

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

- Final Rule was issued February 3, 2012 and became effective **March 5, 2012**
- Purpose of the policy is to ensure that HUD's core programs "are open to all eligible individuals and families regardless of sexual orientation, gender identity, or marital status."
 - HUD Secretary stated: "HUD is working to ensure that our housing programs are open to all" and the rule states "clearly and unequivocally that LGBT individuals and couples have a right to live where they chose."
- Rule was in response to evidence suggesting that LGBT individuals and families do not have equal access to housing.
- Twenty states, DC, and 200 localities have already enacted laws prohibiting discrimination in housing on the basis of sexual orientation or gender identity
 - (No, Idaho is not one of those states!)
- The changes:
 - 24 CFR § 5.100 definitions for "family," "gender identity," and "sexual orientation" are added to read as follows: "Family" has the meaning provided this term in §5.403, and applies to all HUD programs unless otherwise provided in the regulations for a specific HUD program. "Gender identity" means actual or perceived gender-related characteristics. "Sexual orientation" means homosexuality, heterosexuality, or bisexuality.
 - 24 CFR § 5.105 adds paragraph (a)(2): "Equal access to HUD-assisted or insured housing. (i) Eligibility for HUD-assisted or insured housing. A determination of eligibility for housing that is assisted by HUD or subject to a mortgage insured by the [FHA] . . . shall be made available without regard to actual or perceived sexual orientation, gender identity, or marital status. (ii) Prohibition of inquires on sexual orientation or gender identity. No owner or administrator of HUD-assisted or HUD-insured housing, approved lender in an FHA mortgage insurance program, nor any recipient or subrecipient of HUD funds may inquire about the sexual orientation or gender identity of an applicant for, or occupant of, HUD-assisted housing . . . for the purpose of determining eligibility for the housing or otherwise making such housing available. This prohibition on inquiries regarding sexual orientation or gender identity does not prohibit any individual from voluntarily self-identifying [nor] inquires of an applicant or occupant's sex where the housing provided or to be provided to the individual is temporary, emergency shelter that involves sharing of sleeping areas or bathroom, or inquires made for the purpose of determining the number of bedrooms to which a household may be entitled.
 - Definition of family, 24 CFR 5.403: "Family includes, but is not limited to, the following, regardless of actual or perceived sexual orientation, gender identity, or marital status"

- Definition of “household” in § 570.3 is revised to read “Household means all persons occupying a housing unit. The occupants may be a family, as defined in 24 CFR 5.403; two or more families living together; or any other group of related or unrelated persons who share living arrangements, regardless of actual or perceived, sexual orientation, gender identity, or marital status.”
- Definition of family in 24 CFR §§ 200.3; 570.3, 574.3, 891.105, 982.4 and 982.201 are changed to align with 24 CFR 5.403.
- 24 CFR § 200.300 is revised: FHA programs shall be administered in accordance with . . . the prohibition on inquiries regarding sexual orientation or gender identity.
- 24 CFR § 203.33 is revised to read: “Determinations of adequacy of mortgagor income under this section shall be made in a uniform manner without regard to race, color, religion, sex, national origin, familial status, handicap, marital status, actual or perceived sexual orientation, gender identity, source of income of the mortgagor, or location of the property.”

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