

By Senator Thompson

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1 A bill to be entitled
2 An act relating to residential tenancies; creating s.
3 83.675, F.S.; requiring the owner of a residential
4 property that is in foreclosure proceedings or for
5 which mortgage payments are in arrears for a specified
6 period to provide notice to tenants within a specified
7 period; providing criminal penalties; providing that
8 for properties with multiple dwelling units, a failure
9 to comply with requirements as to each separate unit
10 constitutes a separate offense; prohibiting a person
11 from knowingly leasing such residential property
12 unless the tenant signs a notarized statement
13 containing certain waivers; providing for the contents
14 and form of the statement; requiring the landlord to
15 provide a copy of the statement to the mortgage
16 holder; providing that leases which violate the notice
17 requirements are presumed fraudulent and voidable
18 within a specified period; providing requirements for
19 a landlord to overcome such presumption; providing an
20 effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Section 83.675, Florida Statutes, is created to
25 read:

26 83.675 Landlord's default or foreclosure; notice to
27 tenant.-

28 (1) (a) The owner of the premises for which foreclosure
29 proceedings have begun under chapter 702 or for which the

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30 mortgage payments by the owner are more than 60 days in arrears
31 shall, within 5 business days after commencement of the
32 foreclosure proceedings or the 60th day of arrearage, send to
33 each dwelling unit of the property by certified mail an
34 affidavit notifying the tenants of that unit of the commencement
35 of the foreclosure proceedings or the arrearage.

36 (b) A person who knowingly violates this subsection commits
37 a misdemeanor of the first degree, punishable by a fine not to
38 exceed \$5,000. For properties with multiple dwelling units, a
39 violation of this subsection as to each dwelling unit
40 constitutes a separate offense.

41 (2) (a) A person may not knowingly lease a dwelling unit or
42 premises for which foreclosure proceedings have begun under
43 chapter 702 or for which the mortgage payments by the owner are
44 more than 60 days in arrears unless each prospective tenant of
45 that unit or premises signs a notarized statement stating that
46 he or she is aware of the circumstances and waives any claim
47 against the lessor due to those circumstances. The landlord must
48 provide a copy of the notarized statement to the mortgage
49 holder. The statement must be in substantially the following
50 form:

51
52 You are hereby notified that the premises ...(address
53 of leased premises, including county)..., Florida,
54 that you are now seeking to occupy is (CHECK THOSE
55 THAT APPLY):

56 _____ In foreclosure proceedings under chapter 702,
57 Florida Statutes.

58 _____ More than 60 days in arrears in its mortgage

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59 payments as of this date, the day of
 60 ...(year)....

61
 62 ...(landlord's name, address, and phone number)...

63
 64 I (WE) UNDERSTAND THAT I (WE) ACKNOWLEDGE THE ABOVE
 65 NOTICE CONCERNING THE PREMISES AT...(address of leased
 66 premises, including county)...., Florida, AND I (WE)
 67 LEASE THE PREMISES WITH KNOWLEDGE THEREOF AND HEREBY
 68 WAIVE ANY CLAIM THAT I (WE) MAY HAVE AGAINST THE
 69 LANDLORD OR OWNER FOR DAMAGES THAT RESULT FROM THE
 70 CIRCUMSTANCES DISCLOSED THEREIN.

71
 72 ...(Signatures)...

73
 74 Sworn to (or affirmed) and subscribed before me this
 75 day of ...(month)...., ...(year)...., by ...(name
 76 of person making statement)...

77
 78 ...(Signature of Notary Public-State of Florida)...

79 ...(Print, Type, or Stamp Commissioned Name of Notary
 80 Public)...

81
 82 Personally Known OR Produced Identification

83
 84 (b) A lease transaction that violates paragraph (a) is
 85 presumed to be fraudulent and voidable at the option of the
 86 lessee within 1 year after the lease date. The landlord may
 87 overcome the presumption of fraud by showing by clear and

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88 convincing evidence that the tenant had knowledge of the
89 information required to be disclosed under this subsection even
90 though the requirements of this subsection for a written
91 statement were not complied with.

92 Section 2. This act shall take effect October 1, 2013.