

Know Your Rights When Your Landlord Gets Foreclosed

“Protecting Tenants at Foreclosure Act of 2009”

(Signed into law by President Obama on May 20, 2009)

- When the home you rent is foreclosed before December 31, 2012, the new owner **MUST**:
 - ✓ **Permit** you to finish your lease in most cases;
 - ✓ **Participate** in any active Section 8 voucher payment contracts;
 - ✓ **Give** you at least 90 days written notice to move if your lease has expired or is going to expire in less than 90 days; and
 - ✓ **Give** you at least 90 days written notice to move if you rent month-to-month.
- The new owner does not have to let you finish your lease **IF**:
 - ✓ The new owner wants to live in the property he/she bought, **BUT**
 - ✓ The new owner must still give you at least 90 days written notice to move.
- In all cases, before evicting a tenant from a foreclosed building, the new owner **MUST**:
 - ✓ **Give** you no less than 90 days written notice to move;
 - ✓ **File** a lawsuit against you and get a judgment for possession from a court; and
 - ✓ **Request** a sheriff's eviction.
- It is **ILLEGAL** for the new owner to:
 - ✓ **Disconnect** the utilities to force you to move;
 - ✓ **Fail** to keep the building safe to force you to move;
 - ✓ **Change** the locks to force you to move; or
 - ✓ **Threaten** you to force you to move.
- The new owner **MAY**:
 - ✓ **Offer** to enter into a new lease with you; or
 - ✓ **Pay** you money so that you can move faster.

**IF YOU HAVE QUESTIONS OR WANT MORE INFORMATION
PLEASE CALL (816) 474-6750**

This is a community legal education publication of

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Full copy of the law is on the back of this flier.

TITLE VII—PROTECTING TENANTS AT FORECLOSURE ACT

Public Law 111-22, Helping Families Save Their Homes Act of 2009
Title VII, Sections 701-704, Protecting Tenants at Foreclosure Act. 123 STAT.1632, 1660

I. SEC. 701. SHORT TITLE.

This title may be cited as the 'Protecting Tenants at Foreclosure Act of 2009'.

II. SEC. 702. EFFECT OF FORECLOSURE ON PREEXISTING TENANCY.

- (a) In General— In the case of any foreclosure on a federally-related mortgage loan or on any dwelling or residential real property after the date of enactment of this title, any immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to—
- (1) the provision, by such successor in interest of a notice to vacate to any bona fide tenant at least 90 days before the effective date of such notice; and
 - (2) the rights of any bona fide tenant, as of the date of such notice of foreclosure—
 - (A) under any bona fide lease entered into before the notice of foreclosure to occupy the premises until the end of the remaining term of the lease, except that a successor in interest may terminate a lease effective on the date of sale of the unit to a purchaser who will occupy the unit as a primary residence, subject to the receipt by the tenant of the 90 day notice under paragraph (1); or
 - (B) without a lease or with a lease terminable at will under State law, subject to the receipt by the tenant of the 90 day notice under subsection (1),except that nothing under this section shall affect the requirements for termination of any Federal- or State-subsidized tenancy or of any State or local law that provides longer time periods or other additional protections for tenants.
- (b) Bona Fide Lease or Tenancy— For purposes of this section, a lease or tenancy shall be considered bona fide only if—
- (1) the mortgagor or the child, spouse, or parent of the mortgagor under the contract is not the tenant;
 - (2) the lease or tenancy was the result of an arms-length transaction; and
 - (3) the lease or tenancy requires the receipt of rent that is not substantially less than fair market rent for the property or the unit's rent is reduced or subsidized due to a Federal, State or local subsidy.
- (c) Definition— For purposes of this section, the term 'federally-related mortgage loan' has the same meaning as in section 3 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602).

III. SEC. 703. EFFECT OF FORECLOSURE ON SECTION 8 TENANCIES.

Section 8(o)(7) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(7)) is amended—

- (1) by inserting before the semicolon in subparagraph (C) the following: 'and 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—
 - (i) will occupy the unit as a primary residence; and
 - (ii) has provided the tenant a notice to vacate at least 90 days before the effective date of such notice.'; and
- (2) by inserting at the end of subparagraph (F) the following: 'In the case of any foreclosure on any federally-related mortgage loan (as that term is defined in section 3 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602)) or on any residential real property in which a recipient of assistance under this subsection resides, the immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to the lease between the prior owner and the tenant and to the housing assistance payments contract between the prior owner and the public housing agency for the occupied unit, except that this provision and the provisions related to foreclosure in subparagraph (C) shall not affect any State or local law that provides longer time periods or other additional protections for tenants.'

IV. SEC. 704. SUNSET.

This title, and any amendments made by this title are repealed, and the requirements under this title shall terminate, on December 31, 2012.