


Webcast #3

**The Critically-Important Issues of
Unit Transfers**





TheoPRO
Instructor: Vivian R. Probst
Principal of The TheoPRO Group

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Prepared and presented for :

**Ohio Capital Corporation for
Housing**

Presented By:
Vivian Probst
President/CEO The TheoPRO Group

By Vivian Probst
President of The TheoPRO Group

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Before We Begin...



YOUR QUESTIONS ARE IMPORTANT!

E-mail to vivian@theopro.com

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Both TheoPRO1 and 2 cover numerous topics that are used by national companies to test for compliance expertise.

TheoPRO is an approved proctor for the HCCP exam and can train for SHCM.

Taking TheoPRO training does not guarantee success in passing these or any exams.

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HCCP: Housing Credit Certified Professional, a designation offered by the National Association of Home Builders (NAHB). www.nahb.org

SHCM: Specialist in Housing Credit Management, a designation offered by the National Affordable Housing Managers Association (NAHMA).

www.NAHMA.org

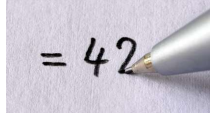
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TheoPRO offers its own BACE42 exam for both entry level professionals and those focused on income-qualifying households.

A portion of national, higher-level exams include testing on how to qualify households. Consider taking TheoPRO's on-line BACE42 exam as part of preparing for higher level exams.

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Are You Ready???



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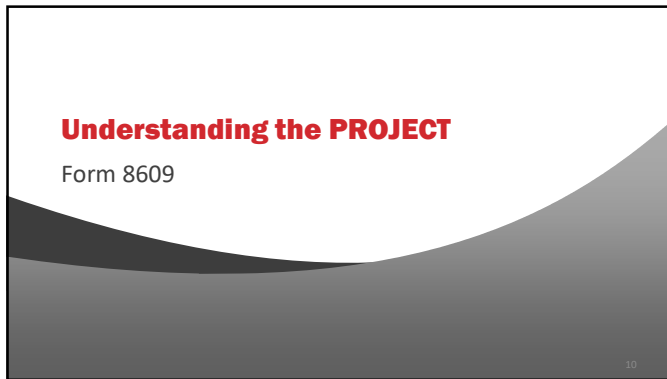
On-Going Compliance

- Unit Transfers

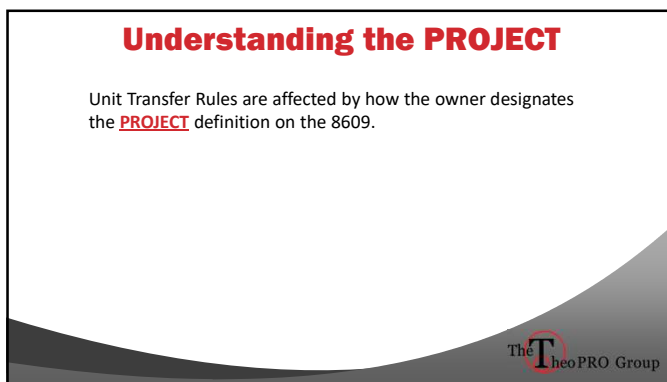


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Form 8609 Part II

Part II First-Year Certification—Completed by Building Owners with respect to the First Year of the Credit Period

7 Eligible basis of building (see instructions) **7**

8a Original ~~qualified basis~~ of the building at close of first year of credit period **8a**

b Are you treating this building as part of a multiple building project for purposes of section 42 (see instructions)? ☐ Yes ☐ No

9a If box 8a or ~~not checked~~ do you elect to reduce eligible basis under section 42(b)(5)? ☐ Yes ☐ No

b For market-rate units above the average quality standards of low-income units in the building, do you elect to reduce eligible basis by disproportionate costs of non-low-income units under section 42(d)(3)(B)? ☐ Yes ☐ No

10 Check the appropriate box for each election.
Caution: Once made, the following elections are irrevocable.

a Elect to begin credit period the first year after the building is placed in service (section 42(f)(1)) ☐ Yes ☐ No

b Elect **not** to treat large partnership as taxpayer (section 42(j)(5)) ☐ Yes

c Elect minimum set-aside requirement (section 42(g)) (see instructions):
☐ 20-50 ☐ 40-60 ☐ Average income ☐ 25-60 (N.Y.C. only)

d Elect deep rent skewed project (section 142(d)(4)(B)) (see instructions) ☐ 15-40

Under penalties of perjury, I declare that I have examined this form and accompanying attachments, and to the best of my knowledge and belief, they are true, correct, and complete.


Signature Taxpayer identification number Date

Name (please type or print) First year of the credit period

For Privacy Act and Paperwork Reduction Act Notice, see separate instructions. Cat. No. 63981U Form **8609** (Rev. 05-2018)


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Defining a PROJECT



Is each Building its own PROJECT?

Or...



Are all Buildings part of the SAME PROJECT?

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8a Original qualified basis of the building at close of first year of credit period 8a

8b Are you treating this building as part of a multiple building project for purposes of section 42 (see instructions)? ☒ Yes ☐ No

9a If box 8a or box 8b is checked, do you elect to reduce eligible basis under section 42(i)(2)(B)? ☐ Yes ☐ No

b For market-rate units above the average quality standards of low-income units in the building, do you elect to reduce eligible basis by disproportionate costs of non-low-income units under section 42(e)(5)(B)? ☐ Yes ☐ No

10 Check the appropriate box for each election.

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Defining a PROJECT



8609 marked YES
All identified Buildings (BINS)
are part of the same **PROJECT**

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Owner Elections on Line 8B

If **YES**, multiple buildings can be part of one project;

- Form 8609 must list **ALL** building addresses attached to that project.
- If list is **NOT** attached, each building defaults to being its own project.

Households are permitted to transfer between **BINS** in the same **PROJECT**.



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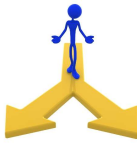
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Check with your State Housing Finance Agency

Some state agencies **DO NOT** permit households to transfer between BINS even if they are part of the SAME PROJECT.

If your project has other types of government programs involved, those programs may have different unit transfer rules.

Check out TheoPRO's EZ-Program Integration Chart



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Form 8609 Part II

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7 Eligible basis of building (see instructions)	7
8a Original qualified basis of the building at close of first year of credit period	8a
8b Are you treating this building as part of a multiple building project for purposes of section 42 (see instructions)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
9a If box 8a or box 8b is checked, do you elect to reduce eligible basis under section 42(i)(2)(B)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
b For market-rate units above the average quality standards of low-income units in the building, do you elect to reduce eligible basis by disproportionate costs of non-low-income units under section 42(i)(3)(B)?	<input type="checkbox"/> Yes <input type="checkbox"/> No
10 Check the appropriate box for each election.	
Caution: Once made, the following elections are irrevocable.	
a Elect to begin credit period the first year after the building is placed in service (section 42(f)(1))	<input type="checkbox"/> Yes <input type="checkbox"/> No
b Elect not to treat large partnership as taxpayer (section 42(i)(6))	<input type="checkbox"/> Yes <input type="checkbox"/> No
c Elect minimum set-aside requirement (section 42(g)) (see instructions):	
<input type="checkbox"/> 20-50 <input type="checkbox"/> 40-60 <input type="checkbox"/> Average income <input type="checkbox"/> 25-60 (N.Y.C. only)	
d Elect deep rent skewed project (section 142(d)(4)(B)) (see instructions)	<input type="checkbox"/> 15-40

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Defining a PROJECT



8609 marked NO
Each Building (BIN) is its own
PROJECT

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Defining the PROJECT

- If each BIN is its own project, any moving between BINS is a move to a separate project.

Households must be qualified before they can move into a different **PROJECT**.

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SUMMARY

Unit Transfer Rules are affected by how the owner designates the PROJECT definition on the 8609

All BINS in a project must carry the same 8609 election

Remember if no clear election is made, each BIN is its **OWN** Project.

Why is this important to know?

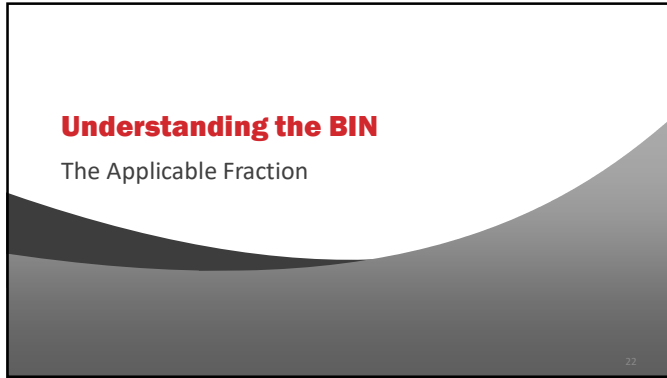
Unit transfer between BINS in the same PROJECT are treated differently than unit transfers between PROJECTS.

If each BIN is its own project, any moving between BINS is a move to a separate project.

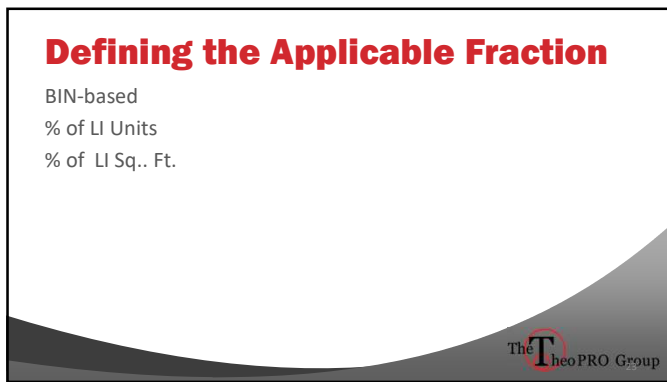
Households must be qualified before they can move into a different **PROJECT**.

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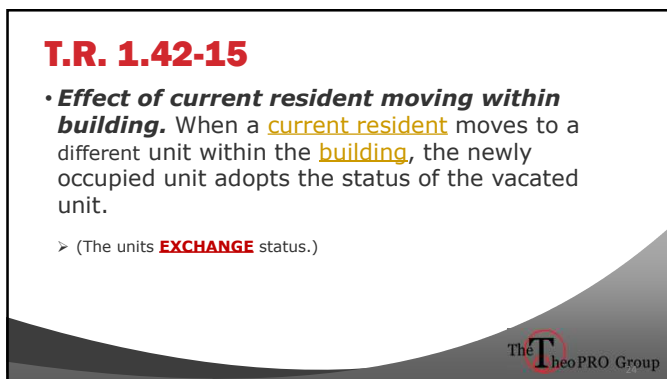
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Unit Transfers: TYPE A-1: SAME BIN 100%

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Unit Transfers-SAME BIN

What if the transfer is into a different unit in the same BIN?

If a Tax Credit household wants to transfer to a different Tax Credit unit within the same BIN:

- ✓ A current qualified low-income resident may transfer to another unit in the SAME BIN, even if the household's income **EXCEEDS** the current qualifying income.



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Unit Transfers-SAME BIN TYPE A1 100% BIN

100% AF



The units 'exchange status'.

If all units are low-income, there is no impact if households transfer between units in the same **BIN**.

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Unit Transfers: A-2 What if the BIN is less than 100% LIHTC?

Mixed Income/Mixed Use

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If BIN is <100% LIHTC

- The **BIN's** Applicable Fraction is measured on a unit and square foot basis.
- If a transfer occurs between LIHTC and market rate units, both the correct # of units and **SQUARE FEET** must be replaced before the LI unit converts to Market Rate.

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Unit Transfers: Mixed Use BIN

WATCH UNIT TRANSFERS IN THE SAME BIN ON MIXED-USE PROPERTIES.

If the unit being moved into is currently a **MARKET** rate unit and it is **smaller than** the tax credit unit, **SQUARE FOOTAGE** issues could arise.

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Unit Transfers: Mixed Use Example

Currently, a 10-unit BIN consists of (2) one-bedroom LI units and (3) two-bedroom LI units. The 50% applicable fraction requirements have been met.

A household in a two-bedroom LI unit wants to move to a MR one-bedroom. The unit designations will 'exchange status' (swap).

The two-bedroom would become market rate and the one bedroom would become tax credit.

Can you allow the transfer?

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Unit Transfers-~~SAME BIN~~

Total Units: 10

Total Sq. Footage: 7,500

Required Units: 5

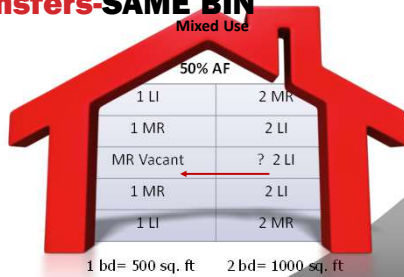
Required Sq. Footage: 3,750

Current units: 5

Current Sq. Footage: 4,000

LI – Low Income Qualified Unit

MR – Market Rate Unit



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Example

If the transfer is allowed, the BIN will now have:

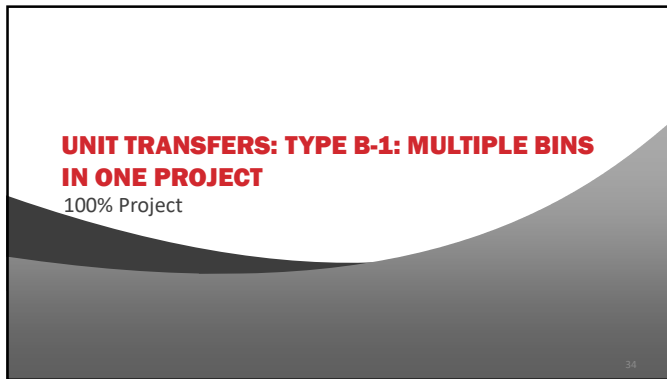
- ✓ 5 eligible units.
- ✓ 3,500 eligible square feet.



The transfer MAY NOT be permitted unless...

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Our 8609 Line 8b Election YES = TYPE B1

ONE PROJECT

BIN 1

100%

1LI	2LI
1LI	2LI
1LI	2LI
1LI	2LI
1LI	2LI

1 BR
500
sq. ft.

2 BR
1000
sq. ft.

BIN 2

100%

1LI	2LI
1LI	2LI
1LI	2LI
1LI	2LI
1LI	2LI

1 BR
1000
sq. ft.

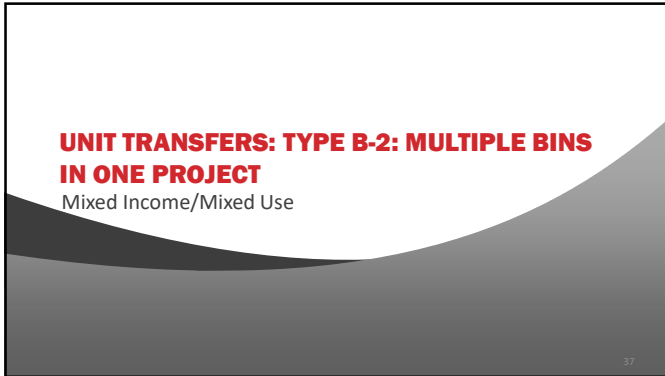
2 BR
1000
sq. ft.

Check with your state housing finance agency for more restrictive rules.

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**UNIT TRANSFERS: TYPE B-2: MULTIPLE BINS
IN ONE PROJECT**
Mixed Income/Mixed Use

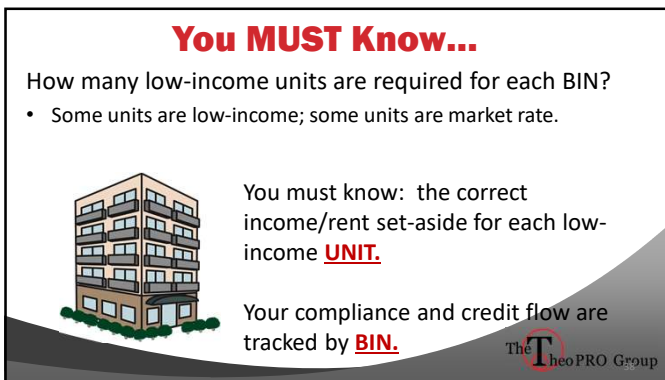


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You MUST Know...

How many low-income units are required for each BIN?

- Some units are low-income; some units are market rate.



You must know: the correct income/rent set-aside for each low-income **UNIT**.

Your compliance and credit flow are tracked by **BIN**.

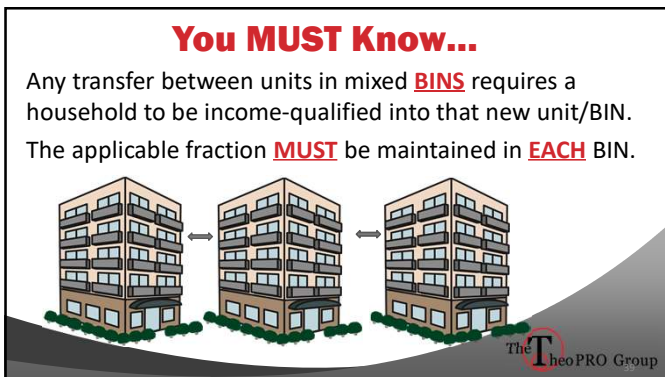
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You MUST Know...

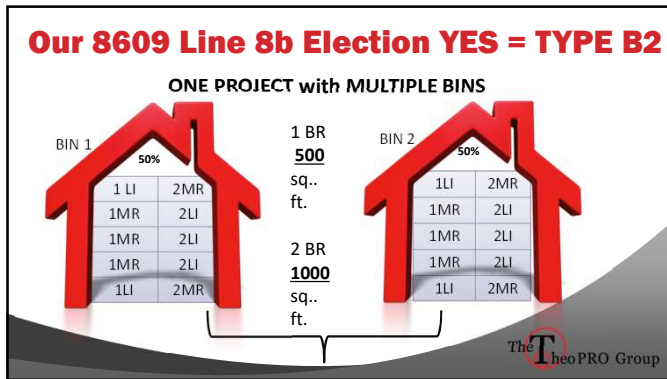
Any transfer between units in mixed **BINS** requires a household to be income-qualified into that new unit/BIN.

The applicable fraction **MUST** be maintained in **EACH** BIN.



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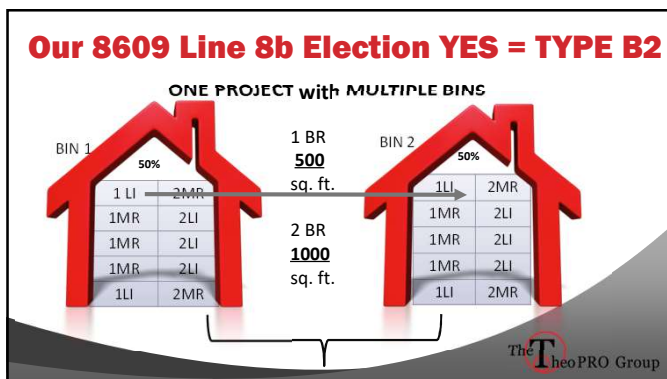
Unit Transfers-Between BINS
Mixed Use

Total Units: 10
Total Sq. Footage: 7,500
Required Units: 5
Required Sq. Footage: 3,750
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LI – Low Income Qualified Unit
MR – Market Rate Unit

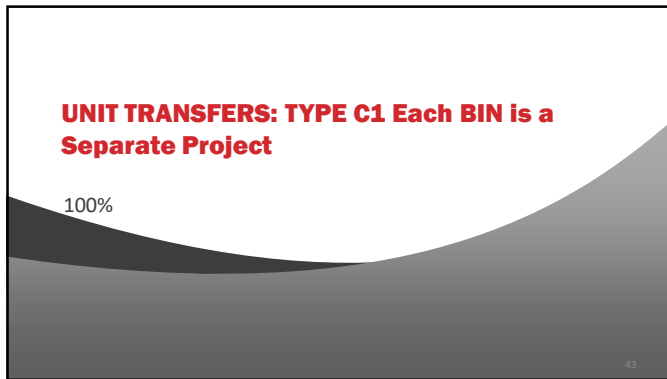
Caution:
The applicable fraction **MUST** be maintained in **EACH** BIN.
Between BIN transfers work if the square footage of the units is the **SAME**.
It is difficult to exchange different size units between BINS and maintain the application fraction for **BOTH** BINS.

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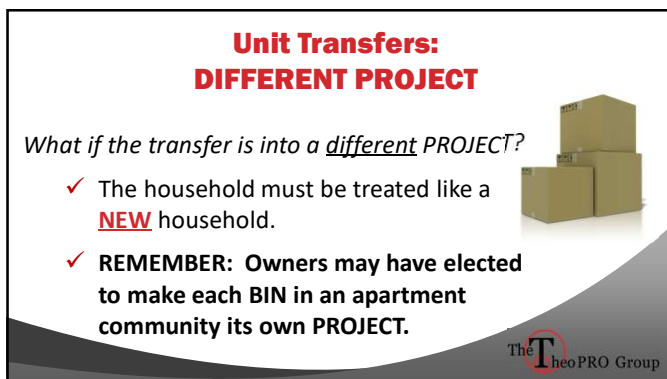
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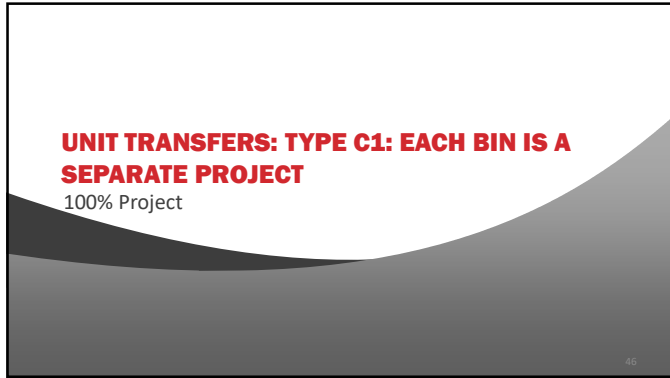
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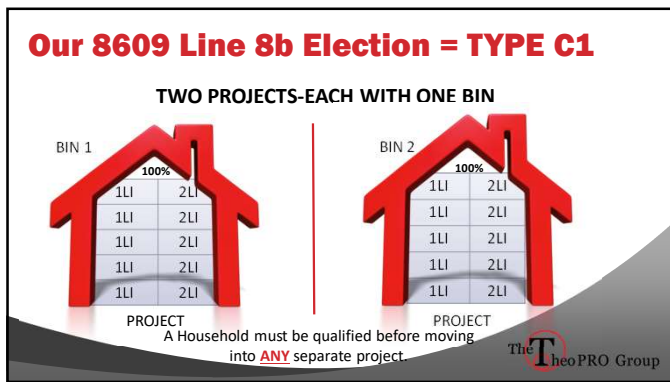
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Our 8609 Line 8b Election = TYPE C2

TWO PROJECTS-EACH WITH ONE BIN

BIN 1

PROJECT

BIN 2

PROJECT

A Household must be qualified before moving into ANY separate project.

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UNIT TRANSFERS WHEN A HOUSEHOLD GOES OVER 140%

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Unit Transfers Affect the Building/BIN

- **"Effect of current resident moving within building.** Thus, if a current resident, whose income exceeds the applicable income limitation, moves from an over-income unit to a vacant unit in the same building, the newly occupied unit is treated as an over-income unit. The vacated unit assumes the status the newly occupied unit had immediately before it was occupied by the current resident." Treasury Reg. 1.42-15

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Unit Transfers in the First Year of the Credit Period: Qualified → Never Qualified

When a **Qualified** household leaves a **Qualified** unit and moves...

- Into a different, **NEVER QUALIFIED** unit in the same BIN or
- Into a different, **NEVER QUALIFIED** unit in the same PROJECT...

The units **EXCHANGE** status.



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Unit Transfers in the First Year of the Credit Period

The previously Qualified unit immediately becomes **Non-Qualified** and credit flow stops until a new qualified household occupies the unit.

The Never-Qualified Unit becomes Qualified as of the same date.

= The units **EXCHANGE** status.

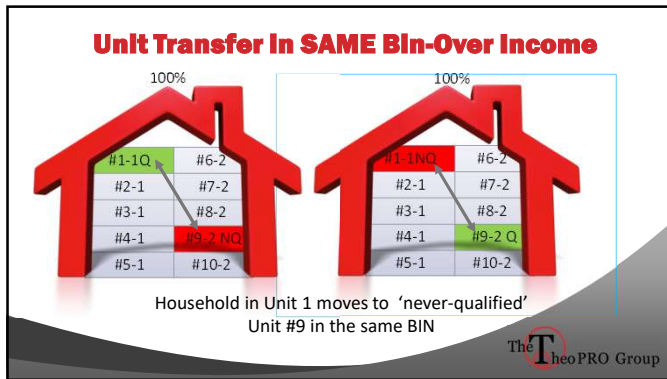


A household's location must be tracked on a month-by-month basis.

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When Qualified Families Move into Never Qualified Units in the Same Project.

Revenue Procedure 2004-82 (Question and Answer #8)

"...where an owner simply moves a tenant from a unit in one BIN to a unit in another BIN in the same project, both units may not be treated as low-income units; rather, only the unit that the tenant actually occupies at the END of a month in the first year of the credit period and at the end of each year in subsequent years qualifies as a low-income unit."

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Unit Transfers in the First Year of the Credit Period

When a **Qualified** household leaves a **Qualified** unit and moves...

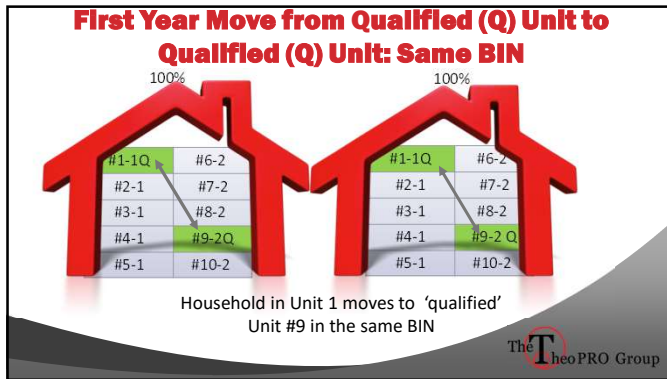
- Into a different, **QUALIFIED** unit in the same BIN or
- Into a different, **QUALIFIED** unit in the same PROJECT...

They **Qualify** the unit they originally moved into.
The **Qualified** status of the unit they move into stays in effect also.
Remember: The previous unit remains QUALIFIED!

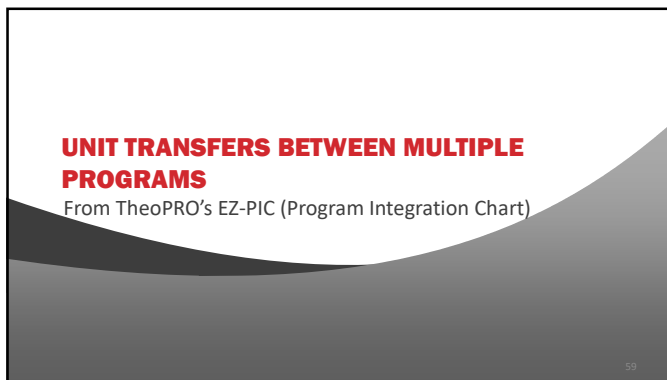
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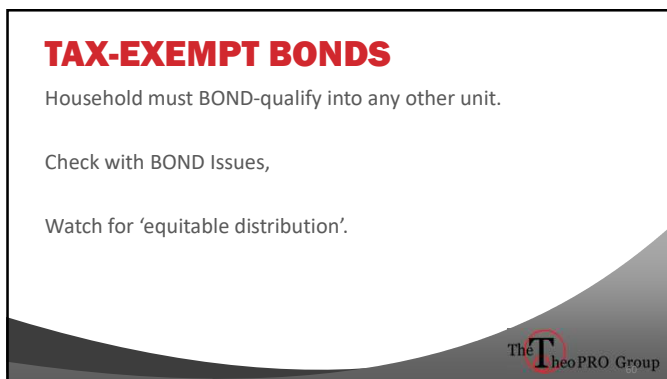
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SECTION 8—PROJECT/TENANT-BASED

Permitted without recertifying household.

Transfers to larger or smaller units may be required based on UNIT utilization.

Flexible if right-sized unit is NOT available as long as household is relocated to right-sized unit as soon as possible.

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HOME

If HOME units are FIXED, household may transfer; unit designation may not.

If HOME units are FLOATING, household and designation may transfer.

Unit must be COMPARABLE;

Transfer into different sized units is disallowed.

Household must qualify under HOME move-in restrictions.

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RD

Unit must be RECERTIFIED.

Transfers to larger or smaller units may be required based on UNIT utilization.

Flexible if right-sized unit is not available as long as household is relocated to right-sized unit as soon as possible.

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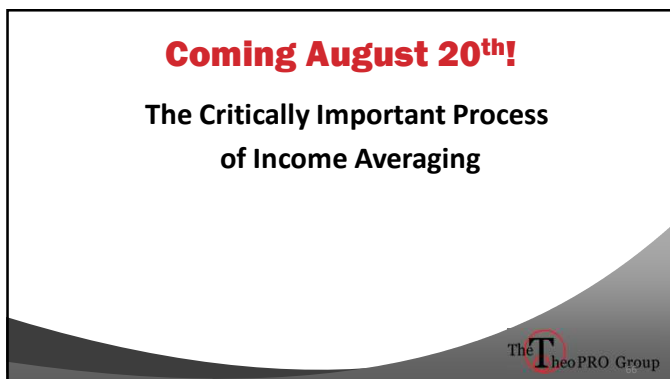
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File Reviews
Consulting
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