



GEORGIA DEPARTMENT of COMMUNITY AFFAIRS

Purpose: To provide temporary housing in Low-Income Tax Credit properties for individuals displaced by Presidential declared disasters. **This is effective for Major Disasters declared on or after September 29th, 2024.**

Key Terms:

Agency: With respect to a Project, the Agency is the governmental housing credit agency that has jurisdiction over the project. In regard to this policy, the Agency is the Georgia Department of Community Affairs.

Displaced Individual: A Displaced Individual is an individual who is displaced from his or her principal residence as a result of a Major Disaster or whose principal residence was located in a Major Disaster Area designated as eligible for Individual Assistance by FEMA

Federal Emergency Management Agency (FEMA): An agency within the U.S. Department of Homeland Security charged with responding to Presidentially declared disasters.

Good Standing: property has met all reporting requirements (AOC, Emphasys Tenant Reporting, HOME Rent Reviews, and Georgia Housing Search) and has no outstanding compliance concerns (resident concerns, open 88233, current on loan payments).

Individual Assistance: FEMA programs for individuals affected by a disaster who live in an area designated under a major disaster declaration. These programs provide support during the immediate response to an incident and afterward in the recovery process.

Internal Revenue Code (“IRC”) Section 42: The low-income housing credit was created under Section 42 of the IRC. Section 42(a) provides that the amount of the low-income housing credit for any taxable year in the credit period is an amount equal to the applicable percentage of the qualified basis of each qualified low-income building.

Low-Income Housing Tax Credit (“LIHTC”): LIHTC provides a tax incentive to construct or rehabilitate affordable rental housing for low-income households.

Major Disaster: A Major Disaster is an event for which the President has declared a major disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq.

Owner: a person/or entity that has the legal or rightful title to a property.

Project: A Project is a property that is subject to low-income requirements under §42.

Public Assistance: FEMA programs that provide supplemental grants to state, tribal, territorial, and local governments, as well as certain types of non-profits, to respond and recover from emergencies or major disasters.

Temporary Housing Period: A Temporary Housing Period is the period, if any, beginning on the first day of the incident period, as determined by FEMA, and ending on the date determined by the Agency under section 12.02 of Revenue Proclamation 2014-49.

The Georgia Department of Community Affairs (DCA): DCA administers housing programs on behalf of the Georgia Housing and Finance Authority and is the agency responsible for the administration and monitoring of LIHTC and the HOME funds for the state of Georgia.

The Georgia Housing and Finance Authority (GHFA): GHFA is a public corporation and instrumentality of the state of Georgia. It is the state applicant and recipient of federal housing grants and programs.

Background

Revenue Procedure 2014-49 provides emergency housing relief for individuals displaced by a Major Disaster from their principal residence in certain Major Disaster Areas. Upon issuance of the President's declaration of a Major Disaster, the Federal Emergency Management Agency (FEMA) may designate particular cities, counties, or other local jurisdictions covered under the declaration as eligible for Individual Assistance, Public Assistance, or both. This revenue procedure applies to Displaced Individuals and to all § 42 buildings (including buildings financed with exempt facility bonds under § 142), Agencies, and Owners both inside and outside States containing a Major Disaster Area.

The Georgia Housing and Finance Authority (GHFA)/ Georgia Department of Community Affairs (DCA) will allow LIHTC properties to provide temporary emergency housing for displaced individuals, as outlined in this policy. For purposes of this policy, the term 'displaced individuals' refers to those whose homes were destroyed or damaged as a result of a Presidentially declared Major Disaster and who reside in a jurisdiction designated for individual assistance.

Requirements and Restrictions

A. Agency Requirements

The Temporary Housing Period cannot exceed 12 months from the end of the month in which the President declared the Major Disaster. The Project must be in good standing with the Office of Portfolio Management (OPM). This means the property has met all reporting requirements (AOC, Emphasys Tenant Reporting, HOME Rent Reviews, and Georgia Housing Search) and has no outstanding compliance concerns (resident concerns, open 8823s, in good standing with loan payments). Contact compliance@dca.ga.gov if you have questions about your property's standing.

B. Discretion to Apply Relief

DCA/GHFA strongly encourages Owners to attempt to qualify the households of Displaced Individuals first. However, Displaced Individuals should not be precluded based on their ability to qualify for a LIHTC unit.

If an Owner chooses to provide emergency housing relief:

- I. The Owner may provide emergency housing for less than the full Temporary Housing Period

- II. The occupancy of a unit in a Project by a Displaced Individual during the Temporary Housing Period is treated as satisfying the non-transient use requirements under § 42(i)(3)(B)(i).
- III. During the Temporary Housing Period, the next-available-unit rule under § 42(g)(2)(D)(ii) applies based solely on the occupancy by person who are not Displaced Individuals.
- IV. If a Displaced Individual begins occupancy of a unit at a time that is within both the Temporary Housing Period and the first year of the credit period under § 42(f)(1), then during the Temporary Housing Period, while occupied by the Displaced Individual, the unit is treated as a low-income unit for the following purposes:
 - a. Determining the Project's qualified basis under § 42(c)(1); and
 - b. Meeting the Project's 20-50 test under § 42(g)(1)(A), 40-60 test under § 42(g)(1)(B), or 25-60 test under §§ 42(g)(4)
- V. If a Displaced Individual begins occupancy of a unit during the Temporary Housing Period but after the first year of the credit period under § 42(f)(1), then the unit retains the status it had immediately before that occupancy.

C. Protection of Existing Tenants

No existing tenant whose income is, or is treated as, at or below an applicable income limit under § 42(g)(2) may be evicted or otherwise have his or her occupancy terminated solely to provide emergency housing relief for a Displaced Individual.

D. Recordkeeping Requirements

Owners must maintain certain information concerning each Displaced Individual temporarily housed in the Project. For each Displaced Individual, the records must contain the following items in a statement signed by the Displaced Individual under penalties of perjury:

- The name of the Displaced Individual;
- The address of the principal residence at the time of the Major Disaster of the Displaced Individual;
- The Displaced Individual's social security number (last four); and
- A Statement that he or she was displaced from his or her principal residence as a result of a Major Disaster and that his or her principal residence was located in a city, county, or other local jurisdiction that is covered by the President's declaration of a Major Disaster that is designated as eligible for Individual Assistance by FEMA because of the Major Disaster
- Approximate gross income

The Owner must report to DCA/GHFA at the beginning and at end of the Temporary Housing Period a list of the names of the Displaced Individuals and the dates the Displaced Individuals began occupancy. The Owner must also provide any dates Displaced Individuals ceased occupancy and, if applicable, the date each unit occupied by a Displaced Individual becomes occupied by a subsequent tenant.

E. Rent Restrictions

Gross rents for the low-income units that house Displaced Individuals do not exceed the maximum gross rent for those units that would apply under § 42(g)(2).

The Displaced Individual's information will need to be uploaded to the state database (Emphasys) and designated as 'Displaced Individuals' in the special population field. All required documentation and information will need to be included in the tenant file created for the Displaced Individual. Owners will also need to send the completed Lease Addendum for each Displaced Individual to OPM by emailing compliance@dca.ga.gov within (1) one week of their tenancy.

Failure to maintain the required records for Displaced Individuals will trigger State non-compliance fees and/or issuance of 8823s. Additional penalties may include but are not limited to possible point deductions for future DCA/GHFA funding applications.