

## Pennsylvania's Act 200 Protections for Victims of Abuse or Crime

On October 31, 2014, Pennsylvania lawmakers enacted new legislation to ensure that municipalities can no longer punish property owners or push for the eviction of their tenants simply because residents seek police or emergency aid or are the victims of crime necessitating a police response. This law, Act 200 of 2014, establishes new protections for landlords and tenants and went into effect on January 29, 2015.

### **What protections does the new law provide?**

Act 200, amending Title 53 of the Pennsylvania Consolidated Statutes, provides protections for any resident, tenant, or landlord who faces penalty under a local ordinance because police or emergency services were called or responded when intervention was needed due to abuse, crime, or an emergency at a property. The law clarifies that all victims of abuse and crime and individuals in an emergency should be free to contact police or emergency assistance without penalty. It authorizes landlords, tenants, and residents to seek remedies in court against any municipality that violates these protections.

### **What does Act 200 address?**

Act 200 responds to local laws – often called nuisance, crime free, or disorderly property ordinances – that hold landlords and property owners responsible for the criminal activity, noise or other disturbances occurring on their properties. These laws have become pervasive across Pennsylvania. Such ordinances impose penalties or revoke rental licenses when a property is the site of a certain number of calls for police services or instances of nuisance conduct (a category that can include assault, harassment, stalking, disorderly conduct, or even “all penal laws”). These laws typically apply regardless of whether a resident called the police out of genuine need or was the victim of the nuisance activity.

Once a citation or warning is issued, landlords and property owners are usually instructed to take action to eliminate (or “abate”) the nuisance or face fines and other penalties. Too often, landlords will try to resolve the problem by evicting every resident of the unit that was the site of the nuisance. This can lead to unjust evictions of innocent crime victims and has been shown to disproportionately impact victims of domestic violence who frequently require police assistance at their homes for crimes that they cannot control. This can also lead to unlawful discrimination against racial minorities



and people with disabilities. Federal lawsuits have been brought against landlords who evicted tenants based on domestic violence.<sup>i</sup>

### **What can municipalities and boroughs do?**

Act 200 clarifies that no person should be penalized for calling 911 or receiving police or emergency services. Boroughs and municipalities should evaluate their ordinances and local laws to determine if penalties are assessed to landlords or tenants when police or emergency personnel are called to address abuse, crime or an emergency. In particular, boroughs should consider repealing these laws to avoid potential illegal enforcement and possible future legal liability. Boroughs that punish tenants who call the police or are the subject of 911 calls due to incidents of gender-based violence may be subject to the civil remedies provided in Act 200 but also may be found to violate laws that protect victims from housing discrimination. These laws are detailed below.

#### *The Federal Fair Housing Act Applies*

The Fair Housing Act (FHA) forbids sex discrimination in housing. Landlords are prohibited from purposely discriminating against women and also taking actions that predominantly affect women, even if landlords did not intend to discriminate. This law protects both prospective and current tenants.

HUD has stated that when a landlord's actions impact the housing of domestic violence victims, this may amount to discrimination on the basis of sex, as the majority of domestic violence victims are women.<sup>ii</sup> Nuisance ordinances have been shown to be disproportionately enforced against incidents of domestic violence as compared to other crime.<sup>iii</sup> As a result, boroughs who enforce nuisance laws against landlords or threaten enforcement if the landlord does not evict the tenant risk violating the FHA.

#### *The Violence Against Women Act: Applies to Certain Federally Subsidized Housing*

The Violence Against Women Act (VAWA)<sup>iv</sup> provides specific protections for victims of domestic violence who live in certain types of federally-subsidized housing.<sup>v</sup> These include privately owned housing where the tenant or landlord is receiving a federal subsidy. Covered housing providers are prohibited from evicting a tenant because of his or her status as a victim of intimate partner violence, sexual assault, or stalking or because of an actual or threatened incident of such violence. This protection extends to the tenant's immediate family as well. The one exception to this rule is where the landlord can prove that other tenants face an "actual and imminent threat" if the victim is not evicted and there are no other ways to eliminate the threat.



Covered housing providers must be cautious when addressing a nuisance ordinance violation involving gender-based violence. To ensure compliance with VAWA, providers should determine whether the tenant was the victim of such violence before responding with penalties. A tenant can prove her victim status through various sources, including HUD forms, court records, police reports, or a document signed by someone helping her (like a counselor, attorney, or medical professional).

Like the FHA, VAWA applies to both prospective and current tenants. Thus, covered housing providers may not discriminate against victims of gender-based violence in the application process.

When assessing an ordinance violation, boroughs should be careful not to penalize landlords or their tenants who are the victims of the cited activity – for instance by issuing a strike letter or warning notice– and not to directly or indirectly limit tenants’ ability to seek police assistance – such as by warning the landlord or tenant not to call the police or adopting a “zero tolerance” or “one strike” policy that requires eviction upon any criminal activity.

For more information about nuisance ordinances, visit the ACLU website at <https://www.aclu.org/womens-rights/i-am-not-nuisance-local-ordinances-punish-victims-crime>.

<sup>i</sup> See, *Alvera v. C.B.M. Group, Inc.*, No. 01–857–PA (D. Or. filed June 8, 2001); *U.S. Dept. of Housing & Urban Development, on behalf of Tiffani Ann Alvera v. C.B.M. Group, Inc., et al.*, HUDALJ No. 10-99-0538-8 (filed April 16, 2001), available at [https://www.aclu.org/files/images/asset\\_upload\\_file37\\_33994.pdf](https://www.aclu.org/files/images/asset_upload_file37_33994.pdf); *Bouley v. Young-Sabourin*, 394 F. Supp. 2d 675 (D. Vt. 2005); *Meister v. Kansas City, KS Housing Auth.* (D. Kan. 2011).

<sup>ii</sup> Sara K. Pratt. U.S. Dep’t of Hous. & Urban Dev., Office of Fair Hous. & Equal Opportunity, *Assessing Claims of Housing Discrimination Against Victims of Domestic Violence Under the Fair Housing Act and the Violence Against Women Act* (2011). 3

<sup>iii</sup> Matthew Desmond & Nicol Valdez, *Unpolicing the Urban Poor: Consequences of Third-Party Policing for Inner-City Women*, 78 *Am. Soc. Rev.* 117, 131-132 (2012).

<sup>iv</sup> 42 U.S.C. § 14043e-11.

<sup>v</sup> Covered housing includes public housing, Section 8 Housing Choice Voucher Program, Section 8 project-based housing; Section 202 housing for the elderly, Section 811 housing for people with disabilities; Section 236 multifamily rental housing; Section 221(d)(3) Below Market Interest Rate (BMIR) housing; HOME; Housing Opportunities for People with Aids (HOWPA); McKinney-Vento Act Programs; Rural Development (RD) multifamily housing programs; and Low-Income Housing Tax Credit (LIHTC) recipients.

