

## **NEW PROTECTIONS FOR TENANTS IN FORECLOSED PROPERTIES**

- Effective May 20, 2009 tenants in foreclosed upon properties have new enhanced protections under federal law – *Protecting Tenants at Foreclosure Act of 2009*, S.896, Pub.L. No 111-22 §§701-704.
- The new law will requires that the immediate successor in interest at a foreclosure sale must –
  - provide tenants with 90 days notice prior to eviction, and
  - allow tenants with leases to occupy the property until the end of the lease term *except* the lease can be terminated with 90 days notice if the unit is sold to a purchaser who intends to move into the property as his/her primary residence
- This new law does not apply to the owner of the property that is being foreclosed, only to bona fide tenants of such an owner.
- If the tenant has a Section 8 voucher (federal public payment assistance), the successor in interest (new owner)of the foreclosed property must assume the Section 8 lease and the Housing Assistance Payment (HAP) contract with the administrating housing authority.
- Also, the successor in interest (new landlord/owner) must perform the necessary functions of a landlord and maintain the property and any utilities that were the responsibility of the former owner/landlord while there are tenants in the building.
- This federal law applies only to bona fide leases and tenancies, which means:
  - the tenant is not the child, spouse, or parent of the mortgagor (former landlord);
  - the lease or tenancy was the result of an arms-length transaction; and
  - the rent is not substantially less than the fair market rent.