



## MEMORANDUM

### Rural Development

Rural Housing Service

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Telephone: (202) 692-0268

DATE: February 29, 2024

TO: Multifamily Housing Owners and Management Agents  
Multifamily Housing Partners

FROM: Joaquin Altoro  
Administrator  
Rural Housing Service

SUBJECT: Administrator Exception - Housing Opportunity Through  
Modernization Act (HOTMA) Implementation

The purpose of this memorandum is to notify Multifamily Housing (MFH) Stakeholders of an Administrator's Exception related to an upcoming regulation change resulting from the [Housing Opportunity Through Modernization Act \(HOTMA\)](#).

The Housing Act of 1949, which is the Rural Housing Service (RHS) governing statute, requires the calculation of tenant's annual and adjusted household income be taken from the definition provided by the Housing Act of 1937 (42 USC 1471; 42 USC 1437a). Furthermore this requirement is reflected in [7 CFR 3560.153\(a\)](#) which requires annual and adjusted income to be conducted in accordance with [24 CFR 5.609](#).

HOTMA, signed into law on July 29, 2016, directed The U.S. Department of Housing and Urban Development (HUD) to issue a rule, making changes to the requirements related to income calculations found in the Housing Act of 1937's definitions of "annual" income and "adjusted" income. To incorporate the changes made by HOTMA, HUD published a Final Rule updating the existing 24 CFR 5.609 on February 14, 2023, with an effective date of January 1, 2024.

The Housing Act of 1949 does not incorporate the updates found in 24 CFR 5.609(c) and accordingly RHS and MFH will not implement 24 CFR 5.609(c).

**Therefore, under the authority granted in 7 CFR 3560.8 (Administrators Exception Authority), a regulatory waiver that excludes 24 CFR 5.609(c) from Rural Development's annual income calculation requirements has been approved.**

**Effective retroactive to January 1, 2024, the requirements found in the new subsection (c) of 24 CFR 5.609 will NOT be required by Rural Development (RD). RD will NOT be implementing the following:**

- Interim tenant income reexaminations where adjusted income is estimated to increase or decrease by 10%.
  - **Reference:** 7 CFR 3560.152(e). Tenants at RD properties must be income recertified at least annually and whenever household income changes by \$100 or more per month, or changes of \$50 or more per month if the tenant requests that such a change be made.
- Use of other programs' determination of income.
  - RD does not currently allow other programs' determination of income for verification purposes.
- HUD will allow owners with de minimis errors resulting in \$30 or less per month to remain in compliance.
  - **Reference:** 7 CFR 3560 Subpart O. RD owners will continue to follow 7 CFR 3560 Subpart O for Unauthorized Assistance.

The Administrator's Exception will be in effect until 7 CFR 3560.153(a) is updated to refer only to 24 CFR 5.609(a) and (b).

Full compliance with the Housing Opportunities Through Modernization Act is mandatory effective January 1, 2025. Rural Development is in the process of establishing further guidance and handbook updates are underway to incorporate the changes made in 24 CFR 5.609(a) and (b). Additionally, RD is in the process of updating Form RD 3560-8 and the Management Interactive Network Connection (MINC) system. Changes to MINC will impact user interface. RD encourages owners and management agents to discuss this with software providers to ensure a seamless implementation and transmission of data.

**During calendar year 2024, RD will not penalize owners for HOTMA-related tenant file issues during RD Supervisory reviews conducted prior to January 1, 2025.**

If you have any questions regarding the implementation of HOTMA, please contact Julie Felhofer, Policy & Budget Branch Chief, Asset Management Division at [Julie.felhofer@usda.gov](mailto:Julie.felhofer@usda.gov).