

Effective 5/10/2016

Sunsets 7/1/2018

57-1-25.5 Foreclosure of residential rental property -- Effect on tenancy.

(1) As used in this section:

- (a) "Bona fide residential rental agreement" means an agreement, for a property secured by a trust deed:
 - (i) that was the result of an arm's-length transaction;
 - (ii) established before:
 - (A) the trustee records a notice of default for the property under Section 57-1-24; or
 - (B) the trustee or beneficiary files an action to foreclose the trust property under Title 78B, Chapter 6, Part 9, Mortgage Foreclosure;
 - (iii) that provides an individual the right to exclusive use and occupancy of the residential property:
 - (A) on an at-will basis; or
 - (B) for a period specified by the agreement that is no longer than twelve months; and
 - (iv) that requires the individual to pay rent in an amount that:
 - (A) is not substantially less than fair market rent for the property; or
 - (B) is less than fair market rent due to a federal, state, or local subsidy.
- (b) "Bona fide tenant" means an individual who:
 - (i) has the right to occupy a residential property under a bona fide residential rental agreement;
 - (ii) is not the trustor; and
 - (iii) is not the trustor's child, spouse, or parent.
- (c) "Foreclosed rental property" means a property that:
 - (i) is the subject of a bona fide residential rental agreement; and
 - (ii)
 - (A) is the subject of a trustee's sale as provided in this chapter; or
 - (B) is foreclosed under Title 78B, Chapter 6, Part 9, Mortgage Foreclosure.
- (d) "New owner" means the immediate successor in interest of a foreclosed rental property following a foreclosure or trustee's sale of the property.

(2)

- (a) Except as provided in Subsection (2)(b), a new owner assumes ownership of a foreclosed rental property subject to a bona fide tenant's right to occupy the foreclosed rental property:
 - (i) according to the terms of a bona fide residential rental agreement; and
 - (ii) until the end of the term of the bona fide residential rental agreement.
- (b) Subject to Subsection (3), a new owner who intends to occupy a foreclosed rental property as the new owner's primary residence may terminate:
 - (i) the bona fide residential rental agreement; and
 - (ii) the bona fide tenant's occupancy of the foreclosed rental property.

(3)

- (a) A new owner who terminates a bona fide tenant's occupancy of a foreclosed rental property shall serve, to the bona fide tenant, a notice to vacate:
 - (i) at least 45 days before the day on which the new owner requires the bona fide tenant to vacate the foreclosed rental property; and
 - (ii) as provided in Section 57-1-25.
- (b) A notice to vacate under Subsection (3)(a) shall:
 - (i) be in at least 14-point font;
 - (ii) state the new owner's name, address, and contact information;

- (iii) explain the reason the new owner requires the bona fide tenant to vacate the rental property;
 - (iv) state the date on which the bona fide tenant is required to vacate the rental property; and
 - (v) refer to this section as the law under which the notice to vacate is provided.
- (4) This section does not modify the requirements for termination of a federally subsidized tenancy.