

CHAPTER 2020-99

Senate Bill No. 1362

An act relating to rental agreements; repealing s. 83.561, F.S., relating to the termination of a rental agreement upon foreclosure; creating s. 83.5615, F.S.; providing a short title; providing for the assumption of interest in certain foreclosures on dwellings or residential real property; providing construction; defining the term “federally-related mortgage loan”; requiring the director of the Division of Consumer Services of the Department of Agriculture and Consumer Services to notify the Division of Law Revision of the repeal of the Protecting Tenants at Foreclosure Act of 2009 within a specified timeframe; providing effective dates, including a contingent effective date.

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

Section 1. Section 83.561, Florida Statutes, is repealed.

Section 2. Effective upon the repeal of the federal Protecting Tenants at Foreclosure Act, Pub. L. No. 111-22, section 83.5615, Florida Statutes, is created to read:

83.5615 Protecting Tenants at Foreclosure Act.—

(1) This section may be cited as the “Protecting Tenants at Foreclosure Act.”

(2) In the case of any foreclosure on a federally-related mortgage loan or on any dwelling or residential real property after the effective date of this section, any immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to:

(a) The successor in interest providing a notice to vacate to any bona fide tenant at least 90 days before the effective date of the notice; and

(b) The rights of any bona fide tenant:

1. Under any bona fide lease entered into before the notice of foreclosure to occupy the premises until the end of the remaining term of the lease, except that a successor in interest may terminate a lease effective on the date of sale of the unit to a purchaser who will occupy the unit as a primary residence, subject to the tenant receiving the 90-day notice under paragraph (a); or

2. Without a lease or with a lease terminable at will, subject to the tenant receiving the 90-day notice under paragraph (a).

This subsection does not affect the requirements for termination of any federal- or state-subsidized tenancy or of any state or local law that provides more time or other additional protections for tenants.

(3) For the purposes of this section:

(a) A lease or tenancy shall be considered bona fide only if:

1. The mortgagor or the child, spouse, or parent of the mortgagor under the contract is not the tenant;

2. The lease or tenancy was the result of an arms-length transaction; and

3. The lease or tenancy requires the receipt of rent that is not substantially less than fair market rent for the property or the unit’s rent is reduced or subsidized due to a federal, state, or local subsidy.

(b) The term “federally-related mortgage loan” has the same meaning as in 12 U.S.C. s. 2602.

(c) The date of a notice of foreclosure shall be deemed to be the date on which complete title to a property is transferred to a successor entity or person as a result of an order of a court or pursuant to provisions in a mortgage, deed of trust, or security deed.

Section 3. If the Protecting Tenants at Foreclosure Act of 2009, Pub. L. No. 111-22, is repealed, the director of the Division of Consumer Services of the Department of Agriculture and Consumer Services shall notify the Division of Law Revision within 10 days after the repeal.

Section 4. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2020.

Approved by the Governor June 27, 2020.

Filed in Office Secretary of State June 27, 2020.