

ATTENTION SECTION 8 VOUCHER HOLDERS
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 at 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 City of Chandler's Housing Division, tell us what is happening and give us a copy of any notice. You may also contact the local legal services office.

If you have any questions about this notice please contact your housing specialist at the City of Chandler Housing Division.

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 (some states call this an unlawful detainer action) 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 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.

Sample letter to send to a new owner regarding Foreclosure

(Name of Tenant)
(Address of Tenant)
(Address of Tenant)

Date

(Name of new owner)
(Address of new owner)
(Address of new owner)

Dear (Name of new owner):

I am a tenant at (address, including apt.# if applicable). I have a lease that is assisted with a Section 8 Housing Choice Voucher. The Housing Assistance Payments (HAP) contract for my unit is managed by the City of Chandler Housing Division.

I am writing this letter in response to the notice of termination dated (date of notice you received) that I received from you.

The Protecting Tenants at Foreclosure Act, Pub. L. No. 111-22, § 701 - 704 (2009), which became a federal law on May 20, 2009, applies to state eviction proceedings. This law requires a person or entity (including a bank) who becomes the new owner of residential rental property as a result of a foreclosure to **continue to honor and be bound by both the Section 8 voucher lease and the Housing Assistance Payments (HAP) contract** that existed with the original landlord. A new owner must give the tenant at least 90 days notice to vacate prior to the end of the lease

If the Section 8 lease and HAP contract have less than 90 days remaining in their term, or if the new owner plans to live in the property as his or her primary home, the new owner can require a tenant to leave the property **after giving at least 90 days' advance notice**. The 90 days must start on or after the date when the new owner officially becomes the owner of the property.

Because the notice sent on (date of notice you received) gives me less than the 90-day notice required by law, I consider the notice to be void and ineffective.

Sincerely,

(Tenant's signature)