

## § 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 (4-1-08 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