



**93RD GENERAL ASSEMBLY**

**State of Illinois**

**2003 and 2004**

**SB2329**

Introduced 1/28/2004, by Iris Y. Martinez

**SYNOPSIS AS INTRODUCED:**

310 ILCS 60/1	from Ch. 67 1/2, par. 1151
310 ILCS 60/3	from Ch. 67 1/2, par. 1153
310 ILCS 60/4	from Ch. 67 1/2, par. 1154
310 ILCS 60/5	from Ch. 67 1/2, par. 1155
310 ILCS 60/6	from Ch. 67 1/2, par. 1156
310 ILCS 60/7	from Ch. 67 1/2, par. 1157
310 ILCS 60/10.1	from Ch. 67 1/2, par. 1160.1

Amends the Federally Subsidized Housing Preservation Act. Changes the short title to the Federally Assisted Housing Preservation Act, and replaces references to "subsidized housing" with references to "assisted housing". Requires the owner of an assisted housing development to give 12 (instead of 6) months notice of the owner's intent to sell or otherwise dispose of the assisted housing; also requires notice of the owner's intent to complete prepayment or complete termination of the development's participation in a federal subsidy program or termination of the development's affordability restrictions. Provides for representation of a tenant association by a not-for-profit corporation or private purchaser. Requires that the owner offer the property for sale to a tenant association within 60 days after the association has complied with the requirements of the Act concerning notice to the owner. Requires that a tenant association notify the owner of its intent to purchase the property within 90 (instead of 30) days after receiving the owner's offer of sale. Effective immediately.

LRB093 18462 DRJ 44174 b

1 AN ACT in relation to housing.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Federally Subsidized Housing Preservation  
5 Act is amended by changing Sections 1, 3, 4, 5, 6, 7, and 10.1  
6 as follows:

7 (310 ILCS 60/1) (from Ch. 67 1/2, par. 1151)

8 Sec. 1. Short title. This Act ~~shall be known and~~ may be  
9 cited as the Federally Assisted ~~Subsidized~~ Housing  
10 Preservation Act.

11 (Source: P.A. 86-810.)

12 (310 ILCS 60/3) (from Ch. 67 1/2, par. 1153)

13 Sec. 3. Definitions. As used in this Act:

14 (a) "IHDA" means the Illinois Housing Development  
15 Authority.

16 (b) (Blank). ~~"FmHA" means the Farmers Home Administration~~  
17 ~~or a local housing authority administering an FmHA program.~~

18 (c) (Blank). ~~"HUD" means the United States Department of~~  
19 ~~Housing and Urban Development, or the Federal Housing~~  
20 ~~Administration or a local housing authority administering a HUD~~  
21 ~~program.~~

22 (d) "Owner" means the person, partnership, or corporation  
23 that holds title to an assisted housing development ~~is a party~~  
24 ~~to a contract with HUD or FmHA providing for a mortgage,~~  
25 ~~mortgage assistance, mortgage insurance, or rent subsidy; or~~  
26 ~~any spouse, employee, agent, partner, master lessee, business~~  
27 ~~affiliate or associate, or successor in interest of such~~  
28 ~~person, partnership or corporation, that receives or demands~~  
29 ~~rent for the subsidized housing.~~

30 (e) "Assisted housing" or "assisted housing development"  
31 means a rental housing development, or a mixed use development

1 that includes rental housing, that receives government  
2 assistance under any of the following programs:

3 (1) New construction, substantial rehabilitation,  
4 moderate rehabilitation, property disposition and loan  
5 management set-aside programs, or any other program  
6 providing project-based rental assistance, under Section 8  
7 of the United States Housing Act of 1937, as amended.

8 (2) The Below-Market-Interest-Rate Program under  
9 Section 221(d)(3) of the National Housing Act.

10 (3) Section 236 of the National Housing Act.

11 (4) Section 202 of the National Housing Act.

12 (5) Programs for rent supplement assistance under  
13 Section 101 of the Housing and Urban Development Act of  
14 1965, as amended.

15 (6) Programs under Section 514 or 515 of the Housing  
16 Act of 1949.

17 (7) Section 42 of the Internal Revenue Code.

18 ~~"Subsidized housing" means any housing or unit of housing~~  
19 ~~financed by a loan or mortgage insured or held by HUD as~~  
20 ~~follows:~~

21 ~~(1) insured or held by HUD under Section 221(d)(3) of the~~  
22 ~~National Housing Act and assisted under Section 101 of the~~  
23 ~~Housing and Urban Development Act of 1965 or Section 8 of the~~  
24 ~~United States Housing Act of 1937;~~

25 ~~(2) insured or held by HUD and bears interest at a rate~~  
26 ~~determined under the proviso of Section 221(d)(3) of the~~  
27 ~~National Housing Act;~~

28 ~~(3) insured, assisted or held by HUD under Section 236 of~~  
29 ~~the National Housing Act;~~

30 ~~(4) insured or held by HUD under Section 514 or 515 of the~~  
31 ~~Housing Act of 1949; or~~

32 ~~(5) held by HUD and formerly insured under a program listed~~  
33 ~~in this subsection (c).~~

34 (f) "Tenant" means a tenant, subtenant, lessee, sublessee  
35 or other person entitled to possession, occupancy or benefits  
36 of a rental unit within the assisted ~~subsidized~~ housing.

1 (g) "Tenant Association" means an association, corporation  
2 or other organization that represents at least a majority of  
3 the tenants in the assisted ~~subsidized~~ housing building.

4 (h) "Prepayment" means the payment in full or refinancing  
5 of the federally insured or federally held mortgage  
6 indebtedness prior to its original maturity date, or the  
7 voluntary cancellation of mortgage insurance, on an assisted  
8 housing development described in paragraph (2), (3), or (4) of  
9 subsection (e) that would have the effect of removing the  
10 affordability restrictions applicable to the assisted housing  
11 development under the programs described in paragraph (2), (3),  
12 or (4) of subsection (e).

13 (i) "Termination" means:

14 (1) the expiration or early termination of an assisted  
15 housing development's participation in a federal subsidy  
16 program for assisted housing described in paragraph (1) of  
17 subsection (e), or

18 (2) the expiration or early termination of an assisted  
19 housing development's affordability restrictions described  
20 in Section 42(g) of the Internal Revenue Code for assisted  
21 housing described in paragraph (7) of subsection (e), when  
22 that event results in an increase in tenant rents, a change  
23 in the form of subsidy from project-based to tenant-based,  
24 or a change in use of the assisted housing development to a  
25 use other than rental housing.

26 (j) "Affected public entities" means: the mayor of the city  
27 in which the assisted housing development is located or, if the  
28 development is located in an unincorporated area, the  
29 chairperson of the county board; the public housing authority  
30 in whose jurisdiction the assisted housing development is  
31 located, if any; and IHDA.

32 (k) "Affordability restrictions" means limits on rents  
33 that owners may charge for occupancy of a rental unit in  
34 assisted housing and limits on tenant income for persons or  
35 families seeking to qualify as tenants in assisted housing.

36 (Source: P.A. 86-810.)

1 (310 ILCS 60/4) (from Ch. 67 1/2, par. 1154)

2 Sec. 4. Notice of intent to sell.

3 (a) An owner may not sell or otherwise dispose of assisted  
4 subsidized housing, complete prepayment, or complete a  
5 termination unless, not less than 12 6 months before the  
6 prepayment, termination, sale, or disposal, the owner submits  
7 to all tenants of the assisted subsidized housing and to all  
8 affected public entities IHDA a notice of intent to complete  
9 prepayment, complete termination, sell, or otherwise dispose  
10 of the property.

11 (a-5) Every notice required under subsection (a) must  
12 include the address of the assisted housing, characteristics of  
13 the property including the number of units, and the names and  
14 addresses of the owners. The notice must also include the date  
15 on which the owner intends to sell, lease, complete prepayment,  
16 complete termination, or otherwise dispose of the property, as  
17 well as a detailed list of affordability restrictions  
18 applicable to the property. IHDA shall adopt rules concerning  
19 the content, format, delivery, and publication of such notices.

20 (b) Within 60 days after the date of the owner's notice  
21 pursuant to subsection (a), the tenants may notify the owner  
22 that they have formed a Tenant Association meeting the  
23 requirements of this Act and shall designate the name of its  
24 representative or representatives in the notice. The Tenant  
25 Association may enter into an agreement with a not-for-profit  
26 corporation or private purchaser in which the not-for-profit  
27 corporation or private purchaser agrees to represent the  
28 residents and maintain the development in a manner that  
29 preserves the housing development's existing affordability  
30 restrictions or that would qualify the housing development as  
31 affordable housing as defined in the Illinois Affordable  
32 Housing Act. The agreement must set forth the minimum length of  
33 time that the affordability restrictions will be in effect. The  
34 Tenant Association and individual tenants in the assisted  
35 housing shall each have the right to bring an action for

1 specific performance or other injunctive relief for  
2 enforcement of the agreement, and the agreement must contain  
3 provisions to this effect along with such other remedies for  
4 breach as the Tenant Association and the not-for-profit  
5 corporation or private purchaser may agree. Once such an  
6 agreement is entered into, the not-for-profit corporation or  
7 private purchaser shall assume all rights and responsibilities  
8 attributed to the Tenant Association under this Act.

9 (Source: P.A. 86-810; 86-1352.)

10 (310 ILCS 60/5) (from Ch. 67 1/2, par. 1155)

11 Sec. 5. Offer for sale to Tenant Association. Within 60  
12 days after the Tenant Association has complied with the  
13 requirements of Section 4, the owner shall, before selling,  
14 leasing, completing prepayment, completing termination, or  
15 otherwise disposing of the property, provide to the Tenant  
16 Association a bona fide offer for sale of the property which  
17 shall contain the essential terms of the sale, including, at a  
18 minimum, the following: the sales price; the terms of seller  
19 financing, if any, including the amount, the interest rate, and  
20 amortization rate thereof; the terms of assumable financing, if  
21 any, including the amount, the interest rate, and the  
22 amortization rate thereof; and proposed improvements, if any,  
23 to the property to be made by the owner in connection with the  
24 sale.

25 (Source: P.A. 86-810.)

26 (310 ILCS 60/6) (from Ch. 67 1/2, par. 1156)

27 Sec. 6. Notice of intent to purchase.

28 (a) The Tenant Association shall notify the owner in  
29 writing, within 90 ~~30~~ days after the receipt of the bona fide  
30 offer of sale, of its intent to purchase the assisted  
31 ~~subsidized~~ housing.

32 (b) The owner shall, after receiving a notice pursuant to  
33 subsection (a), comply with any reasonable request to make  
34 documents available to the Tenant Association, during normal

1 business hours at the owner's principal place of business  
2 within 15 days of receiving such a request, including but not  
3 limited to: a floor plan of the development; itemized lists of  
4 monthly operating expenses, capital expenditures in each of the  
5 2 preceding calendar years and deferred maintenance costs; the  
6 amount of project reserves; utility consumption rates; copies  
7 of financial and physical inspection reports filed with  
8 federal, State or local agencies; the most recent rent roll; a  
9 list of tenants; a list of vacant units; and a statement of the  
10 vacancy rate at the development for each of the 2 preceding  
11 calendar years.

12 (Source: P.A. 86-810.)

13 (310 ILCS 60/7) (from Ch. 67 1/2, par. 1157)

14 Sec. 7. Bona fide offer to purchase; contract.

15 (a) The Tenant Association shall, within 90 days after it  
16 notifies the owner of its intent to purchase, provide the owner  
17 with a bona fide offer to purchase evidenced by a purchase  
18 contract reflecting a sales price and terms agreed to by the  
19 parties or the sales price and terms determined pursuant to  
20 subsection (b) of this Section and an earnest money deposit  
21 equal to 5% of the bona fide offer to purchase.

22 (b) If the parties are unable to agree to a sales price  
23 within the first 60 days of the 90 day period specified in  
24 subsection (a), the sale price of the assisted ~~subsidized~~  
25 housing shall be based upon its fair market value, without  
26 affordability restrictions, as determined by 2 independent  
27 appraisers qualified to perform multi-family housing  
28 appraisals. One appraiser shall be selected and paid by the  
29 owner and the other shall be selected and paid by the Tenant  
30 Association. If the appraisers fail to agree upon a fair market  
31 value, the owner and the Tenant Association shall either  
32 jointly select and pay a third appraiser whose appraisal shall  
33 be binding, or agree to take an average of the 2 appraisals.  
34 All appraisers shall be MAI certified. The determination of the  
35 sales price pursuant to this subsection shall be completed

1 within the 90 day period specified in subsection (a) of this  
2 Section.

3 (c) The Tenant Association shall agree to close on the sale  
4 within 90 days from the date the parties sign the contract to  
5 purchase.

6 (Source: P.A. 86-810; 86-1352.)

7 (310 ILCS 60/10.1) (from Ch. 67 1/2, par. 1160.1)

8 Sec. 10.1. Civil action against owner. The Tenant  
9 Association, or one or more tenants in the assisted ~~subsidized~~  
10 housing, may bring a civil action against an owner who has  
11 violated this Act. An owner found to have violated any  
12 provision of this Act shall, in addition to any other damages,  
13 pay a civil penalty to each tenant in the assisted ~~subsidized~~  
14 housing in the amount of \$500 per tenant, and shall also pay  
15 the attorney's fees and costs incurred in bringing the action.

16 (Source: P.A. 86-810; 86-1352)

17 Section 99. Effective date. This Act takes effect upon  
18 becoming law.