

ASSISTED HOUSING MANAGEMENT

A Legal Compliance
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& Managers of
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insider

FEBRUARY 2026

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HUD Extends HOTMA Implementation to Jan. 1, 2027—What Should You Do?

Take advantage of the breathing room to ensure you're prepared for the transition.

HUD is delaying HOTMA yet again. On Dec. 17, 2025, just as affordable housing providers were completing their required Jan. 1, 2026, recertifications, HUD published Notice H 2025-07, pushing back the Housing Opportunity Through Modernization Act compliance date another year until Jan. 1, 2027. The Notice, which applies to Sections 102 and 104 of

HOTMA, was published in the Federal Register on Dec. 30.

What the heck is going on? And what should multifamily housing owners do now? This briefing will offer some answers.

The New HOTMA Requirements

It has been nearly 10 years since



THE BIG CHALLENGE HAS BEEN GETTING HUD'S INTERNAL DATA SYSTEMS TO "SPEAK HOTMA."

President Obama signed HOTMA into law on July 29, 2016. The objective was, and remains, to simplify and modernize federal housing assistance programs and make life easier for owners, tenants, and applicants, leading to greater efficiency and better allocation of HUD resources. The sweeping changes to eligibility, income, and asset rules contained in Sections 102 and 104 of the law are essential elements in the strategy:

Section 102, which addresses income review, introduces a standardized process for calculating annual income and determining adjusted income across HUD programs. It also changes how recurring and nonrecurring income is treated, streamlines the frequency of income reviews, and establishes new thresholds for medical and disability expense deductions.

Section 104 establishes asset limits for applicants and current tenants, including a \$100,000 cap on net family assets (adjusted for inflation) and restrictions on real property ownership for assisted households.

The HOTMA Rollout

HOTMA rollout has been marked by ongoing delays and implementation date extensions. The big challenge has been getting HUD's internal data systems to "speak HOTMA." Those systems include the Tenant Rental Assistance Certification System (TRACS), which records all certifications, subsidy payments, and contract actions for project-based rental assistance. Meanwhile, Public Housing and Housing Choice Voucher (HCV) programs are moving to the newer Housing Information Portal (HIP) to replace the aging IMS/PIC database.

The original implementation plan was for multifamily housing providers to fully comply with HOTMA for income certifications effective on or after Jan. 1, 2025. After extending the deadline to July 1, 2025, HUD issued Notice H 2025-03 (on May 29, 2025) pushing the deadline back again, this time to Jan. 1, 2026.

The New H 2025-7 Extension

The recent H 2025-7 notice moves Section 102 and 104 implementation back to Jan. 1, 2027. The extension applies to the following programs:

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ASSISTED HOUSING MANAGEMENT INSIDER [ISSN 1072-009X (PRINT), 1938-310X (ONLINE)] is published by The Habitat Group, a division of Plain Language Media LLLP, PO Box 509, New London, CT 06320.

Volume 33, Issue 2

SUBSCRIPTIONS/CUSTOMER SERVICE: To subscribe or for assistance with your subscription, call 800-519-3692 or go to our website, www.AssistedHousingInsider.com. Subscription rate: \$495 for 12 issues. **TO CONTACT THE EDITOR:** Email: HStone@TheHabitatGroup.com. Call: Heather Stone at 212-812-8436. Fax: 212-228-1308.

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- HCV;
- Public Housing;
- Section 8 Moderate Rehabilitation (Mod Rehab);
- Section 8 Moderate Rehabilitation Single Room Occupancy (SRO);
- Section 8 Project-Based Rental Assistance (PBRA);
- Section 202/8;
- Section 202/162 Project Assistance Contract (202/162 PAC);
- Section 202/811 Capital Advance with Project Rental Assistance Contracts (202/811 PRAC);
- Non-insured 236 projects with Interest Reduction Payments (236 IRP);
- Section 811 Project Rental Assistance (811 PRA); and
- Senior Preservation Rental Assistance Contracts (SPRAC).

What to Do Now

HUD still has a lot of work to do before multifamily providers will be able to comply with Sections 102 and 104. The HOTMA to-do list includes:

- Publishing final HOTMA-compliant versions of the 50059 income certification and other forms;
- Getting the current version of TRACS to accept HOTMA-compliant income certifications; and
- Updating TRACS to the 203A standard.

But while further postponement is possible, you should assume that the new Jan. 1, 2027, HOTMA implementation date will stand. In the meantime, continue to follow your pre-HOTMA policies in accordance with current HUD program rules and guidance, e.g., by implementing tenant selection plans that don't restrict occupancy based on assets.

Also keep in mind that this latest HUD delay affects the timing rather than the substance of the new HOTMA Section

102 and 104 requirements. **Result:** HUD is giving you extra time to ramp up for HOTMA while it does the same. Take advantage of the breathing room to ensure you're prepared for the transition. Action steps:

- Review all software to ensure it's up to date and capable of functioning in accordance with HOTMA requirements;
- Ensure that all affected staff receive, understand, and are competent to carry out training on new HOTMA requirements;
- Review and, if necessary, update all income certification and other applicable forms, policies, and procedures;
- Notify tenants and applicants of any policy and procedural changes (see below); and
- Ensure that all leases are HOTMA-compliant.

Also be aware that once your software is compliant with TRACS 203A updates, you must:

- Give tenants at least 60 days' notice that their lease will be modified at the end of the lease term after the expiration of the 60-day notice;
- Once you provide proper notice, begin using the revised model leases at the expiration of a family's lease term;
- Implement your revised tenant selection plans and EIV policies and procedures;
- Ensure that all tenant data submissions comply with HOTMA regulations;
- Notify families before their first reexaminations under HOTMA that their income determinations will be conducted in accordance with the HOTMA final rule; and
- Use the revised Tenant Consent form (form HUD-9887/9887A) and Fact Sheets ("How Your Rent is Determined").

DEALING WITH HOUSEHOLDS

Set Rule for Extended Absence & Abandonment in Case Households Go AWOL

A unit left unattended for months can put you in a precarious situation.

Nobody picks up the phone ... The mail piles up ... The parking space remains empty.

There are certain familiar signs suggesting that a household has pulled up stakes for good. And now you face a dilemma. An abandoned apartment is a revenue dry hole and a waste of assistance, not to mention a potential health and safety hazard, especially when it contains rotting food or pipes that can freeze. So, you don't want to sit around and wait idly for the tenants to return. But you also don't want to jump the gun on turnaround. The moment you re-enter to clean out the unit, remove the property, and change the locks, you run the risk that the household will unexpectedly return and sue you for illegal eviction and disposal of their belongings.

The best way to avoid these problems is to prevent extended absences from becoming a guessing game. Establish a house rule that requires households to notify you before leaving the unit for an extended period of time and sets a clear a line, like 30 days, on how long an absence can last before you can treat it as "abandonment." Here's how to create such a rule along with a Model Rule that you can adapt with the help of your attorney.

The Risk of Multiple Residences & Unauthorized Occupants

It's not unusual for tenants to maintain multiple residences. For instance, "snowbirds" in the north may keep a separate place in a warmer climate where they can live during the winter months. Leaving a unit unattended for months can put you in a precarious situation, especially if tenants don't notify you that they're leaving and intend to return. There's also a risk that tenants will allow other unauthorized persons to live in their unit while they're gone.

These practices also run afoul of the HUD model lease, which states:

- The Tenant must live in the unit and the unit must be the Tenant's only place of residence.
- The Tenant shall use the premises only as a private dwelling for himself/herself and the individuals listed on the Owner's Certification of Compliance with HUD's Tenant Eligibility and Rent Procedures, Attachment 1.
- The Tenant agrees to permit other individuals to reside in the unit only after obtaining the prior written approval of the Landlord [Handbook 4350.3, App. 4(a), par. 13].

The Costs of Waiting in Vain for AWOL Tenants to Return

By the same token, waiting in vain for an AWOL household to return could cause you to miss out on collecting vacancy payments from HUD. You might even have to pay back a portion of the monthly assistance on the unit if HUD believes you've been unfairly collecting assistance on a unit that's been abandoned for months.

There are also property risks to waiting. For example, if the unit is unheated during the winter, pipes are more likely to burst. And since the unit isn't occupied, you may not find out about the pipe burst for days resulting in greater damage. Not knowing the unit is unoccupied may also cause you to miss out on scheduled preventive maintenance and improvements that you normally perform when tenants are away.

YOUR RULE MUST BE CONSISTENT WITH STATE AND LOCAL LAW GOVERNING ABANDONMENT.

How to Create Extended Absence & Abandonment Rule

Although the HUD Handbook doesn't require you to adopt a house rule on absences and abandonment, it does provide guidelines for what such a rule should include if you do adopt one [HUD Handbook 4350.3, par. 6-9(B)(2)]. Like our Model Rule, your house rule should cover eight points:

1. Require households to notify you of extended absences. According to attorneys, the first step is to require households to tell you before they go away for extended periods of a specific duration. Our Model Rule sets the threshold at 30 days or more, although some sites we spoke to require notice for absences of two weeks or more [Rule, par. 1].

2. Cap maximum duration of extended absences. State that extended absences may result in the loss of tenancy rights if they last beyond a specific

period. The handbook draws the line at 60 days' continuous absence, or 180 days if the absence is for medical reasons [Rule, par. 2].

COMPLIANCE POINTER:

The handbook allows for an "extenuating circumstances" exception but doesn't say what those circumstances are [HUD Handbook 4350.3, par. 6-9(B)(2)(b)(2)]. Just be sure to apply any exceptions you allow consistently to all households to avoid potential fair housing risks, e.g., racial discrimination claims by black households who didn't get the same exception that you granted to a white household facing the same circumstances.

3. Define "abandonment." HUD makes it clear that abandonment isn't the same as extended absence [Handbook 4350.3, par. 6-9]. Define abandonment as including all of the following elements:

- A household is absent from its unit for more than a set period of days;
- The household doesn't pay rent while it's absent; and
- The household doesn't acknowledge or respond to your notices regarding the overdue rent during the absence.

It's up to you to say how long an absence combined with nonpayment of rent must be to constitute abandonment. But that number must be consistent with state and local law governing abandonment. Thus, while the Model Rule says that management won't consider a unit abandoned until the household has been absent for more than 30 consecutive days, you'll need to check with your attorney before using that number [Rule, par. 3].

4. Require medical documentation. HUD guidelines say you may allow

YOU MAY ALLOW ABSENCES UP TO 180 DAYS IF THEY'RE FOR MEDICAL REASONS.

absences up to 180 days if they're for medical reasons. But require households claiming medical exemptions to provide documentation from a physician or other healthcare professional certifying their need to be away from their apartments due to an injury, illness, or other medical reason [Rule, par. 4]. And you may allow exceptions for extenuating circumstances [HUD Handbook 4350.3, par. 6-9(B)(2)(b)(2)].

5. Reserve right to do emergency inspection of units you deem abandoned. The HUD lease allows you to enter a unit in case of emergency. If a household has abandoned a unit, an emergency inspection is justified to check for health and safety hazards. The house rule should spell out that you'll enter the unit for an emergency inspection if you deem it to be abandoned [Rule, par. 5(a)].

6. List efforts you'll take to notify AWOL household. HUD's guidelines say house rules should also specify the actions you'll take to contact an AWOL household. Our Model Rule says you'll attempt to notify household members in writing at the household's site address and at the address of any emergency contacts household gave to management [Rule, par. 5(b)].

COMPLIANCE POINTER:

Be sure to check whether state or local law requires you to take any actions in addition to sending missing tenants a notice, e.g., calling local police, talking to neighbors, or checking with the local utility or telephone company for a forwarding address.

7. Warn that you'll seek eviction.

Your rule should also say that you'll take appropriate legal action, including termination of assistance and eviction, against households that don't respond to your attempts to contact them within a specific period, such as 15 days [Rule, par. 6].

8. List steps you'll take to dispose of household's property. HUD's guidelines say your rules must describe how you'll handle and dispose of the household's possessions left in the unit [HUD Handbook 4350.3, par. 6-9(B)(2)(b)(3)]. This language will protect you in case missing households return to the site, demand their property, or sue you for property lost or damaged.

When describing these steps, keep in mind that state or local law generally governs how long a landlord must wait before it can dispose of a household's property. Typically, landlords must store the property for at least a few weeks after getting an eviction order. Our house rule says management will take written and photographic inventory of the abandoned property and hold it for 30 days after getting an eviction order. It also states that after 30 days, management will give the property to a designated charity or throw it out if the charity won't take it [Rule, par. 7].

MODEL HOUSE RULE

Establish Clear Rules for Extended Absences & Abandoned Units

When tenants disappear, it leaves you to guess when and whether they're coming back. Waiting around for a return that may never occur can cost you money and create hazards to health, safety, and property; cleaning out and re-letting the unit can expose you to liability if the tenants unexpectedly come back. The best way to guard against this situation is to address it proactively by setting out clear rules for extended absences that eliminate the guess-work and establish your legal right to take what you deem to be the reasonable and necessary actions. Here's a Model House Rule that incorporates HUD's requirements and guidelines. Just recognize that HUD isn't the only legal authority involved and be sure to talk to your attorney about adapting the language to comply with applicable state and local requirements governing eviction and abandonment.

EXTENDED ABSENCE OR ABANDONMENT:

1. Notice of Extended Absence

A household must meet certain HUD requirements to be eligible for occupancy, including the requirement is that the apartment must be the household's only residence. Accordingly, when households take an unexplained extended absence from their apartment, the expectation is that they have left the apartment for good and do not intend to return. For this reason, you are required to notify management in writing if all members of the household intend to be absent from the site for more than 30 consecutive days.

2. Limits on Extended Absence

A household may not be absent from their apartment for longer than 60 consecutive days, or 180 days if the absence is due to medical reasons, without losing its right to tenancy in the unit. If households exceed the limit for absences, management will take appropriate legal action, including termination of assistance and eviction. A household may request in writing to have a longer absence approved, but only if there are extenuating circumstances.

3. Abandonment

If management does not receive notice from a household of an extended absence, management will consider the household to have abandoned its unit if:

- a. Management believes the unit has been unoccupied for more than 30 consecutive days;
- b. The household's rent is past due; and
- c. The household has not acknowledged or responded to demands for payment.

4. Medical Reasons

Households that have medical reasons and need to spend more than 30 days away from their apartment must provide evidence from their medical professional that a medical condition is causing the absence and listing an approximate length of time the resident will be absent from the apartment. The absence may last up to 180 days for medical reasons. But if the absence is going to be longer, the household will have to relinquish their apartment unless a request is made in writing explaining the extenuating circumstances.

EXTENDED ABSENCE OR ABANDONMENT (CONT.):

5. Inspection and Notice

If management considers a unit to be abandoned, it will:

- a. Enter the unit to conduct an emergency inspection; and
- b. Attempt to notify household members that it considers the unit abandoned by sending notice to the household's address at the site and to the addresses of any emergency contacts the household gave to management.

6. Legal Action

If household members do not respond to management's written notice within 15 days of the date of the notice, management will take appropriate legal action, including termination of assistance and eviction.

Management will follow state and local landlord-tenant law pertaining to abandonment before taking possession of the unit. If necessary, management will secure the unit immediately to prevent vandalism and other criminal activity.

7. Storage and Disposal of Abandoned Property

Once management has gotten an eviction order, it will take written and photographic inventory of any abandoned property in the unit and store it for 30 days. If the household does not claim the property during that period, management will give the property to a charity it designates. If the charity refuses to take the property, management will throw it out.

DOS & DON'TS

Share Space Heater Safety Tips with Residents

To keep your residents safe this unusually cold winter, it's a good idea to share with them a few safety guidelines for using space heaters. According to the U.S. Consumer Product Safety Commission, space heaters account for one-third (32 percent) of home-heating fires and three-fourths (73 percent) of home-heating fire deaths.

Include these tips from the U.S. Consumer Product Safety Commission in your site's newsletter, in a resident memo, and on common area bulletin boards:

- Purchase a heater with the seal of a qualified testing laboratory.
- Make sure your heater has an automatic shut-off to turn the heater off if it tips over.

- Make sure that the heater is placed on a level, hard, and nonflammable surface (such as ceramic tile floor), not on rugs or carpets or near bedding or drapes.
- Keep the heater at least three feet from bedding, drapes, furniture, and other flammable materials.
- Keep children and pets away from space heaters.
- To reduce the risk of fire, never leave a space heater on when you go to sleep or place a space heater close to any sleeping person.
- Never leave a space heater unattended; turn it off if you leave the area.
- Never use extension cords to power electric heaters.

Don't Answer Inappropriate Questions about Residents

Prospects and applicants may want to know about the race, ethnicity, or familial status of the residents at your site. But questions about the presence or number of people protected against illegal discrimination at your site are inappropriate. Answering these questions violates the Fair Housing Act even if you weren't the one to raise the subject.

Even if the prospect asking the question has the protected characteristic he's talking about, you or your staff members aren't allowed to answer inappropriate questions. For instance, if a Muslim prospect asks you whether other Muslims live

at your site, you shouldn't respond. The fact that the prospect asking the question is also Muslim doesn't make the question appropriate.

How should you respond to prospects' inappropriate questions? You should come up with standard responses to all inappropriate questions. For instance, you could say, "Our site policy and fair housing law don't permit me to answer that question." Another response might be, "We're complying with the law." You should be polite but firm when responding to such questions.

RECENT COURT RULINGS

Not Discrimination to Ban Tenant from Displaying Palestinian Flag

What Happened: Shortly after the Gaza war broke out, a first-generation Palestinian American hung a handmade Palestinian flag outside her apartment window to show solidarity with the Palestinian people. The manager asked her to take it down, explaining that management wanted to “stay neutral” and required tenants to remain neutral as well. The tenant refused and 10 days later received an eviction notice listing the cause of eviction as violating the lease provision governing how she displayed the flag from the window. Claiming that this was just a pretext, the tenant sued for discrimination. Her argument: Requiring tenants to stay neutral in a conflict concerning their home countries violates the Fair Housing Act (FHA) ban on national origin discrimination. The Illinois federal court ruled that the tenant didn’t have a legally valid claim and dismissed the case without a trial.

Ruling: The U.S. Court of Appeals for the Seventh Circuit

upheld the lower court’s ruling.

Reasoning: The tenant didn’t claim and there was no evidence to suggest that the landlord created or implemented the neutrality policy with an intent to discriminate, such as by allowing other tenants to display Israeli flags or allowing tenants who weren’t Palestinian to display either flag during the Gaza conflict. Nor did she allege that the neutrality policy had a disparate impact on Palestinians or explain what those negative impacts were. Based on how the complaint was written, the Court concluded that the tenant was essentially claiming that the landlord punished her for her political views and actions in support of the Palestinian cause. And while that may be true, political expression isn’t a ground for protection under the FHA.

- Farhan v. 2715 NMA LLC, 2025 U.S. App. LEXIS 31629, 161 F.4th 475, 2025 LX 519140, 2025 WL 3485574