

Notice of Occupancy Rights Under the Violence Against Women Act (VAWA)

Policy (Approved by the HOME Advisory Group on 08/07/2018; Updated and Approved by HOME Advisory Group 09/01/2020; Updated and Approved by HOME Advisory Group 11/07/2023; Updated and Approved by HOME Advisory Group 12/02/2025)

1. Overview:

First introduced in 1994 and subsequently reauthorized four times, the Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking. VAWA protections are not only available to women but are available equally to all individuals regardless of sex, gender identity, or sexual orientation.

2. Authority – 24 CFR Part 5 – Subpart L:

This subpart addresses the regulation for protections for victims of domestic violence, dating violence, sexual assault, or stalking who are applying for, or are the beneficiaries of, assistance under a Department of Housing and Urban Development (HUD) program covered by the Violence Against Women Act (VAWA), as amended (42 U.S.C. 13925 and 42 U.S.C. 14043e *et seq.*) (“covered housing program,” as defined in § 5.2003). Notwithstanding the title of the statute, protections are not limited to women but cover victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation. Consistent with the nondiscrimination and equal opportunity requirements at 24 CFR 5.105(a), victims cannot be discriminated against on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD’s VAWA requirements must be applied in a manner consistent with the definitions found at 34 U.S.C. 122291(a)(12) (Domestic Violence), 34 U.S.C. 122291(a)(13) (Economic Abuse) and 34 U.S.C. 122291(a)(40) (Technological Abuse).

3. Applicability to Covered Housing Programs administered by the Community

Development Commission: Core statutory protections of VAWA that prohibit denial or termination of assistance or eviction solely because an applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking applied upon enactment of VAWA 2013 on March 7, 2013.

- a. HOME Investment Partnerships (HOME) Program (24 CFR Part 92). The Violence Against Women Act (VAWA) requirements set forth in [24 CFR part 5, subpart L](#), apply to all HOME tenant-based rental assistance and rental housing assisted with HOME funds.
 - i. Effective date. Compliance with VAWA regulatory requirements under 24 CFR Part 92 and 24 CFR Part 5, Subpart L, are required for any tenant-based rental assistance or rental housing project for which the date of the HOME funding commitment is on or after *December 16, 2016*.
 - ii. Period of applicability. For HOME-assisted rental housing, VAWA requirements and compliance apply to the owner of the housing for the duration of the period of affordability. For HOME tenant-based rental assistance, VAWA requirements and compliance apply to the owner of the tenant's housing for the period for which the rental assistance is provided.

- b. Emergency Solutions Grant (ESG) Program (24 CFR Part 570). The Violence Against Women Act (VAWA) requirements set forth in [24 CFR part 5, subpart L](#), apply to all eligibility and termination decisions that are made with respect to ESG rental assistance on or after *December 16, 2016*. Further, the requirements under 24 CFR Part 5, Subpart L, must be included or incorporated into rental assistance agreements and leases.
 - i. Emergency shelters. Emergency shelters funded under 24 CFR 576.102 cannot deny admission or remove an individual or family from the emergency shelter on the basis or as a direct result of the fact the individual or family is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the individual or family otherwise qualifies for admission or occupancy.

4. Rights, and Responsibility for the Community Development Commission, Subrecipients, Landlords, and Tenants:

- a. **Tenant Protections, Rights, and Responsibilities.** Prospective tenants cannot be denied admission or denied assistance because they have been a victim of domestic violence, dating violence, sexual assault, or stalking. A tenant can be evicted for repeated lease violations that are not related to domestic violence, dating violence, sexual assault, and stalking. Landlords, homeowners, tenants, residents, occupants, and guests of, and applicants for, housing shall have the right to seek law enforcement or emergency assistance on their own behalf or on behalf of another person in need of assistance. The tenant, to the greatest extent feasible, will have the right to work with the landlord, subrecipients, and the Community Development Commission (CDC) to work on a solution on a case-by-case basis while remaining confidential and in the best interest of the tenant.
- b. **Landlord Protections, Rights, and Responsibilities.** The landlord has the ability to adjust the lease in order to evict the individual or terminate the assistance of the individual who has engaged in criminal activity (the abuser or perpetrator) directly relating to domestic violence, dating violence, sexual assault, or stalking (refer to section 5). A landlord cannot deny a prospective tenant admission or denied assistance because they have been a victim of domestic violence, dating violence, sexual assault, or stalking. The landlord, to the greatest extent feasible, will have the right to work with the tenant, subrecipients, and the Community Development Commission to work on a solution on a case-by-case basis while remaining confidential and in the best interest of the tenant.
- c. **Subrecipient Protections, Rights, and Responsibilities.** The subrecipient has the responsibility to report any instances where a landlord has denied a prospective tenant admission or denied assistance because they have been a victim of domestic violence, dating violence, sexual assault, or stalking. They also have the responsibility to assist landlords in adjusting the lease in order to evict the individual or terminate the assistance of the individual who has engaged in criminal activity (the abuser or perpetrator) directly relating to domestic violence, dating violence, sexual assault, or

stalking (refer to section 5). The subrecipient, to the greatest extent feasible, will have the right to work with the tenant, landlords, and the Community Development Commission to work on a solution on a case-by-case basis while remaining confidential and in the best interest of the tenant.

d. Community Development Commission Protections, Rights, and Responsibilities.

Upon a tenant request, the CDC, to the greatest extent feasible, will work with affiliate agencies providing affordable housing to permit a tenant to move to another unit due to an incidence of domestic violence, dating violence, sexual assault, or stalking, and threats, pending availability of comparable units and need. All requests will remain confidential to the greatest extent feasible.

The CDC, to the greatest extent feasible, will have the responsibility to work with the tenant, landlords, and if needed, victim service providers, legal service providers, or nonprofit agencies to provide services to work on a solution on a case-by-case basis while remaining confidential and in the best interest of the tenant.

Upon guidance issued by HUD, the CDC on behalf of the County will report on its laws or policies, and/or their Subrecipient's laws or policies, that penalize protected persons based on requests for law enforcement or emergency assistance or based on criminal activity that occurred at a property. Certification of compliance with protections or an explanation of how compliance will be met by the County and/or its Subrecipients will be provided as required by HUD in accordance with reporting requirements.

5. **Notification Requirements:** Each applicant and each tenant must be notified of occupancy rights and certification under VAWA. Use of Form HUD-5380 *Notice of Occupancy Rights Under the Violence Against Women Act* and Form HUD-5382 *Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation* may be used for notification requirements. Specific requirements for covered housing programs administered by the CDC are as follows:
- a. HOME-assisted units. The owner of HOME-assisted rental housing must provide the VAWA notice and certification form described in [24 CFR 5.2005\(a\)](#) to the applicant for a HOME-assisted unit upon admission or denied admission to a HOME-assisted unit, and notification of eviction from a HOME-assisted unit.
 - b. HOME Tenant-Based-Rental Assistance (TBRA). DuPage County operates the n TBRA program through Subrecipient agencies that are members of the DuPage CoC. The Subrecipient must provide the VAWA notice and certification form described in [24 CFR 5.2005\(a\)](#) to the applicant for TBRA assistance upon approval or denial of TBRA, with notification of termination of TBRA, and when the Subrecipient learns the tenant's housing owner intends to provide the tenant with an eviction notice.
 - c. ESG rental assistance. The Subrecipient must provide the VAWA notice and certification form described in [24 CFR 5.2005\(a\)](#) to each applicant for ESG rental assistance and each program participant receiving ESG rental assistance when an individual or family is denied assistance, an individual or family's application for

a unit receiving project-based rental assistance is denied, when a program participant begins receiving assistance, is notified of assistance termination, and is notified of eviction.

6. Prohibition on Retaliation:

Retaliation is prohibited in covered housing. It is illegal for Public Housing Agency (PHA), owner, or manager of covered housing to discriminate against any person because that person has opposed any act or practice made unlawful by VAWA's housing provisions, or because that person testified, assisted, or participated in any real matter.

It is also illegal for Public Housing Agency (PHA), owner, or manager of covered housing to coerce, intimidate, threaten, interfere with, or retaliate against any person who exercises, assists, or encourages a person to exercise any rights or protections under VAWA's housing provisions.

7. Emergency Transfer Plan:

The DuPage County Consortium Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, has been updated, based on HUD's most recent model emergency transfer plan, Form HUD-5381, and is attached for reference. Subrecipients receiving applicable funding under a covered housing program may develop an Emergency Transfer Plan, utilizing the most current HUD model emergency transfer plan, Form HUD-5381, and ensuring the plan meets regulatory requirements associated with the specific covered housing program, or utilize the DuPage County Consortium Emergency Transfer Plan.

8. Lease Bifurcation:

- a. The housing owner may bifurcate a lease, or remove a household member from a lease in order to evict, remove, terminate occupancy rights, or terminate assistance to such member who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual:
 - i. Without regard to whether the household member is a signatory to the lease; and
 - ii. Without evicting, removing, terminating assistance to, or otherwise penalizing a victim of such criminal activity who is also a tenant or lawful occupant.
- b. A lease bifurcation shall be carried out in accordance with any requirements or procedures as may be prescribed by Federal, State, or local law for termination of assistance or leases and in accordance with any requirements under the relevant covered housing program.
- c. HOME bifurcation of lease requirements.

- i. If a family living in a HOME-assisted rental unit separates due to domestic violence, dating violence, sexual assault, or stalking, the remaining tenant(s) may remain in the HOME-assisted unit.
 - ii. If a family receiving HOME tenant-based rental assistance separates due to domestic violence, dating violence, sexual assault, or stalking, the remaining tenant(s) will receive HOME tenant-based rental assistance.
- d. ESG bifurcation requirements.
 - i. If a family receiving tenant-based rental assistance separates due to domestic violence, dating violence, sexual assault, or stalking, the family's tenant-based rental assistance and utility assistance, if any, shall continue for the family member(s) who are not evicted or removed.
 - ii. If a family living in a unit receiving project-based rental assistance separates due to domestic violence, dating violence, sexual assault, or stalking, the family member(s) who are not evicted or removed can remain in the assisted unit without interruption to the rental assistance or utility assistance provided for the unit.

9. Right to Report Crime and Emergencies:

- a. Landlords, homeowners, tenants, residents, occupants, and guests of, and applicants for, housing shall have the right to seek law enforcement or emergency assistance on their own behalf or on behalf of another person in need of assistance. Penalizing or threatening to penalize persons because they request assistance or report criminal activity of which they are a victim or otherwise not at fault under the laws or policies adopted or enforced by covered governmental entities (any municipal, county, or State government that receives funding under section 106 of the Housing and Community Development Act of 1974) is prohibited.
- b. Covered governmental entities are required to report on their laws or policies or their subgrantees' law or policies, that penalize protected persons based on request for law enforcement or emergency assistance or based on criminal activity that occurred at a property. These entities must also certify compliance with these protections or explain how they will come into compliance or ensure compliance among subgrantees within 180 days of submitting the report to HUD. Implementation regulations or guidance will be issued by HUD regarding the timing and process of the reporting.

10. Confidentiality:

Subrecipients, and landlords receiving Federal funds through the Community Development Commission must keep confidential any information related to tenant rights under VAWA. The CDC must not allow any individual administering assistance or other services on behalf of the CDC to have access to confidential information unless for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law. The CDC, subrecipients, and landlords receiving Federal funds, however, may disclose information provided if:

- a. Written permission is received from the tenant to release the information on a time limited basis
- b. Information is needed in an eviction or termination proceeding, such as to evict an abuser or perpetrator or terminate the abuser or perpetrator from the CDC assisted unit
- c. A law requires the release of the information

VAWA does not limit the duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

11. Other Laws and Non-Compliance:

VAWA does not replace any Federal, State, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking. Tenants may be entitled to additional housing protections for victims of domestic violence, dating violence, sexual assault, or stalking under other Federal laws, as well as under State and local laws. All complaints or violations should be submitted to the HUD Chicago Regional Office either by phone at (312) 353-5680 or by mail:

Ralph Metcalfe Federal Building
77 West Jackson Boulevard
Chicago, Illinois 60604

Complaints may also be filed with HUD's Office of Fair Housing and Equal Opportunity (FHEO) electronically at <https://www.hud.gov/fairhousing/fileacomplaint%20>.

12. Appeals:

Appeals of a Federal regulation or requirement cannot be granted by the Commission as the Commission only has the ability to grant appeals based on County policies. However, should a landlord and/or tenant not reach a satisfactory outcome compliant with VAWA, tenant/landlord disputes would be referred to the appropriate local legal resource.

13. Attachments:

The following forms have been developed by HUD and may be provided to tenants by covered housing providers administering one or more covered housing programs. These forms may be updated by HUD from time to time, and the most recent versions must be utilized by housing providers.

- a. Form HUD-5380, Notice of Occupancy Rights under VAWA
- b. Form HUD-5381, Model Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault or Stalking
- c. Form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault or Stalking, and Alternate Documentation
- d. Form HUD-5383, Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

- e. DuPage County Consortium Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking.

If a covered housing provider wishes to develop and utilize forms outside of those developed by HUD, each form must meet the requirements under VAWA.