



Low-Income Housing Tax Credit (LIHTC) Rent Requirement: Frequently Asked Questions (FAQ)

The California Tax Credit Allocation Committee (CTCAC) administers the federal and state Low-Income Housing Tax Credit (LIHTC) programs. Both programs were created to promote private investment in affordable rental housing for low-income Californians. CTCAC allocates state and federal tax credits to qualifying affordable housing developments and oversees each project receiving credits for a 55-year compliance period. The Frequently Asked Questions (FAQs) help explain how rents are determined, CTCAC's monitoring responsibilities, and other requirements of the LIHTC program.

Q: What is the Low-Income Housing Tax Credit (LIHTC) program?

A: Congress enacted the LIHTC program in 1986. This program developed under Internal Revenue Service's (IRS) Internal Revenue Code (IRC) Section 42 provides incentives for the investment of private equity capital to develop affordable rental housing. The LIHTC program reduces the federal tax liability in exchange for the acquisition, rehabilitation, or construction of affordable rental housing units that will remain income and rent restricted over a long period (55 years for California). The amount of tax credit allocated is based on the number of qualified low-income units that meet federal rent and income targeting requirements.

Q: What is CTCAC's monitoring role for the LIHTC program?

A: Through a compliance monitoring process, CTCAC enforces the IRS rules of the LIHTC program to ensure projects are renting units to income-eligible households, rents are restricted at or below the maximum allowed by the program, and that the project units are maintained in safe, sanitary, and good condition. Each project is inspected every three to five years, for 30 or 55 years, depending on when they originally received credits. Owners must certify annually that they meet the program requirements including charging appropriate rents.

Q: What are the eligibility criteria for developers or owners in the LIHTC program?

A: Developers/owners of LIHTC projects must develop a minimum number of units at a project and restrict income and the rents at certain amounts. These are called “set-asides” as the owner is setting aside a certain number of units at the project for the LIHTC program. These set-asides are federally determined and reportable to the IRS. The set-asides the owner is required to restrict the units to households are:

- 40%/60%: 40% of the units at or below 60% Area Median Income (AMI)
- 20%/50%: 20% of the units at or below 50% AMI
- 40%/60% Average Income: 40% of the units at or below 60% AMI and may have units up to 80% AMI, if the average of those units is at or below 60% AMI

In addition to the federal set-aside requirements, some LIHTC projects have state-required deeper targeting requirements, which may restrict a specific number of units to households at 30% AMI, 35% AMI, 40% AMI, etc.

Since state-required deeper targeting is a requirement beyond the federal minimum, once the required number of deeper targeted units has been met for the project, the owner is not obligated to add additional units, even if an applicant may meet the eligibility requirements of a deeper targeted unit.

Example: John Smith and Mary Johnson both receive Social Security as their sole source of income and would qualify to occupy a 30% AMI unit. Happy Place Apartments is required to have 10 units rented to households at or below 30% AMI. Currently, nine of the 10, 30% AMI units have been leased up leaving one remaining 30% AMI unit needed to meet the requirement. John completes the application and turns in all his required documents and qualifications at 9 a.m. and Mary submits her documents at 3 p.m. John was offered the 30% AMI unit as he was earlier in submitting his documentation. It would not be a violation for CTCAC if Mary was offered a 40% AMI unit or greater, as the required number of 30% AMI (10 units) were leased or in the process of being leased when Mary submitted her documentation despite being eligible for a 30% AMI unit.

Q: How are rents determined?

A: The federal regulations for the LIHTC program require rents to be based on the federally published AMI limits for the county in which the project is located. The Department of Housing and Urban Development (HUD) releases the [Multifamily Tax Subsidy Program](#) (MTSP) limits specifically for the LIHTC program annually. This is different than subsidy-based programs such as Section 8 or Housing Choice Vouchers where the tenant-paid portion of the rent is based directly on the tenant's income.

Q: Who determines the AMI figures?

A: The Department of Housing and Urban Development (HUD) releases the [Multifamily Tax Subsidy Program](#) (MTSP) limits specifically for the LIHTC program annually. These limits are different than the limits for the Section 8 program. CTCAC does not have any ability to modify or change the MTSP Limits published by HUD.

Q: Is there a maximum rent increase (dollar amount or percentage) that an owner can charge?

A: CTCAC adopted regulations requiring that for projects awarded on or after January 1, 2024, the owner shall not increase in any 12-month period more than the lesser of five percent plus the percentage increase in the cost of living as defined in paragraph (3) of subdivision (g) of Section 1947.12 of the Civil Code or ten percent of the lowest rental rate charged for that household at any time during the 12 months prior to the effective date of the increase. Assembly Bill 846 (AB 846) was signed into law in 2024 requiring that, starting January 1, 2025, the rent increase limit applies to all projects subject to a CTCAC regulatory agreement. On December 11, 2024, CTCAC adopted regulations to conform to AB 846.

The rent increase limit is found in CTCAC Regulations Section 10336(a). A memo with further information can be found on the CTCAC website at: https://www.treasurer.ca.gov/ctcac/2024/supplemental/2024/rent_increase.pdf In addition to the rent increase limit, owners are required not exceed the required CTCAC rent maximums that are updated by HUD annually.

Q: If the AMI increases for a county, does CTCAC require the owner of a project to increase rents as well?

A: No. CTCAC never requires owners of a LIHTC projects to raise rents. However, the LIHTC program does allow for rents to be increased, as needed, to offset increased management and operating costs, provided that the rent does not exceed the rent limits and the increase in rent does not exceed the rent increase limit requirements.

Q: What is considered “proper notice” for rental increases?

A: Effective January 1, 2020, Assembly Bill 1110 (AB 1110) requires that in California, a 30-day notice be provided for any rent increase of 10% or less. If a rent increase exceeds 10%, then a minimum of a 90-day notice must be provided before the rent may be increased.

Q: Does [AB 1482](#) – The California Tenant Protection Act – restrict the amount that rents can be increased?

A: No. Per Section 3 1947.12(d)(1) of the Civil Code, the Tenant Protection Act does not apply to “Housing restricted by deed, regulatory restriction contained in an

agreement with a government agency, or other recorded document as affordable housing for persons and families of very low, low, or moderate income, as defined in Section 50093 of the Health and Safety Code, or subject to an agreement that provides housing subsidies for affordable housing for persons and families of very low, low, or moderate income, as defined in Section 50093 of the Health and Safety Code or comparable federal statutes.”

Since the LIHTC program is a federal regulatory restriction, with a recorded regulatory agreement, by a government agency (CTCAC) for affordable housing for households that are considered very low or low-income (50%-60% AMI), the protections under AB 1482 do not apply. However, CTCAC adopted regulations establishing a rent increase limit for CTCAC projects as explained in one of the previous questions and answers.

Q: What is “gross rent”?

A: The term “gross rent” refers to the maximum amount of rent that can be charged to a unit for the LIHTC program and includes the amount of tenant paid rent, a utility allowance (if the tenant is paying utilities directly to a utility provider), and any mandatory or required fees for those residing at the project.

Q: Can the property manager charge fees in addition to rent?

A: There are both mandatory fees and optional fees. Mandatory fees are required by management in addition to the lease that apply to all tenants and may include requiring renter's insurance, an internet/cable package specific to a project, washer/dryer hook-up fees, access fees, etc. All mandatory fees are required to be included in the gross rent calculation.

Optional fees are not required and may be charged in addition to the rent. They are not included in the gross rent calculation for purposes of meeting the rent and income limits. For example, charging for an enclosed garage unit for a fee when open parking or assigned parking is available.

Q: What is a Utility Allowance?

A: If the tenants are paying for basic utility services (gas, electric, water) directly to a third-party provider (PG&E, SMUD, Southern California Edison, etc.), the owner must provide an allowance to the tenant to offset the cost of utilities in the gross rent calculation. The amount of the allowance is determined by a third-party authorized agency (public housing authority, utility company, HUD Utility Model) or determined by HUD or the U.S. Department of Agriculture Rural Development (RD). The utility allowance is designed to offset or reduce the tenant paid portion of the gross rent to account for required utilities and is not a direct payment to the tenant.

Q: Can a tenant be evicted for non-payment of rent?

A: Yes, however, Section 42 of the IRC and LIHTC program rules require that an

owner cannot evict a tenant for anything other than “good cause”. The IRS does not define “good cause”. “Good cause” is determined by a judge and the courts in the county or municipality where the project is located. In general, “good cause” may include, but is not limited to, failure to provide accurate income information (eligibility), violations of the lease or house rules, or non-payment of rent. During the COVID pandemic (2020-2021), the Governor of California issued a moratorium on evictions for non-payment of rent. As of the date of these FAQs, the moratorium has concluded in the state. However, some cities, counties, or municipalities may have eviction protections in place for non-payment of rent. These protections are outside the monitoring scope of CTCAC and the LIHTC program and not enforced by CTCAC.

Q: If a tenant receives an eviction notice, should the tenant contact CTCAC for help?

A: No. CTCAC cannot get involved in evictions. “Good Cause” for eviction is determined by a judge and the courts of the city, county, or municipality where the project is located. CTCAC’s only involvement is monitoring the requirement that the tenant receive written notice of the reason for the eviction. If an owner or property management company fails to provide a reason in writing, CTCAC will require the eviction notice be rescinded and a new notice be issued with the reason clearly stated.

Q: Where can a tenant find out about their rights as a tenant in California?

A: The California Department of Real Estate has published a Guide to Residential Tenants’ and Landlord’s Rights and Responsibilities that can be found [here](#). This guide applies to all residential rental tenants in California and is not exclusive to the LIHTC program.