



## Legislation Text

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**File #:** 23-0310, **Version:** 1

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Resolution to Amend the ACOP Regarding Chapter 13: Other Authorized Reasons for Termination: III.C. Over Income Families.

The Ann Arbor Housing Commission's Public Housing Admission and Continued Occupancy Policy (ACOP) details its policies and procedures for the management of its Public Housing Program. The AAHC periodically revises the Plan to reflect changes in HUD regulations and changes in AAHC policies.

Staff recommend updating the language to the ACOP Chapter 13: Other Authorized Reasons for Termination: Part III C. Over Income Families to the procedures the AAHC must take for public housing residents who are over income. The AAHC in accordance with HUD HOTMA 2016 Final Rule, may terminate tenancy for families who are determined over-income. Staff request Board approval of these recommended changes.

### [Current PHA Policy](#)

#### **Over-Income Families [24 CFR 960.261 and FR 11/26/04, p. 68786]**

Subject to certain restrictions, HUD authorizes PHAs to evict or terminate the tenancies of families because they are over income. Unless required to do so by local law, the PHA may not evict or terminate the tenancy of a family solely because the family is over income if: (1) the family has a valid contract of participation in the Family Self-Sufficiency (FSS) program, or (2) the family is currently receiving the earned income disallowance. This rule does not require PHAs to evict over-income residents, but rather gives PHAs the discretion to do so thereby making units available for applicants who are income-eligible.

#### PHA Policy

The PHA will terminate the tenancies of families who are at 80% AMI or higher at an annual income certification.

### [Proposed PHA Policy](#)

#### **Over-Income Families [24 CFR 960.261 and FR 11/26/04, p. 68786]**

Section 16(a)(5) of the United States Housing Act of 1937 (1937 Act), as amended by section 103 of HOTMA, requires PHAs to terminate or charge an alternative rent to families whose income exceeds the program maximum income limit for two consecutive years. Once the final HOTMA rule implementing section 16(a)(5)(A)(i) alternative rent options take legal effect, all over-income families who have exceeded the over-income limit for at least two consecutive years must be either terminated or charged an alternative rent in accordance with the PHA's ACOP.

#### PHA Policy

The PHA will terminate the tenancies of families who exceed the over-income (OI) limit for at least two consecutive years (24 consecutive months). The family will be considered public housing families and must be offered the option of paying an income-based rent or a flat rent at their next annual reexamination.

**Determining Over-Income Limit:** The PHA will determine the over-income limit at annual or interim reexamination by multiplying the very low-income limit by a factor of 2.4.

**Notification of Over-Income Status:** When the PHA determines the family is over-income, the PHA must notify the family in writing within 30 days of the examination. If the family continues to exceed the income limit for 12 consecutive months after receiving the first OI determination, the PHA must provide a second notice within 30 days of the examination. For families, that maintain their OI status for a further 12 consecutive months (for a total of 24 consecutive months), the PHA must provide a third notice within 30 days of the determination.

**Notification of Rent and Tenancy:** When the PHA determines the family is over-income, the PHA must notify the family in writing. The notice must include the tenant rent. The family will be offered the choice the income based rent or flat rent at the next annual reexamination. The third notice must state that tenancy will be terminated in no more than six months (180 days). During that time (180 days OI period), the family may request an interim reexamination of income to potentially reduce their rent burden. However, the resulting income determination will not make the family eligible to remain in the unit beyond the period before termination.

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WHEREAS, the Ann Arbor Housing Commission's Public Housing Admission and Continued Occupancy Policy (ACOP) details its policies and procedures for the management of its Public Housing (PH) Program; and

WHEREAS, HUD recent published the HOTMA 2016 final rule addresses the new requirement for PHAs treatment of families who are determined to be over-income; and

WHEREAS, currently, the ACOP does not include language to detail the management of over-income household in the Public Housing program; and

WHEREAS, staff recommend adding language to the ACOP to clarify the AAHC requirements to notify families of their over-income status, rent status and end of tenancy for over-income families; and

RESOLVED, that the Board of the Ann Arbor Housing Commission approve the amended language related as described in the memorandum above, to the ACOP to take effect as of February 22, 2023.