

By Senator Fasano

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1 A bill to be entitled
2 An act relating to foreclosures; providing that the
3 purchaser of a foreclosed residential dwelling unit
4 may not take possession until a specified period after
5 notifying a tenant of the intent to take possession;
6 requiring the purchaser to submit proof of the notice
7 to the clerk of court; providing that the tenant may
8 terminate a lease upon receiving the notice; providing
9 that the notice requirement does not eliminate certain
10 requirements to make an occupant of property a party
11 to a foreclosure action; creating s. 83.495, F.S.;
12 providing requirements for landlords following
13 commencement of a foreclosure action; requiring that
14 the landlord hold the security deposit and advance
15 rent in an interest-earning account in specified
16 circumstances; requiring that the landlord disclose in
17 writing to a prospective tenant a foreclosure action
18 and its possible effects on the tenancy; providing an
19 exception to liability for failure to provide notice;
20 requiring the purchaser in a foreclosure sale to
21 credit the tenant for security deposits and advance
22 rents under certain conditions; providing an effective
23 date.

24
25 Be It Enacted by the Legislature of the State of Florida:

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27 Section 1. Possession of foreclosed residential dwelling
28 unit; notice to tenant.—

29 (1) A purchaser who receives a certificate of title on a

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30 foreclosed residential dwelling unit may take possession of the
31 premises that are subject to a rental agreement no earlier than
32 30 days after the purchaser gives the tenant written notice
33 stating that the dwelling unit has been sold and that the
34 purchaser desires to take possession of the dwelling unit. The
35 purchaser must give notice to each tenant by first-class mail.

36 (2) The clerk of court may not issue a writ of possession
37 unless the purchaser submits to the clerk a copy of the notice
38 provided to the tenant as required by subsection (1).

39 (3) Upon receipt of the notice, the tenant may terminate
40 the lease by giving 7 days' written notice to the purchaser.

41 (4) This section does not eliminate the common-law
42 requirement to make the occupant of property a party to a
43 foreclosure action as a condition precedent to the court
44 authorizing the clerk of court to issue a writ of possession as
45 part of the foreclosure action.

46 Section 2. Section 83.495, Florida Statutes, is created to
47 read:

48 83.495 Commencement of mortgage foreclosure; disclosure;
49 security deposits and advance rents.—After the initial service
50 of a complaint on a landlord in a mortgage foreclosure
51 proceeding against a residential dwelling unit:

52 (1) The landlord or the landlord's agent shall hold as
53 provided under s. 83.49(1)(b) the total amount of money
54 deposited or advanced by a current or prospective tenant as
55 security for performance of the rental agreement or as advance
56 rent for other than the next immediate rental period.

57 (2) (a) The landlord or the landlord's agent must disclose
58 in writing to a prospective tenant the existence of the pending

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59 foreclosure proceeding before the landlord or the landlord's
60 agent executes a rental agreement during the pendency of the
61 foreclosure proceeding. The written disclosure must inform the
62 prospective tenant that the foreclosure proceeding might affect
63 the right to possess and reside in the leased dwelling unit and
64 that the landlord is required to hold the tenant's total amount
65 of deposit money or advance rent as provided under s.
66 83.49(1)(b).

67 (b) A person authorized to enter into a rental agreement on
68 the landlord's behalf is not liable for failure to notify a
69 prospective tenant of the foreclosure proceeding unless he or
70 she received notice of the existence of the pending foreclosure
71 proceeding from the landlord.

72 (3) If the landlord or the landlord's agent does not hold
73 the deposit money or advance rent as provided under s.
74 83.49(1)(b) and the property is sold in foreclosure, the
75 purchaser shall credit the tenant's account for any deposit
76 money paid by the tenant and shall make claims against the
77 deposit pursuant to s. 83.49(1)(b) attributable to the tenant.
78 The purchaser shall also credit the tenant's account for any
79 advance rent for an unexpired rental period. The tenant must
80 have documentation demonstrating the payment of the security
81 deposit or advance rent in order to receive the credit.

82 Section 3. This act shall take effect July 1, 2012.

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