



NATIONAL HOUSING TRUST FUND

Tenant Selection and Tenant Protections

Tenant Participation

According to the National Housing Trust Fund (NHTF) law, property owners must comply with laws relating to tenant protections and tenants' rights to participate in the decision making regarding their homes.

However, the proposed regulations do not mention tenants' rights to participate in the decision making about their homes.

Tips for Advocates

- *Advocates should convince their state or local subgrantee to formally require NHTF-assisted properties to comply with state or local tenant participation laws, regulations, or ordinances.*
- *Advocates should convince their state or local subgrantee to formally adopt the tenant participation features used by HUD's Office of Multifamily Housing Programs. These are known as the Section 245 regulations, also found in HUD Handbook 4381.5, Chapter 4.*

Tenant Selection

HUD's proposed rule requires owners to have and follow written tenant selection policies.

- Tenants must be selected from a written waiting list, in chronological order, if practical.
- Anyone who applied to rent a NHTF unit but was denied must receive a prompt written notice explaining why the application was rejected.
- Owners may not reject someone with a voucher or with HOME tenant-based assistance.
- Eligibility may be limited to or preference may be given to people from a particular segment of the population, but only if:
 - The state or local subgrantee allows it in a written agreement;
 - The limitation or preference is in the ConPlan; and,
 - The limitation or preference does not violate nondiscrimination requirements.

The proposed rule does not give any examples of "segment of the population"; however, the changes in the final HOME program rule do give examples, such as teachers, police, and artists.

Tenant Selection, *continued*

- Eligibility may be limited to or preference may be given to people with disabilities or with a particular type of disability if:
 - The housing also receives funding from federal programs that limit eligibility (such as the Section 811 Supportive Housing for Persons With Disabilities program, and the Housing Opportunity for Persons with AIDS program); or
 - If the housing is not tied to such federal programs or other law, the preference must be necessary to benefit people with disabilities and the project must be in the most integrated setting appropriate.

Tenant Protections

The proposed rule requires a written lease between the resident and the owner, generally for one year. A renewed lease must also be in writing.

- A shorter lease is allowed if both the resident and the owner agree.
- For transitional housing, the lease must equal the length of time a resident is allowed to stay according to the transitional housing residency limits set by a state, local subgrantee, or owner.

Owners may only terminate someone's tenancy or refuse to renew a lease if there is "good cause."

- Good cause does not include an increase in household income.
- Examples of good cause are:
 - Serious or repeated violations of the lease;
 - Violations of federal, state, or local laws;
 - The end of the maximum time allowed for a transitional housing program; and,
 - Failure to follow a transitional housing services plan.
- If an owner ends or refuses to renew a lease:
 - There must be written notice specifying the reason.
 - The notice must specify when a household must vacate, consistent with state or local law.

The proposed rule has nine items that must not be in a lease. They include: mandatory supportive services; waiver of right to a jury trial; and, agreement to not hold an owner responsible for any actions or failure to act.