

1 A bill to be entitled
 2 An act relating to rental property foreclosure; creating
 3 s. 45.036, F.S.; providing applicability; providing a
 4 definition; subjecting the interest taken in foreclosure
 5 by a successor in interest to specified limitations and
 6 requirements; requiring notice to certain tenants
 7 regarding foreclosure; providing an exception; providing
 8 legislative intent; providing an effective date.

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

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 12 Section 1. Section 45.036, Florida Statutes, is created to
 13 read:

14 45.036 Rights of a residential tenant in foreclosure
 15 actions.—

16 (1) APPLICABILITY.—This section applies only to a bona
 17 fide lease or tenancy and a bona fide tenant.

18 (a) For purposes of this section, a lease or tenancy is
 19 bona fide only if it applies to real property that is:

20 1. Occupied by a tenant who is not the mortgagor or the
 21 child, spouse, or parent of the mortgagor.

22 2. Subject to the Florida Residential Landlord and Tenant
 23 Act, part II of chapter 83.

24 3. Subject to a lease or tenancy that was the result of an
 25 arm's length transaction, and the lease or tenancy requires the
 26 receipt of rent that is not substantially less than fair market
 27 rent for the property or the unit's rent is reduced or
 28 subsidized due to a federal, state, or local subsidy.

29 4. Subject to a foreclosure action.
 30 (b) As used in this section, the term "bona fide tenant"
 31 means a person who occupies real property under a lease or
 32 tenancy meeting the requirements of paragraph (a).
 33 (2) NOTICE TO VACATE AFTER FORECLOSURE SALE.—
 34 (a) In the case of any foreclosure of any dwelling or
 35 residential real property, any immediate successor in interest
 36 in the property pursuant to the foreclosure assumes that
 37 interest subject to:
 38 1. The provision, by the immediate successor in interest,
 39 of a notice to vacate to any bona fide tenant at least 90 days
 40 before the effective date of the notice; and
 41 2. The rights of any bona fide tenant as of the date of
 42 the notice of foreclosure:
 43 a. Under any bona fide lease entered into before the
 44 notice of foreclosure to occupy the premises until the end of
 45 the remaining term of the lease, except that a successor in
 46 interest may terminate a lease effective on the date of sale of
 47 the unit to a purchaser who will occupy the unit as a primary
 48 residence, subject to the receipt by the tenant of the 90-day
 49 notice under subparagraph 1.; or
 50 b. Without a lease or with a lease terminable at will,
 51 subject to the receipt by the tenant of the 90-day notice under
 52 subparagraph 1.
 53 (b) This subsection does not affect the requirements for
 54 termination of any federal- or state-subsidized tenancy or any
 55 law that provides longer time periods or other additional
 56 protections for tenants.

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57 | (c) It is the intent of the Legislature that this
58 | subsection be interpreted in harmony with the federal Protecting
59 | Tenants at Foreclosure Act of 2009, as amended.

60 | Section 2. This act shall take effect July 1, 2011.