

ILLINOIS REGISTER

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED RULES

TITLE 47: HOUSING AND COMMUNITY DEVELOPMENT
CHAPTER II: ILLINOIS HOUSING DEVELOPMENT AUTHORITY

PART 375

NOTICE PROCEDURES UNDER THE FEDERALLY
ASSISTED HOUSING PRESERVATION ACT

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AUTHORITY: Authorized by Section 7.19 of the Illinois Housing Development Act [20 ILCS 3805/7.19] and the Federally Assisted Housing Preservation Act [310 ILCS 60].

SOURCE: Adopted at 29 Ill. Reg. 33, effective 8/12/2005.

SUBPART A: GENERAL RULES

Section 375.101 Authority

This Part is authorized by and adopted pursuant to Section 7.19 of the Illinois Housing Development Act [20 ILCS 3805/7.19] and the Federally Assisted Housing Preservation Act [310 ILCS 60] and shall govern the provision of notices required by the Federally Assisted Housing Preservation Act.

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Section 3.1 Purpose and Objectives

This Part is established to implement the notice requirements under the Federally Assisted Housing Preservation Act. The purpose of this Part is to create a uniform procedure for producing and delivering notices under the Federally Assisted Housing Preservation Act.

Section 3.2 Definitions

As used in this Part, the following words or terms mean:

"Act": The Illinois Housing Development Act [20 ILCS 3805].

"Affected Public Entities": The mayor of the city or village in which the Assisted Housing Development is located or, if the Assisted Housing Development is located in an unincorporated area, the chairperson of the county board; the public housing authority in whose jurisdiction the Assisted Housing Development is located, if any; the local director of the federal housing agency that has insured, provided financing for or provided subsidies for the Assisted Housing Development; and IHDA.

"Affordability Restrictions": The limits on rents that owners may charge for occupancy of a rental unit in Assisted Housing and the limits on tenant income for persons or families seeking to qualify as tenants in Assisted Housing.

"Assisted Housing" or "Assisted Housing Development": A rental housing development, or mixed use development that includes rental housing, that receives government assistance under any of the following programs:

New construction, substantial rehabilitation, moderate rehabilitation, property disposition and loan management set-aside programs, or any other program providing project-based rental assistance under Section 8 of the United States Housing Act of 1937, as amended (42 USC 1437).

The Below-Market-Interest-Rate Program under Section 221(d)(3) of the National Housing Act (12 USC 1701).

Section 236 of the National Housing Act (12 USC 1715z-1).

Section 202 of the National Housing Act (12 USC 1701q).

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Programs for rent supplement assistance under Section 101 of the Housing and Urban Development Act of 1965, as amended (12 USC 1701s).

Programs under Section 514 or 515 of the Housing Act of 1949 (12 USC 1441 and 14 USC 1485).

Section 42 of the Internal Revenue Code (26 USC 42).

"IHDA": The Illinois Housing Development Authority.

"Members": The members of IHDA.

"Notice": The notice that an owner of an Assisted Housing Development must provide if that owner intends to sell or otherwise dispose of the Assisted Housing Development, complete a prepayment, or complete a termination of affordability restrictions.

"Owner": The person, partnership or corporation that holds title to an Assisted Housing Development.

"Prepayment": The payment in full or refinancing of the federally insured or federally held mortgage indebtedness prior to its original maturity date, or the voluntary cancellation of mortgage insurance, on an Assisted Housing Development under Section 221(d)(3), 236 or 202 of the National Housing Act that would have the effect of removing affordability restrictions applicable to the Assisted Housing Development under the programs described in those Sections.

"Preservation Act": Federally Assisted Housing Preservation Act [310 ILCS 60].

"Property": A property or development that contains Assisted Housing.

"Tenant": The tenant, subtenant, lessee, sublessee or other person entitled to possession, occupancy or benefits of a rental unit within an Assisted Housing Development.

"Termination": The:

expiration or early termination of an Assisted Housing Development's participation in a federal subsidy program for Assisted Housing under Section 8 of the United States Housing Act of 1937.

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expiration or early termination of an Assisted Housing Development's affordability restrictions described in Section 42(g) of the Internal Revenue Code, when that event results in an increase in tenant rents, a change in the form of subsidy from project-based to tenant-based, or a change in use of the Assisted Housing Development to a use other than rental housing.

Section 3.16 Amend

This Part may be amended or repealed by the members from time to time in accordance with the Illinois Administrative Procedure Act and in such manner as the members may determine consistent with the Act, the purposes of the Preservation Act, and other applicable provisions of law. This Part shall not constitute or create any contractual rights.

Section 3.17 Severability

If any clause, sentence, subsection, Section or Subpart of this Part shall be adjudged by any court of competent jurisdiction to be invalid, that judgment shall not affect, impair or invalidate the remainder of this Part, but shall be confined in its operation to the clause, sentence, subsection, Section and Subpart to which the judgment is rendered.

Section 3.18 Gender and Number

All terms used in any one gender or number shall be construed to include any other gender or number as the context may require.

SUBPART B: NOTICE PROCEDURES

Section 3.19 Content of Notice of Change in Subsidy

For owners required to provide notice to tenants of an Assisted Housing Development and to affected public entities under the Preservation Act, the notice shall include the following information:

- a) the address of each building included in the property;
- b) the number of occupied units in the property on the date of the notice;

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- c) a description of the property, including the number of units, commercial space, garage, etc.;
- d) the date on which the owner intends to sell or otherwise dispose of the property, complete prepayment or complete a termination of affordability restrictions at the property;
- e) a detailed description of the affordability restrictions presently in place at the property;
- f) the name, address and contact information for the owner of the property; and
- g) a statement notifying the tenant that he/she has certain rights under the Preservation Act.

Section 3 . . . of Notice

Where a provision of the Preservation Act requires that notice be given to the tenants of an Assisted Housing Development and to affected public entities, the format of the notice shall be as specified in Appendix A.