

HUD LGBT Rule (Effective March 6, 2012)

Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity

1. Definition of sexual orientation and gender identity.

- *Sexual orientation* = homosexuality, heterosexuality, or bisexuality.
- *Gender identity* = actual or perceived gender-related characteristics.

2. General Equal Access Provision:

- Housing assisted by HUD or insured by FHA shall be made available without regard to actual or perceived sexual orientation, gender identity, or marital status. **24 CFR Section 5.105 (a)(2).**

3. Clarification of HUD “family” definition.

- Clarifies definition of “family” (*Section 5.403*) and “household” (*Section 570.3*) with LGBT inclusive language.
- Family includes persons regardless of actual or perceived sexual orientation, gender identity, or marital status.
 - ❖ Clarification of family is key because family identifies who is eligible to participate in a HUD program.
- Coverage applies to Section 8, public housing, FHA, Community Development Block Grants, HOPWA, 202/811
 - ❖ Clarification has no impact on other program eligibility requirements (e.g., income qualification, annual certification, family members named on lease).

4. Prohibition on inquiries in certain contexts.

- Prohibits inquiries of an applicant or occupant’s sexual orientation or gender identity for the purpose of determining eligibility or otherwise making housing available. *24 CFR Section 5.105.*
 - ❖ **Broad coverage:** Owners or administrators of HUD-assisted or insured housing, approved lenders in an FHA mortgage insurance program, and any (or any other) recipient or sub-recipient of HUD funds.

5. Addition of sexual orientation and gender identity to existing FHA equal access provision

- Prohibit FHA-approved lenders from basing eligibility determinations for FHA-insured loans on actual or perceived sexual orientation or gender identity. *24 CFR Section 203.33.*
- Prior regulation listed only race, color, religion, sex, national origin, familial status, handicap, marital status, and source of income as prohibited characteristics to consider.

- (77 FR 5662 February 3, 2012)