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**Effective immediately: Revisions to section 5-6 and 5-7 of the HPD-HDC Marketing Handbook**

August 21, 2019

Please be advised that Section 5-6 (F) (1-2) and Section 5-7 (A) of the HPD-HDC Marketing Handbook are now revised as detailed below. The language herein supersedes the HPD-HDC Marketing Handbook that went into effect July 1, 2018. All updates in this notice are effective immediately, and they apply to projects currently in the resident selection process for initial lease-up or sales as well as re-rentals and resales. Revisions will also be included in a forthcoming update to the HPD-HDC Marketing Handbook to be released in the fall of 2019.

**SUMMARY OF MAJOR CHANGES**

**Credit Checks and Evidence of Rent Payments:**

- Applicants have the choice to avoid a credit check by providing evidence of 12 months' complete rent payments. If an applicant chooses to have their credit checked, they then have the option to provide an existing credit check run within the past 30 days, as now required by Section 238-A(1)(b) of the New York State Real Property Law. The applicant's decision is recorded in a signed form at their eligibility appointment (form will be provided by the agencies). The document checklist for applicants, Attachment H-1C, has been updated to reflect these changes.
- As required by the June 2019 changes to New York State law referenced above, the maximum fees that can be charged for credit checks are now the actual fees for background checks and credit checks or \$20, whichever is less.

**Occupancy Guidelines:**

- Occupancy guidelines for affordable units have been expanded to include an additional person per unit size (e.g. 1-2 people in a studio, 1-3 in a 1-bedroom, 2-5 in a 2-bedroom, etc.).
- Occupancy guidelines no longer assume that two married or similarly committed people share a bedroom.

– TEXT CHANGES –

**5-6 Background Checks and Other Factors**

**F. CREDIT AND HOUSING COURT HISTORY: RENTALS**

1. The following policies are the most stringent criteria permitted for evaluating rental, credit, and housing court history. The Marketing Agent may implement less stringent policies, which must be described in the Marketing Plan and approved by the Agency. Selection criteria must be applied consistently to all applicants. This applies to:
  - Evidence of Rent Payments
  - Credit Checks and Fees

- Credit Score
  - Eviction/Landlord-Tenant Action
  - Bankruptcy
  - Delinquencies, Collections, Money Judgments, and Liens
2. Applicants may choose to provide evidence of complete monthly rent payments for the preceding 12-month period in lieu of a credit check. They should bring such evidence to their eligibility appointment and, if at the time the documentation is incomplete, they have an additional 5 business days to submit the documentation to the Marketing Agent. Attachment H-1C, *Document List*, provides applicants with information on this option at the time they are invited to schedule an eligibility appointment.

*Evidence of Rent Payments*

- a. Applicants who opt to submit evidence of monthly rent payments must provide proof of the monthly rental amount they were required to pay for the preceding 12 months AND any of the following as evidence of monthly rent payments:
  - i. Formal rent receipts
  - ii. Evidence of monthly withdrawals, payments, or transfers e.g., bank statements
  - iii. Money order receipts or copies
  - iv. Canceled checks
  - v. Landlord's written record of rent payment, i.e., rent ledger
  - vi. Other evidence subject to agency approval
- b. If an applicant chooses this option but is unable at the time of the eligibility appointment to provide evidence of monthly rent payments, they have an additional 5 business days to submit the documentation to the Marketing Agent.
  - i. If the applicant provides evidence of monthly rent payments for the past 12 months, the Marketing Agent will process their application without running a credit check.
  - ii. If the rent payment information that the applicant provides is incomplete or of unclear validity, the Marketing Agent must request the applicant's written consent to either (i) contact the owner/manager(s) of their residence(s) in the preceding 12 months to request a ledger; or (ii) run a credit check as described below in *Credit Checks and Fees*.

*Credit Checks and Fees*<sup>1</sup>

- a. If the applicant provides for review a copy of a credit check conducted within the past 30 days, the Marketing Agent may not run a credit check or charge a credit check fee.
- c. When a credit check must be run, the Marketing Agent may charge the actual fees for background checks and credit checks or \$20, whichever is less.

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<sup>1</sup> Please refer to Section 238-A(1)(b) of the New York State Real Property Law.



- d. The Marketing Agent must provide the applicant with a copy of the background or credit check and the receipt or invoice from the entity that conducted the check; after which the applicant may be charged a fee.

**5-7 Occupancy Guidelines and Unit Distribution**

**A. OCCUPANCY GUIDELINES**

- 1. The occupancy criteria established must be consistent with federal, state and local laws and with the HPD and HDC occupancy guidelines, as noted on the following chart:

<b>ALL UNITS (RENTAL AND HOMEOWNERSHIP)</b>	
<b>Unit Size</b>	<b>Number of People</b>
Studio	1 - 2
1 Bedroom	1 - 3
2 Bedroom	2 - 5
3 Bedroom	3 - 7
4 Bedroom	4 - 9

- a. HUD has provided some guidance for establishing these criteria in the *HUD Handbook 4350.3, Chapter 3, and Paragraph 3-23*. This guidance states in part that, generally, a two person per bedroom standard is acceptable. However, it makes the following important distinction: “Owners must avoid making social judgments on a family’s sleeping arrangement. For example, it is not for the owner to determine whether a young child can share a bedroom with a parent.” If a family (i) qualifies as a household as defined in this Marketing Handbook and (ii) qualifies by both number of persons and income for more than one unit size, then the family chooses the unit size.
- b. The only additional exceptions would be certain programs, which may have statutorily imposed occupancy standards.

– END OF TEXT CHANGES –

Note: Marketing Agents must update the unit household size and income requirements for all affordable units. For assistance making these revisions, please contact your Marketing Project Manager at HPD or HDC.

