

§ 982.309

24 CFR Ch. IX (4-1-16 Edition)

for rental to unassisted tenants, the lease is in such standard form.

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

(d) *Required information.* The lease must specify all of the following:

(1) The names of the owner and the tenant;

(2) The unit rented (address, apartment number, and any other information needed to identify the contract unit);

(3) The term of the lease (initial term and any provisions for renewal);

(4) The amount of the monthly rent to owner; and

(5) A specification of what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family.

(e) *Reasonable rent.* The rent to owner must be reasonable (see §982.507).

(f) *Tenancy addendum.* (1) The HAP contract form required by HUD shall include an addendum (the “tenancy addendum”), that sets forth:

(i) The tenancy requirements for the program (in accordance with this section and §§982.309 and 982.310); and

(ii) The composition of the household as approved by the PHA (family members and any PHA-approved live-in aide).

(2) All provisions in the HUD-required tenancy addendum must be added word-for-word to the owner’s standard form lease that is used by the owner for unassisted tenants. The tenant shall have the right to enforce the tenancy addendum against the owner, and the terms of the tenancy addendum shall prevail over any other provisions of the lease.

(g) *Changes in lease or rent.* (1) If the tenant and the owner agree to any changes in the lease, such changes must be in writing, and the owner must immediately give the PHA a copy of such changes. The lease, including any changes, must be in accordance with the requirements of this section.

(2) In the following cases, tenant-based assistance shall not be continued unless the PHA has approved a new

tenancy in accordance with program requirements and has executed a new HAP contract with the owner:

(i) If there are any changes in lease requirements governing tenant or owner responsibilities for utilities or appliances;

(ii) If there are any changes in lease provisions governing the term of the lease;

(iii) If the family moves to a new unit, even if the unit is in the same building or complex.

(3) PHA approval of the tenancy, and execution of a new HAP contract, are not required for changes in the lease other than as specified in paragraph (g)(2) of this section.

(4) The owner must notify the PHA of any changes in the amount of the rent to owner at least sixty days before any such changes go into effect, and any such changes shall be subject to rent reasonableness requirements (see §982.503).

[64 FR 26645, May 14, 1999, as amended at 64 FR 56913, Oct. 21, 1999]

§ 982.309 Term of assisted tenancy.

(a) *Initial term of lease.* (1) Except as provided in paragraph (a)(2) of this section, the initial lease term must be for at least one year.

(2) The PHA may approve a shorter initial lease term if the PHA determines that:

(i) Such shorter term would improve housing opportunities for the tenant; and

(ii) Such shorter term is the prevailing local market practice.

(3) During the initial term of the lease, the owner may not raise the rent to owner.

(4) The PHA may execute the HAP contract even if there is less than one year remaining from the beginning of the initial lease term to the end of the last expiring funding increment under the consolidated ACC.

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

(2) The HAP contract terminates if any of the following occurs:

(i) The lease is terminated by the owner or the tenant;

(ii) The PHA terminates the HAP contract; or

(iii) The PHA terminates assistance for the family.

(c) *Family responsibility.* (1) If the family terminates the lease on notice to the owner, the family must give the PHA a copy of the notice of termination at the same time. Failure to do this is a breach of family obligations under the program.

(2) The family must notify the PHA and the owner before the family moves out of the unit. Failure to do this is a breach of family obligations under the program.

[64 FR 26645, May 14, 1999]

§ 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 violation (including but not limited to failure to pay rent or other amounts due under the lease) 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 PHA: 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 PHA.

(2) The PHA 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 PHA housing assistance payment.

(c) *Criminal activity*—(1) *Evicting drug criminals due to drug crime on or near the premises.* The lease must provide that drug-related criminal activity engaged in, on or near the premises by any tenant, household member, or guest, or such activity engaged in on the premises by any other person under the tenant's control, is grounds for the owner to terminate tenancy. In addition, the

lease must provide that the owner may evict a family when the owner determines that a household member is illegally using a drug or when the owner determines that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

(2) *Evicting other criminals.* (i) *Threat to other residents.* The lease must provide that the owner may terminate tenancy for any of the following types of criminal activity by a covered person:

(A) Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including property management staff residing on the premises);

(B) 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

(C) Any violent criminal activity on or near the premises by a tenant, household member, or guest, or any such activity on the premises by any other person under the tenant's control.

(ii) *Fugitive felon or parole violator.* The lease must provide that the owner may terminate the tenancy if a tenant is:

(A) Fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or

(B) Violating a condition of probation or parole imposed under Federal or State law.

(3) *Evidence of criminal activity.* The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person in accordance with this section if the owner determines that the covered person has engaged in the criminal activity, regardless of whether the covered person has been arrested or convicted for such activity and without satisfying the standard of proof used for a