

By Senator Braynon

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1 A bill to be entitled
2 An act relating to foreclosure debt relief; providing
3 a short title; providing definitions; authorizing the
4 creation and administration of a deficiency judgment
5 reimbursement program by the Florida Housing Finance
6 Corporation contingent upon the occurrence of certain
7 conditions precedent; providing for future termination
8 of the program; authorizing continuation of the
9 program under certain circumstances after depletion of
10 funds; providing procedures and eligibility
11 requirements for homeowners and financial institutions
12 to file specified monetary claims; providing an
13 effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

16
17 Section 1. Deficiency judgment reimbursement program.—

18 (1) This section may be cited as the "Foreclosure Debt
19 Claims Act."

20 (2) As used in this section, the term:

21 (a) "Deficiency" means the total amount owed by an eligible
22 homeowner to a participating financial institution as determined
23 by a court at a hearing on a motion for summary judgment in a
24 foreclosure action.

25 (b) "Eligible homeowner" means an owner of a homestead
26 property whose property is subject to a foreclosure action
27 brought by a participating financial institution and whose:

28 1. Homestead property's actual market value before default
29 has declined by 30 percent or more below the principal

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30 outstanding on the mortgage note; or

31 2. Last monthly mortgage payment owed before default
32 exceeded 31 percent of the homeowner's current monthly gross
33 income.

34 (c) "Foreclosure action" means a foreclosure action filed
35 in a court of this state.

36 (d) "Fund" means the moneys, or the account containing the
37 moneys, allocated by the United States Department of Treasury
38 from the Housing Finance Agency Innovation Fund for the Hardest-
39 Hit Housing Markets to the Florida Housing Finance Corporation.

40 (e) "Homestead property" means real property determined by
41 a court having jurisdiction over a foreclosure action brought by
42 a participating financial institution to be the primary
43 residence of the defendant homeowner based upon the totality of
44 circumstances.

45 (f) "Participating financial institution" means any
46 financial institution that:

47 1. Is authorized to engage in lending activities in this
48 state;

49 2. Holds a mortgage subject to a foreclosure action against
50 an eligible homeowner; and

51 3. Has voluntarily agreed to participate in the program.

52 (g) "Program" means the deficiency judgment reimbursement
53 program created and administered by the Florida Housing Finance
54 Corporation in accordance with this section.

55 (3) Contingent upon the United States Department of the
56 Treasury authorizing and directing the Florida Housing Finance
57 Corporation to create and administer the deficiency judgment
58 reimbursement program as provided for in this section and upon

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59 receiving a minimum of \$100 million from the Housing Finance
60 Agency Innovation Fund for the Hardest-Hit Housing Markets, the
61 corporation shall:

62 (a) Create the deficiency judgment reimbursement program in
63 compliance with both the provisions of this section and the
64 directive given by the United States Department of the Treasury
65 for the creation and administration of the program.

66 (b) Create all the notices and forms necessary for the
67 administration of the program.

68 (c) Process filed claims in the order received and pay
69 claims until the fund is depleted or the program is continued
70 pursuant to subsection (4).

71 (d) If program funds are depleted before the scheduled
72 termination of the program, notify all participating financial
73 institutions about such depletion, unless the program is
74 continued pursuant to subsection (4).

75 (4) Any program created pursuant to this section shall
76 terminate 1 year after the receipt of the funds required under
77 subsection (3). However, if the funds are depleted before the
78 scheduled termination of the program, the program may be
79 continued until the scheduled termination date, subject to an
80 appropriation by the Legislature, for the purpose of paying any
81 pending claims filed before the depletion of funds.

82 (5) An eligible homeowner is entitled to receive a waiver
83 of deficiency from a participating financial institution and up
84 to \$1,000 in moving expenses from the fund if the eligible
85 homeowner agrees in writing to:

86 (a) Settle the foreclosure action by entry of a nonmonetary
87 judgment of foreclosure against the eligible homeowner; and

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88 (b) Vacate the homestead property within 3 months after
89 entry of judgment against the eligible homeowner or the judicial
90 sale, whichever occurs later.

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92 An agreement under this subsection is valid only if it is in
93 writing.

94 (6) A participating financial institution is entitled to
95 file a claim with the Florida Housing Finance Corporation for an
96 amount equal to 10 percent of the deficiency arising from a
97 foreclosure action settled as a result of a written agreement
98 entered into by a participating financial institution and an
99 eligible homeowner pursuant to subsection (5).

100 Section 2. This act shall take effect July 1, 2011.