

NOTIFICATION OF RIGHTS UNDER VIOLENCE AGAINST WOMEN ACT – VOUCHER-ASSISTED TENANT

A new federal law reauthorizing the Violence Against Women Act (VAWA) provides certain rights and protections to Voucher-assisted tenants and members of their households. This law requires that you be notified of these rights.

Protections Against Eviction or Termination of Assistance

1. Under VAWA, if an applicant or participant in the Voucher program is otherwise eligible, the fact that the applicant or participant is or has been a victim of domestic violence, dating violence, or stalking (as these terms are defined in VAWA) is not an appropriate basis for denial of program assistance or for denial of admission.
2. VAWA also states that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking:
 - (a) will not be considered to be a “serious or repeated” violation of your lease if you are the victim of the incident or incidents of actual or threatened domestic violence, dating violence or stalking; and
 - (b) shall not be good cause for terminating your assistance, tenancy, or occupancy rights if you are the victim of such actual or threatened domestic violence, dating violence or stalking.

This means you may not be evicted, nor may your assistance be terminated, based on such an incident or incidents of actual or threatened domestic violence, dating violence or stalking where you are the victim.

3. In addition, although your landlord may evict you for certain types of criminal activity as provided in your lease, and the housing agency may terminate your assistance in such cases, VAWA states that you may not be evicted, nor may your program assistance, tenancy or occupancy rights be terminated, if the criminal activity is:
 - (a) directly related to domestic violence, dating violence, or stalking; and
 - (b) engaged in by a member of your household, or any guest, or another person under your control; and
 - (c) you or a member of your immediate family is the victim or threatened victim of this criminal activity.

Portability to a New Location

Voucher households in good standing may move to another location after one year of assistance and their assistance will follow them. However, the law does not allow this if the family was in violation of its lease when it moved. VAWA creates an exception where a family has complied with all other Voucher requirements but moved out in violation of the lease in order to protect the health or safety of an individual who:

- (a) was or is the victim of domestic violence, dating violence or stalking, and
- (b) reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit

In these situations, the family will be allowed to port to a new jurisdiction even though it broke the lease by moving out.

Certification

If the housing agency, owner, or manager notifies you that it intends to terminate your tenancy or assistance based on an incident or incidents of domestic violence, dating violence, or stalking, and you claim protection

against eviction or termination of assistance under VAWA, the housing agency, owner or manager, as the case may be, may require you to deliver a certification. You must deliver the certification within 14 business days after you receive the housing agency's, owner's or manager's request for it. If you do not do this within the time allowed, you will not have any protection under VAWA and the agency, owner, or manager may proceed with terminating your tenancy, evicting you, and/or terminating your assistance without reference to the VAWA protections.

You may certify either by:

- (a) completing and delivering a HUD-approved certification form which will be supplied to you by the housing agency, owner or manager requesting certification; or
- (b) providing the housing agency, owner or manager that requests certification with documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional from whom the victim (you or another member of your immediate family) has sought assistance in addressing domestic violence, dating violence, or stalking or the effects of the abuse. (This certification must be sworn under penalty of perjury); or
- (c) producing and delivering to the agency, owner or manager that requests certification, a Federal, State, tribal, territorial, or local police or court record.

Confidentiality

Information you provide to the housing agency, owner or manager relating to the fact that you or another member of your household is a victim of domestic violence, dating violence, or stalking will be retained by the housing agency in confidence. This information will not be shared or disclosed by the agency, owner or manager without your consent except as necessary in an eviction proceeding or as otherwise required by law.

Limitations

VAWA provides certain limitations and clarifications concerning your rights as described above. In particular, you should know that nothing contained in VAWA:

1. prevents the housing agency from terminating assistance or the owner or manager from terminating your tenancy and evicting, for any violation not involving domestic violence, dating violence, or stalking, for which VAWA provides the protections described above. However, the housing agency, owner or manager may not in such cases apply any more demanding standard to you than to other Voucher-assisted tenants.
2. prevents the housing agency from terminating assistance, or the owner or manager from terminating tenancy and evicting where the housing authority, owner or manager can demonstrate "an actual and imminent threat to other tenants or those employed at or providing service to the property." Where such a threat can be demonstrated by the housing agency, owner or manager, you will not be protected from termination of assistance or termination of tenancy and eviction by VAWA.
3. limits the ability of the housing agency, owner or manager to comply with court orders addressing rights of access to or control of the property. This includes civil protection orders entered for the protection of the victim or relating to distribution or possession of property.
4. supersedes any Federal, State or local law that provides greater protections than VAWA.

Owner or Manager Right to Remove Perpetrator of Domestic of Violence

VAWA also creates a new authority under Federal law that allows an owner or manager of a Voucher-assisted property to evict, remove, or terminate assistance to any individual tenant or lawful occupant of the property who engages in criminal acts of physical violence against family members or others. This may be done without evicting or taking any other action adverse to the other occupants.