

By Senator Sobel

31-00895-11

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

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

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

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

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

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

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

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

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

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30 4. Subject to a foreclosure action.

31 (b) As used in this section, the term "bona fide tenant"
32 means a person who occupies real property under a lease or
33 tenancy meeting the requirements of paragraph (a).

34 (2) NOTICE TO VACATE AFTER FORECLOSURE SALE.—

35 (a) In the case of any foreclosure of any dwelling or
36 residential real property, any immediate successor in interest
37 in the property pursuant to the foreclosure assumes that
38 interest subject to:

39 1. The provision, by the immediate successor in interest,
40 of a notice to vacate to any bona fide tenant at least 90 days
41 before the effective date of the notice; and

42 2. The rights of any bona fide tenant as of the date of the
43 notice of foreclosure:

44 a. Under any bona fide lease entered into before the notice
45 of foreclosure to occupy the premises until the end of the
46 remaining term of the lease, except that a successor in interest
47 may terminate a lease effective on the date of sale of the unit
48 to a purchaser who will occupy the unit as a primary residence,
49 subject to the receipt by the tenant of the 90-day notice under
50 subparagraph 1.; or

51 b. Without a lease or with a lease terminable at will,
52 subject to the receipt by the tenant of the 90-day notice under
53 subparagraph 1.

54 (b) This subsection does not affect the requirements for
55 termination of any federal- or state-subsidized tenancy or any
56 law that provides longer time periods or other additional
57 protections for tenants.

58 (c) It is the intent of the Legislature that this

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59 subsection be interpreted in harmony with the federal Protecting
60 Tenants at Foreclosure Act of 2009, as amended.

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