

Maryland Tenant In Foreclosure Timeline

(Md. Code, Real Prop. Art. §§ 7-105.6 and 7-105.9; Md. Rule 14-102)

1st Notice: Foreclosure Filing In Court – Notice to Occupant Sale May Occur After 45 Days



2nd Notice: Notice to Occupant of Foreclosure Sale's Scheduled Date and Time



Foreclosure Sale

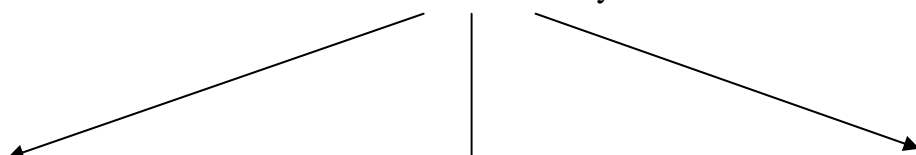


Court Ratifies Sale After 30 Days or Longer If No Exceptions



Transfer of Legal Title (pays sales price and takes deed)

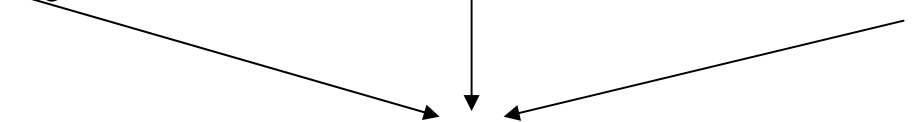
3rd Notice *Earliest Time for 90-Day Notice to Vacate*



Term Tenant Remains for Term or 90 days, whichever is longer.¹

Month-Month Has 90 Days to vacate.

Non-Bona Fide Tenant has no right to further notice or to stay.



Motion for Judgment Awarding Possession²

4th Notice: *Occupant Served Motion – Must Respond in 30 Days to Assert PTFA Rights*



5th Notice: Court Enters Judgment of Possession to Foreclosure Sale Purchaser



Sheriff Executes Writ of Possession³

¹ Unless an owner-occupier purchases property. If owner-occupier purchases the property, the tenant receives a new 90 day notice after transfer.

² A foreclosure sale purchaser should provide the tenant 90 days notice to vacate **before** filing a motion for judgment of possession. Md. Rule 14-102. Unfortunately, it appears that many purchasers are filing the motion for judgment without giving the 90 days notice or filing the motion while at the same time sending the tenant letters to determine whether the tenant is bona fide and entitled to 90 days notice.

³ Rules and customs for obtaining and executing the writ of possession vary from county to county, but normally this occurs as early as 2 weeks after entry of judgment of possession. In Baltimore City, the tenant will get an addition 14 days notice and 7 days notice before the scheduled date of eviction.

1) LEGISLATIVE UPDATE

HB 711 / SB 654 of 2010 General Assembly Session

- Passed both House and Senate and waits only the Governor's signature.
- Legislation:
 - Changes the language of two notices that tenants receive pre-foreclosure:
 - Pre-June 1, 2010 Notice: "You **COULD BE EVICTED** even if you are a tenant who has paid the rent due and complied with your lease."
 - Post-June 1, 2010 Notices: "Most renters have the right to continue renting the property after it is sold at foreclosure. The foreclosure sale purchaser becomes the new landlord. Most renters with a lease for a specific period of time have the right to continue renting the property until the end of the lease term. Most month-to-month renters have the right to continue renting the property for 90 days after receiving a written notice to vacate from the new owner. You should get legal advice to determine if you have these rights."
 - Incorporates Protecting Tenants at Foreclosure Act rights into Maryland law without a sunset date.
 - Clarifies that only a successor in interest with legal title (court has approved sale and purchaser has taken a deed to the property) may give 90-day notice.
 - Provides that 90-day notice must be sent by first class and certified mail, state the date the notice is effective and the legal basis for terminating the lease.

2) ENFORCEMENT ISSUES

- **Bad "Cash for Keys" Deals:** Always get the offer 1) in writing, 2) signed by an agent of the purchaser, and 3) with the stipulation that tenant will receive a check on or before move out day
- **Misleading Notices from Agents for Bank:** "Eviction proceedings have begun. Call me immediately!"
- **Confusing Notices from Attorneys:**
 - A 10/90-day notice to whoever occupies the house.
 - Requiring 6 months of rent receipts as proof of bona fide tenancy
- **90-Day Notice Sent Before Court Approves Sale** or legal title transfers.
- **Attorney for Purchaser Fails to Investigate Occupancy Status** whether the property is occupied by bona fide tenant. Attorney just assumes that homeowner occupies the property and fails to serve the Motion for Judgment Awarding Possession on the tenant as required by Md. Rule 14-102.
- **Conditions Issues on Properties Bought at Foreclosure.** After sale and upon ratification, under Md. law, purchaser succeeds to the rights and responsibilities of the LL, including maintenance. (Real Prop. Art. § 7-105.6)
- **Who Do I Pay The Rent To?** After sale but before ratification? What about under an assignment of rents clause in the Deed of Trust?
- **Tenants Who Do Not Open Their Mail.**

3) TENANT-IN-FORECLOSURE WORKSHOPS

The Public Justice Center conducts regular workshops for tenants in foreclosure who seek *pro se* assistance and possible representation. Attorneys and legal assistants at these workshops provide tenants general information, advice on legal rights, and assist tenants in notifying the bank/foreclosure sale purchaser that they are *bona fide* tenants on the property. **The next workshop is scheduled for May 18, 2010.** Call the Public Justice Center at 410-625-9409, ext. 235, for more information.