

FOR CONSIDERATION By the Committee on Judiciary

590-01087-10

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1 A bill to be entitled
2 An act relating to foreclosure; creating s. 83.495,
3 F.S.; requiring that during foreclosure proceedings a
4 landlord continue to hold money deposited or advanced
5 by a tenant in a specified manner; requiring a
6 landlord to disclose the existence of foreclosure
7 proceedings to a prospective tenant; exempting an
8 agent of a landlord from liability for failing to
9 notify prospective tenants of foreclosure proceedings
10 under certain circumstances; creating s. 83.683, F.S.;
11 providing that a purchaser of residential property in
12 foreclosure may terminate a tenant's residential
13 rental agreement under certain circumstances;
14 providing an exception for an immediate purchaser
15 intending to sell the property to a buyer who intends
16 to occupy the foreclosure premises as his or her
17 primary residence; setting forth the content to be
18 included in the termination notice to be given to the
19 tenant; providing certain exceptions to application of
20 notice requirements; requiring that the immediate
21 purchaser named in the certificate of title credit the
22 tenant's account for any deposit money paid by the
23 tenant and for any advance rent for the unexpired
24 rental period; providing for future expiration of
25 portions of the act; providing an effective date.

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

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

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30 read:

31 83.495 Commencement of foreclosure; deposit money or
32 advance rent; disclosure.-

33 (1) After the initial service of a complaint to foreclose
34 on property that is rented as a dwelling unit, the landlord or
35 the landlord's agent shall:

36 (a) Continue to hold, as provided under s. 83.49, money
37 deposited or advanced by a current tenant or a prospective
38 tenant as security for performance of the rental agreement or as
39 advance rent.

40 (b) Before a prospective tenant executes a rental
41 agreement, disclose the existence of the foreclosure proceeding
42 to the prospective tenant in the rental agreement or other
43 writing. The written disclosure must inform the prospective
44 tenant that the foreclosure proceeding may affect the tenant's
45 right to possess and reside in the dwelling unit and that money
46 deposited or advanced by the prospective tenant will be held for
47 the benefit of the tenant as required s. 83.49.

48 (2) A landlord's agent is not liable for failure to notify
49 a prospective tenant of a foreclosure proceeding unless the
50 agent received notice of the existence of the foreclosure
51 proceeding from the landlord.

52 Section 2. Section 83.683, Florida Statutes is created to
53 read:

54 83.683 Termination of rental agreement upon foreclosure.-

55 (1) (a) Except as provided in subsection (2), upon issuance
56 of a certificate of title to a residential premises pursuant to
57 s. 45.031 which is occupied by a tenant, the immediate purchaser
58 named in the certificate of title takes title to the residential

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59 premises as a landlord, and may terminate the residential rental
60 agreement by delivering a written 90-day notice to the tenant.

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

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

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

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

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

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88 (2) The notice requirements of subsection (1) do not apply
89 if:

90 (a) The mortgagor being foreclosed, or the child, spouse,
91 or parent of the mortgagor being foreclosed, is occupying the
92 dwelling unit being foreclosed, unless it is a multiunit
93 property and other tenants occupy dwelling units;

94 (b) The rental agreement is not an arms-length transaction;
95 or

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

100 (3) The immediate purchaser named in the certificate of
101 title issued pursuant to s. 45.031 shall credit the tenant's
102 account for any deposit money paid by the tenant to the
103 predecessor in interest and may make claims against the deposit
104 pursuant to s. 83.49. The immediate purchaser shall also credit
105 the tenant's account for any advance rent for the unexpired
106 rental period. The tenant must provide evidence of the amount of
107 the deposit money or advance rent in order to receive the
108 credit.

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

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