

By Senator Torres

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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

25-00965-24

20241370__

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

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

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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

25-00965-24

20241370__

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

25-00965-24

20241370__

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

25-00965-24

20241370__

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

25-00965-24

20241370__

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.