

The Housing Authority of the City of Hoboken

# UNDERSTANDING HOTMA

Section 102, 103, & 104:A Tenant's Guide

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# WHAT IS HOTMA?

- **The Housing Opportunity Through Modernization Act (HOTMA)**
  - Signed into law by President Obama in July 2016
- **HUD responsible for implementation of the law**
- **HUD Published final rule implementing Sections 102, 103, and 104 of HOTMA**
  - Income Reviews –Section 102
  - Over-Income Households in Public Housing –Section 103
  - Asset Limits –Section 104

# HOTMA BENEFITS TO TENANTS

- HOTMA provides support and incentivizes tenant earning and savings goals
  - Assisted tenants are allowed to accumulate significant savings under the new asset limit, and retirement accounts and educational savings accounts are excluded from that limit
  - As a result of the changes in the interim and annual reexamination rules, families can also keep more of their earned income before receiving a rent increase
- HOTMA expands hardship provisions benefiting tenants
  - PHAs will be able to grant hardship relief to families unable to pay rent because of unanticipated medical/disability expenses or who are no longer eligible for the childcare expense deduction.

# SECTION 102: INCOME REVIEW

- **Section 102 changes requirements related to income reviews for public housing and Housing Choice Voucher (HVC):**
  - Fewer Interim Reexaminations
  - Streamlined Verifications
  - Increased Standard Deduction for Elderly/Disabled Households
  - Additional Income Exclusions
  - Threshold for Claiming Medical/Disability Expenses Increased
  - Higher Threshold for Imputing Asset Income
  - Hardship Relief

# SECTION 102: INCOME REVIEW

- **Fewer Interim Reexaminations**
- HOTMA creates a 10% adjusted income increase/decrease threshold for conducting Interim Reexaminations
  - Requires that increases in earned income are not processed until the next annual reexamination, allowing families to keep more of their earnings before receiving a rent increase.

# SECTION 102: INCOME REVIEW

- **Streamlined Verifications**
  - Adults Only Need to Sign Consent Form Once
    - HOTMA revises the required consent form that all adult household members sign, allowing them to sign the form only once instead of annually.
  - Use of Income Determinations from Other Programs
    - HOTMA allows PHAs to use income determinations made under other federal benefits programs for reexaminations.
  - Review of EIV is Not Required at Interim Reexamination
    - HOTMA eliminates the requirement for PHAs to use EIV to verify tenant employment and income information during an interim reexamination, significantly reducing administrative burden.

# SECTION 102: INCOME REVIEW

- **Increased Standard Deduction for Elderly/Disabled Households:**
  - HOTMA increases standard deductions for families with a head, co-head, or spouse who is elderly or a person with a disability
- **Additional Income Exclusions and Asset Exclusions:**
  - Amounts received from Medicaid or other state/local programs meant to keep a family member with a disability living at home
  - Veterans' aide and attendant care
  - Distributions of principal from non-revocable trusts, including Special Needs Trusts

# SECTION 102: INCOME REVIEW

- **Threshold for Claiming Medical/Disability Expenses Increased**
  - HOTMA increases the allowance for unreimbursed health and medical care expenses from 3% of annual income to 10%, phased-in over two years
- **Higher Threshold for Imputing Asset Income**
  - HOTMA raises the imputed asset threshold from \$5,000 to \$50,000, incentivizing families to build wealth without imputing income on those assets
- **Hardship Relief**
  - HOTMA provides hardship relief for expense deductions, lessening the impact of the increased threshold for medical expenses. HOTMA permits PHAs to grant hardship relief to families unable to pay rent because of unanticipated medical/disability expenses and families who are no longer eligible for the childcare expense deduction



# SECTION 103: INCOME LIMITS IN PUBLIC HOUSING

- **Section 103 implements HOTMA's provisions on over-income families in public housing**
  - Income limitation on public housing tenancies for families that earn 120 percent of the area median income (AMI) for twenty-four consecutive months
  - Creates new limitations on tenancy and program participation for formerly income-eligible families residing in public housing with incomes over the newly created over-income (OI) limit.
  - Provides two options for over-income families:
    - A public housing agency (PHA) must either terminate the household's public housing tenancy within six months or,
    - Charge the household an alternative non-public housing rent ("alternative rent")

# SECTION 103: INCOME LIMITS IN PUBLIC HOUSING

- **Over - Income Family Definition**

- As required by HUD, a household whose income exceeds the over-income limit, which is 120% of the Area Median Income (AMI), must be considered “over-income” by HHA for the Section 9 program

- **HHA Over-Income Policies Govern**

- Section 9 households who have already been over-income for 24 or more consecutive months as of June 2023 and;
- Section 9 households who are not yet over-income and may eventually remain over-income for 24 consecutive months going forward

# SECTION 103: INCOME LIMITS IN PUBLIC HOUSING

- **Residents who are over-income will receive notices stating that they are over-income**
  - PHA must provide notice to over-income household no later than 30 days after the annual income recertification that indicates that the household is over-income
  - If a household's income annual reexamination 12 months later shows that it has continued to exceed the OI limit for 12 consecutive months, a PHA must again notify the household in writing no later than 30 days
  - If a household's income annual reexamination shows that it continues to exceed the over-income limit for 24 consecutive months after the initial OI determination, then a PHA must once more provide written notice to the household no later than 30 days
    - The notice must inform the household that its income has exceeded the over-income limit for 24 consecutive months, and that the PHA will either terminate the household's tenancy or charge the household the alternative rent depending on the PHA's continued occupancy policies

## **SECTION 103: INCOME LIMITS IN PUBLIC HOUSING**

- Tenants who not agree with the result of their annual or interim recertification which indicated they are over-income, should submit a rent grievance within 30 days from the date of the notice
- During the 24-month grace period, if the household composition or household income changes, tenants must report the change to HHA immediately
- If the tenant notifies HHA of their change in income and HHA determines that the tenant now falls below the over-income threshold, a new 24-month grace period would begin and the tenant would remain a Section 9 tenant

# SECTION 103: INCOME LIMITS IN PUBLIC HOUSING

- **Household Remaining Over-Income for 24 Consecutive Months:**
  - Terminate the household public housing tenancy within six months or;
  - Charge the household an alternative non-public housing rent (alternative rent)
    - Alternative rent must equal the greater of the fair market rent or the amount of monthly subsidy provided for the unit by HUD
  - Household will be required to sign a new-non-public housing over-income lease
    - HUD requires that HHA must terminate the tenancy of any over income resident who refuses to sign the non-public housing lease within six months of the third notice
    - Per HUD's February 2023 final rule, HHA Section 9 households who have been over-income for 24 consecutive months since 2019, are not entitled to another 24 consecutive month grace period

# SECTION 103: INCOME LIMITS IN PUBLIC HOUSING

- **Separate “non-public housing” lease for over-income tenants who accept the lease**
  - Non-public housing over-income households (NPHOI) cannot participate in Section 3 hiring/ training or residents council
  - NPHOI will not receive a subsidy or utility allowance
- **Grievances:**
  - NPHOI tenants will be able to initiate grievances related to apartment succession rights, denials of reasonable accommodation or addition of a member to the household
- **Annual and Interim Recertifications:**
  - NPHOI tenants will be required to complete a household composition survey annually instead of annual certifications
- **Income or Household Composition Changes as a NPHOI Tenant:**
  - PHAs cannot adjust the rent for NPHOI tenants. The rent is set using HUD’s fair market rent calculations.
- **Transfers and/ or Reasonable Accommodations:**
  - NPHOI tenants may still initiate a request for a transfer to a different apartment for reasons related to changes in household size or pursuant to a reasonable accommodation request
- **Lease Renewals:**
  - HHA will issue a new non-public housing over income lease each year for NPHOI tenants, reflecting the new fair market rent that the resident will need to pay. The NPHOI tenant will need to accept a lease renewal by signing the new lease

## SECTION 104: ASSET LIMITS

- **Section 104 defines net family assets, establishes an asset limitation for families based on the value of net family assets and property ownership, and provides exceptions for certain investments, including retirement savings and modest increases in income**
  - Asset Limitation
  - Exclusion of Retirement and Educational Savings Accounts
  - Self-Certification of Assets under \$50,000
- **Adjustments for Inflation:**
  - Deductions and the asset limitation will be adjusted for inflation annually, ensuring that deductions do not lose value over time and that families are able to build more wealth without losing program assistance

# SECTION 104: ASSET LIMITS

- **Asset Limitation**
  - HOTMA imposes a \$100,000 asset limit for eligibility and continued assistance
    - Families with more than \$100,000 in assets, adjusted for inflation cannot stay in HUD funded rental units
  - Families are also ineligible for assistance if they own real property suitable for occupancy
    - Unless the home is being purchased with a voucher, the family includes a person who is a victim of domestic violence, or the family is selling the home
  - PHAs have the option of delaying enforcement/termination for up to six months if the family is over the asset threshold at the time of annual reexamination



# SECTION 104: ASSET LIMITS

- **Exclusion of Retirement and Educational Savings Accounts**
- Retirement accounts and educational savings accounts will not be considered a net family asset since they cannot be used to help pay for housing
  - Income received from any account under an IRS-recognized retirement plan, individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals
  - Exclude forms of student assistance, Federal Pell Grants, Teach Grants, Federal Work- Study Programs, Federal Perkins Loans, among others.
- This is a major benefit to families, incentivizing savings for important life milestones and opportunities

# SECTION 104: ASSET LIMITS

- **Self-Certification of Assets under \$50,000**
  - HOTMA allows self-certification of net assets if estimated to be at or below \$50,000
    - Time-savings for families

# THANK YOU

- **Questions?**
- **Comments?**
- **For more info, please visit the main office at 400 Harrison St.**

WRITE YOUR QUESTIONS HERE

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