Tenant in foreclosure bill 2015

Section 1. Section 83.577, Florida Statutes, is created to read:

83.577 Termination of rental agreement upon foreclosure.—

(1)(a) Upon issuance of a certificate of title following a foreclosure sale of residential property, if a tenant is occupying the residential premises and is not excluded by subsection (2), the purchaser named in the certificate of title takes title to the residential premises as a landlord, subject to the rights of the tenant under subsection (b) of this section.

(b)1. If there is an existing written rental agreement entered into before the recording of a lis pendens in the foreclosure action by which the certificate of title is issued or before the certificate of title was issued, whichever is earlier, the tenant may remain in possession of the premises until the end of the term of the written rental agreement or at least 90 days following the date of the purchaser’s delivery to the tenant of a written notice of termination of the tenancy, whichever is greater.

2. If there is an existing written rental agreement entered into before the recording of a lis pendens in the foreclosure action by which the certificate of title is issued or before the certificate of title was issued, whichever is earlier, but the purchaser named in the certificate of title sells the premises to a subsequent purchaser who will occupy the premises as a primary residence, the subsequent purchaser may terminate the written rental agreement by delivering to the tenant a written 90-day notice of termination.

3. If there is not an existing written rental agreement entered into before the recording of a lis pendens in the foreclosure action by which the certificate of title is issued or before the certificate of title was issued, whichever is earlier, the tenant may remain in possession of the premises for 90 days following the date of the purchaser’s delivery to the tenant of a written notice of termination of the tenancy.

(c) The 90-day notice of termination must be in substantially the following form:

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

(d) Delivery of the 90-day notice of termination must be in the manner provided in s. 83.56(4).

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

(a) The tenant is the mortgagor being foreclosed, or the child, spouse, or parent of the mortgagor being foreclosed, unless it is a multiunit property and other tenants occupy dwelling units;

(b) The tenant’s rental agreement is not the result of an arms-length transaction; or

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

(3) The purchaser named in the certificate of title following a foreclosure sale shall credit the tenant’s account for any deposit money paid by the tenant to the predecessor in interest and delivered to the purchaser by the prior owner and may make claims against the deposit pursuant to s. 83.49. The purchaser shall also credit the tenant’s account for any advance rent for the unexpired rental period delivered to the purchaser by the prior owner. The tenant must provide evidence of the amount of the deposit or advance rent delivered to the purchaser by the prior owner in order to receive the credit, except as provided in 83.49(7). Any tenant shall have a right of action for damages against any prior owner for amounts paid by the tenant to the prior owner for deposit money or advance rent and not turned over to the purchaser by the prior owner, and shall be entitled to recover the tenant’s costs and attorneys’ fees incurred in any such action against the prior owner.

Section 2. This act shall take effect upon becoming a law, but shall only apply to foreclosures involving mortgages executed or modified after the effective date of this act.