



New England

U.S. Department of Housing and Urban Development

Office of Public Housing
Boston Hub
Thomas P. O'Neill, Jr. Federal Building
10 Causeway Street
Boston, Massachusetts 02222-1092

New England PIH Advisory Letter # 09 02
June 15, 2009

SUBJECT: Protecting Section 8 Tenants at Foreclosure

Dear Executive Directors:

On May 20, 2009, President Obama signed the "Helping Families Save Their Homes Act of 2009," P.L. 111-22 (the Act). The Act includes protections for tenants, including Section 8 tenants, who are living in homes subject to foreclosure. These protections were effective immediately as of May 20, 2009.

The Act specifically amended Section 8(o)(7) of the United States Housing Act of 1937 (42 U.S.C. Section 1437f(o)(7)). Pursuant to the changes, the "immediate successor in interest" (generally the bank or other lending institution) shall assume **both** the existing Section 8 lease and the existing Housing Assistance Payments Contract. Foreclosure does not constitute "other good cause" for termination of an existing Section 8 lease with one exception; if the unit will be owner-occupied as a primary residence, the owner must provide the tenant with a minimum 90 day notice to vacate.

The Act provides that these protections are the minimum to which Section 8 tenants are entitled. The Act specifically does not affect any state or local laws that provide additional protections for tenants, including longer time limits.

These changes are effective for all Section 8 tenants, even those living in units that have already been foreclosed. Under the law, the immediate successor in interest to a foreclosed property must assume responsibility for a current Section 8 tenancy even if the foreclosure occurred prior to May 20th. As such, if your PHA administers Section 8 assistance on behalf of a tenant residing in a foreclosed property or a property in the process of foreclosure, you must identify and work with the successor in interest to ensure that the rights and obligations under the Housing Assistance Payments Contract are understood and complied with by the successor in interest.

We recognize that these changes do not resolve all of the problems faced by PHAs administering Section 8 tenancies caught in foreclosure. HUD is working to make programmatic revisions where necessary to fully implement the law, but no HUD action is necessary to make these changes effective immediately so you should not wait for HUD's further guidance. If you have questions or concerns about the implementation of this statutory change, please call your HUD contact.

Sincerely,

A handwritten signature in black ink, appearing to read "Donna J. Ayala", is written over a circular stamp. The signature is fluid and cursive.

Donna J. Ayala
Director