



101 W. Broad St., Suite #101  
Richmond, Virginia 23220  
804-648-1012 or 800-868-1012  
Fax: 804-649-8794

229 North Sycamore Street  
Petersburg, Virginia 23803  
804-862-1100 or 800-868-1012  
Fax: 804-861-4311

The C.B. Holt Rock House  
1010 Preston Avenue  
Charlottesville, Virginia 22903  
434-296-8851 or 800-390-9983  
Fax: 434-296-5731

## **Federally Subsidized Housing – Tenant Based (Vouchers) - 2021**

### **What is federally subsidized housing?**

Federally subsidized housing means that the government pays part or all of your rent. The part of your rent the government pays is called the “subsidy.” Unlike private rental housing, landlords in federally subsidized housing have many more rules to follow. These rules decide about who gets into the housing (admissions), rents, leases, grievances, and evictions. If you live in federally subsidized housing, you have more legal rights than tenants in private rental housing. These rights include the following things.

- The landlord must follow certain rules about who gets admitted to the housing.
- Your rent is limited.
- Usually you pay no more than 30% of your income for rent and utilities.
- Your tenancy usually is not time limited. As long as you don’t break the lease or the law, you are allowed to stay.
- You may be evicted only for good cause.
- Usually you must be given notice and a chance to contest a denial of admission.
- Before your subsidy may be ended, you must be given notice and a chance to contest.

### **What are the types of federally subsidized housing?**

There are two types of federally subsidized housing. In one type, the subsidy is tied to the tenant. This is called “tenant-based assistance.” In the other type, the subsidy is tied to the housing unit. This is called “unit-based assistance.” This article is about tenant-based assisted housing.

### **What is tenant-based assisted housing?**

There is one main type of tenant-based assisted housing. This is called a Housing Choice Voucher (HCV). This is a type of federally subsidized housing where the assistance is tied to the tenant. This is a subsidy that you can take from place to place. Your voucher helps you rent decent housing in the private market. Your voucher helps pay part of your rent and sometimes part of your utility bills.

The voucher program is run by the U.S. Department of Housing and Urban Development (HUD). A local agency has an agreement with HUD (or sometimes with Virginia Housing,

formerly Virginia Housing Development Authority - VHDA) to run the program in a certain area, usually a county or independent city.

### **How do I apply for tenant-based assisted housing?**

You apply for a voucher with the local agency that runs the program. This is called the §8 agent. This may be your local public housing authority (PHA), department of social services (DSS), community action agency, or some other office. Your application must be accepted, unless the waiting list is so long there is no reasonable chance you can get a voucher within a year. You can apply with more than one §8 agent. Each §8 agent has its own system for applications. Sometimes there are long waiting lists. If you're willing to move, you might find a housing agency that can offer you housing right away. So check around.

Once your application is accepted, your name is put on a waiting list. You must be told about preferences for a voucher. You may be required from time to time to say you are interested in a voucher. If you fail to do so, your name may be removed from the waiting list.

Waiting lists usually are kept by number of bedrooms needed. Waiting lists also may be separated based on preferences for a voucher. When a voucher is available, it must be offered in the order of bedroom size, preferences, and date & time of application.

### **Who may get a preference for tenant-based assisted housing?**

The §8 agent may give a preference to these people: working people, the disabled, the elderly (age 62 or older), the homeless, victims of domestic violence, and people who live in a particular area.

### **Who may get a voucher for tenant-based assisted housing?**

The §8 agent must use the following rules to decide who gets a voucher.

- Usually, your income can be no more than 80% of area median (average) income. Income limits vary from area to area, so you may be eligible with one §8 agent but not another.
- There is no resource limit. If you have more than \$5,000 in assets, part of that can be counted as income.
- There is no minimum income requirement.
- The §8 agent may not use your race, religion, national origin, sex, marital status, source of income, handicap, age, or past bankruptcy against you.
- The §8 agent also may not use being an unwed parent, getting public aid, having children out of wedlock, or having children against you.
- Both single individuals and families may get a voucher.
- Only U.S. citizens and eligible immigrants may get a voucher.

The §8 agent only decides who gets a voucher. The landlord chooses the tenant. The §8 agent may not consider your fitness as a tenant or expected behavior as a tenant. The §8 agent may not screen for the landlord. The §8 agent may deny a voucher because of certain conduct.

- You don't sign and submit consent forms to get information.
- You violated any duty under the voucher program.
- You were evicted from federally subsidized housing in the past five years.
- You ever had your voucher assistance ended.
- You committed fraud, bribery, or other corrupt or criminal act in connection with any federal housing program.
- You currently owe rent or other amounts to any §8 agent.
- You have not paid back any §8 agent for amounts paid to a landlord.
- You break an agreement with the §8 agent to pay amounts owed to the §8 agent.
- You fail to take part in a required Family Self Sufficiency (FSS) plan.
- You have done or threatened abusive or violent behavior toward the §8 agent.
- You fail to take part in a required Welfare-to-Work (WTW) program.
- You committed drug-related or violent criminal activity.

If you don't get a voucher, the §8 agent must give you a written notice telling you why. This notice must tell you of your right to contest the denial in writing and/or in person.

### **What happens when I get a voucher?**

When you get a voucher, you may use it for a unit up to a certain amount of rent and for a certain number of bedrooms. You have 60 days to find decent rental housing from a private landlord willing to take part in the program. The §8 agent inspects the unit to be certain it meets Housing Quality Standards (HQS). You sign a lease with the landlord for a term of at least one year. The landlord signs a Housing Assistance Payments (HAP) contract with the §8 agent. You pay no more than 30 percent of adjusted monthly income for rent and utilities. The §8 program pays the rest of the rent. When you get a voucher, you must be given this information.

- How the program works.
- Your duties and your landlord's duties.
- Where you may rent a unit.
- The term of your voucher.
- How the amount of the housing assistance payment is set.
- How the maximum amount of rent for an assisted unit is set.
- The HUD required "Tenancy Addendum" that must be included in your lease.
- The Request for Lease Approval form.
- A statement about providing information concerning a family to landlords.
- Voucher subsidy standards.
- How to choose a unit.
- Equal opportunity laws.
- A list of potential landlords.
- Informal hearing procedures.

Your voucher is good for 60 days. During that time, you must find a suitable unit. This may be the unit you already live in. If your voucher is about to expire, you may ask for one or more extensions. When you find a unit, you submit a Request for Lease Approval form, signed

by you and the landlord, along with the lease. The §8 agent then decides whether the landlord, the unit, and the lease are fit.

### **How does the §8 agent decide if the landlord is fit?**

The §8 agent can't approve a landlord who is suspended from the voucher program. The §8 agent also can't approve a landlord who has violated fair housing laws. In addition, the §8 agent may disapprove a landlord who has done these things.

- Violated duties under a HAP contract.
- Committed fraud, bribery, or other corrupt or criminal act in connection with any federal housing program.
- Committed drug-related or violent criminal activity.
- Rented units that didn't meet state or local housing codes.
- Not followed Housing Quality Standards.
- Not paid state or local real estate taxes, fines or assessments.
- Failed to evict federally assisted tenants who did things for which they should have been evicted.

### **How does the §8 agent decide if the unit is fit?**

The §8 agent inspects the unit to see if it meets Housing Quality Standards (HQS). The standards include these things: sinks, showers, tubs, toilets, food preparation, garbage disposal, space, security, heating, lighting, electricity, structure, materials, air quality, hot and cold water supply, absence of lead-based paint, access, site, neighborhood, sanitary condition, and smoke detectors. The §8 agent must inspect the unit before the initial term, at least annually, and at other times as needed to determine if the unit meets HQS.

### **How does the §8 agent decide if the lease is fit?**

You and the landlord and tenant must sign a written lease. This lease must include these things: the names of the parties, the unit rented, the term of the lease, the amount of the monthly rent to the landlord, what utilities and appliances the landlord must supply, and what utilities and appliances you must supply.

### **How is rent set in tenant-based assisted housing?**

In federally subsidized housing, your rent is less than it would be without the subsidy. Usually you pay 30% of your adjusted monthly income for your housing costs. Your housing costs means both rent and utilities. Your adjusted monthly income means your total income minus certain deductions. There are deductions for dependents, elderly and disabled families, high medical expenses, and costs of child care needed to go to work or school.

If all utilities except telephone are included in the rent, your rent is 30% of your adjusted monthly income. If all utilities except telephone are not included in your rent, your rent is 30%

of your adjusted monthly income minus a “utility allowance.” A utility allowance is the reasonable cost of a modest amount of utilities.

If the utility allowance is more than 30% of your adjusted monthly income, you pay no rent. You also get a monthly utility allowance check equal to the difference.

To be sure you pay the right amount of rent, you must report your income at least once a year. You also must report changes in income and family size right away.

### **What does the lease say in tenant-based assisted housing?**

You must be given a written lease. The lease must tell you the amount of rent, when rent is due, the landlord’s duty to keep the housing in good repair, your rights and duties, the way to handle disputes, and the way to handle evictions. Everything in the lease must be reasonable. The initial term of your lease must be for at least one year.

### **How do I move a voucher from one unit to another?**

Because your assistance is tied to you, and not to your unit, you may carry your voucher from one landlord to another. To have your assistance continue without interruption, you must follow all the proper procedures to break or not renew one §8 lease, and to enter a different §8 lease. If you want to move to another county, the §8 agent in the old and the new county must allow you to use your voucher in the new county.

If you are beyond the first year of your lease, you need only give your landlord a written 30 day notice of intent to move. You should ask for a new voucher from the §8 agent right away. You should try to use the new voucher on a new unit right away. All paperwork must be done at least 15 days before your new lease starts. If you give your 30 day notice of intent to move and get a new voucher the same day, you must get all paperwork for the new unit done in 15 days. The unit inspection report, the lease, and the HAP contract must be done in 15 days to assure there will be no break in your housing assistance payments.

If you are within the first year of your lease, the process is more complicated. You can’t merely give a written 30 day notice of intent to move. Rather, you must break your lease. There are only two ways to do this.

- You and your landlord agree in writing to break the lease.
- Your landlord has broken some promise under the lease and hasn’t fixed the problem within a reasonable time after getting a written request from you or the §8 agent.

When you move a voucher from one assisted unit to another, you must follow five steps.

1. You give your old landlord a written notice you are ending the lease, and you give the §8 agent written notice you have done this.

2. The §8 agent gives your old landlord a written notice ending the HAP contract, and gives you written notice this has been done.

3. The §8 agent gives you a new voucher that is good for 60 days.

4. After you find a new unit, the §8 agent inspects it to be certain it meets Housing Quality Standards and the rent is fair.

5. If §8 agent approves the new landlord, the unit, and the lease, you and the new landlord sign a new lease, and the §8 agent and the new landlord sign a new HAP contract.

### **What are the reasons I can lose my voucher?**

You can lose your voucher if you are evicted from housing assisted under the voucher program. You also can lose your voucher for the same reasons you can be denied a voucher. In addition, you can lose your voucher for these reasons.

- Not giving required information.
- Not allowing inspection of the unit by the §8 agent.
- Breaking the Housing Quality Standards.
- Breaking the lease in a major way or many times.
- Not telling the §8 agent and the landlord before you move out or end the lease.
- Not giving the §8 agent a copy of any landlord eviction notice.
- Letting people live in your unit who aren't on your lease.
- Subleasing or assigning your unit.
- Being absent from your unit longer than permitted.
- Owning your unit.
- Getting duplicate assistance.

### **What are the procedures to end a voucher?**

Before you can lose your voucher, the §8 agent must give you a written notice. The notice must tell you why, and must tell you of your right to contest the loss of your voucher. If you ask for it, you must be given a hearing to decide whether you should lose your voucher. You also may ask for a hearing to contest most decisions by the §8 agent.

The hearing is held in front of an unbiased person. You may look at the §8 agent's records, be represented, present evidence, question the §8 agent's evidence, and have a written decision. If you win the decision, the §8 agent must follow it. If you lose the decision, you still may contest it if the dispute goes to court.

### **What are the reasons for eviction from tenant-based assisted housing?**

All federally subsidized housing landlords must have a good reason to evict you. This means breaking the lease in a major way or many times, breaking the law in a major way or

many times, or some other good reason. A good reason would be not paying rent, not obeying the lease, damaging property, or causing a danger to health or safety.

If you are within the first year of your lease, your landlord's good reason to evict must be based on your fault. If you are beyond the first year of your lease, your landlord's good reason to evict need not be based on your fault. This includes your landlord's wish to use the unit for personal or family use, or for a purpose other than as a residential rental unit. This also includes a business or economic reason, such as sale of the unit, renovation of the unit, or leasing the unit at a higher rental.

You must get an eviction notice from your landlord before you can be taken to court. The notice must tell you the specific reasons for eviction. The reasons must be clear enough to let you defend against them. The notice must tell you the proposed date for ending your tenancy. The notice also must tell you that the landlord must use court to evict you, that you have the right to present defenses, and that only the reasons stated in the notice can be used to evict you.

### **What notice is needed to evict me from tenant-based assistance?**

Through June 30, 2022, if a landlord wants to evict you for not paying rent, the landlord must give you a written 14-day nonpayment notice. The notice must tell you about the Rent Relief Program (RRP) –<https://www.dhcd.virginia.gov/rmrp>. During the 14-day period, your landlord must apply for RRP on your behalf, unless you pay in full, enter a payment plan, or you already have applied for RRP. Landlords must cooperate with RRP applications by providing all information and documents needed, including the state W-9 form. After an RRP application, your landlord may take no action to get possession or evict you unless:

- You are found not eligible for RRP, or
- You refuse to cooperate with the RRP application, or
- RRP is not approved in writing within 45 days of a completed application, or
- For any subsequent application, RRP is not approved in writing within 14 days of a completed application, or
- RRP runs out of money.

Even if the landlord starts an unlawful detainer (eviction) lawsuit in General District Court (GDC), you do not have to move just because the landlord has filed a lawsuit.

If the landlord wants to evict for a reason other than non-payment of rent, the landlord must give you a written notice saying that if the problem is not corrected within 21 days, the lease will terminate in 30 days. This notice must explain the problem or reason the landlord wants to evict. If you correct the problem in 21 days, you get to stay. If not, the landlord can start an unlawful detainer in GDC after the 30 day period.

Even if you correct the problem, if the same problem happens again, the landlord does not have to give you another 21 days to fix the problem. Instead, the landlord can simply give you a 30 day notice. In addition, if the breach of the lease cannot be corrected, then a straight 30 day notice can be sent. If you do not move by the end of the 30 days, the landlord may start an unlawful detainer in GDC after the 30 day period.

Your landlord also must give the §8 agent a copy of any eviction notice given to you. If your landlord does not do this, you have a defense to the eviction.

### **Are there defenses to eviction?**

One defense is that the landlord did not keep the place in good shape. To use this defense, you must be current in rent. In addition, the landlord must have been told about the problem in writing – either by you or by someone on your behalf – **before** the unlawful detainer was filed. You also must pay rent to court instead of the landlord.

Another defense is that the landlord wants to evict because you complained or used legal rights. To use this defense, the landlord must know you complained about a rental housing problem, or that you joined a tenant's group, before the unlawful detainer is filed.

### **What are the court eviction procedures?**

Your landlord can evict only by filing a lawsuit in GDC. A hearing will be held. If the judge rules in your favor, you get to stay. If the judge rules in your landlord's favor and the landlord asks, the Judge can give immediate possession and allow the landlord to get a Writ of Eviction right away. However, you cannot be evicted until your 10 day appeal period has passed. If the landlord does not ask for immediate possession, the Writ cannot be issued until the 10 day appeal period has passed. The Sheriff will provide you the Writ of Eviction, as well as at least 72 hours' notice of the date the actual eviction will occur.

Your landlord may not cut off utilities, lock you out of the rental unit, or evict you without giving notice and going to court. You don't have to move just because your landlord tells you to leave. You don't have to move even if your landlord takes out an unlawful detainer. Your landlord must wait until a court order is issued. These steps usually take more than two months from the day you get a notice to move.

If a landlord cuts off utilities, locks you out of the rental unit, or evicts you without giving notice and going to court, you have a quick remedy. Go to General District Court and file a Tenant's Petition for Relief from Unlawful Exclusion (Form DC-431). You can file this on your own, by yourself, without an attorney.

When you fill out the Tenant's Petition, you need to decide what you want the judge to do. You can ask the judge for any of these things: allow you back into possession, resume the cut off utility, end the rental agreement, and get actual damages and attorney's fees.

After filing the Tenant's Petition, the court must set a hearing date within five calendar days. The court also has the landlord served with a summons to court. If you make a reasonable effort to tell the landlord the hearing date and time, the court must hear your petition even if the landlord was not served and is not in court. If you win the case, the judge must award you damages of \$5,000 or four months' rent, whichever is greater.

*Authorized by Steve Dickinson, Esq., Executive Director, P.O. Box 12206, Richmond, VA 23241*