

**§ 982.308 Lease.**

(a) *Tenant's legal capacity to enter lease.* The tenant must have legal capacity to enter into a lease under State or local law.

(b) *HA approval of lease.* The assisted lease between the tenant and owner (including any new lease or lease revision) must be approved by the HA. Before approving the lease or revision, the HA must determine that the lease meets the requirements of this section.

(c) *Required lease provisions.* (1) "Lease addendum" means the lease language required by HUD.

(2) The lease must include word-for-word all provisions of the lease addendum (e.g., by adding the lease addendum to the form of lease used by the owner for unassisted tenants). However, the HA may not require families and owners to use a model program lease.

(3) If there is any conflict between the lease addendum and any other provisions of the lease, the provisions required by HUD shall control.

(d) *Prohibited lease provisions.* The lease addendum must state that the following types of lease provisions are prohibited:

(1) *Agreement to be sued.* Agreement by the tenant to be sued, to admit guilt, or to a judgment in favor of the owner, in a lawsuit brought in connection with the lease.

(2) *Treatment of personal property.* Agreement by the tenant that the owner may take, hold, or sell personal property of household members without notice to the tenant, and a court decision on the rights of the parties. This prohibition, however, does not apply to an agreement by the tenant concerning disposition of personal property left in the dwelling unit after the tenant has moved out. The owner may dispose of this personal property in accordance with State and local law.

(3) *Excusing owner from responsibility.* Agreement by the tenant not to hold the owner or the owner's agent legally responsible for any action or failure to act, whether intentional or negligent.

(4) *Waiver of notice.* Agreement by the tenant that the owner may bring a lawsuit against the tenant without notice to the tenant.

(5) *Waiver of legal proceedings.* Agreement by the tenant that the owner may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the parties.

(6) *Waiver of a jury trial.* Agreement by the tenant to waive any right to a trial by jury.

(7) *Waiver of right to appeal court decision.* Agreement by the tenant to waive any right to appeal, or to otherwise challenge in court, a court decision in connection with the lease.

(8) *Tenant chargeable with cost of legal actions regardless of outcome.* Agreement by the tenant to pay the owner's attorney's fees or other legal costs even if the tenant wins in a court proceeding by the owner against the tenant. However, the tenant may be obligated to pay costs if the tenant loses.

(e) *Utilities and appliances.* The lease must specify what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family.

(f) *State or local law.* The HA may review the lease to determine if the lease complies with State or local law. The HA may decline to approve the lease if the HA determines that the lease does not comply with State or local law.

**§ 982.309 Term of assisted tenancy.**

(a) *Term of HAP contract.* (1) The term of the HAP contract begins on the first day of the term of the lease and ends on the last day of the term of the lease.

(2) The HAP contract terminates if the lease terminates.

(b) *Term of lease.* (1) The initial term of the lease must be for at least one year.

(2) The lease must provide for automatic renewal after the initial term of the lease. The lease may provide either:

(i) For automatic renewal for successive definite terms (e.g., month-to-month or year-to-year); or

(ii) For automatic indefinite extension of the lease term.

(3) The term of the lease terminates if any of the following occurs:

(i) The owner terminates the lease;

(ii) The tenant terminates the lease;

(iii) The owner and the tenant agree to terminate the lease;

(iv) The HA terminates the HAP contract; or

(v) The HA terminates assistance for the family.

(c) *Relation of lease to ACC.* The HA may approve the lease, and execute the HAP contract, even if there is less than one year remaining from the beginning of the lease term to the end of the last expiring funding increment under the consolidated ACC.

(d) *Lease termination by the family.* (1) The family may terminate the lease at any time after the first year. The lease may not require the family to give more than 60 calendar days notice of such termination to the owner.

(2) If the family terminates the lease on notice to the owner, the family must give the HA a copy of the notice of termination at the same time. Failure to do this is a breach of family obligations under the program.

(e) *New lease or revision.* (1) Any new lease or lease revision must be approved in advance by the HA. The new lease or revision must meet the requirements of this section. The HA and owner must enter a new HAP contract for the tenancy under the new or revised lease.

(2) The owner may offer the family a new lease, for a term beginning at any time after the initial term. The owner must give the tenant written notice of the offer, with a copy to the HA, at least 60 calendar days before the proposed beginning date of the new lease term. The offer must specify a reasonable time limit for acceptance by the family.

(f) *Move from unit.* The family must notify the HA and the owner before the family moves out of the unit. Failure to do this is a breach of family obligations under the program.

**§ 982.310 Owner termination of tenancy.**

(a) *Grounds.* During the term of the lease, the owner may not terminate the tenancy except on the following grounds:

(1) Serious or repeated violation of the terms and conditions of the lease;

(2) Violation of federal, State, or local law that imposes obligations on

the tenant in connection with the occupancy or use of the premises; or

(3) Other good cause.

(b) *Nonpayment by HA: Not grounds for termination of tenancy.* (1) The family is not responsible for payment of the portion of the rent to owner covered by the housing assistance payment under the HAP contract between the owner and the HA.

(2) The HA failure to pay the housing assistance payment to the owner is not a violation of the lease between the tenant and the owner. During the term of the lease the owner may not terminate the tenancy of the family for nonpayment of the HA housing assistance payment.

(c) *Criminal activity.* Any of the following types of criminal activity by the tenant, any member of the household, a guest or another person under the tenant's control shall be cause for termination of tenancy:

(1) Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises by other residents;

(2) Any criminal activity that threatens the health, safety or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises; or

(3) Any drug-related criminal activity on or near the premises.

(d) *Other good cause.* (1) "Other good cause" for termination of tenancy by the owner may include, but is not limited to, any of the following examples:

(i) Failure by the family to accept the offer of a new lease or revision;

(ii) A family history of disturbance of neighbors or destruction of property, or of living or housekeeping habits resulting in damage to the unit or premises;

(iii) The owner's desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit; or

(iv) A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, desire to lease the unit at a higher rental). (For statutory 90 day notice requirement if the owner is terminating the tenancy for a business or economic reason, see § 982.455.)