
2015-07 An Ordinance relating to registration of vacant Real Property in foreclosure.

Adopted June 23, 2015

DESOTO COUNTY, FLORIDA

ORDINANCE No. 2015-07

AN ORDINANCE OF DESOTO COUNTY, FLORIDA, RELATING TO REGISTRATION OF VACANT REAL PROPERTY IN FORECLOSURE; PROVIDING PURPOSE AND INTENT; PROVIDING DEFINITIONS; PROVIDING FOR APPLICABILITY; PROVIDING FOR REGISTRATION OF VACANT REAL PROPERTY IN FORECLOSURE; PROVIDING REQUIREMENTS FOR VACANT REAL PROPERTY IN FORECLOSURE; PROVIDING FOR ENFORCEMENT; PROVIDING FOR REGULATORY FEES; REPEALING CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 125.01, Florida Statutes, authorizes the Board of County Commissioners of DeSoto County, Florida, to exercise regulatory powers that are not inconsistent with general or special law; and

WHEREAS, foreclosure of real property located within the unincorporated area of DeSoto County have increased significantly in recent years; and

WHEREAS, many parcels of real property are vacated by the property owners prior to the conclusion of the foreclosure process, leaving such properties unoccupied for extended periods of time; and

WHEREAS, vacation of real property in the process of foreclosure can result in deterioration of the buildings and premises and creation of a public nuisance; and

WHEREAS, the Board of County Commissioners of DeSoto County finds that mortgagees have an interest in maintaining real property subject to the foreclosure process; and

WHEREAS, many mortgagees are located out of state, making notification about conditions at the real property subject to their interest difficult; and

WHEREAS, the Board of County Commissioners of DeSoto County desires to exercise regulatory powers pursuant to Section 125.01, Florida Statutes, by providing procedures and requirements for the registration of vacant real property in the process of foreclosure; and

WHEREAS, the Board of County Commissioners of DeSoto County has determined that it is in the best interest of the public health, safety and welfare of the residents of unincorporated DeSoto County to enact this ordinance providing for the registration of vacant real property in the process of foreclosure.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF DESOTO COUNTY, FLORIDA:

SECTION 1. Registration of Vacant Real Property in Foreclosure.

(A) Purpose and Intent.

The purpose and intent of this Ordinance is to establish procedures and requirements for the registration of real property located within the unincorporated area of the county that is vacant and in the process of foreclosure.

(B) Definitions.

The following words, terms, and phrases, when used in this Ordinance shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

- (a) Agent means any person with legal authority to represent and act on behalf of the owner through a written agreement, power of attorney, or other similar document.
- (b) Evidence of vacancy means any condition that on its own, or combined with other conditions present, would lead a reasonable person to believe that the property is vacant. Such conditions may include, but are not limited to, overgrown and /or dead vegetation, accumulation of abandoned personal property, statements by neighbors, delivery agents, or government agents, empty storefronts, and real estate signs, among other evidence that the property is vacant.
- (c) Foreclosure means the legal process by which a mortgagee or other lien holder terminates a property owner's equitable right of redemption to obtain legal and equitable title to the real property pledged as security for a debt to the real property subject to the mortgage or lien. This process commences with the filing of a civil action in court and a notice of lis pendens in the official records of the county, and may include, but is not limited to, transfer by deed, sale to the mortgagee or lien holder, certificate of title, and all other activities and actions associated with the described process. The process is not concluded until the property obtained by the mortgagee, lien holder, or designee, through a certificate of title or any other means, is sold to a non-related bona fide purchaser to satisfy the debt or lien.
- (d) Inspection means a close viewing of the real property and the exterior of any structures located thereon pledged as security for the real estate loan, and includes a viewing of any interior portions of the structure which are visible from the exterior of the structure. However, an inspection does not require entry into any structure for purpose of viewing the interior of such structure.
- (e) Local means within the geographic boundaries of DeSoto County.

- (f) Mortgagee means a person, business, or legal entity that holds a lien on or an interest in real property to secure the repayment of a debt by the owner of the real property subject to the lien or interest.
- (g) Owners mean the owner of record of any real property as determined by the official records of the county.
- (h) Property Management Company means a property manager, property maintenance company, or other similar entity responsible for the management and maintenance of real property.
- (i) Real property or property means a parcel of real property located within the unincorporated area of the county.
- (j) Registration means a process of providing information about vacant real property in foreclosure to the county as provided in this ordinance.
- (k) Vacant means any building or structure that is not legally occupied by the property owner, a tenant or renter under a lease agreement with the property owner or agent, or any other person with the written permission or consent of the property owner or agent.
- (l) Vacant real property in foreclosure means any real property that is vacant, is in the process of foreclosure, and shows evidence of vacancy.

C. Applicability.

This Ordinance shall apply within the unincorporated area of DeSoto County.

D. Registration of vacant real property in foreclosure.

- a. Any mortgagee that holds a mortgage on any vacant real property in foreclosure located within the unincorporated area of the county shall perform an inspection of the property that is the security for the mortgage and shall register the vacant real property with the county upon commencement of foreclosure by said mortgagee on said property. A separate registration is required for each parcel of vacant real property simultaneous with the recording of a notice of lis pendens in the public records of the county in any civil action to foreclosure on a mortgage, lien, or similar instrument that secures debt upon vacant real property in foreclosure located within the unincorporated area of the county. If any real property in foreclosure located within the unincorporated area of the county becomes vacant after commencement of foreclosure, the mortgagee shall perform an inspection of the property and shall register the vacant real property with the county no later than thirty (30) days after such vacancy occurs.
- b. Registration pursuant to this section shall contain, at a minimum, the names, mailing addresses, email addresses, and telephone numbers of the mortgagee, the chief executive officer of the mortgagee or said officer's designee, and a local property management company. The mortgagee and

the local property management company shall be responsible for inspecting, maintaining, and securing the vacant real property in foreclosure subject to the mortgage in compliance with the requirements of this chapter. The property management company named in the registration shall be available to be contacted by the county between 8:00 and 5:00 p.m. Monday through Friday, excluding holidays.

- c. The mortgagee shall pay a regulatory fee for each parcel of vacant real property in foreclosure at the time of registration.
- d. Any mortgagee that registers vacant real property in foreclosures as provided in this section shall report any change of information contained in the registration to the county within ten (10) days of the change.
- e. The registration provided in this section and the requirements for vacant real property in foreclosure set forth in this chapter shall remain in effect until the foreclosure is concluded and the real property is sold to a bona fide purchaser.
- f. Failure of the mortgagee to inspect or register any vacant real property in foreclosure or to provide any required information or change of information shall constitute a violation of this section.

SECTION 2 Requirements for vacant real property in foreclosure.

- (A) Any vacant real property in foreclosure subject to this ordinance shall be maintained in compliance with all applicable codes and ordinances, including, but not limited to, the DeSoto County Land Development Regulations, the Florida Building Code, and applicable provisions of fire safety and protection ordinances and regulations.
- (B) Any vacant real property in foreclosure subject to this Ordinance shall be maintained in a secure manner and not accessible to unauthorized persons. A secure manner includes, but is not limited to, closure and locking of windows, doors, gates, and other openings of such size that may allow a child to access the interior of any structure on the real property.
- (C) The mortgagee or the local property management company named in the registration shall inspect the vacant real property in foreclosure on a monthly basis to ensure said property is in compliance with this section. Upon request by the county, the mortgagee or the local property management company shall provide a copy of any inspection reports to the county.
- (D) Failure of the property owner, the mortgagee, or the local property management company named in the registration to maintain any vacant real property in foreclosure shall constitute a violation of this Ordinance. Failure of the mortgagee or the local property management company named in the registration to inspect any vacant real property in foreclosure or to provide any required reports shall constitute a violation of this Ordinance.

SECTION 3 Enforcement.

- (A) Any violation of this Ordinance may be enforced as provided in Section 125.69, Florida Statutes. In addition, the county may bring suit to restrain, enjoin, or otherwise prevent a violation of or mandate compliance with this Ordinance.
- (B) Violations of this Ordinance may also be enforced as provided in Chapter 162, Florida Statutes.

SECTION 4 Regulatory Fees.

An annual regulatory fee of One Hundred Dollars (\$100.00) per parcel is due and payable at the time of registration under Section 1D of this, and upon each annual renewal thereafter on the anniversary date of initial registration. A late fee of Fifty Dollars (\$50.00) shall be charged for any fee which is not paid within ten (10) days of the date when due. Any regulatory fees shall be used and expended solely for the regulatory purpose of such registration activity as provided in this Ordinance.

SECTION 5 All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

SECTION 6 If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

SECTION 7 This ordinance shall take effect June 29, 2015

PASSED AND DULY ADOPTED this 23rd day of June, 2015.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF DESOTO COUNTY, FLORIDA

Mandy Hines
Mandy Hines

By: Gabriel Quave
Gabriel Quave
Chairman

Approved as to form and legal sufficiency:

Donald D. Conn
Donald D. Conn
County Attorney

Filed with the Florida Secretary of State on June 29, 2015