

By Senator Smith

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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 it as his or her primary residence; setting
20 forth the content to be included in the termination
21 notice to be given to the tenant; providing certain
22 exceptions to application of the act; requiring the
23 immediate purchaser named in the certificate of title
24 to credit the tenant's account for any deposit money
25 paid by the tenant and for any advance rent for the
26 unexpired rental period; providing for future
27 expiration; providing an effective date.

28
29 Be It Enacted by the Legislature of the State of Florida:

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

33 83.49 Deposit money or advance rent; duty of landlord and
34 tenant.—

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

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

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

51 83.683 Termination of rental agreement upon foreclosure.—

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

58 (b)1. If there is an existing written rental agreement that

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59 was entered into before the certificate of title was issued, the
60 tenant may remain in possession of the premises until the end of
61 the lease term or at least 90 days following the date that the
62 tenant receives a copy of the written notice of termination,
63 whichever is longer.

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

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

71
72 You are hereby advised that your rental agreement is
73 terminated effective 90 days following the date that
74 this written termination notice is delivered to you,
75 or at the end of the term of your written rental
76 agreement, whichever is later, and that I demand
77 possession of the premises upon that date. You are
78 still obligated to pay rent during the 90 days or
79 during the term of your written rental agreement, in
80 the amount you have been paying. Rent shall be
81 delivered to [name], [address].

82
83 (d) Delivery of the written notice must be in the manner as
84 provided in s. 83.56(4).

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

86 (a) The mortgagor being foreclosed, or the child, spouse,
87 or parent of the mortgagor being foreclosed, is occupying the

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88 dwelling unit being foreclosed, unless it is a multiunit
89 property and other tenants occupy dwelling units;

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

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

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

107 (4) This section expires December 31, 2013.

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