

ILLINOIS REGISTER

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED RULE(S)

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 Sections 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 ___ Ill. Reg. _____, effective _____.

SUBPART A: GENERAL RULES

Section 375.101 Authority

These Rules are authorized by and made pursuant to Sections 7.19 of the Illinois Housing Development Act [20 ILCS 3805/7.19] and the Federally Assisted Housing Preservation Act

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[310 ILCS 60] and shall govern the provision of Notices required by the Federally Assisted Housing Preservation Act.

Section 375.102 Purposes and Objectives

The Rules in this Part are established to implement the Notice requirements under the Federally Assisted Housing Preservation Act. The purpose of these rules is to create a uniform procedure for producing and delivering Notices under the Federally Assisted Housing Preservation Act.

Section 375.103 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 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; 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”: The rental housing development, or mixed use development that includes rental housing, that receives government assistance under any of the following programs:

- (1) 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.
- (2) The Below-Market-Interest-Rate Program under Section 221 (d) (3) of the National Housing Act.
- (3) Section 236 of the National Housing Act.
- (4) Section 202 of the National Housing Act.

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- (5) Programs for rent supplement assistance under Section 101 of the Housing and Urban Development Act of 1965, as amended.
- (6) Programs under Section 514 or 515 of the Housing Act of 1949.
- (7) Section 42 of the Internal Revenue Code.

“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 such Owner intends to (i) sell or otherwise dispose of the Assisted Housing Development, (ii) complete a Prepayment or (iii) complete a Termination.

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

“Part”: This Part 375.

“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 described in paragraph (2), (3), or (4) of the definition of “Assisted Housing” or “Assisted Housing Development” that would have the effect of removing Affordability Restrictions applicable to the Assisted Housing Development under the programs described in such paragraphs (2), (3), and (4).

“Preservation Act”: Federally Assisted Housing Preservation Act, 310 ILCS 60/1 et seq.

“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:

- (1) expiration or early termination of an Assisted Housing Development’s participation in a federal subsidy program for Assisted Housing described in paragraph (1) of the definition of “Assisted Housing” or “Assisted Housing Development”.
- (2) expiration or early termination of an Assisted Housing Development's Affordability Restrictions described in Section 42 (g) of the Internal Revenue

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Code for Assisted Housing described in paragraph (7) of the definition of “Assisted Housing” or “Assisted Housing Development”, 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 375.104 Amendment

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 they 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 375.105 Severability

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

Section 375.106 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.

Section 375.107 Titles and Captions

Titles and captions of Subparts, Sections, and subsections are used for convenience and reference and are not a part of the text.

SUBPART B: NOTICE PROCEDURES

Section 375.201 Content of Notice of Intent to Terminate 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 the Property;

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- b) a description of the Property including the number of units, commercial space, garage, etc.;
- c) the date on which Owner intends to sell or otherwise dispose of the Property, complete Prepayment or complete a Termination at the Property;
- d) a detailed description of the Affordability Restrictions presently in place at the Property;
- e) the name, address and contact information for the Owner or Owners of the Property; and
- f) a statement notifying the Tenant that he/she has certain rights under the Preservation Act.

Section 375.202 Form 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 follows:

NOTICE OF INTENT TO TERMINATE SUBSIDY

Address:

Owner:

Property Description:

Anticipated Date of Sale or Other Action:

Affordability Restriction(s):

Owner/Contact Information:

Please be advised that one of the following actions with respect to the above property will take place on the date referenced above:

- (i) the sale or other disposition of the property;
- (ii) the prepayment or refinancing of a federally insured or federally held mortgage secured by the property;
- (iii) the termination of the property's participation in a federal subsidy program for assisted housing.

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One or all of these actions may have the effect of terminating the affordability restrictions noted above. You have certain rights under Illinois law. Please consult the Federally Assisted Housing Preservation Act, 310 ILCS 60/1 et seq., for a statement of these rights.

If you have any questions with regard to this notice, please contact the following individual at the number listed:

Dated: _____

Section 375.203 Delivery of Notice to Tenants and Affected Public Entities

Where a provision of the Preservation Act requires that Notice be given to Tenants of the Assisted Housing Development and Affected Public Entities, the requirements may be met by:

- (1) delivering the Notice, by certified mail or registered mail, return receipt requested, postmarked at least 12 months prior to the anticipated date of the action covered by the Notice to the following public persons or entities:
 - (i) the mayor or the city or village in which the Assisted Housing Development is located or, if in an unincorporated area, the chairperson of the city board;
 - (ii) the public housing agency in whose jurisdiction the Assisted Housing Development is located, if any; and
 - (iii) the Executive Director of IHDA;
- (2) delivering the Notice to all affected Tenants by certified or registered mail, return receipt requested, postmarked at least 12 months prior to the anticipated date of the covered action; and

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- (3) posting, at least 12 months prior to the anticipated date of the covered action, a copy of the Notice in a readily accessible location within each affected building.