

AMENDMENT TO H.R. 1728
OFFERED BY MR. ELLISON OF MINNESOTA

Page 59, after line 25 insert the following (and amend the table of contents accordingly):

1 **SEC. 219. TENANT PROTECTION.**

2 (a) TENANT PROTECTION GENERALLY.—

3 (1) IN GENERAL.—In the case of any fore-
4 closure on any dwelling or residential real property,
5 after the date of the enactment of the Mortgage Re-
6 form and Anti-Predatory Lending Act, the imme-
7 diate successor in interest in such property pursuant
8 to the foreclosure shall assume such interest subject
9 to—

10 (A) except as provided in paragraph (2),
11 the rights of any bona fide tenant, as of the
12 date of foreclosure under any bona fide lease
13 entered into before the date of foreclosure, to
14 occupy the premises until the end of the re-
15 maining term of the lease; and

16 (B) the rights of any bona fide tenant, as
17 of the date of foreclosure, without a lease or
18 with a lease terminable at will under State law,
19 subject to the provision by the immediate suc-

1 cessor in interest and the receipt by the tenant
2 in the unit, of a notice to vacate at least 90
3 days before the effective date of such notice.

4 (2) EXCEPTION FOR SUBSEQUENT OWNER-OC-
5 CUPANT.—Notwithstanding paragraph (1), if the im-
6 mediate successor in interest of any dwelling or resi-
7 dential real property that is otherwise subject to
8 paragraph (1) is a purchaser who will occupy a unit
9 of the dwelling or residential real property as a pri-
10 mary residence, or such successor in interest sells
11 the dwelling or residential real property to a pur-
12 chaser who will occupy a unit of the dwelling or resi-
13 dential real property, as a primary residence—

14 (A) such purchaser may terminate a lease
15 relating to such unit on the effective date of a
16 notice to vacate; and

17 (B) such notice to vacate shall be provided
18 by the purchaser to the tenant in such unit at
19 least 90 days before the effective date of such
20 notice.

21 (3) BONA FIDE LEASE OR TENANCY.—For pur-
22 poses of this subsection, a lease or tenancy shall be
23 considered bona fide only if—

24 (A) the mortgagor under the contract is
25 not the tenant;

1 (B) the lease or tenancy was the result of
2 an arms-length transaction; and

3 (C) the lease or tenancy requires the re-
4 ceipt of rent that is not substantially less than
5 fair market rent for the property or the unit's
6 rent is reduced or subsidized due to a Federal,
7 State, or local subsidy.

8 (4) RULE OF CONSTRUCTION.—Except for the
9 specific provisions of this subsection, no provision of
10 this subsection shall be construed as affecting the
11 requirements for termination of any Federal- or
12 State-subsidized tenancy. The provisions of this sub-
13 section shall not be construed to limit any State or
14 local law that provides longer time periods or other
15 additional protections for tenants.

16 (b) CORRESPONDING PROVISION RELATING TO EF-
17 FECT OF FORECLOSURES ON SECTION 8 TENANCIES.—
18 Paragraph (7) of section 8(o) of the United States Hous-
19 ing Act of 1937 (42 U.S.C. 1437f(o)(7)) is amended—

20 (1) in subparagraph (C), by inserting before the
21 semicolon at the end the following: “, and in the
22 case of an owner who is an immediate successor in
23 interest pursuant to foreclosure—

24 “(i) during the initial term of the ten-
25 ant's lease, having the property vacant

1 prior to sale shall not constitute good
2 cause; and

3 “(ii) in subsequent lease terms of the
4 tenant’s lease, who will occupy the unit as
5 a primary residence, who sells the property
6 to a purchaser who will occupy a unit of
7 the property as a primary residence, or if
8 the unit is unmarketable while occupied,
9 such owner may terminate a lease relating
10 to such unit for good cause on the effective
11 date of the notice to vacate, where such
12 notice is provided by the owner to the ten-
13 ant in such unit at least 90 days before the
14 effective date of such notice;”.

15 (2) in subparagraph (E), by striking “and” at
16 the end;

17 (3) by redesignating subparagraph (F) as sub-
18 paragraph (G); and

19 (4) by inserting after subparagraph (E) the fol-
20 lowing:

21 “(F) shall provide that in the case of any
22 foreclosure on any residential real property in
23 which a recipient of assistance under this sub-
24 section resides, the immediate successor in in-
25 terest in such property pursuant to the fore-

1 closure shall assume such interest subject to the
2 lease between the prior owner and the tenant
3 and to the housing assistance payments con-
4 tract between the prior owner and the public
5 housing agency for the occupied unit; if a public
6 housing agency is unable to make payments
7 under the contract to the immediate successor
8 in interest after foreclosure, due to action or in-
9 action by the successor in interest, including
10 the rejection of payments or the failure of the
11 successor to maintain the unit in compliance
12 with paragraph (8) or an inability to identify
13 the successor, the agency may use funds that
14 would have been used to pay the rental amount
15 on behalf of the family—

16 “(i) to pay for utilities that are the
17 responsibility of the owner under the lease
18 or applicable law, after taking reasonable
19 steps to notify the owner that it intends to
20 make payments to a utility provider in lieu
21 of payments to the owner, except prior no-
22 tification shall not be required in any case
23 in which the unit will be or has been ren-
24 dered uninhabitable due to the termination
25 or threat of termination of service, in

1 which case the public housing agency shall
2 notify the owner within a reasonable time
3 after making such payment; or

4 “(ii) for the family’s reasonable mov-
5 ing costs, including security deposit costs;
6 except that this subparagraph and the provi-
7 sions related to foreclosure in subparagraph (C)
8 shall not affect any State or local law that pro-
9 vides longer time periods or other additional
10 protections for tenants.”.

11 (c) EFFECTIVE DATE.—Notwithstanding section
12 217, this section and the amendments made by this sec-
13 tion shall take effect on the date of the enactment of this
14 Act.

