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In 2009, the Protecting Tenants at Foreclosure Act (the "Act") was enacted to protect tenants facing foreclosure by the landlord's lender. Specifically, if the tenant was occupying residential property pursuant to a bona fide written lease, the tenant was generally entitled to continue residing in the property for the duration of the lease term. However, an exemption provided that where the property sold to an individual intending to reside in the property as a primary residence, the new owner could evict the tenant following 90-days notice to vacate.

While the Act was originally scheduled to expire on December 31st, 2012, the Dodd-Frank Wall Street Reform and Consumer Protection Act extended the expiration date of the Act to December 31, 2014.

Unfortunately, Congress did not extend the Act beyond 2014, meaning that it is no longer in effect. As a result, in the event of foreclosure, foreclosing lenders are no longer required to honor bona fide written leases, and now owners are no longer required to provide the tenant with 90-days notice to vacate.

Although the Act no longer furnishes tenants with a safeguard, Arizona law provides that "If a rental agreement is entered into after the foreclosure action was initiated; the owner shall include written notice of possible foreclosure with the rental agreement with the tenant." A.R.S. 33-1331. Moreover, "If the owner receives a notice of trustee's sale or other notice of foreclosure of the property after a tenant has entered a rental agreement on the property, the owner shall provide the tenants with written notice of the notice of trustee's sale." Accordingly, in the event of foreclosure, Arizona tenants are afforded advance notice so that the tenant may take the necessary steps to make other arrangements.

(This article is of a general nature and is not intended as definitive legal advice; you should not act upon it without seeking independent legal counsel)