Special Attention of:
All Section 232 and Section 242 Healthcare Program Participants, Multifamily Principals/Sponsors, Contract Administrators, Owners and Management Agents and HUD Approved Housing Counseling Agencies

NOTICE H 2015-01
Issued: February 6, 2015
Expires: This Notice remains in effect until amended, superseded or rescinded.

Subject: Notice of Program Eligibility for HUD Assisted and Insured Housing Programs for All People Regardless of Sexual Orientation, Gender Identity or Marital Status as Required by HUD’s Equal Access Rule

Purpose: The purpose of this Housing Notice (Notice) is to:

Increase awareness of Office of Housing program participants and stakeholders of the requirements of the HUD Equal Access Rule for actual or perceived discrimination based on sexual orientation, gender identity, or marital status.

Introduction: On February 3, 2012, HUD published a final rule entitled Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity (77 FR 5662) (“Equal Access Rule or “rule”). The final rule ensures that housing across HUD programs are open to all eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

Changes to HUD’s General Regulations:
(a) A determination of eligibility for housing that is assisted by HUD or subject to a mortgage insured by the Federal Housing Administration shall be made in accordance with the eligibility requirements provided for such program by HUD, and such housing shall be made available without regard to actual or perceived sexual orientation, gender identity, or marital status, and
(b) No owner or administrator of HUD-assisted or HUD-insured housing, approved lender in an FHA mortgage insurance program, or any other recipient or sub-recipient of HUD funds may inquire about the sexual orientation or gender identity of an applicant for, or occupant of, HUD-assisted or HUD-insured housing for purposes of determining eligibility or
Changes to FHA Regulations:

The rule made two changes to 24 CFR part 200-Introduction to FHA Programs and one change to 24 CFR part 203-Single Family Mortgage Insurance.

(a) The rule incorporated in FHA Programs the new definition of “family” found in 24 CFR 5.100. 24 CFR 200.3

(b) The rule incorporated the nondiscrimination requirements of the Equal Access Rule in FHA programs. 24 CFR 200.30

(c) The rule incorporated the requirement that “marital status, actual or perceived sexual orientation or gender identity” not be considered when determining the adequacy of the mortgagor’s income for single-family mortgage insurance. 24 CFR 203.33

Fair Housing:

Through this notice, HUD’s Office of Housing strives to make its program participants aware of the requirements of the Equal Access Rule. The rule...
does not create any additional protected classes under the Fair Housing Act or any other civil rights law. Although the Fair Housing Act does not expressly include sexual orientation, gender identity and marital status as protected classes, a lesbian, gay, bisexual, or transgender person's experience with sexual orientation or gender identity housing discrimination may still be covered by the Fair Housing Act's prohibition on discrimination based on sex. For example, courts have recognized that the Fair Housing Act’s prohibition against discrimination because of sex includes discrimination based on non-conformance with sex stereotypes. Therefore, under certain circumstances, complaints involving sexual orientation or gender identity may be investigated under the Fair Housing Act.

Many states and local jurisdictions prohibit housing discrimination based on sexual orientation, gender identity and/or marital status, and HUD may refer complaints or other information concerning these protected classes to appropriate state and local fair housing enforcement agencies.

**Applicability:** The Office of Single Family Housing has incorporated this change into its Single Family Housing Policy Handbook, 4000.1, which will be effective June 15, 2015. Other housing program offices will provide additional guidance on how the rule specifically affects Housing insured and non-insured programs through Mortgagee Letters, Notices and/or other appropriate communications.

**Paperwork Reduction Act:** This Notice does not contain information collection requirements subject to the Paperwork Reduction Act.

**Questions:** If you have questions regarding this Notice, please call the FHA Resource Center at 1-800-CALLFHA (1-800-225-5342).

Persons with hearing or speech impairments may reach this number via TTY by calling the Federal Information Relay Service at 1-800-877-8339.

Or you may leave a question for response by email at: answers@hud.gov

The FHA Resource Center can accept emails with attachments. To ensure proper attention to the attachment please reference it within the body of the email.
For additional information on this Housing Notice, please visit 

Fair Housing questions may be directed to local Office of Fair Housing and 
Equal Opportunity Offices. Complaints of discrimination based on gender 
identity may be filed by calling 1-800-669-9777 or electronically at:

al_opp/online-complaint.

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Signature:

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Biniam Gebre
Acting Assistant Secretary for Housing - Federal Housing Commissioner