

TENANT RIGHTS IN FORECLOSURE

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The Legal Assistance Office occasionally sees clients who have received notice (usually by mail or flyer posted on their door) that the property they rent is about to be foreclosed on. These clients are rightfully concerned about being evicted, and often have questions on whether to continue paying rent, whom to pay rent to, and whether they may continue to stay in the property or not. This article will outline tenants' rights under The Protecting Tenants at Foreclosure Act of 2009. It will also provide information on available entitlements the Army offers to renters facing foreclosure action.

In 2009, President Barack Obama signed into law The Protecting Tenants at Foreclosure Act. The new law protects tenants from being immediately evicted by new owners of residential property sold through the foreclosure process. The purpose of this law is to ensure tenants facing foreclosure have adequate time to find alternative housing. Also in 2009, the Army authorized the reimbursement of a local move for Servicemembers forced to vacate a rental property by reason of a foreclosure action against the owner/landlord.

So how do the mechanics of this work? Under The Protecting Tenants at Foreclosure Act, if the new owner of the foreclosed property is a bank or investor, they **must** allow the tenant to complete his or her lease term. However, if the foreclosed property is purchased by an owner who intends to live in the property, that new owner **may** terminate the lease (evicting the tenant) by giving the tenant 90 days notice. If the foreclosed property is purchased by a bank or investor, and the tenant elects to remain until the completion of his/her lease, the tenant must begin making rent payments to the new owner. Up until the date of the foreclosure sale, payments should be made to the old landlord. After the date of the foreclosure sale, payments should be made to new owner/landlord. For those tenants that are not in a year-to-year lease, but are instead in a month-to-month tenancy, different rules will apply. In a month-to-month tenancy, the lease continues with the new owner as landlord, and continues until either (i) the new owner provides the tenant with 90 day notice of termination, or (ii) the tenant (choosing to end the lease) provides the new owner with 30 days notice of termination.

In all of the situations described above, after a foreclosure sale, if the Servicemember/tenant elects **not** to continue in his/her lease, the Servicemember is authorized to file a claim for reimbursement of a local move due to the rental property foreclosure. However, if you own the property being foreclosed on, you are not authorized reimbursement for moving expenses.

For more information about tenant's rights in foreclosure please contact the XVIII Airborne Corps and Fort Bragg Legal Assistance Office.