

# **RESIDENTIAL ANTIDISPLACEMENT**

The HOME Program, authorized by the HOME Investment Partnerships Act and enacted as Title II of the National Affordable Housing Act, requires Kentucky Housing Corporation (KHC) and its Kentucky HOME Program funds recipients to replace all occupied and vacant occupiable low-income dwelling units demolished or converted for uses other than as low-income housing. This is required when the demolition or conversion is a direct result of activities assisted with HOME funds under Section 104(d) of the Housing and Community Development Act of 1974, as amended.

## **ONE-FOR-ONE REPLACEMENT HOUSING UNDER SECTION 104(d)**

KHC shall require one-for-one replacement units for all occupied and vacant occupiable low-and moderate-income dwelling units that are demolished or converted for uses other than as low-and moderate income dwelling units as a direct result of an activity assisted under HOME. This replacement must be completed by the HOME recipient with low-and moderate income dwelling units.

The low-and moderate income dwelling units used in replacement may include public housing or existing housing receiving Section 8 project-based assistance under the United States Housing Act of 1937.

The replacement low-and moderate-income dwelling units must be provided within three years of the commencement of the demolition or rehabilitation related to the conversion and must meet the following requirements:

1. The units must be located within the HOME recipient's jurisdiction.
2. The units must be sufficient in number and size to house at least the number of occupants that could have been housed in the units that are demolished or converted number. The number of occupants that may be housed in units shall be determined in accordance with local housing occupancy codes.
3. The units must be provided in standard condition, the low-and moderate-income dwelling units used in replacement may include units that have been raised to standard from substandard condition.
4. The units must be designed to remain low-and moderate-income dwelling units for at least 10 years from the initial occupancy.

## **REQUIREMENTS TO MINIMIZE DISPLACEMENT**

Before KHC obligates or expends funds that will directly result in demolition of low-and moderate-income or conversion of low-and moderate-income housing to another use, all HOME recipients will make public and submit to KHC the following information in writing:

1. A description of the proposed activity.
2. The general location on a map and approximate number of dwelling units by size (number of bedrooms) that will be demolished or converted to a use other than as low-income dwelling units as a direct result of the assisted activity.
3. A time schedule for the commencement and completion of the demolition or conversion.
4. The general location on a map and approximate number of dwelling units by size (number of bedrooms) that will be provided as replacement dwelling units.
5. The source of funding and a time schedule for the provision of replacement dwelling units.
6. The basis for concluding that each replacement dwelling unit will remain a low-income dwelling unit for at least 10 years from the date of initial occupancy.

Consistent with the other goals and objectives of the HOME program, KHC shall ensure that it has taken all reasonable steps to minimize displacement (direct or indirect) that occurs as a result of a project assisted with HOME funds. KHC will consider and evaluate annually whether or not displacement has occurred as part of funding decisions and project feasibility determinations. Whenever possible, KHC and HOME recipients will assure that residential occupants of buildings to be rehabilitated are offered an opportunity to return to the building. To the extent feasible, residential tenants of dwellings to be rehabilitated shall be provided a reasonable opportunity to lease and occupy a suitable, decent, safe, sanitary and affordable dwelling in the building upon completion of the project. To the extent feasible, homeowners of dwellings to be rehabilitated shall be provided a reasonable opportunity to occupy the dwelling during rehabilitation as long as the nature of construction does not cause unnecessary burden and undue hardship on the homeowners. The family shall receive temporary relocation benefits if rehabilitation causes the family to vacate for the above-mentioned reason. KHC will encourage HOME recipients to plan rehabilitation projects to include step-by-step project activities to minimize displacement. Also, HOME recipients shall follow notification and advisory services procedures carefully to assure that families do not leave because they are not informed about plans for the project or their rights.

KHC shall require that all HOME recipients adopt a written Residential Antidisplacement and Relocation Assistance Plan available to the public that describes the relocation assistance that is has elected to furnish and provides for equal relocation assistance within each class of displaced persons. KHC shall ensure that all HOME recipients' Residential Antidisplacement and Relocation Assistance Plans are consistent with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended; the HOME Investment Partnerships Act enacted as Title II of the National Affordable Housing Act; and Section 104 (d) of the Housing and Community Development Act of 1974, as amended, and 24 CFR Part 42 and HUD Handbook 1378.

#### **RELOCATION ASSISTANCE UNDER SECTION 104 (d)**

KHC and HOME recipients must provide relocation assistance under Section 104 (d), as described in CFR 24.570.606 (b) 2 (i), to each low-and moderate-income household **displaced by the demolition of housing or by the conversion of low-and moderate-income dwelling to another use as a direct result of HOME-assisted activities**. Section 104 (d) levels of relocation benefits vary from the Uniform Relocation Act benefits in that only lower-income families are eligible for assistance.

#### **DEFINITION OF A DISPLACED PERSON UNDER URA**

Any person (family, individual, business, farm or nonprofit organization) that moves personal property permanently from the real property as a direct result of rehabilitation, demolition or acquisition for a project assisted with HOME funds is a displaced person. The term "displaced person" includes, but may not be limited to:

1. A person who moves permanently from the real property after receiving a notice from the property owner that requires such a move, if the move occurs on or after:
  - (a) The date of the submission of an application to KHC, if the applicant has site control and the project is later approved; or
  - (b) The date that KHC approved the applicable site, if the applicant does not have site control at the time of the application.
2. Any person, including a person who moves before the date described in 1(a) or (b), if HUD or KHC determines that the displacement directly resulted from acquisition, rehabilitation or demolition for the HOME-assisted project.
3. An occupant of a dwelling or tenant who moves permanently from the building or complex after execution of the agreement covering the rehabilitation or acquisition, if the move occurs before the tenant is provided written notice offering him or her the

opportunity to lease and occupy a suitable, decent, safe and sanitary dwelling in the same building or complex under reasonable terms and conditions upon completion of the rehabilitation. These conditions shall include a term of at least one year at a monthly utility costs that do not exceed the greater of:

- (a) The tenant's monthly rent before the agreement and estimated average monthly utility costs; or
  - (b) The total tenant payment (TTP) if the tenant is low income, or 30 percent of gross income if the tenant is not low-income.
4. An occupant of a dwelling or tenant who is required to relocate temporarily for the project but does not return to the building or complex, if either;
- (a) The tenant is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation (including the cost of moving to and from the temporarily occupied unit and any increased housing costs): or
  - (b) Other conditions of the temporary relocation are not reasonable.
5. A occupant of a dwelling or tenant who moves from the building or complex permanently after he or she has been required to move to another unit in the building or complex, if either:
- (a) The tenant is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move; or
  - (b) Other conditions of the move are not reasonable.

## **DEFINITION OF PROJECT UNDER URA**

The acquisition of real property and the displacement of any person as a direct result of acquisition, rehabilitation or demolition for a HOME-assisted project is subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended. As defined in 24 CFR 92.2, the term “project” means a site or an entire building (including a manufactured housing unit), two or more buildings together with the site or sites on which the building or buildings is located, that are under common ownership, management and financing and are to be assisted with HOME funds, under a commitment by the owner, as a single undertaking under the HOME program. Project includes all the activities associated with the site and building. If there is more than one site associated with a project, the sites must be within a four-block area. For example, a contract is executed covering the rehabilitation of a 12-unit multifamily building. HOME funds are used to pay part of the cost of the rehabilitation of five units to be occupied by low-income families. Nonfederal funds are used to finance the rehabilitation of the other seven units. The HOME-assisted “project” is the rehabilitation of the building (all 12 units). A person displaced from any one of the 12 units is protected by the Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as amended.

## **TIMELY NOTICE UNDER URA AND SECTION 104 (D)**

HOME recipients must attach to the HOME application evidence of a notice to tenants of proposed rehabilitation and relocation activities. Tenants are notified that the project has been proposed, cautioned not to move and the tenants will not be displaced. HOME recipients who applied for HOME funds without identifying specific rehabilitation sites must require private property owners to notify tenants of relocation upon application submission to the HOME recipient. However, HOME recipients are ultimately responsible to ensure that property owners have issued proper relocation notices to tenants upon application submission to the HOME recipient.

## **DECENT, SAFE AND SANITARY DWELLING UNDER URA AND SECTION 104 (d)**

1. Basic definition (49 CFR 24.2 (f)). The term “decent, safe and sanitary dwelling” means a dwelling that meets the following standards and any other housing occupancy codes that are applicable. It shall:
  - (a) Be structurally sound, weather-tight and in good repair.
  - (b) Contain a safe electrical wiring system adequate for lighting and other devices.

- (c) Contain a safe heating system capable of sustaining a healthful temperature for the displaced person except in those areas where local climatic conditions do not require such a system.
  - (d) Be adequate in size with respect to the number of rooms and area of living space needed to accommodate the displaced person. There shall be a separate, well-lighted and ventilated bathroom that provides privacy to the user and contains a sink, bathtub or shower stall and a toilet, all in good working order and properly connected to appropriate sources of water and to a sewage drainage system. In the case of a housekeeping dwelling, there shall be a kitchen area that contains a fully usable sink, properly connected to potable hot and cold water and to a sewage drainage system and adequate space and utility service connections for a stove and refrigerator.
  - (e) Contain unobstructed egress to safe, open space at ground level. If the replacement dwelling unit is on a second story or above with access directly from or through a common corridor, the common corridor must have at least two means of egress.
  - (f) For persons who are mobility-impaired, be free of any barriers that would preclude reasonable ingress, egress or use of the dwelling by such person. This requirement will be met if the dwelling unit meets pertinent standards as prescribed by the American National Standards Institute, Inc. (ANSI A117.1) or the Uniform Federal Accessibility Standards (UFAS). This requirement will also be satisfied if the displaced person elects to relocate to a dwelling that he or she selects (a dwelling not offered by the HOME recipient) and the displaced person determines that he or she has reasonable ingress, egress and use of the dwelling.
  - (g) Comply with lead-based paint requirements of 24 CFR Part.35.
2. Assisted Housing Quality Standards (HQS). A dwelling occupied with assistance under Section 8 of the United States Housing Act of 1937, as amended, which has been determined to meet the Section 8 HQS at 24 CFR 882.109, shall be deemed to be in compliance with the standards in paragraph 1.

HOME recipients must also ensure hotels are “decent, safe and sanitary” when utilizing the rooms for temporary relocation dwellings even though the hotel industry has an inspection mechanism for providing decent shelter. If an individual relocated into a substandard unit, the HOME recipient cannot make any payment on the unit until the unit is in compliance with the minimum code.

#### **OPTIONAL RELOCATION ASSISTANCE UNDER HOME AND URA**

Under 24 CFR 92.353 (d), KHC has elected to provide optional relocation assistance to homeowners who are temporarily displaced (voluntarily or involuntarily) due to HOME homeowner rehabilitation activities. HOME must provide temporary assistance to homeowners in addition to tenants.

## **TEMPORARY RELOCATION ASSISTANCE**

Temporary relocation for homeowner rehabilitation is an optional policy for the HOME recipients. This policy must establish guidelines for payment or nonpayment of temporary moves. The homeowner/tenant should be temporarily relocated if continued occupancy of the dwelling unit constitutes a substantial danger to the health or safety of a person or the public, and/or if the nature of the construction creates an undue burden or unnecessary hardship on the family. Temporary relocation must be made available for tenants. If the tenant must vacate the unit, the HOME recipient must pay all reasonable out-of-pocket and increased housing costs. Relocation costs are eligible HOME costs.

If the homeowner must vacate the unit for one to 30 days, the HOME recipient should determine the possibility of the homeowner/tenant staying with relatives or friends. If the family refuses to stay with relatives or friends **for all or a portion of the time**, the HOME recipient shall refer the family to a local, moderately-priced hotel. Hotel accommodations should not exceed a one-month period, unless the family certifies to the HOME recipient that extended hotel accommodations (over one month) are sufficient to meet the family's housing needs. If the nature of the construction requires the family to vacate for a period exceeding one month, and the homeowner cannot stay with relatives and friends and hotel accommodations are not sufficient to meet the family's housing needs, the HOME recipient is encouraged to work with local public housing authorities to provide temporary housing. If an agreement cannot be reached with public housing, the HOME recipient must provide the homeowner a temporary replacement dwelling as described in the paragraph below discussing tenants.

Tenants that are being required to move temporarily must be offered a comparable replacement dwelling and provide applicable advisory services for the temporary move. The comparable replacement dwelling must be decent, safe, sanitary and functionally equivalent to the displacement dwelling. The HOME recipient must then pay all actual reasonable out-of-pocket costs and increased housing costs associated with comparable replacement dwellings or hotel accommodations. Relatives and friends may charge the homeowner/tenant rent for providing shelter to the homeowner/tenant. However, the rent must be reasonable and should not exceed one-half the fair market rent for the unit.

## **APPLICABLE ADVISORY SERVICES FOR TEMPORARY MOVES**

Appropriate advisory services include reasonable advance written notice of the following information:

1. The date and approximate duration of the temporary relocation;
2. The suitable, decent, safe and sanitary housing to be made available for the temporary period;
3. The terms and conditions under which the tenant may lease and occupy a suitable, decent, safe and sanitary dwelling in the building/complex following completion of the repairs (for tenants); and
4. Reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporary housing and any increase in monthly rent and utilities.

### **DISPLACED ADVISORY SERVICES**

HOME recipients are responsible for informing occupants of their rights, sending the required information and notices and assisting in finding replacement housing. The HOME recipient should provide the following information to displaced persons:

1. A complete description of the nature and types of activities which will be undertaken;
2. An indication of the availability of relocation payments including the types of payments the general eligibility criteria for residential occupants and a precaution about premature moves;
3. A statement indicating that no person lawfully occupying property will be required to move without at least 90 days written notice from the HOME recipient;
4. A clear explanation (in easy to understand language) of the project;
5. A statement of the purpose of the relocation program and brief indication of the services and aids available;
6. Assurance that displaced persons will not be required to move before they have been given an opportunity to obtain decent, safe, sanitary and affordable housing;
7. A brief description of what constitutes comparable, decent, safe and sanitary housing.
8. A clear, easy to understand description of the Federal Fair Housing Law (Title VIII of the Civil Rights Act of 1968) Executive Order 11063, Title VI of the Civil Rights Act of 1964 and applicable state and local fair housing and anti-discrimination laws. Minority persons must also be referred to comparable housing in non-minority concentrated areas when applicable.
9. A statement that the HOME recipient will provide assistance to persons in obtaining housing of their choice, including assistance in the referral of complaints of discrimination to the appropriate federal, state or local housing enforcement agency.
10. The address, telephone number and office hours of the HOME recipient.



## **MOVING COSTS FOR TEMPORARY AND PERMANENT MOVES**

All displaced persons are eligible for moving costs if the move occurs after initiation of negotiations (submissions of HOME application). All homeowners and tenants required to make a temporary move shall receive reimbursement of actual moving expenses. The displaced person may choose to receive actual moving and related expenses supported by bills and other documentation for:

1. Transportation up to 50 miles;
2. Packing, crating, uncrating and unpacking personal property;
3. Storage of the personal property for a period not to exceed 12 months, unless the HOME recipient determines that a longer period is necessary.
4. Disconnecting, dismantling, reassembling and reinstalling relocated household appliances and other personal property;
5. Insurance for the replacement value of the property in connection with the move and necessary storage;
6. The replacement value of property lost, stolen or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent or employee) where insurance covering such loss, theft or damage is not reasonably available; and
7. Other moving-related expenses as KHC determines to be reasonable and necessary, except the following ineligible expenses:
  - (a) Interest on a loan to cover moving expenses;
  - (b) Personal injury;
  - (c) Any legal fee or other cost for preparing a claim for a relocation payment or for representing the claimant in appeals procedures;
  - (d) The cost of moving any structure or other real property improvement in which the displaced person reserved ownership; or
  - (e) Cost for storage of personal property on real property owned or leased by the displaced person before the initiation of negotiations.

If the displaced person does not choose to receive actual moving and related expenses, he or she may receive a fixed payment based on the Schedule of Cost published by the Federal Highway Administration, Department of Transportation.

## **REPLACEMENT HOUSING PAYMENTS**

Replacement housing payments are available to displaced 180-day owner-occupants, displaced 90-day occupants (tenant or owner-occupant), displaced tenants. Full details regarding these requirements can be found at HUD's Website.

## **APPEAL AND GRIEVANCES**

All HOME recipients must include in their Residential Antidisplacement and Relocation Assistance Plan an appeal and grievance procedure. If the appeal concerns relocation eligibility for payment or amount of payment, the appeal must be made within 60 days to the HOME recipient after the HOME recipient provides notification of the claim. If the appeal cannot be resolved on the local level, appeals may be made to the Chief Executive Officer of Kentucky Housing Corporation, KHC's review may be granted by providing a written request after receipt of the HOME recipient's written determination. Any final decision may be appealed to the HUD Field Office.

Approved this \_\_\_\_\_ day of \_\_\_\_\_

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_