

By Senator Smith

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

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

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59           effective date.

60  
61       Be It Enacted by the Legislature of the State of Florida:

62  
63           Section 1. (1) This section may be cited as the "Vacant or  
64 Abandoned Real Property Registration, Maintenance, and  
65 Foreclosure Reporting Act."

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

67           (a) "Abandoned property" means property that is not legally  
68 occupied by any person, is no longer being maintained, and  
69 constitutes a nuisance as described in s. 823.01, Florida  
70 Statutes.

71           (b) "Department" means the Department of Financial  
72 Services.

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

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

79           (e) "Vacant property" means land upon which no structure  
80 has been erected and constitutes a nuisance as described in s.  
81 823.01, Florida Statutes.

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

85           (b) The department shall use the filings in the registry to  
86 provide statistical information concerning vacant or abandoned  
87 property and property foreclosures.

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88       (c) The department may charge a fee for each filing of  
89 information of property listed in the registry. Such fee may not  
90 exceed the actual costs of recording such information in the  
91 registry and notifying local governments.

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

110       (b) At least once every 2 months after a mortgagor is in  
111 default on a mortgage, as evidenced by written notification from  
112 the lender to the mortgagor, the lender shall determine if the  
113 property is vacant or abandoned and shall include the  
114 information required in paragraph (a), including the date of any  
115 inspection, into the registry upon filing. Failure to complete  
116 the determination or include the results of the determination

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117 into the registry shall result in an additional penalty of \$500  
118 at the time of filing. Such additional penalty shall be used to  
119 satisfy any local government liens upon the premises that  
120 accrued prior to the filing in the registry and any excess  
121 penalty moneys shall be retained by the department.

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

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

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

138 3. When a lender is notified that a local government  
139 received a notice in error, the lender shall correct the filing  
140 in the registry and ensure that the correct local government  
141 receives the notification required by this section.

142 (c) Whenever any lender information is changed, the lender  
143 shall update the registry, including the time the lender  
144 initiates proceedings to foreclose the mortgage on any property  
145 listed in the registry, complying with the requirements of

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146 paragraphs (a) and (b).

147 (d) When a lender retains legal counsel to pursue a  
148 mortgage collection action or foreclosure action or files  
149 foreclosure proceedings in court, the lender shall include proof  
150 of the registry filing certifying that the proper local  
151 government has received mortgage collection or foreclosure  
152 notification through the registry or through certified mail with  
153 proof of delivery as provided in this subsection. Failure to  
154 include such information shall cause the mortgage collection or  
155 foreclosure action to be dismissed and costs shall be assessed  
156 against the lender, or the lender may correct the failure to  
157 include such proof before such dismissal and deposit the sum of  
158 \$1,000 into the court registry to be used to pay any outstanding  
159 liens of the local government if the local government chooses to  
160 maintain the property.

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

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175 the proposed inspection, and the lender's maintenance agent may  
176 accompany the local government's inspectors during such  
177 inspection.

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

196 (c) Paragraph (a) does not apply to legally occupied  
197 properties.

198 (d) If a local government enters upon the premises of any  
199 property under this subsection for purposes of this subsection,  
200 the local government shall be immune from prosecution except for  
201 negligence on the part of officials of the local government in  
202 conducting inspections and maintaining the property.

203 (7) If any property listed in the registry is broken into

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

224 (a) The property must be cited by the local government's  
225 code enforcement agency through the local government's code  
226 enforcement process, nuisance abatement process, or unsafe  
227 structure process, which citation, in addition to any other  
228 required notifications, must also be provided electronically to  
229 the lender's legal agent, and the local government must conduct  
230 a hearing, as is typically provided in such processes, to allow  
231 the lender to dispute the evidence or present evidence of its  
232 intent to secure and repair the property.



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

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

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

251 (10) Upon the effective date of this section and upon the  
252 implementation of the registry, a local government may not  
253 maintain a separate local registry for lenders to file  
254 descriptions of property as provided in subsection (3). Any  
255 registration information held by a local government in any type  
256 of local registry shall be transmitted electronically to the  
257 registry by August 1, 2009, or at such time that the department  
258 notifies the local government that the department is ready to  
259 receive the information, whichever occurs later.

260 (11) Any lender that has initiated mortgage foreclosure  
261 proceedings on a property subject to filing requirements with

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262 the registry under this section by filing a foreclosure claim in  
263 a foreclosure action in court prior to the effective date of  
264 this section and a sale of the property has not occurred  
265 pursuant to a final judgment of foreclosure or a decree of  
266 foreclosure in the foreclosure action, shall comply with the  
267 requirements of this section, and a final judgment of  
268 foreclosure ordering the property to be sold may not be issued  
269 and a sale of the property may not be made until after the  
270 lender files with the court in the foreclosure proceeding the  
271 required notice showing compliance in notifying the registry and  
272 local government as required by this section.

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

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