

## **WHEN YOUR LANDLORD'S IN FORECLOSURE: WHAT EVERY TENANT NEEDS TO KNOW!**

The Protecting Tenants at Foreclosure Act (PTFA) and RPAPL 1305 provide many tenants with the right to stay in their rental properties even though their landlords have lost their rental properties after the foreclosure process has ended.

No one should move just because they see that their landlord has foreclosure papers. Many tenants can stay in their homes despite a foreclosure. Tenants do not have to move until a judge orders an eviction.

Is your landlord in foreclosure, or has your landlord already lost the property? Have you have received legal papers? Read the information below and get advice from a lawyer!

Q. I moved into the property *after* the foreclosure case started against my landlord. Am I protected by the PTFA and RPAPL 1305?

A. No. Tenants must live in the property when the foreclosure case started to be protected by the PTFA and RPAPL 1305.

Q. What if tax foreclosure is the problem, not mortgage foreclosure? Am I protected by the PTFA and RPAPL 1305?

A. No. Tenants are not protected by the PTFA and RPAPL 1305 where there is a tax foreclosure.

Q. What happens when there is a foreclosure involving my landlord's property, where I live?

A. If your landlord misses a mortgage payment, the bank will file a case in Supreme Court. If your landlord is unable to work out a settlement with the bank, then the bank will likely get a judgment of foreclosure and sale that allows it to sell the property at an auction.

At the auction, sometimes the bank will take back the property, or the property will be sold to a new owner.

Q. How will I know if my landlord is facing foreclosure? Do I have to ask?

A. No, you do not have to ask. You may receive papers with "Supreme Court of the State of New York" at the top sent to your home. They can be posted in any common areas (such as a hallway or front door) of the building where you live.

These papers may have your name on them. Sometimes they just have your landlord's name, or they may list tenants by made-up names like "John Doe" or "Jane Doe."

If you suspect that your landlord is in foreclosure, or has lost the property to a new owner, check with the clerk's office in the Supreme Court in your county or borough.

Q. What happens while the foreclosure case is ongoing?

A. Keep in mind that foreclosure cases can take a year or more before the property is sold. During this time, your landlord is entitled to collect rent, sign leases, and commence eviction proceedings, unless the court has appointed an individual called a receiver.

Q. What is a receiver?

A. The receiver is a person appointed by the court to manage the building or complex until it is sold at an auction. The receiver sends the tenants a notice telling them to begin paying rent to the receiver, not to the landlord. You should never pay your rent to anyone other than your landlord without written proof that you are required to do so.

Q. What about repairs and services while the foreclosure process is ongoing?

A. If a receiver has been appointed by the court, they must make repairs and provide services.

If no receiver has been appointed, the owner remains in charge of offering the services agreed upon by the landlord and the tenant until the building is sold.

Q. After the property where I live has been sold at foreclosure, do I have to move?

A. No. Tenants have the right to receive 90 days written notice of eviction following the foreclosure.

Tenants with a rental subsidy cannot be evicted until their lease expires, unless the new owner is going to live there. A subsidized tenant will pay rent to the new owner, and the new owner must comply with all rules and regulations applicable to the subsidy.

The PTFA and RPAPL Section 1305 also require the new owner to allow tenants who have leases to continue residing in the property until their lease expires, unless the new owner intends to live in the property as their home. Then the existing lease can be stopped with 90 days written notice.

If you do not have an ongoing lease for a term of six months, one year, etc., you are still entitled to receive a 90-day written notice.

Q. If the property is sold at foreclosure, do I have to still pay rent to my landlord?

A. No. After a sale, the landlord-tenant relationship is terminated.

Q. Whether I have a lease or not, do I have to get out when the lease or the 90 days written notice expires?

A. No. The new owner must begin an eviction proceeding against you. You can only be lawfully evicted after a judge has signed a warrant of eviction that has been served and executed by an authorized official, such as a county sheriff or city marshal/constable.

Q. If I am evicted after a foreclosure sale, is my eviction a public record so that it can be used against me?

A. No. Under RPAPL 757, court records about tenants who are evicted after a mortgage or tax foreclosure sale must be sealed which means that the court cannot tell anyone that you were evicted. Also, no one can use the fact that you were evicted against you.