

RBD FASTCLASS – HUD LEASE REQUIREMENTS

For Customers of Ross Business Development, Inc.



Ross Business Development, Inc.

RBD FASTClass – HUD Lease Requirements

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Disclaimer

The material contained in this document is not comprehensive of the continually emerging issues surrounding policies in The Multifamily Housing industry. In addition, the handbook guidance is derived from The HUD Handbook 4350.3 Rev 1 Change 4 released in August 2013 and in December 2013 and subsequent notices and memos from HUD.

These materials were updated 8/2022.

The reader should understand that these materials are not designed for, nor should be relied upon, as a source of legal guidance or as a final authority with respect to any particular circumstance.

Ross Business Development makes no warranty of merchantability or fitness for a particular purpose or any other warranty of any type with regard to these materials. Owners and management should seek competent legal advice in developing and carrying out housing policies and procedures.

We have been diligent in our efforts to provide comprehensive and accurate regulatory instruction; Ross Business Development shall not be responsible for errors or inaccuracies.

RBD FASTClass – HUD Lease Requirements

INTRODUCTION

This FASTClass was created to address questions about HUD Model Leases, various Lease Addendums and Lease Attachments. This FASTClass was created to provide our customers with a summary of the HUD Lease requirements.

We also provide a FASTFacts document which is available on our Resources Page.

<https://www.rbdnow.com/resources/noticeforms>.

HUD has very comprehensive and well-documented guidance about executing the lease. This class and the RBD FASTFact document were created using guidance available in [HH 4350.3 R1, C4, Chapter 6, R1, C4 Appendix 4](#) and [HUD's Lease Questions and Answers Document](#).

LEASES – HUD MULTIFAMILY HOUSING

HUD has provided model leases that must be used. These include:

- ✧ HUD-92236-PRA used for the 811 PRA Demo Program
- ✧ HUD 90105 A Model Lease for Subsidized Programs
- ✧ HUD 90105 B Model Lease for Section 202/8 or Section 202 PACs
- ✧ HUD 90105 C Model Lease for Section 202 PRACs
- ✧ HUD 90105 D Model Lease for Section 811 PRACs

HH 4350.3 Figure 6-2 identifies the appropriate lease for HUD's subsidized programs.

Form of Lease	Programs that Use the Lease
Model Lease for Subsidized Programs (Family Model Lease) (See APPENDIX 4-A .)	Section 221(d)(3) BMIR Section 236 Section 8 New Construction Section 8 Substantial Rehabilitation Section 8 State Agency (See Paragraph 6.5F) RHS 515 with Section 8 (See Paragraph 6.5 F) Section 8 Loan Management Set-Aside (LMSA) Section 8 Property Disposition Set-Aside (PDSA) Rental Assistant Payment (RAP) Rent Supplement
Model Lease for Section 202/8 or Section 202 PACs (See APPENDIX 4-B .)	Section 202 Programs for the Elderly and Persons with Disabilities in conjunction with Section 8 assistance *Prepaid Section 202/8 Loans*
Model Lease for Section 202/8 or Section 202 PACs (See APPENDIX 4-B .)	Section 202 Programs for the Nonelderly Disabled Families and Individuals in conjunction with Section 162 assistance
Model Lease for Section 202 PRACs (See APPENDIX 4-C .)	Section 202 Program of Supportive Housing for the Elderly
Model Lease for Section 811 PRACs (See APPENDIX 4-D .)	Section 811 Program of Supportive Housing for Persons with Disabilities
A model lease developed by a State Agency that complies with HUD rules and regulations	Section 8 State Agency
Occupancy Agreement	Assisted Cooperatives

The leases may also need to be provided in languages other than English for LEP persons in accordance with HUD guidance, [Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons](#), published in the Federal Register on January 22, 2007.

The HUD model leases are available in English as well as several other languages and are posted on HUDCLIPS at https://www.hud.gov/program_offices/administration/hudclips/forms and at HUD's LEP website at https://www.hud.gov/program_offices/fair_housing_equal_opp/17lep.

LEASE MODIFICATIONS

The lease may be modified to correct errors and formatting issues. However, owner/agents are not allowed to modify the language in the existing HUD lease.

Changes to the Model Lease for Subsidized Programs may only be for documented state or local laws, or a management practice generally used by management entities of assisted projects. Lease modifications by owners are made using a lease addendum. Before implementing the changes, the owner must obtain written approval from HUD.

Modifications to HUD Form 90105 B - The Model Lease for Section 202/8 or Section 202 PACs & Modifications to HUD Form 90105 C & D - The Model Lease for the Section 202 PRAC or Section 811 PRAC: May only be modified for documented state or local laws or as noted in the Handbook. Modifications to the lease must be in the form of a lease addendum.

The regulations for Section 202 properties state that an owner may include a provision in the lease that permits the owner to enter the leased premises at any time without advance notice to the tenant when there is reasonable cause to believe an emergency exists or that the health or safety of a family member is endangered. (See Paragraph 6-4.D Note.)

LEASE FORM EXPIRATION DATE

In 2008, HUD determined that owner/agents should be allowed to omit the OMB Expiration Date. See [HUD's Forms Matrix](#). An updated Forms Matrix is included as a separate [RBD FASTFact OMB Forms Expiration Dates](#).

LEASE DATES



Incorrectly entering lease dates is one of the most common findings during the Management & Occupancy Review (MOR).

The initial lease term is no less than one year. Special rules apply if the owner/agent's contract is expiring and the owner/agent plans to "opt out" of HUD's housing contract.

Many property managers mistakenly believe that the lease end date should align with the Next Recertification Date. This is not true.

The Next Annual Recertification Date is based on the Move-in (MI) or Initial Certification (IC) date. The **Next Recert Date** is usually the first of the same month one year later.

For example, if a resident moves in March 5, 2023, the owner/agent would establish a **Next Recert Date** of March 1, 2024

Lease dates do not follow the same rule. Using this example, the Lease Start Date is March 5, 2023 and the Lease End Date is either:

- ✧ March 4, 2024 or
- ✧ March 31, 2024.

Note: Do not use February 29, 2024 as the lease end date. If you do, the initial lease term is less than one year and, if the file is audited, you will receive a finding.

The renewal term must be a minimum of 30 days. See Figure 6-3 of HUD Handbook 4350.3.

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Class Exercise 1 – Next AR Dates and Lease End Dates

Provide the appropriate Lease End Date and Next AR Date

Move In Date	Lease Begin Date	Lease End Date	Next AR Date
June 1, 2023	June 1, 2023		
April 30, 2023	April 30, 2023		
December 30, 2023	December 30, 2023		

Notes: _____

LEASE ADDENDA

There are a variety of lease addenda suggested by HUD. For today’s FASTClass, we will be discussing the two mandatory lead addenda. Other lease addenda are discussed in the [FASTFact](#) and in our [OnDemand Training](#) explaining HUD’s move-in requirements.

Section 8 Elderly Properties: Managers of Section 8 Elderly properties must create a lease addendum that specifies that residents have a right to a pet.

See [HH 4350.3 Paragraph 6-5](#) and the [HUD Lease Questions and Answers](#).

HH 4350.3 Paragraph 6-5. *Additional lease provision for pets in Section 8 projects. Lease provisions for pets are found only in the Model Leases for Section 202/8, Section 202 PACs, Section 202 PRACs, and Section 811 PRACs. However, certain properties (e.g., Section 8 New Construction, Section 8 State Agency, RAD for PRAC) may be available for occupancy only to elderly and/or disabled tenants. As a result, the language addressing pets that is found in the Model Lease for Section 202/8 and Section 202 PACs must be added to the Model Lease for Subsidized Programs for use in these properties. Modifying the Model Lease for Subsidized Programs to include the pet provisions from the Model Lease for Section 202/8 and Section 202 PACs, must be made as a lease addendum approved by HUD or the Contract Administrator.*

If the owner/agent uses the language provided in HUD Model Lease 90105B, no approval of this addendum is required unless the addendum was created after the release of Change 4.

[HUD’s Lease Questions and Answers:](#)

Question 19: *If an O/A has an elderly property requiring the use of the HUD Model Lease for Subsidized Programs and has incorporated into the lease the pet language from the Section 202/8 lease can this language be incorporated into the OMB approved lease?*

Answer 19: *No. The language will have to be incorporated into the OMB approved lease by use of a lease addendum. As long as the language was incorporated into the lease previously and is the identical language that is in the Section 202/8 lease, the addendum will not have to be approved by HUD/CA.*

HUD Form 91067 VAWA Addendum: Owner/agents of Section 8 properties must provide HUD Form 91067 the VAWA Addendum when a new lease is executed for any reason.

All adult household members must sign the VAWA Addendum. The lease addendum may be modified to allow for multiple signatures.



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The current HUD Form 91067 VAWA Addendum has not been updated to comply with the requirements set forth in the Violence Against Women Reauthorization Act. Managers of **non-Section 8 properties may, but are not required to,** use the current version of this lease addendum to attempt to comply with VAWA 2013. HUD will release a new addendum shortly.

OTHER LEASE ATTACHMENTS

House Rules: are an attachment to the lease. Most owner/agents are not required to develop House Rules, but if House Rules are in place, **an entire copy** of the House Rules must be maintained in the resident file.

All adult household members sign either the House Rules or an Acknowledgement of the House Rules.

Pet Rules: If the property has established Pet Rules, they are considered an attachment to the lease. All households must be given a copy of the Pet Rules regardless of whether or not there is a pet.

All adult household members sign either the Pet Rules or an Acknowledgement of the Pet Rules.

Move-in Inspection: The Move-In Inspection Form must be included as an attachment to the lease.

Before executing a lease (move-in or unit transfer), the owner/agent and the new resident must jointly inspect the unit.

After the owner/agent conducts a unit inspection, the inspection form must indicate the condition of the unit. The condition of the unit must be decent, safe, sanitary, and in good repair.

If cleaning or repair is required, the owner/agent must specify on the inspection form the date by which the work will be completed. The date must be no more than 30 days after the effective date of the lease.

The new resident has 5 days to report any additional deficiencies to the owner/agent to be noted on the Move-In Inspection Form.

Both the owner/agent and the new resident must sign and date the inspection form. The inspection form must include the statement, “The unit is in decent, safe and sanitary condition”.

HUD Form 50059/50059A: The 50059 and 50059A provide information about the Assistance Payment, Total Tenant Payment, Utility Allowances (if applicable) and the Tenant Rent. A signed copy of this form must be attached to the lease.

Lead-based Paint Disclosure: For properties built prior to January 1, 1978, both owner/agents and residents need to be aware of lead-based paint hazards. Owners must include a signed Lead-based Paint Disclosure form in the lease packet.

The disclosure form is designed to document receipt of the [Lead Hazard Information Pamphlet](#) and to meet three disclosure requirements:

1. Disclose the presence of known lead-based paint/hazards.
2. Disclose information on lead-based paint/hazards.
3. Include contract language.

Certain properties are exempt including, but not limited to:

- ✧ Residential structures built after January 1, 1978
- ✧ Rental property found to be lead-based paint free by a lead-based paint inspector certified under the federal certification program or under a federally accredited State or Tribal certification program
- ✧ Housing *specifically designated* for the elderly or persons with disabilities is exempt, unless a child under age 6 resides or is expected to reside in the unit.

EXECUTING A NEW LEASE

The lease package must be executed on or before the move-in date or the unit transfer date (if applicable).

The lease package must include:

- ✧ The executed HUD Lease (*initial lease term = one year; minimum renewal term = 30 days*) (*currently this form is expired – Owner/agents may remove the expiration date*)
- ✧ A copy of the Move-in, Initial Certification, or IR/UT Combo HUD Form 50059 or a 50059A Unit Transfer (*currently these forms are expired – Owner/agents may remove the expiration date*)
- ✧ The Move-in Inspection (*which must include the wording “the unit is in decent, safe and sanitary condition” and must be signed by the HOH and the PHA/OA*)
- ✧ HUD Form 91067 VAWA Addendum (*required for Section 8, optional for other HUD MF programs until the addendum is updated and released. Currently this form is expired – Owner/agents may remove the expiration date*)
- ✧ The House Rules (*an entire copy is maintained in the tenant file*)
- ✧ The Pet Rules (*if the property has Pet Rules – executed by all residents regardless of whether the resident owns a pet. An entire copy is maintained in the tenant file*)
- ✧ The Lead-based Paint Disclosure (*if applicable*)
- ✧ Any other HUD-approved Addenda (*if applicable*)
- ✧ Any LIHTC Addenda (*if applicable*)
- ✧ The Initial Notice of the Requirement to Recertify (*must be signed and dated by the HOH and the PHA/OA. Not required if new lease is executed as part of a Unit Transfer*)

The lease, the House Rules, the Pet Rules, any Addenda and any 50059 must be signed by the owner/agent and all adult household members.

The Move-in Inspection, the Lead-based Paint Disclosure and any 50059A must be signed by the owner/agent and the HOH or other adult member if appropriate.

As long as there are no state or local restrictions, an electronic signature is acceptable.

Signature dates do not have to match unless the owner/agent has implemented such a policy.

Owner/agents are not required to issue a new lease every year unless required by state or local tenant/landlord law. If your management company requires that you execute a new lease every year, then you have to execute the entire lease including all applicable attachments.

LEASES & THE UNIT TRANSFER

The lease requirements are the same when you complete a unit transfer. A new “initial” lease must be executed when the resident transfers and all attachments must be executed with the new lease.

If an owner/agent is executing a new initial lease as part of a Unit Transfer, please note that the Next AR Date on the associated 50059/50059A will not change.

To purchase

House Rules

Pet Rules

Sample Lease Addendum

Move-in Packages

Visit our RBD FASTForms Page <https://www.rbdnow.com/fast-forms>.

SUMMARY

This RBD FASTClass provides basic information about HUD's Leasing Requirements for HUD's Multifamily Housing programs.

Owner/agents will be reviewed for compliance with these requirements during the Management & Occupancy Review.

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APPENDIX A – CLASS EXERCISE

Class Exercise 1 – Next AR Dates and Lease End Dates

Provide the appropriate Lease End Date and Next AR Date

Move In Date	Lease Begin Date	Lease End Date	Next AR Date
June 1, 2023	June 1, 2023	May 31, 2024	June 1, 2024
April 30, 2023	April 30, 2023	April 29, 2024 or April 30, 2024	April 1, 2024
December 30, 2023	December 30, 2023	December 29, 2024 or December 31, 2024	December 1, 2024

Notes: _____
