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LEGISLATIVE ACTION

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| Senate     | . | House |
| Comm: WD   | . |       |
| 02/27/2012 | . |       |
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The Committee on Banking and Insurance (Richter) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Paragraph (b) of subsection (2) of section 95.11, Florida Statutes, is amended, and paragraph (h) is added to subsection (5) of that section, to read:

95.11 Limitations other than for the recovery of real property.—Actions other than for recovery of real property shall be commenced as follows:

(2) WITHIN FIVE YEARS.—



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13 (b) A legal or equitable action on a contract, obligation,  
14 or liability founded on a written instrument, except for an  
15 action to enforce a claim against a payment bond, which shall be  
16 governed by the applicable provisions of ss. 255.05(10) and  
17 713.23(1)(e), and except for certain actions for a deficiency  
18 judgment governed by paragraph (5)(h).

19 (5) WITHIN ONE YEAR.—

20 (h) An action to enforce a claim of a deficiency related to  
21 a note secured by a mortgage against a residential property that  
22 is a one-family to four-family dwelling unit. The limitations  
23 period shall commence on the 11th day after the foreclosure sale  
24 or the day after the mortgagee accepts a deed in lieu of  
25 foreclosure.

26 Section 2. The amendment to s. 95.11, Florida Statutes,  
27 made by this act shall apply to any action commenced on or after  
28 July 1, 2012, regardless of when the cause of action accrued,  
29 except that any action that would not have been barred under s.  
30 95.11(2)(b), Florida Statutes, prior to the amendments made by  
31 this act may be commenced no later than 5 years after the action  
32 accrued and in no event later than July 1, 2013, and if the  
33 action is not commenced by that date, it is barred by the  
34 amendments made by this act.

35 Section 3. Section 702.015, Florida Statutes, is created to  
36 read:

37 702.015 Elements of complaint; lost, destroyed, or stolen  
38 note affidavit.—

39 (1) A complaint that seeks to foreclose a mortgage or other  
40 lien on residential real property, including individual units of  
41 condominiums and cooperatives, designed principally for



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42 occupation by from one to four families, but not including an  
43 interest in a timeshare property, which secures a promissory  
44 note must:

45 (a) Contain affirmative allegations expressly made by the  
46 plaintiff at the time the proceeding is commenced that the  
47 plaintiff is the holder of the original note secured by the  
48 mortgage; or

49 (b) Allege with specificity the factual basis by which the  
50 plaintiff is a person entitled to enforce the note under s.  
51 673.3011.

52 (2) If a party has been delegated the authority to  
53 institute a mortgage foreclosure action on behalf of the holder  
54 of the note, the complaint shall describe the authority of the  
55 plaintiff and identify, with specificity, the document that  
56 grants the plaintiff the authority to act on behalf of the  
57 holder of the note. This subsection is intended to require  
58 initial disclosure of status and pertinent facts and not to  
59 modify law regarding standing or real parties in interest.

60 (3) If the plaintiff is in physical possession of the  
61 original promissory note, the plaintiff must file with the  
62 court, contemporaneously with and as a condition precedent to  
63 the filing of the complaint for foreclosure, certification,  
64 under penalty of perjury, that the plaintiff is in physical  
65 possession of the original promissory note. The certification  
66 must set forth the physical location of the note, the name and  
67 title of the individual giving the certification, the name of  
68 the person who personally verified such physical possession, and  
69 the time and date on which the possession was verified. Correct  
70 copies of the note and all allonges to the note must be attached



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71 to the certification. The original note and the allonges must be  
72 filed with the court before the entry of any judgment of  
73 foreclosure or judgment on the note.

74 (4) If the plaintiff seeks to enforce a lost, destroyed, or  
75 stolen instrument, an affidavit executed under penalty of  
76 perjury must be attached to the complaint. The affidavit must:

77 (a) Detail a clear chain of all endorsements or assignments  
78 of the promissory note that is the subject of the action.

79 (b) Set forth facts showing that the plaintiff is entitled  
80 to enforce a lost, destroyed, or stolen instrument pursuant to  
81 s. 673.3091.

82 (c) Include as exhibits to the affidavit such copies of the  
83 note and the allonges to the note, audit reports showing  
84 physical receipt of the original note, or other evidence of the  
85 acquisition, ownership, and possession of the note as may be  
86 available to the plaintiff.

87 (5) The Legislature intends that the requirements of this  
88 section are to expedite the foreclosure process by ensuring  
89 initial disclosure of a plaintiff's status and the facts  
90 supporting that status and thereby ensuring the availability of  
91 documents necessary to the prosecution of the case. This section  
92 is not intended to modify existing law regarding standing or  
93 real parties in interest. The court may sanction the plaintiff  
94 for failure to comply with this section, but any noncompliance  
95 with this section does not affect the validity of a foreclosure  
96 sale or title to real property subsequent to a foreclosure sale.

97 Section 4. Section 702.036, Florida Statutes, is created to  
98 read:

99 702.036 Finality of mortgage foreclosure judgment.-



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100       (1) (a) In an action or proceeding in which a party seeks to  
101 set aside, invalidate, or challenge the validity of a final  
102 judgment of foreclosure of a mortgage or to establish or  
103 reestablish a lien or encumbrance on the property in abrogation  
104 of the final judgment of foreclosure of a mortgage, the court  
105 shall treat such request solely as a claim for monetary damages  
106 and may not grant relief that adversely affects the quality or  
107 character of the title to the property if:

108       1. A final judgment of foreclosure of a mortgage has been  
109 entered as to a property;

110       2. All applicable appeals periods have run as to the final  
111 judgment of foreclosure of a mortgage and an appeal has not been  
112 filed or, if an appeal has been filed, it has been finally  
113 resolved;

114       3. The property has been acquired for value by a person not  
115 affiliated with the foreclosing lender or the foreclosed owner,  
116 at a time in which no lis pendens regarding the suit to set  
117 aside, invalidate, or challenge the foreclosure appears in the  
118 official records of the county where the property is located;  
119 and

120       4. The party seeking relief from the final judgment of  
121 foreclosure of a mortgage has been properly served in the  
122 foreclosure lawsuit as provided in chapter 48 or chapter 49.

123       (b) This subsection does not limit the right to pursue any  
124 other relief to which a person may be entitled, including, but  
125 not limited to, compensatory damages, punitive damages,  
126 statutory damages, consequential damages, injunctive relief, or  
127 fees and costs, and which does not adversely affect the  
128 ownership of the title to the property as vested in the



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129 unaffiliated purchaser for value.

130 (2) For purposes of this section, the following, without  
131 limitation, shall be considered persons affiliated with the  
132 foreclosing lender:

133 (a) The foreclosing lender or any loan servicer for the  
134 loan being foreclosed;

135 (b) Any past or present owner or holder of the loan being  
136 foreclosed;

137 (c) Any maintenance company, holding company, foreclosure  
138 services company, or law firm under contract to any entity  
139 listed in paragraph (a), paragraph (b), or this paragraph, with  
140 regard to the loan being foreclosed; or

141 (d) Any parent entity, subsidiary, or other person that  
142 directly, or indirectly through one or more intermediaries,  
143 controls or is controlled by, or is under common control with,  
144 any entity listed in paragraph (a), paragraph (b), or paragraph  
145 (c).

146 (3) After foreclosure of a mortgage based upon the  
147 enforcement of a lost, destroyed, or stolen note, a person who  
148 is not a party to the underlying foreclosure action but who  
149 claims to be the actual holder of the promissory note secured by  
150 the foreclosed mortgage does not have a claim against the  
151 foreclosed property after it has been conveyed for valuable  
152 consideration to a person not affiliated with the foreclosing  
153 lender or the foreclosed owner. This section does not preclude  
154 the actual holder of the note from pursuing damages from any  
155 adequate protection given under s. 673.3091 by the person who  
156 enforced the note or from the party who wrongfully claimed to be  
157 the owner or holder of the promissory note or the maker of the



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158 note or from any other person against whom the actual holder of  
159 the note may have a claim relating to the note.

160 Section 4. Section 702.06, Florida Statutes, is amended to  
161 read:

162 702.06 Deficiency decree; common-law suit to recover  
163 deficiency.—In all suits for the foreclosure of mortgages  
164 heretofore or hereafter executed the entry of a deficiency  
165 decree for any portion of a deficiency, should one exist, may  
166 not exceed the difference between the judgment amount or, in the  
167 case of a short sale, the outstanding debt, and the fair market  
168 value of the property on the date of sale., ~~shall be within the~~  
169 ~~sound judicial discretion of the court, but~~ The complainant  
170 shall also have the right to sue at common law to recover such  
171 deficiency, unless the court in the foreclosure action has  
172 granted or denied a claim for a deficiency judgment ~~provided no~~  
173 ~~suit at law to recover such deficiency shall be maintained~~  
174 ~~against the original mortgagor in cases where the mortgage is~~  
175 ~~for the purchase price of the property involved and where the~~  
176 ~~original mortgagee becomes the purchaser thereof at foreclosure~~  
177 ~~sale and also is granted a deficiency decree against the~~  
178 ~~original mortgagor.~~

179 Section 5. Section 702.10, Florida Statutes, is amended to  
180 read:

181 702.10 Order to show cause; entry of final judgment of  
182 foreclosure; payment during foreclosure.—

183 (1) A lienholder ~~After a complaint in a foreclosure~~  
184 ~~proceeding has been filed, the mortgagee may request an order to~~  
185 ~~show cause for the entry of final judgment~~ in a foreclosure  
186 action. For purposes of this section, the term "lienholder"



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187 includes the plaintiff and a defendant to the action who holds a  
188 lien encumbering the property or a defendant who, by virtue of  
189 its status as a condominium association, cooperative  
190 association, or homeowners' association, may file a lien against  
191 the real property subject to foreclosure. Upon filing, and the  
192 court shall immediately review the request and the court file in  
193 chambers and without a hearing complaint. If, upon examination  
194 of the court file complaint, the court finds that the complaint  
195 is verified, complies with s. 702.015, and alleges a cause of  
196 action to foreclose on real property, the court shall promptly  
197 issue an order directed to the other parties named in the action  
198 ~~defendant~~ to show cause why a final judgment of foreclosure  
199 should not be entered.

200 (a) The order shall:

201 1. Set the date and time for a hearing ~~on the order~~ to show  
202 cause. ~~However,~~ The date for the hearing may not occur ~~be set~~  
203 sooner than the later of 20 days after the service of the order  
204 to show cause or 45 days after the service of the initial  
205 complaint. When service is obtained by publication, the date for  
206 the hearing may not be set sooner than 55 ~~30~~ days after the  
207 first publication. ~~The hearing must be held within 60 days after~~  
208 ~~the date of service. Failure to hold the hearing within such~~  
209 ~~time does not affect the validity of the order to show cause or~~  
210 ~~the jurisdiction of the court to issue subsequent orders.~~

211 2. Direct the time within which service of the order to  
212 show cause and the complaint must be made upon the defendant.

213 3. State that the filing of defenses by a motion,  
214 responsive pleading, affidavits, or other papers ~~or by a~~  
215 ~~verified or sworn answer at or~~ before the hearing to show cause





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216 may constitute ~~constitutes~~ cause for the court not to enter ~~the~~  
217 ~~attached~~ final judgment.

218 4. State that a ~~the~~ defendant has the right to file  
219 affidavits or other papers before ~~at~~ the time of the hearing to  
220 show cause and may appear personally or by way of an attorney at  
221 the hearing.

222 5. State that, if a ~~the~~ defendant files defenses by a  
223 motion, a verified or sworn answer, affidavits, or other papers  
224 or appears personally or by way of an attorney at the time of  
225 the hearing, the hearing time will ~~may~~ be used to hear and  
226 consider the defendant's motion, answer, affidavits, other  
227 papers, and other evidence and argument as may be presented by  
228 the defendant or the defendant's attorney. The order shall also  
229 state that the court may enter an order of final judgment of  
230 foreclosure at the hearing. If such a determination is entered,  
231 the court shall enter a final judgment of foreclosure ordering  
232 the clerk of the court to conduct a foreclosure sale.

233 6. State that, if a ~~the~~ defendant fails to appear at the  
234 hearing to show cause or fails to file defenses by a motion or  
235 by a verified or sworn answer or files an answer not contesting  
236 the foreclosure, such ~~the~~ defendant may be considered to have  
237 waived the right to a hearing, and in such case, the court may  
238 enter a default against such defendant and, if appropriate, a  
239 final judgment of foreclosure ordering the clerk of the court to  
240 conduct a foreclosure sale.

241 7. State that if the mortgage provides for reasonable  
242 attorney ~~attorney's~~ fees and the requested attorney ~~attorney's~~  
243 fees do not exceed 3 percent of the principal amount owed at the  
244 time of filing the complaint, it is unnecessary for the court to



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245 hold a hearing or adjudge the requested attorney ~~attorney's~~ fees  
246 to be reasonable.

247 8. Attach the form of the proposed final judgment of  
248 foreclosure which the movant requests the court to will enter,  
249 ~~if the defendant waives the right to be heard~~ at the hearing on  
250 the order to show cause. The form may contain blanks for the  
251 court to enter the amounts due.

252 9. Require the party seeking final judgment ~~mortgagee~~ to  
253 serve a copy of the order to show cause on the other parties ~~the~~  
254 ~~mortgagor~~ in the following manner:

255 a. If a party ~~the mortgagor~~ has been personally served with  
256 the complaint and original process, or the other party is the  
257 plaintiff in the action, service of the order to show cause on  
258 that party ~~order~~ may be made in the manner provided in the  
259 Florida Rules of Civil Procedure.

260 b. If a defendant ~~the mortgagor~~ has not been personally  
261 served with the complaint and original process, the order to  
262 show cause, together with the summons and a copy of the  
263 complaint, shall be served on the party ~~mortgagor~~ in the same  
264 manner as provided by law for original process.

265  
266 Any final judgment of foreclosure entered under this subsection  
267 is for in rem relief only. ~~Nothing in~~ This subsection does not  
268 ~~shall~~ preclude the entry of a deficiency judgment where  
269 otherwise allowed by law. It is the intent of the Legislature  
270 that this alternative procedure may run simultaneously with  
271 other court procedures.

272 (b) The right to be heard at the hearing to show cause is  
273 waived if a ~~the~~ defendant, after being served as provided by law



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274 with an order to show cause, engages in conduct that clearly  
275 shows that the defendant has relinquished the right to be heard  
276 on that order. The defendant's failure to file defenses by a  
277 motion or by a sworn or verified answer, affidavits, or other  
278 papers or to appear personally or by way of an attorney at the  
279 hearing duly scheduled on the order to show cause presumptively  
280 constitutes conduct that clearly shows that the defendant has  
281 relinquished the right to be heard. If a defendant files  
282 defenses by a motion, ~~or by~~ a verified or sworn answer,  
283 affidavits, or other papers at or before the hearing, such  
284 action may constitute ~~constitutes~~ cause and may preclude  
285 ~~precludes~~ the entry of a final judgment at the hearing to show  
286 cause.

287 (c) In a mortgage foreclosure proceeding, when a final  
288 ~~default~~ judgment of foreclosure has been entered against the  
289 mortgagor and the note or mortgage provides for the award of  
290 reasonable attorney ~~attorney's~~ fees, it is unnecessary for the  
291 court to hold a hearing or adjudge the requested attorney  
292 ~~attorney's~~ fees to be reasonable if the fees do not exceed 3  
293 percent of the principal amount owed on the note or mortgage at  
294 the time of filing, even if the note or mortgage does not  
295 specify the percentage of the original amount that would be paid  
296 as liquidated damages.

297 (d) If the court finds that all defendants have ~~the~~  
298 ~~defendant has~~ waived the right to be heard as provided in  
299 paragraph (b), the court shall promptly enter a final judgment  
300 of foreclosure without the need for further hearing if the  
301 plaintiff has shown entitlement to a final judgment and upon the  
302 filing with the court of original note, satisfaction of the



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303 conditions for establishment of a lost note, or upon a showing  
304 to the court that the obligation to be foreclosed is not  
305 evidenced by a promissory note or other negotiable instrument.  
306 If the court finds that a ~~the~~ defendant has not waived the right  
307 to be heard on the order to show cause, the court shall ~~then~~  
308 determine whether there is cause not to enter a final judgment  
309 of foreclosure. If the court finds that the defendant has not  
310 shown cause, the court shall promptly enter a judgment of  
311 foreclosure. If the time allotted for the hearing is  
312 insufficient, the court may announce at the hearing a date and  
313 time for the continued hearing. Only the parties who appear,  
314 individually or through an attorney, at the initial hearing must  
315 be notified of the date and time of the continued hearing.

316 (2) This subsection does not apply to foreclosure of an  
317 owner-occupied residence. As part of any other ~~In an~~ action for  
318 foreclosure, and in addition to any other relief that the court  
319 may award ~~other than residential real estate, the plaintiff the~~  
320 ~~mortgagee~~ may request that the court enter an order directing  
321 the mortgagor defendant to show cause why an order to make  
322 payments during the pendency of the foreclosure proceedings or  
323 an order to vacate the premises should not be entered.

324 (a) The order shall:

325 1. Set the date and time for hearing on the order to show  
326 cause. However, the date for the hearing may ~~shall~~ not be set  
327 sooner than 20 days after the service of the order. If ~~Where~~  
328 service is obtained by publication, the date for the hearing may  
329 ~~shall~~ not be set sooner than 30 days after the first  
330 publication.

331 2. Direct the time within which service of the order to



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332 show cause and the complaint shall be made upon each ~~the~~  
333 defendant.

334 3. State that a ~~the~~ defendant has the right to file  
335 affidavits or other papers at the time of the hearing and may  
336 appear personally or by way of an attorney at the hearing.

337 4. State that, if a ~~the~~ defendant fails to appear at the  
338 hearing to show cause and fails to file defenses by a motion or  
339 by a verified or sworn answer, the defendant is ~~may be~~ deemed to  
340 have waived the right to a hearing and in such case the court  
341 may enter an order to make payment or vacate the premises.

342 5. Require the movant ~~mortgagee~~ to serve a copy of the  
343 order to show cause on the defendant ~~mortgager~~ in the following  
344 manner:

345 a. If a defendant ~~the mortgager~~ has been served with the  
346 complaint and original process, service of the order may be made  
347 in the manner provided in the Florida Rules of Civil Procedure.

348 b. If a defendant ~~the mortgager~~ has not been served with  
349 the complaint and original process, the order to show cause,  
350 together with the summons and a copy of the complaint, shall be  
351 served on the defendant ~~mortgager~~ in the same manner as provided  
352 by law for original process.

353 (b) The right of a defendant to be heard at the hearing to  
354 show cause is waived if the defendant, after being served as  
355 provided by law with an order to show cause, engages in conduct  
356 that clearly shows that the defendant has relinquished the right  
357 to be heard on that order. A ~~The~~ defendant's failure to file  
358 defenses by a motion or by a sworn or verified answer or to  
359 appear at the hearing duly scheduled on the order to show cause  
360 presumptively constitutes conduct that clearly shows that the



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361 defendant has relinquished the right to be heard.

362 (c) If the court finds that a ~~the~~ defendant has waived the  
363 right to be heard as provided in paragraph (b), the court may  
364 promptly enter an order requiring payment in the amount provided  
365 in paragraph (f) or an order to vacate.

366 (d) If the court finds that the mortgagor has not waived  
367 the right to be heard on the order to show cause, the court  
368 shall, at the hearing on the order to show cause, consider the  
369 affidavits and other showings made by the parties appearing and  
370 make a determination of the probable validity of the underlying  
371 claim alleged against the mortgagor and the mortgagor's  
372 defenses. If the court determines that the plaintiff mortgagee  
373 is likely to prevail in the foreclosure action, the court shall  
374 enter an order requiring the mortgagor to make the payment  
375 described in paragraph (e) to the plaintiff mortgagee and  
376 provide for a remedy as described in paragraph (f). However, the  
377 order shall be stayed pending final adjudication of the claims  
378 of the parties if the mortgagor files with the court a written  
379 undertaking executed by a surety approved by the court in an  
380 amount equal to the unpaid balance of the lien being foreclosed  
381 ~~the mortgage on the property~~, including all principal, interest,  
382 unpaid taxes, and insurance premiums paid by the plaintiff ~~the~~  
383 ~~mortgagee~~.

384 (e) If ~~In the event~~ the court enters an order requiring the  
385 mortgagor to make payments to the plaintiff mortgagee, payments  
386 shall be payable at such intervals and in such amounts provided  
387 for in the mortgage instrument before acceleration or maturity.  
388 The obligation to make payments pursuant to any order entered  
389 under this subsection shall commence from the date of the motion



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390 filed under this section hereunder. The order shall be served  
391 upon the mortgagor no later than 20 days before the date  
392 specified for the first payment. The order may permit, but may  
393 ~~shall~~ not require, the plaintiff mortgagee to take all  
394 appropriate steps to secure the premises during the pendency of  
395 the foreclosure action.

396 (f) ~~If In the event~~ the court enters an order requiring  
397 payments, the order shall also provide that the plaintiff is  
398 ~~mortgagee shall be~~ entitled to possession of the premises upon  
399 the failure of the mortgagor to make the payment required in the  
400 order unless at the hearing on the order to show cause the court  
401 finds good cause to order some other method of enforcement of  
402 its order.

403 (g) All amounts paid pursuant to this section shall be  
404 credited against the mortgage obligation in accordance with the  
405 terms of the loan documents; ~~provided, however, that any~~  
406 payments made under this section do shall not constitute a cure  
407 of any default or a waiver or any other defense to the mortgage  
408 foreclosure action.

409 (h) Upon the filing of an affidavit with the clerk that the  
410 premises have not been vacated pursuant to the court order, the  
411 clerk shall issue to the sheriff a writ for possession which  
412 shall be governed by the provisions of s. 83.62.

413 (i) For purposes of this subsection, there is a rebuttable  
414 presumption that a residential property for which a homestead  
415 exemption for taxation was granted according to the certified  
416 rolls of the latest assessment by the county property appraiser,  
417 before the filing of the foreclosure action, is an owner-  
418 occupied residential property.



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419           (3) The Supreme Court is requested to amend the Florida  
420 Rules of Civil Procedure to provide for expedited foreclosure  
421 proceedings in conformity with this section and is requested to  
422 develop and publish forms for use under this section.

423           Section 6. Section 702.11, Florida Statutes, is created to  
424 read:

425           702.11 Expedited foreclosure of abandoned residential real  
426 property.-

427           (1) As used in this section, the term "abandoned  
428 residential real property" means residential real property that  
429 is deemed abandoned upon a showing that:

430           (a) A duly licensed process server unaffiliated with the  
431 owner or servicer of any mortgage on the residential real  
432 property or with the attorney or law firm representing such  
433 owner or servicer has made at least three attempts to locate an  
434 occupant of the residential real property. The attempts must  
435 have been made at least 72 hours apart, and at least one each of  
436 such attempts must have been made before 12 p.m., between 12  
437 p.m. and 6 p.m., and between 6 p.m. and 10 p.m. Each attempt  
438 must include physically knocking or ringing at the door of the  
439 residential real property and such other efforts as are normally  
440 sufficient to obtain a response from an occupant.

441           (b) Two or more of the following conditions exist:

442           1. Windows or entrances to the premises are boarded up or  
443 closed off or multiple window panes are broken and unrepaired.

444           2. Doors to the premises are smashed through, broken off,  
445 unhinged, or continuously unlocked.

446           3. Rubbish, trash, or debris has accumulated on the  
447 mortgaged premises.





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448           4. The premises are deteriorating and are below or in  
449 imminent danger of falling below minimum community standards for  
450 public safety and sanitation.

451           5. If the premises are a part of a condominium or are  
452 governed by a mandatory homeowners' association, the manager or  
453 other representative of the association has confirmed that  
454 assessments for the unit are at least 90 days delinquent.

455           6. Interviews with at least two neighbors in different  
456 households indicate that the residence has been abandoned. The  
457 neighbors must be adjoining, across the street in view of the  
458 home, or across the hall or adjacent to the unit in a  
459 condominium or cooperative.

460  
461 The sheriff or process server making attempts to locate an  
462 occupant of the residential real property and to determine the  
463 abandoned status of the residential real property may provide,  
464 by affidavit and photographic or other documentation, evidence  
465 of the condition of the residential real property, and may  
466 charge a reasonable fee for the attempts and for any affidavit  
467 or other documentation evidencing the condition of the  
468 residential real property.

469           (2) (a) The party entitled to enforce the note and mortgage  
470 encumbering the residential real property appearing to be  
471 abandoned may file a petition before the court seeking to  
472 determine the status of the residential real property and to  
473 invoke an expedited foreclosure proceeding relating to the  
474 property. Upon the filing of an affidavit of diligent search and  
475 inquiry and the affidavit or documentary evidence set forth in  
476 subsection (1), the court shall, upon request of the petitioner,



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477 issue one or more subpoenas to the utility companies serving the  
478 residential real property commanding disclosure of the status of  
479 utility service to the subject property, including whether  
480 utilities are currently turned off and whether all outstanding  
481 utility payments have been made and, if so, by whom.

482 (b) If, after review of the response of the utility  
483 companies to the subpoenas and all other matters of record, the  
484 court may deem the property to have been abandoned and the  
485 plaintiff entitled to expedited foreclosure.

486 Section 7. The amendments to s. 702.10, Florida Statutes,  
487 and the creation of s. 702.11, Florida Statutes, by this act are  
488 remedial in nature and shall apply to causes of action pending  
489 on the effective date of this act. Section 702.015, Florida  
490 Statutes, as created by this act, applies to cases filed on or  
491 after July 1, 2012.

492 Section 8. The Legislature finds that this act is remedial  
493 in nature. Accordingly, it is the intent of the Legislature that  
494 this act shall apply to all mortgages encumbering real property  
495 and all promissory notes secured by a mortgage, whether executed  
496 before, on, or after the effective date of this act.

497 Section 9. This act shall take effect upon becoming a law.  
498

499 ===== T I T L E A M E N D M E N T =====

500 And the title is amended as follows:

501  
502 Delete everything before the enacting clause  
503 and insert:

504 A bill to be entitled  
505 An act relating to mortgage foreclosures; amending s.



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506 95.11, F.S.; reducing the limitations period for  
507 commencing an action to enforce a claim of a  
508 deficiency judgment subsequent to a foreclosure  
509 action; providing for application to existing causes  
510 of action; creating s. 702.015, F.S.; specifying  
511 required contents of a complaint seeking to foreclose  
512 on certain types of residential properties with  
513 respect to the authority of the plaintiff to foreclose  
514 on the note and the location of the note; providing  
515 legislative intent; providing that failure to file  
516 such documents does not affect title to property  
517 subsequent to a foreclosure sale; creating s. 702.036,  
518 F.S.; requiring a court to treat a challenge to a  
519 final judgment of foreclosure as a claim for monetary  
520 damages under certain circumstances; amending s.  
521 702.06, F.S.; limiting the amount of a deficiency  
522 judgment; amending s. 702.10, F.S.; expanding the  
523 class of persons authorized to move for expedited  
524 foreclosure; defining the term "lienholder"; providing  
525 requirements and procedures with respect to an order  
526 directed to defendants to show cause why a final  
527 judgment of foreclosure should not be entered;  
528 providing that certain failures by a defendant to make  
529 certain filings or to make certain appearances may  
530 have specified legal consequences; requiring the court  
531 to enter a final judgment of foreclosure and order a  
532 foreclosure sale under certain circumstances; amending  
533 a restriction on a mortgagee to request a court to  
534 order a mortgagor defendant to make payments or to



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535 vacate the premises during an action to foreclose on  
536 residential real estate to provide that the  
537 restriction applies to all but owner-occupied  
538 residential property; providing a presumption  
539 regarding owner-occupied residential property;  
540 requesting the Supreme Court to adopt rules and forms  
541 for use in expedited foreclosure proceedings; creating  
542 s. 702.11, F.S.; establishing expedited foreclosure  
543 proceedings for abandoned residential real property  
544 and procedures and requirements with respect thereto;  
545 providing for application of the act; providing an  
546 effective date.