



**Idaho Housing
and Finance**
Association



LOW-INCOME HOUSING TAX CREDIT

Tenant Guide

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Prospective LIHTC Tenants

What is the LIHTC program?

The federal Low-Income Housing Tax Credit (LIHTC) program helps create and preserve affordable rental housing. For renters, that means more apartments are available at below-market rates.

The LIHTC program is an Internal Revenue Service (IRS) federal program but is overseen and administered in each state by a designated Housing Finance Agency (HFA). Each state gets an annual allocation of credits based on population. Developers submit applications to the HFA to get the credit. Applications are scored against criteria, and higher scoring applications are awarded tax credits. After receiving the credit, developers secure equity by selling tax credits to investors. The equity fills the gap between project costs and debt and that is how the property is funded and built.

In Idaho, compliance with the LIHTC program is monitored by Idaho Housing and Finance Association (IHFA). IHFA ensures that the LIHTC program rules are being followed by conducting



audits and inspections of LIHTC properties and landlords.

The LIHTC program establishes rent and income limits for apartments based on the area median income (AMI) of the county or area in which the property is located. Rent limits are based on the number of bedrooms in the apartment, and income limits are based on family size. These rent and income limits are updated every year by the Department of Housing and Urban Development (HUD). LIHTC rents are not based on your income and will not automatically change if your income goes up or down after you move in.

Landlords of LIHTC properties are required to accept Housing Choice Vouchers. So, if you have a voucher, your rent will be set in accordance with the voucher program.

All LIHTC units are rent-restricted at a percentage of the area median income (AMI), these are referred to as “set-asides.” Typically, most units will have set-asides at 50% or 60% of AMI, though your property may have additional set-asides that could be lower or higher. To qualify for a 60% unit, your household must have income at or below 60% of the AMI in your county or metropolitan area.

The lower the set-aside, the lower the rent, but lower set-asides also have stricter income qualification requirements. For example, to be housed in a 30% unit your household must make 30% or less of the AMI.



Applying to a LIHTC Property

If you are interested in moving into a LIHTC apartment, your family must apply and must meet the eligibility requirements for the LIHTC program and the apartment you are interested in. Some of those requirements are:

Income verification

You must disclose all of your income sources and assets, which will be verified by the prospective landlord. You may need to provide pay stubs, bank statements, a tax return if you operate a business, or additional documents to ensure you qualify.

Student eligibility

A household cannot live in a LIHTC apartment if it consists entirely of full-time students unless it qualifies under specific exemptions.



Other restrictions

Some LIHTC properties are designated as elderly or senior housing and have minimum age requirements. All LIHTC properties built after 1990 must have a certain number of accessible apartments specially modified and reserved for tenants covered by the Americans with Disabilities Act

The LIHTC program allows landlords to set additional discretionary eligibility requirements. Any of these additional qualification requirements should be detailed in a Tenant Selection Plan. You can request a copy of this plan from the landlord.

Eligibility criteria could include:

- Previous landlord history.
- Credit or criminal screening checks.
- Limits on household size. For example: There may be occupancy limits based on the number of bedrooms in the apartment.
- Minimum income requirements to ensure you can afford the monthly rent.

If all income and eligibility criteria is verified, you qualify and you are ready to move in, you will need to sign your Tenant Income Certification with your lease. The income certification document breaks down the amounts calculated by your landlord for your income and assets as well as the rent and income limits.

After applying for an apartment, your family may be placed on a waiting list if there are no apartments available for which you qualify. Waiting list procedures vary by landlord and may require you to contact the property to keep your spot on the list. If you are on a waiting list, make sure you understand the landlord's requirements to stay on the list.

If your application is rejected, your landlord should send you a written rejection letter. The letter should clearly state why you have been rejected and provide contact information through which you can appeal the decision.

Current LIHTC Tenants

Rents and Other Charges

Rent limits are based on the bedroom size of the apartment, and income limits are based on household size.

LIHTC rents are not based on your income and will not automatically adjust if your income changes after moving in. Maximum rent limits are based on the number of bedrooms in the apartment and change every year. The maximum rent limit includes the sum of your rent, the utility allowance, and any required or mandatory fees that could apply.

The utility allowance is an estimate of the monthly cost of tenant-paid utilities for apartments at the

property with the same number of bedrooms. It is only an estimate and might not reflect your actual utility costs. Utility allowances do not include phone or internet. The utility allowance is subtracted from the maximum rent limit when determining the most you can be charged in rent. The utility allowance must be recalculated by the landlord every year and approved by Idaho Housing and Finance Association (IHFA).

In some cases, a utility allowance change may cause your rent to increase. This rent change is an exception to IHFA's policy on rent increases, but you must receive a 30-day notice of the rent increase before you can be charged the new amount. The notice you receive from your landlord should specify that the increase is because of the change in the utility allowance.

When determining how much can be charged in rent, landlords must include the costs of any required monthly fees charged to you. Optional fees are not required to be subtracted. For example, a property requires households to use its rental insurance service for \$15 a month. The \$15 must be included in the total rent. However, opting to rent a garage on the property for \$50 a month would not count toward the maximum rent limit. All fees not included in the rent must be optional and not a required payment for tenancy.

After subtracting the value of the utility allowance and all the required additional charges from the maximum rent limit, the remainder is the most that can be charged for rent for your apartment each month.

As long as the rent amount charged by your landlord is equal to or less than the maximum rent limit, your landlord may set your initial rent at either the highest rent that is allowed or at a lower amount. When HUD publishes the annual changes in the maximum rent limit, your landlord is not permitted to automatically increase your rent with the HUD change. Put simply: Your rent allowed will never exceed the maximum rent limit if you live in a low-income apartment.

Example: If the maximum rent limit for your unit is set at \$1,000, your landlord has a mandatory common area maintenance fee of \$20 per month, and the utility allowance is \$80 a month, the maximum you could be charged in rent per month is \$900.

LIHTC Rent limit \$1000 – Mandatory fee \$20 – Utility Allowance \$80 = \$900 maximum rent

Landlord and Tenant Responsibilities

You and your landlord have responsibilities under the LIHTC program. Your lease is a binding, legal document and there likely will be additional apartment rules, responsibilities, and requirements.

Evictions and non-renewals of leases are only allowed for “good cause,” such as failing to pay your rent or serious and repeated lease violations.

Apartments in the LIHTC program must be suitable to live in according to federal inspection guidelines and local health, safety, and building codes. You and your landlord are responsible for your apartment being kept in a condition that is decent, safe, and sanitary. To ensure the condition of your apartment, your landlord will conduct periodic inspections at their discretion, usually at least every year. IHFA will inspect your unit if it is randomly selected for a compliance audit. If your property uses other affordable programs or funding sources, you might get additional inspections from those programs.

Inspections are required. As long as you are provided with at least a 24-hour notice. You must make your apartment available for inspection.

The LIHTC program requires households to

recertify their income, assets, and student status annually. You must cooperate with your landlord to provide the documentation needed to verify this information in a timely manner. You might hear the annual recertification referred to as an “AR.”

You should receive notification of your annual re-certification 120 days before the recertification is due. After your recertification is finished, you will sign another Tenant Income Certification.

Refusing to cooperate with the annual recertification process could be grounds for a lease violation or good cause for an eviction or non-renewal of your lease.

Under LIHTC rules, you cannot be forced to vacate your unit if your annual income increases to more than 140% of the income limit after your first six months as a tenant. If your property includes market-rate units, your landlord might “swap” the status of your unit from a “low-income” unit to a “market-rate” unit, but they cannot force you to move solely because your household income has increased. If your apartment is re-designated as a market unit, the LIHTC program will no longer apply to your household.

Changes or planned changes to your household composition or your household’s student status should be reported to your landlord as soon as possible. If your household becomes a full-time



student household after moving in and it does not meet one of the exemptions, you no longer will meet the eligibility requirements to live in a LIHTC apartment.

If you are living in an ADA-accessible apartment and do not need those features, you may be required to transfer to a different apartment or move out if a disabled person who needs the unit applies to the property.

For example, if your household lives in an apartment that is specially designed for an individual who is deaf or hard of hearing, and no one in your family is deaf or hard of hearing, you will be required to leave the apartment if an applicant with those characteristics has their application accepted.

If there is another apartment available on the property, your landlord might be able to transfer you. If none are available then you will be required to move out of the property.

Your landlord is allowed to increase your rent annually, but IHFA has implemented restrictions on rent increases. Except for rent increases caused by utility allowance changes, rent increases from your landlord must comply with the following rules:

- Rent cannot be increased more than **once** in a twelve-month period.
- Without special approval from IHFA, the maximum amount your landlord can increase your rent is 10% per twelve-month period.
- **Your rent cannot be increased during the term of the initial lease you signed at move-in.** For example, if your lease term was for twelve months, your rent cannot be increased before the end of that twelve-month term.
- All rent increases must give you at least 30 days of notice prior to their implementation. Increases over 5% require at least a 60-day notice.

Disputes

If a disagreement arises between you and your landlord regarding policies, procedures, or compliance with the LIHTC program, then you must follow the landlord's grievance policy. There should be a grievance policy posted somewhere on the property that explains who you should talk to and what steps should be followed to resolve a dispute.

Complaints can be submitted to Idaho Housing only after following the property's grievance policy and if a resolution cannot be reached. If a complaint is submitted before following all the steps in the grievance policy, IHFA will refer you back to the landlord's grievance policy to reach a resolution.



Additional Protections and Resources

LIHTC properties are subject to the Fair Housing Act. The Fair Housing Act prohibits discrimination based on race, color, religion, sex, national origin, family status, or disability. Some Idaho cities have expanded discrimination prohibitions to include sexual orientation and gender identity. The Department of Housing and Urban Development deals with Fair Housing Act complaints.

The Violence Against Women Act also covers LIHTC households. Prospective renters cannot be denied because the applicant has been affected by domestic violence, dating violence, sexual assault, or stalking.

ADDITIONAL RESOURCES

If you feel that you have been discriminated against or if you need help while you are a renter, the following resources are available:

HUD Office of Fair Housing & Equal Opportunity

hud.gov/repo/housingdiscrimination

Intermountain Fair Housing Council

ifhcidaho.org/resources/how-to-file-complaint/

Idaho Housing (IHFA)

idahohousing.com/partners/property-managers/housing-compliance/tenant-complaints/

Idaho Legal Aid

<https://idaholegalaid.org/guides/tenant-rights>

Idaho Attorney General's Office

ag.idaho.gov/office-resources/online-forms/

Small Claims Court Assistance Office

<https://courtsselfhelp.idaho.gov/Forms/claims/>

Idaho Human Rights Commission

<https://humanrights.idaho.gov/idaho-law/contexts/housing/>

Idaho Law Foundation

<https://ilf.idaho.gov/ivlp/legal-assistance/housing-resources/>

W/Rest Collective – Legal and Social Work Services

<https://wrest.coop/>

Housing Idaho Rental Search

<https://www.myhousingsearch.com/tenant/ID/>