

NATIONAL LAW CENTER  
ON HOMELESSNESS & POVERTY

PROTECTING TENANTS AT FORECLOSURE  
ACT FACT SHEET



### WHAT IS THE PTFA?

The **Protecting Tenants at Foreclosure Act**, part of the Helping Families Save their Homes Act of 2009, was signed into law by President Obama on May 20, 2009. The law protects tenants living in foreclosed properties from abrupt evictions and gives renters adequate time to find alternative housing.

### WHAT ARE MY RIGHTS UNDER THE PTFA?

The PTFA applies in all cases after May 20, 2009 involving “any foreclosure on a federally-related mortgage loan or on any dwelling or residential real property.”

The PTFA requires that the new owner of a foreclosed rental property, often a financial institution, allow any bona fide tenants to remain in the property for the full duration of their lease agreements. Even where there is no lease agreement, however, all bona fide tenants are entitled to a minimum of 90 days’ written notice to vacate. The sole exception is when a new owner plans to use the foreclosed rental home as his or her primary residence. Even in that case, however, the new owner must provide a minimum of 90 days’ written notice to any bona fide tenants.

The PTFA preempts state law except where a state has provided greater protections for tenants living in foreclosed properties.

### WHY DO WE NEED TO PROTECT RENTERS IN FORECLOSED PROPERTIES?

- ❖ *Approximately 1 in every 5 foreclosures is of a rental property.<sup>1</sup>*
- ❖ *40% of families facing eviction due to foreclosure are renters,<sup>2</sup> including an estimated three million children.<sup>3</sup>*

The PTFA provides needed, uniform federal protection to the millions of renters in foreclosed properties across the country.

## HOW WELL IS THE PTFA WORKING?

The PTFA is one of the best protections for tenants in foreclosed properties.<sup>4</sup>

In a recent survey, 90% of surveyed legal service providers and housing counselors reported that the PTFA had helped to prevent evictions of tenants in foreclosed properties.

Problems remain, however:

- ❖ *Reports from tenants and advocates make clear that violations of the law remain widespread nationwide.*
- ❖ *There are limited options for reporting violations of the PTFA.*
- ❖ *There is no express private right of action in the law that would allow a tenant whose rights have been violated to sue for damages.*

## WHAT CAN I DO TO HELP?

- ❖ *Support legislation that was recently introduced by Representative Keith Ellison (D-MN) (H.R. 3543) and Senator Richard Blumenthal (D-CT) (S. 1761) that would make the PTFA permanent and add a private right of action. The PTFA will otherwise expire on December 31, 2014.*
- ❖ *Encourage state legislatures to expand state protections of renters living in foreclosed properties beyond the protections of the PTFA.*
- ❖ *Work with banks and other successors in interest to ensure that they are taking the steps needed to comply with the requirements of the PTFA.*
- ❖ *Report violations of the PTFA by banks and other successors in interest to their regulating federal agencies, the Monitor of the national mortgage settlement where appropriate, to the Attorney General of the state where the violation occurs, and to the National Law Center on Homelessness & Poverty.*



### CONTACT INFORMATION

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<sup>1</sup> National Low Income Housing Coalition, *Renters in Foreclosure: A Fresh Look at an Ongoing Problem* (September 2012).

<sup>2</sup> *Id.*

<sup>3</sup> Isaacs, J., Brookings Institution and First Focus, *The Ongoing Impact of Foreclosures on Children* (April 2012).

<sup>4</sup> National Low Income Housing Coalition, *Renters In Foreclosure: A Fresh Look at an Ongoing Problem* (September 2012).