person on the basis of race, color, religion, national origin, sex, marital status, physical or mental handicap, sexual orientation, or age in any aspect of their projects.] *A sponsor or other recipient of HOME funds or contractor may not discriminate on the basis of race, color, religion, national origin, sex, marital status, physical or mental handicap, sexual orientation, or age, except with regard to age as permitted under the federal Housing for Older Persons Act, as amended from time to time, or other similar federal laws, in leasing or otherwise providing dwelling accommodations or in any other aspect of the development, administration, or operation of any project or undertaking financed or assisted under the program, or in any aspect of employment by any sponsor, developer, or contractor in the construction, repair, or maintenance of any property financed or assisted under the program.*

B. Each sponsor or other recipient of HOME funds or contractor shall comply with all applicable federal, State, and local laws and Department policies and programs regarding discrimination and equal opportunity in employment, housing, and credit practices, and drug and alcohol free workplaces, including:

(1) – (2) (text unchanged)

(3) [Article 49B] Title 20 of the State Government Article, Annotated Code of Maryland, as amended;

(4) The Americans with Disabilities Act of 1990, as amended; [and]

(5) The Department's Minority Business Enterprise Program, as amended;
(6) *The Fair Housing Amendments Act of 1988, as amended; and*
(7) *Executive Order 01.01.1989.18 relating to Drug and Alcohol Free Workplaces, and any Department regulations adopted or to be adopted to carry out the requirements of that Order*

[C. HOME recipients shall comply with the provisions of the Governor's Executive Order 01.01.1989.18 regarding a drug-free and alcohol-free workplace] and any regulations promulgated under it.

[D.] C. Covenants implementing these requirements, including affirmative action measures, shall be included in appropriate agreements between the Department and [the recipient] *other parties*.

.22 Program Administration.

A. – C. (text unchanged)

D. The Secretary may waive or vary particular provisions of these regulations to the extent that the waiver or variance is not inconsistent with the provisions of 24 CFR *Part 92 and the HOME Investments Partnerships Act, Title 11 of the Cranston-Gonzalez National Affordable Housing Act, as amended, 42 U.S.C. §12701 et seq.*, if:

(1) In the written determination of the Secretary, the application of the regulations in a specific case or in an emergency situation would be inequitable or contrary to the purposes of the Program or 24 CFR *Part 92 or 42 U.S.C. §12701 et seq.*; or

(2) (text unchanged)

E. (text unchanged)

.23 (text unchanged)