

What Happens When My Landlord Goes Through Foreclosure? Frequently Asked Questions

How much notice should I receive before I have to move?

When a landlord is going through a Deed of Trust foreclosure proceeding¹, a Trustee (the bank or mortgage company) must serve a tenant with a Notice of Trustee's sale at least ninety days before a sale of the home (foreclosure auction) is to take place. This notice should tell you when the home is expected to be sold and that **you have twenty days from the date of the Trustee's sale (auction) to move**. If the property is sold at the Trustee's sale, the new owner does not have to give you another notice to terminate your tenancy.

What happens if I don't move within twenty days after the home has been sold at a Trustee's sale?

If you do not move within twenty days after the property has been sold at a Trustee's sale, you risk the new owner filing an eviction lawsuit against you. Keep in mind that once this lawsuit is filed, it becomes part of your public record.

Do I still need to pay my rent after I get a Notice of Trustee's Sale?

Yes. Unless your lease expires by its own terms or is otherwise terminated before the home has been sold at a foreclosure auction, you are still responsible for paying your rent to your landlord.

To whom do I pay my rent?

Before the home is sold at a Trustee's sale (foreclosure auction), you are obligated to continue paying rent to your landlord. If you do not pay rent to your landlord, you risk being evicted. Your landlord has a right to reinstate or pay off his/her delinquent mortgage up until the foreclosure sale (and may have other remedies, such as postponing the sale). You should check in with the Trustee to find out if the sale has been postponed or cancelled.

Once the home is sold at foreclosure, your lease with your landlord ends. You should check with your VHA caseworker, however, to learn what VHA expects you to do in this situation to honor your obligations under your Section 8 voucher.

¹ When a homeowner has a Deed of Trust, a lender may foreclose on the property through a non-judicial process rather than going to court. This discussion focuses on non-judicial deed of trust foreclosures. In Washington, there are different types of foreclosure proceedings, depending on whether a homeowner has a deed of trust, mortgage, or real estate contract. If you are uncertain which type of foreclosure process your landlord is going through, you should seek specific legal advice.

Depending on the circumstances, if a new owner accepts rent from you after he/she purchases the home, this may create a new month to month tenancy between the new owner and you. This does not mean, however, that the new owner has to agree to accept your Section 8 voucher.

If my landlord is in foreclosure, may I break my lease?

No. You may, however, want to ask your landlord and Vancouver Housing Authority to agree to a mutual termination of the lease so that you have a reasonable amount of time to get a new rental unit before the foreclosure is finalized.

Does the landlord's bank or new owner have to honor my lease?

Once a property is sold at a Trustee's sale (auction), the rental agreement between you and your landlord is extinguished. A new owner (sometimes the landlord's bank) does not have to agree to rent to you and may require you to move. If your landlord sells the home through a private sale before the Trustee's sale is to occur, however, the new owner may have to honor your lease.

Who's responsible for returning my security deposit?

Typically, your landlord is responsible for returning your deposit, not the individual who buys the property at a Trustee's sale.

If you want to learn more about Washington's landlord/tenant laws, check out www.washingtonlawhelp.org or call CLEAR (Northwest Justice Project's statewide intake line) at 1-888-201-1014 or CLEAR*Sr (if you are a senior) at 1-888-387-7111.