

By Senator Constantine

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1 A bill to be entitled
2 An act relating to foreclosures; creating s. 83.495,
3 F.S.; providing requirements for landlords following
4 commencement of a foreclosure action; providing for
5 security deposits and advance rents to be maintained
6 in a specified manner; providing for disclosure of the
7 foreclosure action to prospective tenants; providing
8 an exception to liability for failure to provide
9 notice; requiring the grantee of a certificate of
10 title to the dwelling unit to credit the tenant for
11 security deposits and advance rents under certain
12 conditions; creating s. 83.683, F.S.; providing that
13 the grantee of a certificate of title from the
14 foreclosure sale of a rental dwelling unit may not
15 take possession until a specified period after
16 notifying the occupant of the sale and the intent to
17 take possession; prescribing the manner of
18 effectuating the notice; prohibiting the clerk of
19 court from issuing a writ of possession unless the
20 grantee submits proof of the notice sent to the
21 occupant; providing that the notice requirement does
22 not eliminate certain requirements that may exist to
23 make an occupant of property a party to a foreclosure
24 action; proving an effective date.

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26 Be It Enacted by the Legislature of the State of Florida:

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28 Section 1. Section 83.495, Florida Statutes, is created to
29 read:

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30 83.495 Commencement of foreclosure; disclosure; security
31 deposits and advance rents.-

32 (1) After the initial service of the complaint to foreclose
33 on property rented as a dwelling unit:

34 (a) The landlord or the landlord's authorized
35 representative shall hold as provided under s. 83.49 the money
36 deposited or advanced by a current or prospective tenant as
37 security for performance of the rental agreement or as advance
38 rent.

39 (b) The landlord or the landlord's authorized
40 representative shall disclose to a prospective tenant the
41 existence of the foreclosure proceedings in the rental agreement
42 or in another writing before the prospective tenant executes the
43 rental agreement. The written disclosure shall inform the
44 prospective tenant that the foreclosure proceedings may affect a
45 tenant's right to possess and reside in the dwelling unit and
46 that the landlord or the landlord's authorized representative is
47 required to hold the tenant's deposit money or advance rent as
48 provided under s. 83.49.

49 (2) A landlord's authorized representative is not liable
50 for failure to notify a prospective tenant of the foreclosure
51 proceedings unless the representative received notice of the
52 existence of the pending foreclosure proceedings from the
53 landlord.

54 (3) If the landlord or the landlord's authorized
55 representative does not hold the deposit money or advance rent
56 as provided under s. 83.49 after the property is sold in
57 foreclosure, the grantee of the certificate of title shall
58 credit the tenant's account for any deposit money paid by the

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59 tenant and make claims against the deposit pursuant to the
60 provision of s. 83.49(1) attributable to the tenant. The grantee
61 shall also credit the tenant's account for any advance rent for
62 an unexpired rental period. The tenant must have documentation
63 demonstrating the payment of the security deposit or advance
64 rent in order to receive a credit.

65 Section 2. Section 83.683, Florida Statutes, is created to
66 read:

67 83.683 Possession following foreclosure; notice to occupant
68 of dwelling unit subject to rental agreement.—

69 (1) The grantee of a certificate of title from the sale in
70 foreclosure of a dwelling unit subject to a rental agreement
71 that is not in default may not obtain a writ of possession until
72 90 days after the grantee provides notice in writing to the
73 occupant of the dwelling unit stating that the dwelling unit has
74 been sold, that the lease is terminated, and that the grantee
75 desires to take possession of the dwelling unit.

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

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

84 (4) This section does not affect any requirement to name
85 the occupant of a property as a party to a foreclosure action in
86 order to obtain a writ of possession as part of that action.

87 Section 3. This act shall take effect July 1, 2010.