

**December 5, 2019**

**Real Estate Industry Overview of Senate Violence Against Women Act Reauthorization (VAWA) Legislation**

**Senator Ernst (R-IA), S. 2920, the “Violence Against Women Act Reauthorization Act of 2019.”**

Our industry is supportive of the concepts contained in S. 2920, introduced by Senator Ernst.

**Senator Feinstein, S. 2843 (D-CA), Violence Against Woman Act Housing Provisions**

We are supportive of many of the improvements made to the VAWA bill, S. 2843, the companion measure to the House approved legislation, H.R. 1585, however we feel it necessary to bring to your attention the concerns we have with the housing provisions. Most of the provisions in S. 2843, are well-intentioned, but several are unworkable in the context of providing affordable rental housing under a broad array of programs.

**Background of Collaboration**

Since 2005, our housing organizations have worked closely with the VAWA advocates to craft housing protections for victims of domestic violence, dating violence, sexual assault or stalking. As a result of that consultation, the Housing provisions (Title VI) created in 2006 and amended in 2013 provide important safeguards for victims that have been successfully implemented by the relevant agencies and affordable housing providers including:

- The removal of structural challenges in Federal housing programs that prevented housing providers from removing an abuser from a home while allowing a victim to remain in place (known as lease bifurcation).
- A requirement that the relevant federal agencies establish model emergency transfer plans.
- The imposition of confidentiality provisions as well as a pathway for housing providers to resolve situations where involved parties have provided conflicting information.

**Emergency Relocation Efforts**

The industry is supportive of efforts to address victim housing relocation emergencies. We believe Congress should use VAWA to refocus attention on housing vouchers, which are portable and already serve as a viable tool to help families in emergency situations. We urge Congress to consider establishing an emergency voucher that would be administered by U.S. Department of Housing and Urban Development (HUD) and function like a revolving pool enabling housing agencies to immediately provide a voucher to a victim and be reimbursed soon after from the pool. Both S. 2920 and S. 2843 address the issue but take different approaches. The Ernst legislation provides funding for the U.S. Department of Housing and Urban Development (HUD), to establish a program to determine how best to design a comprehensive approach to emergency housing, while S. 2843, creates a voucher pool to address these needs.

We believe the current law goes a long way to protect victims in the housing context but have always maintained that a special allocation of vouchers is the best way to ensure that victims do not lose their housing assistance when an emergency transfer or move is necessary. Although the HUD has authority to use tenant protection vouchers for this purpose, the current funding amounts for such vouchers is intended to help existing subsidized tenants displaced as a result of public housing demolition, termination of subsidy contracts, etc., using a framework that is not conducive to readily accessible vouchers for emergency situations.

It is our position that the voucher pool coupled with current law provides robust protections for victims.

### **Areas of Significant Disagreement/Concern with Senator Feinstein's bill, S. 2843**

**Section 601 (a)(9) (page 66-67) Emergency Transfers:** The broad definition of “covered housing” in the context of “emergency transfers” fails to recognize the differences in various federal housing programs. The language contemplates actions that are not realistic under the project-based rental assistance and tax credit programs. Properties developed under these programs are required to be single asset entities. This presents legal ramifications that owners cannot ignore. Further, due to constitutionally protected property rights, individual owners cannot be compelled to take action with respect to one property on behalf of another even if there is an affiliation between the owners. It is especially problematic to attempt to “transfer” residents from one type of covered housing to another. Failure to modify the language to recognize the distinctions creates expectations that cannot be met. Owners do have the ability currently to refer residents to other properties to enable a “move” which can also be accomplished under the bill’s “external referral” provisions.

**Unreported Household Member (page 72-73):** When domestic violence results in a break-up of a family and the perpetrator was the sole tenant eligible to receive assistance that the remaining tenants should be provided the opportunity to establish eligibility for the program and remain in the unit. The legislation introduced by Senator Feinstein includes “unreported household members.” Unreported household members are not “tenants” and are illegally residing in the property. This is one of the most vexing issues facing providers and HUD and should not be legitimized. Further, the 180- day period is too long. Eligibility can be established within 90 days.

**Tenants Not in Good Standing (page 79):** S. 2843 provides that tenants not in good standing are eligible to request an emergency transfer. We maintain request that this language be deleted or clarified to ensure that tenants not in good standing for reasons unrelated to their victim status do not qualify.

**Responsible Referrals (page 83-83):** S. 2843 attempts to make the housing provider responsible (when a vacant unit in the property is not available) for identifying other housing providers who “may” have safe and available units and requires them to assist tenants in contacting local organizations offering assistance to victims. Housing providers, to the extent they have information, should be encouraged but not required to provide such information. The current model plan provides for referral to HUD or another relevant agency that will provide this information to victims.

**Federal preferences:** S. 2843 mandates that emergency transfers are not considered new applicants and take priority over existing waiting list for a covered housing program. This language is not acceptable unless the definition of Emergency Transfers is amended to consider the limitations of “transfers” to other properties owned by different ownership entities. A true transfer does not require application and addition to a wait list as it is within the same property or properties owned by the same entity.

**National Director Position (page 93):** S. 2843 refers to a VAWA Director at HUD that reports to the Secretary. We believe any new staff positions should be subject to a specific appropriation for that purpose. HUD is woefully understaffed.

Thank you for your consideration of our views. We are happy to discuss in depth at your convenience.

Council for Affordable and Rural Housing, Institute of Real Estate Management, National Affordable Housing Management Association, National Apartment Association, National Association of Home Builders, National Association of Housing Cooperatives, National Leased Housing Association, National Multifamily Housing Council