

## HOMEfires - Vol. 11 No. 1, December, 2013

### **Q. Does the Violence Against Women Reauthorization Act of 2013 impact HOME-funded projects?**

A. Yes, the Violence Against Women Reauthorization Act of 2013 (VAWA 2013) does impact HOME funded projects.

On August 6, 2013, HUD published a notice (Notice) in the Federal Register on VAWA 2013 describing the impacts of the VAWA Act and the new housing protections in that law that will have implications for HUD's HOME program grantees. The Notice is available in the [Federal Register](#).

VAWA 2013 was signed into law on March 7, 2013. Some of the key changes related to housing include:

- VAWA 2013 maintains protections for public housing, Section 8 vouchers, and project-based Section 8, and also expands the housing protections from VAWA 2005 to include the following programs which includes HUD's HOME Programs:
  - HOME Investment Partnerships Program
  - §202 Supportive Housing for the Elderly
  - Section 236 Rental Program
  - §811 supportive housing for people with disabilities
  - Section 221(d)(3) Below Market Interest Rate (BMIR) Program
  - Housing Opportunities for Persons With Aids (HOPWA) Program
  - Homeless programs under Title IV of the McKinney-Vento Homeless Assistance Act
  - Low-Income Housing Tax Credit properties
  - USDA Rural Housing properties
- VAWA 2013 continues to bar eviction and termination due to a tenant's status as a victim of domestic violence, dating violence, or stalking, and requires landlords to maintain survivor-tenant confidentiality. It also continues to prohibit a tenant who is a survivor of domestic violence, dating violence, sexual assault, and stalking from being denied assistance, tenancy, or occupancy rights based solely on criminal activity related to an act of violence committed against them.
- VAWA 2013 now expressly extends housing protections to survivors of sexual assault, and adds "intimate partner" to the list of eligible relationships in the domestic violence definition. Protections also now cover an "affiliated individual," which includes any lawful occupant living in the survivor's household, or related to the survivor by blood or marriage including the survivor's spouse, parent, brother, sister, child, or any person to whom the survivor stands in loco parentis.

VAWA 2013 continues to allow a lease bifurcation so a tenant or lawful occupant who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual, or others may be evicted or removed without

evicting or removing or otherwise penalizing a victim who is a tenant or lawful occupant. If victim cannot establish eligibility, the PHA, owner, or manager must give a reasonable amount of time to find new housing or establish eligibility under another covered housing program.

- New housing protections in VAWA 2013 includes the requirement that each appropriate agency develop a notice of rights under VAWA 2013 for tenants and provide such notice at the time a person applies for housing, when a person is admitted as a tenant of a housing unit, and when a tenant is threatened with eviction or termination of housing benefits.
- VAWA 20213 extends the documentation and confidentiality provisions found in all existing VAWA requirements to all HUD covered programs.
- VAWA 2013 requires each appropriate agency to adopt a model emergency transfer plan for use by public housing agencies, owners or managers of housing, and other housing providers participating in HUD covered programs. Tenants must request an emergency transfer and reasonably believe that they are threatened with imminent harm from further violence if the tenant remains in the same unit.

While HUD is developing regulations to codify these important protections for HUD-covered programs and to provide guidance on such statutory provisions as “reasonable time”, and “notice of rights,” housing providers in HUD-covered programs should not wait on HUD regulations to extend the basic VAWA protections (e.g., no eviction or termination to survivors of domestic violence) to tenants residing in HUD-assisted housing. Furthermore, we would like to take this opportunity to remind you that certain policies and practices that treat victims of domestic violence, dating violence, sexual assault, or stalking different from other tenants may be considered to be discrimination on the basis of sex under the federal Fair Housing Act.

If a housing provider refuses to rent, evicts, or otherwise treats someone differently because of that person’s status as a victim of domestic violence, dating violence, sexual assault, or stalking, HUD or the courts may find a violation under the Fair Housing Act due to direct discrimination, unequal treatment, or disparate impact. If a jurisdiction or other entity encourages or causes differential treatment toward domestic violence victims, that jurisdiction or entity could encounter liability. For these reasons, we encourage you to review the [HUD Notice published in the Federal Register](#) and [HUD’s 2011 guidance on domestic violence and fair housing](#). (Please note that the 2011 guidance covers protections under the Fair Housing Act and under VAWA 2005 but has not yet been updated to include the protections under VAWA 2013).

If you have any questions, please contact your local [CPD Field Office](#).