

110TH CONGRESS
2D SESSION

S. 3034

To protect the interests of bona fide tenants in the case of any foreclosure on any dwelling or residential real property, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 19, 2008

Mr. REID (for Mr. KERRY (for himself and Mr. KENNEDY)) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To protect the interests of bona fide tenants in the case of any foreclosure on any dwelling or residential real property, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protecting Tenants
5 at Foreclosure Act of 2008”.

6 **SEC. 2. EFFECT OF FORECLOSURE ON PREEXISTING TEN-**
7 **ANCY.**

8 (a) IN GENERAL.—In the case of any foreclosure on
9 any dwelling or residential real property after the date of

1 enactment of this Act, any immediate successor in interest
2 in such property pursuant to the foreclosure shall assume
3 such interest subject to—

4 (1) the provision, by such successor in interest
5 of a notice to vacate to any bona fide tenant at least
6 90 days before the effective date of such notice; and

7 (2) the rights of any bona fide tenant, as of the
8 date of such notice of foreclosure—

9 (A) under any bona fide lease entered into
10 before the notice of foreclosure to occupy the
11 premises until the end of the remaining term of
12 the lease, except that a successor in interest
13 may terminate a lease effective on the date of
14 sale of the unit to a purchaser who will occupy
15 the unit as a primary residence, subject to the
16 receipt by the tenant of the 90 day notice under
17 paragraph (1); or

18 (B) without a lease or with a lease ter-
19 minable at will under State law, subject to the
20 receipt by the tenant of the 90 day notice under
21 subsection (1),

22 except that nothing under this section shall affect
23 the requirements for termination of any Federal- or
24 State-subsidized tenancy or of any State or local law

1 that provides longer time periods or other additional
2 protections for tenants.

3 (b) BONA FIDE LEASE OR TENANCY.—For purposes
4 of this section, a lease or tenancy shall be considered bona
5 fide only if—

6 (1) the mortgagor under the contract is not the
7 tenant;

8 (2) the lease or tenancy was the result of an
9 arms-length transaction; or

10 (3) the lease or tenancy requires the receipt of
11 rent that is not substantially less than fair market
12 rent for the property.

13 **SEC. 3. EFFECT OF FORECLOSURE ON SECTION 8 TENAN-**
14 **CIES.**

15 Section 8(o)(7) of the United States Housing Act of
16 1937 is amended—

17 (1) by inserting before the semi-colon in sub-
18 paragraph (C) the following: “and in the case of an
19 owner who is an immediate successor in interest
20 pursuant to foreclosure—

21 “(i) during the initial term of the
22 lease vacating the property prior to sale
23 shall not constitute other good cause; and

24 “(ii) in subsequent lease terms,
25 vacating the property prior to sale may

1 constitute good cause if the property is un-
2 marketable while occupied, or if such
3 owner will occupy the unit as a primary
4 residence”; and

5 (2) by inserting at the end of subparagraph (F)
6 the following: “In the case of any foreclosure on any
7 residential real property in which a recipient of as-
8 sistance under this subsection resides, the immediate
9 successor in interest in such property pursuant to
10 the foreclosure shall assume such interest subject to
11 the lease between the prior owner and the tenant
12 and to the housing assistance payments contract be-
13 tween the prior owner and the public housing agency
14 for the occupied unit, except that this provision and
15 the provisions related to foreclosure in subparagraph
16 (C) shall not shall not affect any State or local law
17 that provides longer time periods or other additional
18 protections for tenants.”.

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