

Protecting Tenants at Foreclosure Act – Guidance

Families receiving Housing Choice Voucher (HCV) assistance are entitled to certain protections under the Protecting Tenants at Foreclosure Act (PTFA). The Dodd-Frank Wall Street Reform and Consumer Protection Act, extended the foreclosure provisions until December 31, 2014. Specifically, the Housing Assistance Payments (HAP) contract contains language stating that in the case of any foreclosure, the immediate successor in interest in the property pursuant to the foreclosure will assume such interest subject to the lease between the prior owner and the tenant, and to the HAP contract between the prior owner and Oklahoma Housing Finance Agency (OHFA) for the occupied unit.

This provision of the HAP contract does not affect any state or local law that provides longer time periods or other additional protections for tenants. Please see the following PTFA general guidance:

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—

- will occupy the unit as a primary residence; and
- has provided the tenant a notice to vacate at least 90 days before the effective date of such notice.

Tenants with leases with more than 90 days left on their lease have a right to stay until the end of lease, unless the purchaser will occupy the housing as a primary residence as noted above.

Tenants with expiring or month-to-month leases are entitled to a 90-day notice before the new owner can file for eviction.

During the foreclosure process, the tenant must continue to pay rent in accordance with the lease. Failure to pay rent may constitute an independent reason for eviction. In the event that the new owner refuses to accept the tenant's rent, the tenant should contact a local legal aid office to obtain assistance to ensure adequate legal protection of the tenant's rights.

For specific requirements and further guidance, please see the Protecting Tenants at Foreclosure Act, as amended, the U.S. Department of Housing and Urban Development's (HUD) Notice PIH 2010-49, the HAP contract provisions (HUD-52641), and OHFA's Administrative Plan.