

Follow-Up Responses to Webinar Questions

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1. Can a lender lease back the property to the current owner after foreclosure while looking for the new owner?

The PTFA protects the existing lease agreement between the landlord (former owner) and tenant. This means that the new owner, whether or not is a bank, cannot create a new lease with the former owner that infringes on the rights of the tenant. For example, if Bank A takes the property through foreclosure from Former Owner, who is renting to Tenant, Bank A cannot force Tenant out of the house before the end of his lease in order to re-rent the property to Former Owner. However, if there is no tenant in the property, the tenant chooses to leave before the end of his or her lease, the lease ends, or there is no written lease and the tenant leaves following receipt of a valid 90-day notice, then the new owner would be free to re-rent the property to another tenant, including the former owner, in most cases.

2. What about Puerto Rico?
The PTFA protects renters in Puerto Rico.

3. Can bona fide tenants still pursue their rights if they were wrongfully evicted prior to learning of PTFA?

Right now, the PTFA does not have a "private right of action" that allows a tenant to file a lawsuit as a plaintiff citing PTFA violations. However, it can be used as a defense in an eviction action, and there are possible state law remedies for tenants who have been wrongfully evicted. The Permanently Protecting Tenants at Foreclosure Act bill, which was just introduced, includes a private right of action that would give tenants more and clearer tools against violations of the federal law. For information on legal strategies that tenants can use now, contact your local legal aid office or the Law Center.

4. Is there ever a case when the new owner must honor a long-term lease (not Section 8), even if they intend to occupy the home as their primary residence?

The general rule is that written leases remain in place after foreclosure. However, the PTFA has an exception for owner-occupiers. If a successor in interest plans to occupy the property, that new owner must provide a 90-day notice under the PTFA, but can then move into the home as long as there are no conflicting state laws. For information or advice about a particular case, contact your local legal aid office or the Law Center.

5. Does the PTFA protect renters who are renting a room in an owner occupied property?

If the new owner wants to become an owner-occupier, than a tenant living in the property would have to receive a valid 90-day notice to vacate before the new owner could begin eviction proceedings. If the tenant and the former owner were living in the same property (in other words, the owner-occupier was the former landlord), than the tenant's new landlord would be the successor in interest. Unless the successor in interest wanted to move into the property, the tenant would have the right to remain in the home pursuant to the existing lease until the end of the lease term OR if there was no written lease, for at least 90 days.

6. If the house is sold during the 90 days or during the time a lease is being honored does the renter have to leave earlier?

If the home is sold to a new owner subsequent to the foreclosure, that new owner takes the property subject to the existing lease (and any other encumbrances on the property). A second, post-foreclosure sale does not invalidate or waive the tenant's rights under the PTFA. For questions about how your state contract or real estate laws might come into play, contact your local legal aid office or the Law Center.

7. Can you please clarify: the new owner (successor of interest) is the person that must notify of the 90 days after the foreclosure is complete and they now have the title.

Yes. The PTFA refers to a "successor in interest," but this term simply means the new owner of the property after the foreclosure is complete and title has transferred. Often, this is the bank that owned the mortgage. This successor in interest is the party or entity responsible for notifying tenants of their rights under the PTFA.