

Sample Letter to send to Public Housing and Section 8 HCV Administrators

(Address)

(Date)

(Name of contact person

Address of Public Housing Authority or other Section 8 Administrator)

Re: Protecting Tenants at Foreclosure Act of 2009

Dear _____:

I write to bring to your attention a federal law that pertains to Section 8 tenancies. The Protecting Tenants at Foreclosure Act (P.L. 111-22, §§ 701 - 704 (May 20, 2009)) imposes new requirements on people and entities (including banks) that become the new owners of residential property as a result of foreclosure on the property. The Protecting Tenants at Foreclosure Act was recently clarified and extended by the Dodd-Frank Wall Street Reform and Consumer Protection Act, P.L. 111-203, § 1484 (July 21, 2010).

Under this law, new owners who take title to residential property as a result of foreclosure assume their ownership of the property subject to any existing Section 8 voucher leases and to any existing Housing Assistance Payment (HAP) contracts that were entered into prior to transfer of complete title to the new owner. The new owners must honor the existing arrangements, including the duration of the original lease, and no matter what the length of the remaining term, must provide the tenants with at least 90 days' advance notice before requiring the tenants to vacate the property.

The law contains an exemption for new owners who plan to live in the unit at issue as their primary residence – these new owners are not required to honor the existing lease terms for more than 90 days. New owners in this situation must give the tenant at least 90 days' advance notice to vacate —beginning after complete title is transferred to the new owner — and may terminate the tenancy after the 90 day period. Even if the new owner wishes to terminate the tenancy only at the end of the Section 8 lease, or if a successor to a Section 8 landlord wishes to terminate the lease or the Housing Assistance Payment (HAP) contract, he or she must provide 90 days' advance notice to the tenant.

We hope that you, as the administrator of the Section 8 voucher program, will inform tenants, current landlords and new owners of units that house Section 8 voucher tenants about this law in writing. Please make these documents available in languages other than English for tenants and landlords with limited English proficiency. For future HAP contracts and voucher leases, we suggest that the PHA prepare an addendum to include the 90-days notice requirement and the modification to the term “other good cause” to exclude vacating the property prior to sale from that category.

Please find enclosed a copy of the Protecting Tenants at Foreclosure Act and a sample notice for tenants informing them of the new law. Also, please see HUD Notice PIH 2009 - 52 (HA), Protecting Tenants at Foreclosure Act – Guidance on New Tenant Protections, (December 15, 2009).

If we can be of assistance, please feel free to contact _____. Thank you for your attention to this matter.

Sincerely,

(Name)