



## **TENANTS IN FORECLOSED PROPERTIES: WHAT YOU NEED TO KNOW**

During the foreclosure process, it can be difficult to determine who is responsible for maintenance of rental properties. The current property owner, the tenants, the foreclosing party (usually a bank), and the new owner of a property going through foreclosure all have certain rights and obligations.

### **BEFORE THE FORECLOSURE ACTION**

#### **Pre-Foreclosure Notice**

At the start of the foreclosure action, the bank must notify all tenants that the property is the subject of a foreclosure action. Tenants must receive this notice before any post-foreclosure eviction action may be brought in court. The bank must provide its name, address, and telephone number on all notices to tenants.

For buildings with fewer than five rental units, the bank must deliver notice directly to each tenant by certified, first-class mail. For buildings with five or more rental units, the bank may instead post copies of the notice on the outside of each of the building's entrances and exits.

This is an important right. While this doesn't protect you from foreclosure, it does let you know what's going on, and who is involved and enables you to start planning for the future.

#### **Tenants May Be Named in the Foreclosure Action**

The bank may name each tenant as a defendant in the foreclosure action. In such cases, the tenant will receive a formal summons and complaint from the county clerk. This filing generally serves as a secondary notice to ensure that all tenants are aware of the foreclosure. Although named as a defendant, the tenant has no legal obligation to appear in court to defend the action.

### **WHILE THE FORECLOSURE ACTION IS PENDING**

**Continue to pay your rent.** Before ownership is transferred to a new owner tenants remain subject to the requirements of their lease agreements, including payment of rent to the landlord. In some cases, a receiver may be appointed to manage rental payments while the action is pending. If a receiver is appointed, tenants should receive proof of appointment and information on how to submit rental payments to the receiver instead of to the landlord.

During the pending action, the landlord is required to maintain the property as they would in the absence of any foreclosure action.

### **AFTER A SUCCESSFUL FORECLOSURE ACTION**

The foreclosing party must notify all affected tenants of the outcome of the foreclosure judgment. There is typically a lapse between the final foreclosure judgment – which revokes ownership from the landlord – and the foreclosure sale, which completes the sale and transfer of title to a new owner. During this time, the bank has a duty to maintain the property.