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LEGISLATIVE ACTION

Senate

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House

Senator Constantine moved the following:

Senate Amendment (with title amendment)

Between lines 2844 and 2845

insert:

Section 26. Subsection (7) of section 83.49, Florida Statutes, is amended to read:

(7) Upon the sale or transfer of title of the rental property from one owner to another, or upon a change in the designated rental agent, any and all security deposits or advance rents being held for the benefit of the tenants shall be transferred to the new owner or agent, together with any earned interest and with an accurate accounting showing the amounts to be credited to each tenant account. Upon the transfer of such



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14 funds and records as stated herein, and upon transmittal of a
15 written receipt therefor, the transferor shall be free from the
16 obligation imposed in subsection (1) to hold such moneys on
17 behalf of the tenant. However, nothing herein shall excuse the
18 landlord or agent for a violation of the provisions of this
19 section while in possession of such deposits. To the extent the
20 grantee of the certificate of title in a foreclosure action, or
21 the grantee's assignee, receives a tenant's deposit money or
22 advance rent, the grantee or grantee's assignee shall be
23 responsible for the proper handling and refund of the security
24 deposit and advance rent as provided in this section.

25 Section 27. Section 83.495, Florida Statutes, is created to
26 read:

27 83.495 Commencement of foreclosure; disclosure; security
28 deposits and advance rents.—After the initial service of the
29 complaint in foreclosure proceedings commenced with respect to
30 property rented as a dwelling unit:

31 (1) The landlord or the landlord's authorized
32 representative shall continue to be responsible for money
33 deposited or advanced as security or as advance rent as provided
34 in s. 83.49.

35 (2) The landlord or the landlord's authorized
36 representative shall disclose to a prospective tenant the
37 existence of the pending foreclosure proceedings in the rental
38 agreement or in another writing before the prospective tenant
39 executes the rental agreement. The written disclosure shall
40 inform the prospective tenant that the foreclosure proceedings
41 may affect a tenant's right to possess and reside in the
42 dwelling unit and that the landlord or the landlord's authorized



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representative is required to hold the tenant's total amount of deposit money or advance rent as provided in s. 83.49. A landlord's authorized representative is not liable for failure to notify a prospective tenant of the foreclosure proceedings unless the representative received notice of the existence of the pending foreclosure proceedings from the landlord.

Section 28. Section 83.683, Florida Statutes, is created to read:

83.683 Possession following foreclosure; notice to occupant of dwelling unit subject to rental agreement.—

(1) The grantee of a certificate of title from the sale in foreclosure of a dwelling unit subject to a rental agreement that is not in default may not obtain a writ of possession until 30 days after the grantee provides notice in writing to the occupant of the dwelling unit stating that the dwelling unit has been sold, that the lease is terminated, and that the grantee desires to take possession of the dwelling unit.

(2) The grantee shall effectuate the notice required by this section by depositing the notice in United States mail first class and by sending a duplicate of the notice using certified mail.

(3) The clerk of the circuit court may not issue a writ of possession unless the grantee files with the clerk a duplicate of the notice mailed to the occupant as required by this section.

(4) Nothing in this section is intended to eliminate any requirement in law that may exist to name the occupant of property as a party to a foreclosure action as a condition for the issuance of a writ of possession as part of that foreclosure



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action.

(Redesignate subsequent section.)

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete line 172

and insert:

specified provisions of federal law; amending 83.49, F.S.;
providing that the grantee of a certificate of title in a
foreclosure action is responsible for proper handling and refund
of a tenant's security deposit and advance rent under certain
conditions; creating s. 83.495, F.S.; prescribing a landlord's
responsibility for security deposits or advance rents following
commencement of a foreclosure action; providing for disclosure
of the foreclosure action to prospective tenants; providing an
exception to liability for failure to provide notice; creating
s. 83.683, F.S.; providing that the grantee of a certificate of
title from the foreclosure sale of a rental dwelling unit may
not take possession until a specified period after notifying the
occupant of the sale and the intent to take possession;
prescribing the manner of effectuating the notice; prohibiting
the clerk of court from issuing a writ of possession unless the
grantee submits proof of the notice sent to the occupant;
providing that the notice requirement does not eliminate certain
requirements that may exist to make an occupant of property a
party to a foreclosure action; providing an