

ATTENTION SECTION 8 VOUCHER HOLDERS AND LANDLORDS
90-DAYS OR MORE FOR TERMINATION (EVICTION) NOTICE REQUIREMENT AND FORECLOSURE IS NOT GOOD CAUSE TO TERMINATE THE TENANCY

On May 20, 2009 a new federal law protecting your rights became law.

Section 8 housing choice voucher tenants have new rights regarding eviction from units that have been foreclosed upon.

The person, who now owns your home as a result of the foreclosure, must follow these rules. First, if you have a lease for a fixed term, such as one year, and the lease has not expired, you have a right to remain in the unit and cannot be evicted (except for actions that you, members of your family or your guests take which constitute good cause) until the end of the lease term.

Second, if your lease ends in less than 90 days the new owner may not evict you without giving you a minimum 90 days notice.

Third, the new owner wanting the property vacant before they sell it is not good cause for terminating the tenancy or for eviction.

Fourth, there is one exception to the rule that you may not be evicted during the term of your lease. If the new owner who acquired the property at foreclosure wants to occupy the unit as his or her primary residence, that owner may give you a 90 day notice to vacate your home even if your lease runs for longer than 90 days.

If the new owner tells you that you have to leave, offers you money to leave or gives you a notice of eviction, you should contact your Housing Specialist by calling 697 6105 , tell us what is happening and give us a copy of any notice. You may also contact the local legal services office, located at 80 St. Paul Street, Rochester, NY 14604; phone: 325 2520 .

If you have any questions about this notice, please contact your Housing Specialist by calling 697 6105.

General instructions to tenants:

If you receive an improper notice to terminate your lease, you should give a letter objecting to the termination to your landlord before the date for termination in the notice you received, and you should pay your rent. If you do not pay your rent, your landlord can serve you with a notice to pay rent or quit under your state law.

If your landlord files an eviction complaint against you based upon the termination notice, you should put in your answer, or tell the court if your state does not allow you to file an answer, that the termination notice is improper because the landlord should have served you with a 90-days notice or could not evict until the lease expired under the Protecting Tenants at Foreclosure Act, Pub. L. No. 111-22, § 702 (2009).

You should make a copy of your letter for your records, send your letter to the new owner by certified mail, return receipt requested, at the address the new owner put on his/her notice to you. When you go to court in the eviction case, you should take with you copies of the letter you sent to your landlord, the original and copies of your proof of mailing and green return receipt from the post office, the copy of the new law that is attached to this notice and a copy of your written lease if you have a written lease.

The judge may not know about the law because it is so new, but if you tell the judge about the law if it is his or her legal responsibility to enforce it and make sure that you are not forced to move with less than 90 days notice or before the end of your lease term.

Section 703 of the PTFA amends the statute governing the Section 8 program (Section 8(o) of the U.S. Housing Act of 1937, 42 U.S.C. 1437f (o)), by revising section 8(o)(7)(C) (42U.S.C.1437f(o)(7)(C) to require each HAP contract include the following additional requirements on the owner, as shown below:

SEC. 703. EFFECT OF FORECLOSURE ON SECTION 8 TENANCIES.

Section 8(o)(7) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(7)) is amended--

(1) by inserting before the semicolon in subparagraph (C) the following: `and in the case of an owner who is an immediate successor in interest pursuant to foreclosure during the term of the lease vacating the property prior to sale shall not constitute other good cause, except that the owner may terminate the tenancy effective on the date of transfer of the unit to the owner if the owner--

(i) will occupy the unit as a primary residence; and

(ii) has provided the tenant a notice to vacate at least 90 days before the effective date of such notice.'; and

(2) by inserting at the end of subparagraph (F) the following: `In the case of any foreclosure on any federally-related mortgage loan (as that term is defined in section 3 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602)) or on any residential real property in which a recipient of assistance under this subsection resides, the immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to the lease between the prior owner and the tenant and to the housing assistance payments contract between the prior owner and the public housing agency for the occupied unit, except that this provision and the provisions related to foreclosure in subparagraph (C) shall not shall not affect any State or local law that provides longer time periods or other additional protections for tenants.