

Tenants and Foreclosure

Tenants' Rights in Massachusetts

What Is a Foreclosure?

Foreclosure is when a bank or other lender sells 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 right away:

- Keep paying your rent.
- 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 in a safe place.
- If you think you may be able to buy your apartment, take a course for first-time homebuyers.

Protect Yourself 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 old owner.

You are not the old owner's spouse, parent or child.

After a Foreclosure

Your options after a foreclosure depend on your rental agreement with the old owner and what the new owner wants. You may be able to:

Stay and continue renting. Most tenants in Massachusetts have the right to stay and keep renting after a foreclosure. If you have a Section 8 or other subsidy, you can stay and pay the same amount of rent after a foreclosure. **Be careful!** If someone other than a bank asks you for rent, ask for proof that they own or manage your building.

Stay until you get evicted. 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. If you are a Section 8 tenant, tenant at will, or a **Bona Fide Tenant** the new owner can usually only evict you for "just cause."

Take "cash for keys." The new owner may offer you money and a written agreement to leave by a certain date. If you get this offer, 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 the offer. You can negotiate a better agreement that gives you more money and time to move. Or you can fight an eviction. Only a court can order you to leave.

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.

After Foreclosure

Repairs

All tenants have the right to a safe, decent place to live. The new owner **must** fix any bad conditions, make repairs, and cannot cut off your utilities.

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 has to pay for utilities.

Security Deposits

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

Lockouts

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.

Section 8 Rent Increases

If you have a Section 8 voucher or other subsidy, the new owner may **not** increase your rent. Keep paying the same rent as before. And tell your housing program about the foreclosure.

Avoid Eviction

Pay rent. Pay the old owner until the foreclosure. After the foreclosure, pay rent to the new owner. If you do not know where to pay rent, put your rent in a savings account.

Find out who the new owner is. 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 the common area of your building.

Facing an Eviction

If the new owner tries to evict you, you must receive a *Notice to Quit*. This notice asks you to leave in a certain number of days. You do **not** have to leave by the date on this Notice.

If you stay past the date in the Notice, the new owner must serve you with a *Summary Process Summons and Complaint* that tells you there will be a court hearing on the eviction.

File an "Answer" in the court as soon as you get the *Complaint*. Your Answer tells the court your side of the story. It is very important to file an Answer.

If you are a Section 8 tenant, tenant at will, or a "Bona Fide Tenant" you can usually only be evicted for "just cause."

Foreclosure evictions are complicated. Get legal help if you can. See MassLRF.org.

What Is "Just Cause"

An owner has *just cause* to evict you 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 following your lease.

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MassLegalHelp.org/Foreclosures-Tenants

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