

By the Committee on Banking and Insurance; and Senator Soto

597-03622-15

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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 an effective date.

15  
16 Be It Enacted by the Legislature of the State of Florida:

17  
18 Section 1. Section 83.561, Florida Statutes, is created to  
19 read:

20 83.561 Termination of rental agreement upon foreclosure.-

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

26 (a) The tenant may remain in possession of the premises for  
27 30 days following the date of the purchaser's delivery of a  
28 written 30-day notice of termination.

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

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

32  
 33 NOTICE TO TENANT OF TERMINATION

34  
 35 You are hereby notified that your rental agreement is  
 36 terminated on the date of delivery of this notice and your  
 37 occupancy is terminated 30 days following the date of the  
 38 delivery of this notice and that I demand possession of the  
 39 premises on that ... (date).... If you do not vacate the premises  
 40 by this date, I will ask the court for an order allowing me to  
 41 remove you and your belongings from the premises. You are  
 42 obligated to pay rent during the 30-day period for any amount  
 43 that might accrue during that period. Your rent must be  
 44 delivered to ... (landlord's name and address)....

45  
 46 (d) The 30-day notice of termination shall be delivered in  
 47 the same manner as provided in s. 83.56(4).

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

55 (3) This section does not apply if:

56 (a) The tenant is the mortgagor in the subject foreclosure  
 57 or is the child, spouse, or parent of the mortgagor in the  
 58 subject foreclosure.

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

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

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

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