

By the Committees on Rules; and Banking and Insurance; and  
Senator Soto

595-04193-15

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1                   A bill to be entitled  
2           An act relating to rental agreements; creating s.  
3           83.561, F.S.; providing that a purchaser takes title  
4           to a tenant-occupied residential property following a  
5           foreclosure sale subject to the rights of the tenant;  
6           specifying the rights of the tenant; authorizing a  
7           tenant to remain in possession of the property for 30  
8           days following receipt of a written notice;  
9           prescribing the form for a 30-day notice of  
10          termination; establishing requirements for delivery of  
11          the notice; authorizing a purchaser to apply for a  
12          writ of possession if the tenant refuses to vacate the  
13          property; providing exceptions; providing for  
14          construction; providing that a lender foreclosing on  
15          tenant-occupied residential premises does not assume  
16          the obligations of a landlord unless certain  
17          conditions are met; providing an effective date.

18  
19 Be It Enacted by the Legislature of the State of Florida:

20  
21           Section 1. Section 83.561, Florida Statutes, is created to  
22 read:

23           83.561 Termination of rental agreement upon foreclosure.-

24           (1) If a tenant is occupying residential premises that are  
25 the subject of a foreclosure sale, upon issuance of a  
26 certificate of title following the sale, the purchaser named in  
27 the certificate of title takes title to the residential premises  
28 subject to the rights of the tenant under this section.

29           (a) The tenant may remain in possession of the premises for

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30 30 days following the date of the purchaser's delivery of a  
31 written 30-day notice of termination.

32 (b) The tenant is entitled to the protections of s. 83.67.

33 (c) The 30-day notice of termination must be in  
34 substantially the following form:

35  
36 NOTICE TO TENANT OF TERMINATION

37  
38 You are hereby notified that your rental agreement is  
39 terminated on the date of delivery of this notice and your  
40 occupancy is terminated 30 days following the date of the  
41 delivery of this notice and that I demand possession of the  
42 premises on that ...(date).... If you do not vacate the premises  
43 by this date, I will ask the court for an order allowing me to  
44 remove you and your belongings from the premises. You are  
45 obligated to pay rent during the 30-day period for any amount  
46 that might accrue during that period. Your rent must be  
47 delivered to ...(landlord's name and address)....

48  
49 (d) The 30-day notice of termination shall be delivered in  
50 the same manner as provided in s. 83.56(4).

51 (2) The purchaser at the foreclosure sale may apply to the  
52 court for a writ of possession based upon a sworn affidavit that  
53 the 30-day notice of termination was delivered to the tenant and  
54 the tenant has failed to vacate the premises at the conclusion  
55 of the 30-day period. If the court awards the writ of  
56 possession, the writ must be served on the tenant. The writ of  
57 possession shall be governed by s. 83.62.

58 (3) This section does not apply if:

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59       (a) The tenant is the mortgagor in the subject foreclosure  
60 or is the child, spouse, or parent of the mortgagor in the  
61 subject foreclosure.

62       (b) The tenant's rental agreement is not the result of an  
63 arm's length transaction.

64       (c) The tenant's rental agreement allows the tenant to pay  
65 rent that is substantially less than the fair market rent for  
66 the premises, unless the rent is reduced or subsidized due to a  
67 federal, state, or local subsidy.

68       (4) This section does not preclude the purchaser from  
69 assuming the prior rental agreement of the tenant, in which case  
70 the purchaser becomes the landlord and is governed by this part.

71       (5) A lender foreclosing on residential premises occupied  
72 by a tenant does not assume the obligations of a landlord unless  
73 and until the lender and the tenant enter into a new rental  
74 agreement.

75       Section 2. This act shall take effect upon becoming a law.