

1                   A bill to be entitled  
2           An act relating to homeowner relief; creating parts I, II,  
3           III, IV, V, VI, VII, and VIII of chapter 52, F.S.;  
4           providing general provisions for an alternative method of  
5           foreclosures other than under the judicial system;  
6           providing a short title; providing for scope of  
7           applicability; excluding homestead property; providing  
8           definitions; providing for variation by agreement;  
9           providing for application of supplemental principles of  
10          law and equity; providing criteria for notice and  
11          knowledge; providing for transactions creating a security  
12          interest; providing for time of foreclosure; providing  
13          procedures, requirements, and limitations before  
14          foreclosure; specifying a right to foreclose; requiring a  
15          notice of default; providing a right to cure; providing  
16          requirements for a notice of foreclosure; providing for a  
17          meeting and meeting requirements to object to foreclosure;  
18          providing a period of limitation for foreclosure;  
19          providing for judicial supervision of foreclosure;  
20          providing procedures and limitations for foreclosures  
21          brought under the judicial system; providing for a right  
22          to redeem collateral; providing authority, requirements,  
23          procedures, and limitations on foreclosures by auction,  
24          foreclosures by negotiated sale, and foreclosures by  
25          appraisal; providing for rights after foreclosure;  
26          providing for application of proceeds, transfer of title,  
27          actions for damages or to set aside a foreclosure,  
28          possession after foreclosure, judgments for deficiencies,

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29 and determinations of amounts of a deficiency; providing  
30 for effect of good faith by a debtor; providing  
31 application and construction; providing authority,  
32 requirements, procedures, and limitations on  
33 discontinuation of a foreclosure; providing for uniformity  
34 of application and construction; specifying a relation to  
35 the Electronic Signatures in Global and National Commerce  
36 Act; providing an effective date.

37  
38 WHEREAS, Florida is still recovering from the worst housing  
39 bubble in memory, and

40 WHEREAS, many Floridians are left unable to pay their  
41 mortgage debt, taxes, or insurance and fees and face the  
42 prospect of huge deficiency judgments, that is, they are liable  
43 for mortgage debt that exceeds the value of their homes, and

44 WHEREAS, many homeowner and condominium associations are  
45 struggling to maintain common areas because owners are not  
46 paying dues and assessments, and

47 WHEREAS, municipalities, counties, and school districts are  
48 struggling to pay for the valuable services they provide because  
49 so many homeowners are not paying real estate taxes owed, and

50 WHEREAS, Florida's courts are overburdened with foreclosure  
51 cases, with nearly 500,000 backlogged cases as of December 31,  
52 2009, and expected delays of 18-24 month periods before  
53 foreclosure cases are resolved, and

54 WHERE, local community banks are unable to make new loans  
55 to small businesses to create new jobs because their capital is

56 tied up in defaulted real estate mortgages that are bogged down  
 57 in the courts, and

58 WHEREAS, Florida's economy will not bottom out, and  
 59 sustained recovery cannot begin, until real estate supply and  
 60 demand balance and homeowner debt issues are resolved, NOW,  
 61 THEREFORE,

62  
 63 Be It Enacted by the Legislature of the State of Florida:

64  
 65 Section 1. Part I of chapter 52, Florida Statutes,  
 66 consisting of sections 52.101, 52.102, 52.103, 52.104, 52.105,  
 67 52.106, 52.107, and 52.108, is created to read:

68 PART I

69 GENERAL PROVISIONS

70 52.101 Short title; scope of applicability.-

71 (1) This chapter may be cited as the "Homeowner Relief and  
 72 Housing Recovery Act."

73 (2) In lieu of any other foreclosure remedy which may be  
 74 available under the laws of this state under the judicial  
 75 system, this chapter may, at the option of the foreclosing  
 76 creditor, be used to effect a foreclosure of a security  
 77 instrument. However, if the foreclosing creditor does not elect  
 78 to use this chapter to effect a foreclosure, nothing in this  
 79 chapter is intended to modify any other foreclosure remedy  
 80 available under the laws of this state.

81 52.102 Definitions.-For purposes of this chapter:

82 (1) "Collateral" means property, real or personal, subject  
 83 to a security interest.

84           (2) "Common interest community" means real property for  
 85 which a person is obligated to pay real property taxes,  
 86 insurance premiums, maintenance, or improvement of other real  
 87 property described in a declaration or other governing  
 88 documents, however denominated, by virtue of the community's or  
 89 association's ownership thereof or the holding of a leasehold  
 90 interest of at least 20 years, including renewal options  
 91 therein. The term "common interest community" includes a  
 92 community governed by a homeowners' association as defined in s.  
 93 720.301 and a condominium community governed by one or more  
 94 condominium associations as defined in s. 718.103.

95           (3) "Day" means a calendar day.

96           (4) "Debtor" means a person that owes payment or other  
 97 performance of an obligation, whether absolute or conditional,  
 98 primary or secondary, secured under a security instrument,  
 99 whether or not the security instrument imposes personal  
 100 liability on the debtor. The term does not include a person  
 101 whose sole interest in the property is a security interest.

102           (5) "Evidence of title" means a title insurance policy, a  
 103 preliminary title report or binder, a title insurance  
 104 commitment, an attorney's opinion of title based on an  
 105 examination of the public records or an abstract, or any other  
 106 means of reporting the state of title to real estate that is  
 107 customary in the locality.

108           (6) "Expenses of foreclosure" means the lesser of the  
 109 reasonable costs incurred by a secured creditor or the maximum  
 110 amounts permitted by any other laws of this state in connection  
 111 with a foreclosure for transmission of notices, advertising,

112 evidence of title, inspections and examinations of the  
 113 collateral, management and securing of the collateral, liability  
 114 insurance, filing and recording fees, attorneys' fees and  
 115 litigation expenses incurred pursuant to ss. 52.207 and 52.601  
 116 to the extent provided in the security instrument or authorized  
 117 by law, appraisal fees, the fee of the person conducting the  
 118 sale in the case of a foreclosure by auction, fees of court-  
 119 appointed receivers, and other expenses reasonably necessary to  
 120 the foreclosure.

121 (7) "Foreclosing creditor" means a secured creditor who is  
 122 engaged in a foreclosure under this chapter.

123 (8) "Guarantor" means a person liable for the debt of  
 124 another, and includes a surety and an accommodation party.

125 (9) "Interest holder" means a person who owns a legally  
 126 recognized interest in real or personal property that is  
 127 subordinate in priority to a security interest foreclosed under  
 128 this chapter.

129 (10) "Original notice of foreclosure" means the first  
 130 notice of foreclosure sent pursuant to s. 52.204 instituting a  
 131 foreclosure under this chapter.

132 (11) "Purchase-money obligation" means an obligation  
 133 incurred in order to pay part or all of the purchase price of  
 134 residential real property collateral. An obligation is not a  
 135 purchase-money obligation if any part of the real property  
 136 securing it is not residential real property. A purchase-money  
 137 obligation includes an obligation:

138 (a) Incurred to the vendor of the real property;

139 (b) Owed to a third-party lender to pay a loan made to pay  
 140 part or all of the purchase price of the real property;

141 (c) Incurred to purchase labor and materials for the  
 142 construction of substantial improvements on the real property;  
 143 or

144 (d) To pay a loan all of the proceeds of which were used  
 145 to repay in full an obligation of the type described in  
 146 paragraphs (a)-(c).

147 (12) "Real property" means any estate or interest in,  
 148 over, or under land, including minerals, structures, fixtures,  
 149 and other things that by custom, usage, or law pass with a  
 150 conveyance of land though not described or mentioned in the  
 151 contract of sale or instrument of conveyance. The term includes  
 152 the interest of a landlord or tenant and, unless under the law  
 153 of the state in which the property is located that interest is  
 154 personal property, an interest in a common interest community.

155 (13) "Record" when used as a verb, means to take the  
 156 actions necessary to perfect an interest in real property under  
 157 the laws of this state.

158 (14) "Record" used as a noun, means information that is  
 159 inscribed on a tangible medium or that is stored in an  
 160 electronic or other medium and is retrievable in perceivable  
 161 form.

162 (15) "Residential" means:

163 (a) As applied to an interest holder, an individual who  
 164 holds a possessory interest, other than a leasehold interest  
 165 with a duration of 1 year or less, in residential real property  
 166 in which a security interest exists, and any person that is

167 wholly owned and controlled by such an individual or  
168 individuals.

169 (b) As applied to a debtor, an individual who is  
170 obligated, primarily or secondarily, on an obligation secured in  
171 whole or in part by residential real property, and any person  
172 that is wholly owned and controlled by such an individual or  
173 individuals.

174 (16) "Residential real property" means real property that,  
175 when a security instrument is entered into, is used or is  
176 intended by its owner to be used primarily for the personal,  
177 family, or household purposes of its owner and is improved, or  
178 is intended by its owner to be improved, by one to four dwelling  
179 units.

180 (17) "Secured creditor" means a creditor that has the  
181 right to foreclose a security interest in real property under  
182 this chapter.

183 (18) "Security instrument" means a mortgage, deed of  
184 trust, security deed, contract for deed, agreement for deed,  
185 land sale contract, lease creating a security interest, or other  
186 contract or conveyance that creates or provides for an interest  
187 in real property to secure payment or performance of an  
188 obligation, whether by acquisition or retention of a lien, a  
189 lessor's interest under a lease, or title to the real property.  
190 A security instrument may also create a security interest in  
191 personal property. If a security instrument makes a default  
192 under any other agreement a default under the security  
193 instrument, the security instrument includes the other  
194 agreement. The term includes any modification or amendment of a

195 security instrument, and includes a lien on real property  
 196 created by a record to secure an obligation owed by an owner of  
 197 the real property to an association in a common interest  
 198 community or under covenants running with the real property.

199 (19) "Security interest" means an interest in real or  
 200 personal property that secures payment or performance of an  
 201 obligation.

202 (20) "Sign" means:

203 (a) Execute or adopt a tangible symbol with the present  
 204 intent to authenticate a record; or

205 (b) Attach or logically associate an electronic symbol,  
 206 sound, or process to or with a record with the present intent to  
 207 authenticate a record.

208 (21) "State" means a state of the United States, the  
 209 District of Columbia, Puerto Rico, the United States Virgin  
 210 Islands, or any territory or insular possession subject to the  
 211 jurisdiction of the United States.

212 (22) "Time of foreclosure" means the time that title to  
 213 real property collateral passes to the person acquiring it by  
 214 virtue of foreclosure under this chapter.

215 52.103 Application.—

216 (1) Except as otherwise provided in subsection (2), this  
 217 chapter authorizes the nonjudicial foreclosure of every form of  
 218 security interest in real property located in this state and  
 219 related personal property entered into before, on, or after July  
 220 1, 2010, if the original notice of foreclosure is given after  
 221 July 1, 2010, and if the debtor has agreed in substance in the  
 222 security instrument that:



223        (a) The security interest may be foreclosed pursuant to  
 224 this chapter; or

225        (b) The security interest may be foreclosed by nonjudicial  
 226 process.

227        (2) This chapter may not be used to foreclose:

228        (a) A lien created by statute or operation of law, except  
 229 a lien of an owners' association on property in a common  
 230 interest community;

231        (b) A security interest in property in a common interest  
 232 community if under the law of this state that interest is  
 233 personal property; or

234        (c) A security interest in rents or proceeds of real  
 235 property.

236        (3) This chapter does not preclude or govern foreclosure  
 237 or other enforcement of security interests in real property by  
 238 judicial or other action permitted by any other laws of this  
 239 state.

240        (a) A secured creditor may not take action in pursuance of  
 241 foreclosure under this chapter if a judicial proceeding is  
 242 pending in this state to foreclose the security interest or to  
 243 enforce the secured obligation against a person primarily liable  
 244 for the obligation.

245        (b) A secured creditor may not commence or pursue  
 246 foreclosure under this chapter if a judicial proceeding is  
 247 pending in this state to challenge the existence, validity, or  
 248 enforceability of the security interest to be foreclosed.

249        (c) Except as provided in s. 52.208(2), foreclosure under  
 250 this chapter may proceed even if a judicial proceeding is

251 pending or a judicial order has been obtained for appointment or  
 252 supervision of a receiver of the collateral, possession of the  
 253 collateral, enforcement of an assignment of rents or other  
 254 proceeds of the collateral, or collection or sequestration of  
 255 rents or other proceeds of the collateral or to enforce the  
 256 secured obligation against a guarantor.

257 (4) If a security instrument covers both real property and  
 258 personal property, the secured creditor may proceed under this  
 259 chapter as to both the real property and personal property to  
 260 the extent permitted by chapter 679.

261 52.104 Variation by agreement.-

262 (1) Except as otherwise provided in subsections (2)-(4),  
 263 the parties to a security instrument may not vary by agreement  
 264 the effect of a provision of this chapter.

265 (2) The time within which a person must respond to a  
 266 notice sent by a secured creditor may be extended by agreement.

267 (3) The parties to a security instrument may vary the  
 268 effect of any provision of this chapter that by its terms  
 269 permits the parties to do so.

270 (4) The parties by agreement may determine the standards  
 271 by which performance of obligations under this chapter is to be  
 272 measured if those standards are not manifestly unreasonable.

273 (5) If every debtor under a security instrument is not a  
 274 residential debtor, an agreement by a guarantor waiving the  
 275 right to receive notices under this chapter with respect to the  
 276 foreclosure of the property of a debtor who is not a guarantor  
 277 is enforceable unless a waiver is unenforceable under other  
 278 applicable law.

279 52.105 Supplemental principles of law and equity  
 280 applicable.—Unless displaced by a particular provision of this  
 281 chapter, the principles of law and equity affecting security  
 282 interests in real property supplement this chapter.

283 52.106 Notice and knowledge.—For purposes of this section:

284 (1) The following definitions apply:

285 (a) "Address" means a physical or an electronic address,  
 286 or both, as the security instrument requires.

287 (b) "Address for notice" means:

288 1. With respect to a notice given by a secured creditor:

289 a. For a recipient that has given to the secured creditor  
 290 a security instrument or other document in connection with a  
 291 security instrument, the address, if any, specified in the  
 292 security instrument or document.

293 b. For a recipient not described in sub-subparagraph a.  
 294 that is identifiable from examination of the public records of  
 295 the county or counties in which the collateral is located, or,  
 296 if personal property is being foreclosed together with real  
 297 property, the Uniform Commercial Code financing statement  
 298 filings, the address, if any, specified in the recorded or filed  
 299 document.

300 c. For a recipient not described in sub-subparagraph a. or  
 301 sub-subparagraph b. that the secured creditor knows is a tenant,  
 302 subtenant, or leasehold assignee of all or part of the real  
 303 property collateral, the most recent address made known to the  
 304 secured creditor by that person or, if none, the address of the  
 305 real property collateral, including the designation of any  
 306 office, apartment, or other unit that the secured creditor knows

307 is possessed by the recipient, with the notice directed to the  
308 recipient's name, if known, or otherwise "To Tenant occupying  
309 property at" the physical address or description of the real  
310 property collateral.

311 d. For a recipient not described in sub-subparagraphs a.-  
312 c., the physical address of the real property collateral.

313 2. With respect to notices given by persons other than a  
314 secured creditor, the most recent address given in a document  
315 provided by the recipient to the person giving notice.

316 (c) "Electronic" means relating to technology having  
317 electrical, digital, magnetic, wireless, optical,  
318 electromagnetic, or similar capabilities.

319 (d) "Electronic notice" means an electronic record signed  
320 by the person sending the notice.

321 (e) "Electronic record" means a record created, generated,  
322 sent, communicated, received, or stored by electronic means.

323 (f) "Electronic signature" means an electronic sound,  
324 symbol, or process attached to or logically associated with a  
325 record and executed or adopted by a person with intent to  
326 authenticate the record.

327 (g) "Recipient" means a person to whom a notice is sent.

328 (h) "Written notice" means a written record signed by the  
329 person giving the notice.

330 (2) A person knows a fact if:

331 (a) The person has actual knowledge of the fact;

332 (b) The person has received a notice or notification of  
333 the fact; or

334 (c) From all the facts and circumstances known to the  
335 person at the time in question the person has reason to know the  
336 fact.

337 (3) Notice is sent or given, or a recipient is notified,  
338 subject to the limitations of subsection (4):

339 (a) By hand delivering a written notice to the recipient  
340 or to an individual authorized to receive service of civil  
341 process under applicable Florida law who is found at the  
342 recipient's address for notice;

343 (b) By depositing written notice, properly addressed to  
344 the recipient's address for notice, with cost of delivery paid:

345 1. With the United States Postal Service, registered or  
346 certified mail, return receipt requested;

347 2. With the United States Postal Service by regular mail;  
348 or

349 3. With a commercially reasonable carrier other than the  
350 United States Postal Service; or

351 (c) Subject to subsection (7), by initiating operations  
352 that in the ordinary course will cause the notice to come into  
353 existence at the recipient's address for notice in the  
354 recipient's information processing system in a form capable of  
355 being processed by the recipient.

356 (4) If the recipient is an individual and the security  
357 interest covers the recipient's primary residence, use of the  
358 methods of notice specified in subsection (3) is limited as  
359 follows:

360 (a) If the notice is a notice of default pursuant to s.  
361 52.202 or a notice of foreclosure pursuant to s. 52.203, both of

362 the methods of giving notice specified in subparagraphs (3)(b)2.  
363 and 3. must be used.

364 (b) If the notice is not a notice of default pursuant to  
365 s. 52.202 or a notice of foreclosure pursuant to s. 52.203, a  
366 method of giving notice specified in paragraph (3)(a) or  
367 paragraph (3)(b) must be used.

368 (5) If a person giving a notice pursuant to this chapter  
369 and the recipient have agreed to limit the methods of giving  
370 notice otherwise permitted by subsections (3) and (4), that  
371 limitation is enforceable to the extent that it is consistent  
372 with subsection (4) and is otherwise permitted by law.

373 (6) A person may not give an electronic notice unless the  
374 recipient uses, designates by agreement, or otherwise has  
375 designated or holds out an information processing system or  
376 address within that system as a place for the receipt of  
377 communications of that kind. An electronic notice is not sent if  
378 the sender or its information processing system inhibits the  
379 ability of the recipient to print or store the record.

380 (7) If, at the time of giving a required notice, a person  
381 knows that the recipient's address for notice is incorrect or  
382 that notices cannot be delivered to the recipient at that  
383 address, the person that sent the notice shall make a reasonable  
384 effort to determine a correct address for the recipient and send  
385 the notice to the address so determined. Compliance with the  
386 provisions of chapter 49 satisfies the requirement to make  
387 reasonable effort to locate the party entitled to notice.

388 (8) If, after giving a notice, a person acquires knowledge  
389 that the address of the recipient to which the notice was

390 directed is incorrect or that notices cannot be delivered to the  
391 recipient at that address, the person that sent the notice shall  
392 promptly make a reasonable effort to determine a correct address  
393 for the recipient and send another copy of the notice to the  
394 address so determined, if any. The first notice, if timely sent  
395 and properly directed to the recipient's address for notice,  
396 complies with the time requirements of this chapter.

397 (9) A person may use methods of giving notice in addition  
398 to, but not in place of, the methods required by subsections (3)  
399 and (4).

400 (10) A notice is sufficient even if it includes  
401 information not required by law or contains minor errors that  
402 are not seriously misleading.

403 (11) Receipt of a notice within the time in which it would  
404 have been received if properly sent has the effect of a proper  
405 giving of notice.

406 (12) If the recipient is an individual, a notice is  
407 received when it comes to the recipient's attention or is  
408 delivered to and available at the recipient's address for  
409 notice. If the recipient is not an individual, a notice is  
410 received when it is brought to the attention of the individual  
411 conducting the transaction, or in any event when it would have  
412 been brought to that individual's attention if the recipient had  
413 exercised due diligence. An organization exercises due diligence  
414 if it maintains reasonable routines for communicating  
415 significant information with the person conducting the  
416 transaction and there is reasonable compliance with the  
417 routines. Due diligence does not require an individual acting

418 for the organization to communicate information unless such  
 419 communication is part of the individual's regular duties or  
 420 unless the individual has reason to know of the transaction and  
 421 that the transaction would be materially affected by the  
 422 information.

423 (13) Subject to subsection (12), a person that has sent a  
 424 notice may revoke it by a subsequent notice unless the recipient  
 425 has materially changed its position in reliance on the notice  
 426 before receiving the revocation.

427 52.107 Transaction creating security interest.—A  
 428 transaction that is intended to create a security interest does  
 429 so irrespective of the caption of the documents.

430 52.108 Time of foreclosure.—The time of foreclosure is the  
 431 time the affidavit required by:

432 (1) Section 52.312 is recorded, in the case of a  
 433 foreclosure by auction.

434 (2) Section 52.405 is recorded, in the case of a  
 435 foreclosure by negotiated sale.

436 (3) Section 52.505 is recorded, in the case of a  
 437 foreclosure by appraisal.

438 Section 2. Part II of chapter 52, Florida Statutes,  
 439 consisting of sections 52.201, 52.202, 52.203, 52.204, 52.205,  
 440 52.206, 52.207, 52.208, and 52.209, is created to read:

441 PART II

442 PROCEDURES BEFORE FORECLOSURE

443 52.201 Right to foreclose.—

444 (1) A secured creditor has a right to foreclose under this  
 445 chapter if:



446 (a) All conditions that, by law and the terms of the  
 447 security instrument, are prerequisites to foreclosure have been  
 448 satisfied.

449 (b) All notices to the debtor required by the security  
 450 instrument and by this chapter as prerequisites to foreclosure  
 451 have been given.

452 (c) All periods for cure available to the debtor by the  
 453 terms of the security instrument and law as prerequisites to  
 454 foreclosure have elapsed and no cure has been made.

455 (2) A foreclosing creditor may pursue foreclosure  
 456 exclusively by auction, by negotiated sale, or by appraisal, or  
 457 may simultaneously pursue, together with foreclosure by auction,  
 458 either foreclosure by negotiated sale or by appraisal, but not  
 459 both. If the creditor pursues two methods of foreclosure  
 460 simultaneously, the notice of foreclosure must state both  
 461 methods.

462 52.202 Notice of default and right to cure.—

463 (1) Subject to subsection (2) and paragraph (6)(a), a  
 464 notice of default must be given to each debtor and each interest  
 465 holder whose interest gives right of possession of the real  
 466 property collateral, and the cure period provided by this  
 467 section must expire without cure being made, before the original  
 468 notice of foreclosure may be given.

469 (2) Except as provided in the security instrument, notice  
 470 of default need not be given and no cure period is applicable if  
 471 the default cannot be cured.

472 (3) A notice of default must contain:

473 (a) The facts establishing that a default has occurred.

474 (b) The amount to be paid or other performance required to  
475 cure the default, including the daily rate of accrual for  
476 amounts accruing over time, and the time within which cure must  
477 be made.

478 (c) The name, address, and telephone number of an  
479 individual who is or represents the secured creditor and who can  
480 be contacted for further information concerning the default.

481 (d) A statement that foreclosure may be initiated if the  
482 default is not cured in a timely manner.

483 (4) Within 30 days after notice of default is given to the  
484 last person entitled to such notice, any person may:

485 (a) Cure the default if the default is curable by the  
486 payment of money; or

487 (b) Commence to cure the default if the default cannot be  
488 cured by the payment of money, diligently proceed to cure the  
489 default, and complete the cure of the default within 90 days  
490 after the notice of default was given.

491 (5) If no person is proceeding diligently to cure a  
492 default that cannot be cured by the payment of money after 30  
493 days from the date the notice of default was sent to the last  
494 person entitled to such notice, the secured creditor may  
495 immediately terminate the period allowed for cure by  
496 accelerating payment of the principal amount owing on the  
497 secured obligation or giving an original notice of foreclosure.

498 (6) If none of the real property to be foreclosed is  
499 residential real property:

500 (a) If a default cannot be cured by the payment of money  
501 and a notice of default was given by the secured creditor within

502 1 year before the date of the present default on account of a  
503 default of the same kind, a notice of default is not required  
504 and a right to cure does not exist except as agreed by the  
505 parties.

506 (b) The periods specified in subsection (4) to cure a  
507 default may be reduced as the parties agree in the security  
508 instrument.

509 (7) A notice of default may be given notwithstanding that  
510 a notice of default has previously been given on account of a  
511 different default and is still pending.

512 (8) The right to cure a default provided in this section  
513 does not impair or limit any other right to notice of default or  
514 to cure a default provided to any person by the security  
515 instrument. The period to cure provided in this section and any  
516 period to cure provided in the security instrument run  
517 concurrently unless the security instrument provides otherwise.

518 (9) Unless precluded from doing so by law other than this  
519 chapter, a secured creditor shall cooperate with any debtor or  
520 interest holder that attempts to cure a default by promptly  
521 providing upon request reasonable information concerning the  
522 amount or other performance due and expenses necessary for cure.

523 (10) If a default is cured within a period allowed by this  
524 section, or after the expiration of that period but before  
525 acceleration of the principal amount owing on the secured  
526 obligation or the giving of an original notice of foreclosure,  
527 an acceleration by the secured creditor of the principal amount  
528 owing on the secured obligation on account of that default is  
529 ineffective.

530       (11) During a period allowed for cure of a default under  
531 this section, a secured creditor may enforce any remedy other  
532 than foreclosure provided for by the security instrument and  
533 enforceable under the laws of this state other than this chapter  
534 if enforcement does not unreasonably interfere with the ability  
535 of a debtor to cure a default under this section.

536       52.203 Notice of foreclosure; manner of giving.—

537       (1) If a secured creditor has a right to foreclose under  
538 s. 52.201, the secured creditor may commence foreclosure by  
539 giving notice of foreclosure. The notice must comply with  
540 subsections (2) and (3) and s. 52.204 and is a prerequisite to  
541 foreclosure.

542       (2) A foreclosing creditor shall record a copy of the  
543 notice of foreclosure in the public records of each county in  
544 which the real property collateral is located. A recorded notice  
545 of foreclosure is notice of its existence and contents to any  
546 person acquiring an interest in the real property collateral  
547 after the notice of foreclosure is recorded. In the absence of  
548 recording of the notice of foreclosure, any purported  
549 foreclosure under this chapter is void.

550       (3) Except as otherwise provided in subsection (4), a  
551 foreclosing creditor shall give a notice of foreclosure to the  
552 following persons no later than 5 days after recording the  
553 original notice of foreclosure pursuant to subsection (2) if  
554 such persons can be identified as of the time of recording of  
555 the notice of foreclosure:

556       (a) A person that the foreclosing creditor knows to be a  
557 debtor.

558       (b) A person specified by the debtor in the security  
 559 instrument to receive notice on the debtor's behalf.

560       (c) A person that is shown by the public records of each  
 561 county in which any part of the real property collateral is  
 562 located to be an interest holder in the real property  
 563 collateral.

564       (d) If the foreclosing creditor holds and intends to  
 565 foreclose on a security interest in personal property, a person  
 566 who is entitled to notice with respect to the disposition of the  
 567 personal property collateral under chapter 679.

568       (e) A person who the foreclosing creditor knows is an  
 569 interest holder in the real property collateral.

570       (f) A person that has recorded in the public records of a  
 571 county in which any part of the real property collateral is  
 572 located a request for notice of foreclosure satisfying the  
 573 requirements of s. 52.205.

574       (4) After the time of recording of the notice of  
 575 foreclosure, if the foreclosing creditor obtains actual  
 576 knowledge that a person holds an interest in the collateral that  
 577 is subordinate in priority to the security instrument, the  
 578 foreclosing creditor must give a notice of foreclosure to that  
 579 person no later than 5 days after obtaining such knowledge.

580       (5) A foreclosing creditor may give a special notice of  
 581 foreclosure to any person described in subsection (3) or  
 582 subsection (4) to avoid the termination of that person's  
 583 interest in the collateral by the foreclosure. The special  
 584 notice shall give the information required by s. 52.204, but

585 state that the recipient's interest in the collateral will not  
 586 be terminated by the foreclosure.

587 (6) A foreclosing creditor, within 10 days before or after  
 588 recording a notice of foreclosure, shall affix a copy of the  
 589 notice of foreclosure at a conspicuous place on the real  
 590 property collateral.

591 (7) An original notice of foreclosure is ineffective if  
 592 given after the limitation period for foreclosure of a security  
 593 interest in real property by judicial proceeding has expired.

594 52.204 Notice of foreclosure: content.—

595 (1) The heading of a notice of foreclosure must be  
 596 conspicuous and must read as follows:

597 "NOTICE OF FORECLOSURE. YOU ARE HEREBY NOTIFIED THAT YOU  
 598 MAY LOSE YOUR RIGHTS TO CERTAIN PROPERTY. READ THIS  
 599 NOTICE IMMEDIATELY AND CAREFULLY."

600 (2) A notice of foreclosure must contain:

601 (a) The date of the notice, the name of the owner of the  
 602 collateral as identified in the security instrument, a legally  
 603 sufficient description and, at the secured creditor's option,  
 604 the street address, if any, stated in the security instrument of  
 605 the real property collateral or portion thereof being  
 606 foreclosed, and a description of any personal property  
 607 collateral to be included in the foreclosure.

608 (b) Information concerning the recording of the security  
 609 instrument, including the recording date, and the official  
 610 records book and page number or the official recording number  
 611 for the security instrument.

612 (c) A statement that a default exists under the security  
613 instrument, and the facts establishing the default.

614 (d) A statement that the foreclosing creditor is  
615 initiating foreclosure.

616 (e) A statement that the foreclosing creditor has  
617 accelerated or, by virtue of the notice, is accelerating the due  
618 date of the principal amount owing on the secured obligation or  
619 a statement that the foreclosing creditor elects not to  
620 accelerate the due date.

621 (f) A statement that the collateral may be redeemed from  
622 the security interest by payment in full or performance of the  
623 secured obligation in full before foreclosure and the amount to  
624 be paid or other action necessary to redeem, including a per  
625 diem amount that will allow calculation of the total balance  
626 owed as of future dates and any further amount the foreclosing  
627 creditor anticipates expending to protect the collateral.

628 (g) A statement of the method or methods of foreclosure  
629 the foreclosing creditor elects to use and the earliest date on  
630 which foreclosure will occur if no redemption is made.

631 (h) A statement that the foreclosure will terminate the  
632 rights in the collateral of the person receiving the notice of  
633 foreclosure.

634 (i) If applicable, an explanation of a debtor's right to  
635 avoid a deficiency claim by compliance with s. 52.605.

636 (j) If the foreclosure is by negotiated sale or by  
637 appraisal, an explanation of the right of the debtor and holders  
638 of subordinate interests to object to the foreclosure as  
639 provided by s. 52.206.

640 (k) If applicable, a statement that, within 15 days after  
641 the date the notice of foreclosure is given, a debtor or an  
642 interest holder having a possessory interest in the real  
643 property collateral may request a meeting with a representative  
644 of the foreclosing creditor to object to the foreclosure as  
645 provided by s. 52.206.

646 (l) The name, address, and telephone number of an  
647 individual who is the foreclosing creditor or a representative  
648 of the foreclosing creditor and who can be contacted for further  
649 information concerning the foreclosure.

650 (m) A statement that any person receiving a notice of  
651 foreclosure may file an action in court objecting to the  
652 foreclosure, which action must be filed within 20 days after  
653 receipt of the original notice of foreclosure.

654 52.205 Request for notice of foreclosure.-

655 (1) Any person may record in the public records of any  
656 county or counties a request for notice of foreclosure of a  
657 security instrument that has been recorded in such county or  
658 counties. The request must state:

659 (a) The date of the security interest, the date of its  
660 recording, and the official records book and page, or official  
661 recording number of the security instrument's recording.

662 (b) The names of the parties to the security instrument.

663 (c) A legally sufficient description of the real property  
664 collateral affected by the security instrument.

665 (d) The name and address of the person requesting notice  
666 of foreclosure.



667 (e) The legal interest, if any, held by the person  
668 recording the request for notice.

669 (2) A person that records a request under subsection (1)  
670 prior to the secured party's commencing foreclosure as provided  
671 in s. 52.203(1) is entitled to be given notice of foreclosure  
672 under s. 52.203(1). Recording a request does not affect the  
673 title to the real property collateral and does not constitute  
674 constructive notice to any person with an interest in the real  
675 property collateral held or claimed by the person requesting  
676 notice. A person that records a request for notice under this  
677 section may subsequently record an amendment supplementing or  
678 correcting information in the request or record a withdrawing of  
679 the request.

680 (3) A foreclosing creditor is liable for a penalty of \$500  
681 to a person that is not given timely notice of foreclosure if  
682 that person has recorded a request for notice of foreclosure  
683 meeting the standards of this section. If a recorded request for  
684 notice states that the person recording the request has an  
685 interest in the real property collateral and the person is not  
686 given timely notice of foreclosure, the person's interest in the  
687 collateral, if any, is preserved from termination by the  
688 foreclosure.

689 52.206 Meeting to object to foreclosure.—

690 (1) A debtor may request a meeting to object to a  
691 foreclosure. The request must be made by a notice received by  
692 the foreclosing creditor within 30 days after the notice of  
693 foreclosure is given to that debtor. If the foreclosing creditor  
694 receives a request for a meeting, the foreclosing creditor or a

695 responsible representative of the foreclosing creditor shall  
696 schedule and attend a meeting with the person requesting it at a  
697 mutually agreeable time. The representative may be an employee,  
698 agent, servicer, or attorney of the foreclosing creditor and  
699 must have authority to terminate the foreclosure if the  
700 representative determines that there is no legal basis for  
701 foreclosure. The meeting may be held in person or by telephone,  
702 video conferencing, or other reasonable means, at the election  
703 of the foreclosing creditor. If the meeting is held in person,  
704 it must be held at a location reasonably convenient to a parcel  
705 of the real property collateral unless the person requesting the  
706 meeting and the representative mutually agree on a different  
707 location. If the foreclosing creditor receives requests from  
708 more than one person, the creditor or representative may attempt  
709 to arrange a consolidated meeting, and the persons requesting  
710 meetings must cooperate reasonably with the foreclosing  
711 creditor's effort to do so.

712 (2) A meeting conducted pursuant to this section is  
713 informal and the rules of evidence do not apply. The parties may  
714 be represented by legal counsel. The foreclosing creditor or  
715 representative must have access to records that provide evidence  
716 of the grounds for foreclosure. If the debtor desires to  
717 negotiate a forbearance or modification on the underlying  
718 obligation, the debtor must provide financial statements and  
719 other documents sufficient to permit the foreclosing creditor to  
720 determine the existence, if any, for grounds to negotiate  
721 alternate terms or obligations. The creditor or representative  
722 shall consider the objections to foreclosure stated by the

723 person requesting the meeting. Within 10 days after the meeting,  
724 the creditor or representative attending the meeting shall give  
725 to each person who requested the meeting a written statement  
726 indicating whether the foreclosure will be discontinued or will  
727 proceed and the reasons for the determination. The objections to  
728 foreclosure stated by the person requesting the meeting and the  
729 reasons stated by the creditor or representative do not preclude  
730 any person from raising those or other grounds for objecting to  
731 or supporting foreclosure in any subsequent judicial proceeding.  
732 A statement or representation made by a person at the meeting  
733 may not be introduced as evidence in any judicial proceeding.  
734 Each party must bear its own expenses in connection with the  
735 meeting.

736 (3) The foreclosing creditor and the representative do not  
737 incur any liability for making a determination that is adverse  
738 to the person who requested the meeting.

739 52.207 Period of limitation for foreclosure.—The time of  
740 foreclosure may not be less than 90 days nor more than 1 year  
741 after an original notice of foreclosure is recorded under s.  
742 52.203 and not less than 30 days after any subsequent notice of  
743 foreclosure. The 1-year period of limitation may be extended by  
744 agreement of the foreclosing creditor and all persons to whom  
745 notice of foreclosure was required to be given, other than  
746 persons excluded from foreclosure by notice issued under s.  
747 52.203(5), s. 52.406(1)(b), or s. 52.506(1)(b). The 1-year and  
748 30-day periods of limitation are tolled during the period that  
749 any court order temporarily enjoining or staying the foreclosure

750 is in effect and during any stay under the United States  
751 Bankruptcy Code, 11 U.S.C. ss. 101 et seq.

752 52.208 Judicial supervision of foreclosure.—

753 (1) Before the time of foreclosure, a secured creditor may  
754 commence a proceeding in a court of competent jurisdiction for  
755 any violation of this chapter or of other law or principle of  
756 equity in the conduct of the foreclosure. The court may issue  
757 any order within the authority of the court in a foreclosure of  
758 a mortgage by judicial action, including injunction and  
759 postponement of the foreclosure.

760 (2) Any person required to be notified of the foreclosure  
761 pursuant to s. 52.203(3) may file an action in the circuit court  
762 demanding that the foreclosure proceed through the court  
763 process. The complaint must be filed no later than 20 days after  
764 receipt of the original notice of foreclosure. The complaint  
765 must state a bona fide defense to the foreclosure and must  
766 include a certification of the plaintiff under oath that the  
767 complaint is not being filed solely for the purpose of delay.  
768 Unless waived pursuant to s. 57.082, the complaint must be  
769 accompanied by the appropriate filing fee and any other required  
770 fees. Unless dismissed by the court, the civil action takes  
771 precedence over foreclosure under this chapter and the creditor  
772 must cease further action under this chapter. The court may, at  
773 any time, examine the pleadings and the parties and shall  
774 dismiss the case upon a finding that the case was filed  
775 principally for the purpose of delay. If the court dismisses the  
776 action, the foreclosure under this chapter shall resume from the

777 point at which it previously stopped, treating the case filing  
778 as an abatement of the foreclosure under this chapter.

779 (3) A debtor who is an owner of homestead residential real  
780 property subject to foreclosure under this chapter may object to  
781 such foreclosure and request that a judicial foreclosure occur  
782 in accordance with chapter 702. The objection must be sent by  
783 the debtor to the secured creditor via United States mail within  
784 90 days after the notice of foreclosure is given to the debtor.  
785 An objection is timely sent if postmarked by the 90th day after  
786 the notice of foreclosure is given to the debtor. If the  
787 foreclosing creditor receives a timely objection from the  
788 debtor, the foreclosing creditor shall discontinue foreclosure  
789 under this chapter and must file a judicial foreclosure action  
790 in accordance with chapter 702 in order to foreclose upon the  
791 homestead residential real property of the debtor.

792 52.209 Redemption.—A person who has the right to redeem  
793 collateral from a security interest under principles of law and  
794 equity may not redeem after the time of foreclosure. Unless  
795 precluded from doing so by law other than this chapter, a  
796 foreclosing creditor shall cooperate with any person who  
797 attempts to redeem the collateral from the security interest  
798 before the time of foreclosure by promptly providing upon  
799 request reasonable information concerning the amount due or  
800 performance required to redeem.

801 Section 3. Part III of chapter 52, Florida Statutes,  
802 consisting of sections 52.301, 52.302, 52.303, 52.304, 52.305,  
803 52.306, 52.307, 52.308, 52.309, 52.310, 52.311, and 52.312, is  
804 created to read:

PART IIIFORECLOSURE BY AUCTION

805  
806  
807 52.301 Foreclosure by auction.—A secured creditor may  
808 elect to foreclose by auction. A secured creditor that elects to  
809 foreclose by auction shall comply with the requirements of this  
810 part and parts I, II, and VI.

52.302 Evidence of title; other information.—

811  
812 (1) If a secured creditor elects to foreclose by auction,  
813 the foreclosing creditor shall obtain evidence of title and make  
814 a copy thereof available upon request to any prospective bidder  
815 at the foreclosure. The evidence of title must have an effective  
816 date no earlier than the time of recording of the original  
817 notice of foreclosure and must be issued no later than 30 days  
818 after the time of such recording. Unless the evidence of title  
819 is an attorney's opinion, the evidence of title must state that  
820 the issuer is willing to provide evidence of title to the real  
821 property collateral to a person who acquires title by virtue of  
822 the foreclosure, and the exceptions and exclusions from coverage  
823 to which the evidence of title issued to that person will be  
824 subject.

825 (2) The foreclosing creditor may, but is not required to,  
826 make reports and information concerning the collateral other  
827 than evidence of title available to prospective bidders at the  
828 foreclosure.

829 (3) The foreclosing creditor is not liable to any person  
830 because of error in any information disclosed to prospective  
831 bidders unless the information was prepared by the foreclosing

832 creditor and the foreclosing creditor had actual knowledge of  
833 the error at the time the information was disclosed.

834 52.303 Advertisement of sale.—

835 (1) After giving notice as required by ss. 52.203 and  
836 52.204, a foreclosing creditor shall, at the foreclosing  
837 creditor's option, advertise foreclosure sale under this part  
838 either:

839 (a) In a manner that complies with the publication  
840 requirements provided by s. 45.031; or

841 (b) By placing an advertisement in a newspaper having  
842 general circulation in each county where any part of the real  
843 property collateral is located. The advertisement must be  
844 published at least once per week for 3 consecutive weeks, with  
845 the last publication not less than 7 nor more than 30 days  
846 before the advertised date of sale.

847 (2) No later than 21 days before the advertised date of  
848 sale, the foreclosing creditor shall give a copy of the  
849 advertisement required by subsection (1) to the persons to whom  
850 notice of foreclosure was required to be given pursuant to s.  
851 52.203. The advertisement may be sent with the notice of  
852 foreclosure or may be sent separately in the manner prescribed  
853 for notices under s. 52.106. The foreclosing creditor may, but  
854 is not required to, enter the real property collateral and post  
855 on it a copy of the advertisement or a sign containing  
856 information about the sale.

857 (3) An advertisement required by subsection (1) must  
858 state:

859 (a) The date, time, and location by street address and, if  
 860 applicable, by floor and office number, of the foreclosure sale.

861 (b) That the sale will be made to the highest qualified  
 862 bidder.

863 (c) The amount or percentage of the bid that will be  
 864 required of the successful bidder at the completion of the sale  
 865 as a deposit, and the form in which the deposit may be made if  
 866 payment other than by cash or certified check will be accepted.

867 (d) A legally sufficient description of the real property  
 868 to be sold, and the street address, if any, or the location if  
 869 there is no street address, of the real property.

870 (e) A brief description of any improvements on the real  
 871 property and any personal property collateral to be sold.

872 (f) The name, address, and telephone number of an  
 873 individual who is the foreclosing creditor or a representative  
 874 of the foreclosing creditor, who can provide information  
 875 concerning the collateral and the foreclosure if the foreclosing  
 876 creditor is not an individual.

877 (g) That a copy of the evidence of title, any available  
 878 reports concerning the collateral, which may be listed  
 879 specifically, and additional information are available from the  
 880 person identified pursuant to paragraph (f).

881 (h) Whether access to the collateral for the purpose of  
 882 inspection before foreclosure is available to prospective  
 883 bidders and, if so, how to obtain access.

884 (4) An advertisement required by subsection (1) may also  
 885 state any other information concerning the collateral or the  
 886 foreclosure that the foreclosing creditor elects to include.



887        52.304 Access to collateral.—If a foreclosing creditor has  
888 authority to grant access to the real property collateral, the  
889 creditor shall reasonably accommodate a person who contacts the  
890 creditor, expresses an interest in bidding at the foreclosure  
891 sale, and requests an opportunity to inspect the collateral.

892        52.305 Location and time of sale.—An auction sale under  
893 this part must be conducted:

894        (1) At a date and time permitted for a sale under judicial  
895 foreclosure of a security interest in real property in this  
896 state.

897        (2) In a county where some of the real property collateral  
898 is located.

899        (3) At any location where a sale under judicial  
900 foreclosure of a security interest in real property may be held  
901 in this state.

902        52.306 Foreclosure of two or more parcels.—

903        (1) Collateral consisting of two or more parcels of real  
904 property may be foreclosed by auction separately or in  
905 combination. If the security instrument does not specify the  
906 manner of sale of two or more parcels, the auction may be  
907 conducted:

908        (a) By separate sale of each of the parcels; or

909        (b) At the time notice of foreclosure is recorded, if two  
910 or more parcels are contiguous, are being used in a unitary  
911 manner, are part of a unitary plan of development, or are  
912 operated under integrated management:

913        1. By combining the parcels in a single auction; or

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914 2. By conditionally offering the parcels both in  
915 combination and separately, and accepting the higher of the two  
916 aggregate bids.

917 (2) If the entire real property collateral is not made the  
918 subject of a single auction, the foreclosing creditor shall  
919 discontinue sales of parcels or combinations of parcels when the  
920 total amount of bids received is sufficient to pay the secured  
921 obligation and the expenses of foreclosure.

922 52.307 Postponement of sale.—

923 (1) An individual conducting an auction under this part  
924 may postpone the auction for any cause the foreclosing creditor  
925 considers appropriate. Announcement of the postponement, and the  
926 time and location of the rescheduled sale, must be given orally  
927 at the place previously scheduled for the sale and within a  
928 reasonable time after the scheduled time for commencement of the  
929 sale. No other advertisement or notice of the postponed time and  
930 place of sale is required. A postponement may not be for a  
931 period of more than 30 days. Subsequent postponements of the  
932 sale may be made in the same manner.

933 (2) If an auction cannot be held at the time stated in the  
934 notice of sale by reason of stay under the United States  
935 Bankruptcy Code, 11 U.S.C. ss. 101 et seq., or a stay order  
936 issued by any court of competent jurisdiction, the foreclosing  
937 creditor may reschedule the auction to occur at a time when the  
938 stay is no longer in effect. The rescheduled sale must be  
939 advertised, and a copy of the advertisement must be sent to the  
940 persons entitled thereto, as provided by s. 52.302.

941 52.308 Conduct of sale.—

942        (1) An auction sale under this part must be conducted by a  
943 person designated by the foreclosing creditor.

944        (2) The person conducting an auction, before commencing  
945 the auction:

946        (a) Must make available to prospective purchasers copies  
947 of the evidence of title.

948        (b) May verify that persons intending to bid have money in  
949 an amount and form necessary to make the deposit stated in the  
950 advertisement, but may not disclose the amount that any bidder  
951 is prepared to deposit.

952        (3) The auction must be conducted, at the foreclosing  
953 creditor's option:

954        (a) By the creditor or the creditor's representative  
955 following the procedures for sale prescribed by s. 45.031; or

956        (b) In the following manner:

957        1. Any person, including a debtor and the foreclosing  
958 creditor, may bid at the auction. The individual conducting the  
959 auction may bid on behalf of the foreclosing creditor or any  
960 other person by whom he or she is authorized, but may not bid  
961 for his or her own account. The foreclosing creditor may bid by  
962 credit up to any amount up to the balance owing on the secured  
963 obligation, including the expenses of foreclosure.

964        2. A fixed bid of a person not attending the auction may  
965 be submitted by a writing received at least 24 hours before the  
966 scheduled time of the auction by the person designated in the  
967 advertisement of sale to provide information about the property.  
968 The bid must be accompanied by a deposit satisfying the  
969 requirements of s. 52.310. The bid must be read aloud by the

970 person conducting the auction before the auction is opened to  
 971 oral bids.

972 3. Sale must be made to the person bidding the highest  
 973 amount who complies with this section.

974 4. The auction is completed by the announcement of the  
 975 person conducting the auction that the property is sold.

976 52.309 Deposit by successful bidder.—Immediately after the  
 977 sale is complete, the successful bidder, if other than the  
 978 foreclosing creditor, at an auction under this part must pay a  
 979 deposit to the person conducting the sale. The deposit must be  
 980 at least 10 percent of the amount of the bid or such lower  
 981 amount as the advertisement of sale stated would be accepted.  
 982 The deposit must be paid in cash, by certified check, or in such  
 983 other form of payment as was stated to be acceptable in the  
 984 advertisement of sale or is acceptable to the person conducting  
 985 the sale.

986 52.310 Payment of remainder of bid.—

987 (1) The successful bidder at an auction under this part  
 988 shall pay the remainder of the bid to the person conducting the  
 989 sale within 7 days after notice is given under s. 52.106(8) of  
 990 the date of the auction.

991 (2) If payment of the remainder of the bid is not timely  
 992 made, the foreclosing creditor may cancel the sale and  
 993 reschedule the auction as provided in s. 52.307(2) or may  
 994 terminate the foreclosure under s. 52.701. In either event the  
 995 deposit of the successful bidder may be forfeited and  
 996 distributed in the same manner as the proceeds of a sale, but no  
 997 person has any other remedy against the defaulting bidder.

998           52.311 Foreclosure amount; distribution of proceeds.—The  
 999 highest amount bid at a sale is the foreclosure amount. The  
 1000 foreclosure must be applied by the foreclosing creditor as  
 1001 provided in s. 52.601 within 30 days after the time of the  
 1002 foreclosure. After receiving but before applying the proceeds of  
 1003 sale, the secured creditor may, but is not required to, invest  
 1004 them in a reasonable manner.

1005           52.312 Deed to successful bidder; affidavit.—

1006           (1) Upon payment by the successful bidder of the full  
 1007 balance of the bid, the foreclosing creditor shall:

1008           (a) Record and deliver a statutory warranty deed, a bill  
 1009 of sale with respect to personal property if applicable, and  
 1010 such other documents as may be necessary to record the deed, all  
 1011 without warranty of title, conveying the collateral to or as  
 1012 directed by the successful bidder.

1013           (b) Execute and record in the public records of each  
 1014 county in which the security instrument being foreclosed was  
 1015 recorded an affidavit containing the following:

1016           1. Identification of the security instrument foreclosed,  
 1017 including the official records book and page number, or official  
 1018 document number at which it was recorded, if any.

1019           2. Identification the debtor.

1020           3. A sufficient description of the collateral and  
 1021 identification of the official records book and page number, or  
 1022 official document number at which the notice of foreclosure was  
 1023 recorded.

1024           4. Identification of persons to whom notice of foreclosure  
 1025 was given and the official records book and page number, or

1026 official document number at which documents reflecting their  
 1027 interests in the collateral were recorded, if any.

1028 5. A statement as to which, if any, of the persons  
 1029 identified pursuant to subparagraph 4. were given special notice  
 1030 of foreclosure preserving their interests from termination by  
 1031 the foreclosure.

1032 6. A statement that the foreclosing creditor has complied  
 1033 with all provisions of this chapter for a foreclosure by  
 1034 auction.

1035 7. Identification of the person acquiring title to the  
 1036 collateral by virtue of the foreclosure, and a statement that  
 1037 title has passed to that person.

1038 (2) When recorded, the deed and bill of sale, if any,  
 1039 transfer title to the collateral to or as directed by the  
 1040 successful bidder as provided in s. 52.602.

1041 Section 4. Part IV of chapter 52, Florida Statutes,  
 1042 consisting of sections 52.401, 52.402, 52.403, 52.404, 52.405,  
 1043 and 52.406, is created to read:

1044 PART IV

1045 FORECLOSURE BY NEGOTIATED SALE

1046 52.401 Foreclosure by negotiated sale.—A secured creditor  
 1047 may elect to foreclose by negotiated sale. A secured creditor  
 1048 that elects to foreclose by negotiated sale shall comply with  
 1049 the requirements of this part and parts I, II, and VI.

1050 52.402 Advertisement and contract of sale.—

1051 (1) The foreclosing creditor may advertise the collateral  
 1052 for sale to prospective purchasers by whatever methods the  
 1053 foreclosing creditor considers appropriate and may list the

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1054 collateral for sale with brokers. The foreclosing creditor may,  
1055 but is not required to, enter the real property collateral and  
1056 post on it a sign containing information about the sale.

1057 (2) The foreclosing creditor may enter into a conditional  
1058 contract of sale with a prospective purchaser or, if the  
1059 collateral is sold in parcels, with more than one purchaser. The  
1060 contract shall state the gross amount, before expenses of sale,  
1061 that the purchaser will pay for the collateral. The foreclosing  
1062 creditor's obligation to sell under the contract is subject to  
1063 the following conditions:

1064 (a) That no objection to the foreclosure amount is made  
1065 under s. 52.404.

1066 (b) That no redemption of the collateral from the security  
1067 interest is made before the time of foreclosure.

1068 52.403 Notice of proposed negotiated sale.—If a  
1069 foreclosing creditor enters into a conditional contract of sale  
1070 as provided in s. 52.402, the foreclosing creditor shall give  
1071 notice of the proposed sale at least 30 days before the date of  
1072 the proposed sale to the persons specified in s. 52.203. The  
1073 notice of proposed sale must state:

1074 (1) The date on or after which the foreclosing creditor  
1075 proposes to sell the collateral.

1076 (2) The foreclosure amount, net of all expenses of  
1077 foreclosure and sale, that the foreclosing creditor offers to  
1078 credit against the secured debt and distribute to other persons  
1079 entitled thereto, which amount may be greater or less than the  
1080 selling price stated in the contract.

1081        (3) That if the sale is completed, title to the collateral  
 1082 will be transferred to the purchaser under the contract as of  
 1083 the time of foreclosure and the stated foreclosure amount will  
 1084 be applied as provided in s. 52.601.

1085        (4) That the person receiving the notice may inspect a  
 1086 copy of the contract of sale by communicating with an individual  
 1087 who is or represents the foreclosing creditor and whose name,  
 1088 address, and telephone number are given in the notice.

1089        (5) That if a debtor or any other party whose interest in  
 1090 the collateral is subordinate in priority to the foreclosing  
 1091 creditor's security interest objects to the sale, the debtor or  
 1092 interest holder may give the foreclosing creditor a notice so  
 1093 stating, and if the notice is received by the foreclosing  
 1094 creditor no later than 7 days before the date of the proposed  
 1095 sale, the foreclosing creditor must discontinue the foreclosure  
 1096 by negotiated sale unless the foreclosing creditor elects to  
 1097 preserve that person's interest from termination by the  
 1098 foreclosure or discharges the person's interest.

1099        52.404 Completion of sale.—

1100        (1) A foreclosing creditor may complete the sale in  
 1101 accordance with the contract of sale, subsection (2), and ss.  
 1102 52.405 and 52.406 unless the creditor receives a notice  
 1103 objecting to the proposed foreclosure by negotiated sale 7 or  
 1104 more days before the proposed date of sale from a person who  
 1105 holds an interest in the real property collateral that is  
 1106 subordinate in priority to the foreclosing creditor's security  
 1107 interest.



1108        (2) Upon compliance by the purchaser with a contract for  
 1109 sale under this part, on or after the proposed date of sale, the  
 1110 foreclosing creditor shall deliver to the purchaser or a nominee  
 1111 designated by the purchaser a statutory warranty deed, a bill of  
 1112 sale if applicable, and other documents necessary to consummate  
 1113 the sale or that the parties agreed the foreclosing creditor  
 1114 would supply. The foreclosing creditor shall also execute an  
 1115 affidavit containing the following:

1116        (a) Identification of the security instrument foreclosed,  
 1117 including the official records book and page number or official  
 1118 document number at which it was recorded, if any.

1119        (b) Identification of the debtor.

1120        (c) A sufficient description of the collateral and  
 1121 identification of the official records book and page number, or  
 1122 official document number at which the notice of foreclosure was  
 1123 recorded.

1124        (d) Identification of persons to whom notice of  
 1125 foreclosure was given and the official records book and page  
 1126 number, or official document number at which documents  
 1127 reflecting their interests in the collateral are recorded, if  
 1128 any.

1129        (e) A statement as to which, if any, of the persons  
 1130 identified pursuant to paragraph (d) were given notice under s.  
 1131 52.203(5) or s. 52.406(1) (a) preserving their interests from  
 1132 termination by the foreclosure.

1133        (f) A statement that the foreclosing creditor has complied  
 1134 with all provisions of this chapter for a foreclosure by  
 1135 negotiated sale.

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1136 (g) Identification of the person acquiring title to the  
1137 collateral by virtue of the foreclosure, and a statement that  
1138 title has passed to that person.

1139 52.405 Recording of affidavit and deed; application of  
1140 foreclosure amount.—On or after the date of delivery of the  
1141 deed, the affidavit, deed, and bill of sale, if any, required  
1142 under s. 52.404 must be recorded in public records of the county  
1143 or counties where the collateral is located. When the affidavit,  
1144 deed, and bill of sale, if any, are recorded, the deed and bill  
1145 of sale transfer title to the collateral to the contract  
1146 purchaser or a nominee designated by the contract purchaser as  
1147 provided in s. 52.602. The foreclosure amount stated in the  
1148 notice of proposed negotiated sale pursuant to s. 52.403(2) must  
1149 be applied as provided in s. 52.601 within 30 days after the  
1150 time of foreclosure.

1151 52.406 Notice of objection to sale.—

1152 (1) If, 7 or more days before the proposed date of sale  
1153 under this part, a foreclosing creditor receives notice of  
1154 objection to the sale from any person who holds an interest in  
1155 the real property collateral subordinate in priority to the  
1156 foreclosing creditor's security interest, the foreclosing  
1157 creditor must:

1158 (a) Discontinue the foreclosure pursuant to s. 52.701, in  
1159 which case the notice of objection has no further effect;

1160 (b) Give notice, before the time of foreclosure, to the  
1161 person who made the objection that the person's interest in the  
1162 collateral will be preserved from termination by the  
1163 foreclosure. If the foreclosing creditor gives such notice:

1164 1. The objection of the person to whom such notice is  
1165 given may be disregarded by the foreclosing creditor;

1166 2. The foreclosure by negotiated sale may be completed;

1167 3. The affidavit recorded under s. 52.405 must identify  
1168 that interest in the collateral of the person objecting as not  
1169 being terminated by the foreclosure; and

1170 4. That person is entitled to none of the foreclosure  
1171 amount; or

1172 (c) If the interest of the person who made the objection  
1173 is capable of being discharged for a liquidated sum of money,  
1174 tender that sum, or a lesser sum acceptable to the person whose  
1175 interest is being discharged, to the person and thereby  
1176 discharge the interest.

1177 (2) If the foreclosing creditor makes a tender as provided  
1178 in paragraph (1)(c) and keeps the tender in effect, the person  
1179 to whom the tender is made must provide the foreclosing creditor  
1180 with a suitable document in recordable form evidencing that the  
1181 person's interest has been discharged.

1182 (3) After expiration of the time for objection specified  
1183 in s. 52.404(1), a person to whom notice of foreclosure under s.  
1184 52.203 and notice of proposed sale under s. 52.403 were sent may  
1185 not assert that the foreclosure amount was inadequate.

1186 Section 5. Part V of chapter 52, Florida Statutes,  
1187 consisting of sections 52.501, 52.502, 52.503, 52.504, 52.505,  
1188 and 52.506, is created to read:

1189 PART V

1190 FORECLOSURE BY APPRAISAL

1191 52.501 Foreclosure by appraisal.—A secured creditor may  
 1192 elect to foreclose by appraisal. A secured creditor that elects  
 1193 to foreclose by appraisal shall comply with the requirements of  
 1194 this part and parts I, II, and VI.

1195 52.502 Appraisal.—

1196 (1) The foreclosing creditor shall obtain a written  
 1197 appraisal of the collateral. The debtor and other persons in  
 1198 possession of the real property collateral must provide  
 1199 reasonable access to the real property to the appraiser. The  
 1200 appraisal report shall state the appraiser's conclusion as to  
 1201 the fair market value of the collateral as of a date not more  
 1202 than 60 days before the date of foreclosure stated in the notice  
 1203 of foreclosure.

1204 (2) The appraisal must be made by an independent appraiser  
 1205 certified by the Appraisal Institute who is not an employee or  
 1206 affiliate of the foreclosing creditor.

1207 52.503 Notice of appraisal.—The foreclosing creditor shall  
 1208 give notice of the appraisal at least 30 days before the  
 1209 proposed date of the foreclosure to the persons specified in s.  
 1210 52.203. The notice of appraisal shall be accompanied by a copy  
 1211 of the appraisal report and shall state:

1212 (1) The date on or after which the foreclosing creditor  
 1213 proposes to foreclose by appraisal.

1214 (2) The foreclosure amount, net of all expenses of  
 1215 foreclosure, that the foreclosing creditor offers to credit  
 1216 against the secured obligation and to distribute to other  
 1217 persons entitled thereto, which amount may be greater or less  
 1218 than the appraised value of the collateral.

1219       (3) That if the foreclosure by appraisal is completed,  
 1220 title to the collateral will vest in the foreclosing creditor or  
 1221 its nominee as of the time of foreclosure, and that the stated  
 1222 foreclosure amount will be applied as provided in s. 52.601.

1223       (4) That the person receiving the notice may obtain  
 1224 further information concerning the foreclosure and the appraisal  
 1225 by communicating with an individual who is or represents the  
 1226 foreclosing creditor and whose name, address, and telephone  
 1227 number are given in the notice.

1228       (5) That if a debtor or interest holder whose interest in  
 1229 the collateral is subordinate in priority to the foreclosing  
 1230 creditor's security interest objects to the foreclosure by  
 1231 appraisal, the debtor or interest holder may give the  
 1232 foreclosing creditor a notice so stating, and if the notice is  
 1233 received by the foreclosing creditor no later than 7 days before  
 1234 the date of the proposed sale, the foreclosing creditor must  
 1235 discontinue the foreclosure by appraisal unless the foreclosing  
 1236 creditor elects to preserve that person's interest from  
 1237 termination by the foreclosure or discharges the person's  
 1238 interest.

1239       52.504 Completion of foreclosure by appraisal.-

1240       (1) A foreclosing creditor may complete the foreclosure as  
 1241 provided in subsection (2) and ss. 52.505 and 52.506 unless the  
 1242 creditor receives a notice objecting to the proposed foreclosure  
 1243 by negotiated sale 7 or more days before the proposed date of  
 1244 sale from a person who holds an interest in the real property  
 1245 collateral that is subordinate in priority to the foreclosing  
 1246 creditor's security interest.

1247 (2) On or after the proposed date of sale, the foreclosing  
 1248 creditor shall also execute an affidavit containing the  
 1249 following:

1250 (a) Identification of the security instrument foreclosed,  
 1251 including the official records book and page number, or official  
 1252 document number at which it was recorded, if any.

1253 (b) Identification of the debtor.

1254 (c) A sufficient description of the collateral and  
 1255 identification of the official records book and page number, or  
 1256 official document number at which the notice of foreclosure was  
 1257 recorded.

1258 (d) Identification of persons to whom notice of  
 1259 foreclosure was given and the official records book and page  
 1260 number, or official document number at which documents  
 1261 reflecting their interests in the collateral are recorded, if  
 1262 any.

1263 (e) A statement as to which, if any, of the persons  
 1264 identified pursuant to paragraph (d) were given notice under s.  
 1265 52.203(5) or s. 52.506(1) (a) preserving their interests from  
 1266 termination by the foreclosure.

1267 (f) A statement that the foreclosing creditor has complied  
 1268 with all provisions of this chapter for a foreclosure by  
 1269 appraisal.

1270 (g) Identification of the person acquiring title to the  
 1271 collateral by virtue of the foreclosure, and a statement that  
 1272 title has passed to that person.

1273 52.505 Recording of affidavit; application of foreclosure  
 1274 amount.—On or after the proposed date of foreclosure, the

1275 affidavit required by s. 52.504 must be recorded in the public  
 1276 records of the county or counties in which the collateral is  
 1277 located. When recorded, the affidavit transfers title to the  
 1278 collateral to the foreclosing creditor or its nominee as  
 1279 provided in s. 52.602. The foreclosure amount stated in the  
 1280 notice of appraisal pursuant to s. 52.503(2) must be applied as  
 1281 provided in s. 52.601 within 30 days after the time of  
 1282 foreclosure.

1283 52.506 Notice of objection to foreclosure.-

1284 (1) If, 7 or more days before the proposed date of  
 1285 foreclosure under this part, a foreclosing creditor receives  
 1286 notice of objection to the foreclosure from any person who holds  
 1287 an interest in the real property collateral subordinate in  
 1288 priority to the foreclosing creditor's security interest, the  
 1289 foreclosing creditor must:

1290 (a) Discontinue the foreclosure pursuant to s. 52.701, in  
 1291 which case the notice of objection has no further effect;

1292 (b) Give notice, before the time of foreclosure, to the  
 1293 person who made the objection that the person's interest in the  
 1294 collateral will be preserved from termination by the  
 1295 foreclosure. If the foreclosing creditor gives such notice:

1296 1. The objection of the person to whom such notice is  
 1297 given may be disregarded by the foreclosing creditor;

1298 2. The foreclosure by appraisal maybe completed;

1299 3. The affidavit recorded under s. 52.505 must identify  
 1300 that interest in the collateral of the person objecting as not  
 1301 being terminated by the foreclosure; and

1302 4. That person is entitled to none of the foreclosure  
 1303 amount; or

1304 (c) If the interest of the person who made the objection  
 1305 is capable of being discharged for a liquidated sum of money,  
 1306 tender that sum to the person and thereby discharge the  
 1307 interest.

1308 (2) If the foreclosing creditor makes a tender as provided  
 1309 in subsection (1)(c) and keeps the tender in effect, the person  
 1310 to whom the tender is made must provide the foreclosing creditor  
 1311 with a suitable document in recordable form evidencing that the  
 1312 person's interest has been discharged.

1313 (3) After expiration of the time for objection specified  
 1314 in s. 52.504(1), a person to whom notice of foreclosure under s.  
 1315 52.203 and notice of appraisal under s. 52.503 were sent may not  
 1316 assert that the foreclosure amount was inadequate.

1317 Section 6. Part VI of chapter 52, Florida Statutes,  
 1318 consisting of sections 52.601, 52.602, 52.603, 52.604, 52.605,  
 1319 52.606, and 52.607, is created to read:

1320 PART VI

1321 RIGHTS AFTER FORECLOSURE

1322 52.601 Application of proceeds of foreclosure.-

1323 (1) The foreclosing creditor shall apply the proceeds of  
 1324 foreclosure and any investment earnings thereon in the following  
 1325 order:

1326 (a) To pay or reimburse the expenses of foreclosure in the  
 1327 case of a foreclosure by auction.

1328 (b) To pay the obligation secured by the foreclosed  
 1329 security instrument.



1330        (c) To pay, in the order of their priority, the amounts of  
 1331 all liens and other interests of record terminated by the  
 1332 foreclosure.

1333        (d) To the interest holder who owned the collateral at the  
 1334 time of foreclosure.

1335        (2) If the foreclosing creditor, in applying the proceeds  
 1336 of the sale, acts in good faith and without actual knowledge of  
 1337 the invalidity or lack of priority of the claim of a person to  
 1338 whom distribution is made, the foreclosing creditor is not  
 1339 liable for an erroneous distribution. The foreclosing creditor  
 1340 may maintain an action in the nature of interpleader, in a court  
 1341 of competent jurisdiction sitting in a county in which some part  
 1342 of the real estate collateral is located, for an order directing  
 1343 the order of distribution of the proceeds of the sale.

1344        52.602 Title transferred by foreclosure.—A foreclosure  
 1345 under this chapter transfers the debtor's title to the  
 1346 collateral to the successful bidder under part III, the contract  
 1347 purchaser under part IV, or the foreclosing creditor under part  
 1348 V, subject only to interests in the collateral having priority  
 1349 over the security interest foreclosed and the interests of  
 1350 persons entitled to notice under s. 52.202(3) who were not given  
 1351 notice of the foreclosure or whose interests were preserved from  
 1352 foreclosure by notice issued under s. 52.203(5), s.  
 1353 52.406(1)(b), or s. 52.506(1)(b). The interests of all of other  
 1354 persons in the collateral are terminated.

1355        52.603 Action for damages or to set aside foreclosure.—

1356        (1) Subject to subsection (3), after the time of  
1357 foreclosure an aggrieved person may commence a proceeding in a  
1358 court of competent jurisdiction seeking the following relief:

1359        (a) Damages against a foreclosing creditor for any  
1360 violation of this chapter or an applicable law or principle of  
1361 equity in the conduct of the foreclosure; or

1362        (b) That the foreclosure be set aside to correct a  
1363 violation of this chapter or to satisfy an applicable law or  
1364 principle of equity.

1365        (2) Recording of the deed and affidavit pursuant to s.  
1366 52.312, the deed and affidavit pursuant to s. 52.405, or the  
1367 affidavit pursuant to s. 52.505 conclusively establishes  
1368 compliance with all applicable notice and procedural  
1369 requirements of this chapter in favor of good faith purchasers  
1370 for value of the collateral. If the title derived from  
1371 foreclosure is not held by a good faith purchaser for value, a  
1372 person attacking the foreclosure on grounds of noncompliance  
1373 with the notice or procedural requirements of this chapter has  
1374 the burden of production and persuasion.

1375        (3) An action may not be commenced:

1376        (a) For damages for violation of this chapter, more than 3  
1377 years after the time of foreclosure; or

1378        (b) For an order to set aside a foreclosure conducted  
1379 under this chapter, more than 1 year after the time of  
1380 foreclosure.

1381        52.604 Possession after foreclosure.—A person that  
1382 acquires an interest in real property by foreclosure under this  
1383 chapter may obtain a writ of possession from the clerk of the

1384 court of the county in which any part of the collateral is  
 1385 located, or commence an action for ejectment under chapter 66 or  
 1386 for unlawful detainer under chapter 82 to gain possession of the  
 1387 real property against any person whose interest in the real  
 1388 property was terminated by the foreclosure.

1389 52.605 Judgment for deficiency.-

1390 (1) Except as provided in subsection (2), after the time  
 1391 of foreclosure, the foreclosing creditor and any other person  
 1392 whose security interest in the collateral was terminated by a  
 1393 foreclosure under this chapter is entitled to pursue in court a  
 1394 money judgment against any person liable for a deficiency.

1395 (2) A debtor is not liable to a foreclosing creditor for a  
 1396 deficiency after a foreclosure under this chapter unless the  
 1397 debtor is found by the court not to have acted in good faith.

1398 (3) For purposes of this section, the term "acted in good  
 1399 faith" means the debtor:

1400 (a) Peaceably vacated the real estate collateral and  
 1401 relinquished any personal property collateral within 10 days  
 1402 after the time of foreclosure and the giving of a notice  
 1403 demanding possession by the person entitled to possession by  
 1404 virtue of the foreclosure.

1405 (b) Did not commit significant affirmative waste upon the  
 1406 collateral and leave such waste uncured at the time possession  
 1407 was relinquished to the person entitled to possession by virtue  
 1408 of the foreclosure.

1409 (c) Did not significantly contaminate the collateral with  
 1410 hazardous materials and leave the contamination uncured at the

1411 time possession was relinquished to the person entitled to  
 1412 possession by virtue of the foreclosure.

1413 (d) Did not commit fraud against the foreclosing creditor.

1414 (e) Did not engage in criminal activity on the secured  
 1415 real estate collateral that significantly reduced its value at  
 1416 the time possession was relinquished to the person entitled to  
 1417 possession by virtue of the foreclosure.

1418 (f) Did not permit significant uncured damage to be done  
 1419 to the collateral by other persons or natural causes as a result  
 1420 of the debtor's failure to take reasonable precautions against  
 1421 the damage.

1422 (g) Provided reasonable access to the collateral for  
 1423 inspection by the foreclosing creditor and prospective  
 1424 purchasers after the initial notice of foreclosure was sent.

1425 (4) The burden of proof as to the absence of good faith on  
 1426 the part of a debtor is on the person seeking a deficiency  
 1427 judgment against the debtor. The absence of good faith by one  
 1428 debtor does not make any other debtor liable for a deficiency.

1429 (5) If liability of a debtor for a deficiency is barred by  
 1430 paragraph (2), liability of a guarantor of the debtor's  
 1431 obligation is also barred.

1432 (6) This section does not prohibit recovery of a  
 1433 deficiency by a person other than the foreclosing creditor.

1434 52.606 Determining amount of deficiency.—

1435 (1) Subject to subsection (2), the deficiency to which a  
 1436 foreclosing creditor is entitled after a foreclosure under this  
 1437 chapter is the balance remaining, if any, after subtracting the  
 1438 foreclosure amount as determined under s. 52.311, s. 52.403, or

1439 s. 52.503, as applicable, from the balance owing on the secured  
 1440 obligation, including principal, interest, legally recoverable  
 1441 fees and charges and, in the case of a foreclosure by auction,  
 1442 the expenses of foreclosure.

1443 (2) In an action for a deficiency brought by the  
 1444 foreclosing creditor following a foreclosure by auction, a  
 1445 person against whom the action is filed may petition a court of  
 1446 competent jurisdiction for a determination of the fair market  
 1447 value of the collateral at the time of foreclosure. After a  
 1448 hearing at which all interested parties may present evidence of  
 1449 fair market value, the court shall determine the fair market  
 1450 value of the collateral as of the time of foreclosure. The  
 1451 determination must be made by the court without a jury. If the  
 1452 court determines that 90 percent of the fair market value of the  
 1453 collateral was greater than the bid accepted at the foreclosure  
 1454 sale, 90 percent of the fair market value must be substituted  
 1455 for the foreclosure amount in making the calculations required  
 1456 by subsection (1) with respect to all parties against whom a  
 1457 judgment for a deficiency is entered.

1458 52.607 Effect of good faith by debtor.—If a debtor acted  
 1459 in good faith in the foreclosure as provided in s. 52.605(3),  
 1460 the debtor shall not be considered to have been in default under  
 1461 the note or security instrument and the foreclosing creditor  
 1462 shall use its best efforts thereafter to report to credit  
 1463 bureaus the fact that the debtor, having acted in good faith, is  
 1464 deemed not to be in default under Florida Law. This section does  
 1465 not invalidate any foreclosure pursuant to this chapter or any  
 1466 judgment in a case related to this chapter. This section does

1467 not affect the title or insurability of title to real property  
 1468 or personal property.

1469 Section 7. Part VII of chapter 52, Florida Statutes,  
 1470 consisting of section 52.701, is created to read:

1471 PART VII

1472 DISCONTINUATION OF FORECLOSURE

1473 52.701 Discontinuation of foreclosure.—

1474 (1) A foreclosing creditor may elect to discontinue  
 1475 foreclosure at any time before:

1476 (a) The completion of the auction in the case of a  
 1477 foreclosure by auction; or

1478 (b) The time of foreclosure, in the case of a foreclosure  
 1479 by negotiated sale or by appraisal.

1480 (2) To discontinue foreclosure, the foreclosing creditor  
 1481 shall give notice to the persons to whom notice of foreclosure  
 1482 was required to be given under s. 52.203(2), advising them that  
 1483 the foreclosure has been discontinued and whether the  
 1484 foreclosing creditor will:

1485 (a) Pursue another foreclosure by the same method;

1486 (b) Continue to foreclose by another method under this  
 1487 chapter pursuant to a notice of foreclosure previously given;

1488 (c) Commence foreclosure by a different method authorized  
 1489 by this chapter pursuant to a new notice of foreclosure;

1490 (d) Commence foreclose by judicial proceeding, provided no  
 1491 deficiency judgment may be obtained against any debtor receiving  
 1492 notice of a foreclosing creditor's notice of foreclosure  
 1493 pursuant to this chapter; or

1494 (e) Abandon foreclosure.

1495 (3) If a notice sent by a foreclosing creditor under this  
 1496 section includes all elements required for a notice of  
 1497 foreclosure under ss. 52.203 and 52.204, no additional notice of  
 1498 foreclosure is necessary to pursue a further foreclosure under  
 1499 this chapter.

1500 Section 8. Part VIII of chapter 52, Florida Statutes,  
 1501 consisting of sections 52.801 and 52.802, is created to read:

1502 PART VIII

1503 MISCELLANEOUS

1504 52.801 Uniformity of application and construction.—In  
 1505 applying and construing this chapter, consideration must be  
 1506 given to the need to promote uniformity of the law with respect  
 1507 to its subject matter among states that enact its provisions.

1508 52.802 Relation to Electronic Signatures in Global and  
 1509 National Commerce Act.—This chapter modifies, limits, and  
 1510 supersedes the federal Electronic Signatures in Global and  
 1511 National Commerce Act, 15 U.S.C. ss. 7001 et seq., except that  
 1512 nothing in this chapter modifies, limits, or supersedes 15  
 1513 U.S.C. s. 7001(c) or authorizes electronic delivery of any of  
 1514 the notices described in 15 U.S.C. s. 7003(b).

1515 Section 9. This act shall take effect July 1, 2010.