

NAHMAanalysis

NATIONAL AFFORDABLE HOUSING MANAGEMENT ASSOCIATION

Ensuring NAHMA Members Receive the Latest News and Analysis of Breaking Issues in Affordable Housing

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Housing Opportunity Through Modernization Act of 2016

Background

On July 29, President Obama signed into law H.R.3700, the Housing Opportunity Through Modernization Act of 2016 ([HOTMA](#)), after Congress unanimously passed the legislation. HOTMA streamlines certain parts of the U.S. Dept. of Housing and Urban Development's (HUD) rental assistance programs, including the public housing program, the Housing Choice Voucher (HCV) program, and the project-based rental assistance program. As a result of HOTMA, the Congressional Budget Office (CBO) estimates that implementing this legislation would “reduce spending subject to appropriation by \$311 million over the 2017-2021 period, assuming appropriations are consistent with the estimate.”¹

Over the past year, NAHMA has been part of large industry coalition of housing advocates supporting the passage of HOTMA. As a result of strong advocacy efforts, HOTMA makes common-sense revisions to income calculations and inspection processes and limiting eligibility based on assets. For a comparison chart of HOTMA changes to current law, please visit the Center for Budget and Policy Priorities' HOTMA resource page [here](#). This NAHMA Analysis provides a brief overview of HOTMA, including a summary of relevant housing sections for members.²

HCV Physical Inspections

Under the HCV program, PHAs are required to inspect residential units to ensure they meet quality standards before assistance. HOTMA allows payments to be made if a unit doesn't meet those standards based on non-life threatening conditions. If the deficiency isn't corrected within 30 days, future payments would be withheld until it is.

PHAs would be able to authorize occupancy before completing its inspection if a property has met the requirements of an alternative inspection method within the past 24 months. An agency also would be able to make payments retroactive to the beginning of the lease term after it completes its inspection and determines the unit meets housing quality standards.

¹ CBO Cost Estimate for HOTMA <https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/costestimate/hr3700.pdf>

² Bloomberg Government (BGov) Bill Summary: Final Version of H.R. 3700, Housing Programs, published July 19, 2016.

HOTMA adds enforcement provisions for housing quality standards, such as requiring PHAs to reduce assistance for failure to comply. If the owner of the residence doesn't correct a deficiency within a set timeframe, the PHA could terminate the housing assistance payments (HAP) contract for the unit. The PHA would then have to help the family find a new residence. PHAs can waive the enforcement requirements if it determines that the tenant is responsible for any damage that results in a failure to comply with the housing quality standards.

Calculating Income

HOTMA changes how income is defined and what deductions can be taken when determining a tenant's rent responsibility for all federal assistance programs.

Income would mean any income received by each member of a household who is 18 or older and any unearned income for each dependent younger than 18. It would exclude: imputed returns on assets unless net family assets exceed \$50,000, which would be adjusted for inflation; certain Supplemental Security Income payments; disability benefits from the U.S. Dept. of Veterans Affairs; aid and attendance assistance for veterans; and any other income sources determined by HUD. It also would exclude student's earned income and tuition assistance, as well as amounts in educational savings accounts.

Income Reviews

Income is reviewed annually for most families by PHAs or property owners. Reviews are conducted every three years for families with a fixed income, as provided by the FAST Act of 2015.

Under HOTMA, reviews would also be conducted when a family's income or deductions result in a 10 percent increase in annual adjusted income. A family could request a review if their annual adjusted income is expected to decrease by 10 percent.

A PHA or property owner would be directed to use estimates of family income for the upcoming year when determining eligibility for initial occupancy or housing assistance. For annual reviews, where applicable, income from the preceding year would be used.

Family income could also be determined before deductions are applied based on eligibility for other means-tested public assistance programs, such as Temporary Assistance for Needy Families (TANF).

HOTMA repeals provisions in current law that prohibit rent increases for a family as a result of increased income due to employment within the first year of starting a job.

Deductions for determining adjusted income would be modified as follows:

- The deduction for an elderly or disabled family would be increased to \$525, from \$400, and adjusted for inflation in future years.
- Health care expenses that exceed 10 percent of annual family income, instead of 3 percent.
- Eliminates existing earned income disregard.

- Child care deduction remains the same, as under current law.
- Dependent deduction initially remains at \$480 but will be adjusted for inflation in future years.
- Additional deductions that a PHA establishes at its discretion, subject to procedures created by HUD to ensure these deductions don't materially increase federal expenditures.

HUD would be required to provide financial hardship exemptions for the requirements related to health care and child care expenses.

Eligibility Limitations

Housing assistance couldn't be provided to any family whose net assets, as defined by HOTMA, exceed \$100,000. The amount would be adjusted annually for inflation. It also couldn't be provided to any family who owns real property that is suitable to live in, though the prohibition wouldn't apply in some circumstances, such as for victims of domestic violence or a family that is offering the property for sale.

HOTMA requires PHAs to terminate the tenancy or increase rent for families in public housing whose income for the most recent two consecutive years exceeds 120 percent of the area's median income. PHAs would need to provide written notice to the family after one year in which their income has exceeded the limits. HUD could also adjust the limit based on several factors. PHAs would need to produce annual reports on the number of "over-income" residents and the number of families on a waiting list for admission to public housing projects.

Project-Based Vouchers

HOTMA makes several changes to the project-based voucher program, which allows PHAs to use a portion of their HCVs for specific units instead of specific tenants. A PHA could use as much as 20 percent of its voucher allocation for project-based assistance, instead of 20 percent of the funding available for vouchers. An additional 10 percent would be allowed for units for individuals or families that are homeless, veterans, disabled or elderly.

Project-based voucher assistance has an income-mixing requirement that restricts assistance to 25 percent of dwelling units in a project. HOTMA will allow it to be used for 25 percent of units or 25 units, whichever is greater. In areas where the tenant-based vouchers are difficult to use or that have a poverty rate of 20 percent or less, project-based voucher assistance could be applied to as much as 40 percent of dwelling units.

In addition, HOTMA increases the allowable contract term for project-based vouchers to 20 years, from 15 years, and would make changes to rent adjustments under a HAP contract.

PHA Ownership

HOTMA defines ownership of a PHA unit in instances where the PHA both owns and administers assistance for the unit. Under current law, HUD is required to conduct inspections and make rent determinations. Under HOTMA, ownership would include a unit owned by the agency, by an entity wholly controlled by the agency, or by a limited liability company or limited partnership in which an agency holds a controlling interest. It would exclude units for which an

agency holds a fee interest in the ground lease, a security interest under a mortgage, or a non-controlling interest in an entity which owns the unit.

PHA Funds

PHAs would be able to establish a replacement reserve to fund capital and managing activities for public housing projects. Funding could come from the agency's Capital Fund used for those activities and additional sources at the discretion of HUD.

The total in the reserve couldn't exceed the PHA's estimate of amounts necessary to satisfy the capital needs of properties in its portfolio, as outlined in its Capital Fund Five-Year Action Plan. HUD could establish a maximum reserve level that is below that amount based on the size of the portfolio receiving assistance.

PHAs could transfer more than 20 percent of their operating funds when first establishing a replacement reserve. HOTMA also would allow a PHA to use as much as 20 percent of its Operating Fund for activities typically covered by its Capital Fund, similar to a flexibility that exists for Capital funds being used for Operating Fund activities.

Family Unification Program

HOTMA makes changes to eligibility for a family unification program for children aging out of foster care. It would apply to individuals who are at least 18 and not more than 24 years old, instead of 21 years old, and for those who will leave foster care within 90 days and are homeless or at risk of becoming homeless. It also would apply for as long as 36 months, instead of 18 months.

HOTMA also directs HUD to issue guidance to improve coordination between PHAs and public child welfare agencies in carrying out the program.

Homeless and Veterans Provisions

HUD would be required to define the term "geographic area" for the Continuum of Care program, which provides assistance to individuals and communities to help address homelessness.

A local government would be allowed to distribute the assistance it has received under the Emergency Solutions Grant Program to PHAs or local redevelopment authorities, in addition to nonprofit organizations as allowed under current law. Grants can be used to engage homeless individuals and families, provide shelter and prevent homelessness, among other activities.

HOTMA creates a special assistant for veteran affairs within HUD. The official would report directly to the HUD secretary and would be responsible for:

- Ensuring that veterans have fair access to the department's housing and homeless assistance programs.
- Serving as a liaison with the Veterans Affairs Department.
- Overseeing HUD's veterans-related programs.

The existing position of special assistant for veterans programs in HUD's Office of the Deputy Assistant Secretary for Special Needs would be terminated as soon as the new official is appointed.

Other Provisions

HOTMA requires HUD to publish data about local utility consumption and costs in public housing, if the information can be collected in a cost-effective manner and the secretary determines it would be useful for setting up allowances for tenant-paid utilities.

HOTMA stipulates that HUD's Disaster Housing Assistance Program would be subject to income verification requirements, intended as a fraud and abuse prevention measure.

HOTMA prohibits HUD from requiring any dwelling developed under the Self-Help Homeownership Opportunity Program from meeting additional energy-efficiency standards. The program allows individuals to purchase a home in return for their labor.

HUD would also be directed to develop data exchange standards governing state agency and federal reporting and data sharing requirements.

Conclusion

NAHMA would like to thank its members and other industry partners for joining together in advancing this legislation. Our combined advocacy efforts demonstrate the importance of grassroots advocacy. We look forward to your continued support and partnership in our collective goal of providing quality affordable housing.