

WHAT IS FORECLOSURE?

When the owner of a home does not pay the mortgage, the lender that holds the mortgage note may foreclose on the property. Foreclosure is a process that allows legal ownership of a property to transfer to the lender or a new owner. Usually, a sale of the property takes place at the end of the foreclosure process. This pamphlet covers trust deed foreclosures which comprise the vast majority of foreclosures in Nevada.

Foreclosures do not happen overnight. The process begins with the lender sending a notice of default to your landlord. The landlord then has up to 5 days before the sale to cure the default. If the landlord cannot pay the money and cure the default or cannot negotiate with the lender, the foreclosure will continue. However, the lender must wait 3 months before issuing the notice of sale.

Three months after sending the notice of default, the lender can then issue the notice of sale. This lists the date, time, and location of the sale of the property. The sale date must be at least 21 days after the notice of sale is provided. At the sale, a new owner will purchase the property or the lender will retake ownership rights. This whole process usually takes 4 months after the first missed mortgage payment. Keep in mind that your landlord can also shorten this time.

As a tenant, you will also be entitled to a copy of the notice of sale. Along with the notice of sale will be a notice to any tenants living in the home.

A landlord can sign the property over to the lender and avoid the foreclosure costs. To find out what is going on, you should first try to contact the landlord. You can also find out whether your landlord is in default by calling the Clark County Assessor at 455-3882 and providing your address. The Assessor should be able to provide a parcel number for this address. You can also access the Clark County Assessor's website at:

<http://www.accessclarkcounty.com/assessor/>

Next, on the main page on your right hand side click on **RECORD SEARCHES**.

This will lead you to another page, then on the top left hand side please click on **ADDRESS** which is under REAL PROPERTY RECORDS. You will then be lead to other page, which asks for a street number, street direction, street name, street type and city/town. **PLEASE BE AS SPECIFIC AS POSSIBLE**. Then click on submit. Write down the APN (parcel number). It is usually in this format: 163-23-212-000.

Then you will need to log on to the Clark County Recorder website:

<http://www.accessclarkcounty.com/RECORDER/>

Once on the Recorder's website, click on **Search Records** which is located on the upper far left hand side. This will bring up another page, which will ask Search type. Please click on the second one **Advanced**. Another page will pop up and on the first category under **legal descriptions** which is ParcelNum, Enter the number you acquired from Clark County Assessor. Please enter the

number without any hyphens or dashes. Then click on **Detail Data**. This will bring up another page with the data results. Look through the documents to find under Document Type, to see if you find **Notice of Trustee Sale**. This means that the property will be sold at an auction at least 21 days after the date of the notice. Nevada law does require the lender to provide notice of sale to the tenant.

Even though your landlord is not paying the mortgage, you must **KEEP PAYING YOUR RENT TO THE LANDLORD!** Until the lender or new owner takes over, your landlord still owns the property. **If you stop paying your rent, your landlord will have the right to evict you.**

WHAT IF MY RENTAL HOME HAS BEEN FORECLOSED UPON?

If you are on subsidized housing, first notify your caseworker at the housing authority. If your landlord no longer owns the home, the housing authority should issue you a voucher so you can move. The new owner, though, is required to honor your lease agreement unless he or she intends to move into the home themselves. Also, if the new owner does not want to move into the home, the new owner must issue you a 90 day notice prior to the expiration of your lease. You should be aware that the party that foreclosed (typically the lender) will almost certainly try to evict you.

If the new owner does not issue you a 90 day notice or honor your lease agreement, you can file an answer as you likely have a defense under the new federal law.

If you do not live in subsidized housing, the eviction process starts with the new owner sending you an eviction notice. Pursuant to federal law, the Protecting Tenants at Foreclosure Act, you should receive a 90 day notice asking you to vacate the property. This notice will also indicate the new owners of the property.

If you have an unexpired lease, the new owner has to honor that lease until it expires unless the new owner will occupy the home.

If the new owner will occupy the home, a 90 day notice is still required but you will have to move out by the end of the 90 day notice. If you do not have a lease, you will have to move out by the end of the 90 day notice. Please note that, in either case, you have to continue paying rent to the new owner.

Pursuant to a change in Nevada law as of October 1, 2009, owners of homes following foreclosure must give tenants 60 days notice to vacate. If your rental home was sold **before May 20th, 2009**, or for some reason the federal law discussed above, the Protecting Tenants at Foreclosure Act, does not apply, the new owner must serve you with a 60 day notice to quit followed by a summons and complaint for unlawful detainer. You can file an answer to the complaint. You will likely not have a defense to the eviction but can ask the judge for more time to move.

If you receive a 3 day notice to quit, you can file an answer as you likely have a defense under the new federal and state laws.

Please Note: Laws are subject to change. Information contained in this pamphlet is based on the laws in effect at date of publication. 10/09

NEVADA LEGAL SERVICES

LAS VEGAS OFFICE

Serving Clark, Lincoln, Nye and Esmeralda Counties
530 S. 6th Street
Las Vegas, Nevada 89101
702-386-0404 / 866-432-0404
FAX: 702-388-1641
TDD: 702-386-1059

RENO OFFICE

Serving Washoe, Humboldt, Pershing, Lyon and Storey Counties
650 Tahoe Street
Reno, Nevada 89509
775-284-3491/877-325-3491
FAX: 775-284-3497

CARSON CITY OFFICE

Serving Carson City, remaining counties, and Native Americans statewide
216 Pratt Avenue
Carson City, Nevada 89701
775-883-0404 / 800-323-8666
FAX: 775-883-7071

ELKO OUTREACH OFFICE

405 Idaho Street, Ste. 205
Elko, Nevada 89801
775-753-5880
FAX: 775-753-5890

SENIOR HELPLINE

Serving all counties and assisting seniors in Nevada through the Senior Help-Line
877-693-2163
FAX: 702-314-3520

You And Your Landlord

IS YOUR LANDLORD GOING THROUGH FORECLOSURE?



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www.nevadalegalservices.org