

The Federal Protecting Tenants in Foreclosure Act:
FREQUENTLY ASKED QUESTIONS

How does the Protecting Tenants in Foreclosure Act protect Illinois tenants who are living in properties affected by foreclosure?

The new federal law applies to all foreclosures of residential property after May 20, 2009. The new law provides:

- Bona fide tenants who entered into a lease agreement before the foreclosure case is filed (or the lender files a *lis pendens*) are entitled to stay in their housing until the end of the lease term.
- All bona fide tenants, including tenants with oral leases, month-to-month tenancies, or tenants who entered into a lease agreement *after* the foreclosure case was filed, are entitled to 90 days notice before they can be evicted from the property.

Are there any exceptions?

If the new owner who buys the building at foreclosure chooses to use the home as their primary residence, the new owner may terminate a lease agreement early. The new owner, however, must still provide the tenant with the 90 day notice.

How does the new law affect Section 8 voucher holders?

The successor in interest (the new owners who buys the building at foreclosure – this could include the bank if they take the property at the judicial sale) assumes all of the obligations and rights that the former landlord had had under the Section 8 program.

The new owner cannot evict the Section 8 resident by alleging that the foreclosure itself is “good cause” to evict the tenant. If the new owner will occupy the unit as his or her primary residence, however, the new owner may terminate the Section 8 voucher-holder’s tenancy. Even so, the new owner must still provide the tenant with the 90 day notice.

What is a bona fide tenant?

A bona fide tenant under the new federal law:

- Is not the mortgagor or the child, spouse, or parent of the mortgagor;
- Has a lease/tenancy that resulted from an “arms-length transaction” (the landlord and the tenant have no familial or business relationship);
- Does not pay rent that is significantly less than fair market rent for the unit, unless the unit’s rent is reduced or subsidized under federal, state, or local law.

What is a *lis pendens*?

Lis pendens means “suit pending” in Latin. A *lis pendens* is filed with the recorder of deeds to let everyone know that there is a dispute about the title to a particular property, or that a lawsuit about that property was or will be filed.