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# LAW ALERT

## HOME IS BEING REMODELED – NEW REQUIREMENTS FOR 2012

HUD has published significant proposed regulations for the HOME Investment Partnerships Program (HOME) affecting both rental and homeownership projects. In addition, Congress has added a number of new statutory requirements that already apply to fiscal year 2012 HOME funds, and which are included in the proposed regulations as well.

The proposed regulations were published on December 16, 2011, and may be found at 76 FR 78344. Comments on the proposed regulations are due to HUD on February 14, 2012. The appropriations bill with the new statutory requirements is H.R. 2112, and HUD intends to put out operating guidance on these FY 2012 requirements within the next month.

### NEW STATUTORY PROVISIONS THAT APPLY TO 2012 HOME FUNDS NOW:

- funds used for projects not completed within 4 years of commitment date must be repaid (subject to a 1 year extension)
- homeownership units not sold within 6 months of project completion must be rented
- funds may not be committed unless the Participating Jurisdiction (PJ) has certified it has conducted underwriting review, assessed developer capacity and fiscal soundness, and examined neighborhood market conditions to ensure adequate need for the project
- Community Housing Development Organizations (CHDOs) must meet new "demonstrated capacity" requirements in order to receive funds

### HUD'S KEY PROPOSAL FOR NEW REGULATIONS INCLUDE:

- increased oversight and monitoring of projects is required of PJs—to be implemented through the adoption of written standards addressing underwriting, market conditions, subsidy layering and construction standards
- tightening of CHDO formation, ownership, and funding requirements
- updated property standard and property inspection requirements
- new "troubled" project workout process
- new rental and homeownership project completion timeframes

### WHAT WILL THIS MEAN FOR PARTICIPATING JURISDICTIONS AND HOUSING DEVELOPERS?

- Some of the statutory requirements and proposed regulations match current best practices and could be made compatible with the requirements of other funding sources such as TCAC, CDLAC, FHA, USDA and other assistance and financing programs.

- Some of the proposed changes will require additional paperwork and costs for both PJs and Developers.
- Fund commitment and completion deadlines will have to be more carefully calculated and adhered to more closely to avoid forfeiture of funds.
- Homeownership developments will face new pressures for marketing and sales in the face of weak housing markets.
- CHDOs will have to demonstrate increased capacity, which must be provided by staff, rather than consultants or volunteers.
- New prohibitions will apply to students, and new preferences may be allowed for certain categories of employees, subject to fair housing laws.

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**Attached is a more detailed summary of the key proposed changes**. HUD has also produced a 20 page summary of the changes which may be found at: https://www.hometa.info.

For more information please call Isabel Brown, Dianne Jackson McLean, Xochitl Carrion, M David Kroot, or any other attorney at Goldfarb & Lipman.

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