

VAWA 2013 expanded covered housing programs to include HOME, National Housing Trust Fund, HOPWA, and Section 811 to the already covered HUD Public Housing and Section 8 programs in VAWA 2005. It also added Low Income Housing Tax Credits. On November 16, 2016, HUD issued its final rule¹ implementing housing protections authorized in the Violence Against Women Reauthorization Act of 2013 (VAWA). The rule amends the regulations by enhancing protections.

One of the key elements of VAWA 2013’s housing protections implemented in the rule is the emergency transfer plan which allows for survivors to move to another safe and available unit if they fear for their life and safety. In addition to emergency transfer plans, the rule includes notification and documentation requirements by owners, and a series of new forms.

Owners must be familiar with the regulatory requirements impacting their developments and should consult with their counsel as needed. HUD’s regulatory requirements are implemented at 24 CFR Part 5 Subpart L and within program specific regulations.

Effective Dates

The 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 became applicable upon enactment of VAWA 2013 on March 7, 2013.

HUD’s implementation regulations are effective December 16, 2016.

Notice of Occupancy Rights and Certification forms (24 CFR §5.2005(a)) must be distributed:

- when someone is denied assistance or admission under a covered housing program for any reason;
- at the time an individual is provided assistance or admission;
- with eviction or termination of assistance notices; and
- to all households at the time of annual recertification by December 16, 2017.

Emergency Transfer Plans, provisions for emergency transfers, and associated record keeping and reporting requirements are required by June 14, 2017. (24 CFR §5.2005(e))

Forms

HUD has created Microsoft Word and PDF fillable files for the four model forms included in the final rule. HUD advises owners/management companies to use the forms and customize them for their company and properties, as long as they contain the same information and language. These forms are released on HUDClips² in addition to two existing forms.

Form	Status	Implementation Notes
HUD 5380 - Notice of Occupancy Rights	New Form	Form provides information to households of their rights under VAWA. Model includes final rule language and has general application to all HUD covered programs.

¹ <https://www.gpo.gov/fdsys/pkg/FR-2016-11-16/pdf/2016-25888.pdf>

² https://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/forms/hud5a

Form	Status	Implementation Notes
HUD 5381 – Emergency Transfer Plan (ETP)	New Form	ETPs must be developed and implemented by June 14, 2017; the plans must establish recordkeeping and reporting requirements. Model form includes final rule language and has general application to all HUD covered programs.
HUD 5383 – Emergency Transfer Request	New Form	Owners/agents may require tenants to provide written request, but may also accept other written or oral requests. Form has general application to all HUD covered programs. This form is optional, but is intended to be completed by any household member seeking an emergency transfer.
HUD 5382 – Certification of Domestic Violence, Dating Violence or Stalking Replaces HUD form 91066 which is now obsolete.	New Form	Form is to be completed by any household member who is seeking VAWA protection, and must be provided at the same time as the Notice of Occupancy Rights. Form must be used “as is”. Under most circumstances third party documentation requirements are unnecessary so long as victim self-certifies need for VAWA protections.
HUD 91067 – Lease Addendum	Existing Form	Multifamily Housing will be updating the lease addendum form in the coming months. Minnesota Housing has developed an attachment to HUD’s form for use in HOME and NHTF
MHFA Attachment to HUD Addendum	New Form	Attachment to HUD addendum for specific provisions not covered in current form and required under regulatory requirements for CPD programs.
MHFA Emergency Transfer Plan(s)	New Form	MHFA required ETP for CPD programs and Section 811 PRA units.

Monitoring

HUD Multifamily Programs: Minnesota Housing monitoring of HUD Multifamily Programs will begin at the next site visit.

Community Planning and Development (CPD) Programs: Minnesota Housing is developing monitoring procedures for these programs during 2017.

Program Specific Notes

CPD Programs (HOME, National Housing Trust Fund): Note that unique monitoring and implementation dates apply to HOME and National Housing Trust Fund. Compliance with VAWA regulatory requirements under the final rule is required for HOME projects with funding commitments on or after December 16, 2016 and for all NHTF projects. Written agreement provisions and lease addendums will be updated to include current regulatory language these projects. In addition for these HOME and NHTF projects, Minnesota Housing will create an external Emergency Transfer Plan and provide an internal Emergency Transfer Plan model, Notice of Occupancy Rights and Certification form to owners for distribution to tenants. HOME projects committed prior to December 16, 2016, must comply with core statutory provisions of the law, and should distribute Notice of Occupancy Rights and Certification forms to tenants.

Section 811 PRA: Follows the protocol adopted by HUD Multifamily Programs.

Low Income Housing Tax Credit: While the HUD regulations do not cover LIHTC, the core statutory provisions of VAWA do apply and owners must be aware of their responsibilities. Forms referenced above are recommended for use in LIHTC developments as well.