

HB 997

2024

1 A bill to be entitled
 2 An act relating to expedited foreclosure proceedings
 3 for abandoned real property; creating s. 702.13, F.S.;
 4 providing applicability; providing factors for
 5 determining if residential real property is vacant;
 6 providing definitions; authorizing a mortgagee to file
 7 a motion with the court to determine if certain
 8 property is abandoned real property; providing
 9 requirements for such motion; requiring the mortgagee
 10 to provide certain notice and providing requirements
 11 for such notice; requiring the mortgagee to
 12 conspicuously post a certain notice on the subject
 13 property; specifying the time frame in which a court
 14 can schedule a hearing on the motion; providing
 15 requirements for the court; prohibiting the court from
 16 granting the motion under certain circumstances;
 17 providing an effective date.

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

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 21 Section 1. Section 702.13, Florida Statutes, is created to
 22 read:

23 702.13 Expedited foreclosure proceedings for abandoned
 24 real property.—

25 (1) This section applies to vacant residential real

26 property. Residential real property is considered vacant if both
 27 of the following apply:

28 (a)1. A government agency or court of competent
 29 jurisdiction has determined the property to be abandoned; or

30 2. The mortgagor of the property has delivered a written
 31 and signed statement evidencing the intent of all parties to
 32 have the property declared abandoned real property.

33 (b) The residential real property is considered abandoned
 34 real property as defined in subsection (3).

35 (2) This section does not apply if the residential real
 36 property is:

37 (a) Subject to an action to quiet title under s. 65.011,
 38 s. 65.021, s. 65.061, or s. 65.071;

39 (b) Subject to a probate action under chapter 733;

40 (c) The subject of any other litigation where the
 41 ownership of the property is disputed; or

42 (d) An unoccupied building undergoing construction,
 43 renovation, or any other manner of rehabilitation, and complies
 44 with all applicable state and local permitting requirements and
 45 regulations.

46 (3) As used in this section, the term:

47 (a) "Abandoned real property" means residential real
 48 property that shows no signs of continued occupancy or use and
 49 at least three of the following indications of abandonment:

50 1. The absence of furnishings and personal items

- 51 consistent with residential habitations;
- 52 2. The gas, electric, or water utility services have been
53 disconnected;
- 54 3. Multiple windows on the property are boarded up or
55 closed off, smashed, broken, or unhinged, or multiple window
56 panes are broken and unrepaired;
- 57 4. Statements by neighbors, passersby, delivery agents, or
58 government employees that the property is vacant;
- 59 5. Doors on the property are substantially damaged, broken
60 off, unhinged, or conspicuously open;
- 61 6. The property has been stripped of copper or other
62 materials, or interior fixtures have been removed;
- 63 7. Law enforcement officials have received at least one
64 report within the immediately preceding 6 months of trespassing,
65 vandalism, or other illegal activities on the property;
- 66 8. The property has been declared unfit for occupancy and
67 ordered to remain vacant and unoccupied under an order issued by
68 a municipal or county authority or a court of competent
69 jurisdiction;
- 70 9. Construction was initiated on the property but was
71 discontinued before completion, leaving the property unsuitable
72 for occupancy, and construction has not taken place for at least
73 12 months;
- 74 10. Newspapers, circulars, flyers, or mail has accumulated
75 on the property or the United States Postal Service has

76 discontinued delivery to the property;
 77 11. Rubbish, trash, debris, neglected vegetation, or
 78 natural overgrowth has accumulated on the property;
 79 12. Hazardous, noxious, or unhealthy substances or
 80 materials have accumulated on the property;
 81 13. Lack of contact with a representative for the property
 82 after a credible attempt to communicate; or
 83 14. Other credible evidence exists indicating the owner's
 84 intent to vacate and abandon the property.
 85 (b) "Mortgagee" has the same meaning as in s. 701.041(1).
 86 (c) "Mortgagor" has the same meaning as in s. 701.041(1).
 87 (d) "Real property" has the same meaning as in s. 475.801.
 88 (4) In a foreclosure proceeding under this chapter
 89 involving residential real property, the mortgagee may file a
 90 motion with the court for a determination that the residential
 91 real property is abandoned real property. The mortgagee must
 92 sign an affidavit that specifies at least three indicators of
 93 abandonment as provided in paragraph (3) (a) and file it and any
 94 other relevant documentary evidence, including photographic
 95 evidence, with the court.
 96 (5) After filing the motion, the mortgagee must promptly
 97 deliver or mail, in accordance with s. 715.104(3), a notice to
 98 the last known address of each known mortgagor and homeowner
 99 which contains all of the following information:
 100 (a) Notice of the ongoing motion to declare the property

101 in question as abandoned real property, along with the text of
102 the definition of abandoned real property in paragraph (3) (a).

103 (b) A description of the potential consequences if the
104 court decides that the property is abandoned real property,
105 including the possibility of an expeditious foreclosure on the
106 abandoned real property.

107 (c) Copies of all documents in support of the motion,
108 including photographic and other relevant documentary evidence.

109 (d) All relevant contact information of the court to which
110 the motion was submitted, along with a statement that any
111 mortgagor, lawful occupant, or adverse possessor of the property
112 under s. 95.18 may contact the court for further information or
113 to object on the record to the motion. Such objection should be
114 admissible as evidence at a hearing.

115 (6) Additionally, the mortgagee must conspicuously post a
116 notice in 12-point font and boldface type with the information
117 in paragraphs (5) (a), (b), and (d) on the property subject to
118 the motion.

119 (7) The court should schedule a hearing on the motion not
120 less than 15 and not more than 25 calendar days after the
121 mortgagee sends the notice required under subsection (5).

122 (8) (a) At the hearing on the motion, if the court finds
123 that the property is abandoned real property by a preponderance
124 of the evidence, the court should render a declaratory judgment
125 in favor of the motion for declaring the property abandoned real

126 property and immediately proceed to a trial of foreclosure
127 pursuant to this chapter.

128 (b) At the hearing on the motion, if the court finds that
129 the property is not abandoned real property, the court must deny
130 the motion. A denied motion does not exempt the property from
131 being the subject of a concurrent or future foreclosure claim
132 under s. 702.10.

133 (9) The court may not grant the motion if a mortgagor, a
134 lawful occupant, or an adverse possessor of the property under
135 s. 95.18 objects to a finding of abandonment or presents such
136 objection through a credible written statement filed with the
137 court.

138 (10) If the court finds at the foreclosure trial that the
139 abandoned real property meets all relevant requirements
140 necessary to enter a judgement of foreclosure, the court should
141 promptly order the clerk to schedule a public sale of the
142 abandoned real property pursuant to s. 45.031.

143 (11) If, before the sale of the property under s. 45.031,
144 a mortgagor, a lawful occupant, or an adverse possessor of the
145 property under s. 95.18 presents reasonable evidence to the
146 court that the property is not abandoned real property, the
147 court should rescind the orders it issued under paragraph (8) (a)
148 and subsection (10).

149 Section 2. This act shall take effect July 1, 2024.