

**WHEN YOUR LANDLORD LOSES THE BUILDING:
MORTGAGE FORECLOSURE AND CONTRACT FOR DEED CANCELATION**

YOUR RIGHTS AS A TENANT AFTER AUGUST 1, 2008

WHAT HAPPENS IF MY LANDLORD'S MORTGAGE IS FORECLOSED?

You will get a copy of a notice that your landlord's mortgage is being foreclosed. It sets a date for a sheriff's sale of the property, and other key dates in the foreclosure process. This notice will also tell you about agencies and services which can give you information, answer questions, and help during this time. In most cases, you do not have to move out until about 6 months after the sheriff's sale. Usually the bank that loaned the money for the building gets the building at the sheriff's sale.

The landlord has 6 months after the date of the sheriff's sale to pay off the mortgage. This is called the "*redemption period*." During that time you can still live there and the landlord can still collect rent. Unless the bank tells you to pay them the rent, you should still pay it to the landlord. If you don't, you can be evicted.

WHAT HAPPENS IF MY LANDLORD'S CONTRACT FOR DEED IS CANCELLED?

In a contract for deed, your landlord makes payment to the person who is selling the building. That person is called the "seller" or "vendor". Cancellation of a contract for deed is **much** faster than a mortgage foreclosure. It usually takes just 60 days. You do not always have to move out when a contract for deed is cancelled. Sometimes the seller will rent to you. Contact the seller right away to try to work out an agreement. Make sure the agreement is in writing, and signed by both you and the seller.

CAN THE LANDLORD HAVE ME SIGN A LEASE DURING FORECLOSURE OR CONTRACT FOR DEED CANCELATION?

Before the landlord can have you sign a lease or take any rent or security deposit from you, the landlord must give you written notice that the property is in foreclosure, and tell you how long you will be able to remain in the premises. The landlord does not have to give you written notice they are in foreclosure if the bank that loaned the money agrees in writing with the landlord that they will continue the leases. The landlord does not have to give you notice that the contract for deed is in the cancellation period.

The landlord can rent to you for either two months, or until the redemption period or contract for deed cancellation period is over, whichever is less.

HOW MUCH NOTICE WILL I GET TO MOVE OUT?

The foreclosing bank or person cancelling a contract for deed must give you a two month written eviction notice, but can only go into effect on or after the last day of the foreclosure redemption period or contract for deed cancellation period. The notice can end on any day of a month, as

long as it is two months long. Even if you move in during the redemption period, you have a right to the two-month notice.

As a tenant, you may not get a notice of cancellation of contract for deed. You might not find out until the seller sends you notice to move out. The seller must give you at least two months notice to move out.

WHAT HAPPENS IF I DON'T MOVE OUT?

The bank can file a court case to evict you. See our fact sheet, *Your Rights in Eviction*.

DO I HAVE TO KEEP PAYING RENT WHEN THE PROPERTY IS IN FORECLOSURE OR THE CONTRACT FOR DEED HAS BEEN CANCELLED?

Yes, you must continue to pay rent to your landlord as usual during the foreclosure, even after the Sheriff's Sale. The landlord can not collect rent after the end of the redemption period,

If after the foreclosure redemption period is over, the bank asks you to pay them rent for the two month notice period, you must pay. If they haven't asked you to pay rent for that time, then you do not have to pay rent.

Similarly, after a contract for deed has been cancelled, if the seller asks you to pay them rent for the two month notice period, you must pay. If they haven't asked you to pay rent for that time, then you do not have to pay rent.

Some cities require landlords to have rental licenses to collect rent. Check with you city hall to see if your landlord it required to have a license, and if your landlord has one.

It is no longer illegal for a tenant to withhold the last month's rent at the end of the redemption period during a foreclosure, or for a contract for deed cancellation period, and have the security deposit cover it.

WHAT HAPPENS IF UTILITIES ARE SHUT OFF?

Check your lease. If you are required to pay the utilities under your lease, you should continue to pay for those utilities. If you have a shared utility meter, please see out fact sheet on Shared Utility Meters.

If the utility bill is in your landlord's name, you should first try to contact the landlord and get them to pay the utility bills. If that does not work, you can also contact the utility company and arrange to pay only for the current month's charges. If you do this, you are not responsible for the landlord's unpaid bills or late fees.

For gas and electric utility services, if you live in a 1-4 family building, you also have the option to take over the account in your own name. You will NOT be responsible to put down a deposit or pay any late charges or fees that belong to the landlord. You will need to send your landlord a

copy of the receipt showing the amount you paid, and then you can take that amount out of your next month's rent.

A third option is to file a rent escrow or emergency relief cases against your landlord, and ask a judge to make your landlord pay the bill, or cancel your lease. There is more information on all of these options in our fact sheet, *Utility Shutoffs When the Landlord Owes the Bill*.

The bank is sometimes interested in making sure that the property does not fall apart during the redemption period. If the building lacks heat, water or electricity, or other important utilities, you may be able to get the bank to pay the utility service. Try contacting the attorney listed on the mortgage foreclosure notice and tell them about the problem. If you have paid to get the utilities turned back on, or to avoid a shut-off notice, make sure you send a copy of the receipt that you paid, and you can deduct that amount paid from your month rent.

WHAT IF I AM ON THE SECTION 8 PROGRAM?

Section 8 Programs may have policies that affect your tenancy when a landlord goes into foreclosure. Contact your Section 8 office when you get a foreclosure notice and ask for instructions. You should not move out before the end of the redemption period without getting permission in writing from your Section 8 office. You could lose your Section 8 if you move early or without telling them. You may get special waiting list preferences to get Section 8 if you lose your housing against your will because of a foreclosure. Tell the Section 8 Program in writing about a foreclosure if you are waiting to get Section 8.

WHAT IF I FIND OUT I HAVE AN EVICTION ON MY RECORD?

If you moved out before the end of the redemption period or contract for deed cancellation period, or did not get the required written Notice to Vacate, you have the right to have the eviction expunged, or removed from your housing record. If you need help doing this, contact your local legal aid office.

WHERE TO GO FOR MORE INFORMATION:

In Hennepin County contact Legal Aid Society of Minneapolis: 612.334.5970
In Ramsey, Washington, Dakota, Carver and Scott counties contact Southern Minnesota Regional Legal Services: 651.222.4731 or in southern rural counties call 1-888-575-2954
Everywhere else in Minnesota contact HOME Line: 612.728.5767 or 1-866-866-3546

Legal Aid Minneapolis

Don't use this fact sheet if it is more than 1 year old.

Fact Sheets aren't a complete answer to a legal problem.

See a lawyer for advice.

Effective August 1, 2008