

3. When the leased house is put up for auction

Q. I heard that the leased house I live in was put up for auction. Can I get my deposit back?

A. A lessee with opposing power and fixed date has preferential payment right; in this case, when the leased house is put up for auction or public sale, the lessee may receive a refund of the deposit from the amount obtained at the auction in preference to other junior creditors.

◇ Preferential repayment right

- ☞ A preferential repayment right refers to the right of the lessee to receive the payment of the deposit in preference to other creditors.
- ☞ The lessee has preferential repayment right if he/she has ① requirements for opposing power (provision of the house and the resident registration) and ② fixed date in the lease contract.

◇ Fixed date

- ☞ Fixed date refers to a legally recognized date to prove that a housing lease contract exists on the date the deed is written.
- ☞ A holder of a housing lease contract, such as the lessee and the lessee's proxy, may receive a fixed date at the office of Eup/Myeon/Dong or Si/Gun/Gu where the house is located.
- ☞ To receive a fixed date, ① the personal information of the lessor and the lessee, object of the lease, lease period, deposit, etc. must be written, and ② the document must be completed with the signatures or seals of the parties to the contract.
- ☞ If you receive a fixed date on a receipt that does not indicate the house and period of the housing lease, please note that the preferential repayment right is not constituted.

◇ Occurrence of preferential repayment right

- ☞ If a lessee has a fixed date in the housing lease contract on or before the day the house is provided and the resident registration is completed, the preferential payment right takes effect from 0:00 a.m. on the day after the provision of the house and resident registration.

*Source: 100 Q&A for Easy to Find, Practical Law (www.easylaw.go.kr)

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