

Notice of Agency Rule-making Proposal

AGENCY: 99-346 Maine State Housing Authority

CHAPTER NUMBER AND TITLE: Chapter 16, Low-Income Housing Tax Credit Rule

PROPOSED RULE NUMBER (*leave blank; assigned by Secretary of State*):

CONTACT PERSON FOR THIS FILING: Ashley Janotta, Chief Counsel, Maine State Housing Authority, State House Station #89, 26 Edison Drive, Augusta, Maine, 04330-6046, (207) 626-4600 (telephone), Maine Relay 711, ajanotta@mainehousing.org (e-mail)

Upon sufficient notice, this notice and the proposed rule will be made available in alternative formats for persons with disabilities and in alternative languages for persons with limited English proficiency.

CONTACT PERSON FOR SMALL BUSINESS INFORMATION (if different): Same as Contact Person

PUBLIC HEARING (if any): A public hearing will be held on Tuesday, May 17, 2022 at 9:30 a.m. at Maine State Housing Authority, 26 Edison Drive, Augusta, Maine. To listen or testify virtually, please contact Gerrylynn Ricker no later than 5:00 p.m. on Thursday, May 12, 2022 at MaineHousing, 26 Edison Drive, Augusta, Maine 04330-6046; (207) 626-4600 (voice); 1-800-452-4668 (voice in state only); or 711 (Maine Relay) or via e-mail: gricker@mainehousing.org.

Upon sufficient notice, appropriate communication auxiliary aids and services will be provided to persons with disabilities and persons with limited English proficiency.

COMMENT DEADLINE: Friday, May 27, 2022 at 5:00 p.m.

BRIEF SUMMARY: The rule repeals and replaces the current Chapter 16, *Low-Income Housing Tax Credit Rule*. The rule is the qualified allocation plan for allocating and administering the federal low-income housing tax credit in the State of Maine, including the State's housing credit ceiling for calendar years 2023 and 2024, as required pursuant to Section 42 of the Internal Revenue Code.

IMPACT ON MUNICIPALITIES OR COUNTIES (if any) None

STATUTORY AUTHORITY FOR THIS RULE: 30-A M.R.S.A. §4741(1), 30-A M.R.S.A. §4741(14) and Section 42 of the Internal Revenue Code of 1986, as amended

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED (if different): Same as above

E-MAIL FOR OVERALL AGENCY RULE-MAKING LIAISON: ajanotta@mainehousing.org

* Check one of the following two boxes.

The above summary is for use in both the newspaper and website notices.

The above summary is for the newspaper notice only. A more detailed summary / basis statement is attached

Please approve bottom portion of this form and assign appropriate AdvantageME number.

APPROVED FOR PAYMENT _____ DATE: _____

(authorized signature)

FUND	AGENCY AMOUNT	ORG	APP	JOB	OBJT
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DETAILED BASIS STATEMENT/SUMMARY: This rule is the qualified allocation plan for allocating and administering federal low income housing tax credits (“LIHTC”) in the State of Maine, which MaineHousing, as the State’s designated housing credit agency, is required to adopt pursuant to Section 42 of the Internal Revenue Code and the above-referenced sections of the Maine Housing Authorities Act.

This rule replaces the prior rule and includes the following changes:

Throughout:

- Updated deadlines
- Repaired grammatical errors (punctuation, typos, correcting defined terms, etc.)

- Section 3B: Added HUD’s Section 18 Demolition/Disposition Program and other HUD conversion programs to the Preservation Set-Aside eligibility.
- Section 4A: Pre-apps due July 7, 2022 and July 6, 2023. Deleted deadline for pre-app discussions with MaineHousing.
- Section 4B: Applications due September 22, 2022 and September 21, 2023.
- Section 4D: Expanded factors for deeming Applicants and Investors ineligible to include seeking early termination of an Extended Use Agreement through the Qualified Contract process and undertaking efforts to undermine the exercise of a right of first refusal or purchase option.
- Section 5A: Expanded Threshold Requirements to include submission of an investor letter of intent committing to the granting of purchase options and, when an eligible nonprofit organization is involved, a right of first refusal.
- Section 5C: Increased the TDC Index caps.
- Section 5E: Clarified the management experience and capacity requirements when multiple subsidy sources create overlapping targeting and rental restrictions.
- Section 5I: Added installation of electrical raceways/conduits for electrical vehicle chargers and PV solar panels to the Project Design requirements.
- Section 5J: Standards for broadband infrastructure required for telemedicine will be those established by the Maine Connectivity Authority in addition to ConnectMaine.
- Section 5M: Clarified that the preference for public housing or Section 8 waiting list in Projects with Section 8 project-based rental assistance will apply to any Credit Units without project-based rental assistance.
- Section 6A: Increased the scoring points for Rehabilitation or Reuse of Existing Housing, Structure or Site from 3 to 4.
- Section 6B: Increased the scoring points for Historic Rehabilitation from 3 to 4.
- Section 6C: Increased the scoring points for Populations with Special Needs from 3 to 6, revised the criteria from requiring a waiting list for special populations to creating a set-aside of those units. Funding from Housing Trust Fund and/or Project-Based Vouchers will be available as necessary.

- Section 6F: Increased the scoring points for Readiness from 6 to 8.
- Section 6H: Deleted Below Market Capital as a scoring criteria.
- Section 6J: Deleted New Project-Based Rental Assistance as a scoring criteria.
- Section 6K: Reduced the maximum scoring points for Property Tax Relief from 4 to 3, revised the scoring categories and added the dates of the application deadlines for approval of Affordable Housing TIFs.
- Section 6L: Increased the maximum scoring points for Housing Need from 8 to 10, clarified the ability of a municipality to carry over its scoring points for one year if the prior year was higher and revised the breakdown of municipalities in each scoring block.
- Section 6O: Deleted High Opportunity Areas as a scoring criteria.
- Section 6P: Increased the maximum scoring points for Developer Capacity from 4 to 5.
- Section 6Q: Increased the maximum scoring points for Owner Performance from 4 to 5.
- Section 6R: Increased the maximum scoring points for Management Experience from 3 to 5.
- Section 7A: Dropped the reference to the monthly Applicable Percentage in calculating Credit amounts as both the 9% and 4% credit percentages are now fixed.
- Section 7E: Deleting the Binding Agreement/Rate Lock for the Applicable Percentage as both the 9% and 4% credit percentages are now fixed.
- Definitions: Deleted definitions of “Below Market Capital” and “High Opportunity Areas”, added definitions of “Compliance Period”, “Credit Period”, “Persons Experiencing Homelessness”, “Qualified Contract” and “Qualified Nonprofit Organization” and clarified that MaineHousing’s Construction Standards include its accessibility policy and procedures.
- Appendix E: Added to set forth the requirements for Purchase Options and Rights of First Refusal.