

FORECLOSURE



ANDREWS LAW CENTER 2011

This handout provides useful information to assist service members with issues related to foreclosures.

WHO ARE THE NEW LANDLORDS OF FORECLOSED PROPERTIES?

When an owner defaults on a mortgage, the mortgage holder, often a bank, either becomes the new owner or sells the property at a public sale. If the bank becomes the owner, it may pay a servicing company to handle the property. These companies are focused on financial matters, not mundane things like maintenance.

THE HELPING FAMILIES SAVE THEIR HOMES ACT OF 2009

This law went into effect in May 2009, and will not expire until December 31, 2012. The Act allows tenants to stay in their foreclosed rentals through the end of their lease (unless new owner will occupy unit as primary residence, in which case owner must provide tenant with 90-day notice to vacate). Once the lease ends, the new owner can terminate the tenancy after providing a 90-day notice.

PROTECTIONS UNDER THE CIVIL SERVICEMEMBERS' RELIEF ACT

Service members have basic protections as renters regardless of whether they are deployed. For example, landlords cannot evict active duty service members or their dependents from homes that they occupy as a primary residence without a valid court order. Getting such an order takes 30-60 days.

The law also has provisions that allow service members to delay court proceedings for evictions and other actions when their military service affects their ability to be present at the hearing. In some cases, courts must grant at least a 90-day delay, as long as the member meets the requirements.

HOUSING AND ECONOMIC RECOVERY ACT OF 2008

Under this law, service members who have to relocate from leased or rental housing because of foreclosure are entitled to transportation of their household goods. Please contact your local TMO office. This is ONLY for renters.

STEPS HOMEOWNERS CAN TAKE TO AVOID FORECLOSURE

- Do not ignore letters from your lender. The first notices you receive will provide you with useful foreclosure prevention options.
- Review your loan documents so that you are aware of what actions your lender can take if you do not make your payments.
- Review your finances and determine where you can cut spending in order to make your mortgage payments.
- Do not pay companies for foreclosure prevention help. These foreclosure prevention companies charge hefty fees. This money can be used to pay your mortgage instead.
- If you are facing foreclosure, contact your lender immediately to determine if your default can be cured by a plan.

ADDITIONAL INFORMATION

Military OneSource: 800-342-9647

Fairfax County Consumer Affairs Branch
- (703) 222-8435

Public Justice Center (Maryland)

- www.publicjustice.org
- (410) 625-9409
- The PJC educates, provides legal advice and offers representation to both individuals and organized tenant groups.

D.C.

- <http://ota.dc.gov/>

HUD-Approved Housing Counseling Agency

- 800-569-4287
- Housing counselors can help you understand the law and your options, organize your finances, and represent you in negotiations with your lender.