

# Tenants protection in foreclosures at risk of going away

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By [Kimberly Miller](#) - Palm Beach Post Staff Writer

Florida renters will face swifter evictions from foreclosed homes if a five-year-old federal protection isn't renewed by the end of the month, a questionable event as Congress winds down for the year.

The Protecting Tenants at Foreclosure Act was approved in 2009 as the housing crisis escalated and renters were increasingly being surprised by eviction notices, unaware that the homes they were living in were in foreclosure and had been repossessed.

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BRANDON KRUSE

120110 (Brandon Kruse/The Palm Beach Post) - DELRAY BEACH - An eviction notice on a Delray Beach property, which as of Dec. 1, 2010, had been foreclosed just five days earlier and was on the market for \$45K.

The act requires new owners to honor the length of the tenant's lease or, if there is no lease, give them 90-days notice to vacate the home.

While some states have enacted similar legislation that can kick in if the act sunsets, Florida has not, said Alice Vickers, an attorney with the Florida Alliance for Consumer Protection.

"Florida was not unique with this problem, which is why the federal act was passed in 2009," Vickers said. "But Florida has not joined the other states in

implanting the protections in state law and we remain the lead on continuing foreclosures.”

Florida ranked highest in the nation in November for foreclosure activity, according to a report released Wednesday by the Irvine, Calif.-based RealtyTrac. South Florida, which includes Palm Beach, Broward and Miami-Dade counties, ranked second nationally for highest foreclosure activity among large metro regions.

As of July, there were 150,859 foreclosure cases pending in Florida courts, including 10,134 in Palm Beach County, according to the most recent report from the State Courts Administrator. That’s compared to the same time in 2012 when there were 377,707 cases pending statewide, and 32,977 in Palm Beach County.

The National Low Income Housing Coalition says about 40 percent of families nationwide facing eviction because of foreclosure are renters.

“Congress doesn’t usually involve itself in landlord tenant law, but in this case it said what was happening was egregious because tenants were really blameless victims,” said Linda Couch, vice president for policy for the coalition. “The foreclosure crisis has declined a lot, but it is still raging in some areas of the country.”

A bill to make the protections permanent was proposed last year by Rep. Keith Ellison, D-Minn., and Sen. Richard Blumenthal, D-Conn., but the legislation has little support from congressional leadership. Ellison plans to introduce the bill again in January.

Couch said there isn’t outright opposition to the idea of extending the tenant protection act, but that some lawmakers believe it is a state issue.

“Even a clean, one-year extension at this point would be terrific,” Couch said.

How much of an impact the expiration of the act will have is unclear.

Adam Seligman, an attorney who focuses on real estate with the Ward Damon law firm in West Palm Beach, has represented both tenants and landlords in eviction cases.

He said in the early days of the foreclosure onslaught, tenants were often surprised to learn they were renting a foreclosure, but, at the same time, it

could take months for the banks to actually take possession of a home because they were so overwhelmed with properties.

Seligman knew of a man in Tampa who lived rent-free for years because the bank took so long to file eviction papers.

Today, Seligman said banks will often offer tenants cash to vacate homes before their lease expires and that renters are more savvy, looking up whether a home is in foreclosure before signing a lease.

“I don’t really see it come up as an issue as much as it used to,” Seligman said. “Banks are far more organized now and tenants are more knowledgeable.”