

Address

Date

Name of Judge

Address

Dear Honorable Judge _____:

I write to bring to your attention a federal law that applies to state eviction proceedings.

At the start of the foreclosure crisis, renters in good standing were being evicted from their homes, often with little or no notice, merely because the properties they occupied were foreclosed upon. To address this problem and to stabilize neighborhoods, Congress enacted the Protecting Tenants at Foreclosure Act (PTFA), P.L. 111-22, §§ 701-704 (effective on May 20, 2009), as clarified and extended by the Dodd-Frank Wall Street Reform and Consumer Protection Act, P.L. 111-203, § 1484 (July 21, 2010).

The PTFA requires that new owners (including lenders) who have acquired residential property through foreclosure honor the existing leases or tenancies of any bona fide tenants for the entire remaining lease term. The law also requires that, regardless of the length of time remaining on their lease, new owners provide existing tenants with at least ninety (90) days' notice to vacate before requiring the tenants to leave the property. If the remaining lease term is more than 90 days, and a new owner intends to live in the unit as their primary residence, an exception to the general rule allows such owners to provide at least 90 days' notice to vacate and terminate the lease before its normal expiration date. Regardless of the remaining term on the lease, only after complete title to the property is transferred may the new owner give the notice to vacate to the tenants.

Under the PTFA, all bona fide tenants must receive a 90-day notice before they may be required to vacate. Tenants with more than 90 days remaining on a lease may remain until the end of the lease, if the tenant entered into the lease prior to the transfer of complete title to the new owner. In addition, the lease must be bona fide (the tenant cannot be the mortgagor or the child, spouse, or parent of the mortgagor, the lease or tenancy must be the result of an arms-length transaction, and the lease or tenancy must require the receipt of rent that is not substantially less than fair market unless the lease is reduced or subsidized due to a Federal, State, or local subsidy.)

The new law similarly provides protections for tenants whose rent is subsidized through a Section 8 voucher. In such cases the new owner at foreclosure assumes ownership of the property subject to the existing lease between the Section 8 participant and the previous owner of the property, and also subject to the Section 8 Housing Assistance Payments (HAP) contract between the previous owner and the administrator of the Section 8 program. The requirement to serve at least a 90 day notice to vacate to the tenants is the same as with non-Section 8 tenancies.

Please note that PTFA explicitly states that it does not preempt state and local laws that provide *additional* protections to tenants.

Copies of the text of these laws are enclosed for your reference. If you have any questions, please contact _____. Thank you for your attention to this matter.

Sincerely,

(name)