

The Internal Revenue Service is suspending certain requirements under Section 42 of the Internal Revenue Code for low-income housing credit projects in the United States to provide emergency housing relief needed as a result of the devastation caused by severe storms, tornadoes, and flooding in Iowa beginning on May 25, 2008.

## **BACKGROUND**

The State of Iowa has requested that the Service allow owners of low-income housing credit projects to provide temporary housing in vacant units to individuals who resided in jurisdictions designated for Individual Assistance in Iowa and who have been displaced because their residences were destroyed or damaged as a result of the devastation caused by the severe storms, tornadoes, and flooding. Based upon this request and because of the widespread damage to housing caused by the severe storms, tornadoes, and flooding, the Service has determined that the Iowa Finance Authority (Authority) may provide approval to project owners to provide temporary emergency housing for displaced individuals in accordance with this notice.

## **I. SUSPENSION OF INCOME LIMITATIONS**

The Service has determined that it is appropriate to temporarily suspend certain income limitation requirements under Section 42 for certain qualified low-income projects. The suspension will apply to low-income housing projects approved by the Authority, in which vacant units are rented to displaced individuals. The Authority will determine the appropriate period of temporary housing for each project, not to extend beyond July 31, 2009 (temporary housing period).

## **II. STATUS OF UNITS**

A. Units in the first year of the credit period: A displaced individual temporarily occupying a unit during the first year of the credit period under Section 42(f)(1) will be deemed a qualified low-income tenant for purposes of determining the project's qualified basis under Section 42(c)(1), and for meeting the project's 20-50 test or 40-60 test as elected by the project owner under Section 42(g)(1). After the end of the temporary housing period a displaced individual will no longer be deemed a qualified low-income tenant.

B. Vacant units after the first year of the credit period: During the temporary housing period established by the Authority, the status of a vacant unit after the first year of the credit period that becomes temporarily occupied by a displaced individual remains the same as the unit's status before the displaced individual moves in. Displaced individuals temporarily occupying vacant units will not be treated as low-income tenants under Section 42(i)(3)(A)(ii). However, even if it houses a displaced individual, a low-income or market rate unit that was vacant before the effective date of this notice will continue to be treated as a vacant low-income or market rate unit. Similarly, a unit that was never previously occupied before the effective date of this notice will continue to be treated as a unit that has never been previously occupied even if it houses a displaced individual. Thus, the fact that a vacant unit becomes occupied by a displaced individual will not affect the building's applicable fraction under Section 42(c)(1)(B) for purposes of determining the building's qualified basis, nor will it affect the 20-50 test or 40-60 test of Section 42(g)(1). If the income of occupants in low-income units exceeds 140 percent of the applicable income limitation, the temporary occupancy of a unit by a displaced individual will not cause application of the available unit rule under Section 42(g)(2)(D)(ii). In addition, the project owner is not required during the temporary housing period to make attempts to rent to low-income individuals the low-income units that house displaced individuals.

## **III. SUSPENSION OF NON-TRANSIENT REQUIREMENTS**

The non-transient use requirement of Section 42(i)(3)(B)(i) shall not apply to any unit providing temporary housing to a displaced individual during the temporary housing period determined by the Authority in accordance with section I of this notice.

## **IV. OTHER REQUIREMENTS**

All other rules and requirements of § 42 will continue to apply during the temporary housing period established by the Authority. After the end of the temporary housing period, the applicable

income limitations contained in § 42(g)(1), the available unit rule under § 42(g)(2)(D)(ii), the nontransient requirement of § 42(i)(3)(B)(i), and the requirement to make reasonable attempts to rent vacant units to low-income individuals shall resume. If a project owner offers to rent a unit to a displaced individual after the end of the temporary housing period, the displaced individual must be certified under the requirements of § 42(i)(3)(A)(ii) and § 1.42-5(b) and (c) to be a qualified low-income tenant. To qualify for the relief in this notice, the project owner must additionally meet all of the following requirements:

- (1) Major Disaster Area: The displaced individual must have resided in a FEMA designated jurisdiction as a result of the severe storms, tornadoes, and flooding in Iowa beginning on May 25, 2008.
- (2) Approval of the Iowa Finance Authority: The project owner must obtain approval from the Authority for the relief described in this notice. The Authority will determine the appropriate period of temporary housing for each project, not to extend beyond July 31, 2009.
- (3) Certifications and Recordkeeping: Project owners are required to maintain and certify certain information concerning each displaced individual temporarily housed in the project, specifically: name, address of damaged residence, social security number, and a statement signed under penalties of perjury by the displaced individual that, because of damage to the individual's residence in an Iowa jurisdiction designated for Individual Assistance by FEMA as a result of the severe storms, tornadoes, and flooding beginning on May 25, 2008, the individual requires temporary housing. The owner must notify the Authority that vacant units are available for rent to displaced individuals. The owner must also certify the date the displaced individual began temporary occupancy and the date the project will discontinue providing temporary housing as established by the Authority. The certifications and recordkeeping for displaced individuals must be maintained as part of the annual compliance monitoring process with the Authority.
- (4) Rent Restrictions: Rents for the low-income units that house displaced individuals must not exceed the existing rent-restricted rates for the low-income units.
- (5) Protection of Existing Tenants: Existing tenants in occupied low-income units cannot be evicted or have their tenancy terminated as a result of efforts to provide temporary housing for displaced individuals.

Please contact the Iowa Finance Authority for more information:

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