

Tenants, Foreclosure, and Eviction

Tenants' Rights in Massachusetts

Foreclosure is when a bank or other lender (“foreclosing entity”) takes back property because the owner did not repay the loan. The bank usually holds an auction, and the highest bidder becomes the new owner.

Before a Foreclosure

If you think your apartment is in a property that may be foreclosed, protect yourself:

- Keep paying your rent. Pay your rent by check or get a receipt as proof you paid.
- Find or get proof that you paid a security deposit.
- Keep all notices, proof of rent payment, and all communication between you and the owner (landlord) in a safe place.
- If you think you might be able to buy your apartment, take a course for first-time homebuyers.

After a Foreclosure

Your options after a foreclosure depend on your rental agreement, what the new owner wants, and what you want. You could:

Stay and continue renting. Most tenants have this right. **Be careful!** If someone other than a bank asks you for rent, ask for proof that they own or manage your building.

Stay until a court hears your eviction. A new owner may try to evict you quickly to sell the property or rent to someone else. You only need to move out if a court orders you to leave.

Take “cash for keys.” The new owner may offer you money and a written agreement to leave by a certain date. Read the agreement

carefully. It may ask you to give up your security deposit, your right to sue, or other things. You do not have to accept it and may be able to negotiate a better agreement that gives you more money and time to move.

Buy the property. Buying the property may not be easy. But if it is a good price and you can afford it, first-time homebuyer programs and other non-profit loan programs can help.

Whom should I pay rent to?

Pay the old owner until the foreclosure. After the foreclosure, pay the new owner. Pay by check or get receipts. If you don't know where to pay, put rent in a savings account.

Who is the new owner?

The new owner should send tenants a notice that tells them the new owner's name, how to contact the new owner, and where to send the rent. If you do not get a notice, look for one posted in your building's common area.

Can I be locked out?

No. The new owner may not lock you out. They are only allowed to enter your apartment if you give them permission, if it is an emergency, or if they have a court order.

Can a new owner increase rent?

It depends. While your current lease is active, the new owner cannot raise rent without court approval. To raise rent, the owner must take you to court and prove that the rent you pay now is “unreasonable.”

If you have a Section 8 voucher or other subsidy, the new owner cannot increase your

rent. Continue paying the same rent and tell your housing program about the foreclosure.

Who is responsible for utilities?

If the old owner paid for your utilities, the new owner must also pay for the same utilities. If a bank is the new owner, it must pay for utilities. The new owner cannot cut off your utilities. In Massachusetts, usually tenants only pay for utilities if they have agreed to do so in writing.

Who is responsible for repairs?

During the foreclosure process, the foreclosed owner (your old landlord) is responsible for the maintenance of your building. After the foreclosure, the new owner is responsible. If repairs are needed, notify the owner that repairs need to be made. Ask in writing (including by email) in case you later need proof that you notified the owner.

What if I paid a security deposit?

If you paid a security deposit to the old owner, you should not lose it. The old owner should transfer it to the new owner. If they do not, the new owner must credit you for the amount you paid and pay interest on your deposit.

Can I be evicted?

If a new owner buys the property after foreclosure, they cannot force you out, lock you out, or shut off your utilities. If the new owner wants to evict you, they must file an eviction case in court and get a court order for eviction. You will have a chance to tell a judge why you should not be evicted.

If the new owner tries to evict you, they must send you a Notice to Quit that asks you to leave in a certain number of days. You do not have to leave by that date.

If you stay past the date in the Notice, the new owner can serve you with a Summary Process Summons and Complaint that tells you there

will be a court hearing on the eviction. See **Legal Tactics, Chapter 12: Evictions.**

When can I be evicted?

A Section 8 tenant, tenant at will, or a “Bona Fide Tenant” can usually only be evicted for “just cause” if you:

- Refuse to allow them to inspect, repair, or show property to potential buyers.
- Create a nuisance at the property.
- Use the property for an illegal purpose.
- Refuse to renew your lease.
- Do not pay rent.
- Do not follow your lease.

What is a “Bona Fide Tenant”?

You are a “bona fide” tenant if:

- You moved into your apartment before the foreclosure,
- Your rental agreement was not based on a personal relationship with the previous owner, and
- You are not the old owner’s spouse, parent or child.

What if I have a housing subsidy?

If the foreclosing entity buys the property at foreclosure and you have a housing subsidy, like Section 8 voucher, it has to take over your lease and sign a contract with the agency that administers your subsidy.



For more, scan the QR code to see **Legal Tactics, Chapter 18: Tenants and Foreclosures**
MassLegalHelp.org/LT-Foreclosure