

PROTECTING TENANTS AT FORECLOSURE ACT OF 2009

On May 20, 2009, President Barak Obama signed into law, the Helping Families Save Their Homes Act of 2009. A portion of the law, the **Protecting Tenants At Foreclosure Act of 2009**, establishes protections for tenants living in foreclosed rental properties. Under the law tenants will have to receive 90-days notice prior to being evicted, when their rental home is foreclosed upon. In addition, tenants must be allowed to stay in the property through the end of their lease, with two exceptions:

- 1. The new owner wants to occupy the property as a personal residence, and**
- 2. There is no lease (month to month), or there is a lease but state law allows the lease to be terminated at any time upon notice.**

Despite the above exceptions, the tenants must be given 90-days before they can be evicted. Notification must be provided by the "immediate successor in interest". In some cases, this notification will come from the bank or mortgage company (when they assume the home), and in other cases it may be the new owner. This will vary depending upon what Ohio law states. If the Ohio legislature eventually passes the Ohio Tenant Protection Act, the federal law will preempt it unless the Ohio law offers greater protection.

The protections of the **Protecting Tenants at Foreclosure Act of 2009**, apply only to "bona fide" tenants – who have a written contract, the lease was the result of an arms-length transaction, and the rent is not substantially less than the fair market rent for the property. Under any conditions, tenants may still be evicted if they violate the lease terms.

REAL TALK: The tenant is allowed to stay in the home for a minimum of 90 days after foreclosure. Additionally, tenants with a current lease that extends beyond 90 days are allowed to remain in the property for the remainder of their lease unless the new owner plans to occupy the property as a primary residence. The tenant must continue to pay rent and abide by all existing lease terms.



FAIR HOUSING ADVOCATES ASSOCIATION

520 S. Main Street #2459

Akron, Ohio 44311-1010

(330) 253-2450/(330) 996-4264-fax

Online Contact: www.fairhousingadvocates.com

**Vincent B. Curry, Executive Director
Board Member, National Fair Housing Alliance, Wash. DC**