

# What Every Tenant in **Massachusetts** Should Know in This Foreclosure Crisis

Federal Reserve Bank of Boston



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In the midst of the country's economic troubles resulting from foreclosures and the failing housing market, families renting units in foreclosed properties often get caught in the crossfire. Many are able to pay their rent but are finding themselves ejected into homelessness because their landlords could not pay the mortgage. What most renters do not realize is that although the landlord may be losing the house, the renter still has rights in the process; there are state laws in place to ensure that tenants are protected even when the landlord's property is foreclosed upon. And there are more laws and protections on the horizon.

Below are some of the frequently asked questions for renters in Massachusetts during this foreclosure crisis.

### **Is my landlord required to notify me if the home I am renting is going into foreclosure?**

No. The law does not require the landlord to notify tenants about foreclosure. The new landlord who acquires the foreclosed property must, however, make his or her contact information available to you, either directly or through a property management company.

### **At what point in the foreclosure process must I vacate the premises?**

You do not have to vacate the premises right away. If you had a written lease with your former landlord, you will become a tenant-at-will upon foreclosure.<sup>1</sup> If you are already

a tenant-at-will, you continue to be so at the time of foreclosure. As a tenant-at-will, you are entitled to written 30-day notice to vacate the premises. After the 30 days, the landlord can file for eviction proceedings with the housing court. Only the housing court judge can actually evict you from the premises.

### **What most renters do not realize is that although the landlord may be losing the house, the renter still has rights in the process.**

**As a tenant receiving state or federal rental assistance (e.g., in Massachusetts—Section 8), do I have any special rights?**

Yes. As a Section 8 tenant or a tenant receiving state or federally funded rental assistance, you have the right to remain in your home until the end of your lease, provided you abide by the terms of the lease.<sup>2</sup> You do not become a tenant-at-will.

**My new landlord offered me \$2,000 to move out immediately because he wants to move in with his family. Do I have to take it?**

No. You are not obligated to accept this offer. Many new landlords, or person(s) representing them (a lawyer or property management company), offer what is commonly referred to

as “cash for keys” to the tenant to ensure that the building is promptly vacated. The amount offered is usually from a few hundred to a few thousand dollars. Before agreeing to such a transaction, determine whether the amount offered will actually cover such incidentals as moving expenses, and determine whether you have another place to live.

**Once the house is foreclosed upon, to whom do I pay rent?**

As a tenant of a foreclosed property, you are required to pay rent to the new owner. If you do not know who the landlord is, such information is available at the Registry of Deeds (<http://www.sec.state.ma.us/rod/rodix.htm>) and the local tax assessor’s office. Send your new landlord a letter offering to pay rent and requesting proper payment information, e.g., name, address, date due. Make sure you have proof of the true landlord before you pay.

### **As a tenant of a foreclosed property, you are required to pay rent to the new owner.**

**What if the new owner refuses my rental payment?**

If the new landlord does not accept your payment, keep record of his or her refusal and put the money in a separate account for proof of your attempt to pay. Keep record of all correspondence, communication, and transactions.

<sup>1</sup>A tenant-at-will rents without a lease. The landlord and tenant have a verbal or written agreement that can be terminated by either party for any reason with written 30-day notice.

<sup>2</sup>Massachusetts General Laws, Chapter 186, Section 13A.

### As a tenant, do I have other responsibilities to the landlord?

Yes. Although you have a new landlord, you must continue to abide by the existing lease terms or the legal expectations of a tenant-at-will (pay rent on time, etc.).

### Does the new owner have responsibilities to me as the tenant?

Yes. The new landlord of the foreclosed property is required to remain in compliance with the terms of the existing lease and to maintain habitable premises in accordance with state law.

If the new landlord does not respond to written requests for repairs or other services, contact your local inspectional services department<sup>3</sup> or the state attorney general's office<sup>4</sup> to file a formal complaint.

### Whom do I Contact if I Have Questions?

#### City of Boston's Rental Housing Resource Center

(617) 635-RENT

<http://www.cityofboston.gov/rentalhousing>

This agency gives advice, information, and assistance to Boston landlords and tenants with rental problems or questions.

<sup>3</sup>Inspectional Services Department, 1010 Massachusetts Avenue – 5th Floor, Boston, MA (617) 635-5300. If you do not live in Boston, call your town or city hall.

<sup>4</sup>The Massachusetts Office of the Attorney General, Public Inquiry & Assistance, One Ashburton Place, Boston, MA (617) 727-2200.

### Metropolitan Boston Housing Partnership, Inc. (MBHP)

<http://www.mbhp.org>

MBHP has eight sister agencies in Massachusetts and is one of several HUD-approved housing counseling agencies across the country that can help renters who are facing eviction due to foreclosure.

### U.S. Department of Housing and Urban Development (HUD)

<http://www.hud.gov/offices/hsg/sfh/hcc/hcs.cfm>

This federal government agency specializes in community development and increases access to affordable housing.

### WilmerHale Legal Services Center of Harvard Law School

<http://www.law.harvard.edu/academics/clinical/lsc/clinics/housing.htm>

This program conducts a clinic for tenants going through eviction due to foreclosure. It informs them of their rights and guides them through preparation for litigation and the foreclosure process.

Legal representation is suggested for any tenant experiencing eviction proceedings. There are free legal service agencies (<http://www.masslegalservices.org/perl/services.cgi>) willing to represent low-income tenants in Massachusetts who may be displaced as a result of foreclosure.

## Proposed Federal Legislation:

There are two pieces of proposed federal legislation to protect renters in foreclosed properties:

### 1. The Mortgage Reform and Anti-Predatory Lending Act of 2007

<http://www.opencongress.org/bill/110-h3915/show>

This bill (House Bill 3915) would ensure that tenants receive formal notification and are given time to relocate before the home they rent is foreclosed upon.

### 2. Protecting Tenants at Foreclosure Act of 2008

<http://www.opencongress.org/bill/110-s3034/show>

This bill (Senate Bill 3034) would give tenants at least 90 days to vacate the premises of a foreclosed property before eviction proceedings can begin. The bill also grants any tenant with a lease prior to foreclosure the right to stay on the premises until the end of that lease. If, however, the new owner intends to occupy the unit as a primary residence, the leased tenant can be given 90-day notice to vacate the premise.

## Questions...

For more information, visit our website at <http://www.bos.frb.org/consumer>

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