

Sample Foreclosure Timeline

Lender files the foreclosure lawsuit

Lis Pendens filed with Recorder of Deeds

1

months

Landlord

Unless a Receiver is appointed to manage the building, the landlord remains responsible and is entitled to collect rent.

Renter

Renters have the same rights and responsibilities as they would if the foreclosure was never filed. For example, renters must continue paying rent.

Judgment of Foreclosure

6

months

Judicial Sale

12

Order Confirming Sale / Order of Possession

13

months

Renter must be notified by new owner

New Owner

This is an example of a foreclosure case. A case may go slower or faster, and could be dismissed at any point in the process.

No Legal Advice Intended

This brochure contains information that is not intended, and should not be taken, as legal advice on any particular set of facts or circumstances. You should contact an attorney for advice on how the law applies to your situation. Statements are subject to change based upon further reflection or on future changes in the law and are not intended as legal advice.

GET HELP

Contact your county's courthouse for help finding an attorney. Many law schools, bar associations, and nonprofit organizations across Illinois offer free legal advice and representation for those who are unable to afford it.

If you have received a summons to appear in court, it is very important to seek legal help!



Lawyers' Committee
for Better Housing

**To speak with someone directly, contact our free Tenants in Foreclosure Help Line.
(855) 207-8347
www.lcbh.org**

You can also find legal information and help for Illinois residents at www.illinoislegalaidonline.org.

Lawyers' Committee for Better Housing (LCBH) is a civil legal-aid agency that provides advocacy on behalf of low and moderate income renters in the private housing market to help fight wrongful eviction and sub-standard living conditions, because everyone should have a safe, decent, and affordable place to live. The **Tenants in Foreclosure Intervention Project (TFIP)** is a statewide project of LCBH that works to ensure that the laws protecting tenants are upheld throughout the foreclosure process and provides information to renters regarding their rights and responsibilities during foreclosure.



Funding for this material provided through a grant from the Illinois Attorney General. The views and statements expressed herein do not necessarily reflect the views and opinions of the Attorney General.

Statewide TFIP Brochure | v.02 | 12-2013

Tenants in Foreclosure Intervention Project

for ILLINOIS renters

Foreclosure Doesn't Mean "Get Out Now!"

RENTERS HAVE RIGHTS!



Lawyers' Committee
for Better Housing



**Tenants in Foreclosure
Help Line
855-207-8347 (toll free)**

If you are renting an apartment, house, or condo that is in foreclosure...

You have the right to:

- ✓ Live in a safe apartment with utilities.
- ✓ Be notified in writing if your landlord or building's management changes.
- ✓ Receive written notice if you are asked to move.
- ✓ Get your eviction court records sealed (made confidential).
- ✓ Recover your security deposit.

You may also have the right to:

- ✓ Stay until your lease ends.

You also have responsibilities:

- ✓ Continue to pay your rent.

Is Your Building in Foreclosure?

If you have questions or concerns about your apartment building being in foreclosure, you can ask your landlord. You should also do research on your own to find out about the status of your building.

Start with your county's Recorder of Deeds (the office that keeps track of who owns a property). If a *lis pendens* (suit pending) notice is recorded, then your building may be in foreclosure. The *lis pendens* should include the court case number.

If you know the court case number, you can look up the case at your county's Circuit Court (or sometimes on the court's website). Foreclosure cases are normally filed with the "Chancery" division and are part of the public record. The events (and related dates) to look for include "Case Dismissed," "Order Appointing a Receiver," "Judicial Sale," and "Order Confirming Sale."

If you need help, call the free Tenants in Foreclosure Help Line at (855) 207-8347.

What is Foreclosure?

A foreclosure is a lawsuit where a bank seeks possession of a property. If you rent an apartment, house, or condominium that is in foreclosure, this means that your landlord fell behind on his or her mortgage payments and the bank has initiated a lawsuit to take over the property. The entire legal process can last seven months to over a year. Sometimes, the bank and owner reach an agreement and your landlord continues to own the property. In other cases, the court allows for the sale of the property to a new owner.

During this process, renters and landlords have the same rights and responsibilities as they would if the foreclosure was never filed. For example, **you must continue paying rent**, as failure to pay rent may be grounds for eviction. In some cases, the court may appoint a Receiver (temporary manager) who would then be responsible for collecting the rent and maintaining the property.

Which Laws Protect Renters?

Tenants are covered by the Illinois Mortgage Foreclosure Law and the Illinois Forcible Entry and Detainer Act (eviction law). Many cities have special ordinances and resources for renters. Check with your city or village to learn if it has a local landlord-tenant ordinance or has passed any special laws that protect renters during foreclosure.

Chicago Residents: If you are a renter living in Chicago, you have some additional rights outlined in the City's Protecting Tenants in Foreclosed Rental Property Ordinance that are not presented in this brochure. Please visit www.lcbh.org for more information.

What is a *Bona Fide* Lease?

Bona fide is Latin for "good faith," and it signifies honesty and validity. **Most leases are *bona fide*.** There are several factors that determine if a lease is *bona fide*.

- Your lease (written or verbal) must be the result of an "arms-length transaction" (entered into by people acting in their own best interests).
- Your rent (including subsidies) cannot be substantially lower than fair market rent.
- You cannot be the former owner.
- You generally cannot be a parent, child, or spouse of the former owner. If this is the case, under Illinois law, you may still be able to prove your lease is *bona fide* and you should speak with an attorney.

Beware of claims saying that your lease is not *bona fide*. If a new owner tells you that your lease is not *bona fide*, but you feel that it is, you should speak with an attorney.

To help you determine if you have a *bona fide* lease, please call the free Tenants in Foreclosure Help Line at (855) 207-8347.

You Have a Right to Live in a Safe Apartment with Utilities

During the foreclosure process, your landlord is responsible for the maintenance of your building. If the court appoints a Receiver (temporary manager), then the Receiver is responsible for maintenance. If your building is not being maintained, or your utilities (gas, electricity, or water) are shut off, talk with your landlord (or Receiver) first. If problems still aren't addressed, call your local building department or code enforcement department. They may investigate and require the owner to make repairs.

You Have a Right to Seal Your Court Record

If you are taken to eviction court because your building is in foreclosure, your court record can be sealed (made confidential) to protect your credit report and your ability to rent in the future.

You Have a Right to be Notified in Writing if Your Landlord Changes

The foreclosure court may enter an "Order Appointing a Receiver" or an "Order of Possession" with an "Order Confirming Sale." These "orders" indicate a change in management and you must be notified of these changes in writing. A new owner or Receiver must try to find out the names and addresses of all tenants in the building and provide them with a notice. The notice should inform you of the foreclosure, who to contact to request repairs of the property, and how to pay your rent. Failure to give this notice may provide you with a defense against an eviction.

You May Have a Right to Stay Until Your Lease Ends

Your landlord cannot terminate your lease just because of a foreclosure. Furthermore, s/he cannot make you leave by shutting off your utilities (gas, electricity, or water) or changing your locks. If anyone other than a sheriff with a court order forces you to move out, or if your building is boarded up, or your utilities are turned off without a court order, call 911 and file a police report.

Renters with ***bona fide*** (valid) leases should, in most cases, be able to stay until the end of their lease. New owners should honor the existing lease without requiring you to sign a new lease or agree to a lease extension. The length of your lease may be affected depending on when during the foreclosure process you signed the lease.

Your Responsibility: Paying Rent

During foreclosure, you must continue paying rent. Ownership and/or management of your apartment may change, and it may be difficult to know where your rent payments should be sent. If you cannot contact your landlord and have not yet received a written change of ownership notice, you should save your rent and keep it aside until you get the proper notice. If an eviction is filed against you for not paying rent, but you were never notified that there was a new landlord to pay, you may have a defense against the eviction; you should speak with an attorney.

You Have a Right to Receive Written Notice if You are Asked to Move

Beware of letters and notices posted on your building saying that you must move out immediately.

Renters with *bona fide* (valid) leases

If the new owner wants you to move out, s/he must give you 90-days' written notice. If your lease extends beyond 90 days, you should, in most cases, be able to stay until the end of your lease.

Otherwise

You are still entitled to receive a written notice. The length of the notice may be shorter than 90 days, but the notice must still comply with the law. If you receive any notice that requires you to move out in less than 90 days, please speak with an attorney.

BE CAREFUL WHEN ACCEPTING "CASH FOR KEYS" OFFERS

A new owner may offer to pay you to leave early. You are free to accept the offer, but beware of so-called "cash for keys" offers that

- are made by people who do not yet own the building;
- ask you to leave your home too quickly; or
- demand you to waive or give up rights you do not want to give up.

You Have a Right to Your Security Deposit

Your landlord should return your security deposit if you move out or after your landlord loses the building. In some cases, the foreclosure court may order your landlord to transfer your security deposit to the new owner. If the deposit is transferred, the new owner becomes responsible for the deposit and should notify you within 21 days that they now have it.



Lawyers' Committee
for Better Housing