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1                   A bill to be entitled  
2           An act relating to the termination of rental  
3           agreements; amending s. 83.49, F.S.; requiring the  
4           landlord or mortgagor or its agent to tender to the  
5           registry of the court or to the foreclosing entity all  
6           funds held for advance rent or security deposits at  
7           the time of foreclosure; directing that such funds  
8           continue to be held for the use and benefit of the  
9           tenants of the foreclosed property; providing that a  
10          landlord or mortgagor or its agent commits a theft if  
11          the landlord or mortgagor or its agent do not comply  
12          with certain specified provisions of law; providing  
13          for penalties; creating s. 83.683, F.S.; providing  
14          that a purchaser of residential property in  
15          foreclosure may terminate a tenant's residential  
16          rental agreement under certain circumstances;  
17          providing an exception for an immediate purchaser  
18          intending to sell the property to a buyer who intends  
19          to occupy the foreclosure premises as his or her  
20          primary residence; setting forth the content to be  
21          included in the termination notice to be given to the  
22          tenant; providing certain exceptions to application of  
23          the act; requiring the immediate purchaser named in  
24          the certificate of title to credit the tenant's  
25          account for any deposit money paid by the tenant and  
26          for any advance rent for the unexpired rental period;  
27          providing for future expiration; providing an  
28          effective date.  
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30 Be It Enacted by the Legislature of the State of Florida:  
31

32 Section 1. Subsections (10) and (11) are added to section  
33 83.49, Florida Statutes, to read:

34 83.49 Deposit money or advance rent; duty of landlord and  
35 tenant.—

36 (10) Upon the filing of foreclosure, the landlord or  
37 mortgagor or its agent shall tender to the registry of the court  
38 or, at the foreclosing entity's election, to the foreclosing  
39 entity, all funds held for advance rent or security deposits for  
40 tenants of the mortgaged property, which shall continue to be  
41 held for the use and benefit of the tenants.

42 (11) Failure by the landlord or mortgagor or its agent to  
43 comply with the provisions of subsection (1) or subsection (10)  
44 constitutes a theft as defined in and punishable under s.  
45 812.014 if the failure to comply is done knowingly and with the  
46 intent to deprive the tenant of a right to the funds or a  
47 benefit from the funds or to appropriate the funds for the  
48 landlord's, mortgagor's, or agent's own use or the use of a  
49 person not entitled to the use of the funds.

50 Section 2. Section 83.683, Florida Statutes, is created to  
51 read:

52 83.683 Termination of rental agreement upon foreclosure.—

53 (1) (a) Upon issuance of a certificate of title pursuant to  
54 s. 45.031, if a tenant is occupying the residential premises and  
55 is not excluded by subsection(2), the immediate purchaser named  
56 in the certificate of title takes title to the residential  
57 premises as a landlord, and may terminate the residential rental  
58 agreement by delivering a written 90-day notice to the tenant.

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59 (b)1. If there is an existing written rental agreement  
60 entered into before the certificate of title was issued, the  
61 tenant may remain in possession of the premises until the end of  
62 the lease term or at least 90 days following the date the tenant  
63 receives a copy of the written notice of termination, whichever  
64 is greater.

65 2. However, if the immediate purchaser named in the  
66 certificate of title sells the premises to a purchaser who will  
67 occupy the premises as a primary residence, the immediate  
68 purchaser may terminate the written rental agreement and the  
69 tenant is entitled to a written 90-day notice of termination.

70 (c) The 90-day notice to terminate the rental agreement  
71 must be in substantially the following form:

72  
73 You are hereby advised that your rental agreement is  
74 terminated effective 90 days following the date that  
75 this written termination notice is delivered to you,  
76 or at the end of the term of your written rental  
77 agreement, whichever is later, and that I demand  
78 possession of the premises upon that date. You are  
79 still obligated to pay rent during the 90 days or  
80 during the term of your written rental agreement, in  
81 the amount you have been paying. Rent shall be  
82 delivered to [name], [address].

83  
84 (d) Delivery of the written notice must be in the manner as  
85 provided in s. 83.56(4).

86 (2) Subsection (1) does not apply if:

87 (a) The mortgagor being foreclosed, or the child, spouse,

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88 or parent of the mortgagor being foreclosed, is occupying the  
89 dwelling unit being foreclosed, unless it is a multiunit  
90 property and other tenants occupy dwelling units;

91 (b) The rental agreement is not an arms-length transaction;  
92 or

93 (c) The rental agreement allows rent that is substantially  
94 less than the fair market rent for the premises, unless the rent  
95 is reduced or subsidized due to a federal, state, or local  
96 subsidy.

97 (3) The immediate purchaser named in the certificate of  
98 title issued pursuant to s. 45.031 shall credit the tenant's  
99 account for any deposit money paid by the tenant to the  
100 predecessor in interest and may make claims against the deposit  
101 pursuant to s. 83.49. The immediate purchaser shall also credit  
102 the tenant's account for any advance rent for the unexpired  
103 rental period. The tenant must provide evidence of the amount of  
104 the security deposit or advance rent in order to receive the  
105 credit. This subsection applies only to the extent that the  
106 security deposit or advance rent is in the possession of the  
107 immediate purchaser or the foreclosing mortgagee.

108 (4) This section expires December 31, 2012.

109 Section 3. This act shall take effect upon becoming a law.