

Foreclosure of A Rental Unit



What if My Landlord Loses the Property I Rent Through Foreclosure? Do I have rights?

After a property is foreclosed, a new owner takes over. The new owner may be the bank that foreclosed the property or someone who bought the property at an auction. Some new owners want to continue renting the property to tenants. Some new owners don't want the responsibility of being a landlord. Either way, you have rights as a tenant pursuant to the Protecting Tenants at Foreclosure Act (PTFA). **Remember:** Missouri law requires an owner of property to obtain a court order for eviction BEFORE physically removing a tenant from a rental property.

How much time do I get to move if the new owner asks me to leave?

Even if the new owner does not want to continue renting to you, you do not have to move out immediately. In most cases, the new owner must give you a written 90-day notice to move. The new owner cannot give you this notice until after the foreclosure sale is completed and title to the property is transferred to the new owner.

What if I need more than 90 days to move?

The new owner can file an eviction action against you in court if you do not leave within the 90-day notice period. However, you cannot be forced to move until after the owner files a lawsuit and gets a court order for eviction. You also have the right to file a response and to defend yourself in court. Be aware that, in addition to possession, the new owner may seek a money judgment against you in the lawsuit.

What if I have a lease that has more than 90 days left?

Under the PTFA, the lease survives foreclosure. You may stay in the property for the entire term of your lease or 90 days, whichever is longer. The only exception to this rule is if the new owner wants to live in your unit, in which case you are still entitled to 90 days before you can be forced to move. The new owner will also have the right to terminate your lease if you break any of the rules of your lease.

What if I have a Section 8 voucher?

The new owner is required to continue your Section 8 lease and the Housing Assistance Contract (HAP contract) with the housing authority. Make sure you tell the housing authority about the foreclosure. You have the same protections after foreclosure as any other tenant with a lease. The new owner cannot evict you before your lease is up unless you break the rules of your lease or the new owner is planning to move into the property. In most cases, the new owner is not required to renew your Section 8 lease when it ends.

What are the responsibilities of the new owner?

Whether the new owner is a bank, an investor or a person who wants to live there, the new owner has the same responsibilities as your old landlord. The new owner must keep the building in good repair. Notify the new owner if you need repairs by phone and in writing. The new owner must provide the same utilities for you that your old landlord provided. It is illegal for the new owner to stop making repairs or shut off any utility.

The new owner must also follow the lease terms concerning access to your residence. If no lease provisions exist, reasonable advance notice must be provided before entering. If you feel harassed by unreasonable requests to inspect or allow tours of the residence you may decline. If the landlord threatens you, you have the right to request police involvement.

How do I pay the rent?

Find out who the new owner is and offer the rent. Do not pay the previous landlord. Always write on the rent check or money order, "Rent for the month of _____." Keep your proof of payment in a safe place. If you cannot find the owner, or the new owner rejects your rent payment, keep a record showing you tried to pay the rent. Save the rent money in a bank account or other safe place.

Be aware of the "fake landlord." Before you pay to anyone claiming to be the new owner ask for proof of ownership (e.g., copy of the recorded deed).

What if the new owner offers me "cash for keys?"

The new owner might offer you money to move out. For your protection, any agreement to move should be in writing and signed by the owner or an authorized representative. Before accepting, you should consider the costs of moving, including the first month's rent and security deposit for a new place. Because you may be unable to recover the deposit from your old landlord, it is important to consider that cost in any deal with the new owner. In some cases, the 90 days may be of more benefit than the new owner's offer.

What happened to my security deposit?

Your old landlord is responsible for returning your security deposit. Write a letter requesting the return of your deposit and keep a copy for your records. Send one copy regular mail and another copy certified mail return receipt requested.

Note: Unless extended by law, the Protecting Tenants at Foreclosure Act is due to expire on December 31, 2014.

Prepared by Legal Services of Eastern Missouri, Inc. (LSEM). LSEM provides this educational information as a public service. It is not legal advice. Sometimes the laws change. Always consult a lawyer, if you can, before taking legal action. The mission of LSEM is to provide high-quality civil legal assistance and equal access to justice for low-income people in Eastern Missouri.

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