

**Foreclosure and Eviction Practices by State**  
**Draft 7/25/2008**

<b>State</b>	<b>Renter Protections</b>	<b>Description of Effect of Foreclosure on Tenancy</b>	<b>Authority</b>	<b>Eviction Timeline</b>	<b>Days from Foreclosure Initiation to Sale</b>
	Minimum over 30 days notice or new owner becomes landlord and must use judicial eviction process. U=Unknown/Unclear; N=No; Y=Yes; F=Tenancy terminated if tenant named in foreclosure				Foreclosure time frames start with the date of the first legal action required by law, end with the foreclosure sale date, and do not include post-sale redemption periods or sale confirmations. Rural Housing, RD AN No. 4342 (1980-D) March 14, 2008.
Alabama	N	Foreclosure terminates tenancy of all types junior to the mortgage (unclear whether a tenant is expected to be made a "party" to a nonjudicial foreclosure and whether the failure to do so has some effect on the ability to remove them from their unit.)	Ala. Code §§ 6-5-251, 35-9-1; <i>First Natl' Bank v. Welch</i> , 132 So. 44, 45 (1930)		85
Alaska	N	If a lender has given a tenant proper notice of the foreclosure, a foreclosure sale eliminates a lease written after the mortgage and reduces a tenancy at will's right to notice.	AS 34.20.090(b); <i>Winn v. Mannhalter</i> , 708 P.2d 444 (Alaska 1985)		140
Arizona	N	Forcible Detainer can be filed immediately after sale and serving written demand for possession.	Ariz. Rev. Stat. 12-1173.01.A.1	Time frame to actual eviction from written notice-as short as 8 days to long of about 2 weeks.	125
Arkansas	N	Tenancies becomes at sufferance against which the purchaser may effect eviction.	Arkansas Code § 18-50-100		130

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California	Y	California leases are subordinate to foreclosures; a valid foreclosure terminates all interests in the real estate junior to the mortgage being foreclosed. Senate Bill 1137 passed and was signed by Governor Schwarzenegger. The bill takes effect immediately and requires that tenants receive 60 days' written notice to vacate a property once it is foreclosed.	California Code of Civil Procedure 1161a; <i>Sumitomo Bank v. Davis</i> 4 Cal.App.4th 1306, 1314, 6 Cal.Rptr.2d 381 (Cal. Ct. App. 1992)	60 days after written notice	135
Colorado	N	Once the foreclosure is completed, or the property has been sold under a judgment, a tenant is in "unlawful detention" of the property once demand has been made.	C.R.S. § 13-40-104(f) and (g)		165
Connecticut	U	Forecloser can only "eject" only if tenant is named a party to the foreclosure action. However, forecloser may use the summary process laws to evict them after he takes title through foreclosure. State law protects elderly and disabled tenants living in buildings or complexes with five or more units from eviction without cause. The Supreme Court applied the same protection to tenants in foreclosure, <i>First Federal Bank, FSB v. Whitney</i> . Another class may or may not have protection. Foreclosure generally busts a lease, but there are three trial court decisions that are split on whether a Section 8 lease may be terminated in a foreclosure, following Massachusetts decisions under the Supremacy Clause.	<i>Tappin v. Homecomings Financial Network, Inc.</i> , 265 Conn. 741 (Conn. 2003); <i>First Federal Bank, FSB v. Whitney Development Corp.</i> , 237 Conn. 679		220
Delaware	N	Tenancies subordinate to mortgage are terminated by foreclosures; foreclosers can file a claim for ejectment or possession to evict tenants.	<i>First Nat. Bank of Chicago v. Boates</i> , 2000 WL 1211213 (Del. Super. Ct. 2000); 10 Del. C. § 5017		250
District of Columbia	Y	Tenancies are not terminated by foreclosures. Foreclosers can only evict tenants for cause.	D.C. Code § 45-1561; <i>Administrator of Veterans Affairs v. Valentine</i> , 490 A.2d 1165 (D.C. 1985)		

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Florida	F	Post-mortgage tenancies are terminated by foreclosure only if tenant is named a party to the foreclosure action.	Dundee Naval v. McDowell, 65 Fla. 15 (Fla. 1913)	170
Georgia	N	Tenancies subsequent to mortgage are terminated by foreclosures; even tenancies prior to mortgage are terminated if written into lease.	Trust Co. Bank v. Atlanta Speedshop, 208 Ga. App. 867 (Ga. Ct. App. 1993); <i>Raiford v. Dept. of Transp.</i> , 206 Ga.App. 114 (Ga. Ct. App. 1992)	80
Guam				250
Hawaii	U	Unclear; <i>Robello</i> suggests that tenancies are only terminated if there is a clause in the lease that establish this, but <i>Murakami</i> implies that new owners have the right to affirm or disaffirm tenancies. Statute provides no clarification.	<i>Robello v. Wong Quing</i> , 5 Haw. 98 (Haw. 1884); <i>Murakami v. Aono</i> , 27 Haw. 631 (Haw. 1923); HI ST § 666-1	140
Idaho	U			190
Illinois	Y	Tenancies survive up to 120 days.	IL ST CH 735 § 5/15-1701	275
Indiana	F	Post-mortgage tenancies are terminated by foreclosure only if tenant is named a party to the foreclosure action.	<i>Como, Inc. v. Carson Square, Inc.</i> , 648 N.E.2d 1247 (Ind.App. 2 Dist.1995)	265
Iowa	F	Post-mortgage tenancies are terminated by foreclosure only if tenant is named a party to the foreclosure action.	<i>Miller v. Laing</i> , 212 Iowa 437, (Iowa 1931)	315
Kansas	F	Post-mortgage tenancies are terminated by foreclosure only if tenant is named a party to the foreclosure action.	<i>Citizens Bank &amp; Trust v. Brothers Const. &amp; Mfg., Inc.</i> , 859 P.2d 394, (Kan. Ct. App. 1993)	180
Kentucky	N	Tenancies are terminated by foreclosures	<i>Castleman v. Belt</i> , 1841 WL 2945 (Ky. Ct. App. 1841)	265
Louisiana	N	Tenancies are terminated by foreclosures	<i>P.J.'s Army Surplus &amp; Co., Inc. v. G.D. &amp; G.</i> , 635 So.2d 1217 (La. Ct. App. 5 Cir. 1994)	220
Maine	F	Lease is terminated by foreclosure only if tenant is named a party to the foreclosure action; however, failure to name tenant as party does not invalidate foreclosure or affect subsequent actions.	14 M.R.S.A. § 6321	355
Maryland	N	Post-mortgage tenancies are terminated by foreclosures	<i>Russum v. Wanser</i> , 53 Md. 92 (Md. 1880)	85

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Massachusetts	Y	Includes provisions that : 1) make clear that tenancies at will are not terminated by foreclosure; 2) deems lease tenancies to be tenancies at will after foreclosure, which provides 90 days protection; and 3) deems tenancy agreements of federal and state subsidized tenants protected. Approx. 30 days notice to quit required, plus owner must go to court to get eviction order.	Section 13 and 13A of chapter 186 of the General Laws		135
Michigan	N	Leases are terminated by foreclosures; tenancies become at sufferance.	Dolese v. Bellows-Claude Neon Co., 261 Mich. 57 (Mi. 1932); a recent unpublished federal court decision recognized the 2nd proposition - Barron v. Federal Home Loan Mortgage Corp, 2008 WL 275675 (E.D. Mich)		75
Minnesota	Y	After foreclosure, eviction is possible if two months' written notice to vacate is given no sooner than one month after the expiration of the time for redemption or termination, provided that the tenant pays the rent and abides by all terms of the lease. Applicable to all redemption periods expiring on or after August 1. 2008.	S.F. No. 2908, 2nd Engrossment - 85th Legislative Session (2007-2008)		110
Mississippi	U				130
Missouri	N	Post-mortgage tenancies are terminated by foreclosures	Roosevelt Hotel Corp. v. Williams, 56 S.W.2d 801 (Mo. App. E.D. 1933); <i>Kage v. 1795 Dunn Road, Inc.</i> , 428 S.W.2d 735 (Mo. 1968)		85
Montana	Y	After 10th day after foreclosure, tenancies become at will, which can be terminated with one month's notice.	MT ST 71-1-319		205
Nebraska	U				155

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Nevada	N	Foreclosure terminates tenancies. Forecloser needs to give only 3-days notice to quit.	NRS 40.255	The 3 day notice to vacate must be followed by an eviction complaint. The new owner may not use Nevada's shorter summary eviction process. This means that after service of the summons and complaint the tenant has 20 days to answer to complaint unless the new owner is able to get a shorter answer time (10 days). The new owner may even get a hearing set 20 days out with a request to the court. So possibly as short as 20 days after service of the summons and complaint following the expiration of the 3 day notice to vacate.	155
New Hampshire	Y	Forclosing mortgagee becomes a landlord and must give 30 day notice and use judicial eviction process.	NH RSA 540:1-a(I)(d); NH RSA 540:3		110
New Jersey	Y	Tenancies, regardless of before or after mortgage, survive foreclosures. Forecloser can only evict tenants for cause.	N.J.S.A. 2A:18-61.3(b); <i>Chase Manhattan Bank v. Josephson</i> , 135 N.J. 209 (N.J. 1994)		300
New Mexico	N	Tenancies are destroyed by foreclosures.	<i>Bankers Trust Co. v. Woodall</i> , 140 N.M. 567 (N.M. Ct. App. 2006)		250

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New York	F	Tenancies survive foreclosure unless the tenant is named (or "Doe") and served in the proceeding. Otherwise, new owners are subject to existing tenancies and are presumed to be on notice since they have a duty to inquire. Tenants protected by state's rent regulation laws, generally larger properties, are not subject to eviction.	Green Point Sav. Bank v. Defour, 618 N.Y.S.2d 169 (N.Y. Sup. Ct. 1994)		280
North Carolina	N	Tenancies are terminated; notice to tenants of application for possession is required: 10 days for property with less than 15 units, 30 days for more than 15 units. As of October 1 "tenants in foreclosed property [receive] 30 days' notice."	G.S. 45-21.29		120
North Dakota	N	Tenancies are terminated -- even if tenant is not made a party to foreclosure action because tenancy alone does not confer interest in the property.	Farm Credit Bank of St. Paul v. Martinson, 478 N.W.2d 810, (N.D. 1991)		190

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Ohio	F	More recent Ohio caselaw holds that a foreclosure action terminates the tenancy irrespective of whether the tenant is a party to the foreclosure action	Davis v. Boyajian, Inc., 229 N.E.2d 116 (Ohio Ct. Com. Pl. 1967) (See Iskin for update)	State law establishes three minimum time periods for an eviction action, for the period subsequent to the expiration of any applicable notice of termination. First, under Ohio Rev. Code § 1923.04, at least three days prior to commencement of any eviction action, the landlord must serve the tenant with a notice to vacate. Second, under Ohio Rev. Code § 1923.06(A), the service of process must be completed at least seven days before the trial date. Third, under Ohio Rev. Code § 1923.14(A), within ten days after receiving the writ of execution, the bailiff (or other applicable official) must execute it (although, in some jurisdictions, the case backlog regularly prevents the bailiff's office from meeting the ten-day requirement).	265
Oklahoma	U				250
Oregon	N	Oregon statute provides that in a trust deed foreclosure, any person occupying the dwelling after the trustee's sale is treated as a tenant at sufferance and subject to be evicted after a 30 day written notice through summary eviction process (notice and right to a hearing, usually within 14 days depending on the county). The 30-day notice may be given prior to the trustee's sale.	Oregon revised Statute 86.755 (5) and Home Owners Loan Corp. v. Blanchard, 129 P.2d 286 (Or. 1942)		180

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Pennsylvania	N	Judicial foreclosure sale - A tenant's right of possession "shall be deemed paramount to that of a purchaser at a judicial sale" but "if and only if" the letting to the tenant shall precede a) entry of the judgment, order or decree on which such sale was had, and b) recording of the mortgage or other document through which the purchaser derives title.	68 P.S. §250.304 and 68 P.S. §342		300
Rhode Island	N	After foreclosures, tenancies become at sufferance. Only obligation to the tenants is spelled out in a single sentence in Rhode Island's commercial property statute, Chapter 34-18.1. The law states that the occupants of foreclosed properties are tenants *at will or by sufferance,* and that they should be given *reasonable notice* before being ordered to move out. The term *reasonable,* lawyers say, has been interpreted by the state courts to mean as little as three days, but the standard is generally 30 to 40 days. Ardit, L. ( 2007, November 25) Collateral damage. Providence Journal	Noorigian v. Greenfield, 52 R.I. 33, 156 A. 515 (R.I. 1931)		85
South Carolina	U				215
South Dakota	U				205
Tennessee	U				90
Texas	N	Foreclosure terminates post-mortgage tenancies. Forecloser needs to give thirty days notice to vacate, if tenant has paid the rent for the month to the prior owner or pays the new owner the rent within five days after receiving a request to pay.	Med. Center Bank v. Fleetwood, 854 S.W.2d 278, 284 (Tex. Ct. App. – Austin 1993); Texas Property Code § 24.005(b)		90
Utah	N				165

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Vermont	F	Statute provides that the failure of the landlord/mortgagor to notify post-filing tenants of the pendency of the foreclosure action does not invalidate the foreclosure. The implication is that if the mortgagee fails to join the tenants as defendants then the foreclosure action probably doesn't terminate the tenants' right to possession; however, no cases have interpreted this provision since it was enacted.	12 V.S.A. § 4523; VT R RCP Rule 80.1		360
Virgin Islands					325
Virginia	N				60
Washington	N	There are no rights for tenants in these situations - the law does not address it at all.			160
West Virginia	U				145
Wisconsin	F	Tenancies can only be terminated if tenant is joined as party.	Zimmermann v. Walgreen Co., 215 Wis. 491, 496, 255 N.W. 534, 537 (Wis. Ct. App.1934); Housing Partnership Corp. v. Miller, 218 Wis.2d 830, 581 N.W.2d 593 (Wis. Ct. App. 1998)		310
Wyoming	U				100