

## § 247.1

247.9 Applicability of procedures.

247.10 Inapplicability to substantial rehabilitation or demolition; right of disposition unimpaired.

AUTHORITY: 12 U.S.C. 1701q, 1701s, 1715b, 1715l, and 1715z-1; 42 U.S.C. 1437a, 1437c, 1437f, and 3535(d).

SOURCE: 41 FR 43330, Sept. 30, 1976, unless otherwise noted. Redesignated at 49 FR 6713, Feb. 23, 1984.

### Subpart A—Subsidized Projects

#### § 247.1 Applicability.

Except as provided in §§ 247.5 and 247.6(c), the provisions of this subpart shall apply to all decisions by a landlord to terminate the occupancy of a tenant in a subsidized project as defined in § 247.2(e). (Termination of tenancy of a family assisted with tenant-based assistance under the Section 8 Existing Housing Certificate or Housing Voucher Program is not subject to this part.)

[54 FR 236, Jan. 4, 1989]

#### § 247.2 Definitions.

*Drug-related criminal activity* means the illegal manufacture, sale, distribution, use or possession with the intent to manufacture, sell, distribute, or use, of a controlled substance as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802.

*Eviction* means the dispossession of the tenant from the leased unit as a result of the termination of the tenancy, including a termination prior to the end of a term or at the end of a term.

*Landlord* means either the owner of the property or his representative, or the managing agent or his representative, as shall be designated by the owner.

*Rental agreement* means all agreements, written or oral, between the landlord and tenant (and valid rules and regulations adopted by the landlord pursuant to a written agreement) relating to the use and occupancy of a dwelling unit and surrounding premises.

*State landlord and tenant act* means any state statute or local ordinance which imposes obligations on a landlord and tenant in connection with the occupancy of a dwelling unit and surrounding premises and which provides

## 24 CFR Ch. II (4-1-05 Edition)

that violations of such obligations by the tenant constitute grounds for eviction.

*Subsidized project* means a multi-family housing project (with the exception of a project owned by a cooperative housing mortgagor corporation or association) that receives the benefit of subsidy in the form of: below-market interest rates under section 221(d) (3) and (5), interest reduction payments under section 236 of the National Housing Act, or below market interest rate direct loans under section 202 of the Housing Act of 1959. For purposes of this part, *subsidized project* also includes those units in a housing project that receive the benefit of:

(1) Rental subsidy in the form of rent supplement payments under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s); or

(2) Housing assistance payments for project-based assistance under Section 8 of the 1937 Act (42 U.S.C. 1437f). However, this part is not applicable to Section 8 project-based assistance under parts 880, 881, 883 and 884 of this title (except as specifically provided in those parts).

[41 FR 43330, Sept. 30, 1976. Redesignated at 49 FR 6713, Feb. 23, 1984, and amended at 53 FR 3368, Feb. 5, 1988; 54 FR 236, Jan. 4, 1989; 61 FR 47381, Sept. 6, 1996; 66 FR 28797, May 24, 2001]

#### § 247.3 Entitlement of tenants to occupancy.

(a) *General.* The landlord may not terminate any tenancy in a subsidized project except upon the following grounds:

(1) Material noncompliance with the rental agreement,

(2) Material failure to carry out obligations under any state landlord and tenant act,

(3) Criminal activity by a covered person in accordance with sections 5.858 and 5.859, or alcohol abuse by a covered person in accordance with section 5.860. If necessary, criminal records can be obtained for lease enforcement purposes under section 5.903(d)(3).

(4) Other good cause.

No termination by a landlord under paragraph (a)(1) or (2) of this section shall be valid to the extent it is based

upon a rental agreement or a provision of state law permitting termination of a tenancy without good cause. No termination shall be valid unless it is in accordance with the provisions of § 247.4.

(b) *Notice of good cause.* The conduct of a tenant cannot be deemed other good cause under § 247.3(a)(4) unless the landlord has given the tenant prior notice that said conduct shall henceforth constitute a basis for termination of occupancy. Said notice shall be served on the tenant in the same manner as that provided for termination notices in § 247.4(b).

(c) *Material noncompliance.* The term *material noncompliance with the rental agreement* includes:

(1) One or more substantial violations of the rental agreement;

(2) Repeated minor violations of the rental agreement that:

(i) Disrupt the livability of the project,

(ii) Adversely affect the health or safety of any person or the right of any tenant to the quiet enjoyment of the leased premises and related project facilities,

(iii) Interfere with the management of the project, or

(iv) Have an adverse financial effect on the project;

(3) If the tenant:

(i) Fails to supply on time all required information on the income and composition, or eligibility factors, of the tenant household, as provided in 24 CFR part 5; or

(ii) Knowingly provides incomplete or inaccurate information as required under these provisions; and

(4) Non-payment of rent or any other financial obligation due under the rental agreement (including any portion thereof) beyond any grace period permitted under State law, except that the payment of rent or any other financial obligation due under the rental agreement after the due date, but within the grace period permitted under

State law, constitutes a minor violation.

(Approved by the Office of Management and Budget under control number 2502-0204)

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#### § 247.4 Termination notice.

(a) *Requisites of Termination Notice.* The landlord's determination to terminate the tenancy shall be in writing and shall: (1) State that the tenancy is terminated on a date specified therein; (2) state the reasons for the landlord's action with enough specificity so as to enable the tenant to prepare a defense; (3) advise the tenant that if he or she remains in the leased unit on the date specified for termination, the landlord may seek to enforce the termination only by bringing a judicial action, at which time the tenant may present a defense; and (4) be served on the tenant in the manner prescribed by paragraph (b) of this section.

(b) *Manner of service.* The notice provided for in paragraph (a) of this section shall be accomplished by: (1) Sending a letter by first class mail, properly stamped and addressed, to the tenant at his or her address at the project, with a proper return address, and (2) serving a copy of the notice on any adult person answering the door at the leased dwelling unit, or if no adult responds, by placing the notice under or through the door, if possible, or else by affixing the notice to the door. Service shall not be deemed effective until both notices provided for herein have been accomplished. The date on which the notice shall be deemed to be received by the tenant shall be the date on which the first class letter provided for in this paragraph is mailed, or the date on which the notice provided for in this paragraph is properly given, whichever is later.

(c) *Time of service.* When the termination of the tenancy is based on other good cause pursuant to § 247.3(a)(4), the termination notice shall be effective, and the termination notice shall so state, at the end of a term and in accordance with the termination provisions of the rental agreement, but in