

By Senator Wise

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1 A bill to be entitled
2 An act relating to website notice of foreclosure
3 action; creating s. 50.015, F.S.; providing that a
4 legal publication, advertisement, or notice of
5 foreclosure action may be placed on a publicly
6 accessible Internet website of a clerk of court in
7 lieu of publication in any other form of media;
8 providing criteria for the publicly accessible
9 Internet website; providing for user access to the
10 website; providing for access by clerks of court and
11 chief judges; providing requirements for the website
12 provider; providing posting requirements; authorizing
13 the clerk of court to contract with a publicly
14 accessible Internet website provider; providing for
15 terms and revenue sharing in the contract; amending s.
16 702.035, F.S.; providing for notice of foreclosure
17 action to be posted on a publicly accessible Internet
18 website; providing an effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Section 50.015, Florida Statutes, is created to
23 read:

24 50.015 Legal publication, advertisement, or notice of
25 foreclosure action on a publicly accessible Internet website.-

26 (1) A legal publication, advertisement, or notice of
27 foreclosure action required by s. 702.035 may be placed on a
28 publicly accessible website of the clerk of court in lieu of
29 publication in any other form of media.

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30 (2) For purposes of this section, a publicly accessible
31 Internet website must:

32 (a) Be approved for legal publication, advertisement, and
33 notice by the Florida Clerks of Court Operations Corporation.

34 (b)1. Maintain a legal publication, advertisement, or
35 notice of foreclosure action for 90 days following the first day
36 of posting or for as long as provided in paragraph (6) (b) or
37 paragraph (6) (c).

38 2. Maintain all legal publications, advertisements, or
39 notice of foreclosure action searchable and accessible to users
40 for 10 years following the first day of posting.

41 (c) Receive at least 100,000 total impressions per month,
42 which must be certified by a recognized Internet search engine.
43 For the purpose of this paragraph, the term "impression" means
44 the time at which a notice is viewed once by a visitor on an
45 Internet web page.

46 (d) Maintain 24-hour customer support, along with live
47 electronic communication and telephone support for a minimum of
48 12 hours per day during peak-time usage.

49 (e) Post information other than the legal publication,
50 advertisement, or notice of foreclosure action in English and
51 Spanish.

52 (f) Post online tutorials for users.

53 (g) Be maintained on a data center that is compliant with
54 the Statement on Auditing Standards No. 70. The website provider
55 shall provide a certificate of compliance to each clerk of the
56 court.

57 (3) (a) A user may not be required to register with the
58 website and may not be charged for access to postings of legal

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59 publications, advertisements, or notices of foreclosure actions
60 which are posted as provided in subparagraph (2) (b)1.

61 (b) A user may be required to register with the website in
62 order to access postings of legal publications, advertisements,
63 or notices of foreclosure actions which are posted as provided
64 in subparagraph (2) (b)2. Each clerk of court may allow a fee and
65 determine an amount that the website provider may charge a user
66 to access postings of legal publications, advertisements, or
67 notices of foreclosure actions which are posted as provided in
68 subparagraph (2) (b)2.

69 (4) (a) Each clerk of court and deputy clerk shall have 24-
70 hour access at no charge to all records relevant to the legal
71 publications, advertisements, or notices of foreclosure action
72 in the county of each clerk of court through a fully secure
73 portal accessed by a distinct user name and password.

74 (b) The chief judge of each judicial circuit, and his or
75 her designee, shall have access at no charge to all documents
76 published or maintained on the website.

77 (5) The website provider shall develop and maintain on
78 file, and provide to the clerk of court and the chief judge of
79 each judicial circuit, a disaster recovery plan for the website.

80 (6) (a) The website provider shall publish its affidavits
81 electronically in substantial conformity with ss. 50.041 and
82 50.051, and may use an electronic notary seal.

83 (b) Legal publication, advertisement, or notice of
84 foreclosure action shall be posted within 3 business days,
85 excluding court holidays, after the date for the foreclosure
86 sale is set, and shall continue for 10 days after the
87 foreclosure sale or for 90 consecutive days, whichever period is

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88 longer. This paragraph does not affect the requirements for the
89 manner and time for constructive service by publication provided
90 by chapter 49 or the manner and time for notices of sale
91 provided in s. 45.031 if the notice provided in this section
92 continues for the 90-day period.

93 (c) If the defendant refuses to accept or evades service or
94 if the agent serving process is unable to effect service, legal
95 publication, advertisement, or notice of foreclosure action
96 shall be posted on the website beginning on the date that the
97 affidavit of nonservice is recorded and shall continue through
98 the conclusion of the action or for 90 consecutive days,
99 whichever period is longer.

100 (7) The legal publication, advertisement, or notice of
101 foreclosure action on the website must conform substantially
102 with the requirements of s. 50.011, unless inconsistent with
103 this section.

104 (8) Each clerk of court may contract with a publicly
105 accessible Internet website provider for legal publication,
106 advertisement, or notice of foreclosure action as required by s.
107 702.035. Fees for publication shall be consistent with s.
108 50.061.

109 (a) The website provider shall provide to the clerk of
110 court a quarterly accounting of revenue generated.

111 (b) The website provider shall remit to the clerk of court
112 50 percent of all net revenue generated from the publication
113 fees for legal publication, advertisement, or notice of
114 foreclosure action.

115 (c) The website provider shall deposit, by electronic
116 transfer at no cost to the clerk of court, the clerk of court's

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117 share of the net revenue generated monthly by the 5th day of the
118 following month. Between each monthly deposit, the revenue shall
119 be held as provided by the contract between the website provider
120 and the clerk of court.

121 Section 2. Section 702.035, Florida Statutes, is amended to
122 read:

123 702.035 Legal notice concerning foreclosure proceedings.—
124 Whenever a legal advertisement, publication, or notice relating
125 to a foreclosure proceeding is required to be placed in a
126 newspaper or posted on a publicly accessible Internet website as
127 provided in s. 50.015, it is the responsibility of the
128 petitioner or petitioner's attorney to place such advertisement,
129 publication, or notice. Unless posted on a publicly accessible
130 Internet website, for counties with more than 1 million total
131 population as reflected in the 2000 Official Decennial Census of
132 the United States Census Bureau as shown on the official website
133 of the United States Census Bureau, any notice of publication
134 required by this section shall be deemed to have been published
135 in accordance with the law if the notice is published in a
136 newspaper that has been entered as a periodical matter at a post
137 office in the county in which the newspaper is published, is
138 published a minimum of 5 days a week, exclusive of legal
139 holidays, and has been in existence and published a minimum of 5
140 days a week, exclusive of legal holidays, for 1 year or is a
141 direct successor to a newspaper that has been in existence for 1
142 year that has been published a minimum of 5 days a week,
143 exclusive of legal holidays. The advertisement, publication, or
144 notice shall be placed directly by the attorney for the
145 petitioner, by the petitioner if acting pro se, or by the clerk

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146 of the court. Only the actual costs charged by the newspaper or
147 Internet website provider for the advertisement, publication, or
148 notice may be charged as costs in the action.

149 Section 3. This act shall take effect April 1, 2012.