



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-5000

ASSISTANT SECRETARY FOR
PUBLIC AND INDIAN HOUSING

SEP 3 0 2013

Dear Executive Director:

Subject: New Housing Protections in VAWA 2013

On March 7, 2013, President Obama signed into law the Violence Against Women Reauthorization Act of 2013 (VAWA 2013). VAWA 2013 implemented several key changes related to housing protections for victims of domestic violence, dating violence, sexual assault or stalking.

HUD published a notice in the *Federal Register* (FR) on August 6, 2013 describing the changes related to housing and the implications to HUD's programs. HUD also sought comment on certain provisions through the notice to aid in the development of regulations and program guidance. This letter summarizes the August 6 FR notice and reminds you that the comment period ends October 7, 2013. For your convenience, the notice is attached. Please share your comments on www.Regulations.gov.

As discussed in the August 6 FR notice, PHAs are able to implement most of the changes immediately, while certain provisions in the law require changes to HUD's regulations and further guidance before PHAs can implement the changes. With the exception of certain provisions identified below where further regulations or guidance are needed, PHAs, owners and managers administering public or section 8 housing must continue to provide VAWA protections as provided in 24 CFR part 5, subpart L, as those protections are enhanced by VAWA 2013.

Summary of Key Changes in VAWA 2013:

- VAWA 2013 expands housing protections to victims of sexual assault. The current regulatory language at 24 CFR part 5, subpart L describes protections for "victims of domestic violence, dating violence, or stalking," but effective March 7, 2013 (the date that VAWA 2013 was signed into law) these protections were expanded to include victims of sexual assault.
- VAWA 2013 expands protections relating to the prohibition of terminating assistance because of criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking (currently at 24 CFR 5.2005(c)(2)) by replacing the term "immediate family member" with "affiliated individual." VAWA 2013 provides that criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking that is engaged in by a member of a tenant's household or any guest or other person under the tenant's control shall not be cause for termination of assistance, tenancy, or occupancy rights if the tenant or an *affiliated individual* of the tenant is the victim or threatened victim of the domestic violence, dating violence, sexual assault, or stalking

(emphasis added). VAWA 2013 defines an “affiliated individual,” with respect to an individual, as a spouse, parent, brother, sister, or child of that individual, or an individual to whom that individual stands in loco parentis (in the place of a parent), or any individual, tenant, or lawful occupant living in the household of that individual.

- VAWA 2013 expands the protections regarding lease bifurcations (currently at 24 CFR 5.2009(a)) by:
 - changing the language regarding the violent acts (“criminal acts of physical violence against family members or others” becomes “criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual”), and
 - mandating that if such bifurcation occurs, and the removed tenant or lawful occupant was the sole tenant eligible to receive assistance under a covered housing program, the PHA shall provide any remaining tenant the opportunity to establish eligibility for the covered housing program. If the remaining tenant cannot establish eligibility, the PHA is required to provide the tenant a reasonable time to find new housing or to establish eligibility under another covered housing program. HUD will provide through rulemaking or guidance, as may be applicable, what constitutes a reasonable time for remaining tenants to find new housing or establish eligibility under another HUD covered housing program. PHAs will not be able to implement this provision until HUD provides such rulemaking or guidance. HUD specifically solicits comment on that period that would be reasonable to find new housing or establish eligibility under another HUD covered housing program.
- VAWA 2013 expands the forms of documentation that a victim may provide. Specifically, VAWA 2013 provides that the forms of documentation a victim may provide (currently at 24 CFR 5.2007(b)(2)-(3), and listed on the form HUD-50066) also include a record of an administrative agency, and documentation from a mental health professional. Additionally, VAWA 2013 provides that the victim is required to provide the name of the perpetrator on the HUD-50066 only if the name of the perpetrator is safe to provide and is known to the victim.
- VAWA 2013 expands the notification requirements (currently at 24 CFR 5.2005(a)(1)) to require that PHAs provide the notice when a person is denied assistance, when a person is admitted, and when a tenant is notified of eviction or termination of housing benefits, and to require that the notice be provided together with form HUD-50066.
 - Additionally, VAWA 2013 requires that HUD develop the notice of rights that PHAs are required to provide to applicants/participants. HUD specifically solicits comment on the content of the notice of tenant’s rights. Until such time that HUD develops the notice, PHAs must continue to use the notice of rights they already provide to tenants per 5.2005(a)(1).

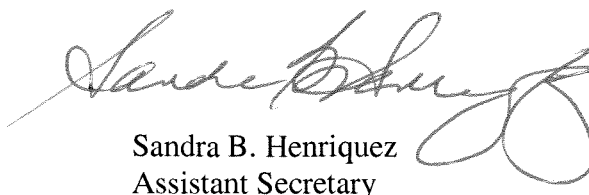
- VAWA 2013 requires HUD to adopt a model emergency transfer plan for use by PHAs, and requires HUD to establish policies and procedures under which victims of abuse requesting an emergency transfer may receive, subject to the availability of tenant protection vouchers, assistance through the tenant-based section 8 program. HUD specifically requests comments on the content of the model emergency transfer plan and the implementation of the tenant protection vouchers provision. Before such time that HUD develops the model emergency transfer plan, PHAs may continue to implement any transfer plan at that property/program as described in an agency's admissions and continued occupancy plan or administrative plan.
- VAWA 2013 also expands the housing protections from VAWA 2005 to extend to the following new housing programs, including two that are not administered by HUD:
 - HOME Investment Partnerships Program
 - Section 202 Supportive Housing for the Elderly
 - Section 236 Rental Program
 - Section 811 Supportive Housing for People with Disabilities
 - Section 221(d)(3) Below Market Interest Rate (BMIR) Program
 - HOPWA Housing Program
 - HUD's McKinney-Vento homeless programs
 - Low-Income Housing Tax Credit properties (Department of Treasury)
 - USDA Rural Housing properties (Department of Agriculture)

While HUD is developing regulations to codify these important protections, please be sure to update your Administrative Plans and Admissions and Continued Occupancy Plans in accordance with the enhanced protections found in VAWA 2013.

Furthermore, it is important to remember that certain policies and practices that treat victims of domestic violence differently from other tenants may be considered to be discrimination on the basis of sex under the federal Fair Housing Act. I encourage you to review HUD's 2011 Guidance on Domestic Violence and Fair Housing (also attached). Please note that although the 2011 guidance covers protections under the Fair Housing Act and under VAWA 2005, it has not yet been updated to include the protections under VAWA 2013.

If you have questions concerning VAWA 2013, please contact your local HUD Field Office of Public Housing. For questions related to the Fair Housing Act, please contact your local HUD Field Office of Fair Housing.

Sincerely,



Sandra B. Henriquez
Assistant Secretary