

1 A bill to be entitled
2 An act relating to real property registration; providing a
3 short title; providing definitions; requiring the
4 Department of Financial Services to establish a statewide
5 Internet registry of certain vacant, abandoned, or
6 foreclosure-proposed properties for certain purposes;
7 authorizing the department to charge a fee for registry
8 filings; requiring lenders to file with the registry
9 certain information on certain properties; providing
10 additional information requirements; requiring lenders to
11 periodically determine the vacant or abandoned status of
12 certain properties in mortgage default; specifying
13 additional required information; providing additional
14 penalties; requiring lenders and the department to notify
15 local governments of properties on the registry; requiring
16 local governments to establish an e-mail address for
17 receiving such notices; providing duties of lenders and
18 local governments; requiring lenders initiating
19 foreclosure proceedings to include certain information in
20 the filings for foreclosure; providing for dismissal of
21 foreclosure proceedings under certain circumstances;
22 providing for award of certain costs; authorizing lenders
23 to correct failures to include specified information and
24 deposit certain amounts into the court registry for
25 certain purposes; authorizing local governments to enter
26 properties listed on the registry for certain examination
27 purposes; providing limitations; requiring local
28 governments to notify lenders of intent to enter certain

29 | properties for certain purposes; prohibiting local
30 | governments from entering such properties under certain
31 | circumstances; authorizing lenders to certify to local
32 | governments that certain properties have been inspected
33 | and meet certain criteria; providing penalties; providing
34 | for nonapplication to legally occupied properties;
35 | providing local governments with immunity from prosecution
36 | under certain circumstances; providing an exception;
37 | requiring local governments to notify certain persons of
38 | certain conditions of properties listed on the registry;
39 | authorizing local governments to correct or repair such
40 | conditions and recover the full costs of such repairs or
41 | corrections; providing for superiority of liens for such
42 | costs; providing requirements; specifying abandoned
43 | property as nonhomestead property; protecting the right of
44 | local governments to inspect properties under certain
45 | circumstances; prohibiting local governments from
46 | maintaining separate local property registries; requiring
47 | local governments to transmit any local property registry
48 | information to the department; providing information
49 | requirements for lenders initiating foreclosure actions;
50 | prohibiting issuance of final judgments of foreclosure and
51 | sales of property in foreclosure actions under certain
52 | circumstances; authorizing groups of lenders to establish
53 | a separate reporting system under certain circumstances;
54 | providing requirements; providing an effective date.

55 |
56 | Be It Enacted by the Legislature of the State of Florida:

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58 Section 1. (1) This section may be cited as the "Vacant
59 or Abandoned Real Property Registration, Maintenance, and
60 Foreclosure Reporting Act."

61 (2) For purposes of this section, the term:

62 (a) "Abandoned property" means property that is not
63 legally occupied by any person, is no longer being maintained,
64 and constitutes a nuisance as described in s. 823.01, Florida
65 Statutes.

66 (b) "Department" means the Department of Financial
67 Services.

68 (c) "Legal agent" means an employee or designee of a
69 lender designated by the lender for purposes of receiving legal
70 notices relating to real property.

71 (d) "Maintenance agent" means an employee or designee of a
72 lender designated by the lender for purposes of maintaining the
73 condition of real property.

74 (e) "Vacant property" means land upon which no structure
75 has been erected and constitutes a nuisance as described in s.
76 823.01, Florida Statutes.

77 (3) (a) The department shall establish a statewide Internet
78 registry of each property specified in subsection (4) containing
79 the information required by this section.

80 (b) The department shall use the filings in the registry
81 to provide statistical information concerning vacant or
82 abandoned property and property foreclosures.

83 (c) The department may charge a fee for each filing of
84 information of property listed in the registry. Such fee may not

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85 exceed the actual costs of recording such information in the
86 registry and notifying local governments.

87 (4) (a) Each lender holding a mortgage on vacant or
88 abandoned real property that the lender takes action to
89 maintain, which may be pursuant to criteria established by the
90 Federal National Mortgage Association, under the rights provided
91 in the securing mortgage documents or with respect to which the
92 lender prepares legal documents to be filed for purposes of
93 foreclosing on the mortgaged property, whichever occurs first,
94 shall file with the registry a description of such real
95 property, including the property owner's name, the address of
96 the property, and the lender's loan number together with the
97 lender's name, the lender's legal agent and maintenance agent,
98 and the agents' addresses, telephone numbers, and e-mail
99 addresses. The department may require such other information the
100 department deems necessary to fulfill the intent and purpose of
101 this section. The lender's legal agent and maintenance agent may
102 be the same person. The lender shall also notify the appropriate
103 local government of the filing of such information with the
104 registry as required in subsection (5).

105 (b) At least once every 2 months after a mortgagor is in
106 default on a mortgage, as evidenced by written notification from
107 the lender to the mortgagor, the lender shall determine if the
108 property is vacant or abandoned and shall include the
109 information required in paragraph (a), including the date of any
110 inspection, into the registry upon filing. Failure to complete
111 the determination or include the results of the determination
112 into the registry shall result in an additional penalty of \$500

113 at the time of filing. Such additional penalty shall be used to
114 satisfy any local government liens upon the premises that
115 accrued prior to the filing in the registry and any excess
116 penalty moneys shall be retained by the department.

117 (5) (a) The department shall provide a copy of the registry
118 filing and any registry filing updates by e-mail to the local
119 government within the jurisdiction of which the property is
120 located. Each local government shall establish an e-mail address
121 for purposes of receiving copies of such registry filings.

122 (b)1. A local government shall electronically confirm with
123 the registry the receipt of each such registry filing received
124 from the department, and the registry shall notify the legal
125 agent by e-mail certifying receipt by the local government. If
126 the lender does not receive such certification, the lender shall
127 provide by certified mail with proof of delivery to the local
128 government the information specified in subsection (4) and
129 electronically notify the registry of such action.

130 2. A local government that receives a confirmation in
131 error shall electronically notify the registry of the error, and
132 the registry shall notify the legal agent by e-mail.

133 3. When a lender is notified that a local government
134 received a notice in error, the lender shall correct the filing
135 in the registry and ensure that the correct local government
136 receives the notification required by this section.

137 (c) Whenever any lender information is changed, the lender
138 shall update the registry, including the time the lender
139 initiates proceedings to foreclose the mortgage on any property

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140 listed in the registry, complying with the requirements of
141 paragraphs (a) and (b).

142 (d) When a lender retains legal counsel to pursue a
143 mortgage collection action or foreclosure action or files
144 foreclosure proceedings in court, the lender shall include proof
145 of the registry filing certifying that the proper local
146 government has received mortgage collection or foreclosure
147 notification through the registry or through certified mail with
148 proof of delivery as provided in this subsection. Failure to
149 include such information shall cause the mortgage collection or
150 foreclosure action to be dismissed and costs shall be assessed
151 against the lender, or the lender may correct the failure to
152 include such proof before such dismissal and deposit the sum of
153 \$1,000 into the court registry to be used to pay any outstanding
154 liens of the local government if the local government chooses to
155 maintain the property.

156 (6) (a) Except as provided in paragraphs (b) and (c), after
157 a property is listed in the registry, the local government may
158 physically enter upon the premises of the property in the normal
159 course of property inspections under the same legal authority
160 possessed by the lender to enter upon such property, not more
161 often than once every 3 months, for the purpose of examining the
162 property to ensure that the property is properly secured and is
163 not a danger to the surrounding area. If during the inspection
164 the local government observes violations of local government
165 ordinances, the local government may issue notices to require
166 correction of the violations. However, at least 10 days prior to
167 entering the property for purposes of such examination, the

168 local government shall electronically notify the maintenance
169 agent of the proposed inspection, including the date and time of
170 the proposed inspection, and the lender's maintenance agent may
171 accompany the local government's inspectors during such
172 inspection.

173 (b) Notwithstanding paragraph (a), a local government may
174 not enter upon the premises of any property of the lender listed
175 on the registry to perform any inspection under paragraph (a) if
176 the lender certifies to the local government under oath that the
177 lender has conducted a physical inspection of the property
178 within 10 days after the notice provided by the local government
179 required under paragraph (a) and that the property is secure, is
180 not a danger to the surrounding area, and is in compliance with
181 the local government's ordinances. The inspection conducted by
182 the lender must include the name, business address, e-mail
183 address, and telephone number of the inspector and the date of
184 the physical inspection. If it is later determined that the
185 inspection is fraudulent, the lender and inspector shall be
186 subject to a civil penalty as provided in s. 501.2075, Florida
187 Statutes. If it is later determined that the inspection is
188 incorrect or fraudulent, the local government may immediately
189 proceed to inspect and enforce the provisions of this
190 subsection.

191 (c) Paragraph (a) does not apply to legally occupied
192 properties.

193 (d) If a local government enters upon the premises of any
194 property under this subsection for purposes of this subsection,
195 the local government shall be immune from prosecution except for

196 negligence on the part of officials of the local government in
 197 conducting inspections and maintaining the property.

198 (7) If any property listed in the registry is broken into
 199 or vandalized, violates the local government's ordinances, or
 200 otherwise falls into disrepair or becomes uninhabitable, the
 201 local government may notify the maintenance agent. If, after
 202 providing such notice, the property remains unsecured or
 203 vandalized, in violation of the local government's laws, or in
 204 disrepair or uninhabitable, the local government may, but is not
 205 required to, initiate repairs and recover the full amount of the
 206 cost of such repairs from the lender. If the local government
 207 initiates repairs, the local government is not required to
 208 continue such repairs under s. 162.09, Florida Statutes. Such
 209 costs shall be assessed against the property and shall
 210 constitute a lien on such property equal in priority to real
 211 property taxes, including any post lis pendens assessment filed
 212 by the local government, which shall be deemed valid, during a
 213 foreclosure proceeding, and shall be superior to all mortgage
 214 liens and other liens or judgments against such property, which
 215 must be satisfied in full upon sale of the property occurring as
 216 a result of the foreclosure proceeding or upon settlement or
 217 dismissal in the proceeding, if the local government complies
 218 with the following:

219 (a) The property must be cited by the local government's
 220 code enforcement agency through the local government's code
 221 enforcement process, nuisance abatement process, or unsafe
 222 structure process, which citation, in addition to any other
 223 required notifications, must also be provided electronically to

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224 the lender's legal agent, and the local government must conduct
225 a hearing, as is typically provided in such processes, to allow
226 the lender to dispute the evidence or present evidence of its
227 intent to secure and repair the property.

228 (b) If the lender fails to comply with the decision of the
229 local government's code enforcement agency, the local government
230 may proceed to initiate and complete repairs and secure the
231 property. Thereafter, the local government may record a lien
232 assessing the property for such expenses in the public records
233 of the county and may also proceed to enforce collection of such
234 lien as provided in this section or in the same manner as other
235 liens and assessments of the local government.

236 (8) Property that has been abandoned by the property owner
237 shall no longer be deemed to be homestead property.

238 (9) This section does not prohibit a local government from
239 inspecting property and enforcing its laws or from exercising
240 any other remedies available to local governments as provided by
241 law. Additionally, if the real property poses an immediate
242 danger to the public health, safety, and welfare, the local
243 government may take any authorized action provided by law, and
244 the costs of correcting the immediate danger shall hold the same
245 status as an assessment provided in subsection (7).

246 (10) Upon the effective date of this section and upon the
247 implementation of the registry, a local government may not
248 maintain a separate local registry for lenders to file
249 descriptions of property as provided in subsection (3). Any
250 registration information held by a local government in any type
251 of local registry shall be transmitted electronically to the

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252 registry by August 1, 2009, or at such time that the department
253 notifies the local government that the department is ready to
254 receive the information, whichever occurs later.

255 (11) Any lender that has initiated mortgage foreclosure
256 proceedings on a property subject to filing requirements with
257 the registry under this section by filing a foreclosure claim in
258 a foreclosure action in court prior to the effective date of
259 this section and a sale of the property has not occurred
260 pursuant to a final judgment of foreclosure or a decree of
261 foreclosure in the foreclosure action, shall comply with the
262 requirements of this section, and a final judgment of
263 foreclosure ordering the property to be sold may not be issued
264 and a sale of the property may not be made until after the
265 lender files with the court in the foreclosure proceeding the
266 required notice showing compliance in notifying the registry and
267 local government as required by this section.

268 (12) Notwithstanding the registry reporting requirements
269 of this section and subject to approval by the department, a
270 group of lenders may provide a separate system of reporting the
271 information required under this section to the department and to
272 affected local governments, provided the system satisfies the
273 reporting requirements of this section. Such lenders shall be
274 subject to the other requirements of this section.

275 Section 2. This act shall take effect July 1, 2009.