



Weatherization Policies to Ensure Benefits Accrue to Tenants

It is very common for states to defer to subgrantee weatherization entities to ensure that the benefits of weatherizing a multifamily property accrue primarily to the tenants. However, the administering state agency may establish minimum requirements and procedures for subgrantees to assure the tenant primarily benefits from the weatherization improvements. In order to meet the broader goals of increasing the number of low-income residences served by weatherization, improving residential energy efficiency, and reducing carbon emissions, it is important to provide states flexibility in finding ways to assure that benefits accrue primarily to tenants.

In cases where tenants pay for utilities separate from rent, the state establishes a minimum time period during which the landlord is prohibited from raising rents, unless the rent increases can be shown to be unrelated to the increased value of the property as a result of the weatherization work. Across most states, this time period ranges from approximately 1 to 3 years, which is commensurate with the relatively small investment and limited durability of the weatherization enhancements. In addition, most states prohibit the landlord from evicting the tenant for a certain time period, unless it can be shown that the eviction is justified for reasons unrelated to the weatherization improvements. These policies are enforced through an owner-agency agreement administered by the local grantee.

In cases where tenants pay for utilities such as heat through their rent payments, it may be more challenging to demonstrate that the benefits of weatherization accrue primarily to the tenants. States should continue to be responsible for ensuring that the benefits of weatherization accrue to tenants, as they are responsible for meeting other statutory requirements. A number of states already address this issue by requiring affordability commitments from landlords that exceed what is required if tenants pay for utilities separately. Several examples of state approaches are described below.

Define tenant benefit to include the preservation of affordable housing and improved living conditions. The Washington State Department of Community, Trade and Economic Development (CTED) requires local grantees to document tenant benefits when weatherizing a multifamily building. In addition to the economic benefit of lowered utility payments, CTED defines benefits to the tenant to include “preserved low-income housing, added comfort, and improved indoor air quality.”¹ In the case of subsidized housing, CTED’s policy is to give preference to properties where the owner commits to retaining the unit as low-income housing for at least ten years. CTED relies on the discretion of local agencies to determine if benefits accrue to tenants, including in cases of master-metered units.

¹ See CTED April 2009 Weatherization Manual, Section 1.8 “Subsidized Housing Weatherization” located here: http://www.commerce.wa.gov/portal/alias_cted/lang_en/tabID_513/DesktopDefault.aspx.

Oregon Housing and Community Services takes into consideration health or safety reasons that justify weatherization services when determining whether to provide services to residents who pay for energy costs as part of their rent.

Provide extended protections against rent increases and evictions. A number of states place longer restrictions on owners of buildings where utility payments are included in the rent as compared to when tenants pay for utilities separately.

- In New York, owners are required not to raise rents due to weatherization work for a period of not less than 2 years where the cost of heat is paid by the tenant, and not less than 5 years where the cost of heat is included in the rent.²
- Vermont recommends that landlords be restricted from raising rents for a period of at least three years where the cost of heat is included in the rent, as compare to at least one year where heat is paid separately.³

² See New York State's Weatherization Assistance Program Policy and Procedures Manual found here: <http://www.dhcr.state.ny.us/Publications/WeatherizationManual/wappm04.htm>

³ Harak, Charles, and Olivia Bae Wein. Access to Utility Service. 4th ed. Boston: National Consumer Law Center, 2008.