



THE VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2022:

HUD Updates It's VAWA Forms

Following the 2022 reauthorization of the Violence Against Women Act ("VAWA"), the Department of Housing and Urban Development ("HUD") released the following revised forms related to its implementation of VAWA: HUD-5380 "Notice of Occupancy Rights Under the Violence Against Women Act" or "Protections for Victims of Domestic Violence, Dating Violence, Sexual Assault or Stalking," HUD-5381 "Model Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, and Stalking," HUD-5382 "Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking," and HUD-5383 "Emergency Transfer Request for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking."

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- HUD-5380: Notice of Occupancy Rights Under the Violence Against Women Act
- HUD-5381: Model Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, and Stalking
- HUD-5382: Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking
- HUD-5383: Emergency Transfer Request for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

Generally, the 2022 updates to these forms focus on creating consistency and uniformity between the model language of each form and including certain clarifications absent in the 2016 editions. For example, the forms generally change phrases such as "You are a victim of [VAWA crime]" to "You (or a household member) are a victim of VAWA abuse/violence" and "Name of victim" to "Name(s) of victim(s)." Significantly, HUD-5380, HUD-5381, and HUD-5383 uniformly revise language describing eligibility for emergency transfer to specify that "imminent harm from further violence includ[es] trauma."



HUD-5380: Notice of Occupancy Rights Under the Violence Against Women Act

HUD-5380 is a notice providing basic information about the protections provided to tenants and applicants under VAWA. The new edition of HUD-5380 reflects the expansion of covered programs and includes a list of those covered programs with a general definition of the term “covered housing provider.” The new iteration of the form also addresses variations in the “reasonable time” provided by each covered housing program, with a table explaining the timeframe for each program.

To some extent, the 2022 edition expands on the articulated scope of protections afforded to both applicants and tenants. The new form references adverse factors, specifically stating that poor credit history and poor rental history cannot be a reason to deny an applicant. It also notes that issues during the tenancy, such as noise complaints and property damage, cannot be used as a reason to terminate a tenant. The new form also expands upon language regarding criminal activity. In 2016, the notice stated that assistance or occupancy rights couldn’t be denied “solely on the basis of criminal activity” directly related to VAWA crime.

The updated form explains that applicants cannot be denied due to their criminal record as it exists as a direct result of a VAWA crime, and VAWA protects tenants against eviction or removal “because of someone else’s criminal actions that are directly related to VAWA abuse/violence.”

For emergency transfer requests, housing providers have a right to request documentation that the requester is a victim of VAWA crime. Although the procedure remains largely unchanged, the language in 2022 is more precise in its implications around the purpose and scope of these requests. First, the 2022 revised edition changes the text of the professional affidavit, a type of acceptable documentation, from assuring that the “situation is grounds for protection” to certifying that the “incidents are real and covered by VAWA.” Further, language detailing the housing provider’s ability to seek additional documentation shifts from “may request” to “prohibited unless” with regard to situations involving conflicting information.



HUD-5381: Model Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, and Stalking

The new release of HUD-5381 provides significant drafting advice for large sections of the emergency transfer plan rather than a template document. Rather than only relying on boilerplate language, the new form places a higher burden on issuing-providers to prepare their own emergency transfer plans within certain parameters. This approach allows for some flexibility but includes such guidelines as “[housing providers] are not required to request documentation from a tenant seeking an emergency transfer. However, if a [housing provider] elects to require documentation . . . the documentation requirement must be included in [its] emergency transfer plan.” Additionally, with higher emphasis on tailored language, the new form also requires that the housing provider’s emergency transfer plan be available upon request, or publicly available when feasible. In line with this shift, all materials must also be available in alternative languages and accessible formats.

In addition to this change, the drafting guidelines require information that was not included in the 2016 form.

The housing provider must include a section discussing priority for emergency transfers, including details on the “measure of priority given to [the VAWA-protected tenant] in relation to other categories of tenants seeking transfers.”

The newer edition adds language with regard to confidentiality requirements. First, the 2022 version adds that inquiries about emergency transfers are information that must be kept confidential. Significantly, the 2022 edition provides more specific direction regarding recordkeeping practices of the housing provider. Confidential information must be stored separately from other tenant files and may only be accessed by employees or contractors for specific purposes. The housing provider’s emergency transfer plan must also provide “strict confidentiality measures,” to protect the location of the victim from the perpetrator of the abuse.

HUD-5382: Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

HUD-5382 is a form to be filled out by the tenant or applicant to certify status as a victim of a VAWA crime. It is one of several options that the tenant or applicant may use to satisfy a housing provider's request for documentation. 34 U.S.C. §12491(c)(3). Largely, the instructional and informational changes from 2016 to 2022 clarify certain ambiguities in favor of streamlining the information. The 2022 edition specifies that tenants cannot be required to provide documentation other than that stated in HUD-5380 but removes significant detail around the alternative types of documentation that are described in HUD-5380. The new form also revises language around requesting an extension: instead of suggesting that the housing provider has the discretion to provide an extension, the newer form only mentions the possibility of an extension within the context of reasonable accommodations for disability.

With regard to the form itself, the newer form maintains lines to include names of all relevant parties and adds several lines requesting contact information for ensuring safe communication with the victim. It also fully removes several lines: "date the written request is received by victim," "residence of victim," "relationship of the accused perpetrator to the victim," "date(s) and time(s) of incident(s) (if known)," and "location of incident(s)." The newer edition provides definitions for domestic violence, dating violence, sexual assault, and stalking to accompany the certification that the individual is a victim of one of these forms of VAWA crime.

HUD-5383: Emergency Transfer Request for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

HUD-5383 is the form used by applicants or tenants to request an emergency transfer from their housing provider. In particular, the 2022 changes to this form reflect an effort to make the language consistent with the text in HUD-5380 and HUD-5382. For example, the section regarding documentation requests is streamlined, removing certain examples of documentation and otherwise being revised to match the phrasing in the earlier forms. Consistent with the changes in HUD-5382, the new form explains that housing providers have the right to request documentation and removes text encouraging applicants to provide documentation unprompted.

In addition to these revisions in the introductory text, the form itself also requests different information. Consistent with the revisions to the form in HUD-5382, the new edition of HUD-5383 focuses on safe communication with the applicant and removes several lines requesting information about the VAWA crime that occurred. The new form also requests more information from the applicant about housing preferences and requirements in order to seek an appropriate transfer unit.

CONTACT

For additional questions, please contact National Housing Law Project Managing Attorney Natalie Maxwell at nmaxwell@nhlp.org.

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