

PROTECTION FOR TENANTS IN FORECLOSED PROPERTIES

Prepared by Jacksonville Area Legal Aid, Inc. ("JALA")
a United Way agency



**The information provided in this document is not a substitute for legal advice.
The laws described here may change without notice.**

Effective June 2, 2015, Florida law (section 83.561, Florida Statutes) protects tenants in foreclosed properties from immediate eviction. If the property you are renting is sold at a foreclosure sale, the new owner may not evict you right away. **You are entitled to remain on the property for 30 days after the new owner gives you a written 30-day notice to vacate.** The new owner is not bound by your lease, even if your lease does not end for more than 30 days, but the new owner must give you at least 30 days to move out.

In order to qualify for protection under this law, three (3) things must be true:

1. You are not the “mortgagor” (the homeowner whose mortgage is being foreclosed) in the foreclosure case, nor are you the child, spouse, or parent of the mortgagor;
2. Your rental agreement was the result of an “arm’s length” transaction (you did not get a special deal because of your relationship with the landlord); and
3. The amount of rent you pay is not substantially less than the “fair market rent” for the property, unless the rent is reduced or subsidized due to a federal, state, or local subsidy (Section 8, for example).

If each of those is true of your situation, then the new owner is not allowed to evict you before delivering the written 30-day notice to you, nor is he or she allowed to evict you during the 30-day period after delivery of that notice. However, if you fail to move out within 30 days after receiving the written notice to vacate, the new owner may obtain a “writ of possession” (court order to vacate within 24 hours), and you may be evicted by the Sheriff as soon as 24 hours after the writ of possession is posted on the property.

In order to ensure that the court and the bank’s attorney are aware of your presence on the property and your rights, JALA recommends that you file a Notice of Tenancy in your landlord’s foreclosure case. If you receive a “writ of possession” from the court before you receive a written 30-day notice from the new owner, or before your 30 days to vacate have passed, then you should speak with an attorney right away.