Virginia Housing
Post-Year 15 Compliance Monitoring Guidance

Purpose

This document is written to provide guidance to owners of Tax Credit properties during the Extended Use Period, after the end of the initial 15-Compliance Period. Also known as Post-Year 15.

Eligibility Criteria

July 1, 2025, is the required HOTMA implementation date for all required initial and recertification of tenant income for **all** Tax Credit and Virginia Housing-financed properties in the Virginia Housing rental portfolio, as required.

Properties with HUD programs may apply the implementation date extension provided by HUD. Tax Credit properties with HUD programs are required to document their records with an explanation of the reason HOTMA cannot be implemented by the July 1, 2025, implementation date.

Each household must meet the income and occupancy requirements of the property's Extended Use Agreement. However, occupancy requirements may be maintained project wide rather than by building. (**Note**: Owners of properties governed by other federal housing programs must also continue to follow the requirements of that program.)

HUD provides valuable HOTMA resources on its website. Virginia Housing provides HOTMA guidance on our Compliance Monitoring web page.

Income Verification

HOTMA Implementation Notice 2023-10 rev 02/02/2024 supersedes the guidance in the HUD Handbook 4350.3, Occupancy Requirements of Subsidized Multifamily Housing Programs, Chapter 5, upon which the Tax Credit program relies to determine tenant eligibility.

Assets

Verification of income and assets (assets over the threshold, adjusted annually for inflation) are required for all Move-in or initial certifications and must be dated within 120 days of the move-in or initial certification effective date.

Tenant Income Certification

At or prior to move-in, a Tenant Income Certification listing all household occupants and all sources and amounts of income must be completed manually in the online Tenant Portal or uploaded electronically in the online Tenant Portal using the XML feature. Properties may also use the TIC from their property management system. The TIC must be signed and dated by **all** adult household members **and** the management agent representative.

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Rents

The unit must continue to be rent-restricted. The tenant's paid portion of the rent plus the utility allowance must not exceed the maximum allowable Tax Credit rent. Rent restrictions elected by the owner at the time of allocation remain in force during the Extended Use Period.

Utility Allowance

Owners must continue to update Utility Allowances annually as required by the IRS Utility Allowance Regulations and in accordance with Virginia Housing Utility Allowance procedures.

Full-Time Students

Tax Credit Properties that do not have Tax-Exempt financing may lease to full-time student households but must follow the guidelines below when determining the eligibility of Students who are also the Head of Household:

A. The individual **must be** of legal contract age under state law.

B. The individual **must have** established a household separate from parents or legal guardians, or the individual meets the U. S. Department of Education's definition of an independent student.

C. The individual **must not be** claimed as a dependent by parents or legal guardians pursuant to IRS regulations.

Caution: Owners be aware……relaxing the student rule requirements may impact household eligibility if a second allocation of credits is sought.

Full-Time Students in Tax Credit Properties layered with Tax-Exempt Bond Financing (continued)

The IRS Code Section 151 © (4) defines a "student" as an individual who, during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins, is a full-time student at an educational organization described in IRC Sec 170(b)(1)(A)(ii). Treasury Regulation Section 1.51-3(b) further provides that the five calendar months need not be consecutive.

The determination of student status as full- or part-time should be based on the criteria used by the educational institution the student is attending; An educational organization, as defined by Internal Revenue Code Sec. 170(b)(1)(A)(ii) is one that normally maintains a regular faculty and curriculum, and normally has an enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on. The term "educational organization" includes elementary schools, junior and senior high schools, colleges, universities, and technical, trade, and mechanical schools. It does not include on-the-job training courses.

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Annual Student Certification

The annual student certification is no longer required for Tax Credit-***only*** properties.

Please Note: Tax Credit properties with Tax-Exempt Bonds in their Extended Use Period **must continue to execute the annual student certification for** households meeting the 20/50, 20/80, 40/60, or Average Income (AIT) minimum set-aside chosen for the property.

Annual Recert for Tax Credit-only Properties

The annual recertification in 100% low-income Tax Credit properties is not required.

Regular updates of the occupancy (e.g., move-in, initial certification, move-out, unit transfer, etc.), unit rent, and annual utility allowance estimates must be completed in the online Tenant Portal, or management may use the XML feature to upload tenant information into the online Tenant Portal as it occurs for all units**.**

Annual Recert for Tax Credit properties with Tax-Exempt Bonds

Tax Credit properties with market units and Tax-Exempt Bond Financing ***must*** annually recertify the households required to meet the minimum set-aside (20/50, 20/80,40/60, or Average Income (AIT)), and document the files with occupancy, student status, and acceptable income and asset verification as outlined in the HOTMA guidance and HUD Occupancy Handbook 4350.3, chapter 5.

Tax-Exempt Bond 150% Units - The Regulatory Agreement for all Virginia Housing-financed properties requires a three-year recertification of the household's annual income (150% households). Verification of income for this three-year recertification is not required. The households will self-certify their income, sign, and date the Tenant Income Certification. All adult household members, as well as the management agent representative, must sign and date the Tenant Income Certification. All recertifications must be completed in the online Tenant Portal, or management may use the XML feature to upload tenant information into the online Tenant Portal as it occurs after the recertification effective date. The three-year recertification effective date is based on the anniversary of the move-in or initial certification date.

Recertification for Change in Household Composition or Transfer

If new members are added to an existing household that originally qualified as a low-income household for **Tax-Exempt Bond** purposes, re-determination of that household's eligibility is required, and that household must be certified as a new applicant to determine if the household still qualifies as a low-income household.

If the household's income does not exceed the current income limit for that household size, the household would still be considered a low-income household for Tax-Exempt bond purposes.

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Transfers

For Tax Credit-only properties without market units, owners may transfer a tenant property-wide.

Please Note: If the property is financed with Tax-Exempt bonds and a low-income household transfers, that household must be treated as a new household and a new eligibility determination is required for bond purposes. If the annual gross income of the household is within the current income limit for that household size, that household will continue to be a low-income household for Tax-Exempt bond purposes.

Available Unit Rule

During the Extended Use Period, only properties with Tax-Exempt financing will be monitored for compliance with the next available unit rule if a low-income household's income goes over 140% of the applicable limit.

Owner's Annual Certification

After year 15, owners will no longer be required to submit an Annual Certification of Compliance. Virginia Housing will utilize the tenant data entered by the owner in the online Tenant Portal to generate reports to determine an owner's compliance.

Owners must maintain current tenant information in the online Tenant Portal. The name, date of birth, income, and rent must be entered for all new move-ins. The current unit and tenant certification status for all units, including market units, must be maintained in the online Tenant Portal, (e.g., move-in and move-out)

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Occupancy and physical inspections

<u>File Audits for Tax Credit Properties *with or without* Virginia Housing Financing in the Extended Use Period.</u>

- On-site file audits will be performed every **<u>three</u>** years for Tax Credit properties with Virginia Housing Tax-Exempt Bond Financing that are in the Extended Use Period. Twenty percent (20%) of the minimum set-aside files will be reviewed.
- For all other Virginia Housing-financed properties with Tax Credits during the Extended Use Period, file audits will be in the form of a desk audit or an onsite monitoring review. The final file audit will cover the remaining years of the IRS compliance period. Virginia Housing will evaluate the tenant data in the online Tenant Portal to determine an owner's overall compliance with EUA program requirements and occupancy restrictions.

<u>Physical Inspections for Tax Credit Properties with Virginia Housing financing in the Extended Use Period</u>

- Physical inspections for Virginia Housing-financed properties with Tax Credits in the Extended Use Period will be conducted and scheduled according to normal business practices specified by Virginia Housing.

<u>Physical Inspections for Tax Credit properties governed by federal programs without Virginia Housing financing in the Extended Use Period</u>

- Virginia Housing will continue to conduct Physical inspections for Tax Credit properties with no Virginia Housing financing that are governed by other federal programs (e.g., HUD Section 8, Project-based, Section 811, and Rural Development) even though these properties are already subject to inspections and consequences under those programs in place.

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Annual Monitoring Fee

During the Extended Use Period, the annual compliance monitoring fee for all tax credit properties will be invoiced and sent annually. Compliance monitoring fees should be paid using the Rental Housing Invoice Portal. Fees are due each year by March 1. Unpaid balances after the deadline are subject to late fees.

The Authority reserves the right to adjust the fee schedule.

Reporting Requirements

All Tax Credit properties during their Extended Use Period will be required to enter all tenant certification events in the online Tenant Portal as they occur including occupancy, income, rent, and utility allowances, as applicable for all units, including market units. All occupied units must include the household name, date of birth, income, and rent.

An evaluation of program compliance and occupancy status will be generated by Virginia Housing to assess an owner's adherence to EUA and/or Regulatory requirements.

All Tax Credit properties in the Extended Use Period must continue to complete and submit the Project Information Report (PIR) annually with monitoring fees according to the annual reporting procedures on the Compliance Monitoring webpage.