

CONSUMER'S EDGE

CONSUMER PROTECTION DIVISION, MARYLAND OFFICE OF THE ATTORNEY GENERAL

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LANDLORD FORECLOSURES

While most Americans are aware that the foreclosure crises can affect homeowners, most don't realize foreclosures affect tenants as well. When landlords default on their mortgages and their rental properties enter foreclosure, renters face the prospect of being forced out. If tenants discover that their landlords are in foreclosure, they should consider several issues and know their rights.

During the foreclosure process, ownership of the rental property eventually is transferred from the landlord to the bank or to a new owner. Until foreclosure is completed, the landlord retains the right to collect rent from tenants. If a tenant discovers that their landlord is in the process of foreclosure but the court has not yet finally approved the transfer of the property to a new owner, the tenant must continue to pay rent. If the tenant stops paying rent, the landlord can go to court to evict the tenant for failing to pay.

Even if the landlord is in foreclosure or facing financial difficulties, the landlord is still obligated to maintain the property. If a landlord fails to repair serious or dangerous defects in a rental unit, the tenant has the right to pay rent into an escrow account established at the local district court. However, the law is very specific on the conditions and procedure to begin putting rent in escrow. Call the Consumer Protection Division at 528-8662 (toll-free in Maryland: 1-888-743-0023) for the publication, "Landlords and Tenants: Tips on Avoiding Disputes," for more information (also available online at www.marylandattorneygeneral.gov).

Under State law, and the federal law Protecting Tenants at Foreclosure, tenants should receive three separate written notices concerning the foreclosure. The first should be sent simultaneously with the filing of an order to docket or complaint to foreclose and notifies tenants of the foreclosure proceedings; the second notice should be sent no earlier than 30 days, but no later than 10 days before the sale date to inform the tenant of the date, time, and place of the sale; and the third notice is sent by the person who purchases the property and obtains

legal title and the right to possession in a foreclosure sale. All three written notices must be sent first class and include information about the foreclosure proceedings and information regarding whom the tenant may contact for further information. An eviction notice must also be sent by certified mail.



The new owner must generally allow a tenant to remain in the property until the lease expires or, if the tenant has a month-to-month lease, for 90 days.

If the new owner will occupy the premises, the tenant is entitled to at least 90 days' written notice. These



tenants' rights do not apply to immediate family members of the former owner or if the rent is substantially below fair market value. The new owner may not threaten eviction if the tenant fails to produce records of past rent payments or fails to respond to inquiries. Foreclosure does not change the rights of tenants in subsidized housing. There is a possibility that the new owner may be open to creating a new lease with the tenant. Remember, the new owner is not obligated to continue the same lease terms when the lease expires.



In order to avoid going to court to evict the tenant, some new owners may offer money or “cash-for-keys” to tenants as an incentive to move out quickly. In a cash-for-keys scenario, either the bank or the new owner offers the occupants of a home in the foreclosure process a cash settlement in exchange for vacating the property. Tenants should be very careful of these offers because, as part of the arrangement, tenants may waive rights they have against the new or previous owner. This can include the return of a security deposit and any recovery for utility shutoffs, maintenance disrepair, and code violations. Tenants should have an attorney look at the agreement before signing and waiving any rights.

Tenants may have legal claims against their former landlord. However, if the tenant's lease is honored through the end of the lease term or the tenant is a month-to-month tenant, the foreclosure itself is not a breach of the lease. If the landlord fails to return the security deposit, the renter is entitled to seek recovery in court and may be entitled to compensation up to three times the deposit amount.

For more information regarding tenant rights, contact the organization geared toward your needs:

- **Office of the Attorney General** (www.marylandattorneygeneral.gov or 410-528-8662) - The Consumer Protection Division offers mediation services for consumers who have disputes with landlords and other businesses.
- **Public Justice Center** (www.publicjustice.org or 410-625-9409) - The PJC educates, provides legal advice, and offers representation to both individuals and organized tenant groups.
- **Maryland Legal Aid** (www.mdlab.org) - Legal Aid represents tenants in disputes with landlords if the tenant is financially eligible for general legal services based on income and assets available to the household using Federal Poverty Income Guidelines.

HOW TO CONTACT US

Consumer Protection Division

200 St. Paul Place, 16th Fl., Baltimore, MD 21202

- **General Consumer Complaints:** 410-528-8662
Toll-free: 1-888-743-0023 TDD: 410-576-6372
En español: 410-230-1712
9 a.m. to 3 p.m. Monday-Friday
www.marylandattorneygeneral.gov/Pages/CPD/
- **Health Consumer Complaints:** 410-528-1840
Toll-free: 1-877-261-8807 TDD: 410-576-6372
9 a.m. to 4:30 p.m. Monday-Friday
www.marylandcares.org
- **For information on branch offices** in Largo, Salisbury, Hagerstown, and a full list of offices across Maryland, visit: www.marylandattorneygeneral.gov/Pages/contactus.aspx

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