

By Senator Bennett

21-00750-12

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1 A bill to be entitled
2 An act relating to foreclosure proceedings; creating
3 s. 702.11, F.S.; providing a short title; providing
4 purposes of the act; authorizing a financial
5 institution or lender that institutes a foreclosure
6 action to file a motion requesting that the circuit
7 court issue a certificate of abandonment and
8 preservation of property; requiring that the sheriff
9 or deputy sheriff conduct an inspection of the
10 property to determine if it appears to be abandoned;
11 requiring that the sheriff or deputy sheriff post a
12 notice on the property if it appears to be abandoned;
13 providing requirements for the notice and that it be
14 posted for a specified period; requiring that the
15 sheriff or deputy sheriff conduct a second inspection
16 confirming that the property appears to be abandoned;
17 authorizing the sheriff or deputy sheriff to charge a
18 fee for each inspection; requiring that the financial
19 institution or lender pay the fee upon filing the
20 motion for a certificate of abandonment and
21 preservation of property; authorizing the financial
22 institution or lender instituting the mortgage
23 foreclosure proceeding to perform certain actions in
24 order to preserve the property; providing that the
25 financial institution or lender is not liable for
26 damages or costs incurred while preserving the
27 property; providing that the costs incurred by the
28 financial institution or lender while preserving the
29 property are the responsibility of the homeowner;

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30 providing that the costs be included in the final
31 judgment of foreclosure; providing an effective date.
32

33 Be It Enacted by the Legislature of the State of Florida:
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35 Section 1. Section 702.11, Florida Statutes, is created to
36 read:

37 702.11 Florida Property Preservation Act.-

38 (1) This section may be cited as the "Florida Property
39 Preservation Act."

40 (2) The purposes of this section are to preserve property
41 values in the state, prevent urban blight, and require financial
42 institutions and lenders to maintain properties throughout the
43 process of a mortgage foreclosure.

44 (3) (a) A financial institution or lender that institutes an
45 action to foreclose a mortgage may file a motion in the circuit
46 court requesting a certificate of abandonment and preservation
47 of property. Upon receipt of the motion, the court shall issue
48 an order requiring that the sheriff or deputy sheriff of the
49 county in which the property is located conduct a visual
50 inspection of the property to determine if it appears to be
51 abandoned.

52 (b) If the sheriff or deputy sheriff finds that the
53 property appears to be abandoned, the sheriff or deputy sheriff
54 shall post a notice on the front door of the property or on a
55 conspicuous location on the property. The notice must be in a
56 font size of at least 20 points and in substantial conformity
57 with the following:
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NOTICE TO PROPERTY OWNER OR RESIDENT

ATTENTION OWNER or LAWFUL RESIDENT: On ... (date of inspection) ..., the Sheriff's Department of ... (name of county) ... inspected this property and has determined that it appears to be abandoned. Please file a responsive document with the court to notify the court that this property is NOT abandoned and to preserve your access to this property within 30 calendar days after the date on this notice.

If you fail to respond to this notice, your home will be secured and preserved by your financial institution or lender in accordance with s. 702.11, Florida Statutes. The costs associated with the preservation of this property will be YOUR responsibility. Your financial institution or lender is not liable for any actions taken to preserve this property.

The sheriff or deputy sheriff will conduct another inspection of this property at the end of 30 calendar days after the date on this notice to confirm that this property appears to be abandoned. A determination by the sheriff or deputy sheriff that this property does not appear to be abandoned may not be sufficient to protect your access to this property.

(c) The notice shall be posted on the property for 30 calendar days after the first inspection is conducted.

(d) Upon the expiration of the 30-day period, the sheriff

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88 or deputy sheriff shall conduct a second inspection confirming
89 that the property appears to be abandoned. The sheriff or deputy
90 sheriff shall provide the inspection documents to the court and
91 copies of the documents to all the parties involved in the
92 mortgage foreclosure proceeding.

93 (e) The sheriff may charge a fee of \$100 for each property
94 inspection, which shall be paid by the financial institution or
95 lender filing the motion for a certificate of abandonment and
96 preservation of property and collected by the clerk of the court
97 upon the filing of the motion.

98 (4) (a) Upon the issuance of a certificate of abandonment
99 and preservation of property, the financial institution or
100 lender instituting the mortgage foreclosure proceeding is
101 authorized to:

- 102 1. Secure the property;
- 103 2. Maintain utilities to the property;
- 104 3. Remove trash and debris;
- 105 4. Maintain the lawn in a reasonable manner;
- 106 5. Maintain any pool in a safe, clean, and secure manner;
- 107 6. Perform other reasonable and necessary acts to preserve
108 the property and prevent waste as ordered by the court;
- 109 7. Maintain proper insurance against catastrophic damage;
110 and
- 111 8. Pay any and all property taxes.

112 (b) While acting in accordance with this section, the
113 financial institution or lender is not liable for damage
114 incurred as a result of trespass or damage to the dwelling or to
115 any chattel. All costs incurred by the financial institution or
116 lender while preserving the property are the responsibility of

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117 the homeowner. The costs shall be assessed as damages and
118 included in a final judgment of foreclosure, subject to a
119 determination of reasonableness by the court.

120 Section 2. This act shall take effect July 1, 2012.