

1                                   A bill to be entitled  
 2           An act relating to residential tenancies; creating s.  
 3           83.675, F.S.; requiring the owner of a residential  
 4           property that is in foreclosure proceedings or for  
 5           which mortgage payments are in arrears for a specified  
 6           period to provide notice to tenants within a specified  
 7           period; providing criminal penalties; providing that  
 8           for properties with multiple dwelling units, a failure  
 9           to comply with requirements as to each separate unit  
 10          constitutes a separate offense; prohibiting a person  
 11          from knowingly leasing such residential property  
 12          unless the tenant signs a notarized statement  
 13          containing certain waivers; providing for the contents  
 14          and form of the statement; requiring the landlord to  
 15          provide a copy of the statement to the mortgage  
 16          holder; providing that leases which violate the notice  
 17          requirements are presumed fraudulent and voidable  
 18          within a specified period; providing requirements for  
 19          a landlord to overcome such presumption; providing an  
 20          effective date.

21  
 22   Be It Enacted by the Legislature of the State of Florida:

23  
 24           Section 1. Section 83.675, Florida Statutes, is created to  
 25   read:

26           83.675 Landlord's default or foreclosure; notice to  
 27   tenant.-

28           (1) (a) The owner of a premises for which foreclosure

29 proceedings have begun under chapter 702 or for which the  
 30 mortgage payments by the owner are more than 60 days in arrears  
 31 shall, within 5 business days after commencement of the  
 32 foreclosure proceedings or the 60th day of arrearage, send to  
 33 each dwelling unit of the property by certified mail an  
 34 affidavit notifying the tenants of that unit of the commencement  
 35 of the foreclosure proceedings or the arrearage.

36 (b) A person who knowingly violates this subsection  
 37 commits a misdemeanor of the first degree, punishable by a fine  
 38 not to exceed \$5,000. For properties with multiple dwelling  
 39 units, a violation of this subsection as to each dwelling unit  
 40 constitutes a separate offense.

41 (2) (a) A person may not knowingly lease a dwelling unit or  
 42 premises for which foreclosure proceedings have begun under  
 43 chapter 702 or for which the mortgage payments by the owner are  
 44 more than 60 days in arrears unless each prospective tenant of  
 45 that unit or premises signs a notarized statement stating that  
 46 he or she is aware of the circumstances and waives any claim  
 47 against the lessor due to those circumstances. The landlord must  
 48 provide a copy of the notarized statement to the mortgage  
 49 holder. The statement must be in substantially the following  
 50 form:

51  
 52 You are hereby notified that the premises (address of  
 53 leased premises, including county) , Florida, that you  
 54 are now seeking to occupy is (CHECK THOSE THAT APPLY):  
 55 In foreclosure proceedings under chapter 702,  
 56 Florida Statutes.

57 | Is more than 60 days in arrears in its mortgage  
 58 | payments as of this date, the day of , (year) .

59 |  
 60 | (landlord's name, address, and phone number)

61 |  
 62 | I (WE) UNDERSTAND THAT I (WE) ACKNOWLEDGE THE ABOVE  
 63 | NOTICE CONCERNING THE PREMISES AT (address of leased  
 64 | premises, including county) , Florida, AND I (WE) LEASE  
 65 | THE PREMISES WITH KNOWLEDGE THEREOF AND HEREBY WAIVE ANY  
 66 | CLAIM THAT I (WE) MAY HAVE AGAINST THE LANDLORD OR OWNER  
 67 | FOR DAMAGES THAT RESULT FROM THE CIRCUMSTANCES DISCLOSED  
 68 | THEREIN.

69 |  
 70 | (Signatures)

71 |  
 72 | Sworn to (or affirmed) and subscribed before me this  
 73 | day of , (year) , by (name of person making  
 74 | statement) .

75 | (Signature of Notary Public - State of Florida)  
 76 | (Print, Type, or Stamp Commissioned Name of Notary  
 77 | Public).

78 | Personally Known OR Produced as Identification.

79 |  
 80 | (b) A lease transaction that violates paragraph (a) is  
 81 | presumed to be fraudulent and voidable at the option of the  
 82 | lessee within 1 year after the lease date. The landlord may  
 83 | overcome the presumption of fraud by showing by clear and  
 84 | convincing evidence that the tenant had knowledge of the

HB 169

2013

85 | information required to be disclosed under subsection (2) even  
86 | though the requirements of that subsection for a written  
87 | statement were not complied with.

88 |       Section 2. This act shall take effect October 1, 2013.