

By the Committee on Banking and Insurance; and Senators Gelber and Joyner

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1 A bill to be entitled
2 An act relating to the termination of rental
3 agreements; amending s. 83.49, F.S.; requiring the
4 landlord or mortgagor or its agent to tender to the
5 registry of the court or to the foreclosing entity all
6 funds held for advance rent or security deposits at
7 the time of foreclosure; directing that such funds
8 continue to be held for the use and benefit of the
9 tenants of the foreclosed property; providing that a
10 landlord or mortgagor or its agent commits a theft if
11 the landlord or mortgagor or its agent do not comply
12 with certain specified provisions of law; creating s.
13 83.683, F.S.; providing that a purchaser of
14 residential property in foreclosure may terminate a
15 tenant's residential rental agreement under certain
16 circumstances; providing an exception for an immediate
17 purchaser intending to sell the property to a buyer
18 who intends to occupy the foreclosure premises as his
19 or her primary residence; setting forth the content to
20 be included in the termination notice to be given to
21 the tenant; providing certain exceptions to
22 application of the act; requiring the immediate
23 purchaser named in the certificate of title to credit
24 the tenant's account for any deposit money paid by the
25 tenant and for any advance rent for the unexpired
26 rental period; providing for future expiration;
27 amending s. 83.803, F.S.; redefining the term "last
28 known address" as it relates to the Self-storage
29 Facility Act; providing an effective date.

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

Section 1. Subsections (10) and (11) are added to section 83.49, Florida Statutes, to read:

83.49 Deposit money or advance rent; duty of landlord and tenant.—

(10) Upon the filing of foreclosure, the landlord or mortgagor or its agent shall tender to the registry of the court or, at the foreclosing entity's election, to the foreclosing entity, all funds held for advance rent or security deposits for tenants of the mortgaged property, which shall continue to be held for the use and benefit of the tenants.

(11) Failure by the landlord or mortgagor or its agent to comply with the provisions of subsection (1) or subsection (10) constitutes a theft as defined in s. 812.014.

Section 2. Section 83.683, Florida Statutes, is created to read:

83.683 Termination of rental agreement upon foreclosure.—

(1) (a) Upon issuance of a certificate of title pursuant to s. 45.031, if a tenant is occupying the residential premises and is not excluded by subsection(2), the immediate purchaser named in the certificate of title takes title to the residential premises as a landlord, and may terminate the residential rental agreement by delivering a written 90-day notice to the tenant.

(b)1. If there is an existing written rental agreement entered into before the certificate of title was issued, the tenant may remain in possession of the premises until the end of the lease term or at least 90 days following the date the tenant

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59 receives a copy of the written notice of termination, whichever
60 is greater.

61 2. However, if the immediate purchaser named in the
62 certificate of title sells the premises to a purchaser who will
63 occupy the premises as a primary residence, the immediate
64 purchaser may terminate the written rental agreement and the
65 tenant is entitled to a written 90-day notice of termination.

66 (c) The 90-day notice to terminate the rental agreement
67 must be in substantially the following form:

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69 You are hereby advised that your rental agreement is
70 terminated effective 90 days following the date that
71 this written termination notice is delivered to you,
72 or at the end of the term of your written rental
73 agreement, whichever is later, and that I demand
74 possession of the premises upon that date. You are
75 still obligated to pay rent during the 90 days or
76 during the term of your written rental agreement, in
77 the amount you have been paying. Rent shall be
78 delivered to [name], [address].

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80 (d) Delivery of the written notice must be in the manner as
81 provided in s. 83.56(4).

82 (2) Subsection (1) does not apply if:

83 (a) The mortgagor being foreclosed, or the child, spouse,
84 or parent of the mortgagor being foreclosed, is occupying the
85 dwelling unit being foreclosed, unless it is a multiunit
86 property and other tenants occupy dwelling units;

87 (b) The rental agreement is not an arms-length transaction;

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88 or

89 (c) The rental agreement allows rent that is substantially
90 less than the fair market rent for the premises, unless the rent
91 is reduced or subsidized due to a federal, state, or local
92 subsidy.

93 (3) The immediate purchaser named in the certificate of
94 title issued pursuant to s. 45.031 shall credit the tenant's
95 account for any deposit money paid by the tenant to the
96 predecessor in interest and may make claims against the deposit
97 pursuant to s. 83.49(1). The immediate purchaser shall also
98 credit the tenant's account for any advance rent for the
99 unexpired rental period. The tenant must provide evidence of the
100 amount of the security deposit or advance rent in order to
101 receive the credit. This subsection applies only to the extent
102 that the security deposit or advance rent is in the possession
103 of the immediate purchaser or the foreclosing mortgagee.

104 (4) This section expires December 31, 2012.

105 Section 3. Subsection (6) of section 83.803, Florida
106 Statutes, is amended to read:

107 83.803 Definitions.—As used in ss. 83.801-83.809:

108 (6) "Last known address" means the street address, post
109 office box, or electronic mail ~~that~~ address provided by the
110 tenant in the latest rental agreement or in a subsequent written
111 notice of change of address provided by hand delivery, first-
112 class mail, or electronic mail ~~the address provided by the~~
113 ~~tenant by hand delivery or certified mail in a subsequent~~
114 ~~written notice of a change of address.~~

115 Section 4. This act shall take effect upon becoming a law.