

NAR Legislative Issue Brief

Tenant Protection Provisions Contained in Public Law 111-22



National Association of REALTORS® Government Affairs Division
500 New Jersey Avenue, NW, Washington, DC, 20001

S. 896, the “Helping Families Save Their Homes Act of 2009” became Public Law 111-22 when signed by President Obama on May 20, 2009. The law includes some provisions to protect tenants from eviction as a consequence of a foreclosure affecting the property being rented. Many examples were seen of families living in rental housing throughout the United States who were evicted without any prior notice when the home where they had lived was foreclosed upon. Much of the time, the rental family had no idea the home was in delinquency or subject to foreclosure until their eviction.

Under the new law tenants will have to receive 90-days notice prior to being evicted, when their rental home is foreclosed upon. In addition, tenants must be allowed to stay in the property through the end of their lease, with two exceptions:

1. The new owner wants to occupy the property as a personal residence, and
2. There is no lease (month to month), or there is a lease but state law allows the lease to be terminated at any time upon notice.

Even under these exceptions, the tenants must be given 90-days before they can be evicted. Notification must be provided by the “immediate successor in interest”. In some cases, this notification will come from the bank (when they assume the home), and in other cases it may be the new owner. Much will depend upon state law.

A number of states have existing laws protecting tenants. This law will preempt existing state law, except where the state law offers greater protection.

The protections of this law apply only to “bona fide” tenants – who have a written contract, the lease was the result of an arms-length transaction, and the rent is not substantially less than the fair market rent for the property. Under any conditions, tenants may still be evicted if they violate the lease terms.

These provisions expire on December 31, 2012.

