

# MBHA

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## NOTICE TO SECTION 8 VOUCHER LANDLORDS

Re: Pub. L. No. 111-22, §§ 702 - 703 (2009),  
Protecting Tenants At Foreclosure Act of 2009  
Sunset provision repealed May 24, 2018

The Protecting Tenants at Foreclosure Act requires that new owners, who take possession to property through foreclosure, take subject to existing Section 8 voucher leases and the Housing Assistance Payment contracts. During the term of the lease, vacating the property prior to sale shall not constitute good cause, except that a new owner who acquired the property at foreclosure may terminate the tenancy effective on the date of transfer of the unit to the new 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...

At the end of the term of the Section 8 voucher lease, the new owner may also terminate the tenancy, if the new owner provides a 90-day notice. The 90-day notice is applicable when the successor to a Section 8 voucher landlord attempts to terminate the lease as well as when the successor attempts to terminate the Section 8 Housing Assistance Payment (HAP) contract.

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### Section 703 of the Protecting Tenants at Foreclosure Act (PTFA)

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) (42 U.S.C. 1437f(o)(7)(C)) to require that each HAP contract include the following additional requirements on the owner, as shown in boldface:

(C) Shall provide that during the term of the lease, the owner shall not terminate the tenancy except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause, ... **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.**

Additionally, Section 703 of the PTFA revises section 8(o)(F) (42 U.S.C. 1437f(o)(7)(F)), to add the language shown in boldface:

**(F) may include any addenda required by the Secretary to set forth the provisions of this subsection. 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 affect any State or local law that provides longer time periods or other additional protections for tenants.**

Under these new statutory provisions, the immediate successor in interest, which is the party gaining ownership through a foreclosure sale, becomes subject to the HAP contract, as also revised by statute, and there must be “good cause” other than vacating the property prior to sale in order to terminate the existing tenancy.

Foreclosed properties in which section 8 voucher recipients reside must comply with Sections 702 and 703 of the PTFA. If the immediate successor-in-interest will use the unit as a primary residence, the lease can be terminated effective on the date of the sale. In such cases, the tenant is still entitled to a minimum of 90 days notice to vacate. Section 702 is discussed in more detail in PIH Notice 2009-17. These statutory provisions sunset on December 31, 2012. The sunset provision was repealed on May 24, 2018