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LEGAL STATUS

30-Day Notification Requirement Prior To Termination of Lease for Nonpayment of Rent

A Rule by the Housing and Urban Development Department on 12/13/2024

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Department of Housing and Urban Development
24 CFR Parts 247, 880, 884, 886, 891, and 966

[Docket No. FR-6387-F-02]
RIN 2501-AE09

AGENCY:

Office of the Secretary, U.S. Department of Housing and Urban Development (HUD).

ACTION:

Final rule.

SUMMARY:

This final rule provides that public housing agencies (PHAs) and owners of properties receiving project-based rental assistance (PBRA) must provide written notification to tenants facing eviction for nonpayment of rent 30 days prior to filing a formal judicial eviction procedure. For purposes of this rule, PBRA and other forms of project rental assistance includes projects in the following programs: Section 8 Project-Based Rental Assistance, Section 202/162 Project Assistance Contract (PAC), Section 202 Project Rental Assistance Contract (PRAC), Section 811 PRAC, Section 811 Project Rental Assistance Program (811 PRA), and Senior Preservation Rental Assistance Contract Projects (SPRAC). This final rule largely adopts the proposed rule and, in response to public comments, has been revised to include additional requirements in the 30-day notice and to clarify the timing of the notice.

DATES:

Effective date: January 13, 2025.

Compliance dates: Compliance with this rule is required no later than January 13, 2025, except PHA compliance with 24 CFR 966.4(q) (https://www.ecfr.gov/current/title-24/section-966.4#p-966.4(q)) is required no later than June 15, 2026. PBRA owner compliance with certain requirements in new 24 CFR 880.606(b) (https://www.ecfr.gov/current/title-24/section-880.606#p-880.606(b)), 884.215 (https://www.ecfr.gov/current/title-24/section-884.215), 886.127(c) (https://www.ecfr.gov/current/title-24/section-886.127#p-886.127(c)), 886.327(c) (https://www.ecfr.gov/current/title-24/section-886.327#p-886.327(c)), and 891.425(d)

(https://www.ecfr.gov/current/title-24/section-891.425#p-891.425(d)), is required no later than 14 months from the date that HUD publishes final model leases that incorporates these requirements.

FOR FURTHER INFORMATION CONTACT:

For Public and Indian Housing: Danielle Bastarache, Deputy Assistant Secretary for Public Housing and Voucher Programs, 451 7th Street SW, Room 4204, Washington, DC 20410, telephone number 202-402-1380 (this is not a toll-free number). For a quicker response, email *publichousingpolicyquestions@hud.gov (mailto:publichousingpolicyquestions@hud.gov).*

For Multifamily: Ethan Handelman, Deputy Assistant Secretary for the Office of Multifamily Housing Programs, 451 7th Street SW, Room 6106, Washington, DC 20410, telephone number 202-708-2495 (this is not a toll-free number). For a quicker response, email *mfcommunications@hud.gov (mailto:mfcommunications@hud.gov).* HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit *https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs (https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs).*

SUPPLEMENTARY INFORMATION:

I. Background

On October 7, 2021, HUD published an interim final rule titled “Extension of Time and Required Disclosures for Notification of Nonpayment of Rent” (the “interim final rule”), to assist with the response to the national COVID-19 pandemic and future national emergencies (86 FR 55693 (/citation/86-FR-55693), October 7, 2021). HUD, along with other Federal agencies, responded to the national emergency declaration during the COVID-19 pandemic with efforts to support families impacted financially by the COVID-19 pandemic and at risk of losing their housing. Pursuant to the interim final rule, HUD also issued a joint Public and Indian Housing (PIH) and Housing notice on October 7, 2021 (Notice PIH 2021-29 and H 2021-06). On December 1, 2023, HUD published for public comment the “30-Day Notification Requirement Prior to Termination of Lease for Nonpayment of Rent” proposed rule (the “proposed rule”) (88 FR 83877 (/citation/88-FR-83877), December 1, 2023). The proposed rule sought to make the interim final rule

generally applicable and no longer contingent on the existence of a national emergency or the availability of emergency rental assistance funds by revising HUD's regulations to provide for a 30-day notification requirement prior to initiating an eviction proceeding against a tenant for nonpayment of rent.

Prior to 2021 when the interim final rule was implemented, certain HUD programs had requirements for non-payment of rent evictions and timing of eviction notices.[1] For example, PBRA programs require 30 days' notice for a termination of tenancy for "other good cause." Public Housing and Section 8 Moderate Rehabilitation Program require a 14-day, or 5 business day, notice respectively before initiating a termination of tenancy action for nonpayment of rent. However, absent a Federal rule, tenants in HUD-subsidized housing are subject to varying State and local notice requirements. PHAs and owners have had to comply with State and local tenant laws and only the District of Columbia requires 30 days' notice prior to the initiation of eviction proceedings for the nonpayment of rent, while two States require 30 days' notice in certain cases.[2]

HUD seeks to remove the variable patchwork of notice requirements and reduce the number of preventable evictions filed against HUD-assisted tenants. Most households in HUD-subsidized housing are low-income, with annual household incomes in public housing and project-based Section 8 PBRA both under $16,000.[3] Studies have shown that evictions cause housing instability, an increased risk of homelessness, loss of employment, physical and mental health issues, and long-term negative consequences to families, especially children.[4] Studies have also shown that evictions are unequally distributed as people of color, women, and families with children are more likely to be evicted.[5] Yet, evictions (🗋 print page 101271) for HUD-assisted housing could be prevented with more time and notice which might help all parties work together to pay the rent owed or attain a rent hardship exemption, rent recalculation, and/or other financial rental assistance.

There are other tools to employ before reaching an eviction. For example, when a tenant or household's income is reduced, they can request an interim reexamination to determine whether the current amount that they pay in rent can be changed, and the PHA or owner must process this request within a reasonable time.[6] Tenants can also request a rent hardship exemption which is an exemption from paying the minimum rent that the PHA or owner normally charges if the household experiences a qualifying financial hardship.[7] A

rent recalculation may be granted based on the household's income reduction.[8] Even if a tenant or household does not qualify for a rent hardship exemption, repayment agreements are another option to prevent evictions at the PHA's and owner's discretion.

The proposed rule included a requirement that the 30-day notice include instructions on how tenants can cure lease violations for nonpayment of rent; the alleged amount of rent owed by the tenant and any other arrearages allowed by HUD; the date by which the tenant must pay rent and arrearages to avoid the filing of an eviction; information on how tenants can recertify their income; how tenants can request a minimum rent hardship exemption, if applicable; and in the event of a Presidential declaration of a national emergency, such information as required by the Secretary. HUD also recommended that PHAs and owners provide rental repayment agreements to tenants as an alternative to requesting lump-sum payments for past due amounts and required PHAs to include information about how to switch from flat rent to income-based rent. Additionally, the proposed rule reminded PHAs and owners that the 30-day notice must be provided in accessible formats to ensure effective communication with individuals with disabilities and in a form to allow meaningful access for individuals with limited English proficiency (LEP).

The proposed rule explained that the 30-day notice requirement sets a minimum requirement so that PHAs and owners can provide a longer notice period at their discretion. HUD stated that it will issue sample language PHAs and owners may use, but PHAs and owners are also permitted to draft their own notices as long as they include the required contents. HUD further noted that the requirements under this rule, including the requirement that the 30-day notice may run consecutive to any additional State or local notice requirements if required by State or local law, do not preempt any State or local law that provides greater or equal protection for tenants. Lastly, the proposed rule emphasized that PHAs and owners must amend all current and future leases to incorporate the 30-day notice requirement for nonpayment of rent and therefore need to provide tenants with notification of changes to the lease under existing requirements in 24 CFR 880.607(d) (https://www.ecfr.gov/current/title-24/section-880.607#p-880.607(d)) and 966.3 (https://www.ecfr.gov/current/title-24/section-966.3).[9]

II. This Final Rule

This final rule adopts the proposed rule with the following revisions based on public comments.

First, to clarify the timing of the 30-day notice, HUD is revising 24 CFR 247.4(c) (https://www.ecfr.gov/current/title-24/section-247.4#p-247.4(c)) and adding new §§ 880.607(c)(7), 884.216(e), and 966.4(r). The revised and added language states that a PHA or owner must not provide tenants with a termination notice before the day after the rent is due according to the lease. Also, a PHA or owner must not proceed with filing an eviction if the tenant pays the alleged amount of rent owed within the 30-day notification period.[10] Second, HUD uses clarifying language to explain that notification must be provided before a formal judicial eviction can be filed in 24 CFR 247.4(e)(1) (https://www.ecfr.gov/current/title-24/section-247.4#p-247.4(e)(1)), 880.606(b) (https://www.ecfr.gov/current/title-24/section-880.606#p-880.606(b)), 880.607(c)(6)(i) (https://www.ecfr.gov/current/title-24/section-880.607#p-880.607(c)(6)(i)), 884.215 (https://www.ecfr.gov/current/title-24/section-884.215), 886.216(d)(1) (https://www.ecfr.gov/current/title-24/section-886.216#p-886.216(d)(1)), 886.127(c) (https://www.ecfr.gov/current/title-24/section-886.127#p-886.127(c)), 886.327(c) (https://www.ecfr.gov/current/title-24/section-886.327#p-886.327(c)), 891.425(d) (https://www.ecfr.gov/current/title-24/section-891.425#p-891.425(d)), and 966.4(l)(3)(ii)(A) (https://www.ecfr.gov/current/title-24/section-966.4#p-966.4(l)(3)(ii)(A)).

Lastly, this final rule revises 24 CFR 247.4(e)(1) (https://www.ecfr.gov/current/title-24/section-247.4#p-247.4(e)(1)), 880.607(c)(6)(i) (https://www.ecfr.gov/current/title-24/section-880.607#p-880.607(c)(6)(i)), 884.216(d)(1) (https://www.ecfr.gov/current/title-24/section-884.216#p-884.216(d)(1)), and 966.4(1)(3)(ii)(A) (https://www.ecfr.gov/current/title-24/section-966.4#p-966.4(1)(3)(ii)(A)) to require the 30-day notice include an itemized amount, which is separated by month, of alleged rent owed by the tenant, along with any other arrearages allowed by HUD and included in the lease which must also be separated by month, and the date by which the tenant must pay the amount of rent owed before a formal judicial eviction can be filed for nonpayment of rent. The arrearages, which might include late fees or other fees, must also be itemized separately from the alleged rent amount owed by the tenant.[11] If the tenant pays the full amount of the alleged rent owed but not the arrearages, the nonpayment will still be considered cured, and an eviction for nonpayment of rent cannot be filed. This will alleviate confusion among tenants, PHAs, and owners about when and how much is due to avoid an eviction filing for nonpayment of rent. However, HUD emphasizes that the protections in this rule do not apply to other types of evictions that result from non-rent lease violations, such as nonpayment of arrearages if allowed under the applicable HUD program and specified in the lease.[12]

HUD also reiterates in this final rule that HUD strongly recommends the best practice of entering into a rental repayment agreement as an alternative to a lump-sum payment for past due amounts. PHAs must also include information in the 30-day notification about how to switch from flat rent to income-based rent. Additionally, HUD reminds PHAs and owners that the 30-day notice must be provided in accessible formats to ensure effective communication for individuals with (🗋 print page 101272) disabilities, and the notice must provide meaningful access for persons with LEP.

PHAs and owners must also comply with the nondiscrimination requirements contained in title VI of the Civil Rights Act of 1964 and section 504 of the Rehabilitation Act of 1973 (section 504) along with HUD's regulations implementing those laws. Title VI's requirements with respect to national origin discrimination including meaningful access for people with limited English proficiency are explained in HUD's "Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons" issued on January 22, 2007, and available at *https://www.hud.gov/sites/documents/FINALLEP2007.PDF (https://www.hud.gov/sites/documents/FINALLEP2007.PDF).* HUD also suggests the 30-day notice advise individuals of their right to request reasonable accommodations, include information on how individuals with disabilities can request a reasonable accommodation, and include a point of contact for reasonable accommodation requests.

III. Severability

It is HUD's intention that the provisions of this rule operate independently of each other. The purpose of this rule is to require that PHAs and owners provide written notification to tenants facing eviction for nonpayment of rent 30 days prior to filing a formal judicial eviction procedure. In the event that this rule or any portion of this rule is ultimately declared invalid or stayed as to a particular program, it is HUD's intent that the rule nonetheless be severable and remain valid with respect to those programs not at issue. Additionally, it is HUD's intention that any provision(s) of the rule not affected by a declaration of invalidity or stayed shall be severable and remain valid. HUD concludes it will separately adopt all of the provisions contained in this rule.

IV. The Public Comments

The public comment period for the proposed rule ended on January 30, 2024. HUD received 316 comments. These comments were received from individuals, landlords, tenants, property owners ("owners"), housing authorities, housing cooperatives, non-profit housing organizations, non-profit organizations representing seniors or individuals with disabilities, housing associations, case managers for individuals experiencing homelessness, churches, law firms, etc. The public comments are discussed in four categories: comments in support of the rule, comments in opposition to the rule, suggested changes and clarifications to the rule, and alternative solutions and issues.

A. Comments in Support of the Rule

GENERAL SUPPORT

Several commenters generally supported the proposed rule. Many commenters said the rule is a step in the right direction. One commenter stated that this rule is consistent with the history of tenant-landlord law which balances the landlord's right to reclaim a property over nonpayment of rent with the right for the tenant to pay the arrears to save their housing.

Many commenters noted their support for this rule, stating that families are struggling financially and housing instability is increasing. A commenter stated that those who live in government assisted homes are already seeking help and struggling to get by. The commenter stated that average income has not kept up with recent financial hardships such as the pandemic and rising cost of living and therefore tenants' housing options are very limited if they are evicted.

A commenter noted that this rule will add important protections for America's most vulnerable populations including children, families of color, and victims of domestic abuse. Another commenter stated the 30-day notification period is helpful to avoid evictions for those with low housing security. One commenter said that the rule is a great idea especially since people with children are struggling financially. Additionally, a commenter stated that the rule comes during a time of record homelessness and unaffordable housing, and that we must tackle these issues from a moral and just standpoint. Another commenter stated that the rule honors the challenges that Americans face such as unemployment, disabilities, low income, and the healthcare crisis. One commenter cited a survey that found that HUD evictions are returning to pre-pandemic levels or higher,

underscoring the need to formalize the proposed rule.[13] Another commenter cited an article noting that eviction filings are up an estimated 50% compared to pre-pandemic averages.[14] The commenter pointed to the large number of evictions by PHAs in Omaha, New York City, Baltimore, and Massachusetts.

A commenter in Connecticut stated that rent and other costs of living continue to rise in the State with inflation making it harder for tenants to maintain housing stability. The commenter also stated that rent has increased 33% since 2017 and 53% of tenants are already cost-burdened and spending 30% of their income on rent. The commenter expressed that more families in Connecticut are facing eviction than prior to the pandemic.[15] The commenter also stated that advancing policies to keep people housed will benefit children and reduce stress for caregivers. The commenter cited the Connecticut Department of Education which reported that 2,516 students experienced homelessness in the 2022-2023 school year.

Another commenter pointed to data showing that 32% of adults in Colorado are living in households where the likelihood of eviction or foreclosure within the next two months is distressingly high, and nearly 56,000 households are behind on rent, impacting 45,000 children. A few commenters noted the struggle for families to find affordable housing and that many Americans are cost burdened, spending more than 30% of their income on rent. A commenter noted that high-cost burdens were most prevalent among very low-income tenants and households of color and that families with young children are disproportionately impacted by eviction.

Commenters noted that this rule would align non-payment requirements across HUD programs. A commenter said that a uniform 30-day notice standard will provide clarity and consistency for landlords, potentially reducing wrongful eviction claims. Commenters also stated that the rule will help individuals and families remain in their current homes and provide protection from homelessness. A commenter stated that the rule will reduce housing instability for tenants of public housing and PBRA properties. Additionally, commenters noted that this rule will reduce evictions and its consequences related to finding subsequent housing, maintaining employment, accessing education and medical care.

HUD Response: HUD appreciates the comments and recognizes the trends in the rental market that may be increasing people's housing cost burdens and its downstream effects that may result in (print page 101273) homelessness. Data from the Census' Household Pulse Survey from March 2024 suggests that nearly five million renter households in the United States are behind on their rent and nearly two million fear eviction in the next two months.[16] Renters living in HUD-assisted housing have some protections from evictions, such as the ability to recertify their income. However, it has been reported to HUD that it can take a significant amount of time to work through the administrative process and to resolve issues that routinely come up for assisted households, such as problems meeting annual recertification deadlines, supplying the required paperwork, or insufficient information about how to obtain a hardship exemption. Providing assisted households with information about accessing additional rental assistance, or other emergency funding, and additional time to take advantage of these programs enhances the protections already in place and gives households a better chance to resolve their nonpayment of rent with the housing provider.

EVICTION HARMS

Many commenters wrote about the detrimental effects of evictions. One commenter cited an article stating that eviction is associated with loss of income, onset of depression, aggravation of mental illness, increased substance abuse, domestic violence, marital breakdown, accidents and disease, decreased school performance, and homelessness.[17] Another commenter also cited to an article explaining that evictions can have a detrimental effect on housing stability and a tenant's health and well-being.[18]

Commenters stated that eviction records will make it more difficult to keep and find housing. Some commenters stated that those who live in government assisted homes are already seeking help and struggling to get by and eviction often means the loss of the only housing the tenant can afford. A commenter said that an eviction filing, no matter how the case is resolved, will show up on tenant screening reports every time the tenant applies for rental housing in the future and can prevent tenants from finding housing. A few commenters stated that tenant applications may be rejected following an eviction from a PBRA property for three years, or more if the amount is still owed. Commenters also noted that eviction filings can negatively impact credit scores, which broadly impact tenants' lives.

A commenter noted the loss of connections to community support that comes with evictions. One commenter noted that this rule will help protect the vital human-animal bond that tenants share with pets and companion animals. A commenter noted that pets are also impacted by evictions because pets are more likely to be surrendered to shelters when a family faces unstable housing. The commenter noted that pets may be locked inside rental units because of legal lockouts and property managers may release pets or tie them up alone next to tenants' personal possessions on the street.

One commenter explained that many tenants living in Durham, North Carolina, only require one emergency to create a financial hardship, and many of them are women of color with nontraditional jobs. The commenter stated that when these tenants have to go through the eviction process their income is further reduced due to court costs and taking time off of work for any judicial proceedings.

Many commenters noted that evictions can disrupt a positive relationship with public housing staff. Commenters also noted the strain that evictions have on landlords, including court costs and fees, the costs of turning over units, and that landlords are often unable to collect the unpaid rent. One commenter stated that evictions are costly in time and money for public housing agencies. Additionally, many commenters noted the strain evictions have on government and social service providers such as health care systems and shelter systems. One commenter quoted the Delaware Legislature stating that eviction proceedings create significant costs for State and local governments related to shelters, education, health care, transportation, and foster care.

HUD Response: HUD agrees with commenters that evictions can cause detrimental harm. Research has shown that evictions can cause an increased risk of homelessness, job loss, and long-term negative consequences, especially for children.[19] Through this rule, HUD seeks to reduce the harms that evictions cause by curtailing preventable and unnecessary eviction filings and evictions for nonpayment of rent.

HOMELESSNESS AND HOUSING INSECURITY

Commenters also stated that the rule will help individuals and families remain in their current homes and provide protection from homelessness. Another commenter explained that giving tenants time to get their affairs in order is the difference between an individual remaining stable, employed, and housed, and losing everything due to homelessness.

Another commenter stated that homelessness has been on an upward trend since 2017 and the number of people experiencing homelessness on a single night increased by 12% between 2022 and 2023.

One commenter pointed to articles and reports stating that because those who rely on public housing have very low income, they are more likely to become unhoused when evicted. The commenter noted the harms of evictions and homelessness, including the risk to unhoused lives from extreme heat and cold. Further, the commenter stated that in Detroit, the systems that unhoused people rely on are dysfunctional and can be traumatizing. The commenter also stated that the lack of affordable housing in Detroit means that unhoused people spend longer times in shelters and temporary housing, and shelters and emergency services in Detroit have operated at or near capacity for years.

A commenter stated that low-income renters are more severely cost burdened and are often paying more than 50% of income towards housing costs, leaving limited resources for other necessities. Additionally, a commenter stated that housing in their community is scarce for low to moderate income families and that housing security is important to a thriving economy. The commenter also explained that they have witnessed housing insecurity in their workplace and how it negatively impacted employees' performances and has led to unemployment.

HUD Response: HUD agrees with the commenters' concerns about homelessness and appreciates the commenters' support for the rule. There is evidence that over the past year, eviction filings increased in many parts of the country, as did the incidence of homelessness. The Eviction Lab tracks (print page 101274) eviction filings in 32 cities across the country and found that eviction filings increased from 2022 to 2023 in 25 of the 32 cities.[20] The number of people experiencing homelessness on a given night, as documented through local point-in-time counts, also increased between 2022 and 2023, by approximately 12 percent.[21]

According to HUD's 2023 Worst Case Needs Report to Congress, a record 8.53 million renter households were severely housing cost burdened—meaning they paid more than half their income on rent—or lived in substandard housing, or both. Thus, there is a significant number of households that may be on the verge of homelessness due to high housing costs and an unexpected cost or loss of income could increase their likelihood of eviction and ultimately homelessness. Although the increase in homelessness largely

reflects the shortage of affordable housing, eviction can be a contributing factor. Several studies have found that eviction substantially increases the likelihood that a family will subsequently experience homelessness.[22] Most recently, a major study linking eviction records to other administrative datasets in New York and Chicago has found that an eviction order increases the probability of using an emergency shelter by 3.4 percentage points in the year following the eviction, which translates to a more than 300 percent increase compared to those who are not evicted.[23]

THE IMPACT ON PEOPLE WITH DISABILITIES, SENIORS, AND LOWER-INCOME FAMILIES

Commenters noted that a 30-day notice would be beneficial to people with disabilities. A commenter said that people with disabilities often have fewer housing options because they have additional factors to consider in finding an apartment, such as proximity to a bus stop, lower counters, or a roll-in shower. The commenter also said that an eviction on a physically disabled person's record could make it nearly impossible for that person to find adequate housing and 30 days would give the tenant more time to find adequate housing if they are required to vacate. The commenter noted that 30 days would allow tenants with mental or intellectual disabilities time to seek assistance from an agency or attorney.

Another commenter said that people with disabilities often rely on Supplemental Security Insurance or other public benefits which are not enough especially with the increase of rent and cost of living. The commenter stated that if disabled individuals do become homeless, they have a harder time getting rehoused and if they move constantly, they risk losing their benefits and risk their health. One commenter noted that people with disabilities who face eviction face a specific danger of landing in an institution where they are seen as “less than” and where it can be difficult to leave. The commenter stated their support for this measure because it will reduce the chances of this happening and is not an undue burden on owners and managers.

Other commenters noted that the 30-day notice is particularly essential for older adults and people with disabilities who have limited access to work to quickly pay off the balance or who are on a fixed income. Another commenter noted that the 30-day notice period would be especially beneficial to older adults on fixed incomes. The commenter cited studies stating that nearly 11.2 million older adults are spending more than 30% of their income on rent and that older households of color are even more at risk. One commenter noted that the number of elderly renters is growing and expected to continue growing, especially among Black renters, leading to more potential evictions in the future. Another

commenter noted that adults aged 55 and older accounted for 35% of total evictions in the country in 2023 and made up 30% of the homeless population. One commenter noted that for these populations, homelessness can be fatal because of the fragility of older adults. The commenter gave an example of an older Black man who secured legal assistance and avoided eviction by setting up a payment plan during the 30-day notice period provided by the CARES Act.

A commenter cited a report that showed eviction filings during the COVID-19 pandemic were concentrated in neighborhoods with predominantly lower income immigrants and renters of color, and that statewide eviction filings are nearly back to pre-pandemic levels. A commenter noted that the 30-day notice requirement would offer a potentially life-saving buffer to tenants escaping domestic violence.

HUD Response: HUD agrees that the rule is beneficial to individuals with disabilities and emphasizes that housing providers are required to provide reasonable accommodations at any time during tenancy, not just prior to eviction. PHAs and owners are required to provide and pay for reasonable accommodations unless it would result in an undue financial and administrative burden or a fundamental alteration of the program, service, or activity. If an undue burden or fundamental alteration exists, PHAs and owners are still required to provide other reasonable accommodations that would not result in an undue financial and administrative burden on the particular recipient and/or a fundamental alteration of the program, service, or activity.[24] For example, one such common reasonable accommodation that has helped families avoid eviction is to allow persons with disabilities who receive Social Security Income or other benefits to pay their rent after the first of the month to align with receipt of those payments.

HUD also agrees with commenters that tenants, such as seniors and people of color, may be more susceptible to eviction, especially if they are on a fixed income. This rule helps to ensure more housing security for tenants living in the HUD-assisted housing programs covered under this rule.

USE OF EVICTIONS TO COLLECT RENT

A commenter, who strongly supports the rule, cited various articles concerning PHAs and their repeated eviction filings on the same tenants to collect rent without evidence that such behavior is effective.[25] A commenter (🗋 print page 101275) said the additional time to gather funds would benefit tenants and owners who use eviction filings as a means to

collect rent. Commenters stated that according to research and their experience, eviction filings are used as a rent collection strategy because most evictions do not result in tenant removal.

One commenter stated that a PHA in North Carolina initiated 867 evictions filings for nonpayment of rent in 2019 and only 63 evictions were actually completed. The commenter believed that the evictions were being used as a rent collection tool and stated that if tenants were given sufficient time they were able to cure their nonpayment of rent, but the eviction filings stayed on the tenants' public records for seven years and negatively impacted employment, credit, and housing putting them at risk for homelessness. The commenter explained that a local advocacy organization sought to change the PHA's eviction policy to send a notice 14 days after being late for rent and filing an eviction 21 days after being late. The local advocacy organization unsuccessfully requested that the PHA's board (1) increase the days before filing an eviction to 45 days; (2) review all accounts for inaccuracies; (3) document three attempts at meeting and communicating with the tenant concerning their non-payment; and (4) encourage tenants to use the grievance procedure.

HUD Response: HUD thanks the commenters for their comments. HUD believes this rule encourages PHAs to work with families to resolve nonpayment of rent prior to filing evictions. HUD also encourages PHAs to review and evaluate policies, procedures, or practices to ensure tenants are informed on how to recertify their income in a timely manner and apply for hardship exemptions. HUD reminds PHAs of their obligation to include information to tenants in the termination notice of their right to a grievance hearing under 24 CFR 966.4(l)(3)(ii) (https://www.ecfr.gov/current/title-24/section-966.4#p-966.4(l)(3)(ii)), 966.51(a)(1) (https://www.ecfr.gov/current/title-24/section-966.51#p-966.51(a)(1)), and 966.53(a) (https://www.ecfr.gov/current/title-24/section-966.53#p-966.53(a)).

TENANTS NEED TIME AND RESOURCES

Many commenters stated that this rule would help eliminate fast evictions and provide tenants, especially low-income households, with time to gather resources and to secure funding for their rent through personal means, community resources, or time to find alternate housing. A commenter said that the rule will give tenants time to arrange for alternative accommodations or negotiate a repayment plan. One commenter cited research from the Eviction Lab that notification requirements can be an effective tool in

reducing eviction rates and providing tenants with time and information needed to address nonpayment violations.[26] A commenter noted that nonpayment of rent often stems from unexpected life events and providing time for renters to recover without losing their homes is critical. Another commenter stated that sometimes tenants who have not paid rent will have the funds to pay rent within a couple of weeks.

Additionally, a commenter said that the combination of available legal representation, time to work with lawyers, and time to pay arrears before trial effectively deters Maryland landlords from filing eviction cases and aids housing stability. One commenter demonstrated the impact of the 30-day notice by sharing the story of a client who was facing eviction after losing affordable childcare and being forced to spend more of their paycheck on babysitters. The commenter noted that with the 30-day notice, the tenant was able to seek legal assistance, apply for rental assistance, and avoid eviction.

A commenter stated that getting rental assistance is a multi-staged process and succeeds only when renters have time to see it through. Another commenter stated that because rent is so high, it takes multiple agencies within the community to provide the assistance, a process that can take several weeks. A nonprofit organization commented that the services it provides could not exist without the additional notice time. The commenter noted that its work connecting municipal financial empowerment services to tenants facing eviction showed that financial counseling can help sustain and build on the initial stabilizing effects of emergency housing assistance services and there are opportunities for stronger coordination across eviction prevention services. The nonprofit noted that its clients who engage with one-on-one financial counselors after receiving eviction assistance were able to improve credit scores, reduce consumer debt, and build savings.

A commenter said that they recently worked with a single mother living in HUD-subsidized housing who lost her minimum wage job and fell behind on rent. Even though she was back to work less than a month later, her landlord gave her an eviction notice after three days, per California law. The commenter said they were able to work with the tenant and other community organizations to inform the landlord of this 30-day rule, apply for rental assistance, and set up a payment plan. Because of the additional time, the landlord was able to be paid and the family remained housed. The commenter also stated that there are many low-wage workers and elderly in their county who rely on HUD-supported housing and need more than the three days allotted under California law. The commenter noted

that the additional time would alleviate the burden on rental assistance agencies that are forced to spend additional time, effort, and funding on negotiating with landlords to accept rent payments after the third day.

Another commenter stated the State law in Ohio only provides a three-day notice, making it nearly impossible for rental offices to process interim recertification and minimum hardship exemption requests, work out a repayment deal with the landlord through the 10-day meeting or grievance process, pay back the amount owed, have time to locate alternate housing, or seek new employment or unemployment benefits which will aid in paying the balance owed.

Several commenters noted that the 30-day notice required by the CARES Act has proven indispensable to local rental assistance efforts which takes several weeks to complete. A commenter noted that it represented a tenant who fell behind on rent due to a hospitalization but with the time given to them under the CARES Act, they were able to find legal assistance, file a reasonable accommodation request, and negotiate a repayment plan with the tenant's landlord. The commenter noted that no financial burden was placed on the landlord since they received what they were owed, and the tenant avoided eviction and potential homelessness, a consequence that would have been especially detrimental because the tenant was being treated for an illness.

HUD Response: HUD appreciates the comments and agrees that providing tenants with additional time will help to cure nonpayment of rent violations, preventing unnecessary eviction filings and evictions.

TENANT RIGHTS AND JUDICIAL PROCESS

Some commenters expressed that tenants deserve the additional time to (🗋 print page 101276) take advantage of rent relief resources and the time to take advantage of legal support and their due process rights to properly defend themselves against eviction. A commenter expressed that the 30-day notice would prevent landlords from using self-help evictions to put families on the street without due process. Another commenter stated that giving tenants more notice of an eviction due to nonpayment of rent would help tenants fully access their due process rights. Other commenters stated that a 30-day notice would ensure tenants are treated with dignity and respect, and that

tenants are given a fair chance to sustain housing. Another commenter stated that a 30-day notice will provide support to organizations to assist with a fair and just judicial process.

A commenter stated that the implementation of the rule is imperative and that it will uphold the principles of fairness and compassion. The commenter explained that one of their program participants had only received a three-day notice from their housing provider to vacate due to issues with rent. This contributed to the individual being quickly subjected to homelessness. Additionally, the housing provider kept the individual's deposit, contributing to their financial and emotional distress. The commenter stated that if the individual had more notice, they could have rectified their rent issues or considered alternative housing options.

A commenter said that technological advances have made things more difficult in housing courts. The commenter stated that providing 30-day notice will give tenants time to negotiate and acquire assistance from a qualified attorney which might help them avoid an unnecessary eviction. Another commenter stated that giving tenants additional time to respond to an eviction notice will benefit all parties involved, including the government. The commenter cites to a report by the State legislature of Connecticut, which launched the right-to-counsel program and saved the State between $5.8 and $6.3 million between January and November of 2022.[27]

A commenter said the 30-day notice would help their program more effectively resolve recertification issues and uphold tenants' rights because it would provide more time for tenants and legal aid providers to investigate facts and prepare defenses for any eventual trial. The commenter noted that it is difficult for tenants to figure out landlords' licensure status and how to raise a successful rent escrow claim. The commenter said that tenants of subsidized housing face even more complexity due to frequent procedural problems in the income recertification process and the time it takes property managers to provide tenant files.

HUD Response: HUD appreciates the comments and agrees that providing tenants with additional time will help to cure nonpayment of rent violations, preventing unnecessary eviction filings and evictions.

NOTIFICATION REQUIREMENTS CURRENTLY IN PLACE

Commenters said that public housing agencies and owners have already demonstrated their ability to comply with a 30-day notice requirement. Commenters also noted that the 30-day notice is not more onerous for housing providers than the existing requirements under the CARES Act which has been in effect for over three years and covers similar programs as this rule. A commenter stated that certain HUD programs already operate under a 30-day notice requirement and when the notice expires without any resolutions, a detainer summons is filed which makes it easier for housing managers with multiple properties and different funding.

A commenter noted that various states and localities have notice periods ranging from 7 to 30 days and that more than a quarter of households assisted by HUD reside in areas where an 8 to 14-day notice period is already mandatory. One commenter reiterated that the vast majority of tenants in HUD-assisted households live in states that require notice 7 days or less before eviction, while a mere 3% live in states that require 15-30 days. Another commenter said they had no issue with the rule as a 30-day notice requirement is already implemented in many municipalities. One commenter said that a 30-day notice requirement has already been implemented in Oregon and it is a wonderful benefit to tenants.

A commenter said that most Tennessee renters are entitled to no notice before they are brought to court for nonpayment because state law allows landlords to include a waiver of notice rights in leases. The commenter noted that they have worked with tenants who misunderstand the law and are not aware there is no notice period until they are already in court. Furthermore, the commenter said that many of these tenants would have been able to pay all or most of what they owe, had they been allowed a few days or weeks. The commenter also said that even though the CARES Act has a similar notice requirement to this rule and applies to the same public housing and PBRA properties as this rule, the CARES Act requirements are not universally followed or enforced. The commenter cited to a 2022 National Housing Law Project poll which stated that 88% of surveyed attorneys reported inconsistent or no court enforcement of the CARES Act 30-day notice requirement.[28]

The commenter also noted that in Middle Tennessee, counsel for most landlords interpret the 30-day notice requirement of the CARES Act to have expired with the 120-day eviction moratorium which is counter to HUD's interpretation of the law. The commenter stated that making the 30-day notice requirement final would create a clear and easily

enforceable rule, preventing unlawful evictions and alleviating attorney and judge burden when presented with conflicting accounts of interpretation and application. Another commenter echoed this statement noting that non-compliance with the CARES Act 30-day notice requirement is widespread in Maryland because few property managers understand the requirement either per the CARES Act or the October 7, 2021, interim final rule ("Extension of Time and Required Disclosures for Notification of Nonpayment of Rent").

A commenter said that evictions in Texas are increasing and even though some municipalities have passed local ordinances to confront rising evictions, a State bill prohibiting local regulation of evictions threatens those protections. The commenter stated that this rule would be life changing for Texas tenants who would otherwise receive 3-day notices, no opportunity to cure, and the potential for being homeless within 21 days after a missed rent payment under State law.

A commenter stated that a 5-day notice, 14-day notice, and no notice has shown to be insufficient. Another commenter said that many eviction cases in Maryland are filed after one missed payment, but the amount of eviction filings decreased when Maryland gave tenants facing eviction the right to counsel and 10-day notice including information on rental assistance and legal services. The (🗋 print page 101277) commenter noted that even with the 10-day notice requirement, many tenants in Maryland receive notice late or not at all. One commenter stated that Ohio has a short notice requirement which does not afford enough time to obtain rental assistance funds to avoid homelessness. Another commenter noted that Florida law requires 3-day notice, but it takes several weeks to complete an application at a local rental assistance program. The commenter stated that the 30-day notice requirement under the CARES Act allowed Florida tenants to apply for rental assistance and negotiate payment plans allowing tenants to remain in their homes.

HUD Response: HUD agrees that PHAs and owners have already demonstrated their capacity to comply with a 30-day notice requirement prior to an eviction filing and that a rule codifying the requirement would provide more clarity to housing providers in order to achieve uniform application of HUD's notification requirements. As demonstrated by HUD's interim final rule and the provisions under the CARES Act, PHAs and owners were able to provide the required minimum 30-day notice to terminate a lease for nonpayment of rent during and after the COVID-19 pandemic. As commenters have mentioned, several HUD programs already require 30-day notice for certain types of evictions. Properties covered under Section 8 Project-Based Rental Assistance require 30-day notice when the

grounds for eviction is “other good cause.” State law and the lease govern the length of the notice period for material noncompliance with the lease, noncompliance with State law, or criminal activity/alcohol abuse. Section 202 and section 811 programs require 30-day notice for all eviction grounds.

HUD also acknowledges that states and local jurisdictions may have specific timeframes for which a notice to vacate for nonpayment of rent, or other violations of the lease, may be given and that this rule may be beneficial to tenants and owners in places that have shorter or no notification periods. This rule provides clarity and consistency to tenants and will assist PHAs and owners to remain compliant with HUD regulations.

FINANCIAL IMPACTS ON LANDLORDS

Commenters noted that evictions are expensive for landlords and they often never get back unpaid rent from evicted tenants. Commenters said this rule would help mitigate landlords' eviction costs which should be taken into account when weighing the costs and benefits of the rule. A commenter noted that the cost to landlords to evict a tenant can range between $2,500 and $12,988, while past due rents may only range from $600 to $1,200. A commenter also said that under the CARES Act notice requirements, there was a marked decrease in eviction rates without any substantial financial burden to housing providers. Another commenter stated that support would still be provided to landlords through programs which would prevent major negative financial effects.

A commenter stated that they balance the need to collect rent with the acknowledgement that tenants struggle to pay rent and evictions do not align with their policy of ensuring housing stability. In 2022, the commenter said they implemented a policy to provide its tenants with arrears above a certain threshold with a 30-day notice of termination for nonpayment of rent. The commenter explained that tenants are offered the option to enter into reasonable repayment agreements and are not served a notice of termination for arrears below the threshold. The commenter stated that given its experience with this policy, it is important that PHAs across the country be subject to this rule and that HUD should consider providing technical assistance and other resources to support training and oversight of third-party owners/management companies and for PHAs.

A commenter said that the goal should be to keep people housed and not to protect landlords' profits through quick turnarounds with renting. Commenters stated that the concerns of a potential financial and administrative burden to owners does not outweigh

the importance of providing tenants with additional time to respond to an eviction notice. A commenter expressed that housing is a human right and should be treated that way. Another commenter noted that effects of heightened administrative costs for landlords are expected to be nominal when considering the advantages of the rule.

HUD Response: HUD agrees that evictions can be costly for both tenants and landlords; however, HUD believes that this rule strikes a balance between potentially increasing some of the financial impacts on PHAs and owners, and supporting families who need additional time to address financial issues that result in nonpayment of rent.

B. Comments in Opposition to the Rule

Several commenters opposed the rule. Some commenters stated that a 30-day notice requirement is unnecessary or unreasonable, that it does not make sense, and that tenants are already aware that their rent is late. A commenter said this rule is an example of something that sounds great in theory but will not work as intended. Another commenter said that the rule is a slippery slope, and that the eviction process should be quickened instead of muddled.

HUD Response: HUD disagrees with the commenters, especially in stating that the rule is unnecessary and will not positively impact tenants who seek to cure their nonpayment of rent violations, and that the eviction process should be quickened. As previously discussed in the proposed rule and the Regulatory Impact Analysis (available at *regulations.gov* in the docket file for this rule), it is estimated that between 1,600 and 4,900 nonpayment related moveouts in Public Housing and PBRA-assisted housing are prevented each year because of the 30-day notice requirements of the CARES Act and HUD's interim final rule. Furthermore, in HUD's experience, tenants do not always know that their rent is late, including when their landlord made an accounting, recertification, or notice error.

FINANCIAL BURDEN AND HARDSHIPS

Commenters stated that the rule will be a financial burden or create hardships for landlords, owners, housing commissions, and PHAs, especially small PHAs and those already struggling. Commenters strongly urged HUD to not implement the rule and stated that adopting the rule will cause undue and unnecessary harm to landlords, especially landlords who rely on income from rental properties. A commenter said that the rule will burden a work field that is already overworked and underpaid. Another commenter stated

that the rule will tarnish the relationship between the PHA and tenant and eliminate any discretion the PHA has to negotiate. A commenter stated that they do not approve of the rule and think it should only occur when the tenant is being subsidized. Additionally, the commenter said that not all tenants in the Low-Income Housing Tax Credit program (LIHTC) or living in HUD-subsidized housing are unable to pay rent and giving an additional 30 days will set back owners. Another commenter said that many HUD and LIHTC properties are on "shoestring budgets" and this rule will be detrimental to their communities.

HUD Response: HUD understands the fiscal impacts of nonpayment of rent to a PHA's or owner's operating budget. HUD believes that a 30-day notification (print page 101278) period strikes the appropriate balance that provides enough time for the tenant to cure the lease violation and does not overly burden the PHA and owner. Additionally, many PHAs and owners seem to have demonstrated their ability to comply with the CARES Act and interim final rule and thus should be able to establish systems and procedures to minimize burden.[29]

PHAs, landlords, owners, and housing commissions will still have discretion to file an eviction action for nonpayment of rent if the tenant does not cure the rent owed within the 30-day notification period. The final rule will give both the landlord and the tenant additional time to resolve any nonpayment issue in a constructive manner that will benefit both parties.

HUD notes that this rule applies to the public housing, Section 8 Project-Based Rental Assistance, Section 202/162 Project Assistance Contract, Section 202 Project Rental Assistance Contract (PRAC), Section 811 PRAC, Section 811 Project Rental Assistance Program (811 PRA), and Senior Preservation Rental Assistance Contract Projects (SPRAC).

SMALL HOUSING PROVIDERS

Commenters said that their small PHAs would be burdened by the rule. A commenter said that if a tenant does not pay their rent, the PHA's rent income goes down 5%. The commenter said if the tenant is given 30 days of notice after missing a payment, the PHA will be missing two months of rent, which they might not be able to recover in court. The commenter further stated that the 30-day notice would add more of a burden on an already over-documented process and that with only two employees, most of the staff's

time is spent “taking care of tenants, paperwork, banking, payroll, HUD requirements, and much more.” Another commenter said that the rule's impact on tenants would exacerbate poverty and homelessness and pose a significant threat to small business owners. The commenter also stated that the rule seems to carry risks for citizens and does not have benefits that address broader issues.

A commenter said that the eviction process could take months and the expense will be unbearable especially for small housing commissions. Another commenter said that the rule will cripple small rural PHAs since their occupancy and rental amounts are so low. The commenter said that if they have one unit vacant, their occupancy drops to below 95%, so they cannot wait to evict someone for nonpayment of rent. Additionally, a commenter stated that lost rent, tenant charges, staff time, and attorney fees have become an increasing financial burden to small and medium PHAs. A commenter said that as a small PHA in Mississippi, prolonged eviction proceedings lead to months of missed rent payments that are rarely recovered in full. Additionally, the commenter said that without reliable rental income, the PHA would fall short in providing care for tenants and fulfilling HUD's mission.

HUD Response: HUD recognizes that small PHAs and owners often have limited staff and resources when operating rental assistance programs. HUD is also aware that smaller PHAs and owners may be more susceptible to financial variations to their operating budgets; and that they may experience a more significant financial impact due to nonpayment of rent by a tenant during the notification period. Due to these reasons, HUD emphasizes the need for PHAs and owners to attempt to work with the tenant to correct any noncompliance with the program requirements and/or establish repayment arrangements with the tenant.

Although limited to programs regulated by the Office of Multifamily Housing, owners of Section 8 PBRA, Section 202 PAC, Section 202 PRAC, and the Section 811 PRAC can make a claim to HUD for up to one month's rent, less the security deposit collected, for unpaid rent under the family's lease after the family has vacated the unit.

This rule balances the potential for rental income loss through the additional time provided to households to resolve nonpayment of rent with the operating impact to all PHAs and owners. It provides families and PHAs and owners time to work through potential repayment solutions and help families come back into compliance with program

requirements to resume their housing assistance. As stated in other public comments, eviction proceedings can be equally—if not more—costly to smaller PHAs and owners. For PHAs and owners, the 30-day notice can be issued without hiring an attorney and may lead to the tenant paying what is owed, extinguishing the need to hire an attorney to address that delinquency at all. Thus, HUD believes that the 30-day notification period will enable more cost-effective measures for both the tenant and PHA/owner.

LOSS OF RENTAL INCOME

Commenters said that since the 30-day requirement implemented during the COVID-19 pandemic, there has been an increase in past due balances causing lost revenue. A commenter said the impact of the government-mandated eviction mortarium is still being felt and the 30-day notice period is too long. Another commenter said that due to loss in income, housing providers were unable to pay bills such as staff and maintenance, and were not able to turn over units to make them habitable to those on waiting lists. A commenter said the PHAs are already challenged with providing decent, safe, and sanitary housing for those in need in addition to retaining staff.

Commenters said the rule will negatively impact underfunded public housing providers and PBRA operators who are unable to recover lost revenue and have few tools to collect rent. Commenters also said that there will be 90-120 days of nonpayment of rent before a tenant can be removed causing PHAs a huge loss in rental income. A commenter stated that it can take 2-3 months to obtain possession of a unit, which causes a huge financial burden to owners. Additionally, commenters said that PHAs cannot afford delays due to this rule. Commenters said that for every dollar in rent, 93 cents is used to cover the costs of operations, such as property maintenance, insurance, staffing, and property taxes.[30] The commenters stated that PBRA funding ensures that tenants' housing costs are consistent, but PHAs continue to see an increase in their expenses.

Another commenter said that in Virginia, owners receive six cents for every dollar they receive in rent, and under this rule, owners will go without income for up to 90 days. The commenter stated that with less income owners do not have money to maintain the community and people will not build low-income housing if they cannot collect rent. A commenter said that as a PHA, they have experienced higher rental loss due to nonpayment in addition to the cost to repair units.

Additionally, a commenter stated that apartment communities have been taking a lot of hits due to eviction regulations implemented during the COVID-19 pandemic, and the loss of rent is draining management communities' budgets and frustrating staff. Another commenter said that if the rule is implemented many new landlords who only rent out one property may go bankrupt and we will (🗋 print page 101279) start to see more investment homes and multifamily properties go into foreclosure. A commenter said this requirement will affect at least two months of utilities at their PHA which may be unpaid because of loss of rent.

Commenters said that giving tenants twice the amount of time they already have causes more financial loss in write-offs for PHAs. A commenter also expressed that collection laws go against PHAs and that they can barely collect rent owed. Another commenter stated that the rule does not include financial reimbursement for court and legal fees due to the delay in eviction cases. Additionally, the commenter stated that tenants have learned that when they file an appeal, that adds an additional 45 days to the eviction process. Another commenter said that it can take up to a year for an appeal in their state.

Commenters suggested that HUD consider a new type of special claim so owners could recover lost rent accrued during the proposed notice period. Another commenter said they disagree with the rule unless HUD will pay rent while tenants are going through the eviction process. Another commenter said owners still need to pay bills and operate, so HUD should be willing to pay the full contract rent while tenants go through the eviction process. A commenter said that the 30-day notice is causing PHAs and the Federal Government to lose money each year. The commenter stated that if a tenant is unable to afford their rent for one month, they likely will not be able to afford the next month's rent.

HUD Response: HUD understands concerns from housing providers that experienced a loss of income due to nonpayment of rent and the impact it has on operating budgets. The Public Housing Operating Fund, which was developed through a negotiated rulemaking, specifically funds agencies based on rents charged, rather than rents collected, so HUD is not able to adjust operating funding for PHAs to account for nonpayment of rent issues. Further, HUD program statutes and regulations only authorize assistance payments for dwelling units under lease by eligible families. Therefore, HUD does not have the authority to make assistance payments, pay contract rent, or otherwise reimburse owners after the termination of tenancy or during eviction proceedings. However, with respect to public housing, PHAs experiencing significant shortfalls in their operating budgets are

encouraged to apply for the Shortfall fund.[31] In applicable Multifamily Housing programs, an owner can submit a special claims request only.[32] The owner may then request payment for unpaid tenant rent or other amounts owed under the lease (*e.g.,* damages), in accordance with program regulations. There is no special claims provision for lost rent accrued for a tenant who continues to reside in a unit after termination of tenancy.

HUD disagrees with the assumption underlying many of these comments that a delay in pursuing a tenant for outstanding rent will necessarily and/or always lead to the tenant accruing more outstanding rent due, that will then not be paid to the landlord. As HUD has explained above, a delay in pursuing a tenant for outstanding rent can provide the tenant the opportunity to pay the outstanding rent before being evicted, leading to less outstanding rent, not more. Similarly, HUD disagrees that if a tenant is unable to afford their rent for one month, they will likely not be able to afford the next month's rent. Often, as alluded to above, there is an error or delay in recertification, which simply needs time to be corrected, or a one-time event that causes a tenant to fall behind, and tenants are able to make up their arrearage when errors in recertification are corrected, reasonable accommodations are enacted, and/or time is provided to secure outstanding balances, which sometimes can come from local nonprofits.

FINANCIAL OBLIGATIONS AND COST OF OPERATIONS

Commenters stated that the rule will hurt landlords and their ability to pay their bills, and that there is a lack of understanding of how hard it is to maintain assets. A commenter said that the rule will cause more unpaid rent, attorney fees, and expenses for staff during the judicial process. Another commenter said that in today's inflated economy, PHAs and owners cannot afford significant costs and that the number of nonpayment related moveouts should be mentioned in the rule since they cause substantial additional costs in lost rent and property damage for the PHAs and owners. Commenters also said that PHAs depend on prompt payment in order to meet financial obligations, and the rule would cause an undue financial strain on owners which would jeopardize mortgage payments and put owners at risk for property loss.

Additionally, commenters said that during the extended period of 90-120 days to secure a court date for eviction, tenants fall further behind in rent and owners bear the burden of sustaining essential services (*i.e.,* mortgages, taxes, payroll, and necessary repairs). Another commenter stated that rent is already based on the income of a tenant so an owner should not have to suffer waiting to evict a tenant for non-payment of rent. A

commenter expressed that unlike the options that tenants have, owners are subject to withholding of future services and hefty late fees when bills are not paid on time. In response to the rule stating that it is more cost efficient for housing providers to assist tenants to cure nonpayment of rent, a commenter said that "cost efficiency can only be reached if appropriate options are available to cure such nonpayment of rent." The commenter said that HUD does not recognize that PHAs already provide repayment agreements and hardship exemptions, but without additional funding, these options only temporarily address tenants that are unable or unwilling to pay their rent.

A commenter stated that the rule will cause PHAs to go bankrupt as their property's insurance has tripled in the last three years and the cost of materials has increased. Additionally, a commenter said labor and healthcare are also more expensive. A commenter stated that it usually takes 30 days to prepare a unit (clean, repaint, etc.) to get it ready for a new tenant and now PHAs will be missing rent for three months. Another commenter said that their PHA is already under-staffed and over-burdened and if the rule is implemented it will cause the PHA to be less effective and projects to be poorly maintained.

Commenters stated that higher rent balances burden community resources that offer emergency rental assistance. One commenter said that chronic underfunding of public housing is the culprit and HUD's $25 million allocation is short of what is necessary to bridge the disparity gap. Additionally, the commenter said that insurance premiums, which have gone up 110% in some States, are furthering the fiscal strain and leave PHAs trying to make ends meet. The commenter stated that HUD has taken steps to decrease COVID-19 funds rather than using those funds for PHAs to address operating issues. A commenter said they hope that HUD gets rid of the 30-day notice requirement since rental assistance is no longer readily available (🗋 print page 101280) and everyone in public housing is working or receiving social security.

HUD Response: HUD understands the financial obligations of PHAs and owners, and how uncollected rent significantly impacts their operating budgets. In addition to other elevated costs, HUD acknowledges the growing cost of operating housing. HUD reminds PHAs of the ability to receive shortfall funding if they are experiencing financial challenges.[33] HUD also reminds PHAs and owners that the more PHAs and owners improve their compliance with recertification requirements, the less likely tenants will be improperly overcharged their portion of the rent. These requirements include ensuring that PHA and owner staff

are not transferring burdens of recertification onto tenants that are properly the responsibility of the staff, not failing to properly and timely inform tenants of the different verification options that the tenant may provide for their income, not requiring more verification than necessary from the tenant, and/or not requiring tenants to seek verifications that staff should and/or can be seeking themselves.

HUD believes that the 30-day notification period strikes an appropriate balance that considers the financial obligations of PHAs and owners, as well as provides enough time for tenants to rectify a lease violation stemming from nonpayment of rent. Additionally, as explained above, HUD believes there are often options available for tenants to cure, which avoids unnecessary legal costs incurred to PHAs and owners, and balances increased costs where there are not options to cure. HUD encourages PHAs and owners to review and assess their policies and practices to ensure tenants are informed on how to recertify their income or apply for a hardship exemption in a timely manner.

TENANT AWARENESS AND RESPONSIBILITY

Commenters said that tenants know to contact the PHA when there is a change to their income and the PHA processes interim recertifications, so extending the notice requirement will increase the financial burden when funds could be used for other means. A commenter said that nonpayment of rent is a result of tenants not telling the PHA about loss of income. Commenters stated that tenants are made aware on multiple occasions that they have an opportunity to recertify due to their income or hardship, and it is not feasible for a landlord to give 30 days' notice when the tenant is already aware. The commenters further stated that by the time a court date is set, tenants are further behind in rent, and landlords are losing out on income in addition to having to justify write offs.

A commenter said that the rule would be a burden on housing authorities, creating more work and expenses when housing authorities must try to collect rent that has not been paid. A commenter stated that an additional 30-day notice should not be given since tenants already receive multiple notices that they have not paid rent. Prolonging the process will put more of a burden on staff. Another commenter said that unless there is an extreme circumstance such as death or severe illness, most tenants know that their rent will be late. Another commenter said it is obvious to tenants that they are late and must pay their rent, and once they are late “their presence is unhealthy, toxic, and perhaps dangerous to other residents.”

Commenters said that it does not take long to get assistance for a tenant who is truly struggling if a tenant communicates with the PHA in a timely manner. A commenter stated that tenants are 2-3 months behind in rent by the time 30 days has passed, and when tenants try to reach out to organizations for rental assistance it creates a snowball effect because many of the organizations, including churches, are already limited in the resources they can provide. One commenter included an example of variations in a tenant's subsidized rent due to income fluctuations and asked HUD to review before finalizing a rule "that is unnecessary to protect tenants, a financial and administrative burden to owners, and costly to the taxpayers who support the programs."

HUD Response: HUD believes there is a mutual responsibility between the tenant and the PHA or owner to ensure that recertification requirements are followed by both parties. HUD would like to underscore the importance of PHAs and owners working with their tenants to identify the opportunities to improve practices and procedures that facilitate on-time recertifications, rental payments or timely re-payment plans. Additionally, the notice requirements in this rule will help those tenants who are unaware or remind tenants who are aware of ways that they can cure their nonpayment of rent.

HOUSING PROVIDERS' EFFORTS TO KEEP TENANTS HOUSED

A commenter stated that the rule wrongfully assumes that management and staff do not attempt to assist tenants before filing evictions and that the rule does not adequately address tenants' noncommunication. Commenters stated that housing providers already work with tenants and provide every effort to avoid eviction. Additionally, commenters said that tenants are aware of their legal obligations in their signed leases, and they can speak with the PHA if there are any issues or hardships. Tenants have options that include "payment agreements, referrals to several agencies such as United Way, Action Pact and churches that can assist with rent and other resources." A commenter said that PHAs are working with tenants to prevent evictions and ensuring that tenants have access to available tools and information to mitigate rent arrears. Another commenter stated that they strive to work with tenants with payment issues through counseling and repayment agreements before moving to the eviction process, but if an eviction is filed, then the tenants have displayed a pattern of not being able to pay rent.

A commenter said that when a tenant has an unexpected financial crisis, they offer the tenant a grievance hearing and a payment plan to get caught up on rent to avoid eviction. The commenter expressed that it is in everyone's best interest to keep tenants housed

rather than displacing a tenant and suffering vacancy loss. Another commenter said that PHAs do not want to evict tenants and are very good at working with tenants that get behind by offering repayment agreements and allowing more time to pay. Other commenters stated that tenants know or should know that they can report loss of income to have their rent adjusted and interim recertifications are processed quickly. Another commenter stated that their PHA is currently under a corrective action plan due to low waiting lists and extreme vacancies. The commenter said they must make every effort to work with tenants who have a valid reason to not pay rent and only use eviction as a last resort.

HUD Response: HUD recognizes and appreciates the efforts of housing providers that keep tenants housed and those that use eviction as a last resort. Unfortunately, not every housing provider focuses on keeping tenants housed, and some file evictions that could have been prevented. HUD maintains that providing tenants with additional time to cure nonpayment of rent violations will limit preventable and unnecessary eviction filings and evictions. (print page 101281)

ADMINISTRATIVE BURDEN

Commenters said that the rule would be an administrative burden to housing providers and that HUD ignores the negative impacts that can result from modifying formal policies and amending every lease. Some commenters said that the notice requirement would cause more paperwork for staff and management. A commenter said that it will take more time administratively and give tenants an excuse to not pay rent and consistently stay a month behind. Commenters also stated that because of limited staff and funding, and many regulatory and compliance demands, there are limited resources for their PHA to have “more substantial eviction prevention interventions with tenants.”

The commenters said requiring a revision to every lease to include the required information is not easy and creates a substantial administrative burden and cost, especially on small PHAs, that diverts time and resources from other priorities. Another commenter mentioned that it would divert time and resources away from the “challenging HOTMA implementation.” Additionally, a commenter said that there are more cost-effective measures to notify tenants of available resources such as “additional content in standard notices, resident newsletters, etc., issues by Public Housing Agencies.”

A commenter said the additional notices should not be required since tenants are already informed, and it would be a moot point. Another commenter stated that adding further instructions to a notice will cause confusion and complicate an already well functioning process that results in little to no evictions for tenants not acting in bad faith. Additionally, a commenter asked HUD (1) whether the requirements for a repayment agreement will change; (2) if a notice will be invalid if a component of the required language from the rule is missing; (3) will this language be included in the new HOTMA lease and if so, should housing providers wait until the new HOTMA lease to implement the rule; and (4) if a housing provider decides to implement the rule via a lease addendum prior to the new lease being issued by HUD, should the lease addendum be approved by HUD? Commenters also said that HUD fails to consider the additional time needed to revise notices to place into employee and tenant trainings, computerized systems, and to obtain signatures on amended leases for every household in a 14-to-18-month period. Additionally, HUD does not include the costs to modify formal policy documents, which requires public notice and comment as well as action by the governing board of the agency.

A commenter said that employee paperwork and case management time increase when tenant accounts are higher, creating a negative impact on ledgers and financial reporting scores. Another commenter said the rule creates an administrative burden on staff that are tasked with collecting rent and dealing with disgruntled tenants. A commenter said that for PHAs who have comparable policies in place, the rule creates additional administrative burdens and liabilities for PHAs for technical violations. For example, the commenter said, the rule "requires the PHAs `amend all current and future leases to properly incorporate the 30-day notice requirement,' and provide notice to tenants of these amendments. These procedural requirements apply regardless of whether PHAs currently have comparable policies in place." The commenter said that it is concerning that the rule focuses on form instead of substance.

One commenter said that their PHA letters already include information required by HUD such as how tenants can avoid eviction by obtaining a repayment agreement and/or by receiving a rent adjustment, the total amount due, and the date the tenant must pay to avoid eviction. This information is provided during move-in, recertification appointments, and when tenants receive a rent statement or account breakdown. Additionally, the commenter said that tenants see these letters and ignore them causing the PHA to move

forward with the eviction process. This will result in staff having to complete multiple delinquent letters since the State law requires a 14-day letter for delinquent rent and a 30-day letter for charges past due.

HUD Response: HUD recognizes the immense and varied efforts that housing providers have taken to help tenants remain stably housed. HUD agrees that it is important to consider burdens created by new requirements, and the rule has been carefully designed to minimize the impact on housing providers. Therefore, HUD is not requiring PHAs and owners to update leases at once, but to do so within 18 months of the effective date of the rule for PHAs, and for PBRAs, 14 months from the date HUD publishes a final model lease incorporating the new requirements. HUD will produce model leases for PBRA programs that will incorporate HOTMA regulations and the changes implemented by this rule. Additionally, HUD may implement additional guidance in the future to assist PHAs and owners with the implementation of this rule.

HUD also reiterates that in order to be considered in compliance with the rule, the notice must include instructions on how tenants can cure lease violations for nonpayment of rent; the alleged amount of rent owed by the tenant, and any other arrearages allowed by HUD and included in the lease; the date by which the tenant must pay rent to avoid the filing of an eviction; information on how tenants can recertify their income; how tenants can request a minimum rent hardship exemption, if applicable, or request to switch from flat rent to income-based rent; and in the event of a Presidential declaration of a national emergency, such information as required by the Secretary. With regard to the comments on repayment agreements, HUD strongly encourages but will not require the use of repayment plans and reiterates that PHAs and owners have flexibility to design them to be reasonable. Repayment plans are just one way for tenants to cure their nonpayment of rent and this rule is focusing particularly on notification requirements.

TENANT ACCOUNTS RECEIVABLE (TAR)

Many commenters stated that the rule would negatively impact TARs and threaten PHAs' ability to function and provide adequate low-income housing. Commenters said that by the time an eviction goes through the legal process, tenants could owe an additional two or more months of rent. A commenter said that even if the tenant can address their rent arrears, the payments do not cover the current month and do not address the TARS and negative scoring issues. Another commenter said that the COVID-19 pandemic and the CARES Act increased their accounts receivable from tenants, and in some courts,

evictions are backed up for a year. Additionally, a commenter said that it can take approximately three months before a tenant is evicted for nonpayment of rent which increases TARs and creates more issues on the books for PHAs.

Commenters said that the rule will increase the amount of unpaid rent incurred by PHAs and have a negative impact on mandatory scoring requirements in regard to the collection of rent and vacancy rates. Commenters said the rule does not address the conflicting priorities the rule imposes on PHAs to collect rent and then be scored by HUD on their effectiveness to collect rent. Additionally, a commenter said that HUD has not provided long-term relief on this requirement and (🗋 print page 101282) housing providers cannot effectively collect rent without sufficient tools and the eviction process. A commenter said this rule is contradictory to how HUD scores and advises. Commenters stated that there should be relief on the PHA scoring side of the rule. Another commenter asked how HUD will offset the scoring due to high balances on the agency TARs.

A commenter said that tenants are graded on the size of their accounts receivable balances and the 30-day requirement has not done anything to help PHAs. The commenter said that HUD has punished PHAs for having large account receivable balances, but the rule would continue to grow these balances. Similarly, commenters said that HUD grades PHAs on their ability to collect rent, rewarding those with higher rent collections and punishing those with lower rent collections. The commenters stated that limiting the tools that PHAs can use to collect rent under governing State and local law causes confusion and limits the PHAs' ability to meet the rent collection requirements. A commenter stated that the rule would interfere with grading as they are graded on the management and occupancy reviews (MOR), which is partially their ability to collect rent. Another commenter stated that no consideration had been given to the 5% of PHA scores attributed to higher TARs because of the rule. The commenter said that their PHA currently has a low 90 score and that is with all possible points in the indicators with exception of Real Estate Assessment Center inspections. The commenter said that a “bump to `standard' HUD rating would absolutely diminish staff moral [sic].”

Additionally, a commenter said that the rule prolongs wait times for other tenants which affects a PHA's Capital Fund Program score since this category focuses on occupancy rates. The commenter said that lower scores subject PHAs to remedial actions, oversight, and monitoring by HUD. Additionally, commenters pointed to HUD's example of a nonprofit affordable housing provider in Boston [34] and said that the provider is not a PHA and not

subject to negative scoring which would result if a PHA pursued the same options, also the provider has the resources being one of the largest affordable housing providers in the country. Commenters said that smaller housing providers do not have the same privileges to delay collecting rent as the study mentions, and even after the amount of work mentioned in the study, 50% of tenants did not respond to efforts to avoid eviction.

Some commenters said that the 30-day notice requirement would mean that tenants would be at least 60 days behind in rent by the time an eviction filing is filed in court and a court date is set, and if a tenant refuses to move out, "PHAs are now looking at 90-120 days of a receivable being on the books that then leads to even higher write offs each year.". A commenter stated that the 30-day notice requirement has increased their receivables and write-offs each year, which affects their bottom line. The commenter explained that their write-offs for 2022 were over $130,000, and for 2023 they were already at $218,000 by October. The commenter further explains that they are working with tenants and a lot of local agencies to pay some of the balances but must rely on Federal assistance as well.

Another commenter said that in 2019, prior to the 30-day requirement, their end of year write off amount was $2,700, but each year their collection losses has grown significantly. The commenter mentions a correlation between not being able to evict for nonpayment of rent in a timely manner and their growing TARs as why they wrote off $16,300 in 2023. Additionally, one commenter said their PHA normally sends a list of tenants who owe rent to collections, but only 15% of the time do they recover rent. The commenter further said that if HUD requires a 30-day notice for nonpayment of rent, then HUD should increase its level of operating subsidies. Last year, the commenter said their write-offs totaled $200,000 and HUD has decreased funding. A commenter said $234,000 in write offs for 2023 was the largest they have seen in 10 years working at their PHA.

Commenters urged HUD to leave the notice requirement at 14 days. A commenter stated that when they issue an eviction for nonpayment of rent, the tenant does not pay and does not leave the unit within the 14 days allowed; therefore, when the eviction is filed in court, tenants owe approximately 1-2 additional months of rent. The commenter further said that they cannot imagine their write offs given the proposed 30-day notice. Another commenter stated that it is not fair that HUD continues to grade PHAs on their ability to collect debt owed while not allowing PHAs to use a fair 14-day notice. Commenters noted that the 30-day requirement has been in practice since the COVID-19 pandemic and is burdensome to

PHAs especially in the timely collection of TARs. Commenters also said that during COVID-19, many tenants did not pay rent because they were not required and now PHAs are suffering from outstanding TARs which negatively affect their Public Housing Assessment System (PHAS) scores and operating income.

A commenter said that their PHA currently has $2 million in TARs from tenants that have decided to not pay their rent, which does not include $1.3 million that has already been written off as bad debt from tenants that moved out with unpaid balances in 2023. Another commenter said their average TARs was under $30,000 a month and now they are over $90,000. A commenter stated that "HUD has reported that up to 50 percent of PHAs increased levels of TARs in 2023 compared to pre-pandemic levels." The commenter also said that a longer notice period will assuredly cause higher rent arrears and will undermine the PHAs efforts to collect rent and reduce TARs.

HUD Response: HUD agrees that PHAs should not be penalized as a result of compliance with this rule. The requirement to extend the notification of lease termination for nonpayment of rent may affect PHAs' financial assessment scores if TARs rates rise. HUD has been monitoring trends in TARs and the most recent data suggests that TARs are beginning to stabilize to pre-COVID-19 pandemic levels. There remain outliers that are keeping TARs elevated, but HUD believes that the majority of PHAs throughout the country are starting to experience lower TARs. HUD understands the impact of TARs on a PHA's finances and ability to operate. HUD believes the 30-day notification period to be the right balance for tenants to cure a violation of the lease for nonpayment of rent and have minimal impact for a PHAs' financials.

Additionally, HUD has provided relief to PHAs for PHAS scoring of TARS for 2022 and 2023 PHAs scores and is evaluating further extensions at this time based on available data. Further, HUD is developing a proposed rule on the Public Housing Assessment Systems that HUD anticipates will be published later in 2024.[35] HUD encourages commenters to also provide public comments on that rule.

LEGAL RIGHTS OF LANDLORDS

Commenters said that landlords have rights. One commenter said that (🗋 print page 101283) landlords have the right to run their business as they see fit. Another commenter stated that landlords have inalienable rights, one being "as property owner who rents by the collection of financial rental compensation in exchange of the

tenant using property." A commenter stated that property rights are guaranteed by the U.S. Constitution, and if the government interferes with "owner's rights to manage their properties by restricting their contractual rights, then the government becomes the tyrant." Additionally, a commenter said that Texas allows tenants to be evicted after a four-day notice and by allowing a 30-day notification, it would be a violation of constitutional rights to give special treatment to one group of people.

HUD Response: The Secretary has explicit statutory and regulatory authority to require that certain terms and conditions be included within leases for HUD-assisted housing,[36] including that PHAs and owners provide certain specified notice periods and other procedural protections before different types of eviction proceedings.[37] The statutory authority provides that during the lease term, the owner must not "terminate the tenancy except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause[.]" [38] The Secretary is also authorized to provide additional terms and conditions that must be incorporated into the tenant's lease.[39] The Secretary has exercised this authority on previous occasions such as in the interim final rule,[40] Instituting Smoke-Free Public Housing final rule,[41] and in HUD's grievance procedures at 24 CFR 966.52 (https://www.ecfr.gov/current/title-24/section-966.52).[42] This final rule is consistent with the statutory and regulatory restrictions placed on program participants under this authority.

Additionally, owners are not required to participate in HUD's federally subsidized housing programs. However, when an owner enters into an agreement to participate, the owner receives incentives and conversely subject themselves to certain obligations. Those obligations do not interfere with an owner's constitutional rights. Furthermore, courts have consistently upheld HUD's ability to ensure due process in the eviction process when it concerns participants in federally subsidized housing.

PARTICIPATION IN HUD PROGRAMS

Commenters said the 30-day notice would create a hardship for owners/landlords and will make them not want to participate in affordable housing. A commenter said that further restrictions on their business as a landlord will cause them to walk away and put their money in a market fund which would in turn lower the supply of rental housing and

increase rent. One commenter stated that the private sector is responsible for the majority of affordable housing in the United States,[43] and rather than increasing burdens, HUD should incentivize the private sector to continue to invest in affordable housing.

Additionally, a commenter stated that rent is critical to ensuring housing providers are able to produce affordable housing in their communities. One commenter said the 30-day notice requirement "has proven to disrupt the rental market by reducing housing availability." Another commenter stated that the rule will have a negative impact on the public perception of HUD, housing providers, and low-income tenants. The commenter said the rule gives a false perception of tenants receiving public and assisted housing as irresponsible and taking advantage of taxpayers which can increase resentment and distrust of Federal housing programs, housing providers, and tenants.

HUD Response: HUD believes that the limited scope of the rule does not curb participation in HUD programs. Owners that participate in HUD programs governed by the Office of Multifamily Housing understand why providing affordable housing is important and tend to be mission-aligned entities. HUD seeks to achieve the appropriate balance that does not overly burden PHAs and owners, and also benefits tenants. Thus, HUD believes the 30-day notification period for a specific set of HUD programs is appropriate.

DELAY IN EVICTION CASES

Many commenters stated that there is a delay in eviction court cases and offered varying times for when a court date is set after filing for eviction in their jurisdiction. Some commenters did not understand and questioned the necessity for an additional 30-day notice when it already takes several months to get into housing court or have a court date set. Commenters also said that many locations are having issues with timely court dates, and it is taking several months to evict, which is burdening housing providers and costing thousands of dollars in lost rent and legal fees. Additionally, a commenter said that asking PHAs to wait an additional 30 days to file in court is damaging to the PHA. Commenters stated that a backlog in eviction cases creates a significant financial burden for landlords that impact community resources to cover debt service, taxes, insurance, and property repair costs. Commenters also mentioned that housing providers are still feeling the impact of court backlogs from the pandemic. For example, housing providers in Atlanta reported in 2023 that they were still waiting for court dates after filing evictions six to eight months prior.

A commenter said that they have been involved in many eviction cases and it can take weeks to file with an attorney and have a court date set, and then there is the possibility of a continuance. Essentially, it can take 3-4 months to evict a tenant for nonpayment of rent, meaning the landlord is missing 3-4 months of rent. The commenter also said if the tenant is evicted after a four-month period, the landlord will likely not see the money for back rent and may have to deal with any damages that the tenant may have left. Commenters stated that it is taking 90-120 days to evict due to backlog and delay in the court system. Another commenter stated that the eviction court process is incredibly lengthy and can take around 90 days after an eviction notice for a tenant to be evicted for good cause. Commenters also stated that in Michigan, it takes 90-120 days to get a court date despite a 7-day notice period.

Another commenter explained that a week after rent is due, notice is sent to the tenant, and then after another week, a notice of intent to file for dispossessory is sent to the tenant. A week or so after that, the dispossessory (🗋 print page 101284) will be filed and by this time three weeks have passed. When the court gets the dispossessory, it typically takes two weeks to process and then a letter is mailed to the tenant giving them another week to answer the court. If the tenant answers the court, it takes two weeks to process and then the court moves forward with setting a court date but must look at their already backlogged calendar which can be 4-6 weeks out. A hearing is then set, and if the PHA prevails, the tenant is given at least two weeks to vacate. If the court requires the tenant to pay the rent, the PHA does not receive late fees, or they receive around 10%. Many of the tenants do not pay and the PHA must get a writ of possession, adding more time to the process. However, one commenter said many of their PHA's nonpayment eviction cases result in non-final stay agreements which provide the tenant the ability to repay over time and make a legal agreement to secure arrearages.

A commenter stated a backlog in the magistrate courts could increase PHA eviction timelines and delinquent account amounts, and potentially affect households that have been on waiting lists for months or years. Another commenter said that appeals, attorney's fees, and writs of possession must be factored into the filing of evictions, making it unlikely to have a court date within the same month. Similarly, another commenter stated that it could take weeks to get on the docket for court and the judges would like the parties to mediate the move out. If the parties cannot come to an agreement, the judge decides when the tenants will move out. However, if the tenants do not vacate the

property, the owners must pay court costs to obtain a writ to have them removed, and if that does not work, the sheriff's department must be paid for possession of the property via lockout.

Additionally, a commenter said that tenants should not be given 30-day notice because most evictions cases can take 3-4 weeks. Commenters said that courts need time to schedule cases and even after a case, it takes even more time to schedule a writ of possession if necessary. One commenter said that even when an eviction is granted by the court, judges allow tenants 30-60 days before the eviction can be enforced, and if a tenant refuses to leave, it takes more time to file additional paperwork and schedule an eviction with the Sheriff's department, causing the PHA to house non-paying tenants for 4-6 months before they are evicted. One commenter said that in New York, the Sheriff's department must allow 14 days before executing a writ. Additionally, a commenter said that New York has extended the time a tenant can be brought to court from 5-12 days to 10-17 days and the tenant is entitled to an immediate adjournment of at least two weeks to obtain legal counsel.

Another commenter said their county takes 10-14 days to get a court date and by that time the tenant could be two months behind in rent which causes even more loss of income for the small PHA. The commenter also said the small PHA had an increase of $4,000 in write-offs due to a delay in the courts. Another commenter said that in the best-case scenario, it takes 32 days to go through the eviction process, but under this rule, it would take 52-60 days of waiting for court to deliver the dispossessory notice.

Commenters said that an initial filing may be the only way to convince a tenant to pay their rent, especially when the PHA has already provided tenants with information and resources to cure their nonpayment. The urgency pushes tenants to reach out to external resources, and in some states, rental assistance is not available until an eviction is filed. A commenter that has been in property management for LIHTC for 20+ years said some tenants need encouragement from the court to pay their rent. Another commenter stated that tenants often will not reach out for assistance until they receive written notice from the landlord, and they must prove they are in danger of losing their home when seeking emergency rental assistance.

HUD Response: HUD does not dictate the timelines of local courts and their processes. HUD disagrees that the increased notification period merely delays evictions. As previously discussed, it is estimated that between 1,600 and 4,900 nonpayment related moveouts in Public Housing and PBRA-assisted housing are prevented each year because of the 30-day notice requirement. Additionally, HUD emphasizes that the cost of eviction filings, including the court delays mentioned in the public comments, are a strong reason for why it is more cost-effective to work with tenants on a repayment plan. Tenants who can obtain additional assistance to pay rent can avoid unnecessary eviction filings and evictions, which will benefit housing providers as well. For similar reasons, HUD disagrees with comments that the costs to housing providers due to delays in the court system outweigh the benefits to tenants.

NEGATIVE IMPACT ON TENANTS

Many commenters stated that the rule will have a negative impact on tenants. Commenters stated that the rule will cause higher rent arrears for tenants which would be harder to cure, have a negative impact on their credit record, and cause issues with future housing. Commenters also said that a 30 day wait to file for eviction for nonpayment of rent would in turn compound other delays, causing tenants to get further behind on their rent and only increasing tenants' financial difficulties. Additionally, commenters said that the rule would cause delays in a tenant's access to some local emergency rental assistance programs. A commenter stated that there are few agencies in their area with funding programs that provide rental assistance to tenants living in subsidized housing. A commenter explained that when tenants fall behind in rent and are still evicted, they face overwhelming past due balances that the tenant cannot pay to satisfy judgment for years.

Some commenters said they do not support the rule because it hurts the community and other tenants who are paying their rent on time and other tenants will be affected because resources are limited. Commenters stated that PHAs are working diligently to keep tenants current on their rent, but because of low funds, the 30-day notice will put tenants and the PHA even further in a financial hole. Additionally, a commenter said that even an existing 7-day notice requirement increases the hardship on tenants and owners, causing owners having to allocate more resources per tenant due to the delays which in turn reduces their capacity to support other households. Another commenter said that the longer a nonpaying tenant remains in a unit, the more compliant tenants will be impacted, interfering with their peace and enjoyment.

Some commenters specifically emphasized that tenants will struggle to cure their nonpayment of rent. A commenter said that the rule will increase nonpayment amounts and contribute to a “never-ending debt situation” for tenants. A commenter said that a tenant who pays $200-$300 in rent and falls behind one month will struggle to get back on track and the 30-day notice will only push the balance into a second month. The commenter said that at this point, most PHAs and rental assistance programs cannot assist tenants in bringing their balances up to date. Commenters stated that the rule would create confusion for tenants since they will owe more in rent by the time the parties go to court. Another commenter stated the rule has caused the most vulnerable citizens in their community to get further behind in rent. (print page 101285)

Commenters also said that the rule is counterproductive and would increase evictions. A commenter said that prior to the COVID-19 pandemic, evictions for nonpayment of rent were low in most places, and now, due to reliance on rental assistance and decreased prioritization of timely rent payments, evictions have increased significantly. Another commenter said they have seen an increase in late rent due to the 30-day notice requirement and the courts' handling of eviction cases, creating greater hardship for tenants. Additionally, a commenter stated that a PHA cannot accept partial payments when an eviction is filed, so when HUD allows additional time for tenants to pay their rent, it is harder for tenants because they are now stuck with two months of rent and eviction costs. The commenter said that if the tenants had received an eviction notice on the first month of nonpayment, they might have been able to receive assistance before getting further behind.

Additionally, a commenter stated that the rule will require rent increases to compensate for housing providers' additional expenses, causing the rental market to become more expensive. Another commenter said that under this rule, housing providers may have no choice but to have zero-tolerance policies for nonpayment issues instead of providing leniency since tenants can fall further behind. A commenter stated that landlords in the Housing Choice Voucher (HCV) program are not required to give 30-day notice, and since they already have so many restrictions, landlords will be less willing to rent to HCV holders. A commenter stated that tenants' unpaid balances when they vacate a unit could keep other landlords from renting to those tenants. Another commenter said operating subsidies are decreasing, causing PHAs to suffer and hurting low-income tenants.

Commenters stated that for certain properties an increased delinquency rate will negatively impact an owner's ability to properly maintain a property which impacts all tenants. Commenters also said that "owners are facing high inflationary costs that exceed the cost-of-living rental increases." One commenter stated that housing providers may become stricter in their lease enforcement practices and applicant screenings as a result of this rule. Additionally, many commenters said that the rule will increase unpaid rent and result in lost revenue not covered by HUD, which would "lead to reduced administrative and maintenance services for all tenants and may threaten agency solvency." Some commenters stated that the rule will cause more confusion for tenants because there will be different requirements for different HUD programs because the rule would not apply to vouchers and other rental units in the market. Another commenter asked HUD to immediately rescind the 30-day notice requirement and stated that PHAs "must be allowed to manage their own lease termination procedures as has been past practice."

HUD Response: Experience from HUD's Eviction Protection Grant Program suggests that some residents of HUD-assisted housing facing eviction were able to avoid eviction by securing or maintaining rental assistance (with the assistance of legal service providers) but that this process took an average of 150 days. Most residents receiving housing assistance cannot afford legal assistance, and no-cost legal services may not be available to them.

HUD's analysis of the program data suggests that as case duration increases, so does the likelihood of securing rental assistance and achieving a rent reduction, though the effects are modest. Extra time provides an opportunity for the tenant to engage with legal providers and to achieve positive outcomes when they are available. As previously mentioned, HUD has been monitoring trends in TARs and the most recent data suggests that TARs are beginning to stabilize to pre-COVID-19 pandemic levels. HUD believes that the majority of PHAs throughout the country are starting to experience lower TARs.

Additionally, HUD agrees that some owners may experience revenue loss during the 30-day notification period, but a portion of this income may be recouped from HUD through the special claims process for Multifamily Housing programs, including payments for debt service and unpaid rents. HUD also recognizes that operating costs have increased and continue to increase, irrespective of tenants accounts receivable, and HUD has since appropriately adjusted the methodology for determining the annual rent operating costs adjustment factor (OCAF) to reflect this fact. HUD believes that the rule and its

requirements to provide tenants time to locate the necessary resources to pay their rental arrears will result in fewer tenant delinquencies over time, and therefore, a decrease in applicant rejections when screening for patterns of nonpayment of rent. HUD urges owners to not adopt a zero-tolerance screening policy and to instead adopt a policy of tolerance for tenants who are otherwise good renters and are motivated to work with their owners to pay their back rents.

In response to the comment regarding the Housing Choice Voucher program, this rule does not apply to that program. For the same reason expressed in other responses to public comment, HUD believes this rule strikes the appropriate balance of not being overly burdensome to PHAs and Owners while also benefiting tenants.

IMPEDES NECESSARY SKILLS FOR TENANTS

Commenters said that the rule will set up tenants for failure and set a precedent for tenants of not being responsible for their bills and not adhering to contractual agreements. Some commenters said that their PHA promotes self-sufficiency and financial literacy to tenants, but the 30-day notice will not promote self-sufficiency. A commenter asked how this rule helps tenants become self-sufficient if the standard is being lowered, and how will it help tenants transition to tenant-based voucher programs and non-subsidized housing where they will be given a 14-day notice.

Another commenter stated that tenants who are no longer in the program due to an increase in income will not have the financial literacy to budget appropriately and they will face eviction in the private market. For example, Ohio's State law gives tenants a 3-day notice for nonpayment of rent. Similarly, a commenter said that HUD should prepare tenants for the next step after public housing by supporting “law abiding and lease compliant residents who deserve the quiet and peaceful enjoyment of their apartment.” A commenter stated that families should be given the necessary skills to further their financial situations, but this rule does not accomplish this and instead creates lower expectations for tenants. Another commenter stated that individuals in public housing understand they must pay their rent and allowing them more time will enable tenants to avoid looking for solutions to pay their rent. Another commenter said that the rule enables tenants to ignore management for a longer period instead of enabling tenants to learn money management. Additionally, a commenter stated that there is no reason tenants cannot pay their affordable rent, and tenants are being enabled to do the bare minimum.

HUD Response: The intent of this rule is to assist tenants in curing nonpayment of rent violations by requiring 30-day notice before an eviction filing, and to ensure they are aware of resources that can help them pay past due rent. This rule does not intend to provide self-sufficiency or financial literacy. Nevertheless, HUD (print page 101286) does not agree that tenants will lack self-sufficiency and responsibility due to the 30-day notice requirement. Residents of HUD-assisted housing have demonstrated an ability to abide by the lease terms and have successful tenancies. HUD understands that this is not always the case, however, providing a 30-day notification period and information to help cure non-payment will help tenants get the assistance they need to remain housed.

WAIT LISTS

Many commenters expressed that the rule would cause longer wait times for individuals and families on waiting lists. A commenter stated that there are very long wait lists to enter certain housing programs and properties. Commenters said that allowing nonpaying tenants, and tenants not willing to comply with a lease agreement to remain in units is unfair to individuals and families in need of housing. Another commenter stated that the rule will further delay other applicants on waiting lists from getting assistance due to the shortage of available units in public housing. Additionally, a commenter stated that longer wait times could lead to an increase in homelessness.

Commenters said that additional days could instead be used to ensure housing for individuals on a waiting list who will pay their subsidized rent. The commenter expressed that it does not make sense for people to live rent free due to irresponsibility with no repercussions while people on waiting lists suffer. A commenter stated that their small PHA, with only 20 apartments, is full and there is a long waiting list already. The commenter said that people call the office daily looking for housing and if the process were quicker, a unit could be open for a rent paying tenant. A commenter stated the rule is like a punishment to those waiting and willing to pay for a stable home.

Commenters also said that the rule puts PHAs and owners at a disadvantage because it limits their ability to turn over units and find new tenants. A commenter said that it is unfair for tenants not paying rent on time to remain while there is a waiting list of over 75 families who await affordable housing. Additionally, the commenter said their 185-unit PHA receives 15-30 calls per day about availability and they have not been able to take

new applicants in over four years. One commenter said that their PHA has 10 people on the waiting lists and if a tenant chooses not to pay, they have qualified people on the waiting lists that are unhoused, disabled, and elderly that can and will pay.

HUD Response: HUD acknowledges the concerns of waitlists; however, long waitlists throughout the country are a testament to the need for greater resources, and not an opportunity to forgo taking steps to protect the tenure of current residents.

UNFAIRNESS AND ABUSE OF THE 30-DAY NOTIFICATION REQUIREMENT

Some commenters described the rule as being unfair. A commenter stated that the rule will give undue protection to tenants who are already protected by local laws that were effective prior to the COVID-19 pandemic. A commenter said that tenants sign leases that offer many protections, but tenants do not respect the binding contracts because of court rulings and rules, such as the one proposed, where “the tenant's responsibility is never really their responsibility.”

Commenters said that tenants' rent is based on 30% of their income. A commenter said that if tenants lose their job, their rent would be adjusted so there is no reason for tenants to fall behind in their rent. Similarly, a commenter said that if tenants lose their job or their family increases, they must let the landlord know so they can recertify their income, and in their public housing program, they offer an electric allowance to the tenant. A commenter stated that tenants are well informed when they move in that they can report changes in their income or financial difficulties, and receive reminders on procedures to report changes during annual recertification. Another commenter stated that if HUD provides tenants with unfair advantages when tenants already have many protections, investors will not want to provide affordable housing.

Some commenters said that rent for tenants is already low and affordable and there is no reason to give them more time to pay rent, especially since their rent can be adjusted due to a change in income. Additionally, some commenters said that tenants' rent is based on their income, and they can always adjust their rent by requesting a hardship exemption if their income changes. A commenter said if a tenant fails to report the change the consequences should fall on the tenant and not the PHA.

One commenter said that it is not right to give a certain group of people special privileges. The commenter said that tenants in public housing already receive special treatment through governmental assistance and their payment of rent is extremely low compared to what other people are paying. Another commenter stated that tenants that are paying rent based on their income have a privilege that most people do not enjoy and now the rule will make it more difficult to address the willful failure to pay rent. A commenter asked why tenants already receiving discounted rent should receive additional time to pay rent when other tenants are not afforded the same rights.

Additionally, a commenter said that tenants have received an excessive amount of funds for rent through rental assistance programs without providing proof that it was due to COVID-19 and took advantage of the rental assistance funds at taxpayers' expense. Another commenter said that PHAs have an obligation to protect U.S. taxpayer's investment in the Federal funded housing program. Additionally, a commenter stated that organizations will send a notification that they are paying a tenant's rent so the property does not file for initial delinquency, but most times the rent continues to not be paid for months.

A commenter said that the rule is allowing abuse of the system because a tenant is already receiving assistance to pay their rent and tenants should not be given more assistance when they decide not to pay. The commenter stated that the notice gives the tenant enough time to find housing, but tenants without assistance and landlords do not have support. Another commenter stated that there is a way to help tenants struggling to pay their rent without helping those who abuse the judicial system or hurting landlords who must hire extra staff to handle appeals and additional notices. A commenter said providing additional time to tenants who have chosen not to pay their rent and to ignore the lease terms “goes against HUD's goal to improve lives and strengthen communities to deliver on America's dreams.” Additionally, a commenter said that tenants have grievance rights, legal rights, collection rights, and can adjust their rent based on changes to income. The commenter asked, “how much easier can we make it?”

A commenter said giving tenants more time to pay will only make tenants more irresponsible and reckless. Some commenters said that tenants need to be held accountable to timely pay their rent. Another commenter stated that tenants should be held accountable to the terms of their lease, but they currently abuse the 30-day period due to the CARES Act by waiting to the last minute to pay rent. The commenter stated that

it is a recurring cycle each month and asked when tenants are held (print page 101287) responsible if the terms keep changing. A commenter stated that HUD's "One Strike Policy" allowed PHAs to clean up properties and create thriving communities, but now there are some people with low-income that will not follow rules and should be held accountable for not paying their rent. One commenter said the rule enables poor decision making by tenants. Another commenter said that there are tenants who do not follow the rules of the lease and tenants are being enabled by allowing them to bend the rules and giving them additional time to pay rent.

HUD Response: HUD understands and acknowledges that tenants receiving assistance are entitled to recertify their income at least once annually and request a hardship exemption if they are experiencing eligible circumstances so that their rent is affordable. HUD also understands, however, that a small minority of PHAs and owners may not always properly or timely process tenants' reports of income and household changes. In these situations, tenants' rental payments may be improperly calculated and incorrectly applied. In these instances, extra time to identify and work out these issues provides the opportunity for PHAs and owners to identify the error that resulted in the incorrect calculation of rent, and work with the household to reconcile the issue. In furtherance of this, HUD has published extensive guidance to provide support to PHAs and owners on strategies to work with families that are behind on rent to avoid evictions as much as possible. The final rule does not relieve tenants of their statutory rent obligations, nor does it seek to shield tenants from their lease requirements; rather, the rule provides consistency for tenants and owners without posing an undue burden to PHAs and owners.

Additionally, HUD does not believe that the 30-day notification period will discourage investors. There are other HUD programs that have similar protections for tenants that have investor participation. HUD believes this is a measure that reduces housing loss and undue vacancies. Furthermore, localities often report decreasing levels of emergency rental assistance programs and oversubscription. The final rule provides additional time for tenants to identify and obtain resources to resolve nonpayment.

INCREASE IN DELINQUENCY

A few commenters opposing the rule stated that the rule will increase monthly delinquency in payment of rent causing tenants to fall further behind. A commenter expressed that as a housing authority they do all that they can to provide a safe and stable home for tenants; however, tenants are falling further behind in rent because they have

learned that they have 30 additional days to not pay rent. One commenter said landlords/owners should not allow tenants to live rent free for 1-2 months. Similarly, a commenter said that tenants already receive rental assistance to ensure that they can afford their rent, and tenants who fail to pay make a conscious decision to be late. A commenter said that repayment agreements do not address rent delinquency, especially since HUD is not providing additional rental assistance funding to tenants.

Additionally, a commenter provided an example of rent collections in December of 2019-2023 from a property in Tampa that used a 30-day notice period for all tenants due to the CARES Act. The commenter said that the data showed delinquencies rose every year since 2019 and remained high unlike when the state statutory notice was used. The commenter stated that many tenants end up owing rent for multiple months.

HUD Response: HUD disagrees with commenters that the rule will cause rent delinquency. Preliminary findings from HUD Eviction Protection Grant Program indicate that tenants who have additional time are more likely to come to an agreement with their landlord to pay some or all their delinquent rent over time. Though it may indeed be true that such agreements do not necessarily recoup all unpaid rent, it is likely that they increase the amount that the landlord comes away with relative to cases where the tenant is evicted without any such agreement. HUD believes that the 30-day notification period is an appropriate timeframe that helps tenants stay in their homes and minimizes burden for owners.

MISUSE OF ADDITIONAL TIME

Commenters stated that tenants may exploit a 30-day notice requirement by taking advantage of the additional time, leading to prolonged nonpayment of rent or other lease violations that create hardships for landlords and disrupt housing stability. A commenter said it has been so bad for their PHA that they had to put a limit on the number of delinquency letters they sent to some tenants. Commenters also said that since the implementation of the 30-day notice and after rental assistance has run out, tenants are waiting to pay rent until the last day of the previous month. A commenter said that tenants in Illinois are taking advantage of the 30-day notice requirement to avoid paying their rent on time. Another commenter stated that many tenants obtain repayment agreements to avoid rent even with the amounts set to below 40% of the monthly amount.

One commenter stated they do not agree with the rule because it already takes a long time to evict a tenant for not paying their rent, and the nonpaying tenant will usually stay in the unit until their court day, giving them three or more months to live there for free. A commenter said that tenants will use the 30-day notice to their advantage and use the rent money for a deposit elsewhere leaving the PHA with unpaid rent and costs to fix the unit. Commenters said that tenants who refuse to pay rent abandon their units. A commenter questioned why the rule would be made permanent stating the rule would allow tenants more time to live for free when grace is not extended to those with mortgage payments.

A commenter said that if tenants obtain a financial hardship exemption, more tenants will use the requests and there will be less tenants paying rent or working. The commenter said this will result in HUD having to pay more, word spreading that the government will help, and perpetuating a cycle of poverty. One commenter expressed that after the implementation of the 30-day notice during COVID-19, a tenant with higher income refused to pay their rent despite the PHAs best efforts to communicate with the tenant and three years later, following the sunset of eviction prohibitions, the tenant was evicted with a balance of over $60,000 in unpaid rent. A commenter expressed that the rule is misguided in bringing about equality and said that the rule essentially removes the requirement for tenants to timely pay their rent and creates a system that can be manipulated. Another commenter said that some tenants move into a unit with no intention of paying and stall for as long as possible, stealing housing.

HUD Response: The vast majority of PHAs and owners participating in HUD programs have demonstrated an ability to implement the 30-day notification period under the CARES Act and HUD's interim rule. HUD encourages tenants and owners to work together to identify any improvements to recertification policies or practices.

DAMAGE AND DESTRUCTION TO PROPERTY

Some commenters expressed that there has been destruction to properties due to nonpayment of rent and the prolonged eviction process and the rule will further the damage and abuse done to properties. One commenter explained that a property could not generate income for three months and when the (🗋 print page 101288) property is finally vacated it is trashed. Tenants leave behind what they do not want, forcing the property to post an abandoned goods notice, have items put in storage for a cost, or leave them in the unit until the end of the notice period. A commenter said that many tenants who have outstanding balances damage the units and most times the damage is done on

purpose. Another commenter said that tenants who are evicted for nonpayment of rent also have other lease violations, but when evicting, they choose nonpayment of rent because it is "more cut and dry and has a lower burden of proof." These tenants have caused disturbances to other tenants and/or have damaged the property.

One commenter stated that landlords experience repair and trash removal costs when tenants finally vacate. A commenter said that tenants who do not care enough to pay their rent also do not care about what condition they leave a unit. A commenter said that tenants who are getting ready to leave a unit will ignore all the rules such as quiet hours, drugs, partying and respect for others. Commenters also said that an initial filing does not result in immediate eviction, in fact eviction is normally the last resort. A commenter said that in some cases tenants have other lease violations such as criminal activity or activity that threatens the health and safety of others and adding a longer notice period of nonpayment of rent creates further obstacles.

HUD Response: The final rule only requires owners to provide a 30-day notification period for nonpayment of rent. Other lease violations are not subject to this rule. HUD believes that owners and tenants will be able to use the 30-day notification period to rectify any nonpayment issues and avoid potential damage to a unit. The 30-day notification period can serve as a cost saving measure since tenants are likely to pay any rent that is owed to the property owner with significant notice.

STATE LAW AND OTHER NOTICES

Commenters urged HUD to allow states to govern eviction proceedings that are already in place to protect tenants in the judicial process. The commenters said that this will ensure that all parties have access to local courts to resolve landlord-tenant disputes. Commenters also stated that the current system for notification in their state has been in place for years and is working well. Other commenters stated that notice requirements should return to what they were prior to the COVID-19 pandemic. Commenters said that returning to pre-pandemic requirements would provide clarity for all parties.

A commenter suggested tailoring the notice periods to existing statutes as a compromise. Another commenter said that many states have already implemented changes that delay the eviction process and increase the cost to the properties. For example, Delaware guarantees legal counsel for all eviction proceedings. However, these rules further

increase the loss of revenue for properties. A commenter said their current system has many protections to prevent tenants from being homeless, since evictions can take months to conclude, there is enough time for tenants to pay their unpaid rent.

One commenter asked whether leaving out "combined" was intentional as the rule states that state and local law may run concurrently. The commenter said they want to ensure this is clarified to avoid confusion since the language in § 966.4(l)(3)(iii) indicates that the notice required under state or local may be "combined" or run "concurrently." One commenter urged HUD to provide guidance to states so they can make their own changes instead of HUD implementing a rule.

A commenter said that the 30-day notice does not align with California's existing laws and could cause complications for housing providers and tenants. Another commenter said that a majority of owners give tenants a five-day notice and after five days, the tenant is served with an unlawful detainer which is not an eviction notice. The commenter also said that an owner is lucky if they can get a court date within 30 days of filing the unlawful detainer. Another commenter said that the 30-day notice ignores that state laws have "evolved differently over time to protect tenants and housing providers throughout the eviction process."

HUD Response: The 30-day notification requirement provides consistency and clarity across the country on what owners participating in the specific HUD programs need to provide to tenants. PHAs and owners will need to modify their leases and notices to include the required information specific to the applicable HUD programs. As previously noted, the requirements under this rule, including the requirement that the 30-day notice may run consecutive to any additional state or local notice requirements if required by state or local law, does not preempt any state or local law that provides greater or equal protection for tenants.

GRACE PERIODS

A commenter stated that 16 states and some localities mandate a grace period for tenants to pay rent without a late fee, and most states have developed notice procedures that housing providers are required to follow before filing for eviction. The notice requirements vary from 0-30 days, the average being six days, so the 30-day notice requirement would be five times higher.

Another commenter stated that tenants already receive a 10-day grace period before they receive a 10-day notice, which means the landlord cannot file for eviction until the 21st of the month. If 30-day notice is required, the tenant would be 2-3 months behind in rent before a court date is set. Another commenter said that their PHA provides a five-day grace period and then another 14 days before they file for termination, but giving a 30-day notice means the process goes into the next month, causing more of a burden on tenants and organizations. Similarly, a commenter stated that in Ohio there is a five-day grace period followed by a 10-day notice requirement that essentially gives tenants a 16-day grace period. The commenter said almost four to five months can go by without a landlord receiving rent especially if a landlord must wait for a sheriff and do renovations. One commenter asked for HUD to consider the effects on PHAs that already offer a grace period to tenants.

HUD Response: HUD has considered the appropriate timing for the notification requirement and believes that a 30-day notification period strikes a reasonable balance that benefits tenants and limits the burden on owners.

7, 10, AND 14-DAY NOTICE REQUIREMENTS

A commenter advocating for a seven-day notice requirement stated that a seven-day notice would push tenants to pay on time and lessen the financial burden on landlords, versus a 30-day notice that would essentially give a grace period where the only penalty is late fees. A commenter said that in Nebraska they follow a seven-day notice requirement, and due to lengthy wait times for a court date, the tenant is usually two months behind in rent before a decision is made. A commenter urged HUD to bring back the three-day notice to vacate because this rule would allow tenants to live in a unit without paying rent for almost two months before a court date is set.

Commenters said that properties should go back to the 10-day notice requirement for nonpayment of rent to (🗋 print page 101289) avoid a financial detriment to properties. A commenter living in a HUD subsidized property, said the 30-day notice requirement was good during the COVID-19 pandemic, but it is time to return to the 10-day notice in Illinois. Additionally, a commenter urged HUD to bring back the three-day notice to vacate because this rule would allow tenants to live in a unit without paying rent for almost two months before a court date is set.

A commenter stated that tenants are notified when they sign their lease that rent is due on the 1st of the month, and when rent is not paid, they are sent a notice 10 days after. The commenter further stated that it takes three months to evict a tenant. The tenants receive courtesy calls and in-person visits to ask when they can pay their rent. A commenter stated that it was already difficult with a 72-hour notice to vacate, and some states have extended it to a 10-day notice. The commenter also said that tenants try to extend their stay with an initial past due notice and judges allow it; therefore, the process has to start over again.

Many commenters said that a 14-day notice requirement is a sufficient amount of time or that it would cause less hardship. A commenter stated that 14 days is enough time for tenants to pay their rent, request a repayment agreement, or move before an eviction is filed. The commenter also said that requiring 30 days instead of 14 days will cause their small PHA significant income loss and further limit their ability to provide low-income housing to those in need. Another commenter said the 30-day notice requirement has brought a lot of debt to public housing. Commenters said longer notice periods would delay formal and nonformal payment agreements to cure nonpayment of rent and confuse tenants with more changes.

A commenter said that nonpayment issues can be addressed within 14 days if a tenant follows the rules. The commenter said a 14-day notice gives them enough time to cure their nonpayment of rent, but if they have to file for eviction in court, it could take 60-90 days. The commenter asked if they give this extra time will HUD allow PHAs a waiver when their TARs cause conflict with other rules and regulations? Another commenter urging HUD to leave the 14-day notice, stated that it is a good incentive for tenants to pay past due rent, waiting 30 days will put tenants behind in rent another month making it overwhelming for tenants. A commenter also in favor of a 14-day notice, suggested that HUD stress to PHAs the importance of interim recertifications and repayment agreements.

Additionally, a commenter said that 30 days is an overstretch of time needed for a tenant to rectify nonpayment issues. The commenter further stated that tenants do not need an additional 14-days since their rent is based on their income and it is the tenant's responsibility to report loss of income or need for an interim recertification. The commenter explained that if rent is due on the 1st of the month and there is a 10-day grace-period, notice will not be sent until the 10th day, which means the termination process will go into another month. However, a “no short payments” clause means tenants

cannot give one month's rent in a different month without providing payment for the current month. This gives tenants more time to pay, but it also leaves more time for tenants to fall behind. Additionally, the commenter said that when the 30-day notice requirement was implemented during the COVID-19 pandemic it was acceptable, but now everything is opening back up and people are still behind.

Another commenter said that it is not true that tenants need more time to cure nonpayment of rent. The commenter stated that tenants receive a 14-day notice in their state on the 2nd month on which they have not paid rent and the court date is usually scheduled between 10-14 days out. If the requirement is changed to 30 days, it is highly likely that a tenant would have 60 to 90 days before a court date is set. Additionally, a commenter advocating for state guidelines for evictions, said that there is a 14-day notice requirement in Massachusetts which allows an owner to get on the court docket in the same month that rent is due. A commenter said the initial implementation of the 30-day notice requirement during the COVID-19 pandemic negatively impacted their PHA. The commenter stated that the requirement in Illinois was 14 days and now every month they have 50 to 75 tenants that are past due on rent because they are using the notice as an extension. The commenter said that almost all of the tenants served the 30-day notice will pay right at the end of the 30 days, but they are still always one month behind.

HUD Response: HUD considered several alternatives to the 30-day time period and ultimately decided that the 30-day period best balances both tenants' interests and PHAs' and multifamily owners' reliance in administering their programs. Additionally, the final rule is consistent with provisions in the CARES Act and other actions taken by other Federal agencies.

OVERREACH OF THE FEDERAL GOVERNMENT

Some commenters stated that the rule is an overreach of the Federal Government. A commenter stated that the CARES Act provision was supposed to provide temporary relief during the pandemic, and now that the pandemic is over, keeping the 30-day notice requirement “amounts to nothing more than unnecessary federal overreach into a state-level matter.” Additionally, the commenter said the 30-day notice during the pandemic proved to be harmful to owners and there is no need to continue the 30-day notice requirement now that the problem it was supposed to address initially is over. Another commenter said that the rule is an overreach because landlords are struggling financially due to nonpayment of rent and property damage before evictions. Additionally, a

commenter disagreed that the rule is not a violation of anti-federalism since "landlord tenant and eviction law is the sole purview of the states, so this attempt to circumvent these laws is the very definition of federalism." The commenter further stated that the discretion of those who work with tenants and make decisions will be heavily impacted.

Commenters stated that the rule interferes with the eviction process that is governed by states that already protect tenants and ensure that all parties have access to local courts to resolve disputes. Additionally, the commenters said the rule complicates the local eviction process and delays resolutions while housing providers remain unpaid putting "the viability of PBRA-funded communities more at risk." A commenter stated that state laws should be followed for termination of leases for nonpayment of rent. Another commenter stated the proposed rule circumvents the established legal process for eviction and denies housing providers due process rights.

Commenters referred to the rule as a "one-size-fits-all" approach that is not effective. A commenter urged HUD to consider operational impacts when adding 30 additional days to state-level evictions. The commenter said that "such one-size-fits-all mandates rarely account for regional and judicial complexities." Another commenter said a "one-size-fits-all federal approach is not practical." Additionally, a commenter stated that the ability to make local decisions is critical and issuing a blanket policy across all jurisdictions removes local control. The commenter said that the current notice (🗋 print page 101290) requirement in their jurisdiction is sufficient and if PHAs want to extend the notice period, they have the flexibility to do so. Another commenter stated that the Federal Government should not get involved in individual contract enforcement by favoring one side or another.

One commenter stated that HUD does not have legal authority to preempt state landlord-tenant laws without the express authorization from Congress, as Supreme Court precedent established that the Federal Government can preempt state laws in limited circumstances. The commenter cited to *Alabama Association of Realtors* v. *U.S. Department of Health and Human Services,* 594 U.S. 758 (2021) and said that landlord-tenant law is traditionally considered a matter of state law. The commenter also said that the Supreme Court addressed the harm to landlords who were "at risk of irreparable harm" under the eviction moratorium. The commenter also stated that statutory language does not specify notice period requirements for PBRA, therefore leaving eviction proceedings to states. "There is also no language giving the Secretary explicit authority to require certain

terms and conditions be included in these leases. In fact, the section covering required contract provisions for assistance payments states that `the agency and the owner shall carry out other appropriate terms and conditions as may be mutually agreed to by them.' "

Furthermore, a commenter stated that HUD's claim that the rule reduces the patchwork and inconsistencies in notice requirements is inaccurate and HUD should "defer all requirements to State and local law until such time as federal jurisdiction over landlord-tenant law is established and such rules can apply to all rental housing."

HUD Response: As discussed in the statutory authority section of the proposed rule, HUD has general rulemaking authority under 42 U.S.C. 3535 (https://www.govinfo.gov/link/uscode/42/3535) to implement its statutory mission, which is to provide assistance for housing to promote "the general welfare and security of the Nation and the health and living standards of [its] people." [44] Additionally, HUD has specific statutory authority under the U.S. Housing Act of 1937 to prescribe procedures and requirements for PHAs to follow to ensure sound management practices and efficient operations.[45] HUD also has statutory authority to establish requirements for project-based rental assistance.[46] The Supreme Court's decision in *Alabama Association of Realtors* is not applicable here. That decision addressed the exercise of authority under the Public Health Service Act by the Centers for Disease Control and Prevention (CDC). This HUD action relies on an entirely different set of authorities. Further, unlike the eviction moratorium addressed by the Supreme Court, this action does not "exercise powers of vast economic and political significance." *Ala. Ass'n of Realtors* v. *HHS,* 594 U.S. 758, 764 (2021) (internal quotations omitted). The CDC's eviction moratorium applied to "properties that participated in federal assistance programs or were subject to federally backed loans." *Id.* at 760. In contrast, this rule is narrower in scope and only applicable to the specified HUD programs and owners that choose to participate.

PHAs and owners participating in HUD programs have the discretion to work with tenants on a re-payment plan and therefore does not constitute a one-size-fits-all approach. In addition, establishing a baseline notification period is intended to provide uniform clarity for everyone participating in HUD programs.

EVIDENCE AND RESEARCH

Commenters stated that HUD does not provide any evidence that longer notice periods reduce evictions. Instead, one commenter said, HUD overstates a study and relies on unreliable evidence to justify the rule. Commenters further stated that HUD assumes housing providers are bad actors and their first step is to file an eviction without considering the impact on tenants, also HUD assumes they are not already working with tenants to keep tenants housed. A commenter stated that the rule provides limited evidence that a notice requirement would have minimal financial impact on owners, especially without emergency rental assistance and other financial resources to prevent evictions. Additionally, a commenter asked HUD to specify the eviction rate numbers for subsidized housing.

A commenter said that the rule includes selective background information which does not focus on the negative impacts that landlords and tenants will face. The commenter further stated that the rule relies heavily on short-term positive outcomes of emergency COVID provisions (when the Emergency Rental Assistance Program (ERAP) was available) and is not informed by eviction prevention programs. The commenter also said that HUD does not consider alternative approaches to repayment agreements, hardship exemptions, and state and local law programs. Commenters stated that it is challenging to strike a fair and effective balance between preventing unjust evictions and ensuring landlords receive timely payment, but it is essential to consider the differing viewpoints.

Another commenter stated that HUD's findings and certifications lacked support. The commenter said that HUD certifies that the benefits justify the costs of the rule but fails to consider all the necessary costs. Additionally, the commenter said HUD overstates within its Improving Regulations and Regulatory review, however, “mandating extended notice periods for a subset of federal assisted housing programs does not reduce administrative burdens, maintain flexibility for covered entities, nor increase freedom of choice for the public.”

A commenter said that HUD mentioned in the proposed rule that it cannot identify public data on the number of people in subsidized housing who experience eviction; however, HUD is proposing a rule to solve the problem. The commenter stated, “this would seem to be the perfect example of a solution in search of a problem.” Another commenter said the rule will have a significant impact on HUD's estimate of over 2,000 PHAs and unknown number of PBRA owners. The commenter stated that “the Evidence Act creates requirements and goals for federal agencies to use data-driven, evidence-based decision

making. This proposed rule is not based on sound, directly relevant data and evidence." The commenter further stated that the rule has unsupported conclusions, for example, HUD indicates that the extend notice period "may" assist PHAs and owners to resolve arrears, that there is a causal relationship between longer notice period and eviction filings, and HUD overestimates the impact of the 30-day notice under the CARES Act since it included ERAP which provided significant resources to prevent evictions.

Additionally, a commenter stated that the premise of the rule is misguided because it implies that PHAs and section 8 properties are bias against people of color, women, and families with children, but the rule does not state why tenants were evicted nor the number of opportunities tenants were (🗋 print page 101291) given before being evicted. The commenter said that the study cited [47] in the proposed rule would probably show that more people of color, women, and families with children live in public housing and so the results are skewed. The commenter also said the "biased evictions are not the case in well-run federally funded housing organizations that have federal oversight and an obligation to be fair and unbiased."

HUD Response: HUD recognizes that the impacts of evictions have been closely analyzed by researchers and studies have shown different results based on the data used and research methods. HUD also acknowledges that collecting complete and comprehensive data on evictions can be extremely difficult.[48] Thus, studies and research may not provide the complete picture of what is occurring in communities across the country.

According to data from the Census' Household Pulse Survey from March 2024, nearly 5 million renter households in the United States are behind on their rent and nearly 2 million fear eviction in the next 2 months.[49] Preliminary analysis of HUD's Eviction Protection Grant Program suggests that HUD-assisted tenants that "secured or maintained rental assistance" through legal assistance had an average case length of 150 days. HUD believes that it is reasonable to surmise that some portion of these clients received assistance in recertifying or obtaining their Federal assistance, and that the process of doing so took at least 30 days.

HUD appreciates the commenters for encouraging HUD to use research and data for evidence-based policy. Based on the existing research, HUD believes the 30-day notification requirement will benefit tenants and owners.

C. Suggested Changes and Clarifications to the Rule

HOUSING COOPERATIVES

Many commenters urged HUD to exempt housing cooperatives from the rule. Some commenters urged HUD to reconsider implementing the rule because of the negative effects it could have on housing cooperatives. Commenters asked HUD to exempt housing cooperatives because the rule would negatively impact operations and have unintended consequences for housing cooperatives. A commenter stated that implementing the rule is not a financially sound decision. Another commenter stated that many cooperatives who have mortgages with HUD would be negatively impacted financially causing late payments and fees, which would then cause credit issues for having a late payment history. Some commenters stated that the rule would be devastating to cooperative agreements and many rental properties by restricting cash flow and threatening financial stability. Additionally, many cooperatives with HUD-backed mortgages will be threatened by late payments due to tenants knowing they have 30 days before legal action is initiated. A commenter said that cooperatives already suffer from restrictions that support the bad habits of members, and implementing this rule would impose another hardship restriction.

A commenter stated that the rule would not help the Black and Brown community, but instead have a negative ripple effect. The commenter stated that cooperative housing allows for the Black community to have affordable housing that is clean, safe, and beautiful, however, finalizing the rule “punishes affordable housing and has a disparate impact on Black groups.” The commenter said that the rule will either cause more land grab and gentrification or vacant land that will go to waste. Another commenter asked HUD to not include housing cooperatives because cooperatives have stated payment terms that are different from those being proposed. One commenter residing in a housing cooperative in Pennsylvania said that their rentals provide valuable revenue which they need to pay bills, and having a 30-day notice requirement would negatively impact their ability to pay their housing cooperative bills.

Many commenters stated that housing cooperatives are unique or different from other types of housing including homeowner associations and community developments. A commenter stated that housing cooperatives have shareholders of the corporation and follow certain laws and documents that are different from other housing types. One commenter stated that housing cooperatives should be able to continue their practice under the Occupancy Agreement and their by-laws. Commenters also stated that

owners/members in a housing cooperative are different from the relationship between tenants and for-profit corporations. Similarly, commenters stated that housing cooperative corporations are different from conventional apartments or rental properties, they are non-profit and do not use model leases.

A commenter requested HUD to exclude housing cooperatives explaining that they are unique since they are corporations owned by residents and the rule could compromise adequate enforcement. The commenter stated that when a resident does not meet their financial obligations to the corporation, the burden falls on the other residents and therefore it is important that boards of these corporations are able to adequately enforce collections of various fees. A commenter stated that non-paying members cause confusion and criminal activity in the community. Additionally, the commenter said that non-paying members manipulate courts and programs designed to assist those who have fallen on hard times. One commenter said the rule would be a burden on low-income housing properties explaining that once members are behind 30-days, they will be 60 days behind when receiving the 30-day notice. Another commenter explained that the funds housing cooperatives receive are important for healthy financial cash flow in order to protect member equity and provide appropriate capital reserve funding. The commenter stated that during the COVID pandemic there was abuse of the rent abatement program which caused legal proceedings to be prolonged and placed several below market interest rate cooperatives in tough financial positions and they are still trying to recover from.

One commenter stated that one of the reasons housing cooperatives should be exempt is because they have successfully paid off four HUD mortgages between 1965-1968. Additionally, the commenter stated that the rule would conflict with the cooperative's Articles of Incorporation which states that the corporation operates on a non-profit basis, that the monthly assessment only covers the actual operating costs, and that the Board makes financial decisions for the property and has the same interest in monthly low assessments.

Many commenters stated that the cooperative housing model should be exempt since the terms of the Occupancy Agreement provided by HUD states that collection procedures can be initiated after 5 to 10 days; however, legal proceedings normally begin around the 7th or 12th of the month and “if legal processing cannot (🗋 print page 101292) start until the end of the month, the non-profit cash flow and delinquencies will jeopardize HUD insured mortgages, or other blanket lending requirements.” One commenter stated that payment

requirements are setup so that cooperatives and landlords are able to pay their bills, employees, and vendors and these things still need to be paid when members or renters do not pay.

HUD Response: HUD clarifies in this rule that only housing cooperatives receiving Section 8 PBRA assistance are subject to this rule. HUD recognizes that housing cooperatives that receive Section 8 PBRA assistance have an unusual ownership structure that provides many benefits; however, that does not relieve them of the basic obligations that landlords hold, including the requirements from this rule. Additionally, in implementing this rule, HUD has taken a balanced approach to ensure housing providers are not overly burdened and tenants are given enough time to cure their nonpayment of rent.

CHANGES TO THE LEASE, NOTICE, AND RULE

A commenter asked HUD to provide a model notice with both English and Spanish and to provide clarification about "the date by which a tenant must pay to avoid the filing of an eviction." The commenter said that asking for a specific expiration date is concerning since some states like California calculate a cure date based on state laws which must be interpreted and therefore may be asking for legal advice. Additionally, the commenter asked HUD to clarify in the model lease that the model documents, sample language, and best practices are permissive and not mandatory. A commenter asked how to require leases to include information about how to contact HUD for disputes with PHAs to clarify rent calculations.

A commenter asked for HUD to not leave room for misinterpretation by stating in the rule "before an eviction can be filed." Another commenter said due diligence should be required "so that actual cost to this regulatory change would cost PHA's in terms of their operating losses at a national level." Additionally, a commenter said that the rule is very vague and suggested a 30-day restriction from the date which the rent was due instead of the date of initial filing.

A commenter also asked HUD to proactively oversee implementation of the rule and create a mechanism for tenants to report instances of non-compliance. The commenter noted that HUD could strengthen implementation of the rule by amending the model PHA lease, and the multifamily standard lease, to expressly state that a landlord's receipt of

Federal financial assistance waives the landlord's ability to utilize a rent deposit requirement under state law, to prevent a tenant from being heard on the defense that they did not receive the required notice pursuant to Federal law.

HUD Response: HUD acknowledges the commenters' request for more specificity in the final rule and associated documents (*i.e.,* model lease, notice), including providing model notices in English and in Spanish. HUD will draft and provide model notices and language (in English and Spanish) that PHAs and owners can include in their leases; however, HUD has determined that the term “model” is sufficient for PHAs and owners to understand that it is not mandatory. Based on the public comments regarding the clarification of dates, HUD is revising the rule to clarify that PHAs and owners must not provide tenants with a termination notice prior to the day after the rent is due according to the lease. The rule also clarifies that PHAs and owners must not proceed with filing a formal judicial eviction if the household pays the alleged amount of rent owed within the 30-day notification period. HUD also agrees to include recommended language: “before an eviction for nonpayment of rent can be filed” in 24 CFR 247.4 (https://www.ecfr.gov/current/title-24/section-247.4), 880.606 (https://www.ecfr.gov/current/title-24/section-880.606), 880.607 (https://www.ecfr.gov/current/title-24/section-880.607), 884.215 (https://www.ecfr.gov/current/title-24/section-884.215), 884.216 (https://www.ecfr.gov/current/title-24/section-884.216), 886.127 (https://www.ecfr.gov/current/title-24/section-886.127), 886.327 (https://www.ecfr.gov/current/title-24/section-886.327), 891.425 (https://www.ecfr.gov/current/title-24/section-891.425), and 966.4 (https://www.ecfr.gov/current/title-24/section-966.4).

CONTENT WITHIN THE 30-DAY NOTICES

Commenters supported the requirement that the notice include information on tenants' right to recertify income, apply for a minimum rent hardship exemption, request a change from flat rent to an income-based rent, tenants' right to request reasonable accommodations and a grievance or appeals hearing. Several commenters also stated that the notice should be required to include additional information and instructions on how to cure nonpayment of rent violations and avoid commencement of a formal judicial eviction proceeding. One commenter urged HUD to require that the notice include contact information for each of the areas. Another commenter suggested that the notice include information on how to restructure rent payments.

HUD Response: HUD appreciates the comments. The rule requires that the 30-day notice include instructions on how tenants can cure lease violations for nonpayment of rent; specifically, information on how much back rent and arrearages the tenant owes, information on how to pay that rent and any arrearages, and information specific to HUD programs on how to adjust rent owed if a tenant's situation has changed. The rule also requires that the 30-day notice include information on how tenants can recertify their income, and how tenants can request a minimum rent hardship exemption or request to switch from flat rent to income-based rent. In practice, a tenant cures a lease violation for non-payment by paying the back rent owed. These instructions will allow tenants to clearly understand how to take steps to avoid the termination of their lease—which in most cases allow tenants and housing providers to avoid an eviction. HUD believes that this is sufficient to ensure that tenants have the necessary information to cure any nonpayment issues and/or request hardship exemptions.

NOTICE CONTENT: REASONABLE ACCOMMODATIONS

Commenters urged HUD to require, rather than suggest, the notice include information on tenants' right to request reasonable accommodations and information of how to make that request including a point of contact. A commenter noted that providing information on reasonable accommodation procedures in the notice would help facilitate the accommodations and advance the proposed rule's goal of curtailing preventable and unnecessary evictions. Another commenter stated that reasonable accommodations should be provided for those who receive public benefits because some recipients receive their money after the first of the month and may not be able to afford late fees. Additionally, a commenter urged HUD to include an additional provision in amended 24 CFR 247.4(e) (https://www.ecfr.gov/current/title-24/section-247.4#p-247.4(e)), 880.607(c)(6) (https://www.ecfr.gov/current/title-24/section-880.607#p-880.607(c)(6)), 884.216(d) (https://www.ecfr.gov/current/title-24/section-884.216#p-884.216(d)), and 966.4(l)(3)(ii) (https://www.ecfr.gov/current/title-24/section-966.4#p-966.4(l)(3)(ii)) that mandates that owners and PHAs provide a clear reminder in the required 30-day notice to individuals with disabilities about their right to request reasonable accommodations under law. One commenter cited a 2022 HUD report by the Office of Inspector General recommending that HUD take additional steps to ensure tenants and PHAs are aware of their rights and responsibilities with regard to reasonable accommodation requests.[50] The commenter provided language to adopt in each relevant regulation. A (🗋 print page 101293)

commenter stated that HUD should provide housing providers with required—not just sample—notice language about reasonable accommodations similar to implementation of HUD Form 5380, Notice of Occupancy Rights under VAWA.

HUD Response: This final rule does not require that the 30-day notice include information on tenants' right to request a reasonable accommodation; however, HUD plans to provide guidance on reasonable accommodations that PHAs and owners can use to assist tenants. Additionally, HUD will not replace sample notice language with a required notice language similar to HUD Form 5380. Informing tenants of their right to reasonable accommodation is already an existing requirement and tenants are notified of their right at admission and annually. HUD will provide guidance and continue to encourage PHAs and owners to advise individuals of their right to request reasonable accommodations, include information on how individuals with disabilities can request reasonable accommodation, and include a point of contact for reasonable accommodation requests. As mentioned in the proposed rule, there are instances in which a tenant may be entitled to a reasonable accommodation in cases of non-payment of rent. For example, if a housing provider usually requires rent be paid on the 1st of the month, but a tenant receives disability-related government assistance later in the month, the housing provider may be required to accept a tenant's request to pay rent on this later date as a reasonable accommodation.[51]

NOTICE CONTENT: BALANCE INFORMATION

A commenter stated that the notice should be required to include an itemized description of the delinquent amount. Another commenter urged HUD to require the notice to specify the particular period for which the arrears are due, broken down specifically by month. The commenter noted that tenants' rent liability is not static and can vary significantly from month to month and therefore a monthly breakdown would allow tenants the opportunity to remedy any nonpayment by challenging or disputing their calculated rent share for a specific period.

One commenter noted that only 24 CFR 247.4 (https://www.ecfr.gov/current/title-24/section-247.4) requires that the notice state the balance amount but that the other regulations listed in the proposed rule do not require specific information about the rental amount due and when it was calculated. The commenter recommended amending 24 CFR 880.607 (https://www.ecfr.gov/current/title-24/section-880.607), 884.216

(https://www.ecfr.gov/current/title-24/section-884.216), and 966.4 (https://www.ecfr.gov/current/title-24/section-966.4), and any other relevant regulations, to include a similar specificity requirement for the other programs.

Several commenters stated that the final rule should state that "rent" owed does not include arrearages charges such as fines for late payments nor fees such as processing and attorney's fees, pet fees, insurance fees, and high-risk fees. A commenter noted that many landlords apply a tenant's monthly rental payment first to past late fees rather than the current rent due, thus increasing a tenant's rental arrearage and causing the total amount due to balloon rapidly. Commenters suggested that HUD clarify that the right to cure during the 30-day notice period only requires payment of rent excluding other fees or charges.

HUD Response: HUD agrees to have more specificity in the rule by amending 24 CFR 880.607 (https://www.ecfr.gov/current/title-24/section-880.607), 884.216 (https://www.ecfr.gov/current/title-24/section-884.216), and 966.4 (https://www.ecfr.gov/current/title-24/section-966.4), and any other relevant regulations, to require an itemized breakdown by month of the alleged rent owned by the tenant, along with any other arrearages allowed by HUD and included in the lease, and the date by which the tenant must pay the amount of rent owed before a formal judicial eviction can be filed.

NOTICE CONTENT: VIOLENCE AGAINST WOMEN ACT (VAWA)

A few commenters stated that the rule should require the notice to include information on tenants' rights under the VAWA. A commenter stated that there is a clear connection between domestic violence and nonpayment of rent and it is imperative for tenants and landlords to understand VAWA's protections. The commenter also stated that the notice and rule should make it clear that covered landlords will not evict if the nonpayment is the result of gender-based violence.

HUD Response: This rule does not change any notification requirements related to VAWA. HUD's regulations already require covered housing providers to provide the VAWA notice of rights and a self-certification form when tenants are admitted to programs, when there is an eviction and/or termination notice, and when there's a denial of assistance. Some providers include the notice at other junctures, such as with recertifications.

NOTICE CONTENT: INTERIM RECERTIFICATION AND HARDSHIP EXEMPTION

A few commenters also stated that each program's regulations should require PHAs and PBRA owners to use HUD-created plain language templates that inform tenants of their rights to an interim income recertification and hardship exemption. A commenter noted that general information on the annual recertification process may not be enough to appraise the tenant of their right to an immediate or retroactive rent reduction. One commenter noted that minimum rent hardship exemptions are severely underutilized and urged HUD to clarify how and when tenants should be informed of minimum rent hardship exemptions. The commenter urged HUD to require information on PHAs' hardship policies during admissions, at any recertification, in all termination notices and grievance documents, and in the PHA's planning documents. The commenter also urged HUD to require PHA planning documents to report on the number of minimum rent households, the number of hardship exemption requests, and the outcomes of those requests. Additionally, the commenter asked HUD to require owners and PHAs to explicitly state what may qualify a family for a hardship exemption in the notice. Another commenter stated that hardship exemption should allow for unexpected or serious medical issues and for those who experience a reduction in their benefits or employment.

Some commenters stated that any subsequent rent adjustment resulting from an interim recertification should be applied retroactively. A commenter stated that the notice should also be required to include information stating that PHAs and owners may not evict a household for non-payment during the 90-day period starting when the household requested the hardship exemption. (🗋 print page 101294)

HUD Response: In implementing the rule, HUD seeks to strike the appropriate balance that benefits tenants and minimizes burden for PHAs and owners as much as possible. The rule requires that the 30-day notice include instructions on how tenants can cure lease violations for nonpayment of rent. In practice, a tenant cures a lease violation for non-payment by paying the back rent owed. These instructions would allow tenants to clearly understand how to take steps to avoid the termination of their lease—which in most cases would then allow tenants and housing providers to avoid an eviction for nonpayment of rent. The rule also requires that the 30-day notice include information on how tenants can recertify their income, if applicable, and how tenants can request a minimum rent hardship exemption if applicable. HUD will determine what additional guidance may be helpful to further explain the recertification and hardship exemption processes.

NOTICE CONTENT: LEGAL AND RENTAL ASSISTANCE

Other commenters urged HUD to require the notice to include local nonprofit resources, agencies and organizations that can assist with finding new housing, financial assistance and low-cost law firms. The commenter stated that several major cities have already integrated nonprofits into their eviction proceedings with positive results and said Philadelphia is an example, which offers counseling and mediation to tenants and landlords during its eviction process.

Commenters stated that the notice should also be required to include information on local right to counsel laws, fair housing rights, and tenant rights. One commenter stated that this would be impactful for tenants and not an administrative burden to PHAs. A commenter noted that even though Maryland tenants have a right to counsel in these cases, there is no mechanism to ensure that termination notices apprise public housing or subsidized tenants of that right. Another commenter stated that HUD should provide sample language on this requirement for PHAs to include in their PHA plans.

A commenter asked HUD to include an additional provision in amended 24 CFR 247.4(e) (https://www.ecfr.gov/current/title-24/section-247.4#p-247.4(e)), 880.607(c)(6) (https://www.ecfr.gov/current/title-24/section-880.607#p-880.607(c)(6)), 884.216(d) (https://www.ecfr.gov/current/title-24/section-884.216#p-884.216(d)), and 966.4(l)(3)(ii) (https://www.ecfr.gov/current/title-24/section-966.4#p-966.4(l)(3)(ii)) that requires PHAs to provide a current list of local information that offers emergency financial assistance for back rent.

HUD Response: This final rule does not require that the 30-day notice contain information on other, non-Federal, legal and rental assistance resources. There are numerous organizations and programs that may be available to tenants, and it is impractical for HUD or housing providers to provide an exhaustive list of these resources. However, HUD encourages PHAs and owners, and sees it as beneficial to both parties, to share with tenants their knowledge of any rental assistance resources.

ACCESSIBILITY

Commenters stated that the information in the notice, lease amendments, and notification of lease changes should be provided in plain language. Commenters also suggested that each program regulation require the notice to be provided in an accessible format for individuals with disabilities and/or translated formats that provide meaningful access for people with limited English proficiency. A few commenters stated that the notice must be

translated into the language spoken by the tenants of a given assisted unit, and one commenter stated that backup oral interpretation should also be provided. Additionally, a commenter noted that some PHAs require translation of eviction notices and that eviction notices, and accompanying materials, largely consist of form documents that may be translated a single time for the benefit of entire language groups.

A commenter commended HUD for seeking to ensure that notice is issued by means interpretable by people with disabilities or LEP, such as electronically through screen readers, tactually through Braille, and in languages other than English. Another commenter urged HUD to not just include information in the preamble about language access, but to also include appropriate language in the regulations to ensure that vital documents are translated, and that backup oral interpretation is available. One commenter stated that the regulatory text must refer to the nondiscrimination requirements in title VI of the Civil Rights Act of 1964 and section 504 of the Rehabilitation Act of 1973.

A commenter recommended HUD review how the U.S. Department of Health and Human Services seeks to achieve effective communication for people with disabilities, as outlined in "NPPM Part 92, Nondiscrimination in Health Programs and Activities." The commenter recommended a list of additional ways housing providers can ensure their communications are accessible.

HUD Response: Under section 504 and HUD's section 504 regulations, and title II of the Americans with Disabilities Act (ADA) and implementing regulations, PHAs and owners have an obligation to take appropriate steps to ensure effective communication with individuals with disabilities. PHAs and owners are required to take appropriate steps that may be necessary to ensure that communications with individuals with disabilities are as effective as communications with individuals without disabilities. This includes the provision of appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, a program, service, or activity. This requirement applies to all materials, notices, and communications to tenants. PHAs and owners must give primary consideration to the auxiliary aids and services preferred by the individual with a disability. Additionally, PHAs, owners and managers must also continue to take reasonable steps to ensure meaningful access to their programs, services, and activities to individuals with LEP. The regulations

at 24 CFR part 5 (https://www.ecfr.gov/current/title-24/part-5), including the applicable civil rights requirements for language access and effective communication, apply even without a specific cross-reference to those protections in these regulations.

REPAYMENT AGREEMENTS

Several commenters stated that the final rule should require, rather than recommend, PHA and PBRA owners to enter into or include an offer to negotiate a reasonable rental repayment agreement. A commenter stated its concern that owners and PHAs may not universally comply with recommended best practices and urged HUD to require repayment plans. Another commenter stated that by giving landlords sole discretion to accept or reject repayment plans, HUD invites the risk that landlords will exercise this option in biased or even discriminatory ways against tenants. A commenter noted that under the proposed rule, owners may require the tenant to pay a lump sum to cure the back rent, which presents a significant cost burden to the lowest income households.

A commenter stated that 30 days is not sufficient for extremely low-income households to cure the amount of back rent owed. The commenter stated that requiring reasonable rental repayment agreements is in line with HUD's stated goal of reducing preventable evictions for non-payment of rent. A commenter noted that requiring repayment plans is (🗋 print page 101295) more cost-effective for housing providers because it will allow tenants to cure back rent rather than executing an eviction through the judicial system. One commenter pointed to the proposed rule's preamble as justification for required reasonable rental agreements. One commenter specifically requested HUD to amend the language in 24 CFR 247.4(e) (https://www.ecfr.gov/current/title-24/section-247.4#p-247.4(e)), 880.607(c)(6) (https://www.ecfr.gov/current/title-24/section-880.607#p-880.607(c)(6)), 884.216(d) (https://www.ecfr.gov/current/title-24/section-884.216#p-884.216(d)), and 966.4(l)(3)(ii) (https://www.ecfr.gov/current/title-24/section-966.4#p-966.4(l)(3)(ii)) to specify that owners may not require a lump sum payment alone, but rather enter a repayment plan or a combination of the two.

Several commenters urged HUD to create a model repayment plan document to provide to covered landlords. Commenters pointed to HUD's model repayment agreement for PHA-owned units and public housing found in PIH Notice 2018-28 as a model for what commenters stated should be included in this rule. Commenters stated that the repayment plan should be affordable meaning monthly repayment plus current rent does not exceed 40% of household income. The commenters stated that the model repayment

plan document should include the amount of rent owed (excluding arrearages charges, fines, and fees), the date the back rent is calculated, the amount to be paid each month broken down by back rent and current rent and which must not exceed 40% of the household's adjusted income, the period of the repayment plan, and a rent ledger. The commenters stated that the suggested model repayment plan must be renegotiated and restructured if the household's adjusted income decreases by 10% or more and the repayment plan must not require lump sum repayments.

Commenters stated that the repayment agreements must not require lump sum repayments. Another commenter stated that when a household demonstrates insufficient income the repayment plan should be free of additional arrearages, such a late fees, attorney's fees, or administrative fees and a PHA or owner should suspend the agreement for a set period of time in the household encounters difficulty making a payment and should establish quarterly check-ins during the suspension period. Additionally, a commenter provided language to include in the regulatory text. Another commenter stated that the model repayment plan should be in accordance with Federal civil rights law to ensure meaningful access so that those with limited English proficiency may enter into repayment agreements.

HUD Response: While this rule will not require repayment plans, HUD strongly encourages the use of repayment plans and reiterates that PHAs and owners have flexibility to design them to be reasonable. Repayment plans are just one way for tenants to cure their nonpayment of rent and this rule is focusing particularly on notification requirements. HUD plans to issue updated repayment agreement guidance in the future, and HUD plans for such guidance to incorporate the requirements of Federal civil rights laws, including outlining obligations to ensure meaningful access to those with LEP.

INTERACTION WITH STATE LAW

A commenter representing legal service providers in Florida said that Florida residents will not enjoy the protections of this rule. Florida State law requires tenants to pay past due rent into a court registry before the court will hear any defense other than payment. The commenter explained that a court will proceed with an eviction case even if the landlord's notice is defective if the tenant has not paid all past due rent into the registry. The commenter pointed to a case that arose while the CARES Act 30-day notice requirement was in place. In that case, the landlord gave a 10-day eviction notice to a Section 8 PBRA tenant. The tenant claimed the case should be dismissed for ineffective notice because

the CARES Act should preempt Florida law, but the court disagreed and the tenant was evicted. The commenter attached a HUD determination which stated that the Florida eviction process deprives tenants of due process.

The commenter urged HUD to clarify and strengthen the rule to ensure landlords cannot subvert it by using state eviction laws by adding language stating that landlords can take no action to evict a tenant before the 30-day notice expires. The commenter stated that the additional language should state that a landlord cannot take any action which would prevent a tenant from being heard on the defense that they did not receive the 30-day notice, or that the tenant must have the ability to be heard by a court and have the court adjudicate the merits of this defense. The commenter also urged HUD to include in the regulations that covered landlords are prohibited from using state eviction procedures to keep tenants from challenging the landlord's noncompliance with the regulations.

Commenters stated that the rule should clarify that tenants have the right to cure a nonpayment lease violation within 30 days of the termination notice. A commenter urged HUD to include language in the final rule (to 24 CFR parts 247 (https://www.ecfr.gov/current/title-24/part-247) (§ 247.4), 884 (§ 886.127), 891 (§ 891.425), and 966 (§ 966.4)) clarifying that tenants have 30 days to cure the nonpayment of rent before a landlord may terminate the lease and that the right to cure preempts any State law that provides less protection to tenants. The commenter stated that in Delaware there is no right of redemption nor a minimum arrears before landlords may seek possession, meaning tenants may still be evicted if they owe $1 or if they pay their full arrears after the 5-day statutory period, as long as landlords wait 30 days to file the eviction case. The commenter noted that the CARES Act language does not allow for 30 days to cure but only for 30 days to vacate and that some PHAs and landlord attorneys maintain that tenants only have the 5-day statutory period to pay the full arrears. The commenter noted that 5 days is insufficient time for tenants to seek rent assistance or negotiate a repayment plan. The commenter also stated that adding language to clarify that tenants have 30 days to cure and not just 30 days for notice of termination will avoid leaving it to state courts to determine HUD's intent and avoid different interpretations in different states.

Additionally, a commenter stated that Ohio does not have a right to redemption and landlords can pursue eviction even if tenants pay the full amount they owe. The commenter stated that landlords use this rule to pursue evictions against tenants they

deem problematic and pointed to research stating that owners use this method to evade bans on discriminatory and retaliatory evictions.[52] The commenter also urged HUD to clarify that landlords must accept payments for rental arrears.

Another commenter stated that the final rule should clarify that in non-payment cases, tenants have the full 30 days to cure the violation. The commenter noted that the rule does not clarify whether tenants have 30 days to vacate or cure. The commenter noted that the right to cure is especially important because not all state landlord-tenant schemes include a right to cure.

HUD Response: HUD has revised the rule to specify that a PHA or owner must not provide tenants with a termination notice before the day after the rent is due according to the lease. Also, a PHA or owner must not proceed with filing an eviction if the tenant pays (🗋 print page 101296) the alleged amount of rent owed within the 30-day notification period. Additionally, HUD revised the rule to specifically state that a 30-day notice must be given before a formal judicial eviction is filed.

The final rule is applicable to the specified HUD programs regardless of state or local law. HUD believes that the language in the rule clearly prohibits PHAs and owners from filing an eviction or taking other actions to remove the tenant participating in specified HUD programs without providing 30-day notice. If a PHA or owner prevents a tenant from receiving 30-day notice, the PHA and owner would not be in compliance with HUD regulations and would be subject to corrective action.

EVICTIONS BASED ON REASONS OTHER THAN NONPAYMENT

Commenters urged HUD to require 30-day notice for lease violations beyond nonpayment of rent. A commenter urged HUD to include in this rule causes of eviction that affect elderly adults beyond nonpayment of rent. Another commenter urged HUD to require 30-day notice for “material noncompliance with the lease or material failure to carry out obligations”. The commenter said that older tenants may face eviction because disability or infirmity prevents them from meeting lease obligations such as maintaining their unit in a clean condition. In such cases, tenants may be entitled to reasonable accommodation but need sufficient notice to seek assistance or cure potential lease violations.

Another commenter stated that the 30-day notice requirement should apply in all cases, especially where a tenant's breach does not involve criminal conduct or harm to others, such as failure to timely certify eligibility or report income changes, failure to pass household cleanliness inspection, possession of unauthorized pets, smoking on premises, and permitting unauthorized occupants to reside in the household. The commenter stated that giving tenants opportunities to correct these types of breaches would help tenants retain stable and affordable housing and save money for landlords by avoiding eviction costs. The commenter noted that some sources such as the Congressional Research Service and certain courts have interpreted the CARES Act to require 30-day notice for noncompliance as well as nonpayment. A commenter said that evictions premised on alleged lease violations often involve alleged program violations, including failure to recertify and the additional notice period can give tenants time to correct those violations and avoid an eviction filing.

A commenter said that the rule conflicts with the plain language of the CARES Act because it only focuses on nonpayment of rent. The commenter referred to 15 U.S.C. 9058(c) (https://www.govinfo.gov/link/uscode/15/9058) and said it prohibited covered dwellings from requiring tenants to "vacate the covered dwelling unit before the date on which the lessor provides the tenant with notice to vacate." The commenter cited *Arvada Village Gardens LP* v. *Garate,* 529 P.3d 105, 108 (Colo. 2023) and said that unlike the 120-moratorium, the provision did not expire in June of 2020. The commenter stated that the rule did not address the conflict in scope between the rule and the CARES Act, and the final rule should apply 15 U.S.C. 9058(c) (https://www.govinfo.gov/link/uscode/15/9058) to all evictions for all covered properties. If not, the commenter said the rule could cause improper and unpredictable evictions.

Additionally, a commenter stated that many HUD programs already require a 30-day notice to initiate "other good cause" evictions and that it is confusing for tenant and property managers that different types of eviction require different notice lengths. Another commenter, in opposition to the rule, suggested that the rule address situations where eviction is necessary due to violence or lease violations an urged HUD to state that lease violations that endanger tenants and staff are not protected by nonpayment status.

HUD Response: HUD appreciates these comments. Comments that go beyond evictions for nonpayment of rent are outside of the scope of this rulemaking, but HUD will consider these suggestions for the future.

LONGER NOTICE PERIOD

Some commenters noted their support for a longer notice period of 60 or 90 days to provide more time for tenants to apply for assistance, resolve tenancy issues, earn additional funds, or find alternative housing. A commenter noted that the notices period would ideally be 45-60 days because those with disabilities and seniors need more time to find affordable housing. Another commenter said a longer notice period is critical for older adults who need more time to manage and navigate issues.

A commenter stated that the rule should be extended to 60 days because uniform, longer notice periods support housing stability and reduce preventable evictions and would guarantee that tenants have time to rally additional resources to prevent an eviction filing. Another commenter noted that since a tenant's rent in HUD-subsidized housing depends on their income, the amount should, by definition, never be unaffordable for the tenant and tenants often just need time to meet with their property manager to file an Interim Recertification which addresses new life circumstances such as job loss, increase in medical expenses, sudden disability, or a reduction in household size. The commenter said that the interim recertification process can be time intensive because tenants need to gather and transmit documentation which requires access to technology, coordination with family, caregivers, and advocates, and many in-person trips to employment, benefits, or property management officers all of which may be more difficult for tenants who are elderly, disabled, or have limited English proficiency.

The commenter also stated that property managers are responsible for overseeing hundreds of recertifications and require several weeks to finalize paperwork, return it to the tenant for signature, formally adjust the rent internally, and provide the tenant with an updated and corrected rent breakdown. The commenter noted that it is similarly time consuming to apply for grant and loan programs that cover arrears, and it may take weeks for funds to be approved and disbursed. The commenter said the 60-day period is critical for tenants to request and obtain rent adjustments and apply for and obtain rent arrears assistance.

Additionally, the commenter stated that 60-day notice is vital for tenants to navigate the eviction process including seeking legal advice or representation, preparing to take time off work for court appearances, arranging childcare, mobilizing family members accompany them to court, filing accommodation requests with the court, or requesting court translators.

HUD Response: HUD appreciates the commenters' feedback to have a longer notice period; however, HUD maintains that 30 days is a sufficient amount of time for tenants to cure their nonpayment of rent violations while ensuring PHAs and owners can operate effectively. HUD considered several alternatives to the 30-day time period and ultimately decided that a 30-day notice period best balances both tenants' interests and PHAs' and owners' reliance in administering their programs.

EMERGENCIES

A commenter noted the rule's provision instructing the Secretary to tailor requirements and guidance in (🗋 print page 101297) response to presidentially declared national emergencies and stated that the provision should also apply to presidentially declared disasters. One commenter provided model language to include in the regulation and urged HUD to track the language in the Robert T. Stafford Disaster Relief and Emergency Assistance Act (“Stafford Act”), 42 U.S.C. 5121 (https://www.govinfo.gov/link/uscode/42/5121), which provides language for natural and environmental disasters which are more likely to impact HUD tenants.

Another commenter asked HUD to remove the language in amended 24 CFR 247.4(e) (https://www.ecfr.gov/current/title-24/section-247.4#p-247.4(e)), 880.607(c)(6) (https://www.ecfr.gov/current/title-24/section-880.607#p-880.607(c)(6)), 884.216(d) (https://www.ecfr.gov/current/title-24/section-884.216#p-884.216(d)), and 966.4(l)(3)(ii) (https://www.ecfr.gov/current/title-24/section-966.4#p-966.4(l)(3)(ii)) that only allows information to be listed by the Secretary in the event of a Presidential declaration of a national emergency and asked that the Secretary's power not be limited to the specific circumstances of a Presidential declaration of a national emergency. Commenters also noted that the tenant eviction protections should go into effect when a governor issues a disaster declaration. A commenter noted that the time between when a governor requests the President to declare a Presidentially Declared Disaster and when the disaster occurs can vary widely.

A commenter noted that the proposed rule gives the Secretary discretion to determine whether PHAs would be required to notify tenants of Federal rental assistance. The commenter stated that many local communities also have rental assistance. Several commenters stated that the final rule should require the notice to include information on any available state, local, or charitable rental assistance programs, anti-eviction resources, and local legal services.

One commenter said the proposed rule removed a requirement that was in the interim final rule that PHAs and owners notify tenants of available Federal emergency rental assistance funds. The commenter asked that the final rule include a provision in amended 24 CFR 247.4(e) (https://www.ecfr.gov/current/title-24/section-247.4#p-247.4(e)), 880.607(c)(6) (https://www.ecfr.gov/current/title-24/section-880.607#p-880.607(c)(6)), 884.216(d) (https://www.ecfr.gov/current/title-24/section-884.216#p-884.216(d)), and 966.4(l)(3)(ii) (https://www.ecfr.gov/current/title-24/section-966.4#p-966.4(l)(3)(ii)) that requires PHAs to provide a current list of local information that offers emergency financial assistance to the tenant to cure the back rent in addition to any additional information deemed necessary by the Secretary. The commenter noted that this would give tenants time to seek rental assistance and would promote coordination and resource sharing between PHAs and local social service agencies which would benefit renters in PHA programs outside the scope of this rule.

HUD Response: Unlike the interim final rule, this rule provides critical protections to tenants irrespective of the existence of a national emergency. This provides more predictability for tenants to receive adequate notice to address rents they owe and less confusion for PHAs and owners when implementing the rule. In crafting this rule, HUD sought to create greater flexibility to require PHAs and owners to provide information to tenants, as determined by the Secretary, that is both relevant and tailored to the circumstances of a national emergency. At this time HUD will not require PHAs and owners to provide specific information to tenants in the event of a presidentially declared emergency, but provides flexibility in this rule for HUD to require information that can meet the needs of a specific national emergency.

IMPLEMENTATION

A few commenters stated their support for incorporating this rule into the model lease. A commenter noted that the process of amending leases will take almost 18 months and recommended that HUD specify the final rule's notice requirements becomes binding on PHAs and owners on the effective date of the rule, not when leases are finally amended. The commenter stated that this approach will avoid confusion and address tenants' urgent need for the additional notice time.

A commenter stated that the implementation timeline is longer than necessary considering that owners and PHAs have already had to comply with the 30-day notice requirement in the interim final rule. The commenter asked that HUD shorten the time

period for compliance to maximize protections under the rule and asked that the 30-day notice go into effect immediately regardless of explicit changes in leases. Another commenter noted its concern for the preventable evictions that might take place before this final rule is finalized, and during the 18 months provided for PHA compliance and 26 months for PBRA compliance. The commenter urged HUD to expedite the implementation of the final rule and questioned the necessity of so much time for PHAs to revise leases or for HUD's Office of Multifamily Housing Programs to devise a model lease for PBRA programs. A commenter noted that HUD's proposal to provide PHA's with 18 months to comply with the rule makes the rule far more feasible.

Additionally, a commenter recommended that HUD clarify its process for ensuring compliance with the final rule and the actions HUD will take in the event of noncompliance. The commenter recommended HUD update its existing oversight systems or assessing compliance through a random pull of tenant files, similar to what HUD will undertake for assessing VAWA compliance. Another commenter asked HUD to proactively oversee implementation of the rule and create a mechanism for tenants to report instances of non-compliance. The commenter noted that HUD could strengthen implementation of the rule by amending the model PHA lease and the multifamily standard lease to expressly state that a landlord's receipt of Federal financial assistance waives the landlord's ability to utilize a rent deposit requirement under state law to prevent a tenant from being heard on the defense that they did not receive the required notice pursuant to Federal law.

One commenter urged HUD to add language to the rule noting that the HUD Occupancy Handbook 4350.3 and PHA Admissions and Continued Occupancy (ACOP) Policies will be updated to reflect this rule. The commenter stated that the Franklin County Municipal Court routinely looks to the HUD Handbook as the proper interpretation of HUD regulations and if it is not updated to reflect the rule, the court could be misled as to the notice requirements on any given eviction case. The commenter also noted that public housing authorities are governed by their ACOPs which should be updated to ensure clarity and consistency by all PHAs and that PHA employees are informed as to their obligations when pursuing allegations related to nonpayment by a tenant.

Additionally, a commenter urged HUD to collect data on evictions and race, ethnicity, age, income, and other factors and urged HUD to amend the proposed rule to require reporting to HUD of the non-payment evictions that are initiated among participants of the housing

programs covered by the rule. A commenter urged HUD to specify the delivery method for the 30-day notice to be through an accessible means to the tenants and through certified mail with a receipt, hand delivered to a household member above the age of 16 with tenant acknowledgement of the delivery. Another commenter recommended HUD provide guidance and technical assistance to PHAs and owners by providing model language which will be especially important given that there may be concurrent changes due to the HOTMA regulations and PBRA model lease changes.

HUD Response: HUD understands that it will take time for PHAs and owners to incorporate the 30-day notice requirement into leases and to provide notification that the leases will be modified. Accordingly, HUD believes (🗋 print page 101298) that providing PHAs with an additional 18 months after the rule becomes effective to comply with the requirement that the lease contain a provision or addendum incorporating the 30-day notice requirement is an appropriate timeframe. Since HUD will issue model leases for PBRA programs, this rule will provide PBRA owners with 14 months from the date that HUD publishes a final model lease that complies with the rule to comply with the requirement to update the lease. HUD plans to issue model leases within a year of the effective date of this rule. HUD will also issue a **Federal Register** document to advise the public once the new model leases are available.

Requiring immediate compliance with the final rule's provisions to update the lease will potentially result in incomplete, or otherwise unsuccessful implementation since PHAs and PBRA owners will not have adequate time to modify their policies or systems. Thus, the final rule allows PHAs 18 months from the effective date of the rule and PBRA owners 14 months from the issue of model leases to comply. Additionally, as previously mentioned, 24 CFR part 5 (https://www.ecfr.gov/current/title-24/part-5) and the applicable civil rights requirements for language access and effective communication apply even without a specific cross-reference to those protections in these regulations.

INCLUSION OF OTHER HUD PROGRAMS

Many commenters urged HUD to include additional HUD programs in the final rule. Commenters also stated their support for including additional HUD programs because it would create a more uniform and consistent policy. A commenter stated that the lack of uniformity in the interim final rule has shown the need for consistency in all HUD housing programs. One commenter noted that HUD has conflicting policies given its emphasis on converting from public housing to Project Based Vouchers (PBVs) via Rental Assistance

Demonstration (RAD) and section 18 demolition/disposition while highlighting protections in the public housing sphere. The commenter noted that this conflict signals competing priorities to PHAs and owners.

A few commenters noted the confusion that tenants, courts, advocates, and property managers face in determining which subsidy a tenant holds and which notice rules apply, and that a uniform requirement would be easier for everyone to understand. One commenter noted that making the 30-day notice requirement applicable to all HUD programs will allow tenants to easily understand the notice they are entitled to and whether the notice of termination they received is proper. A commenter noted that it is not uncommon for the tenants it works with to not know what type of HUD subsidy they receive and thus what type of notice they are entitled to. The commenter noted that courts and advocates are slowed during the eviction process because they need to review recertification paperwork to determine if the eviction was properly brought. One commenter noted that advocates will be able to broadly advertise tenants' right to the thirty-day notice period.

The commenter also noted that property managers oversee multiple properties, each with a different subsidy type, and are likely to make mistakes if different subsidies have different notice requirements. Another commenter noted that inclusion of additional programs will benefit landlords because the 30-day notice will make it more likely that a household will pay their arrears and less likely that the landlord will resort to costly eviction proceedings. The commenter stated that in Illinois, landlords pay filing fees, service fees, and attorney fees as well as costs associated with preparing the unit for another tenant. The commenter also noted that landlords continue to receive their Housing Assistance Payment from HUD even when tenants fall behind on their portion of the rent.

Commenters stated that the same factors cited by HUD as driving the need for the proposed rule for PBRA and public housing properties apply to other HUD-governed subsidy types, including HCV, PBV, and RAD. Commenters also noted that tenants would benefit from 30-day notice regardless of their subsidy type. One commenter gave examples of RAD tenants being able to submit interim recertifications and section 8 HCV tenants being able to submit a change in income to recalculate their rent or apply for a hardship exemption. The commenter also stated that any tenant can negotiate a repayment plan and the 30-day notice will give tenants time to do that, regardless of their

HUD subsidy. Additionally, a commenter said that the negative impacts of eviction affect households with HCVs and PBVs in the same way evictions affect households in public housing. The commenter stated that whether this rule protects a family may be the difference between stability with their voucher or eviction and subsequent loss of their subsidy.

Several commenters stated that the CARES Act's 30-day notice provision applies to all HUD-governed subsidy types so including those same programs in this rule will place zero or minimal additional burden on housing providers. A commenter said that the CARES Act applies to voucher programs, and for LIHTC properties or properties with a federally-backed mortgage and that a 30-day notice is also required where there is housing assistance through the HOME Investment Partnership Program. Another commenter stated that any additional requirements are not onerous especially in light of the potential benefits.

INCLUSION OF OTHER HUD PROGRAMS: VOUCHERS

Some commenters said that 30 days is not enough time and that the rule should be extended to the Housing Choice Voucher program. Another commenter said that the rule should be comprehensive and cover private properties, and all notices should allow for at least 60-90 days for full process.

Many commenters urged HUD to include HCVs and PBVs in the final rule. One commenter stated that excluding certain HUD subsidies sets a dangerous precedent that voucher holders deserve a lower standard of protection. One commenter noted that excluding HCV programs from this rule creates the very regulatory inconsistencies that the rule seeks to address and inappropriately sets a lower standard of protection for HCV renters. One commenter stated that not including HCVs in this rule subverts tenants' rights to request a reexamination to adjust their subsidy because the newly calculated rent share is not effective until 30 days after the date of reported change and in Texas the notice period is only 3 days. The commenter noted that in Delaware and nationally there are substantially more voucher holders than public housing or PBRA units and the impact of excluding vouchers would be substantial. One commenter stated that if HCV and PBRA tenants are not included in this rule's protections, families with the lowest income will face homelessness at much higher rates, especially in Illinois where the eviction docket is rapid and tenants have very little time before an eviction trial, leading to preventable evictions.

One commenter noted that landlords cannot file an eviction against voucher tenants while a PHA is considering a rent adjustment request, and a 30-day notice would help tenants maximize their opportunity to pay the rent they owe.

Commenters noted that HUD has authority to include HCV and PBV programs in the rule and one commenter pointed HUD's general rulemaking authority and Secretary's authority to regulation good cause for (🗋 print page 101299) eviction and lease terms as support. Another commenter said that the rule should be comprehensive and cover private properties, and all notices should allow for at least 60-90 days for full process. One commenter noted that voucher landlords should be familiar with the practice of satisfying notice requirements that may not otherwise obligate private landlords because they have demonstrated this before as with the VAWA requirements which voucher landlords have had to comply with for longer than private landlords.

A commenter stated that HUD should consider a separate rulemaking process to require a 30-day notice for HCVs and PBVs because it would similarly curtail preventable and unnecessary evictions. One commenter stated that if HUD does not include the voucher programs in the final rule, it should undertake aggressive outreach to voucher landlords educating them about their obligation to provide tenants with a 30-day notice under the CARES Act.

HUD Response: HUD is responding to the two sections above. This rule focuses on public housing and project-based rental assistance. Expanding the rule beyond this could harm landlord recruitment or participation for the Housing Choice Voucher Program, and it will be difficult to disseminate and enforce due to established state and local laws governing private market tenant-landlord lease agreements. HUD recognizes the unique challenges of the Housing Choice Voucher program with landlord participation decreasing over the years due to various reasons. HUD notes that there is no requirement in the proposed rule that PHAs and owners must include notification of available emergency rental assistance funds. Rather this final rule would provide the flexibility to the Secretary to require this information, or other information, depending on the circumstances of a given national emergency.

At this time, HUD is not considering future rulemaking regarding a 30-day notice requirement for other HUD programs, including HCVs and PBVs, but will issue rulemaking for public comment if HUD decides to include these programs in the future. In regard to

outreach for the 30-day notice CARES Act requirement, HUD has previously issued guidance for CARES Act implementation for PHAs.[53] Additionally, unlike section 202/811 owners, PBV owners do not recertify tenant income, nor would they necessarily know or have information on how a tenant can apply for a hardship exemption pursuant to 24 CFR 5.630(b) (https://www.ecfr.gov/current/title-24/section-5.630#p-5.630(b)), which is required to be explained in the notice. PHAs, not owners, are responsible for ensuring PBV families understand when and how to request interim income recertifications.

INCLUSION OF OTHER HUD PROGRAMS: RAD AND LIHTC

Several commenters stated that RAD should be included in this rule. A commenter stated that excluding RAD from this rule is particularly problematic because it gives former public housing tenants different protections depending on whether their public housing is converted to PBRA or PBVs. The commenter also said that giving different protections based on the property's subsidy type is arbitrary, fundamentally unfair, and contrary to the RAD statutory mandate that all former public housing tenants shall, at a minimum, maintain the same rights that they had prior to the RAD conversion. One commenter stated that excluding RAD programs contradicts HUD's commitment to provide uniform, fair and equitable due process treatment of persons displaced from federally assisted or funded projects.

One commenter noted that if HUD chooses not to broadly include voucher tenants, HUD should take steps to ensure that all former public housing tenants get the benefit of the 30-day notice requirement and that future RAD-converted public housing tenants, at minimum retain all their prior existing rights applicable to public housing, including the 30-day notice.

LIHTC

Another commenter noted that this rule does not include housing built under the LIHTC, private properties being rented by section 8 HCV holders or HUD-Veterans Affairs Supportive Housing (HUD-VASH) recipients, housing financed with federally back mortgage loans, or a number of other recognized forms of federally subsidized housing. The commenter noted that LIHTC is one of the fastest-growing forms of subsidized housing, and often lacks the protections afforded to public housing or section 8 properties. The commenter cited a report that 58% of extremely low-income renters in LIHTC properties who do not receive other rental assistance are severely cost-burdened

and spend more than half their income on rent. The commenter said that for those families, an eviction makes it nearly impossible to find housing and all but ensures an extended period of homelessness.

HUD Response: The requirements for properties converting under RAD are established in the RAD Implementation Notice (see PIH 2019-23/H2019-09 as revised by H-2023-08/PIH 2023-19). Since its inception, RAD sought to continue and in some cases expand on the fundamental public housing rights that residents received under sections 6 and 9 of the U.S. Housing Act and 24 CFR part 964 (https://www.ecfr.gov/current/title-24/part-964). To this end, public housing properties converted under RAD to either PBV or PBRA have always been required under the RAD Notice to provide residents not less than 14 days' notice in the case of non-payment of rent, reflecting the requirement under the public housing program. Following the publication of this rule, HUD will amend the RAD Notice to reflect the change that this rule is making for all PBRA properties and to address the requirements related to RAD PBV conversions. HUD does not have jurisdiction to establish rules governing properties supported under Treasury's Low Income Housing Tax Credit Program.

ADDITIONAL SUPPORT AND REMEDIES

Commenters stated that the rule would inflict harm on tenants and PHAs “without addressing the underfunding crisis, rising insurance costs, and persistent rent arrears.” Commenters encouraged HUD to provide additional resources to PHAs and tenants to address these issues by (1) allowing PHAs to request a general waiver for the 30-day notice requirement for good cause; (2) providing an automatic waiver for compliance with the rule to PHAs that already have robust tenant protections and comparable notice requirements already in place; (3) creating waivers or carve-outs for PHAs from all metrics and scoring that are negatively affected by arrears and unit turnovers, including PHA scores; (4) amending TARs scoring metrics so rent arrears with repayment agreements or settlement agreements under negotiation will not be counted against PHAs accounts receivable total, and settlement agreements for rent arrears are credited to the PHA's accounts receivable for the full amount due, regardless of whether the settlement was for a less amount; (5) providing PHAs with additional funding to address the administrative burden created by the rule, and provide ERAP funds to assist tenants in repaying accrued rent arrears; (6) supporting the training and oversight of third-party owners and

management companies by providing technical assistance and other resources and; (7) granting PHAs the authority to forgive rent arrears or use Federal funds to address rent shortfalls; (print page 101300) (8) providing more resources to support legal aid.[54]

Additionally, a commenter said further changes should be considered to either raise or eliminate the threshold for grading based on the amount of tenant accounts receivable. A commenter recommended that HUD incorporate local nonprofit resources into the rule because there is not great awareness of these social programs which can best protect tenants from losing housing. Another commenter said HUD should require housing providers to offer options for repayment and information on where tenants can get financial assistance.

Several commenters stated that the rule should prominently and clearly state that the CARES Act 30-day notice is still in effect for covered programs such as vouchers, LIHTC, Housing Opportunities for Persons With AIDS, Housing Trust Fund, McKinney-Vento homeless programs. A few commenters stated that clarifying the CARES Act requirement is crucial because there are many owners and judges that are not aware the requirement is still in effect or do not enforce the rule.

A few commenters stated that HUD should limit the housing provider's ability to file an eviction while the tenant is engaged in a process to resolve the nonpayment such as an emergency rental assistance application or an interim recertification. One commenter pointed to HUD Handbook 4350.3 as precedent for this type of action which prevents owners from evicting tenants where the owner decides to delay processing a tenant's interim recertification request.

A commenter stated that when a resident has a rent assistance application pending or a change in income or housing composition pending then the 30-day notice period should be tolled until the determination of eligibility for assistance has been completed or only sent when the rent adjustment determination is complete and provided to the resident. The commenter stated that PHAs and PBRA owners should be required to cooperate with rent assistance programs in the application process and to accept rent assistance funds. One commenter stated that a landlord should not be able to file an eviction action while an application for rental assistance, interim recertification, or hardship exemption is processing.

One commenter urged HUD to incorporate language from the preamble about civil rights law into the regulations. The commenter noted PHAs and owner's compliance with civil rights law is irregular and stated that incorporating the laws' requirements into the regulations will aid compliance. The commenter noted that landlords can avoid tenants' civil rights assertions by filing or threatening an eviction case. The commenter also urged HUD to provide strong guidance to help housing providers understand the connection between nonpayment cases and potential abuse and to evaluate nonpayment cases for potential abuse of civil rights.

Another commenter urged HUD to clarify in the final rule that all Moving-to-Work agencies and the housing they own, operate, manage, and administer are subject to the final rule. The commenter also urged HUD to include preamble language such as reminders, suggestions, and recommendations into the regulatory language of the rule. Additionally, a commenter recommended that HUD ensure that only signatories of the lease are named in the lease termination notice and subsequent court papers.

HUD Response: It is not feasible for HUD to provide a list of all additional resources that could be included for tenants, PHAs, and PBRA owners. In addition, HUD believes that this would be inappropriate and may cause unintended consequences. For example, if HUD were to provide a list that was not comprehensive, some may limit their search to what HUD has provided and might miss other resources that would be helpful to them. In regard to waivers and arrearages, PHAs and owners may request waivers of regulations pursuant to 24 CFR 5.110 (https://www.ecfr.gov/current/title-24/section-5.110), but PHAs do have the authority to forgive rent arrears, and this final rule does not limit PHAs discretion in that regard. Additionally, HUD notes that civil rights protections for tenants apply when an eviction case is filed or threatened, and HUD's Office of Fair Housing and Equal Opportunity investigates cases where eviction proceedings due to nonpayment of rent are filed in a way that violates a tenants' fair housing rights. Further, HUD acknowledges the commenter's suggestion regarding guidance for nonpayment cases and potential abuse and will consider issuing such guidance in the future.

For similar reasons stated above, this rule does not require PHAs or owners to provide tenants with specific notice or information about local nonprofit resources, but HUD encourages PHAs and owners to provide tenants facing eviction for nonpayment of rent with information regarding rental assistance resources. HUD also encourages interested legal aid organizations to work with tenants, PHAs, and owners to inform them of local

resources. HUD declines to extend the notification period as this rulemaking strikes an appropriate balance between establishing a 30-day period to provide tenants time to actively apply for rental assistance and not overly burdening the PHA and owner. HUD emphasizes that any attempt to apply or obtain other financial assistance should be incorporated into a repayment plan agreed upon by the tenant and the PHA or landlord. Additionally, HUD expects PHAs and owners to be aware of pending recertifications or hardship exemptions.

As discussed in the proposed rule, the CARES Act 30-day notice to vacate requirement for nonpayment of rent, in section 4024(c)(1), is still in effect for all CARES Act covered properties. However, this final rule has no implication on the CARES Act. Similarly, this rule differs from the CARES Act in applicability and requirements. Furthermore, in response to commenters on Moving-to-Work agencies, HUD emphasizes that all Moving-to-Work agencies are subject to this rule. Additionally, all PHAs and owners must ensure that only the signatories of the lease are named in the 30-day notification, any lease termination notices, and subsequent court documents.

D. Alternative Solutions and Issues To Address

Commenters suggested that HUD explore alternative solutions to address issues without creating burdens for tenants and housing providers. A commenter stated that instead of a 30-day notice requirement there should be a collaborative effort to explore alternative solutions that address the significant delays in obtaining court dates and judgments. The commenter encourages HUD to address the root cause of the delays by streamlining and expediting the legal process to ensure more timely resolutions for tenants, alleviate financial strain on owners and agencies, and support the community during challenging times.

Commenters stated that there has been a significant increase in tenants burdened by rent which leads to a greater risk of eviction, but HUD should revisit rent policies “such as the level of (🗋 print page 101301) tenant rent contributions which these programs now require. A commenter in support of the rule, said there are other issues that should be addressed such as the rising cost of rent, housing shortages, and the “history of disinvestment in rental assistance programs that would alleviate the number of households and landlords who are impacted by this rule change.”

Additionally, a commenter urged HUD to allow housing providers to charge tenants who vacate the property without a 30-day notice. A commenter stated, "this is a very intricate area that needs further investigations with details that should be honest with input from all levels of rentals (*i.e.* seniors over 80 plus and federal department of labor compensation injured seniors living on income below the poverty level)." Another commenter said that landlords should receive assistance to pay mortgages when a tenant fails to pay rent. Additionally, a commenter said that HUD should recommend, not require, that housing providers issue a 30-day notice when a requirement would exceed state or local law.

A commenter stated that HUD should work with other Federal agencies and state and local leaders to (1) align eviction proceedings and improve consistency across all rental housing; (2) improve data collection and "advance respect for tenant and landlord rights and responsibilities across the laws, rules, and practices of the many overlapping applicable jurisdictions;" (3) provide information on best practices taken from eviction prevention initiatives and policies; (4) provide more operational resources and financial flexibilities to housing providers; and (5) use existing civil rights laws to address any disparate impacts in eviction practices.

HUD Response: HUD appreciates the comments and has explored other alternatives; however, HUD has found that a 30-day notice best balances the interests of tenants, PHAs, and owners. HUD has considered the perspectives of stakeholders and subject matter experts in drafting this rule. HUD also routinely hears from and carefully considers the perspectives of PHAs and owners, and the multiple associations that represent those PHAs and owners. Additionally, HUD has solicited the perspectives of tenants in HUD-subsidized housing and the perspectives of people who provide support and legal representation to those tenants. HUD has conducted listening sessions with tenants who reside in HUD-subsidized housing and also consulted with non-profit legal service providers who represent subsidized tenants in eviction proceedings and other eviction prevention actions. In addition, HUD has considered the perspectives of scholars and legal experts who study eviction prevention and has reviewed key decisions related to evictions made by state courts. HUD understands that there are other issues that may affect tenants, but this rule focuses on preventing unnecessary eviction filings and evictions for nonpayment of rent violations.

Furthermore, recommending instead of requiring PHAs and owners to provide a 30-day notice would go against HUD's intent to remain consistent with the longest of the standard periods to which PHAs and owners are already accustomed to for many evictions. HUD also disagrees that tenants should be charged for vacating a property without 30-day notice. Charging tenants could lead to further issues for tenants and housing providers and further frustrate HUD's programmatic efficiency. Additionally, HUD does not have control over the judicial system in order to streamline the judicial process, but giving tenants additional time to cure a nonpayment of rent violation will help to reduce eviction filings and evictions for nonpayment of rent.

V. Findings and Certifications

Regulatory Review—Executive Orders 12866, 13563, and 14094

Under Executive Order 12866 (/executive-order/12866) (Regulatory Planning and Review), a determination must be made whether a regulatory action is significant and, therefore, subject to review by the Office of Management and Budget (OMB) in accordance with the requirements of the order. Executive Order 13563 (/executive-order/13563) (Improving Regulations and Regulatory Review) directs executive agencies to analyze regulations that are "outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned." Executive Order 13563 (/executive-order/13563) also directs that, where relevant, feasible, and consistent with regulatory objectives, and to the extent permitted by law, agencies are to identify and consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public. Executive Order 14094 (/executive-order/14094) (Modernizing Regulatory Review) amends section 3(f) of Executive Order 12866 (/executive-order/12866) (Regulatory Planning and Review), among other things.

The rule revises 24 CFR parts 247 (https://www.ecfr.gov/current/title-24/part-247), 880 (https://www.ecfr.gov/current/title-24/part-880), 884 (https://www.ecfr.gov/current/title-24/part-884), 886 (https://www.ecfr.gov/current/title-24/part-886), 891 (https://www.ecfr.gov/current/title-24/part-891), and 966 (https://www.ecfr.gov/current/title-24/part-966) to update HUD's regulation to curtail preventable and unnecessary eviction filings and evictions by providing tenants time and information to help cure nonpayment violations. This rule also improves HUD's programmatic efficiency by ensuring resources are not diverted to cover the costs of unnecessary evictions and by preventing homelessness. This rule was determined to be a

"significant regulatory action" as defined in section 3(f) of the order. HUD has prepared a regulatory impact analysis and has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action and has determined that the benefits will justify the costs. The analysis is available at *regulations.gov* and is part of the docket file for this rule.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4 (https://www.govinfo.gov/link/plaw/104/public/4); approved March 22, 1995) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on state, local, and Tribal governments, and on the private sector. This rule does not impose any Federal mandates on any state, local, or Tribal governments, or on the private sector, within the meaning of the UMRA.

Environmental Review

A Finding of No Significant Impact (FONSI) with respect to the environment was made for the proposed rule in accordance with HUD regulations at 24 CFR part 50 (https://www.ecfr.gov/current/title-24/part-50), which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C) (https://www.govinfo.gov/link/uscode/42/4332)). The previous FONSI remains applicable to the final rule.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 (https://www.govinfo.gov/link/uscode/5/601) *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule does not have a significant economic impact on a substantial number of small entities. HUD anticipates that there will be minimal costs for this rule since PHAs and owners are already required to comply with the CARES Act 30-day notice to vacate requirement for nonpayment of rent in section 4024(c)(1). Additionally, the paperwork burden and compliance costs for PHAs and owners will be minimal since HUD already requires written notice for nonpayment of rent and will provide the information that PHAs and owners need to meet requirements (see burden costs estimates below for more information). (🗋 print page 101302)

HUD estimates the number of small entities for PHAs as 2,099. At this time, HUD is unable to provide an accurate estimate of small PBRA owners because we do not always know whether there is a corporate structure behind an individual owner. As noted in the Regulatory Impact Analysis for this final rule, the added cost of sharing information as required by this rule is minimal since PHAs and owners already have to provide written notice before taking adverse action for nonpayment of rent. The burden of developing the content of the notice will be minimal since HUD will supply the information that providers will have to give to tenants. The PRA burden for small entities to update notices and leases will be the same as for larger ones or approximately, $152.70 for each PHA, and $186.96 for each PBRA owner (see Exhibit 4 in this rule's Regulatory Impact Analysis for more details). As noted above, we do not have an accurate number of small PBRA owners, and we estimate the number of small PHAs as 2,099.

Therefore, the undersigned certifies that the rule does not have a significant economic impact on a substantial number of small entities.

Congressional Review Act

Pursuant to Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (codified at 5 U.S.C. 801-808 (https://www.govinfo.gov/link/uscode/5/801)), also known as the Congressional Review Act or CRA, the Office of Information and Regulatory Affairs has determined that this rule does not meet the criteria set forth in 5 U.S.C. 804(2) (https://www.govinfo.gov/link/uscode/5/804).

Executive Order 13132 (/executive-order/13132), Federalism

Executive Order 13132 (/executive-order/13132) (entitled “Federalism”) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on state and local governments or is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. This rule does not have federalism implications and will not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive order.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520 (https://www.govinfo.gov/link/uscode/44/3501)), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number. The information collection requirements contained in this rule have been submitted to OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520 (https://www.govinfo.gov/link/uscode/44/3501)) and assigned OMB control numbers 2577-0006 and 2502-0178.

List of Subjects

24 CFR Part 247 (https://www.ecfr.gov/current/title-24/part-247)

- Grant programs—housing and community development
- Loan programs—housing and community development
- Low and moderate income housing
- Rent subsidies

24 CFR Part 880 (https://www.ecfr.gov/current/title-24/part-880)

- Accounting
- Administrative practice and procedure
- Government contracts
- Grant programs-housing and community development
- Home improvement
- Housing
- Housing standards
- Low and moderate income housing
- Manufactured homes
- Public assistance programs
- Rent subsidies
- Reporting and recordkeeping requirements

24 CFR Part 884 (https://www.ecfr.gov/current/title-24/part-884)

- Accounting

- Administrative practice and procedure
- Grant programs-housing and community development
- Home improvement
- Housing
- Low and moderate income housing
- Public assistance programs
- Public housing
- Rent subsidies
- Reporting and recordkeeping requirements
- Rural areas
- Utilities

24 CFR Part 886 (https://www.ecfr.gov/current/title-24/part-886)

- Accounting
- Administrative practice and procedure
- Government contracts
- Grant programs-housing and community development
- Home improvement
- Housing
- Lead poisoning
- Low and moderate income housing
- Mortgages
- Public assistance programs
- Rent subsidies
- Reporting and recordkeeping requirements
- Utilities
- Wages

24 CFR Part 891 (https://www.ecfr.gov/current/title-24/part-891)

- Aged
- Grant programs—housing and community development
- Individuals with disabilities

- Loan programs—housing and community development
- Low and moderate income housing
- Public assistance programs
- Rent subsidies
- Reporting and recordkeeping requirements

24 CFR Part 966 (https://www.ecfr.gov/current/title-24/part-966)

- Grant programs—housing and community development
- Public housing
- Reporting and recordkeeping requirements

For the reasons discussed in the preamble, HUD amends 24 CFR parts 247 (https://www.ecfr.gov/current/title-24/part-247), 880 (https://www.ecfr.gov/current/title-24/part-880), 884 (https://www.ecfr.gov/current/title-24/part-884), 886 (https://www.ecfr.gov/current/title-24/part-886), 891 (https://www.ecfr.gov/current/title-24/part-891), and 966 (https://www.ecfr.gov/current/title-24/part-966) as follows:

PART 247—EVICTIONS FROM CERTAIN SUBSIDIZED AND HUD-OWNED PROJECTS

1. The authority citation for part 247 continues to read as follows:

> **Authority:** 12 U.S.C. 1701q (https://www.govinfo.gov/link/uscode/12/1701q), 1701s (https://www.govinfo.gov/link/uscode/12/1701s), 1715b (https://www.govinfo.gov/link/uscode/12/1715b), 1715l (https://www.govinfo.gov/link/uscode/12/1715l), and 1715z-1 (https://www.govinfo.gov/link/uscode/12/1715z-1); 42 U.S.C. 1437a (https://www.govinfo.gov/link/uscode/42/1437a), 1437c (https://www.govinfo.gov/link/uscode/42/1437c), 1437f (https://www.govinfo.gov/link/uscode/42/1437f), and 3535(d) (https://www.govinfo.gov/link/uscode/42/3535).

2. In § 247.4, revise paragraphs (c) and (e) to read as follows:

§ 247.4 Termination notice.

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(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 no case earlier than 30 days after receipt of the tenant of the notice. Where the termination notice is based on material noncompliance with the rental agreement or material failure to carry out obligations under a state landlord and tenant act pursuant to § 247.3(a)(1) or (2), the time of service shall be in accord with the rental agreement and state law. In cases of nonpayment of rent, the termination notice shall be effective no earlier than 30 days after receipt by the tenant of the termination notice. The landlord must not provide tenants with a termination notice prior to the day after the rent is due according to the lease. The landlord also must not proceed with filing an eviction if the tenant pays the alleged amount of rent owed within the 30-day notification period.

★* ★* ★* ★* ★*

(e) *Notice requirements in rent nonpayment cases.* In any case in which termination of tenancy is initiated because of the tenant's failure to pay rent, a notice stating the dollar amount of the balance due on the rent account and the date of such computation shall satisfy the requirement of specificity set forth in paragraph (a)(2) of this section. All termination notices in cases of nonpayment of rent must also include the following:

(1) Instructions on how the tenant can cure the nonpayment of rent violation, including an itemized amount separated by month of alleged rent owed by the tenant, any other arrearages allowed by HUD and included in the lease separated by month, and the date by which the tenant must pay the amount of rent owed before an eviction for nonpayment of rent can be filed;

(2) Information on how the tenant can recertify their income and, for tenants (🗋 print page 101303) residing in projects assisted pursuant to a housing assistance payments contract for project-based assistance under section 8 of the 1937 Act (42 U.S.C. 1437f (https://www.govinfo.gov/link/uscode/42/1437f)), information on how the tenant can apply for a hardship exemption pursuant to 24 CFR 5.630(b) (https://www.ecfr.gov/current/title-24/section-5.630#p-5.630(b)); and

(3) In the event of a Presidential declaration of a national emergency, such information to tenants as required by the Secretary.

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PART 880—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR NEW CONSTRUCTION

3. The authority citation for part 880 continues to read as follows:

Authority: 42 U.S.C. 1437a (https://www.govinfo.gov/link/uscode/42/1437a), 1437c (https://www.govinfo.gov/link/uscode/42/1437c), 1437f (https://www.govinfo.gov/link/uscode/42/1437f), 3535(d) (https://www.govinfo.gov/link/uscode/42/3535), 12701 (https://www.govinfo.gov/link/uscode/42/12701), and 13611-13619 (https://www.govinfo.gov/link/uscode/42/13611).

4. In § 880.606:

a. Redesignate paragraph (b) as paragraph (c); and

b. Add new paragraph (b).

The addition reads as follows:

§ 880.606 Lease requirements.

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(b) *Notification for nonpayment of rent.* The lease must also contain a provision or addendum that tenants will receive notification at least 30 days before a formal judicial eviction is filed.

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5. In § 880.607, revise paragraph (c)(6) and add paragraph (c)(7) to read as follows:

§ 880.607 Termination of tenancy and modification of lease.

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(c) * * *

(6) In the case of failure to pay rent, the termination notice shall be effective no earlier than 30 days after receipt by the tenant. All termination notices in cases of failure to pay rent must include the following:

(i) Instructions on how the tenant can cure the nonpayment of rent violation, including an itemized amount separated by month of alleged rent owed by the tenant, any other arrearages allowed by HUD and included in the lease separated by month, and the date by which the tenant must pay the amount of rent owed before an eviction for nonpayment of rent can be filed;

(ii) Information on how the tenant can recertify their income and apply for a hardship exemption pursuant to 24 CFR 5.630(b) (https://www.ecfr.gov/current/title-24/section-5.630#p-5.630(b)); and

(iii) In the event of a Presidential declaration of a national emergency, such information as required by the Secretary.

(7) An owner must not provide tenants with a termination notice prior to the day after the rent is due according to the lease. An owner must not proceed with filing a formal judicial eviction if the tenant pays the alleged amount of rent owed within the 30-day notification period.

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PART 884—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM, NEW CONSTRUCTION SET-ASIDE FOR SECTION 515 RURAL RENTAL HOUSING PROJECTS

6. The authority citation for part 884 continues to read as follows:

Authority: 42 U.S.C. 1437a (https://www.govinfo.gov/link/uscode/42/1437a), 1437c (https://www.govinfo.gov/link/uscode/42/1437c), 1437f (https://www.govinfo.gov/link/uscode/42/1437f), 3535(d) (https://www.govinfo.gov/link/uscode/42/3535), and 13611-13619 (https://www.govinfo.gov/link/uscode/42/13611).

7. In § 884.215, add a second sentence to the introductory text to read as follows:

§ 884.215 Lease requirements.

* * * In addition to the provisions specified in paragraph (b), the lease shall also contain a provision or addendum that tenants will receive notification at least 30 days before an eviction for nonpayment of rent is filed.

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8. In § 884.216, revise paragraph (d) and add paragraph (e) to read as follows:

§ 884.216 Termination of tenancy.

★ ★ ★ ★ ★

(d) In the case of failure to pay rent, the owner must provide the tenant with a termination notice at least 30 days before a formal judicial eviction is filed. All termination notices in cases of failure to pay rent must include the following:

(1) Instructions on how the tenant can cure the nonpayment of rent, including an itemized amount separated by month of alleged rent owed by the tenant, any other arrearages allowed by HUD and included in the lease separated by month, and the date by which the tenant must pay the amount of rent owed before an eviction for nonpayment of rent can be filed;

(2) Information on how the tenant can recertify their income and apply for a hardship exemption pursuant to 24 CFR 5.630(b) (https://www.ecfr.gov/current/title-24/section-5.630#p-5.630(b)); and

(3) In the event of a Presidential declaration of a national emergency, such information as required by the Secretary.

(e) An owner must not provide tenants with a termination notice prior to the day after the rent is due according to the lease. An owner must not proceed with filing an eviction if the tenant pays the alleged amount of rent owed within the 30-day notification period.

PART 886—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—SPECIAL ALLOCATIONS

9. The authority citation for part 886 continues to read as follows:

Authority: 42 U.S.C. 1437a (https://www.govinfo.gov/link/uscode/42/1437a), 1437c (https://www.govinfo.gov/link/uscode/42/1437c), 1437f (https://www.govinfo.gov/link/uscode/42/1437f), 3535(d) (https://www.govinfo.gov/link/uscode/42/3535), and 13611-13619 (https://www.govinfo.gov/link/uscode/42/13611).

10. In § 886.127, add paragraph (c) to read as follows:

§ 886.127 Lease requirements.

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(c) *Notification for nonpayment of rent.* The lease must contain a provision or addendum that tenants will receive notification at least 30 days before a formal judicial eviction is filed.

11. In § 886.327, add paragraph (c) to read as follows:

§ 886.327 Lease requirements.

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(c) *Notification for nonpayment of rent.* The lease must contain a provision or addendum that tenants will receive notification at least 30 days before a formal judicial eviction is filed.

PART 891—SUPPORTIVE HOUSING FOR THE ELDERLY AND PERSONS WITH DISABILITIES

12. The authority citation for part 891 continues to read as follows:

Authority: 12 U.S.C. 1701q (https://www.govinfo.gov/link/uscode/12/1701q); 42 U.S.C. 1437f (https://www.govinfo.gov/link/uscode/42/1437f), 3535(d) (https://www.govinfo.gov/link/uscode/42/3535), and 8013 (https://www.govinfo.gov/link/uscode/42/8013).

13. In § 891.425, add paragraph (d) to read as follows:

§ 891.425

Lease requirements.

★ ★ ★ ★ ★

(d) *Notification for nonpayment of rent.* The lease must contain a provision or addendum that tenants will receive notification at least 30 days before a formal judicial eviction is filed.

PART 966—PUBLIC HOUSING LEASE AND GRIEVANCE PROCEDURE

14. The authority citation for part 966 continues to read as follows:

Authority: 42 U.S.C. 1437d (https://www.govinfo.gov/link/uscode/42/1437d) and 3535(d) (https://www.govinfo.gov/link/uscode/42/3535).

15. In § 966.4, revise paragraphs (l)(3)(i)(A) and (1)(3)(ii) and add paragraphs (q) and (r) to read as follows:

§ 966.4 Lease requirements.

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(l) * * *

(3) * * *

(i) * * *

(A) At least 30 days in the case of failure to pay rent;

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(ii) The notice of lease termination to the tenant shall state specific grounds (🗋 print page 101304) for termination, and shall inform the tenant of the tenant's right to make such reply as the tenant may wish. The notice shall also inform the tenant of the right (pursuant to paragraph (m) of this section) to examine PHA documents directly relevant to the termination or eviction. When the PHA is required to afford the tenant the opportunity for a grievance hearing, the notice shall also inform the tenant of the tenant's right to request a hearing in

accordance with the PHA's grievance procedure. All notices of lease termination required by paragraph (1)(3)(i)(A) of this section due to a tenant's failure to pay rent must also include the following:

(A) Instructions on how the tenant can cure the nonpayment of rent violation, including an itemized amount separated by month of alleged rent owed by the tenant, any other arrearages allowed by HUD and included in the lease separated by month, and the date by which the tenant must pay the amount of rent owed before an eviction for nonpayment of rent can be filed;

(B) Information on how the tenant can recertify their income pursuant to 24 CFR 960.257(b) (https://www.ecfr.gov/current/title-24/section-960.257#p-960.257(b)), request a hardship exemption pursuant to 24 CFR 5.630(b) (https://www.ecfr.gov/current/title-24/section-5.630#p-5.630(b)), or request to switch from flat rent to income-based rent pursuant to 24 CFR 960.253(g) (https://www.ecfr.gov/current/title-24/section-960.253#p-960.253(g)); and

(C) In the event of a Presidential declaration of a national emergency, such information as required by the Secretary.

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(q) *Notification for nonpayment of rent.* The lease shall contain a provision or addendum that tenants will receive notification at least 30 days before an eviction for nonpayment of rent is filed.

(r) *Time of service.* The PHA must not provide tenants with a termination notice prior to the day after the rent is due according to the lease. The PHA must not proceed with filing an eviction if the tenant pays the alleged amount of rent owed within the 30-day notification period.

§ 966.8 [Removed]

16. Remove § 966.8.

Damon Smith,

General Counsel.

Footnotes

1. 88 FR 83880 (/citation/88-FR-83880).
Back to Citation

2. Estimate based on HUD's cross-reference on distribution of subsidized households across states with external analysis of legal requirements per state for non-payment of rent notice (https://www.nolo.com/legal-encyclopedia/state-laws-on-termination-for-nonpayment-of-rent.html (https://www.nolo.com/legal-encyclopedia/state-laws-on-termination-for-nonpayment-of-rent.html)). The following States require 30 days' notice: Wisconsin (only if the lease term is longer than one year) and Minnesota (only if the lease term is longer than twenty years).
Back to Citation

3. Data available at https://www.huduser.gov/portal/datasets/assthsg.html (https://www.huduser.gov/portal/datasets/assthsg.html).
Back to Citation

4. Sandel, Megan, et al. (2018). Unstable housing and caregiver and child health in renter families. Pediatrics 141(2); Cutts, Diana B., et al. (2022). Eviction and household health and hardships in families with very young children. Pediatrics 150(4); Treglia, Daniel, Thomas Byrne, and Vijaya Tamla Rai. 2023. "Quantifying the Impact of Evictions and Eviction Filings on Homelessness Rates in the United States." Housing Policy Debate; Desmond, Matthew and Carl Gershenson. 2016. "Housing and Employment Insecurity among the Working Poor." Social Problems. 63(1): 46-67; Desmond, M., Gershenson, C., & Kiviat, B., Forced Relocation and Residential Instability Among Urban Renters, Journal of Urban Health, 92(2), 254-267 (2015), https://doi.org/10.1007/s11524-015-9932-2 (https://doi.org/10.1007/s11524-015-9932-2); and Desmond, M., & Shollenberger, T., Forced Displacement from Rental Housing: Prevalence and Neighborhood Consequences, Demography, 52(5), 1751-1772 (2015), https://doi.org/10.1007/s13524-015-0424-y (https://doi.org/10.1007/s13524-015-0424-y); Cutts, D.B., Darby, M.L., & Billings, J., The Role of Housing Assistance in Achieving Educational Goals for Low-Income Children, American Journal of Public Health, 100(S1), S84-S90 (2010), https://doi.org/10.2105/AJPH.2009.170910 (https://doi.org/10.2105/AJPH.2009.170910); Desmond, M., & Kimbro, R.T., Eviction's Fallout: Housing, Hardship, and Health, Social Forces, 94(1), 295-324 (2015), https://doi.org/10.1093/sf/sou065 (https://doi.org/10.1093/sf/sou065); HUD (2021), Affordable Housing, Eviction, and Health, Evidence Matters, https://www.huduser.gov/portal/periodicals/em/Summer21/highlight1.html (https://www.huduser.gov/portal/periodicals/em/Summer21/highlight1.html). See also Desmond, Matthew, Unaffordable America: Poverty, housing, and eviction, Fast Focus, 22-2015, University of Wisconsin-Madison, Institute for Research on Poverty, 4.
Back to Citation

5. Hepburn, P., Louis, R., & Desmond, M., Racial and Gender Disparities among Evicted Americans. Sociological Science 7, 657 (2020), https://doi.org/10.15195/v7.a27 (https://doi.org/10.15195/v7.a27).
Back to Citation

6. 24 CFR 960.257(b) (https://www.ecfr.gov/current/title-24/section-960.257#p-960.257(b)); see also https://www.hud.gov/sites/dfiles/PIH/documents/PHOG_Reexaminations_FINAL.pdf (https://www.hud.gov/sites/dfiles/PIH/documents/PHOG_Reexaminations_FINAL.pdf) and https://www.hud.gov/sites/documents/43503c5HSGH.PDF (https://www.hud.gov/sites/documents/43503c5HSGH.PDF).
Back to Citation

7. 24 CFR 5.630 (https://www.ecfr.gov/current/title-24/section-5.630), see also Public Housing Minimum Rent and Hardship Exemption Requirements Toolkit, HUD Exchange, https://www.hudexchange.info/programs/public-housing/public-housing-minimum-rent-and-hardship-exemption-requirements-toolkit/ (https://www.hudexchange.info/programs/public-housing/public-housing-minimum-rent-and-hardship-exemption-requirements-toolkit/) and the specific additional circumstances that qualify as qualifying financial hardships in the PHA's or Multifamily housing (MFH) owner's ACOPs (Admissions and Continued Occupancy Policy), Administrative Plans, or Tenant Selection Plans, as applicable; Circumstances that always constitute a qualifying financial hardship are detailed in 24 CFR 5.630(b)(1)(i) (https://www.ecfr.gov/current/title-24/section-5.630#p-5.630(b)(1)(i)) through (iv) (https://www.ecfr.gov/current/title-24/section-5.630#p-5.630(b)(1)(iv)); additional circumstances are provided by the housing provider in the PHA's or MFH owner's ACOPs, Administrative Plans, or Tenant Selection Plans, as applicable.
Back to Citation

8. Section 3(a) United States Housing Act of 1937, as amended by section 102 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA), Public Law 114-201 (https://www.govinfo.gov/link/plaw/114/public/201), 130 Stat. 782. Also see, HUD's implementing regulations at 24 CFR 5.657(c)(2) (https://www.ecfr.gov/current/title-24/section-5.657#p-5.657(c)(2)); 882.515(b)(2) (https://www.ecfr.gov/current/title-24/section-882.515#p-882.515(b)(2)); 891.410 (https://www.ecfr.gov/current/title-24/section-891.410); 960.257(b)(2) (https://www.ecfr.gov/current/title-24/section-960.257#p-960.257(b)(2)); and 982.516(c)(2) (https://www.ecfr.gov/current/title-24/section-982.516#p-982.516(c)(2)).
Back to Citation

9. Section 880.607(d) requires that an owner, when modifying a lease, serve appropriate notice to tenants at least 30 days prior to the last date on which a tenant has the right to terminate tenancy. This provision applies to PBRA projects under 24 CFR parts 880

(https://www.ecfr.gov/current/title-24/part-880), 881 (https://www.ecfr.gov/current/title-24/part-881), and 883 (https://www.ecfr.gov/current/title-24/part-883) (the New Construction, Substantial Rehab and Housing Finance Agency (HFA) programs). Section 966.3 requires a PHA to provide at least 30 days' notice to tenants of proposed changes to the lease, and an opportunity for tenants to present written comments.
Back to Citation

10. 24 CFR 886.128 (https://www.ecfr.gov/current/title-24/section-886.128) and 891.430 (https://www.ecfr.gov/current/title-24/section-891.430) applies the provisions in 24 CFR part 247 (https://www.ecfr.gov/current/title-24/part-247) for termination of tenancy.
Back to Citation

11. See Non-Rent Fees for Subsidized Multifamily Housing Programs and Non-Rent Fees for Public Housing https://www.hud.gov/sites/dfiles/Housing/documents/Existing_Policy_on_Non-Rent_Fees_for_Subsidized_Multifamily_Housing_Programs.pdf (https://www.hud.gov/sites/dfiles/Housing/documents/Existing_Policy_on_Non-Rent_Fees_for_Subsidized_Multifamily_Housing_Programs.pdf); https://www.hud.gov/sites/dfiles/PIH/documents/PH%20Non-Rent%20Fees%20Chart_Final.pdf (https://www.hud.gov/sites/dfiles/PIH/documents/PH%20Non-Rent%20Fees%20Chart_Final.pdf).
Back to Citation

12. Evictions for certain arrearages are not permissible under certain HUD programs. See, e.g., HUD Handbook 4350.3: Occupancy Requirements of Subsidized Programs (Change 4—November 2013), p. 6-39, "An owner must not evict a tenant for failure to pay late charges."
Back to Citation

13. National Law Housing Project, "Rising Evictions in HUD-Assisted Housing" (2022).
Back to Citation

14. Michael Casey and R.J. Rico, Eviction filings are 50% higher than they were pre-pandemic in some cities as rents rise, Associated Press (Jun. 16, 2023), https://apnews.com/article/evictions-homelessness-affordable-housing-landlords-rental-assistance-dc4a03864011334538f82d2f404d2afb (https://apnews.com/article/evictions-homelessness-affordable-housing-landlords-rental-assistance-dc4a03864011334538f82d2f404d2afb).
Back to Citation

15. The commenter cited to https://www.ctdata.org/evictions-report (https://www.ctdata.org/evictions-report).
Back to Citation

16. HUD analysis of data collected between March 5, 2024, and April 1, 2024, through the Census Household Pulse Survey .
Back to Citation

17. The commenter cited to Collinson and Reed, "The Effects of Evictions on Low-Income Households," New York University School of Law (2018).
Back to Citation

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21. https://www.huduser.gov/portal/sites/default/files/pdf/2023-AHAR-Part-1.pdf (https://www.huduser.gov/portal/sites/default/files/pdf/2023-AHAR-Part-1.pdf).
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23. Robert Collinson, John Eric Humphries, Nicholas Mader, Davin Reed, Daniel Tannenbaum, Winnie van Dijk, Eviction and Poverty in American Cities, The Quarterly Journal of Economics, Volume 139, Issue 1, February 2024, Pages 57-120, https://doi.org/10.1093/qje/qjad042 (https://doi.org/10.1093/qje/qjad042).
Back to Citation

24. Section 504 of the Rehabilitation Act of 1973 is a Federal law, codified at 29 U.S.C. 794 (https://www.govinfo.gov/link/uscode/29/794); See also https://www.hud.gov/program_offices/fair_housing_equal_opp/disabilities/sect504faq#_Reasonable_Accommodation (https://www.hud.gov/program_offices/fair_housing_equal_opp/disabilities/sect504faq#_Reasonab The Fair Housing Act's requirements to provide reasonable accommodations also apply to PHAs and assisted owners. The Fair Housing Act is codified at 42 U.S.C. 3601-3619 (https://www.govinfo.gov/link/uscode/42/3601), 3631 (https://www.govinfo.gov/link/uscode/42/3631). PHAs must also adhere to the requirements of title II of the Americans with Disabilities Act, which includes making reasonable modifications in policies, practices, or procedures when necessary to avoid disability discrimination. Title II of the Americans with Disabilities Act is codified at 42 U.S.C. 12131-12165 (https://www.govinfo.gov/link/uscode/42/12131).
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25. The commenter cites to Garboden, Philip M.E., and Eva Rosen. 2019. "Serial Filing: How Landlords Use the Threat of Eviction." City & Community 18(2):638-61; Leung, Lillian, Peter Hepburn, and Matthew Desmond. 2021. "Serial Eviction Filing: Civil Courts, Property Management, and the Threat of Displacement." Social Forces 100(1):316-44; Ellen, Ingrid Gould, Ellie Lochhead, and Katherine O'Regan. 2022. Eviction Practices across Subsidized Housing in New York State: A Case Study. New York; Gromis, Ashley, Ian Fellows, James R. Hendrickson, Lavar Edmonds, Lillian Leung, Adam Porton, and Matthew Desmond. 2022. "Estimating Eviction Prevalence across the United States." Proceedings of the National Academy of Sciences 119(21):1-8; and Leung, Lillian, Peter Hepburn, James Hendrickson, and Matthew Desmond. 2023. "No Safe Harbor: Eviction Filing in Public Housing." Social Service Review 97(3):456-97.
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27. The commenter cites to Rosa DeLauro proposes wide-scale expansion of right-to-counsel (ctmirror.org) Evictions Report—CTData; CT right to counsel program saved state millions, report finds (ctmirror.org); Report Shows Connecticut's Right-to-Counsel Program to Be Effective at Preventing Evictions.
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28. The commenter cites to National Housing Law Project, "Rising Evictions in HUD-Assisted Housing: Survey of Legal Aid Attorneys" at 1 (July 2022), https://www.nhlp.org/wp-content/uploads/HUD-Housing-Survey-2022.pdf (https://www.nhlp.org/wp-content/uploads/HUD-Housing-Survey-2022.pdf).
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29. See Exhibit 2 of the Regulatory Impact Analysis which demonstrates that rates of owner-initiated move-outs due to nonpayment of rent have remained below pre-CARES Act levels but have also increased between 2022 and 2023 (when most eviction moratoria expired).
Back to Citation

30. https://www.naahq.org/breaking-down-one-dollar-rent-2023 (https://www.naahq.org/breaking-down-one-dollar-rent-2023).
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31. Operating Fund (Op-Fund) Shortfall Funding | HUD.gov /U.S. Department of Housing and Urban Development (HUD).
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32. Special Claims Processing Guide (HSG-06-01) at https://www.hud.gov/program_offices/administration/hudclips/guidebooks/HSG-06-01 (https://www.hud.gov/program_offices/administration/hudclips/guidebooks/HSG-06-01).
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33. Operating Fund (Op-Fund) Shortfall Funding | HUD.gov /U.S. Department of Housing and Urban Development (HUD).
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34. King, S. (2021). How One of Boston's Top Evictors Changed Its Ways. Shelterforce. https://shelterforce.org/2021/12/03/how-one-of-bostons-top-evictors-changed-its-ways/ (https://shelterforce.org/2021/12/03/how-one-of-bostons-top-evictors-changed-its-ways/).
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35. See HUD's Regulatory Agenda at https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202310&RIN=2577-AD17 (https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202310&RIN=2577-AD17).
Back to Citation

36. 42 U.S.C. 1437d(a) (https://www.govinfo.gov/link/uscode/42/1437d).
Back to Citation

37. 42 U.S.C. 1437d(l) (https://www.govinfo.gov/link/uscode/42/1437d); 42 U.S.C. 8013(i)(2)(B) (https://www.govinfo.gov/link/uscode/42/8013) (section 811); 24 CFR part 891 (https://www.ecfr.gov/current/title-24/part-891) (section 202, 202/8, and 202/162).
Back to Citation

38. 42 U.S.C. 1437f(d)(1)(B)(ii) (https://www.govinfo.gov/link/uscode/42/1437f). See also42 U.S.C. 8013(i)(2)(B) (https://www.govinfo.gov/link/uscode/42/8013) (section 811).

Back to Citation

39. 42 U.S.C. 1437f(d)(1)(B)(i) (https://www.govinfo.gov/link/uscode/42/1437f). See also42 U.S.C. 8013(i)(2)(A) (https://www.govinfo.gov/link/uscode/42/8013).
Back to Citation

40. 86 FR 55693 (/citation/86-FR-55693).
Back to Citation

41. 81 FR 87430 (/citation/81-FR-87430) (this final rule required PHAs administering public housing to implement a smoke-free policy and to update the lease, without a statutory mandate, to incorporate the new smoke-free policy at § 966.4(f)(12)(ii)(B)).
Back to Citation

42. See24 CFR 966.52(b) (https://www.ecfr.gov/current/title-24/section-966.52#p-966.52(b)) and 966.4(n) (https://www.ecfr.gov/current/title-24/section-966.4#p-966.4(n)) (HUD requires PHA leases to stipulate that the tenant has an opportunity for a hearing on a grievance of any proposed adverse action against the tenant). See also the rulemaking of part 866 (Lease and Grievance Procedures), which requires the grievance procedure be incorporated into the lease at 40 FR 33406 (/citation/40-FR-33406).
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43. See Lance Freeman & Yining Lei, An Overview of Affordable Housing in the United States, Penn IUR Policy Brief, at 2 (August 2023), available at https://penniur.upenn.edu/uploads/media/An_Overview_of_Affordable_Housing_in_the_United_States_Updated.pdf (https://penniur.upenn.edu/uploads/media/An_Overview_of_Affordable_Housing_in_the_United_Sta
Back to Citation

44. 42 U.S.C. 3531 (https://www.govinfo.gov/link/uscode/42/3531).
Back to Citation

45. 42 U.S.C. 1437d(c)(4) (https://www.govinfo.gov/link/uscode/42/1437d).
Back to Citation

46. See 42 U.S.C. 1437f(g) (https://www.govinfo.gov/link/uscode/42/1437f) (section 8 low-income housing assistance); 12 U.S.C. 1701q (https://www.govinfo.gov/link/uscode/12/1701q) (section 202 supportive housing for the elderly); 42 U.S.C. 8013 (https://www.govinfo.gov/link/uscode/42/8013) (section 811 supportive housing for persons with disabilities).
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47. Hepburn, P., Louis, R., & Desmond, M., Racial and Gender Disparities among Evicted Americans. Sociological Science 7, 657 (2020), https://doi.org/10.15195/v7.a27 (https://doi.org/10.15195/v7.a27).
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48. U.S. Department of Housing and Urban Development. Report to Congress on the Feasibility of Creating a National Evictions Database. HUD USER (2021). https://www.huduser.gov/portal/publications/Eviction-Database-Feasibility-Report-to-Congress-2021.html (https://www.huduser.gov/portal/publications/Eviction-Database-Feasibility-Report-to-Congress-2021.html).
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49. HUD analysis of data collected between March 5, 2024 and April 1, 2024 through the Census Household Pulse Survey.
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50. HUD Office of Inspector General, "HUD Did Not Have Adequate Policies and Procedures for Ensuring That Public Housing Agencies Properly Processed Requests for Reasonable Accommodation" (February 2022), available at https://www.hudoig.gov/reports-publications/report/hud-did-not-have-adequate-policies-and-procedures-ensuring-public (https://www.hudoig.gov/reports-publications/report/hud-did-not-have-adequate-policies-and-procedures-ensuring-public).
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*51. See Fair Housing for Individuals with Mental Health, Intellectual or Developmental Disabilities: A Guide for Housing Providers ("What are reasonable accommodations and modifications? . . . Asking to change the due date for rent until after receipt of a social security disability heck or a short- or long-term disability payment . . ."), available at https://www.hud.gov/sites/dfiles/FHEO/images/MD%20Fact%20Sheet%20-%20HP.pdf (https://www.hud.gov/sites/dfiles/FHEO/images/MD%20Fact%20Sheet%20-%20HP.pdf).See also Initial Decision and Consent Order, HUD v. Park Regency LLC et al. (October 29, 2020), available at https://www.hud.gov/sites/dfiles/FHEO/images/20HUDOHA_InitDecisionConsent.pdf (https://www.hud.gov/sites/dfiles/FHEO/images/20HUDOHA_InitDecisionConsent.pdf) (providing the reasonable accommodation of a fee-free rent payment grace period until the 6th of each month and paying $27,000 to complainant); Fair Hous. Rts. Ctr. in Se. Pennsylvania v. Morgan Properties Mgmt. Co., LLC, 2017 WL 1326240, at *4 (E.D. Pa. Apr. 11, 2017) (Denying defendants' motion for judgement and allowing a civil rights suit to proceed where defendant, the owner of three apartment buildings, refused to agree to accept monthly rent payments on a later date each month where the later monthly payment timing was due to the plaintiffs' disability and receipt of financial disability benefits.); Charge*

of Discrimination, HUD v. Morbach et al. (March 20, 2006), available at https://www.hud.gov/sites/documents/DOC_14412.PDF (https://www.hud.gov/sites/documents/DOC_14412.PDF).
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53. See CARES Act Public Housing Agencies at https://www.hud.gov/program_offices/public_indian_housing/cares_act_phas (https://www.hud.gov/program_offices/public_indian_housing/cares_act_phas).
Back to Citation

54. Commenter cites to an article in the Dallas Morning News (January 10, 2024) reporting on a study that covered eviction filings in Dallas County, Texas, from 2021 to 2023. During this time 18,485 evictions were filed in Dallas County, an average of 109 evictions per day. The study discovered that when tenants have legal representation, landlords win eviction 7% of the time, versus 69% when the tenant appears without representation.
Back to Citation

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