

By Senator Braynon

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

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

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17 Section 1. Deficiency judgment reimbursement program.—

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

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

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

25 (b) "Eligible homeowner" means an owner who purchased
26 homestead property between January 1, 2004, and December 31,
27 2008, inclusive, and whose homestead property is subject to a
28 foreclosure action brought by a participating financial
29 institution.

33-00586-12

2012496

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

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

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

41 (f) "Participating financial institution" means any
42 financial institution that:

43 1. Is authorized to engage in lending activities in this
44 state;

45 2. Holds a mortgage subject to a foreclosure action against
46 an eligible homeowner; and

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

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

51 (3) Contingent upon the United States Department of the
52 Treasury authorizing and directing the Florida Housing Finance
53 Corporation to create and administer the deficiency judgment
54 reimbursement program as provided for in this section and upon
55 receiving a minimum of \$100 million from the Housing Finance
56 Agency Innovation Fund for the Hardest-Hit Housing Markets, the
57 corporation shall:

58 (a) Create the deficiency judgment reimbursement program in

33-00586-12

2012496

59 compliance with both the provisions of this section and the
60 directive given by the United States Department of the Treasury
61 for the creation and administration of the program.

62 (b) Create all the notices and forms necessary for the
63 administration of the program.

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

67 (d) If program funds are depleted before the scheduled
68 termination of the program, notify all participating financial
69 institutions about such depletion, unless the program is
70 continued pursuant to subsection (4).

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

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

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

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

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33-00586-12

2012496__

88 An agreement under this subsection is valid only if it is in
89 writing.

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

96 Section 2. This act shall take effect upon becoming a law.