

## **What happens after the 90 or 60 days is over?**

After the 90 or 60 days are over, a bank still needs to go through a court procedure to evict you. In California, this is called an Unlawful Detainer action. At this point, the banks will serve you with a court paper called a complaint. After you are served with a complaint, you have only **5** days in which to file a response or an "Answer" to the complaint in Court. A bank may not serve you with a complaint unless the 60 or 90 days has passed. If you get served with a complaint prior to the 60 or 90 days, seek legal help.

## **What if I need more time to move?**

If there is a judgment against you in an Unlawful Detainer action, you may still ask the court for additional time to move. This is called a Stay of Execution. You can ask the court for up to 30 more days from the day of judgment to move out. If the Court allows you to stay, you have to pay to the Court for each day you remain in your home. The bank may ask the Court not to let you stay for more time. The judge gets to decide whether to give you more time or not.

## **You may have additional protections if you live in a city with a just cause ordinance or live in subsidized housing.**

Subsidized housing units (e.g. Section 8 vouchers) and units protected under just cause ordinances may require longer notice periods or may require good cause before you can be evicted. The cities of Berkeley, Hayward, Oakland, Richmond and San Francisco have just cause ordinances, which protect tenants from unfair evictions from foreclosed homes. Therefore, if you live in a city with a just cause ordinance or in subsidized housing, you may be entitled to further legal notice and protections.

For additional help, call:

### **BAY AREA LEGAL AID**

#### **Legal Advice Line**

**1 (800) 551-5554**

**(510) 250-5270**

**(925) 219-3325**

**(707) 320-6348**

**(415) 354-6360**

**(650) 472-2666**

**(408) 850-7066**

## **TENANTS AFTER FORECLOSURE: YOUR RIGHTS AS A TENANT**



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### **How do I know if the home where I'm living is in foreclosure?**

Unfortunately, many landlords will not inform their tenants that a property is in foreclosure. Once a property owner fails to make mortgage payments for 3 months, they receive a "Notice of Default" from the bank. After 3 months, if the default is not cured, the lender can file a "Notice of Trustee Sale." After a "Notice of Trustee Sale" is filed, the property can be sold as early as 20 days later. You may check to see whether the property is in foreclosure by calling your county's tax assessor's office.

### **What happens to my lease if my landlord is foreclosed on?**

If you are a tenant in a property that was foreclosed, you have special protections.

If the property you are renting was foreclosed before May 20, 2009, OR if you are renting from an immediate family member (like a parent, child, brother or sister), you are entitled to a 60 day notice before a bank can take any steps to evict you.

If the property you are renting was foreclosed on AFTER May 20, 2009, you have extra protections under federal law.

### **What rights do tenants have under the new federal law?**

If the property you are renting was foreclosed on or AFTER May 20, 2009, and you had a lease, the bank must recognize your lease. The bank may not take any steps to evict you until the lease term is over. This means that if you have a year-long lease, the bank must let you stay until that year is over.

If you have a month to month lease, then you are entitled to a 90 -day notice before a bank can take any steps to evict you. Banks will usually post a notice that says "To All Owners or Occupants." The Notice will state that if you are an owner, you are entitled to 3 days before a bank can evict you. If you are a tenant, you are entitled to stay in the home for 60 or 90 days, before the bank can take any steps to evict you. When you get a notice like this it is a good idea to contact an attorney for help. You can call Bay Area's Legal Advice Line at 1-800-551-5554

**IMPORTANT:** Even if property is in the process of foreclosure or has been foreclosed on, you must pay rent to the current owner.

### **You have a right to have your utilities working and live in a safe home, even after a foreclosure**

If your former landlord was responsible for the utilities, the banks must continue to provide utility service. It is illegal for a bank or real estate agent to try and force you to leave by turning off utilities. This is referred to as "Constructive Eviction." You are protected by the law against this. Banks can be liable up to \$100 a day for each day that utility service is

turned off.

### **I've been offered a cash for keys agreement. What is it?**

Banks frequently want the foreclosed property free of tenants so they can sell the property immediately. Tenants are entitled to 90 or 60 days after a foreclosure before a bank can take steps to evict the tenants. Banks, in order to get tenants to relocate faster, will offer money for tenants to relocate before the notice period ends. Usually banks will offer between \$500.00 and \$2000.00 for a tenant to relocate within 2 weeks.

Whether to accept an agreement depends on whether you have the ability to relocate within the time the bank offers. For some people who may need the money or can relocate elsewhere quickly, a cash for keys agreement might help for a security deposit elsewhere. However, keep in mind that today's rental market might make it difficult to relocate within a short period of time. If you do decide to accept a cash for keys agreement, make sure it is in writing. If possible, have an attorney review the agreement.