

**§ 886.327**

**24 CFR Ch. VIII (4-1-03 Edition)**

a utility rate change would result in a cumulative increase of 10 percent or more in the most recently approved Utility Allowances, the owner must advise the Secretary and request approval of new Utility Allowances.

(Approved by the Office of Management and Budget under control numbers 2502-0352 and 2502-0354)

[51 FR 21864, June 16, 1986]

**§ 886.327 Lease requirements.**

(a) *Term of lease.* (1) The term of a lease, including a new lease or a lease amendment, executed by the owner and the family must be for at least one year, or the remaining term of the contract if the remaining term of the contract is less than one year.

(2) During the first year of the lease term, the owner may not terminate the tenancy for “other good cause” under 24 CFR 247.3(a)(3), unless the termination is based on family malfeasance or nonfeasance. For example, during the first year of the lease term, the owner may not terminate the tenancy for “other good cause” based on the failure of the family to accept the offer of a new lease.

(3) The lease may contain a provision permitting the family to terminate on 30 days advance written notice to the owner. In this case of a lease term for more than one year, the lease must contain this provision.

(b) *Required and prohibited provisions.* The lease between the owner and the family must comply with HUD regulations and requirements, and must be in the form required by HUD. The lease may not contain any of the following types of prohibited provisions:

(1) *Admission of guilt.* Agreement by the family (i) to be sued, and (ii) to admit guilt, or (iii) to a judgment in favor of the owner, in a court proceeding against the family in connection with the lease.

(2) *Treatment of family property.* Agreement by the family that the owner may take or hold family property, or may sell family property, without notice to the family and a court decision on the rights of the parties.

(3) *Excusing owner from responsibility.* Agreement by the family not to hold the owner or the owner’s agents re-

sponsible for any action or failure to act, whether intentional or negligent.

(4) *Waiver of notice.* Agreement by the family that the owner does not need to give notice of a court proceeding against the family in connection with the lease, or does not need to give any notice required by HUD.

(5) *Waiver of court proceeding for eviction.* Agreement by the family that the owner may evict the family (i) without instituting a civil court proceeding in which the family has the opportunity to present a defense, or (ii) before a decision by the court on the rights of the parties.

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

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

(8) *Family chargeable with legal costs regardless of outcome.* Agreement by the family to pay lawyer’s fees or other legal costs of the owner, even if the family wins in a court proceeding by the owner against the family. (However, the family may have to pay these fees and costs if the family loses.)

[53 FR 3369, Feb. 5, 1988]

**§ 886.328 Termination of tenancy.**

Part 247 of this title applies to the termination of tenancy and eviction of a family assisted under this subpart. For cases involving termination of tenancy because of a failure to establish citizenship or eligible immigration status, the procedures of part 247 and 5 of this title shall apply. The provisions of part 5, subpart E, of this title concerning certain assistance for mixed families (families whose members include those with eligible immigration status, and those without eligible immigration status) in lieu of termination of assistance, and concerning deferral of termination of assistance also shall apply.

[60 FR 14847, Mar. 20, 1995, as amended by 65 FR 16724, Mar. 29, 2000]

**§ 886.329 Leasing to eligible families.**

(a) *Availability of units for occupancy by Eligible Families.* During the term of