



May 18, 2010

Attention Landlords and Tenants!

Re: Protections for Tenants in Foreclosed Properties, Revised HAP contract

On Friday April 21, 2010, HUD's Office of Public and Indian Housing (PIH) sent out a new version of form HUD-52641, Housing Assistance Payments (HAP) Contract. We have compared the revised form, which is dated 8/2009, with the 1/2007 version and note the following significant changes:

- A new paragraph b(6) has been added to Part B, section 4, "Term of HAP Contract":
 - (6) The HAP contract terminates automatically upon the death of a single member household, including single member households with a live-in aide.
- Paragraph a(3) in Part B, section 7, "PHA Payment to Owner," has been revised to clarify the circumstances under which a PHA must pay penalties to an owner if housing assistance payments are late.
- Pursuant to the Protecting Tenants at Foreclosure Act and Notice PIH 2009-52, a new paragraph 15 on foreclosure has been added to Part B:
 - **15. Foreclosure.** In the case of any foreclosure, the immediate successor in interest in the property pursuant to the foreclosure shall assume such interest subject to the lease between the prior owner and the tenant and to the HAP contract between the prior owner and the PHA for the occupied unit. This provision does not affect any State or local law that provides longer time periods [sic] or other additional protections for tenants. **This provision will sunset on December 31, 2012, unless extended by law.**
- Paragraph (b) in Part B, section 17, "Entire Agreement: Interpretation," has been revised to clarify that the HAP contract will be interpreted and implemented in accordance "with all statutory requirements" as well as all HUD requirements.
- Pursuant to Notice PIH 2009-18, the wording of paragraphs d(2) and d(3) of Part C, section 8, "Termination of Tenancy by Owner," has been revised (*includes* has been changed to *may include*) and a new paragraph d(4) has been added:
 - (4) The examples of other good cause in this paragraph do not preempt any State or local laws to the contrary.
- Pursuant to the Protecting Tenants at Foreclosure Act and Notice PIH 2009-52, a new paragraph d(5) has been added to Part C, section 8, "Termination of Tenancy by Owner":
 - (5) In the case of an owner who is an immediate successor in interest pursuant to foreclosure during the term of the lease, requiring the tenant to vacate 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: (a) will occupy the unit as a primary residence; and (b) has provided the tenant a notice to vacate at least 90 days before the effective date of such notice. This provision shall not affect any State or local law that provides for longer time periods or addition protections for tenants. **This provision will sunset on December 31, 2012, unless extended by law.**