

[H.R. 3221, The Housing and Economic Recovery Act of 2008](#)

Public Law No: 110-289; Approved by Congress on July 26, 2008; Signed by President Bush on July 30, 2008

The Housing and Economic Recovery Act of 2008 was signed into law on July 30, 2008. (A link to the Act is provided at the top of this document.) Among the provisions included in the Act, two affect the application of Area Median Gross Income (AMGI) limits.

Treatment of Rural Projects

Sec. 3004. Other Simplification and Reform of Low-Income Housing Tax Incentives

(f) Treatment of Rural Projects

This section of the Act amends Section 42(i) to allow 9% housing credit developments located in a designated rural area to use the greater of AMGI or national non-metropolitan median income for rent and income determination made after July 30, 2008.

At present, the AMGI for all Wisconsin counties is above the national non-metropolitan median income. WHEDA will monitor for this provision when revised income limits are released by HUD, and will notify owners and agents if the AMGI falls below the national non-metropolitan median income.

HUD Hold Harmless

Sec. 3009. Hold Harmless for Reductions in Area Median Gross Income

(E) Hold Harmless for Reductions in Area Median Gross Income

This section of the Act amends Section 42(d). Two changes to determination of AMGI are included. The first applies to all housing credit and bond financed properties while the second applies only to projects impacted by the HUD hold harmless policy

- 1) Income determinations for Multifamily Housing Bond and Housing Credit projects may not decrease for any year after 2008. Any determination of AMGI may not be less than the AMGI for the same project in the prior year.
- 2) HUD Hold Harmless projects are those whose incomes levels were determined in 2007 or 2008 and whose levels were not decreased after the change in income determination methodology (the "American Community Survey" or "ACS") adopted by HUD in 2006.

WHEDA has determined that properties placed in service by February 13, 2008 in the following counties will be eligible under the new method of calculating area median income: Brown, Chippewa, Columbia, Douglas, Eau Claire, Fond du Lac, Iowa, Kenosha, Kewaunee, Milwaukee, Oconto, Ozaukee, Rock, Washington, Waukesha, and Winnebago.

For these properties, the AMGI will be the greater of a) the amount determined without regard to the special rule for HUD hold harmless impacted projects, or b) the sum of the area median gross income determined under the HUD hold harmless policy plus any increase in area median gross income after 2008.

Example: AMGI for a particular county was \$40,000 in 2006 and decreased to \$36,000 in 2007 with the change in HUD's formula. Under the HUD Hold Harmless policy, the AMGI was frozen at \$40,000. The AMGI for projects located in that county were held at \$40,000 until the ACS median income amount increased above \$40,000. Under the Act, the median income amount that was formerly frozen will be allowed to increase by the amount of actual increase in the newly determined median income

amount. In this example, if the actual median income in 2008 is \$36,000 and in 2009 increases to \$38,500, the \$2,500 increase would be added to the \$40,000 amount, so the new median income for HUD Hold Harmless projects would then be \$42,500.

Any properties placed in service after February 13, 2008 would utilize the current HUD published income limits.

Each year when HUD publishes revised income limits, WHEDA will publish two sets of income limit tables. One will provide the actual AMGI for use by properties not included in the hold harmless policy and one using the hold harmless adjusted income.