**HCBS LEASE/RESIDENCY AGREEMENT REQUIREMENTS - SUMMARY[[1]](#footnote-1)**

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| **Residential Care Facility Provisions** | **Landlord-Tenant Law Provisions** | |
| Resident Agreement: A residential care facility (“RCF”) shall enter into a written resident agreement with each prospective resident prior to beginning residency in the RCF. Ohio law requires the agreement to include at least 7 specific items, including a statement that the facility must discharge or transfer a resident when a resident needs skilled nursing care beyond the limitations of the type/duration that is offered. OAC 3701-17-57(C),(D).  Discharge/Transfer/Hearing Rights: A RCF may only transfer or discharge a resident, in the absence of a request from the resident, for 9 reasons (resident’s health has improved so that no longer needs services, welfare/needs cannot be met, failure to pay, facility licensure revocation, closure, termination/denial of Medicare/Medicaid, or safety or health of individuals endangered). OAC 3701-61-02(A)(1)-(9); ORC 3721.13(A)(30).  Administrator must notify resident (and sponsor) in writing by certified mail, return receipt requested, at least 30 days before proposed transfer or discharge (unless an exception applies such as the resident residing in the home less than 30 days, an emergency, etc.). Notice must include all of the following: (a) reasons for the proposed transfer or discharge; (b) proposed transfer or discharge date; (c) proposed location to which the resident may relocate and a notice that the resident (and sponsor) may choose another location; (d) notice of the right to an impartial hearing on the proposed transfer or discharge, and the manner and time within which the resident or sponsor may request a hearing pursuant to ORC 3721.161; (e) a statement that the resident will not be transferred or discharged before the date specified in the notice unless the home and the resident (or sponsor) agree to an earlier date; (f) the address of the legal services office of ODH; (g) the name, address, and telephone number of a representative of the state long-term care ombudsman program and, if the resident has a developmental disability or mental illness, the name, address, and telephone number of the Ohio protection and advocacy system. ORC 3721.16(A).  The resident or resident's sponsor may challenge a proposed transfer or discharge by submitting a written request for a hearing to ODH not later than 30 days after the resident (or sponsor) receives notice of the proposed transfer or discharge. ORC 3721.161(A). On receiving the request, ODH shall conduct a hearing to determine whether the proposed transfer or discharge complies with applicable law. If the resident (or sponsor) submits a hearing request not later than 10 days after receipt of the proposed transfer or discharge notice, the home shall not transfer or discharge the resident unless ODH determines after the hearing that the transfer or discharge complies with applicable law or ODH’s determination to the contrary is reversed on appeal. ORC 3721.161; OAC 3701-61-03(E)-(F). The hearing will be conducted no later than 10 days after ODH receives the hearing request, unless agreed otherwise. Unless the parties otherwise agree, the hearing officer shall issue a decision within 5 days of the date the hearing concludes. In all cases, a decision shall be issued not later than 30 days after ODH receives a hearing request. The hearing officer's decision shall be served on the resident (or sponsor) and the home by certified mail. The hearing officer's decision shall be considered the final decision of ODH. Aresident, resident's sponsor, or home may appeal the decision of ODH to the court of common pleas pursuant to ORC [119.12](http://codes.ohio.gov/orc/119.12). The appeal shall be filed with ODH and the court within 30 days after the hearing officer's decision is served. ORC 3721.162. | Termination of tenancy notices: Landlord or tenant may terminate/fail to renew a week-to-week tenancy by notice given the other at least 7 days prior to the termination date specified in the notice; month-to month tenancy requires 30 days prior notice. ORC 5321.17.    ORC Chapter 1923 Eviction Process (Action for Forcible Entry and Detainer): Persons subject to eviction includes those that have breached obligations that affect health and safety; breached rental agreement; and violated drug laws. See ORC 1923.02.  Before initiating eviction proceedings, landlord must first provide notice 3 or more days before beginning the action (“3-day notice requirement”). Notice must be sent by certified mail or by handing a written copy to the defendant in person, by leaving at defendant's usual place of abode, or at the rental premises. Must also give tenant required termination notice above prior to 3-day notice (except for circumstances involving drugs). Three-day notice by landlord shall contain the following language printed or written in a conspicuous manner: "You are being asked to leave the premises. If you do not leave, an eviction action may be initiated against you. If you are in doubt regarding your legal rights and obligations as a tenant, it is recommended that you seek legal assistance." ORC 1923.04.  After 3 days, landlord can file a complaint with a court (can be a county or municipal court or court of common pleas). ORC 1923.05, 1923.01. The summons shall be served by the clerk to the defendant at least 7 days before the day set for trial. The summons must contain the following language printed in a conspicuous manner: "A complaint to evict you has been filed with this court. No person shall be evicted unless the person's right to possession has ended and no person shall be evicted in retaliation for the exercise of the person's lawful rights. If you are depositing rent with the clerk of this court you shall continue to deposit such rent until the time of the court hearing. The failure to continue to deposit such rent may result in your eviction. You may request a trial by jury. You have the right to seek legal assistance. If you cannot afford a lawyer, you may contact your local legal aid or legal service office. If none is available, you may contact your local bar association." ORC 1923.06.  Defendant can assert defenses (or counterclaims) at trial. ORC 1923.061.  If court rules in landlord’s favor, within 10 days of receiving the writ of execution, the sheriff, police officer, constable, or bailiff shall execute it by restoring the plaintiff to the possession of the premises. ORC 1923.14. | |

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1. Under the HCBS Final Rule, for settings in which landlord tenant laws do not apply, such as for RCFs and AL Waiver providers, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction’s landlord tenant law. Please note that this is provided only as a summary of the law in Ohio and is not inclusive of all of the relevant provisions. [↑](#footnote-ref-1)