



Miami Coalition for the Homeless, Inc.

Miami Coalition for the Homeless E-Update

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Federal Law to Protect Tenants in Foreclosure

On May 20, 2009, President Obama signed into law the Protecting Tenants in Foreclosure Act. This federal law requires that new owners of foreclosed residences allow tenants to remain in the property for at least 90 days after the foreclosure sale. Please note that this law protects all bona fide renters of residential units, even those that do not have a written lease. In addition, if the tenant has a written lease that expires more than 90 days after the foreclosure sale, the tenant can remain in the property until the end of the lease. The only exception is if the new owner wants to live in the property him/herself – but the tenant still has a right to stay for 90 days from the date of the sale.

Last year, there were more than 56,000 foreclosure cases filed in Miami-Dade County courts, and through July of this year, an additional 39,000. There are tenants living in at least 20 percent (one in every five) of foreclosed residences. To prevent these families from being summarily evicted and potentially becoming homeless when a foreclosed property is sold, we need all of them to know about the new federal Act and its protections.

Printed below is a two page handout for renters prepared by the Miami Coalition for the Homeless with the help of Legal Services of Greater Miami, Inc. Please use these pages as the back and front of a one-page flyer that you can make available to everyone who may need it.

We appreciate your help!

YOU GET PAPERS SAYING THE PROPERTY IS BEING FORECLOSED

WHAT IS A FORECLOSURE?

A foreclosure is a lawsuit that the mortgage company files when the owner does not pay their mortgage. If the mortgage company wins the lawsuit, the court will sell the property to pay the mortgage company.

WHY AM I GETTING FORECLOSURE PAPERS?

Florida law says that renters have to be told that the property they are renting is being foreclosed. Usually, the papers will not have your name on them. The papers will usually say that they are to “unknown tenant” or to “John/Jane Doe.”

WHAT SHOULD I DO?

You should answer the papers to let the judge know that you are renting the property. To do this, you need to take your own letter to the court. The letter is called an Answer to the foreclosure.

The Answer needs to give your name, your address, and the number of the foreclosure case. The number of the foreclosure case is written on the papers you got about the foreclosure.

The Answer needs to say that:

- You live in the property and
- You are paying rent

If you have a written lease, the Answer needs to say:

- When the lease is over and
- You must fasten a copy of the lease to the letter

You can download a form Answer from this website: <http://www.real-lsgmi.com>. Click on: “The House I am Renting Is Being Foreclosed,” and then on “Foreclosure Answer Form.” To get advice on how to fill out the form, go to <http://www.lsgmi.org/>, and click on: “Click here for foreclosure answer handout.”

You can also get help at Legal Services of Greater Miami, Inc by calling 305-576-0080, and asking for Project REAL.

DO I HAVE TO MOVE OUT RIGHT AWAY?

You don’t have to move out as soon as you get the foreclosure papers. It can take around a year for the court to order a foreclosure. But you should take your Answer to the court as soon as possible.

WHAT IF I WANT TO MOVE OUT?

If you got a letter saying that the property is being foreclosed, you have the right to move out, even if you have a lease. If you want to move out, you should send a letter to your landlord saying that you are ending your lease and you are moving out in 7 days. You should send a letter to your landlord before moving out even if you don’t have a written lease. The letter needs to say that you are ending your lease because the landlord did not pay the mortgage.

WHAT IF I USED TO OWN THE HOUSE OR APARTMENT I AM LIVING IN?

If you used to own the house or apartment that is being foreclosed, **and the rental agreement you signed says that you can buy the property back**, you should talk to a lawyer because the law is very complicated.

WHAT IF MY LANDLORD SAYS HE PLANS TO STOP THE FORECLOSURE?

You should still take your Answer to the court.

WHAT IF MY LANDLORD SAYS HE CAN'T STOP THE FORECLOSURE?

You should still take your Answer to the court, and you may want to start looking for a new place to live.

WHAT IF I CAN'T FIND MY LANDLORD?

You should still take your Answer to the court, and you may want to start looking for a new place to live. If your landlord is not collecting rent, you should save the rent in case someone tries to evict you.

WHAT HAPPENS IF THE MORTGAGE COMPANY WINS THE FORECLOSURE?

If the mortgage company wins the foreclosure, the judge will order that the property be put up for sale. Once the property is sold, there will be a new owner.

IF THE MORTGAGE COMPANY WINS THE FORECLOSURE, WILL I HAVE TO MOVE OUT?

There is a new federal law called the Protecting Tenants in Foreclosure Act. This new law says that:

- If you don't have a lease, the new owner has to let you stay in your apartment or house for at least 90 days after the property is sold.
- If you have a lease, the new owner has to let you stay to the end of your lease, **unless** the owner wants to live in the apartment or house himself or herself. But even if the new owner wants to live in the apartment or house, the new owner has to let you stay there for at least 90 days.

WHAT IF I HAVE A SECTION 8 VOUCHER?

If you have a Section 8 Voucher, the new owner has to accept the Voucher, and the Housing Authority will continue to pay their share.

WHAT SHOULD I DO IF THE NEW OWNER TELLS ME TO MOVE OUT?

You should start looking for a new place to live. But if you think the new owner isn't following the new federal law, you should call Legal Services of Greater Miami, 305-576-0080, and ask for Project REAL.

DO I NEED TO PAY RENT AFTER THE PROPERTY IS SOLD?

After the property is sold, you need to pay rent to the new owner. You should ask for proof that the person asking you for rent is the new owner.

WHAT IF THE NEW OWNER ASKS ME IF I WANT TO STAY?

First, you need to make sure that the person who is asking you to stay is really the new owner. Ask for proof before you pay any rent. Second, you should get an agreement with the new owner in writing.

WHAT IF THE NEW OWNER CHANGES THE LOCKS OR TURNS OFF THE UTILITIES?

This is illegal! You should call Legal Services of Greater Miami, 305-576-0080, and ask for Project REAL.

This flyer was adapted from a brochure of the Legal Services of Greater Miami, Inc. by Terry A. Coble, Esq., Affordable Housing Advocate, Miami Coalition for the Homeless, 3550 Biscayne Boulevard, Miami, FL 33137.