

# HOTMA IMPLEMENTATION FOR MISSION-DRIVEN HOUSING PROVIDERS

LeadingAge urges affordable senior housing providers to emphasize the housing stability of residents when implementing the Housing Opportunity Through Modernization Act (*HOTMA*). One key way housing providers can emphasize housing stability is to adopt all discretionary enforcement of HOTMA asset limitations made available by HUD in forthcoming guidance.

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## LEADINGAGE IS PROVIDING HOTMA IMPLEMENTATION SUPPORT FOR MISSION-DRIVEN HOUSING PROVIDERS

In 2016, Congress passed the Housing Opportunity Through Modernization Act (*HOTMA*), which makes major changes to affordable housing rules. Changes include tenant income calculations and recertifications, asset limitations, deductions, exclusions, hardship exemptions, and more.

The Department of Housing and Urban Development (HUD) is now moving forward with HOTMA implementation for HUD-assisted Multifamily Housing (MFH) providers, including Section 8 Project-Based Rental Assistance (PBRA) and Section 202 Supportive Housing for the Elderly programs:

- Section 102 of HOTMA addresses income reviews, including the frequency of income reviews, and revises the definitions of income and assets.
- Section 104 of HOTMA sets asset limits for both Section 8 Project-Based Rental Assistance and Section 202/8 programs.

LeadingAge is assisting affordable senior housing communities to become HOTMA-compliant in a mission-driven and older adult-friendly way.

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## HUD-ASSISTED MULTIFAMILY HOUSING PROVIDERS MUST BE HOTMA-COMPLIANT BY JANUARY 1, 2025

HUD originally required housing providers to comply with HOTMA beginning on January 1, 2024. Following LeadingAge advocacy, HUD postponed the compliance date for MFH providers: **HOTMA Implementation for Multifamily Housing providers will be an ongoing process during 2024, with full compliance mandatory by January 1, 2025.**

In the meantime, Multifamily Housing owners must update their Tenant Selection Plans, EIV Policies and Procedures, House Rules, and other leasing and occupancy policies to reflect HOTMA rules and discretionary policies. Only after community policies are updated and HOTMA-compliant software updates are made available can MF housing communities move forward with HOTMA implementation.

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## HOUSING PROVIDERS AWAIT CRITICAL COMPONENTS PRIOR TO MOVING FORWARD WITH HOTMA COMPLIANCE

While housing providers can and should begin to plan for updates to community policies—such as required changes to Tenant Selection Plans (TSPs), house rules, EIV, and more—there are still several key components missing for implementation.

These components include:

- **Guidance.** While HUD issued in-depth implementation guidance for MFH in late September 2023, final guidance is still needed from HUD on the new asset limitations, which is critical for implementing HOTMA in an older adult-friendly way.
- **Forms.** HUD is in the process of updating certain forms and materials, including the Tenant Consent form (form HUD-9887/9887A) and Fact Sheets (“How Your Rent is Determined”), which are needed for HOTMA compliance.
- **Model leases.** HUD will publish updated model leases, which will be used to conduct HOTMA-compliant new and renewed leasing.
- **Resources.** HUD has stated that it will provide resident-facing materials to help educate tenants about changes under HOTMA; HUD will also provide HOTMA training and tools.
- **Software.** Vendors have yet to provide a HOTMA-compliant release of the Tenant Rental Assistance Certification System (TRACS), which is used by housing providers and HUD’s MFH teams to report resident information and process subsidy payments.

Each of the above components is necessary for housing providers to move forward with implementation. Housing providers need to wait for a HOTMA-compliant TRACS release before they can move forward with revised leases and updated TSPs and EIV policies.

Housing providers also need to provide a certain amount of notice to tenants regarding changes to TSPs, house rules, and changes to leases, and providers will have to make certain materials publicly available. Each requirement is outlined in HUD’s HOTMA Implementation Notice for Multifamily Housing Providers ([published September 29, 2023](#)).

**LeadingAge urges housing providers to utilize the calendar year 2024 as a “HOTMA get ready year” and to wait to begin the transition to HOTMA compliance only after additional materials, guidance, and software become available.** LeadingAge recommends waiting until the final asset limitation guidance has been released by HUD—including guidance on using discretionary authority not to enforce the new restriction on currently served residents—before communicating with residents about how the community’s new policy will impact their housing stability.

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## HOUSING PROVIDERS CAN MAKE CRITICAL IMPLEMENTATION DECISIONS TO PROTECT OLDER ADULT RESIDENTS

While HOTMA requires many updates to HUD-assisted multifamily housing policies, communities are given substantial discretion on a variety of implementation decisions impacting older adult residents.

LeadingAge urges members to implement HOTMA in ways that retain housing stability for residents and that are financially beneficial for older adult residents with low incomes. We also urge communities to adopt options that streamline processes, providing relief to both housing providers and residents.

We are developing a mission-driven implementation checklist with suggested approaches to each of the discretionary areas under HOTMA. For example:

- **Asset Limitations.** HOTMA establishes, for the first time, asset limitations in HUD's project-based Section 8 programs (including Section 202/8 but excluding Section 202 PRACs) to create a restriction on the eligibility of a household to receive assistance. In HUD's September 29, 2023, Implementation Notice (H-2023-10), HUD clarifies that owners are given discretion at reexamination in enforcing the asset limitation on eligibility for assistance; HUD will issue additional guidance on the use of this discretionary authority. In other words, housing providers must adopt the new limitations for all initial certifications (new residents), but owners will have some discretionary authority to decline enforcement at recertification (currently served residents). LeadingAge strongly urges housing providers to adopt non-enforcement policies for HOTMA's new asset limits for current residents, allowing them to remain stably housed.
- **Interim Recertifications.** HOTMA makes both required and discretionary changes to the handling of interim recertifications. For example, under HOTMA, owners are required to adopt a policy for when to conduct an interim recertification if a household loses income. While adopting a percentage threshold is required under HOTMA, housing providers must decide the exact percentage themselves by establishing the policy in their tenant selection plans (TSP). In other words, housing providers have broad discretion for what triggers the interim recertification, which results in a new calculation of tenant rent payments. Older adults are more likely to be on fixed incomes, but many older adult households have earned income that can fluctuate. Because losing income impacts the household's ability to pay rent and manage other expenses (food, medical), we urge housing providers to adopt a low percentage threshold, meaning that even a small loss in income would entitle the household to a new rent calculation.
- **Self-certification of Assets.** Under HOTMA, Owners may accept a family's self-certification of net family assets under \$50,000, without taking additional steps to verify accuracy, at admission and reexamination. LeadingAge urges housing providers to adopt a self-certification policy because this practice reduces the initial burden on applicants and enables households to move into stable, affordable housing more quickly.
- **Hardship Exemptions.** HOTMA allows housing providers to adopt hardship exemptions for medical and disability-related expenses. Because of changes to deductions, certain households will receive phased-in relief, and the owner must develop written policies in their TSPs defining the changes in circumstances that are required for a household to qualify for a hardship exemption. LeadingAge urges providers to adopt broad relief policies for residents adapting to changes in deductions under HOTMA.
- **And more** – *LeadingAge HOTMA Implementation Checklist coming soon!*

## SPOTLIGHT: WHY & HOW HOUSING COMMUNITIES SHOULD OPT-OUT OF HOTMA ASSET LIMITATIONS

HOTMA creates a restriction on the eligibility of a family to receive assistance in HUD’s project-based Section 8 programs (including Section 202/8 but excluding Section 202 PRACs). HOTMA’s new asset limitations have caused well-founded fear among housing providers and residents:

- Having \$100,000 or more in net family assets (adjusted annually for inflation), or
- Owning real property that is suitable for occupancy (not yet fully defined by HUD).

There are key reasons why older adults currently served by HUD programs should not be deemed ineligible to continue living at the community or to continue receiving subsidies.

- In most cases, having assets does not mean that an older adult will be able to pay unsubsidized (market rate) rent for long before needing to get back on a waitlist for affordable housing subsidy.
- Similarly, owning real property does not necessarily mean that the property is age-friendly – a large yard, stairs, or long distance to support systems mean that an affordable housing community may be a better fit for an older resident to age in the community. HUD has yet to define what a property “suitable for occupancy” means, and LeadingAge has urged HUD to allow age-related exceptions.

Following LeadingAge advocacy, HUD corrected its interpretation to allow owners some discretion in enforcing the new asset limits at recertification—meaning housing providers will be required to enforce the limits for new applicants but will have some enforcement discretion for residents already in the community.

To avoid harm to older adults it is critical that housing providers adopt any exemption to asset limits, as well as any age-related exceptions, made available once full guidance is published by HUD. Any discretionary option to decline enforcement of the asset limitations at recertification will need to be adopted in the community’s updated policies.

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## HOTMA BRINGS BIG CHANGE—AND WE’RE HERE TO HELP

LeadingAge will continue to provide support to implement HOTMA in a mission-driven way. Stay tuned for more information on Q&A sessions, third-party HOTMA-compliant policies, and our new implementation checklist.

LeadingAge also hosts a [monthly workgroup on HUD Compliance and Oversight](#), where housing provider members can hear updates from LeadingAge and guest speakers, as well as discuss valuable tips with their peers. Visit the [LeadingAge HOTMA webpage](#) and [HUD’s HOTMA for Multifamily Housing webpage](#) for more information. Reach out to [Juliana Bilowich](#), LeadingAge’s Director of Housing Operations and Policy, for assistance.