



BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

DIVISION OF CONSUMER AND
COMMUNITY AFFAIRS

CA 18-4

June 21, 2018

**TO THE OFFICERS AND MANAGERS IN CHARGE OF CONSUMER AFFAIRS
SECTIONS:**

Applicability to Community Banking Organizations: This guidance applies to all institutions supervised by the Federal Reserve, including those with total consolidated assets of \$10 billion or less.

SUBJECT: Restoration of the Protecting Tenants at Foreclosure Act

This letter provides background information about the recently restored Protecting Tenants at Foreclosure Act of 2009,¹ which became effective on June 23, 2018. The law protects tenants from immediate eviction by persons or entities that become owners of residential property through the foreclosure process, and extends additional protections for tenants with U.S. Department of Housing and Urban Development Section 8 vouchers. The law is self-executing; no federal agency has authority to issue regulations implementing the law or to interpret the law.

The fundamental purpose of the law is to ensure that tenants facing eviction from a foreclosed property have adequate time to find alternative housing. To that end, the law establishes a minimum time period that a tenant can remain in a foreclosed property before eviction. The law does not affect any state or local law that provides longer time periods or other additional protections for tenants.

Under the law, the immediate successor in interest at foreclosure must: (a) provide bona fide tenants with 90 days' notice prior to eviction; and, (b) allow bona fide tenants with leases to occupy property until the end of the lease term, except the lease can be terminated on 90 days' notice if the unit is sold to a purchaser who will occupy the property. A lease or tenancy is bona fide if the tenant is not the mortgagor or the parent, spouse, or child of the mortgagor, the lease or tenancy is the result of an arms-length transaction, and the lease or tenancy requires rent that is not substantially lower than fair market rent or that is reduced or subsidized due to a Federal, State, or local subsidy. The law does not cover tenants facing eviction in a non-foreclosed property, tenants with a fraudulent lease, tenants who enter in lease agreements after a

¹ Section 304 of the Economic Growth, Regulatory Relief, and Consumer Protection Act of 2018 (Public Law 115-174) restored sections 701-703, and repealed section 704, of the Protecting Tenants at Foreclosure Act of 2009 (Title VII of the Helping Families Save Their Homes Act of 2009, Public Law 111-22), which expired on December 31, 2014. Section 704 contained the Protecting Tenants at Foreclosure Act of 2009's sunset provisions; the restored act does not include an expiration date.

foreclosure sale, or homeowners in foreclosure. Additionally, the law does not affect the requirements of any State or local law that provides for longer time periods or extends additional protections to tenants.

Consumer compliance examiners will employ risk-focused consumer compliance supervision principles to determine if they should include a review of compliance with the Protecting Tenants at Foreclosure Act in an examination. If compliance with this law is included in the examination scope, examiners will use the attached examination procedures to evaluate an institution's awareness of the law, its compliance efforts, and its responsiveness to addressing implementation deficiencies.²

Reserve Banks are asked to distribute this letter to supervised institutions in their districts, consumer compliance examiners, and other appropriate supervisory staff. If you have any questions, please contact Amal Patel, Senior Supervisory Consumer Financial Services Analyst, at (202) 912-7879, or Tim Robertson, Manager, at (202) 452-2565. In addition, questions may be sent via the Board's public website.³

Sincerely,

Carol A. Evans
Associate Director

Attachment:

- Federal Reserve Consumer Compliance Examination Procedures for the "Protecting Tenants at Foreclosure Act"

Cross-reference:

- SR 12-5/CA-12-3 "Policy Statement on Rental of Residential Other Real Estate Owned (OREO) Properties" (April 5, 2012)

Supersedes:

- CA 15-4 "Expiration of the Protecting Tenants at Foreclosure Act" (June 10, 2015)

² These are the same examination procedures that consumer compliance examiners used previously to conduct Protecting Tenants at Foreclosure Act of 2009 reviews.

³ See <http://www.federalreserve.gov/apps/contactus/feedback.aspx>.