

By Senator Torres

25-00965-24

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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.; defining terms;  
4           creating s. 702.14, F.S.; providing applicability;  
5           providing guidelines for what constitutes abandoned  
6           residential real property; creating s. 702.15, F.S.;  
7           authorizing a mortgagee of residential real property  
8           under foreclosure to file a motion to a court of  
9           competent jurisdiction to determine whether the  
10          residential real property is abandoned; requiring the  
11          mortgagee to give certain notice of the hearing to  
12          certain people with an interest in the residential  
13          real property; requiring that the notice contain  
14          certain information; requiring the mortgagee to serve  
15          notice on the residential real property in a certain  
16          manner; providing that the notice is admissible at the  
17          hearing; specifying the required contents of the  
18          notice; requiring the court to hold a hearing within a  
19          certain timeframe; providing the court with a standard  
20          of proof; requiring the court to make certain rulings  
21          in favor of or against the parties presenting  
22          evidence; requiring the court to move to trial of  
23          foreclosure under certain circumstances; requiring the  
24          court to direct the clerk to conduct a public sale of  
25          the residential real property if certain findings are  
26          made at trial; requiring the court to rescind any  
27          order if the mortgagor, lawful occupant, or unknown  
28          owner appears before the issue of sale and provides  
29          reasonable evidence to show the residential real

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30 property is not abandoned; providing an effective  
31 date.

32  
33 Be It Enacted by the Legislature of the State of Florida:

34  
35 Section 1. Section 702.13, Florida Statutes, is created to  
36 read:

37 702.13 Definitions.—As used in ss. 702.13-702.15, the term:

38 (1) "Abandoned residential real property" means residential  
39 real property that shows no signs of continued occupancy or use  
40 and at least three of the following indications of abandonment:

41 (a) Furnishings and personal items consistent with  
42 residential habitation are absent.

43 (b) Gas, electric, or water utility services have been  
44 discontinued.

45 (c) Multiple windows on the property are boarded up or  
46 closed off, smashed, broken, or unhinged, or multiple window  
47 panes are broken.

48 (d) Neighbors, passersby, delivery agents, or government  
49 employees have made statements that the property is vacant.

50 (e) Doors on the property are substantially damaged,  
51 broken, unhinged, or conspicuously open.

52 (f) The property has been stripped of copper or other  
53 materials, or interior fixtures have been removed.

54 (g) Law enforcement officials have received at least one  
55 report within the preceding 6 months of trespassing, vandalism,  
56 or other illegal activity on the property.

57 (h) The property has been declared unfit for occupancy and  
58 been ordered to remain vacant and unoccupied under an order

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59 issued by a county or municipal authority or a court of  
60 competent jurisdiction.

61 (i) Construction was initiated on the property but was  
62 discontinued before completion, leaving the property unsuitable  
63 for occupancy, and construction has not resumed or taken place  
64 for at least 12 months.

65 (j) Newspapers, circulars, flyers, or mail have accumulated  
66 on the property, or the United States Postal Service has  
67 discontinued delivery to the property.

68 (k) Rubbish, trash, debris, neglected vegetation, or  
69 natural overgrowth has accumulated on the property.

70 (l) Hazardous, noxious, or unhealthy substances or  
71 materials have accumulated on the property.

72 (m) There has not been any contact with a representative  
73 for the property in question despite credible attempts to  
74 communicate.

75 (n) Other credible evidence exists indicating the owner's  
76 intent to vacate and abandon the property.

77 (2) "Mortgagee" has the same meaning as in s. 701.041.

78 (3) "Mortgagor" has the same meaning as in s. 701.041.

79 (4) "Real property" has the same meaning as in s. 475.801.

80 Section 2. Section 702.14, Florida Statutes, is created to  
81 read:

82 702.14 Applicability.—This section applies to abandoned  
83 residential real property.

84 (1) Residential real property is considered abandoned if  
85 one of the following is met:

86 (a) A government agency or similar representative,  
87 including a court of competent jurisdiction, has determined the

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88 residential real property is abandoned.

89 (b) The residential real property meets the definition of  
90 abandoned residential real property in s. 702.13.

91 (2) Residential real property is not considered abandoned  
92 if any of the following apply:

93 (a) The residential real property is the subject of an  
94 action to quiet title pursuant to s. 65.011, s. 65.021, s.  
95 65.061, or s. 65.071.

96 (b) The residential real property is the subject of any  
97 probate action pursuant to part I of chapter 733.

98 (c) The residential real property is the subject of other  
99 litigation in which ownership is in dispute.

100 (d) The residential real property exists as an unoccupied  
101 building undergoing construction, renovation, or any other  
102 manner of rehabilitation and complies with all applicable  
103 permitting requirements and regulations under relevant code,  
104 ordinance, and law.

105 Section 3. Section 702.15, Florida Statutes, is created to  
106 read:

107 702.15 Motion to declare residential real property  
108 abandoned; notice to relevant parties; date of hearing.-

109 (1) In a case of ongoing foreclosure proceedings involving  
110 residential real property pursuant to s. 702.12, the mortgagee  
111 may file a motion to a court of competent jurisdiction for a  
112 determination that the residential real property is abandoned.  
113 The mortgagee must present evidence demonstrating the mortgaged  
114 residential real property is abandoned pursuant to s. 702.14 and  
115 must be supported by a sworn statement.

116 (2) The mortgagee shall, upon filing the motion, serve the

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117 motion to all known mortgagors and homeowners pursuant to the  
118 same process as in s. 715.104(3). The notice is admissible at  
119 the hearing and must contain the following:

120 (a) Notice of the pending motion to declare the residential  
121 real property in question as abandoned. The definition of  
122 abandoned residential real property provided in s. 702.13 must  
123 be in printed text.

124 (b) A description of potential consequences after a  
125 declaration of abandoned residential real property, including  
126 the possibility of an expeditious foreclosure on the residential  
127 real property.

128 (c) Copies of all documents supporting the motion for  
129 abandoned residential real property which must be promptly  
130 submitted to the court where the motion is to be heard,  
131 including copies of the evidence intended to be introduced at  
132 the hearing.

133 (d) All relevant contact information of the court where the  
134 motion is to be heard.

135 (e) A statement printed on the notice that any mortgagor,  
136 lawful occupant, or other unknown owner may contact the court  
137 where the motion is pending.

138 (3) The notice described in subsection (2) must be  
139 conspicuously posted upon the disputed property, in 12-point  
140 boldface font.

141 (4) Upon filing of the motion under subsection (1), the  
142 court shall schedule a hearing to be held not less than 15 days  
143 and not more than 25 days after notice is sent to all interested  
144 parties.

145 (5) If the court finds by a preponderance of the evidence

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146 that the mortgaged residential real property is abandoned, it  
147 must order a judgment declaring the property abandoned in favor  
148 of the mortgagee. If the court does not find that the mortgaged  
149 residential real property is abandoned, it must deny the motion.  
150 Denial of the motion does not bar a future action for  
151 foreclosure.

152 (6) The court must deny the motion if a mortgagor, lawful  
153 occupant, or unknown owner pursuant to s. 95.18 appears before  
154 the court to object or files a sworn statement to the court  
155 objecting to the motion.

156 (7) If the court grants the mortgagee's motion, it must  
157 immediately proceed to a trial of foreclosure pursuant to  
158 chapter 702.

159 (8) At the trial of foreclosure, if the court finds that  
160 the abandoned residential real property fits all relevant  
161 requirements necessary for a judgment of foreclosure, the court  
162 must promptly direct the clerk to conduct a public sale of the  
163 abandoned residential real property pursuant to s. 45.031.

164 (9) The court must rescind any order pursuant to the act if  
165 a mortgagor, lawful occupant, or unknown owner pursuant to s.  
166 95.18 appears before the issue of public sale and presents  
167 reasonable evidence to show the property is not abandoned  
168 residential real property.

169 Section 4. This act shall take effect July 1, 2024.