

**7. What happens if the abuser also submits a certification claiming that he or she is a victim?**

If the housing authority or landlord receives documentation with conflicting information, then the PHA or landlord may require you to submit any of the above-mentioned third-party documentation to prove your status as a victim of domestic violence, dating violence, sexual assault, or stalking.

**8. Can a housing provider share the information I provide about the abuse with others?**

No, except in limited cases. The housing authority or landlord cannot give the information you provide about the abuse to others. The information may be shared only if you agree in writing, if it is needed to evict the abuser from the housing, or if disclosure is required by law.

**9. Does this mean that a victim of domestic violence, dating violence, sexual assault, or stalking cannot be evicted at all?**

No. You still can be evicted for serious or repeated lease violations that aren't related to the abuse. The landlord or housing authority must hold you to the same standard as other tenants. The landlord also may be able to evict if there is a real and immediate threat to other tenants if you are not evicted. **If you receive any type of eviction notice, call a legal aid office immediately.**

**10. Is the housing authority or landlord required to tell me about VAWA's housing protections?**

Yes. VAWA requires each housing authority or landlord to tell applicants and tenants of the VAWA housing protections. The notice, when approved by HUD, must be given along with the self-certification form mentioned in Question 6 at the time an applicant is denied housing or assistance, at the time an applicant is admitted to housing, or when a tenant is notified of eviction or termination. This notice must be in multiple languages. At this time, HUD has not issued the notice.

**11. How does VAWA affect other state or local laws that might protect me?**

VAWA is federal law. However, VAWA is not intended to replace other federal, state, or local laws that may provide more protections for victims of abuse.

**12. Who can help me?**

Contact an attorney, domestic violence agency, or fair housing agency to see if VAWA can help you.



## **Know Your Rights: Domestic Violence and Federally Assisted Housing**

### **The Violence Against Women Act**

Are you a victim of domestic violence, dating violence, sexual assault, or stalking?

Do you live in federally assisted housing?

**A law called VAWA, the Violence Against Women Act, may help you.**

May 2014

# The Rights of Domestic Violence Victims: Living in Federally Assisted Housing

## 1. Am I covered by VAWA's housing protections?

VAWA protects victims of domestic violence, dating violence, sexual assault, and stalking. It also covers the victim's immediate family members and other household members (even if they are not related to the victim by blood or marriage). You don't have to be married to or living with the abuser to be protected by VAWA.

VAWA covers the following housing programs:

- Public housing;
- Section 8 Housing Choice Vouchers;
- Section 8 project-based housing;
- Section 202 housing for the elderly;
- Section 811 housing for the disabled;
- Section 236 multifamily rental housing;
- Section 221(d)(3) Below Market Interest Rate (BMIR);
- HOME;
- Housing Opportunities for People with Aids (HOPWA);
- McKinney-Vento Act programs;
- Rural Development multifamily housing; &
- Low-Income Housing Tax Credit (LIHTC) housing.

## 2. Does VAWA apply to private, market-rate housing?

No. VAWA does NOT cover private housing that does not receive federal rental assistance. The rights described in this flyer apply only to the above-listed federal housing programs. However, you may wish to contact your local legal aid office to see if there are any state or local laws that can

protect you.

## 3. What rights does VAWA offer?

Rights for victims of domestic violence, dating violence, sexual assault, and stalking include:

- If you are applying for housing, you can't be denied just because you are a victim.
- You can't be evicted or lose your federal rental assistance just because violence has been committed against you.
- Acts of violence against you are not considered to be serious or repeated violations of your lease or good cause for evicting you or ending your federal housing assistance.

## 4. What if I need to get the abuser out of the home?

If someone living in your home uses violence against you, the housing authority or your landlord may evict the abuser alone, and let you, your family, and other household members stay in the home. If the federal housing assistance was based solely on the abuser's eligibility, then you and any remaining tenants have the right to prove eligibility for the housing. If you or another household member cannot show eligibility, you must be given reasonable time to prove that you qualify for another federal housing program, or to find new housing.

## 5. What if I need to move to escape the abuse?

If you have a Section 8 voucher, VAWA states that the housing authority may permit you to move and keep your voucher, even if your lease has not ended.

The federal agencies who run the housing programs listed in Question 1 must adopt emergency transfer plans that housing authorities and

landlords of such housing use to allow transfers to other federally assisted housing that is available and safe. Those model plans are generally not yet available, but you should ask the housing authority or landlord to assist you to transfer. You are allowed to transfer if you ask and reasonably believe you are about to be hurt by more violence, or if you have been a victim of sexual assault that occurred on the property up to 90 days before the request.

## 6. How do I prove that I can use VAWA's protections?

To see if you can use VAWA, the housing authority or your landlord may ask for documentation showing that you are a victim of domestic violence, dating violence, sexual assault, or stalking. The housing provider must make this request in writing. There are three ways to show that you are a victim:

- Complete a self-certification form. The form will ask for: your name; the name of your abuser (if known and safe to provide); the abuser's relationship to you; the date, time and place of the violence; and a description of the violence. To get the form, call the housing authority or a legal aid office. In the future, the form may be changed.
- Provide a letter signed by a victim service provider, attorney, or a medical or mental health professional who has helped you with the abuse (also called "third-party documentation"). You must also sign this letter.
- Provide a police report, court record (such as a restraining order), or administrative record.

You can pick any of these three choices. With limited exceptions, a housing provider cannot make you choose any particular one. The housing provider must give you at least 14 business days (weekends and holidays do not count) to provide proof of the violence.

cuentan) para presentar una constancia de la violencia sufrida.

**7. ¿Qué sucede si el agresor también presenta una certificación que indica que él o ella es víctima?**

Si la autoridad de vivienda o el arrendador reciben documentación con información contradictoria, entonces la autoridad de vivienda pública o el arrendador pueden exigirle que presente determinada documentación de terceros como la antes citada para probar su estado como víctima de violencia doméstica, violencia en el noviazgo, ataque sexual o acecho.

**8. ¿Un proveedor de vivienda puede compartir con otras personas la información que proporcione sobre el maltrato?**

No, excepto en algunos casos. La autoridad de vivienda o el arrendador no pueden dar a otras personas la información que usted proporcione sobre el maltrato. La información se podrá compartir sólo si usted lo acuerda por escrito, si es necesario para desalojar al agresor de la vivienda o si la ley exige su divulgación.

**9. ¿Significa que una víctima de violencia doméstica, violencia en el noviazgo, ataque sexual o acecho no puede ser desalojada?**

No. Puede ser desalojada por infracciones graves o reiteradas del contrato de arrendamiento que no estén relacionadas con el maltrato. El arrendador o la autoridad de vivienda deben aplicar para usted la misma norma que se aplica para los demás inquilinos. El arrendador también puede proceder con el desalojo si existe una amenaza real e inmediata a otros inquilinos si usted no es desalojada. **Si recibe cualquier tipo de notificación de desalojo, llame de inmediato a una oficina de asistencia legal.**

**10. ¿La autoridad de vivienda o el arrendador deben informarme sobre las protecciones para la vivienda que garantiza VAWA?**

Sí. VAWA exige a todas las autoridades de vivienda o arrendadores informar a los solicitantes e inquilinos sobre las protecciones para la vivienda que garantiza VAWA. La notificación, cuando sea aprobada por Vivienda y Desarrollo Urbano (HUD), debe entregarse junto con el formulario de certificación mencionado en la Pregunta 6 en el momento en que se le niegue vivienda o asistencia al solicitante, en el momento en que el solicitante sea admitido en la vivienda o cuando un inquilino sea notificado del desalojo o la finalización del contrato. Esta notificación debe estar en varios idiomas. En este momento, HUD no ha emitido la notificación.

**11. ¿De qué manera afecta VAWA otras leyes estatales o locales que pueden protegerme?**

VAWA es una ley federal. No obstante, VAWA no tiene la intención de reemplazar otras leyes federales, estatales o locales que puedan proporcionar mayor protección a las víctimas de maltrato.

**12. ¿Quién puede ayudarme?**

Póngase en contacto con un abogado, una agencia de violencia doméstica o agencia de vivienda justa para ver si VAWA puede ayudarla.



## Conozca sus derechos: Violencia doméstica y vivienda con asistencia federal

### Ley sobre la Violencia contra las Mujeres

¿Es víctima de violencia doméstica, violencia en el noviazgo, ataque sexual o acecho?

¿Reside en una vivienda con asistencia federal?

**Una ley llamada VAWA (siglas en inglés), la Ley sobre la Violencia contra las Mujeres, puede ayudarla.**

Mayo 2014

# Los derechos de las víctimas de violencia doméstica: Residir en vivienda con asistencia federal

## 1. ¿Estoy cubierta por las protecciones de vivienda de VAWA?

La ley VAWA protege a las víctimas de violencia doméstica, violencia en el noviazgo, ataque sexual y acecho. También protege a los familiares inmediatos de la víctima y otros integrantes del hogar (aunque no estén relacionados con la víctima mediante lazos de sangre o matrimonio). No hace falta estar casada o vivir con el agresor para estar protegida por la ley VAWA.

VAWA cubre los siguientes programas de vivienda:

- Vivienda pública;
- Sección 8. Vouchers de elección de vivienda;
- Sección 8. Vivienda basada en proyecto;
- Sección 202. Vivienda para personas mayores;
- Sección 811. Vivienda para personas con impedimentos;
- Sección 236. Vivienda para alquiler multifamiliar;
- Sección 221(d)(3). Por debajo de la tasa de interés del mercado (BMIR);
- HOME (Programa de Asociación para la Inversión en Viviendas);
- Oportunidades de vivienda para personas con SIDA (HOPWA);
- Programas de la ley McKinney-Vento;
- Vivienda multifamiliar para el desarrollo rural; y
- Programa de crédito impositivo a la vivienda para personas con bajos ingresos (LIHTC).

## 2. ¿Se aplica VAWA a las viviendas privadas y con valor del mercado?

No. VAWA NO cubre viviendas privadas que no reciben asistencia federal para pagar el alquiler. Los derechos descritos en este folleto se aplican únicamente a los programas federales de vivienda antes citados. No obstante, puede ponerse en contacto con la oficina de ayuda legal local para ver si

hay leyes estatales o locales que puedan protegerla.

## 3. ¿Qué derechos ofrece la ley VAWA?

Los derechos para las víctimas de violencia doméstica, violencia en el noviazgo, ataque sexual y acecho incluyen los siguientes:

- Si solicita una vivienda, no se la pueden negar simplemente por ser víctima.
- No puede ser desalojada ni perder su asistencia federal para pagar el alquiler simplemente porque se han cometido actos de violencia contra usted.
- Los actos de violencia contra usted no se consideran infracciones graves o reiteradas de su contrato de arrendamiento o una causa justa para desalojarla o anular su asistencia federal para la vivienda.

## 4. ¿Qué sucede si necesito echar al agresor de la casa?

Si un miembro de su hogar ejerce violencia contra usted, la autoridad de vivienda o su arrendador podrán desalojar solo al agresor y dejar que usted, su familia y demás integrantes del hogar permanezcan en la vivienda. Si la asistencia federal para la vivienda se basaba únicamente en la elegibilidad del agresor, entonces usted y cualquiera de los restantes inquilinos tienen derecho a probar su elegibilidad para la vivienda. Si usted u otro integrante del hogar no pueden demostrar elegibilidad, se le debe proporcionar un plazo razonable para probar que cumple los requisitos para otro programa federal de vivienda o para encontrar una nueva vivienda.

## 5. ¿Qué sucede si debo mudarme para escapar del maltrato?

Si tiene un voucher de la Sección 8, la ley VAWA establece que la autoridad de vivienda podrá permitir que usted se mude y conserve su voucher, aun si no ha finalizado su contrato de arrendamiento.

Las agencias federales que ejecutan los programas de vivienda enumeradas en la Pregunta 1 de-

ben adoptar planes de traslado de emergencia que las autoridades de vivienda y los arrendadores de dichas viviendas utilicen para permitir traslados a otras viviendas con asistencia federal que estén disponibles y sean seguras. Esos planes modelo por lo general aún no están disponibles, pero debe pedir a la autoridad de vivienda o al arrendador que la ayude con el traslado. Se le permite el traslado si lo solicita y cree razonablemente que va a resultar lastimada mediante más violencia, o si ha sido víctima de ataque sexual que se produjo en la propiedad hasta 90 días antes de la solicitud.

## 6. ¿Cómo demuestro que puedo usar las protecciones de la ley VAWA?

Para saber si puede usar la ley VAWA, la autoridad de vivienda o el arrendador podrán pedirle la documentación que demuestre que usted es víctima de violencia doméstica, violencia en el noviazgo, ataque sexual o acecho. El proveedor de vivienda debe realizar esta solicitud por escrito. Hay tres maneras de demostrar que usted es víctima:

- Complete un formulario de certificación. En el formulario se le preguntará: su nombre; el nombre del agresor (si lo conoce y es seguro proporcionarlo); la relación que tiene con el agresor; la fecha, la hora y el lugar donde se ejerció la violencia y una descripción del acto de violencia. Para obtener el formulario, llame a la autoridad de vivienda o a una oficina de asistencia legal. En el futuro, puede haber cambios en el formulario.
- Proporcione una carta firmada por un proveedor de servicios para víctimas, por un abogado o por un profesional médico o de salud mental que la haya ayudado con el maltrato (también se la denomina "documentación de terceros"). Usted también debe firmar esta carta.
- Proporcione un informe policial o judicial (por ejemplo, una orden de restricción) o un registro administrativo.

Puede elegir cualquiera de estas tres opciones. Con algunas pocas excepciones, un proveedor de vivienda no puede hacerla elegir una en particular. El proveedor de vivienda debe darle por lo menos 14 días hábiles (fin de semana y feriados no

# The Violence Against Women Reauthorization Act of 2013: Q&A for Advocates May 2014



## Overview

### **What is the Violence Against Women Reauthorization Act of 2013 (VAWA 2013), and how is it different from the Violence Against Women Act of 2005 (VAWA 2005)?**

VAWA 2013 is a law that provides protections for survivors of domestic violence, dating violence, sexual assault, and stalking who are seeking to access or maintain federally-assisted housing. VAWA 2013 continues VAWA 2005's housing safeguards and significantly expands housing protections for survivors. Key changes include covering more federal housing programs; covering survivors of sexual assault and LGBT survivors; providing emergency transfer policies; providing survivors time to establish program eligibility after an abuser has been removed from a lease; and notification of VAWA housing rights to applicants and tenants upon admission, upon denial of admission/assistance, and upon termination/eviction. *See generally* 42 U.S.C.A. § 14043e-11.

### **When did VAWA 2013 become effective?**

VAWA 2013 was signed into law on March 7, 2013.

However, there are a few aspects of the law that require federal agency action before implementation can occur, such as the development of certain forms (*e.g.*, a notice of VAWA rights). The basic protections of VAWA 2013, however, are in effect. Basic protections include the prohibition against the denial of admission/assistance, eviction, or subsidy termination of an individual based on his/her status as a survivor. 42 U.S.C.A. § 14043e-11(b)(1).

In addition, HUD has indicated that the agency's regulations implementing VAWA 2005 continue to be in effect until further notice. *See generally* 78 Fed. Reg. 47,717 (Aug. 6, 2013); 75 Fed. Reg. 66,246 (Oct. 27, 2010).

### **Who is required to comply with the law?**

Public housing authorities and owners and managers of housing programs covered by VAWA must comply with the law. *See generally* 42 U.S.C.A. § 14043e-11.

## Coverage

### **Who does VAWA protect?**

VAWA protects anyone who is: (a) a victim of actual or threatened domestic violence, dating violence, sexual assault, or stalking, or an “affiliated individual” of the victim; AND (b) living in, or seeking admission to, a federally assisted housing unit covered by VAWA. *See generally* 42 U.S.C.A. § 14043e-11.

### **How does VAWA 2013 define “domestic violence,” “dating violence,” “sexual assault,” and “stalking”?**

- “Domestic violence” includes felony or misdemeanor crimes of violence committed by:
  - A current or former spouse or intimate partner of the victim;
  - A person with whom the victim shares a child;
  - A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
  - A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies; or
  - Any other person who committed a crime against an adult or youth victim who is protected under the domestic or family violence laws of the jurisdiction. 42 U.S.C.A. § 13925(a)(8).
  
- “Dating violence” is violence committed by a person:
  - Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
  - The existence of such a relationship is determined based on the following factors:
    - Length of the relationship
    - Type of relationship
    - Frequency of interaction between the persons involved in the relationship. 42 U.S.C.A. § 13925(a)(10).
  
- “Sexual assault” means any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent. 42 U.S.C.A. § 13925(a)(29).
  
- “Stalking” is defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
  - Fear for his or her safety or others; or
  - Suffer substantial emotional distress. 42 U.S.C.A. § 13925(a)(30).

## **Who is an “affiliated individual” for the purposes of VAWA 2013?**

An “affiliated individual” can be: a survivor’s spouse, parent, sibling, or child; an individual to whom that survivor “stands in loco parentis”; or an “individual, tenant, or lawful occupant” living in the survivor’s household. 42 U.S.C.A. § 14043e-11(a)(1)(A)-(B). Under VAWA 2013, “affiliated individuals” do not necessarily have to be related to the survivor by blood or marriage.

## **What types of housing does VAWA 2013 cover?**

The law only provides protections for federally-subsidized housing units, and does not apply to private housing without federal subsidies. VAWA 2013 expanded the list of federal housing programs covered by the statute. 42 U.S.C.A. § 14043e-11(a)(3) (listing covered housing programs). The following is a list of housing programs covered by VAWA 2013:

- U.S. Department of Housing and Urban Development
  - public housing
  - Section 8 Housing Choice Voucher program
  - project-based Section 8 housing
  - Section 202 supportive housing for the elderly
  - Section 811 supportive housing for persons with disabilities
  - Section 236 multifamily rental housing
  - Section 221(d)(3) Below Market Interest Rate housing (BMIR)
  - HOME
  - Housing Opportunities for Persons with AIDS (HOPWA)
  - McKinney-Vento Act programs
- U.S. Department of Agriculture
  - Rural Development (RD) multifamily housing programs
- U.S. Department of the Treasury
  - Low-Income Housing Tax Credit program (LIHTC)

## **Admissions and Evictions/Terminations**

### **How does VAWA affect admissions and terminations?**

An individual's status as a survivor of domestic violence, dating violence, sexual assault, or stalking is not an appropriate basis for denial of admission/assistance, eviction, or termination of housing assistance. 42 U.S.C.A. § 14043e-11(b)(1).

Under VAWA 2013, actual or threatened criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking does not constitute grounds for terminating assistance, tenancy, or occupancy rights of the survivor or an affiliated individual of the survivor. 42 U.S.C.A. § 14043e-11(b)(3)(A). In addition, an abuser's acts of domestic violence, dating violence, sexual assault, or stalking cannot be considered a "serious or repeated" lease violation, or "good cause" for evicting or terminating assistance to the survivor or an affiliated individual. 42 U.S.C.A. § 14043e-11(b)(2)(A)-(B).

### **What if a housing provider says that the abuser is a threat to staff or other residents?**

Despite VAWA's protections, a housing provider may still be able to evict the survivor if the housing provider can demonstrate an "actual and imminent threat" to other tenants or employees of the property if the survivor is not evicted or assistance is not terminated. 42 U.S.C.A. § 14043e-11(b)(3)(C)(iii).

### **What does "actual or imminent threat" mean?**

Neither VAWA 2005 nor VAWA 2013 defines "actual and imminent threat." HUD regulations implementing VAWA 2005 define "actual and imminent threat" as "a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm." 24 C.F.R. § 5.2005(e). The regulation notes that "words, gestures, actions, or other indicators" constitute such a threat *if they also meet this definition*. 24 C.F.R. § 5.2005(d)(2). The regulation calls for a balancing of factors – such as duration of risk, the seriousness of potential harm, likelihood of the harm occurring, and the time before a harm would occur – to determine if an actual and imminent threat exists. 24 C.F.R. § 5.2005(e).

Additionally, the same HUD regulations remind housing providers that eviction or termination on these grounds should be a last resort taken when "no other actions" could be taken to alleviate the threat. 24 C.F.R. § 5.2005(d)(3). Other actions may include providing the survivor with a transfer, banning the abuser from the property, increasing police presence on the property, or pursuing legal remedies to stop the abuser from acting on threats.



### **What about criminal activity unrelated to abuse?**

VAWA does not protect tenants if the criminal incident for which they are being evicted or denied admission is unrelated to domestic violence, dating violence, sexual assault, or stalking. In determining whether to evict, a housing provider may not hold a survivor to a higher standard than other tenants. 42 U.S.C.A. § 14043e-11(b)(3)(C)(ii).

### **Can a housing provider evict the abuser while allowing the survivor to remain in the unit?**

Yes. A housing provider may bifurcate a lease to evict or terminate assistance to a tenant or occupant who commits acts of violence against family members or others. 42 U.S.C.A § 14043e-11(b)(3)(B)(i). This action may be taken without evicting or terminating assistance to the survivor who is also a tenant or lawful occupant. Bifurcation is applicable to all leases in the covered housing programs. The eviction or termination of the abuser must comply with federal, state, and local law.

Importantly, under HUD's regulations implementing VAWA 2005, in situations where a family has a Section 8 tenant-based voucher and family break-up occurs due to domestic violence, dating violence, or stalking, the public housing authority *must* ensure that the victim retains the Section 8 voucher assistance. 24 C.F.R. § 982.315(a)(2).

### **What happens when the abuser is evicted or terminated and the survivor remains in the unit?**

If the abuser was the only household member receiving housing assistance, VAWA 2013 states that the survivor must be afforded the opportunity to demonstrate eligibility for the housing program. 42 U.S.C.A. § 14043e-11(b)(3)(B)(ii). If the survivor cannot establish eligibility for that program, then the housing provider must allow the survivor reasonable time to show that he/she qualifies for another covered housing program, or to relocate to other housing. 42 U.S.C.A. § 14043e-11(b)(3)(B)(ii). The agency administering the housing program at issue (HUD, USDA, or Treasury) will determine what constitutes a reasonable amount of time.

### **What if the survivor needs to leave a unit for his or her own safety?**

PHAs may permit Section 8 voucher holders to move to another jurisdiction, even during a lease term, to protect the health and safety of someone who has been a survivor of domestic violence, dating violence, or stalking. *See* 42 U.S.C.A. § 1437f(r)(5). Preserving portability for survivors was part of VAWA 2005, and was unchanged by VAWA 2013; thus, sexual assault survivors are not explicitly included in this pre-VAWA 2013 protection. However, this should be viewed as an oversight, and advocates should work to ensure that this oversight is addressed in any subsequent implementing

regulations or documents.

VAWA 2013 requires federal agencies administering programs covered by the statute to adopt model emergency transfer policies. 42 U.S.C.A. § 14043e-11(e). Once adopted, these policies are to be used by housing providers to allow survivors of domestic violence, dating violence, sexual assault, and stalking to find safe alternative housing through one of the covered housing programs. Under these policies, housing providers must allow a survivor to transfer if: the tenant requests the transfer, and the tenant either (a) reasonably believes he or she is threatened by imminent harm by more violence, or (b) is victim of sexual assault on the property up to 90 days before the request. 42 U.S.C.A. § 14043e-11(e)(1)(A)-(B). Under VAWA 2013, HUD must establish policies and procedures enabling survivors who request an emergency transfer to receive a tenant protection voucher. However, the law is not clear if the survivor would be entitled to a tenant protection voucher if no transfer options were available. *See* 42 U.S.C.A. § 14043e-11(f). Additionally, note that USDA Rural Development has circulated a preliminary model emergency transfer plan in a February 2014 administrative notice. *See* RD AN No. 4747 (1944-N), Attachment B.

## **Proof of Abuse**

### **Can a housing provider ask for proof of the abuse?**

Housing providers may, *but are not required to*, ask an individual for documentation that he or she is a survivor if the individual seeks to assert VAWA's protections. 42 U.S.C.A. § 14043e-11(c)(5). At their discretion, housing providers may apply VAWA to an individual based solely on the individual's statement. 42 U.S.C.A. § 14043e-11(c)(3)(D). However, if the housing provider would like documentation, this request must be made in writing. 42 U.S.C.A. § 14043e-11(c)(1). The individual has fourteen business days to respond. 42 U.S.C.A. § 14043e-11(c)(2)(A). If the individual fails to respond in that timeframe, a housing provider may take an adverse action against the individual. The housing provider is free to extend this timeframe if it is needed by the individual. 42 U.S.C.A. § 14043e-11(c)(2)(B).

### **What types of documentation can a survivor provide to demonstrate abuse?**

If a housing provider requests documentation, the survivor may provide:

- a certification form that is approved by the agency administering the program (HUD, USDA, or Treasury), which must: state that the tenant or applicant is a victim of domestic violence, dating violence, sexual assault, or stalking; note that the abuse cited is covered by the statute; and state the name of the abuser, if the name is known and safe to provide (Form HUD-50066 or Form HUD-91066 are the certification forms developed by HUD under VAWA 2005);

- documentation signed by the survivor and a victim service provider, an attorney, a medical professional, or a mental health professional in which the professional declares under penalty of perjury the professional's belief that the survivor has experienced a form of abuse covered by the statute ("third-party documentation"); OR
- a federal, state, tribal, territorial, or local police, court, or administrative record.

See 42 U.S.C.A. § 14043e-11(c)(3). While a provider must accept any of these forms of certification, if there are conflicting certifications (*e.g.*, two people claim to be the victim while accusing the other person of being the perpetrator), the housing provider can require the survivor to provide third-party documentation. 42 U.S.C.A. § 14043e-11(c)(7).

### **What steps must housing providers take to protect the survivor's privacy?**

Any information provided regarding an individual's status as a survivor must be kept confidential. Housing providers may not enter the information into any shared database or provide it to any related entity or person. 42 U.S.C.A. § 14043e-11(c)(4). The only exceptions are: (1) the survivor requests or consents to disclosure in writing; (2) the information is "required for use in an eviction proceeding"; or (3) disclosure is otherwise required by law. 42 U.S.C.A. § 14043e-11(c)(4)(A)-(C). HUD regulations implementing VAWA 2005 restrict access to survivor information to authorized employees who need such information to perform job duties. 24 C.F.R. § 5.2007(b)(4)(ii).

## **Housing Provider Obligations**

### **Do housing providers have to notify applicants and tenants of their VAWA rights?**

VAWA 2013 requires HUD to develop a written notice of an applicant or tenant's rights under the statute. 42 U.S.C.A. § 14043e-11(d)(1). Once the notice is developed, VAWA 2013 requires covered housing providers to distribute the notice at three points: (1) upon denial of admission; (2) upon admission; or (3) with a notice of eviction or subsidy termination. 42 U.S.C.A. § 14043e-11(d)(2)(A)-(C). The notice must be accompanied by the federal agency-approved certification form, and must be available in non-English languages for persons with limited English proficiency. 42 U.S.C.A. § 14043e-11(d)(2)(D). However, this notice has not yet been developed by HUD.

Under HUD's regulations implementing VAWA 2005, public housing authorities must provide notice to public housing and Section 8 tenants of their rights under VAWA, including the right to confidentiality, as well as provide notice to owners and managers of assisted housing of their rights and obligations under VAWA. In addition, owners and managers of project-based Section 8 units must provide notice to Section 8 tenants of their rights and obligations under VAWA. 24 C.F.R. § 5.2005(a)(1)-(3).

## Guidance and Resources

### What guidance is available concerning VAWA 2013?

- The VAWA 2013 housing protections are codified at 42 U.S.C.A. § 14043e-11.
- 75 Fed. Reg. 66,246 (Oct. 27, 2010) (VAWA 2005 regulations): HUD's regulations implementing VAWA 2005 are still in effect until the agency indicates otherwise.
- 78 Fed. Reg. 47,717 (Aug. 6, 2013): This notice provides an overview of key aspects of VAWA 2013.
- USDA, RD AN No. 4747 (1944-N) (Feb. 10, 2014): Rural Development Administrative Notice (AN) addressed to RD multifamily housing program directors concerning implementation of VAWA 2013; includes a model emergency transfer plan, available at:  
<http://www.rurdev.usda.gov/SupportDocuments/an4747.pdf>
- HUD Office of Community and Planning Development (CPD), *HOMEfires* Newsletter (Dec. 2013): outlining VAWA 2013 housing protections while telling housing providers not to wait for HUD rulemaking to extend basic VAWA protections, available at:  
<https://www.onecpd.info/resources/documents/HOMEfires-Vol11-No1-Violence-Against-Women-Reauthorization-Act-2013.pdf>
- Letter from HUD PIH to PHAs regarding VAWA 2013 (Sept. 2013): Describes VAWA 2013 housing protections and reminds PHAs to update planning documents to reflect new housing protections, available at:  
<http://nhlp.org/files/Sept%202013%20VAWA%20letter%20to%20PHAs.pdf>

### What about other resources?

- NHLP has a summary of the key provisions of VAWA 2013, which formed the basis of this Q&A. To see the full article, please visit:  
[http://nhlp.org/files/VAWA%202013%20Bulletin%20Article%20\(Jan%202014\).pdf](http://nhlp.org/files/VAWA%202013%20Bulletin%20Article%20(Jan%202014).pdf)
- For additional questions, please contact Karlo Ng, Staff Attorney, National Housing Law Project, [kng@nhlp.org](mailto:kng@nhlp.org).