



## **RD Issues Administrative Notice Implementing VAWA and Republishes Unnumbered Letter on Preserving Maturing Housing Developments**

On January 18, 2017, RD issued an updated notice implementing the Violence Against Women Reauthorization Act of 2013 (VAWA 2013) – [AN \(Administrative Notice\) 4814 \(1944-N\)](#). The AN states that landlords have to comply with VAWA 2013 by virtue of their execution of certifications to abide by all applicable laws. *See, e.g.*, 7 C.F.R. § 3560.102(a). However, the AN falls short as compared to [HUD’s VAWA regulations](#) as the RD guidance lacks definitions and details. For example, unlike the HUD regulations, the AN does not mention that VAWA applies to threats of violence and does not define “actual and imminent threat.” RD further emphasizes that VAWA 2013 supersedes conflicting RD regulations, but VAWA 2013 does not supersede other laws that provide greater protections for survivors. RD also relies on forms published in HUD’s final regulation implementing VAWA 2013, such as the VAWA self-certification form, which can be modified for the RD program.

Additionally, the AN details that RD landlords

- must comply with VAWA 2013; however, they are **only encouraged** to update management plans and tenant selection policies or to adopt a lease addendum implementing VAWA 2013.
- must publicly post HUD’s Notice of Occupancy Rights and Certification of Domestic Violence forms and distribute them to residents when individual is denied residency, is assigned to a unit, or receives an eviction notice.
- must allow residents to use the Emergency Transfer Plan; transfers must be allowed to a unit that is under the **borrower’s** control (unclear if it applies to units under the management agent’s control). Victims may receive a Letter of Priority Entitlement (LOPE) to another RD development. Victims cannot transfer RD subsidy to another development.
- can permit lease bifurcation and must allow addition of an adult to household if remaining household members are not eligible for the housing.

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In one of his last acts as the Obama Administration’s Rural Housing Service Administrator, Tony Hernandez released an [Unnumbered Letter \(UL\)](#) setting out various steps that Rural Development staff can take to preserve RHS Section 515 rental and Section 514/516 farm labor housing developments that are nearing loan maturities. The UL supersedes a 2015 UL on the same subject that was published at the urging of the National Housing Law Project.

The UL calls on RD staff to review all loans that are within 36 months of maturing and to determine if the loan is maturing early due to (1) the application of extra principal payments or other reductions in principal; or, (2) whether it is coming to the natural end of the original loan term. If the loan status is ahead of the scheduled maturity, RD must take steps, including the refusal to accept further payments, to ensure that the loan does not mature ahead of schedule



unless the owner formally applies to prepay the loan subject to RD's prepayment restrictions that are set out at 7 C.F.R. § 3560.653(a).

If the loan is nearing its natural maturity, the UL requires RD staff to advise the owner and residents of the impending loan maturity and the fact that RD subsidies, including Rental Assistance, will terminate when the loan matures. It directs RD staff to strongly encourage owners to reamortize the loan balance for a term of up to 20 years. This will result in the continuation of rent subsidies for the full reamortization period. Owners who do not wish to extend the loan through reamortization, are encouraged to apply to prepay the loan in order to make the residents eligible for RD vouchers prior to loan maturity.<sup>1</sup>

The UL sets out the mechanics of reamortizing loans prior to their maturity and includes form letters to borrowers and residents advising them of the impending loan maturity.

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<sup>1</sup> Due to statutory restrictions, RD is currently unable to issue vouchers to residents who live in a development that has a naturally maturing loan. However, if the owner applies for a loan prepayment and actually prepays the loan prior to maturity, the residents become eligible for RD vouchers.