

Mortgage Foreclosures: Renters FAQs

1. What is foreclosure? How do I know whether the place where I live is in foreclosure?

If the owner of your property fails to make mortgage payments, the lender can order the county sheriff to auction the property. Until recently, tenants may have learned about the foreclosure by opening the "Notice to Occupant" delivered by the Sheriff or another representative of the financial institution. After August 1, 2008, notice directly to tenants is required at least four weeks before the Sheriff's Sale.

2. What rights do tenants have who are victims of foreclosure? How long can I live there?

Tenants can remain in their homes for 6 months following the Sheriff's sale. This is called the "redemption period". Tenants must continue to pay rent to the landlord and follow the terms of the lease during redemption. After the end of the redemption period, tenants will be dealing with the new owner. Tenants must be given two month's written notice before they are ordered to leave. If tenants have Section 8 Vouchers, the lease may extend beyond the redemption period.

3. What if I've moved in during the six-month redemption period?

You must now be notified in writing at the time you sign the lease that the property is in redemption. The lease may be for no more than two months or the time remaining in the redemption period, whichever is less.

4. I've been paying my rent, but the landlord hasn't paid for utilities. I'm afraid that everything will be shut-off. What can I do?

If utilities are shut off because the landlord did not pay the bill, you may have to go to court to have them turned on again. Call the utility company. You will have to pay for what was used last month. A tenant in a one-to-four family dwelling can also take over the account and become a new customer with no deposit required. For water, tenants can continue to pay charges for the most recent billing period and continue to receive service.

5. I have received a notice of eviction because my rental unit is in foreclosure. What can I do? I don't want this on my rental records because it may be harder to find another place to live.

After, August 1, 2008, tenants are entitled to mandatory expungement (erase the eviction) if they vacated prior to the end of the redemption period or never received the required notice to vacate.

6. I don't think my landlord will return my security deposit and last month's rent. I can't afford to pay for new security and rental deposits in another place. Can I withhold my last month's rent?

You have the right to get your security deposit back within 21 days of moving out. If the property is sold, the landlord must transfer the deposit to the new owner or return it to you. If your deposit is never returned, you can sue the landlord for twice the amount owed plus \$200 in penalties and you should sue both the former and new landlord. Legal assistance is strongly advised. Tenants in foreclosure situations that occurred after August 1, 2008, now have the right to withhold the last month's rent without penalty.