

By Senator Powell

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1 A bill to be entitled
2 An act relating to abandoned residential real
3 property; creating s. 702.13, F.S.; providing a short
4 title; creating s. 702.14, F.S.; providing
5 applicability; creating s. 702.15, F.S.; defining
6 terms; creating s. 702.16, F.S.; authorizing a
7 mortgagee or mortgage servicer to enter certain
8 abandoned property only under specified conditions;
9 creating s. 702.17, F.S.; authorizing a county or
10 municipality to notify a mortgagee or mortgage
11 servicer that a residential real property has been
12 determined to be abandoned, in midforeclosure, and a
13 nuisance; providing notice requirements; authorizing a
14 mortgagee or mortgage servicer to request that a
15 county or municipal authority visit a property and
16 make a specified determination; providing requirements
17 relating to such request; creating s. 702.18, F.S.;
18 requiring a mortgagee or mortgage servicer to abate
19 the nuisance and maintain certain property upon
20 receipt of specified notice; authorizing a mortgagee,
21 mortgage servicer, or designee to enter the property
22 and take specified actions; requiring a record of
23 entry be made consisting of certain information;
24 authorizing the mortgagee, mortgage servicer, or
25 designee to remove certain property; requiring certain
26 notice before a mortgagee, mortgage servicer, or
27 designee enters a property; requiring a record of
28 entry be kept for a certain length of time; requiring
29 a mortgagee, mortgage servicer, or designee to

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30 immediately leave the property if it is occupied or
31 not abandoned and to notify the appropriate authority;
32 prohibiting the mortgagee, mortgage servicer, or
33 designee from subsequently entering the property
34 except under certain circumstances; limiting a county
35 or municipality's liability; creating s. 702.19, F.S.;
36 authorizing a county or municipality to abate a
37 nuisance and recover certain costs; limiting the
38 county or municipality's liability; creating s.
39 702.21, F.S.; authorizing a county, municipality,
40 mortgagee, or mortgage servicer to enter the property
41 in an emergency to make certain repairs without first
42 providing notice to the property owner or mortgagor;
43 providing an effective date.

44
45 Be It Enacted by the Legislature of the State of Florida:

46
47 Section 1. Section 702.13, Florida Statutes, is created to
48 read:

49 702.13 Short title.—Sections 702.13-702.21 may be cited as
50 the "Abandoned Property Neighborhood Relief Act."

51 Section 2. Section 702.14, Florida Statutes, is created to
52 read:

53 702.14 Applicability.—This act applies only to residential
54 real property consisting of one-family to four-family dwelling
55 units.

56 Section 3. Section 702.15, Florida Statutes, is created to
57 read:

58 702.15 Definitions.—As used in this act, the term:

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59 (1) "Abandoned residential property" means residential real
60 property in which there are no signs of occupancy and at least
61 three of the following indications of abandonment:

62 (a) The absence of furnishings and personal items
63 consistent with residential habitations;

64 (b) The gas, electric, or water utility services have been
65 disconnected;

66 (c) Multiple windows on the property are boarded up or
67 closed off, smashed, broken, or unhinged, or multiple window
68 panes are broken and unrepaired;

69 (d) Statements by neighbors, passersby, delivery agents, or
70 government employees that the property is vacant;

71 (e) Doors on the property are substantially damaged, broken
72 off, unhinged, or conspicuously open;

73 (f) The property has been stripped of copper or other
74 materials, or interior fixtures have been removed;

75 (g) Law enforcement officials have received at least one
76 report within the immediately preceding 6 months of trespassing,
77 vandalism, or other illegal activities on the property;

78 (h) The property has been declared unfit for occupancy and
79 ordered to remain vacant and unoccupied under an order issued by
80 a county or municipal authority or a court of competent
81 jurisdiction;

82 (i) Construction was initiated on the property but was
83 discontinued before completion, leaving the property unsuitable
84 for occupancy, and construction has not taken place for at least
85 6 months;

86 (j) Newspapers, circulars, flyers, or mail has accumulated
87 on the property or the United States Postal Service has

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88 discontinued delivery to the property;

89 (k) Rubbish, trash, debris, neglected vegetation, or
90 natural overgrowth has accumulated on the property;

91 (l) Hazardous, noxious, or unhealthy substances or
92 materials have accumulated on the property; or

93 (m) Other credible evidence exists indicating the owner's
94 intent to vacate and abandon the property.

95 (2) "Midforeclosure" means a notice of default and intent
96 to foreclose has been issued.

97 (3) "Mortgage servicer" has the same meaning as in s.
98 701.041(1).

99 (4) "Mortgagee" has the same meaning as in s. 701.041(1).

100 (5) "Nuisance" means property that tends to annoy the
101 community, poses a threat to the public health or safety of the
102 community, or is otherwise determined to be a nuisance by a
103 county or municipality under its authority.

104 Section 4. Section 702.16, Florida Statutes, is created to
105 read:

106 702.16 Authority to enter abandoned property.—A mortgagee
107 or mortgage servicer, or a designee, that has not filed a
108 residential mortgage foreclosure action on an abandoned property
109 may only enter the property under the following conditions:

110 (1) To abate a nuisance and maintain the abandoned property
111 as authorized under s. 702.18 or s. 702.21; or

112 (2) If entry onto the property to maintain, secure,
113 protect, or preserve the property is authorized by the mortgage
114 agreement or other similar document; any applicable federal law
115 or court order; or any mortgage insurance or mortgage-backed
116 securities investor requirements or guidelines.

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117 Section 5. Section 702.17, Florida Statutes, is created to
118 read:

119 702.17 Notice; request for determination.-

120 (1) A county or municipality may notify a mortgagee or
121 mortgage servicer that a residential real property has been
122 determined to be abandoned, in midforeclosure, and a nuisance. A
123 notice under this subsection must be accompanied by an affidavit
124 or a declaration made under penalty of perjury by a county or
125 municipal authority that a property is abandoned, in
126 midforeclosure, and a nuisance. The notice and the affidavit or
127 declaration must be mailed by certified mail, return receipt
128 requested, to the mortgagee or mortgage servicer. The affidavit
129 or declaration must:

130 (a) Specify at least three indicators of abandonment and be
131 supported with dated and time-stamped photographs.

132 (b) Include a determination that the property is abandoned
133 and a nuisance, and state with specificity the nuisance required
134 to be abated.

135 (c) Include a copy of the notice of default or notice of
136 default and intent to foreclose options applicable to the
137 property.

138 (2) A mortgagee or mortgage servicer may contact a county
139 or municipality regarding a residential real property believed
140 to be abandoned and a nuisance and request that a county or
141 municipal authority visit the property and make a determination
142 as to whether the property is abandoned and a nuisance. The
143 mortgagee or mortgage servicer must provide a copy of the notice
144 of default or notice of default and intent to foreclose options
145 applicable to the property with the request. A county or

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146 municipal authority shall respond to such request within 30 days
147 after receipt and notify the mortgagee or mortgage servicer
148 that:

149 (a) The property is not abandoned or a nuisance;

150 (b) The property is abandoned and a nuisance. If a county
151 or municipal authority determines that the property is abandoned
152 and a nuisance, such notification must be accompanied by an
153 affidavit or declaration made under penalty of perjury by the
154 county or municipal authority. The notice and affidavit or
155 declaration must be mailed by certified mail, return receipt
156 requested, to the mortgagee or mortgage servicer. The affidavit
157 or declaration must:

158 1. Specify at least three indicators of abandonment and be
159 supported with dated and time-stamped photographs.

160 2. Include a determination that the property is abandoned
161 and a nuisance, and state with specificity the nuisance required
162 to be abated; or

163 (c) The county or municipality does not have adequate
164 resources or is otherwise unable to make the requested
165 determination.

166 Section 6. Section 702.18, Florida Statutes, is created to
167 read:

168 702.18 Abatement of nuisances; entry on property.—

169 (1) Upon receipt of an affidavit or declaration from a
170 county or municipality that a residential real property is
171 abandoned, in midforeclosure, and a nuisance, a mortgagee or
172 mortgage servicer shall abate the nuisance and maintain such
173 property until ownership has been transferred through the
174 closing of title in foreclosure, or other disposition, and the

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175 deed for such property has been duly recorded.

176 (2) A mortgagee or mortgage servicer, or a designee, may
177 enter the property for the purposes of abating the identified
178 nuisance and maintaining the property, and may take steps to
179 secure the property, including, but not limited to:

180 (a) Replacing missing locks on exterior doors.

181 (b) Replacing or boarding broken or missing windows.

182 (c) Winterizing the home, including draining pipes and
183 disconnecting or turning on utilities.

184 (d) Resolving building code or other code violations.

185 (e) Securing exterior pools or spas.

186 (f) Maintaining the yard and exterior of the property,
187 including removing excessive foliage growth that diminishes the
188 value of surrounding properties.

189 (g) Performing pest and insect control services, including
190 preventing mosquito larvae from growing in standing water on the
191 property.

192 (h) Removing any trespassers from the property and taking
193 steps to prevent future trespassers.

194 (i) Demolishing an uninhabitable or damaged structure on
195 the property, including, but not limited to, the residential
196 dwelling or house or a detached utility building, detached
197 carport, detached garage, bulkhead, fence, or swimming pool.

198 (j) Taking any other action necessary to prevent conditions
199 that will create a nuisance or threaten the health and safety of
200 the community.

201 (3) The mortgagee or mortgage servicer, or a designee, must
202 make a record of entry by dated and time-stamped photographs
203 showing the manner of entry and any personal items visible

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204 within the property upon entry.

205 (4) The mortgagee or mortgage servicer, or a designee, may
206 only remove personal items from the property which are hazardous
207 or perishable, in which case the mortgagee or mortgage servicer,
208 or a designee, must inventory the items removed.

209 (5) At least 7 days before the mortgagee or mortgage
210 servicer, or a designee, enters the property, a notice must be
211 posted on the front door that includes the following
212 information:

213 (a) A statement that until foreclosure and sale are
214 complete, the property owner or mortgagor has the right to take
215 possession of the property.

216 (b) A statement that the property owner or mortgagor has
217 the right to request that any locks installed by the mortgagee
218 or mortgage servicer, or a designee, be removed and replaced
219 with new locks within 24 hours after such request which are only
220 accessible by the property owner or mortgagor.

221 (c) A toll-free, 24-hour telephone number that the property
222 owner or mortgagor may call in order to notify the mortgagee or
223 mortgage servicer that the property is not abandoned and to gain
224 timely access to the property.

225 (6) All records of entry made under this section must be
226 maintained by the mortgagee or mortgage servicer for at least 4
227 years after the date of entry.

228 (7) If, upon entry, the property is found to be occupied,
229 the mortgagee or mortgage servicer, or a designee, must leave
230 the property immediately and notify the appropriate county or
231 municipal authority. Thereafter, the mortgagee or mortgage
232 servicer, or a designee, may not enter the property absent some

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233 other authority to do so.

234 (8) If the property owner or mortgagor notifies the
235 mortgagee or mortgage servicer that the property is not
236 abandoned, the mortgagee or mortgage servicer may not enter the
237 property and must notify the appropriate county or municipal
238 authority.

239 (9) A county or municipality is not liable for any damages
240 caused by any act or omission of the mortgagee or mortgage
241 servicer.

242 Section 7. Section 702.19, Florida Statutes, is created to
243 read:

244 702.19 Abatement of nuisances by county or municipality.—

245 (1) If a mortgagee or mortgage servicer receives notice
246 under s. 702.17 that a residential real property is abandoned,
247 in midforeclosure, and a nuisance, and the mortgagee or mortgage
248 servicer does not abate the nuisance within the time prescribed
249 by local ordinance, a county or municipality may exercise its
250 authority to abate the nuisance. A county or municipality is not
251 liable for any damages caused by any act or omission it takes to
252 abate the nuisance.

253 (2) If a county or municipality abates the nuisance, it may
254 recover the costs of abatement by:

255 (a) Levying an assessment on the property on which the
256 nuisance is situated. The assessment constitutes a lien on such
257 property and is binding upon successors in title only from the
258 date the lien is recorded in the county in which such property
259 is located. A lien levied under this paragraph may not be
260 foreclosed on, through a foreclosure action.

261 (b) Requesting reimbursement or payment up to the costs of

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262 abatement from the mortgagee or mortgage servicer. If a county
263 or municipality requests reimbursement or payment from the
264 mortgagee or mortgage servicer under this paragraph, the
265 reimbursement or payment must be remitted within 20 business
266 days after receipt of the request, and any unpaid amount
267 thereafter incurs interest at a rate of 18 percent per annum.

268 Section 8. Section 702.21, Florida Statutes, is created to
269 read:

270 702.21 Emergency entry on property.—After a determination
271 is made by a county or municipality under s. 702.17, the county,
272 municipality, mortgagee, or mortgage servicer may enter the
273 property in an emergency to make repairs necessary to address an
274 immediate threat to the public health or safety of the community
275 without providing notice as required under s. 702.18(5). The
276 county, municipality, mortgagee, or mortgage servicer must serve
277 the notice required under s. 702.18(5) as soon as practicable
278 after addressing the immediate threat.

279 Section 9. This act shall take effect July 1, 2021.