

Tenants in Foreclosed Dwellings Have New Rights

On May 20, 2009, a new federal law was passed to protect tenants in foreclosed rental properties. Tenants are often the last to know that their landlord's property is undergoing foreclosure. To protect tenants who find themselves in the difficult position of having to find a new home with little or no notice, a 90 day pre-eviction requirement is now the law. New owners, who take over a foreclosed rental dwelling after May 20th, have to follow rules established by the Protecting Tenants at Foreclosure Act (The Act) Pub. L. No. 111-22, § 702 (2009).

Under this law, the person who now owns your rental dwelling as a result of foreclosure must comply with the following rules:

- If you have a lease for a fixed term, such as one year, and the lease has not expired, you may have a right to remain in your rental unit. You cannot be evicted until the end of the lease term, unless the new owner will occupy your unit as a primary residence. In any event, the new owner is still required to provide you with 90 days notice.
- If your lease ends in less than 90 days, the new owner may not evict you without giving you a minimum 90-days notice.
- The new owner cannot use the foreclosure as a reason to terminate the tenancy or evict you if they want the property vacant so they can sell it.
- Housing Choice Voucher tenants have additional protections.

Tenants who want to continue the lease term after foreclosure must:

- Pay rent to the new owner. If you don't pay, you will be subject to eviction procedures for non-payment of rent.
- Continue to follow all existing lease terms.
- Tenants who receive an improper notice to terminate their lease should do the following:
- Send a letter (see sample letters) to the new owner objecting to the termination before the date in the notice received along with a copy of The Act.
- Send your letter by certified mail, return receipt requested, to the address provided by the new owner on the notice you received.
- Keep a copy of the letter for your records along with all documents you receive from the new owner.
- If the new owner does not withdraw the improper notice, you may file a complaint for voluntary mediation with the Consumer Affairs Branch.
- If the new owner files in court to remove a tenant from a rental unit through eviction or an unlawful detainer action, you should file an answer to the court that the termination notice is improper because the new owner did not comply with The Act.
- Go to court on the scheduled date. Take a copy of the letter you sent to the new owner, your lease agreement, and any other documents you have regarding your tenancy.
- If you have questions about the court process or your legal rights after you receive an eviction notice, contact Legal Services of Northern Virginia at 703-246-4500 for guidance.
- If foreclosure of your rental dwelling happens after May 20, 2009 you **cannot** be forced to move, with limited exceptions, without 90 days notice.

To learn more, renters should contact Fairfax County's Consumer Affairs Branch 703-222-8435, TTY 711, or get help in person at 12000 Government Center Parkway, Suite 433, Fairfax, between 8 a.m. and 4:30 p.m., or the South County Center, 8350 Richmond Highway, Alexandria, on Wednesdays from 8 a.m. and 4:30 p.m.