

## Tenants' Rights in Foreclosed On Properties

### Right to Pre-Eviction Notice

- ✚ In Just Cause Eviction Jurisdictions (where good cause for eviction is required): no eviction permitted based on foreclosure.
- ✚ Tenants in non-just cause eviction jurisdictions who live in buildings foreclosed on before May 20<sup>th</sup>, 2009, have a right to 60 days notice to quit before the new owner is permitted to file an eviction action in court.
- ✚ All tenants in buildings foreclosed on after May 20<sup>th</sup>, 2009, have the following new rights under the "Helping Families Save Their Home Act of 2009":
  - Tenants with a lease have a right to stay in unit until end of lease, although the lease may be terminated on 90 days' notice by a purchaser who will occupy the unit as his/her primary residence.
  - Tenants with expiring or month-to-month leases are entitled to a 90 day notice to quit before the new owner is permitted to file an eviction action in court.
  - For Section 8 tenants, foreclosure is not good cause to evict. The new owner must respect existing Section 8 leases and give a 90 day notice to quit to Section 8 tenants with expiring leases. The contract with the Housing Agency remains in effect as to the successor in interest (new owner of the property) after foreclosure.

### **For renters in buildings foreclosed on by Fannie Mae where Fannie Mae becomes the owner:**

Fannie Mae will consider renting to tenants of its foreclosed on properties. This includes two- to four-unit properties, condos, co-op, single-family detached homes, and manufactured housing, where the homeowners associations (HOAs) do not prohibit rentals. See full policy at

[http://www.fanniemae.com/newsreleases/2009/faq/FAQ\\_national\\_REO\\_rental\\_policy\\_010709.pdf](http://www.fanniemae.com/newsreleases/2009/faq/FAQ_national_REO_rental_policy_010709.pdf)

# HERA

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## **For renters in buildings foreclosed on by Freddie Mac where Freddie Mac becomes the owner:**

Freddie Mac will contact tenants (and former owners) of its foreclosed on properties to discuss the possibility of renting from Freddie Mac (see announcement at [http://www.freddiemac.com/news/archives/servicing/2009/20090305\\_reo-rental-initiative.html](http://www.freddiemac.com/news/archives/servicing/2009/20090305_reo-rental-initiative.html))

## **Right to Utility Service**

The new property owner must maintain your utility service, even if it is the bank that foreclosed. If the new owner does not do so, contact your local legal services office.

## **No Lock-Outs**

It is illegal in California to change a tenant's locks without a court order. To get a court order, the property owner must take the renter through the formal eviction process. For a formal eviction, the property owner must serve the renter with a written notice (see above), and then must file a Summons and Complaint with the court and serve a copy on the renter. The renter then has 5 days to respond in writing and file the response with the court. (Sometimes you have more time to respond- immediately contact your local legal aid office for help and to determine how long you have to respond.) You are entitled to a trial.

## **Make Sure You Know Who You Are Talking To**

Whoever knocks on your door or sends you a notice asking for rent might not be the new owner. Make sure they provide you with proof. Ask for a copy of a recorded Trustee's Deed. You should also go yourself to the county recorder's office to double-check on who the new owner is.

## **Property Conditions Post-Foreclosure- Who Is Responsible**

The new property owner is responsible for the conditions of the property. You are entitled to request repairs from the new owner, even if it is the bank that foreclosed.

phone 510.271.8443  
fax 510.868.4521

## Cash for Keys

When lenders foreclose on a property, they may not be able to sell the property to someone else. If not, then they or their representative become the owners of the property, and they often hire a management company to deal with tenants. Right after foreclosure, real estate management companies may knock on your door offering “cash for keys”. They may sound threatening and tell you that you have to leave the property in 5-10 days. They may offer to pay you a small amount of cash if you leave. What do you do?

- Do not be intimidated. Call the police if you feel unsafe. You have a right to receive proper notice- which will be a 90 day notice if the foreclosure happened after May 20, 2009, and 60 day notice if the foreclosure happened earlier. In some cases, the new owner might not be entitled to evict you at all. See “Rights” on Page one.
- Remember, if you live in a city with good cause eviction protections, you may not be evicted after foreclosure unless there is “good cause”. The foreclosure does not constitute “good cause”.
- Verify who you are talking to. Because the foreclosure is a public record, scam artists may knock on your door and try to get you to let them in, or may try to frighten you out of your home. You can verify who the new property owner is at the county recorder’s office. You should also ask the person who claims to represent the property owner to provide you with a written letter with contact information for the new owner, and a copy of a recorded document showing that the new owner has title to the property. You can take that copy to the county office and make sure that it is accurate.
- If you decide to move out, make sure you ask for as much money as you realistically need in order to move (two months rent, moving expenses, for example.) Ask for at least half of the money up front and/or for the entire payment before you hand over the keys, and request an agreement that is in writing and signed, so that you have proof of the agreement. Remember- you are saving the new owner money and time if you agree to move out.
- If you make any changes to the agreement verbally, make sure those changes get made in writing as well.