

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.; providing  
6           definitions; creating s. 702.16, F.S.; requiring  
7           notice to a mortgagee or mortgage servicer that  
8           certain property is abandoned and a nuisance;  
9           requiring certain documentation; authorizing a  
10          mortgagee or mortgage servicer to request a  
11          determination that certain property is abandoned and a  
12          nuisance; requiring a county or municipal authority to  
13          provide certain documentation within a specified time;  
14          limiting liability; creating s. 702.17, F.S.;  
15          requiring a mortgagee or mortgage servicer, or a  
16          designee, to abate the nuisance and maintain certain  
17          property upon receipt of specified notice; authorizing  
18          a mortgagee or mortgage servicer, or a designee, to  
19          enter the property for certain reasons; authorizing  
20          the removal of certain property; requiring specified  
21          notification to a property owner or mortgagor;  
22          requiring a record of entry be kept for a certain  
23          length of time; prohibiting entry on the property if  
24          it is lawfully occupied; limiting liability; creating  
25          s. 702.18, F.S.; authorizing a county or municipality

26 to reasonably abate a nuisance and recover the costs  
 27 of abatement; limiting liability; creating s. 702.19,  
 28 F.S.; authorizing a county, municipality, mortgagee,  
 29 or mortgage servicer, or a designee, to enter the  
 30 property in an emergency to make certain repairs  
 31 without first providing notice to the property owner  
 32 or mortgagor; limiting liability; providing an  
 33 effective date.

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

36

37 Section 1. Section 702.13, Florida Statutes, is created to  
 38 read:

39 702.13 Short title.—Sections 702.13-702.19 may be cited as  
 40 the "Abandoned Property Neighborhood Relief Act."

41 Section 2. Section 702.14, Florida Statutes, is created to  
 42 read:

43 702.14 Applicability.—This act applies only to residential  
 44 real property consisting of one-family to four-family dwelling  
 45 units.

46 Section 3. Section 702.15, Florida Statutes, is created to  
 47 read:

48 702.15 Definitions.—As used in this act, the term:

49 (1) "Abandoned residential property" means residential  
 50 real property in which there are no signs of lawful occupancy

51 and at least three of the following indications of abandonment:

52 (a) The absence of furnishings and personal items  
53 consistent with residential habitations;

54 (b) The gas, electric, or water utility services have been  
55 disconnected;

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

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

61 (e) Doors on the property are substantially damaged,  
62 broken, unhinged, or conspicuously open;

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

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

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

72 (i) Construction was initiated on the property but was  
73 discontinued before completion, leaving the property unsuitable  
74 for occupancy, and construction has not taken place for at least  
75 6 months;

76 (j) Newspapers, circulars, flyers, or mail has accumulated  
 77 on the property, or the United States Postal Service has  
 78 discontinued delivery to the property;

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

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

83 (m) Other credible evidence indicating the owner's intent  
 84 to vacate and abandon the property.

85 (2) "Mortgage servicer" has the same meaning as in s.  
 86 701.041(1).

87 (3) "Mortgagee" has the same meaning as in s. 701.041(1).

88 (4) "Nuisance" means property that tends to annoy the  
 89 community, poses a threat to the public health or safety of the  
 90 community, or as otherwise determined to be a nuisance by a  
 91 county or municipality under its authority.

92 Section 4. Section 702.16, Florida Statutes, is created to  
 93 read:

94 702.16 Notice; request for determination.—

95 (1) A county or municipality may notify a mortgagee or  
 96 mortgage servicer that a residential real property has been  
 97 determined to be abandoned and a nuisance. A notice under this  
 98 subsection must be accompanied by an affidavit or a declaration  
 99 made under penalty of perjury by a county or municipality  
 100 authority that a property is abandoned and a nuisance. The

101 notice and the affidavit or declaration must be mailed by  
102 certified mail, return receipt requested, to the mortgagee or  
103 mortgage servicer. A county or municipality is not liable for  
104 any damages caused by any act or omission of the mortgagee or  
105 mortgage servicer, or a designee, that is based on the affidavit  
106 or declaration. The affidavit or declaration must:

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

109 (b) Include a determination that the property is abandoned  
110 and a nuisance, and state with specificity the nuisance required  
111 to be abated.

112 (2) A mortgagee or mortgage servicer may contact a county  
113 or municipality regarding a residential real property believed  
114 to be abandoned and a nuisance and request that a county or  
115 municipal authority visit the property and make a determination  
116 as to whether the property is abandoned and a nuisance. A county  
117 or municipal authority shall respond to such request within 30  
118 days after receipt and notify the mortgagee or mortgage servicer  
119 that:

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

121 (b) The property is abandoned and a nuisance. If a county  
122 or municipal authority determines that the property is abandoned  
123 and a nuisance, such notification must be accompanied by an  
124 affidavit or declaration made under penalty of perjury by the  
125 county or municipal authority. The notice and affidavit or

126 declaration must be mailed by certified mail, return receipt  
 127 requested, to the mortgagee or mortgage servicer. The affidavit  
 128 or declaration must:

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

131 2. Include a determination that the property is abandoned  
 132 and a nuisance, and state with specificity the nuisance required  
 133 to be abated; or

134 (c) The county or municipality does not have adequate  
 135 resources or is otherwise unable to make the requested  
 136 determination.

137 Section 5. Section 702.17, Florida Statutes, is created to  
 138 read:

139 702.17 Abatement of nuisances; entry on property.—

140 (1) Upon receipt of an affidavit or declaration from a  
 141 county or municipality that a residential real property is  
 142 abandoned and a nuisance, a mortgagee or mortgage servicer, or a  
 143 designee, shall abate the nuisance and maintain such property  
 144 until ownership has been transferred through the closing of  
 145 title in foreclosure, or other disposition, and the deed for  
 146 such property has been duly recorded.

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

- 151        (a) Replacing missing locks on exterior doors.
- 152        (b) Replacing or boarding broken or missing windows.
- 153        (c) Winterizing the home, including draining pipes and  
154 disconnecting or turning on utilities.
- 155        (d) Resolving building code or other code violations.
- 156        (e) Securing exterior pools or spas.
- 157        (f) Maintaining the yard and exterior of the property,  
158 including removing excessive foliage growth that diminishes the  
159 value of surrounding properties.
- 160        (g) Performing pest and insect control services, including  
161 preventing mosquito larvae from growing in standing water on the  
162 property.
- 163        (h) Removing any trespassers from the property and taking  
164 steps to prevent future trespassers.
- 165        (3) The mortgagee or mortgage servicer, or a designee,  
166 must make a record of entry by dated and time-stamped  
167 photographs showing the manner of entry and any personal items  
168 visible within the property upon entry.
- 169        (4) The mortgagee or mortgage servicer, or a designee, may  
170 remove items from the property, in which case the mortgagee or  
171 mortgage servicer, or a designee, must inventory the items  
172 removed.
- 173        (5) At least 7 days before the mortgagee or mortgage  
174 servicer, or a designee, enters the property, a notice must be  
175 posted on the front door that includes the following

176 information:

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

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

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

189 (6) All records of entry made under this section must be  
190 maintained by the mortgagee or mortgage servicer for at least 4  
191 years after the date of entry, or longer if a legal proceeding  
192 relating to the property is pending.

193 (7) If, upon entry, the property is found to be lawfully  
194 occupied, the mortgagee or mortgage servicer, or a designee,  
195 must leave the property immediately and notify the appropriate  
196 county or municipal authority. Thereafter, the mortgagee or  
197 mortgage servicer, or a designee, may not enter the property  
198 absent other authority to do so.

199 (8) A county or municipality is not liable for any damages  
200 caused by any act or omission of the mortgagee or mortgage

201 servicer, or a designee.

202 Section 6. Section 702.18, Florida Statutes, is created to  
203 read:

204 702.18 Abatement of nuisances by county or municipality.-

205 (1) If a mortgagee or mortgage servicer receives notice  
206 under s. 702.17 that a residential real property is abandoned  
207 and a nuisance, and the mortgagee or mortgage servicer, or a  
208 designee, does not abate the nuisance within 60 days or the time  
209 prescribed by local ordinance, a county or municipality may  
210 exercise its authority to reasonably abate the nuisance. A  
211 county or municipality is not liable for any damages caused by  
212 any act or omission it takes to reasonably abate the nuisance.

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

215 (a) Levying an assessment on the property on which the  
216 nuisance is situated. The assessment constitutes a lien on such  
217 property and is binding upon successors in title only from the  
218 date the lien is recorded in the county in which such property  
219 is located. A lien levied under this paragraph may not be  
220 foreclosed on, through a foreclosure action;

221 (b) Requesting reimbursement or payment up to the costs of  
222 abatement from the mortgagee or mortgage servicer. If a county  
223 or municipality requests reimbursement or payment from the  
224 mortgagee or mortgage servicer under this paragraph, the  
225 reimbursement or payment must be remitted within 20 business

226 days after receipt of the request, and any unpaid amount  
 227 thereafter incurs interest at a rate of 18 percent per annum; or

228 (c) Requesting that the code inspector, as defined in s.  
 229 162.04(2), initiate enforcement proceedings under chapter 162.

230 Section 7. Section 702.19, Florida Statutes, is created to  
 231 read:

232 702.19 Emergency entry on property.—After a determination  
 233 is made by a county or municipality that a residential real  
 234 property is abandoned and a nuisance, the county, municipality,  
 235 mortgagee, or mortgage servicer, or a designee, may enter the  
 236 property in an emergency to make repairs necessary to address an  
 237 immediate threat to the public health or safety of the community  
 238 without providing notice as required under s. 702.18(5). The  
 239 county, municipality, mortgagee, or mortgage servicer, or a  
 240 designee, must serve the notice required under s. 702.18(5) as  
 241 soon as practicable after addressing the immediate threat. A  
 242 county or municipality is not liable for any damages caused by  
 243 any act or omission it takes to enforce this section.

244 Section 8. This act shall take effect July 1, 2021.