



OFFICE OF HOUSING

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

MEMORANDUM FOR: Owners/Owner Agents of Multifamily Properties
Multifamily Regional Directors
Multifamily Asset Management Division Directors

FROM: Ethan Handelman, Deputy Assistant Secretary, Office of Multifamily Housing

SUBJECT: Housing Provisions of the Violence Against Women Act Reauthorization Act of 2022

On March 15, 2022, President Biden signed into law the Consolidated Appropriations Act of 2022,¹ which included the Violence Against Women Act Reauthorization Act of 2022 (VAWA 2022). VAWA is a federal law originally enacted in 1994 that today protects individuals who are survivors of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, sexual orientation, or gender identity. It includes protections for survivors who are applying for or residing in covered housing programs.²

VAWA 2022 reauthorizes, amends, and strengthens VAWA. It added to, and did not replace, the existing VAWA housing protections for survivors. As a covered housing provider, you must continue to provide VAWA protections as required by law.³

Many of the amendments enacted as part of VAWA 2022 took effect on October 1, 2022. On January 4, 2023, the U.S. Department of Housing and Urban Development (HUD) published a notice in the *Federal Register* (VAWA 2022 Notice⁴) in which HUD: (1) describes how the VAWA 2022 amendments affect HUD's programs; and (2) seeks comment on certain provisions. On Monday, February 6, Multifamily emailed stakeholders encouraging them to review and provide comments on the VAWA 2022 Notice by the deadline of March 6, 2023. HUD will consider such comments as it revises its VAWA regulations and develops program guidance.

This memorandum summarizes the key changes to the law that are relevant to covered housing providers, identifying provisions that are effective immediately and those that are yet to be implemented.⁵ It also includes a description of a VAWA study (forthcoming), VAWA forms, and whom to contact for additional information.

¹ Public Law 117-103, <https://www.congress.gov/117/plaws/publ103/PLAW-117publ103.pdf>

² See the Violence Against Women Act of 1994, as amended (34 U.S.C. 12291 *et seq.*). A list of HUD programs that are covered under VAWA can be found at [34 U.S.C. § 12491\(a\)\(3\)](https://www.federalregister.gov/documents/2023/01/04/2022-28073/the-violence-against-women-act-reauthorization-act-of-2022-overview-of-applicability-to-hud-programs).

³ See 34 U.S.C. 12491 *et seq.*; Implementing regulations for Multifamily Housing programs can be found at Code of Federal Regulations (CFR) Part 5, Subpart L, Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, as well as various subparts of 24 CFR parts 200, 247, 880, 882, 883, 884, 886, and 891. To review HUD's existing guidance on these requirements, please see Office of Housing Notice H 2017-05, Violence Against Women Act (VAWA) Reauthorization Act of 2013—Additional Guidance for Multifamily Owners and Management Agents, June 30, 2017, <https://www.hud.gov/sites/documents/17-05HSGN.PDF>.

⁴ <https://www.federalregister.gov/documents/2023/01/04/2022-28073/the-violence-against-women-act-reauthorization-act-of-2022-overview-of-applicability-to-hud-programs>

⁵ See the VAWA 2022 Notice for more information about VAWA amendments and HUD's programs.

I. PROVISIONS EFFECTIVE AS OF OCTOBER 1, 2022

Definitions

For purposes of VAWA grants, VAWA 2022 revises the definition of “domestic violence” and adds the definitions of “economic abuse” and “technological abuse.” HUD interprets its current regulatory definitions of “domestic violence” and “stalking” to include what is covered in these revised and new statutory definitions. As a covered housing provider, you are advised to apply HUD’s VAWA requirements in a manner consistent with the following statutory definitions:⁶

“DOMESTIC VIOLENCE. — The term ‘[domestic violence](#)’ includes felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or [domestic violence](#) laws of the jurisdiction receiving grant funding and, in the case of [victim services](#), includes the use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or [technological abuse](#) that may or may not constitute criminal behavior, by a person who—

(A) is a current or former spouse or intimate partner of the victim, or person similarly situated to a spouse of the victim;

(B) is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;

(C) shares a child in common with the victim; or

(D) commits acts against a [youth](#) or adult victim who is protected from those acts under the family or [domestic violence](#) laws of the jurisdiction.”⁷

“ECONOMIC ABUSE.—The term ‘economic abuse’, in the context of domestic violence, dating violence, and abuse in later life, means behavior that is coercive, deceptive, or unreasonably controls or restrains a person’s ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, or manipulation to—(A) restrict a person’s access to money, assets, credit, or financial information; (B) unfairly use a person’s personal economic resources, including money, assets, and credit, for one’s own advantage; or (C) exert undue influence over a person’s financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or failing or neglecting to act in the best interests of a person to whom one has a fiduciary duty.”⁸

“TECHNOLOGICAL ABUSE.—The term ‘technological abuse’ means an act or pattern of behavior that occurs within domestic violence, sexual assault, dating violence or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor, except as otherwise permitted by

⁶ This definitions section does not provide an exhaustive list of all of the definitions either amended or added by VAWA 2022. To see a complete list of VAWA definitions, visit 34 U.S.C. § 12291.

⁷ 34 U.S.C. 12291(a)(12)

⁸ 34 U.S.C. 12291(a)(13)

law, another person, that occurs using any form of technology, including but not limited to: internet enabled devices, online spaces and platforms, computers, mobile devices, cameras and imaging programs, apps, location tracking devices, or communication technologies, or any other emerging technologies.”⁹

Covered Housing Programs

VAWA 2022 adds HUD’s Section 202 Direct Loan¹⁰ program to the list of covered housing programs, which means that VAWA now applies to the following housing programs administered by Multifamily Housing:¹¹

- Project-Based Rental Assistance under Section 8 of the U.S. Housing Act of 1937, as amended;
- Section 202 Supportive Housing for the Elderly program;
- Section 202 Direct Loan program;
- Section 811 Supportive Housing for Persons with Disabilities;
- Multifamily rental housing under Section 221(d)(3) of the National Housing Act with a below-market interest rate (BMIR) pursuant to Section 221(d)(5); and
- Multifamily rental housing under Section 236 of the National Housing Act.

VAWA 2022¹² also provides that HUD may identify additional programs that are “covered housing programs” through the issuance of regulations, notices, and/or other means.

II. PROVISIONS THAT HAVE BEEN ENACTED BUT NOT YET IMPLEMENTED BY HUD

Compliance Review Processes

VAWA 2022 requires HUD and other covered agencies to establish a compliance review process, incorporating this process into its existing compliance review processes where possible.¹³ VAWA 2022 enumerates six items for compliance review,¹⁴ requires HUD to conduct the review on a regular basis, and requires HUD to publicly disclose its assessment of the information collected during the compliance review process.

VAWA 2022 also requires HUD to develop and issue regulations in consultation with

⁹ 34 U.S.C. 12291(a)(40)

¹⁰ VAWA 2022 also added the Housing Trust Fund to the list of covered housing programs.

¹¹ This memorandum lists only the Multifamily Housing programs that are covered under VAWA. The complete list of HUD programs that are covered under VAWA can be found at 34 U.S.C. 12491(a)(3).

¹² See 34 U.S.C. 12491(a)(3)(P).

¹³ 34 U.S.C. 12492.

¹⁴ The six items for compliance review are:

1. compliance with requirements prohibiting the denial of assistance, tenancy, or occupancy rights on the basis of domestic violence, dating violence, sexual assault, or stalking;
2. compliance with confidentiality provisions set forth in 34 U.S.C. 12491(c)(4);
3. compliance with the notification requirements set forth in 34 U.S.C. 12491(d)(2);
4. compliance with the provisions for accepting documentation set forth in 34 U.S.C. 12491(c);
5. compliance with emergency transfer requirements set forth in 34 U.S.C. 12491(e); and
6. compliance with the prohibition on retaliation set forth in 34 U.S.C. 12494. 34 U.S.C. 12492(a)(1)(B).

“appropriate stakeholders”¹⁵ to implement changes related to compliance reviews no later than March 15, 2024. These regulations must define standards of compliance under HUD’s covered housing programs and include detailed reporting requirements, including reporting on emergency transfers, as well as standards for corrective action plans where compliance standards have not been met.

Furthermore, to the extent possible, HUD must identify existing compliance review procedures that could be used for such reviews, including those currently administered by the Office of Fair Housing and Equal Opportunity. *See* Notice to Public Regarding FHEO Enforcement Authority and Procedures: Violence Against Women Act 2022 (VAWA) (Jan. 20, 2023), available at <https://www.hud.gov/sites/dfiles/FHEO/documents/FHEO-2023-01-%20FHEO%20VAWA%20Notice.pdf>.

Prohibition on Retaliation

VAWA 2022 adds a section to VAWA prohibiting retaliation in covered housing.¹⁶ Under the new section, it is illegal for a public housing agency (PHA) or Multifamily 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 related matter. The new section also provides that it is illegal for a PHA or Multifamily Owner or manager of covered housing to coerce, intimidate, threaten, interfere with, or retaliate against any person who exercises or assists or encourages a person to exercise any rights or protections under VAWA’s housing provisions.

HUD will implement this section through rulemaking and will issue guidance for Federal financial assistance recipients¹⁷ and grantees. In the meantime, grantees, PHAs, and Multifamily Owners and managers of covered housing should ensure as a best practice that their policies and practices include the statutory non-retaliation requirement and prohibition on coercion.

Right to Report Crime and Emergencies

VAWA 2022 adds a section to VAWA that protects the right to report crime and emergencies from one’s home.¹⁸ The new section provides that landlords, homeowners, tenants, residents, occupants, and guests of, and applicants for, housing shall have the right

¹⁵ “Appropriate stakeholders” include, but are not limited to, “(A) individuals and organizations with expertise in the housing needs and experiences of victims of domestic violence, dating violence, sexual assault and stalking; and (B) individuals and organizations with expertise in the administration or management of covered housing programs, including industry stakeholders and public housing agencies.” 34 U.S.C. 12492(b)(2).

¹⁶ 34 U.S.C. 12494

¹⁷ Multifamily owners are considered to be Federal financial assistance recipients.

¹⁸ 34 U.S.C. 12495. Furthermore, in 2016, HUD issued guidance on applying the Fair Housing Act to local nuisance or crime-free ordinances that discriminate because of a protected characteristic. The guidance outlines how a local government may violate the Fair Housing Act by enforcing nuisance or crime-free ordinances in a manner that is intentionally discriminatory or results in an unjustified discriminatory effect. HUD will continue enforcement under the Fair Housing Act and other applicable civil rights authorities, including Title VI and Section 504, for any violation committed by a local government for enforcing nuisance or crime-free ordinances, which may additionally violate VAWA’s Right to Report Crime and Emergencies provision. *See Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Enforcement of Local Nuisance and Crime-Free Housing Ordinances Against Victims of Domestic Violence, Other Crime Victims, and Others Who Require Police or Emergency Services*, September 13, 2016, <https://www.hud.gov/sites/documents/FINALNUISANCEORDGDNCE.PDF>.

to seek law enforcement or emergency assistance on their own behalf or on behalf of another person in need of assistance. This section also prohibits penalizing or threatening to penalize¹⁹ 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.”²⁰

This provision further requires that covered governmental entities report on their laws or policies, or their subgrantees’ 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.²¹ 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.

HUD will issue guidance for grantees and Federal financial assistance recipients on this process. HUD also anticipates issuing implementing regulations or guidance, to include any costs of conforming to the requirements that may be allowable under HUD programs affected by this provision, including the CDBG program. HUD will issue guidance regarding the timing and process of this reporting. The law, however, became effective on October 1, 2022, so covered governmental entities are advised not to engage in any practices that violate the right to report provided for in Section 603 of VAWA 2022. Furthermore, covered governmental entities should update applicable policies and practices to include the statutory right to report to avoid potential liability under the law.

New Enforcement Authority

VAWA 2022 provides that HUD and the Department of Justice shall implement and enforce VAWA consistent with, and in a manner that provides, the same rights and remedies as those provided for under the Fair Housing Act. HUD’s Offices of Fair Housing and Equal Opportunity (FHEO) and General Counsel (OGC) will enforce VAWA 2022 using the existing Fair Housing Act complaint process. A Notice describing this process is available at <https://www.hud.gov/sites/dfiles/FHEO/documents/FHEO-2023-01-%20FHEO%20VAWA%20Notice.pdf>.

Gender-Based Violence Prevention Office and VAWA Director

VAWA 2022 requires HUD’s Secretary to establish a Gender-based Violence Prevention Office with a VAWA Director.²² The VAWA Director will support implementation of VAWA’s housing provisions; coordinate with other federal agencies and with state and local governments; ensure the provision of technical assistance and support for agencies and housing providers; implement internal systems to track, monitor, and address compliance failures; and address the housing needs and barriers faced by persons who are survivors of sexual assault, sexual coercion or sexual harassment by a PHA, or Multifamily Owner or

¹⁹ Penalties prohibited include (1) actual or threatened assessment of monetary or criminal penalties, fines, or fees; (2) actual or threatened eviction; (3) actual or threatened refusal to rent or renew tenancy; (4) actual or threatened refusal to issue an occupancy permit or landlord permit; and (5) actual or threatened closure of the property, or designation of the property as a nuisance or a similarly negative designation. 34 U.S.C. 12495(b)(2).

²⁰ This means any municipal, county, or State government that receives funding under section 106 of the Housing and Community Development Act of 1974.

²¹ 34 U.S.C. 12495(c)

²² 34 U.S.C. 12493

manager of housing assisted under a covered housing program.

VAWA Training and Technical Assistance

Multifamily is exploring how it can provide training and technical assistance for Multifamily Owners using existing contract vehicles. In addition, VAWA 2022 authorizes funding for HUD from FY 2023–27 for training and technical assistance to support VAWA implementation, including technical assistance agreements with entities whose primary purpose and expertise are assisting survivors of sexual assault and domestic violence or providing culturally specific services to survivors of domestic violence, dating violence, sexual assault, and stalking.²³ HUD expects to select a technical assistance provider or providers through a competitive process in the spring/summer of 2023 and anticipates being in a position to provide technical assistance and training shortly thereafter.

III. ADDITIONAL INFORMATION

Study on Housing and Service Needs of Survivors of Trafficking

As required by VAWA 2022, HUD has begun a study of the availability and accessibility of housing and services for survivors of trafficking or those at risk of being trafficked, who are experiencing homelessness or housing instability. VAWA 2022 outlines the key requirements for the study, a definition for the terms “survivor of a severe form of trafficking” and “survivor of trafficking,” the requirements for coordination and consultation while conducting the study, and the contents of the study. HUD has embarked on this study, which is due to Congress by September 2023.

VAWA Forms

The following VAWA forms are currently undergoing revision and renewal:²⁴

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

Whom to contact for additional information

For more information, please visit www.hud.gov/vawa. If you have questions, please contact FHEO or your property’s Account Executive. Persons with hearing or speech impairments may access these offices via TRS or TTY by calling the Federal Information Relay Service at (800) 877–8339.

²³ 34 U.S.C. 12496

²⁴ HUD published a Notice of Proposed Information Collection on November 4, 2022, to update these forms. The comment period closed on January 3, 2023. The Notice and submitted comments are available at <https://www.govinfo.gov/content/pkg/FR-2022-11-04/pdf/2022-24070.pdf>. The existing forms are available at https://www.hud.gov/program_offices/administration/hudclips/forms/hud5a#4.