

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**[Docket No. FR-3998-N-01]****Office of the Assistant Secretary for Public and Indian Housing; Public Housing Lease and Grievance Procedures; Notice of HUD Due Process Determinations****AGENCY:** Office of the Assistant Secretary for Public and Indian Housing, HUD.**ACTION:** Notice of HUD due process determinations.

SUMMARY: Under 42 U.S.C. 1437d(k), a housing authority is generally required to provide a public housing tenant with the opportunity for an administrative hearing before commencement of eviction proceedings in court. The statute and HUD's implementing regulations at 24 CFR part 966 state that for certain criminal-related evictions the housing authority may bypass the administrative hearing. However, HUD must first make a determination that local law requires a pre-eviction court hearing that provides the basic elements of due process (a "due process determination"). This notice lists the judicial eviction procedures for which HUD has issued a due process determination.

FOR FURTHER INFORMATION CONTACT: Office of General Counsel, Assisted Housing Division, Room 8166, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410; telephone (202) 708-2140. Hearing or speech-impaired individuals may call 1-800-877-8339 (Federal Information Relay Service TTY). (Except for the "800" number, these are not toll free numbers.) Individuals may arrange to inspect and copy the documents detailing the legal analysis on which the due process determinations are based by contacting the Assisted Housing Division.

SUPPLEMENTARY INFORMATION:**I. Background**

HUD has published a final rule elsewhere in today's Federal Register amending its regulations at 24 CFR part 10, which sets forth HUD's rulemaking policies and procedures, and 24 CFR part 966, which governs HUD's public housing lease and grievance procedures. The rule adds a new paragraph (a)(2)(iii) to § 966.51 which states that "[f]or guidance of the public, HUD will publish in the Federal Register a notice listing the judicial eviction procedures for which HUD has issued a due process determination."

This notice implements 24 CFR 966.51(a)(2)(iii). The notice provides a State-by-State listing of the due process determinations issued by HUD. Each listing provides a brief description of the judicial eviction procedures required by local law (e.g., forcible entry and detainer actions) which HUD has determined are consistent with the basic elements of due process as further defined in 24 CFR 966.53(c).

II. Listing of Judicial Eviction Procedures for Which HUD Has Issued a Due Process Determination**Alabama**

Unlawful detainer action in district court under Ala. Code §§ 6-6-310(2) to -353 (1975) and a possessory action in district court under the Sanderson Act, Ala. Code §§ 35-9-80 to -88.

Alaska

Forcible entry and detainer action in district or superior court under Alaska Stat. §§ 09.45.060 to .160.

Arizona

Forcible entry and detainer action in justice or superior court under Ariz. Rev. Stat. Ann. Sections 12-1171 -1183.

Arkansas

Forcible entry and detainer action in circuit court under Ark. Code Ann. tit. 18, ch. 60, subch. 3.

California

Unlawful detainer action (as defined in Cal. Civ. Proc. Code Section 1161) in superior, municipal or justice court.

Colorado

Unlawful detainer action in district or county court under Colo. Rev. Stat. §§ 13-40-104 to -123 (1987, Supp. 1989).

Delaware

Summary proceeding for possession in justice of peace court under Del. Code Ann. ch. 57.

District of Columbia

(1) A civil ejectment action under D.C. Code Ann. § 16-1101 in the civil division of the superior court; (2) A summary civil action for unlawful detainer under D.C. Code Ann. § 16-501 in the landlord and tenant branch of the superior court; and (3) An action to recover possession of a rental unit used as a drug haven under D.C. Code Ann. § 45-2559.2 in the landlord and tenant branch of the superior court.

Florida

An action for possession in county court under Fl. Stat. Ann. § 83.59 and a

summary procedure for possession in county court under Fl. Stat. Ann. § 51.011.

Georgia

Dispossessory action in courts of record pursuant to Ga. Code Ann. § 44-7-50 *et seq.* and dispossessory action in magistrate court pursuant to Ga. Code Ann. Section 15-10-1 *et seq.*

Idaho

Unlawful detainer action in district court under Idaho Code Ann. tit. 6, ch. 3.

Illinois

Forcible entry and detainer ("FED") action in circuit court under Ill. Ann. Stat. ch. 110, para. 9-101 *et seq.* (Smith-Hurd 1992), including two special procedures for drug eviction: (1) a public housing agency FED action to evict the tenant for drug trafficking under Ill. Ann. Stat. ch. 110., para. 9-118; and (2) an FED action to evict the tenant under the Illinois Controlled Substance and Abuse Act, Ill. Ann. Stat. ch. 100-1/2, para. 13.9 *et seq.* (Smith-Hurd 1992).

Indiana

Ejectment action (as defined in Ind. Code Ann. § 32-6-1.5-1 (Burns 1992)) in the following courts: (1) The small claims and misdemeanor division of the circuit, superior and county courts; (2) the regular civil division of the circuit, superior, and county courts; and (3) the Municipal Court of Marion County.

Iowa

Forcible detainer action in district court under Iowa Code Ann. chs. 562A, 631, 648 and the Iowa Rules of Civil Procedure.

Kansas

An action in district court for rent and possession under Kan. Stat. Ann. Section 58-2501 to -2533, 58-2540 to -2573; and an action in district court for forcible detainer under Kan. Stat. Ann. §§ 58-2542 to -2573 and Kan. Stat. Ann. ch. 61, art. 23.

Kentucky

Forcible entry and detainer (FED) action in district court in jurisdictions that have adopted the Uniform Residential Landlord and Tenant Act (URLTA). The URLTA provisions on FED actions are set forth in Ky. Rev. Stat. §§ 383.500 to .715.

Maine

Forcible entry and detainer action in district court under Me. Rev. Stat. Ann. ch. 14, Section 6001.

Maryland

(1) An action for summary eviction in district court under Md. Code Ann., Real Prop. Sections 8-401 to -403; (2) An action for ejectment in circuit court under Md. Code Ann., Cts. & Jud. Proc. § 4-402; and (3) An action for ejectment in circuit court under Md. Rules Ann. ch. 1100, §§ T40 to T46.

Massachusetts

An action for eviction in housing, district or superior court under Mass. Gen. Laws ch. 239.

Michigan

A summary proceeding for recovery and possession of premises in district court under Mich. Comp. Laws §§ 600.5701 to .5756.

Minnesota

Forcible entry and unlawful detainer action in district court (or in the housing courts of Hennepin and Ramsey Counties) under Minn. Stat. Ann. §§ 566.01 to .33.

Missouri

Unlawful detainer action (as defined in Mo. Rev. Stat. § 534.030) in circuit court (including an action in small claims courts).

Montana

An action for possession in district or justice court under the Montana Residential Landlord and Tenant Act of 1977, Mont. Code Ann. Sections 70-24-101 to -442

Nebraska

An action for the restitution of real property in county or district court under the Nebraska Uniform Residential Landlord and Tenant Act, Neb. Rev. Stat. Section 76-1401 *et seq.*

New Hampshire

A summary action for eviction under N.H. Rev. Stat. Ann. ch. 540 and a civil action of ejectment and entry.

New Jersey

An action for eviction in the Special Civil Part of the Superior Court, Law Division, under N.J. Stat. Ann. Section 2A:18-61.1 *et seq.*

New Mexico

A summary action for possession in district or magistrate court under the Uniform Owner-Resident Relations Act, N.M. Stat. Ann. Sections 47-8-1 to -51 (Michie 1978).

New York

Summary eviction proceedings under N.Y. Real Prop. Acts. Law art. 7

North Dakota

An action for eviction in district or county court under N.D. Cent. Code Sections 33-06-01 to -04.

Ohio

Forcible entry and detainer action in municipal or county court under Ohio Rev. Code Sections 1923.01 to .15

Oklahoma

An action in district court for forcible entry and detainer (12 Okl. St. Section 1148.1 to .16, 1751 to 1772) for noncompliance which materially affects health or safety.

Oregon

Forcible entry and detainer action in district court under Or. Rev. Stat. Sections 90.100 to .940, 105.110 to .155.

Pennsylvania

An action for eviction in the court of common pleas under Section 511 of the Pennsylvania Landlord Tenant Act, 68 Pa. Cons. Stat. Section 250.511 and an action before a district justice for recovery of possession of real property under rules in the 500 series of the Pennsylvania Rules of Civil Procedure for District Judges.

Rhode Island

An action for eviction in district court under R.I. Gen Laws tit. 34, ch. 18.

South Carolina

An action for possession in circuit or magistrate court under S.C. Code Ann. tit. 27.

South Dakota

An action for detainer in circuit or magistrate court under S.D. Codified Laws Ann. Sections 21-16-1 to -12.

Tennessee

An unlawful detainer action under Tenn. Code Ann. Sections 29-18-101 to

-134 and an action for possession under Tenn. Code Ann. Sections 64-2801 to -2864, 66-28-101 to -517.

Texas

An action for forcible entry and detainer in justice court under Tex. Prop. Code Ann. Sections 24.001 *et seq.*, 91.001 *et seq.* and a trespass to try title action in district court under Tex. Prop. Code Ann. Sections 22.001 *et seq.* and 91.001 *et seq.*

Utah

Unlawful detainer action in district or circuit court under Utah Code Ann. Sections 78-36-1 to -12.6 (1989 and 1990 Supp.).

Vermont

A superior court ejectment action pursuant to Vt. Stat. Ann. tit. 9, Sections 4451-4468 and Vt. Stat. Ann. tit. 12, Section 4851 *et seq.*

Virginia

An unlawful detainer action in circuit court or general district court pursuant to Va. Code Sections 8.01-126.

Washington

An unlawful detainer action in superior or district court under Wash. Rev. Code chs. 59.12, 59.18.

West Virginia

An action in magistrate or circuit court for unlawful detainer under W. Va. Code ch. 55, art. 3 or for wrongful occupation under W. Va Code ch. 55, art. 3A-1.

Wisconsin

An action for eviction in circuit court under Wis. Stat. Ann. ch. 799.

Wyoming

An action for ejectment in district court under Wyo. Stat. Section 1-32-202 *et seq.*

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Kevin Emanuel Marchman,

Acting Assistant Secretary for Public and Indian Housing.

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