

## **NOTICE TO LANDLORDS/MANAGERS/OWNERS PARTICIPATING THE HCV PROGRAM**

The Congress of the United States passed the Violence Against Women (VAWA) and Department of Justice Reauthorization Act of 2005 in 2005, and President Bush signed the law in January 2006. This law affects the selection of residents, the lease provisions that deal with termination of the lease and eviction, and the termination of assistance or eviction provisions in the HAP contract and the housing authority's relationship with the resident. HUD says the law is effective immediately although it has not issued a revised HAP Contract incorporating these terms. A brief explanation of each of these three areas follows. Consult your attorney; the HAO cannot give legal advice.

**Selection of tenants and/or program participants:** The law prohibits landlords/owners/managers of HCV properties from refusing to lease to persons who are, or have been, victims of domestic violence, dating violence, or stalking, when the applicant is otherwise a qualified applicant.

**Lease Terms Regarding Termination:** If a tenant is the victim of an incident or incidents of actual or threatened domestic violence, dating violence, or stalking, those incidents may not be construed as a serious or repeated violation of the lease by the victim or the threatened victim of the violence, and are not good cause for terminating the tenancy or occupancy rights of the victim of such violence or threatened violence. Likewise, the HAO may not terminate the assistance of such a victim.

**Termination of Assistance/Eviction:** HAP Contract: criminal activity directly relating to domestic violence, dating violence, or stalking engaged in by a member of a tenant's household or any guest or other person under the tenant's control shall not be cause for termination of the tenancy rights if the tenant or an immediate member of the tenant's family is the victim or threatened victim of that domestic violence, dating violence, or stalking.

**Termination of Assistance by Housing Authority:** Criminal activity directly relating to domestic violence, dating violence, or stalking shall not be considered cause for termination of assistance for any participant, or immediate member of the a participant's family who is a victim of the domestic violence, dating violence or stalking.

### **What the landlord/owner/manager can do:**

The owner/manager/landlord may "bifurcate" the lease to terminate evict a leaseholder who engages in criminal acts of violence as described above to family members or others without evicting the victimized lawful occupants.

The owner/manager/landlord may honor court orders regarding rights of access or control of the property.

The owner/manager/landlord may evict tenants for other good cause unrelated to the incident or incidents of domestic violence, provided that the victim is not subject to a "more demanding standard" than non-victims.

The owner/manager/landlord may evict if it can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if the tenant is not evicted.

**Certification: Tenant provided:** If a tenant claims they are a victim of domestic violence, dating violence or stalking, the owner/landlord/manager may request that the tenant certify via a HUD

approved certification form, that the individual is a victim of domestic violence, dating violence, or stalking. The certification must also state that the incident or incidents or bona fide incidents of such actual or threatened abuse, and meet the requirements set forth in the law. The certification form must include the name of the person committing the violence. If the landlord/owner/manager wants the victim to provide a certification, it must tell the victim that it wants it in writing, and that the victim must provide the information no less than 14 days after the date on which the owner/manager/landlord in writing requests the certification. **Third party provided:** 1: the tenant may comply with the certification requirements by providing documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional., from whom the victim has sought assistance in addressing domestic violence, dating violence, sexual assault or stalking, or the effects of the abuse, in which the professional attests under penalty of perjury (28 USC 1746) to the professionals belief that the incident or incidents in question are bona fide incidents of abuse, and the victim of domestic violence, dating violence, or stalking has signed or attested to the documentation or 2: the tenant may produce a Federal, State, tribal, territorial, or local police or court record.

**Confidentiality:** information provided by the victim pursuant to the certification shall be retained in confidence and not entered into any shared database nor provided to any related entity except when the discloser is: consented to by the individual in writing, required for use in eviction proceedings, or otherwise required by law.