

By Senator Latvala

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1                                   A bill to be entitled  
2           An act relating to mortgage foreclosures; amending s.  
3           25.073, F.S.; providing that a retired justice or  
4           retired judge may consent to temporary duty assigned  
5           by the Chief Justice to assist with the backlog of  
6           foreclosure cases; providing that the term  
7           "termination" as defined in ch. 121, F.S., does not  
8           apply to such temporary duty; providing that such  
9           temporary duty is not considered reemployment or  
10          employment after retirement for purposes of chapter  
11          121, F.S., and that renewed membership in the Florida  
12          Retirement System is not authorized; amending s.  
13          45.031, F.S.; providing that the second publication of  
14          the notice of sale may be published on a publicly  
15          accessible website of the clerk of the court in lieu  
16          of publication in any other form of media; revising  
17          the contents of the notice of sale; amending s.  
18          50.011, F.S.; providing that certain legal notice  
19          requirements do not apply to an electronic publication  
20          of a notice of sale on a publicly accessible Internet  
21          website; creating s. 50.015, F.S.; requiring that a  
22          publicly accessible Internet website must be approved  
23          for legal publication, advertisement, and notice by  
24          the Florida Clerks of Court Operations Corporation;  
25          describing conditions and requirements for a publicly  
26          accessible Internet website; requiring 24-hour  
27          customer support; requiring that legal publication,  
28          advertisement, or notice of foreclosure action be  
29          posted within 3 business days, excluding court

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30 holidays, after the date for the foreclosure sale is  
31 set; authorizing a clerk of court to contract with a  
32 publicly accessible Internet website provider for  
33 legal publication of notice of foreclosure action;  
34 providing for maximum publication fees; amending s.  
35 95.11, F.S.; revising the limitations period for  
36 commencing an action to enforce a claim of a  
37 deficiency judgment after a foreclosure action;  
38 providing for applicability to existing causes of  
39 action; providing that the amendments made by this act  
40 to s. 95.11, F.S., apply to any action commenced on or  
41 after July 1, 2013; amending s. 121.021, F.S.;

42 defining terms; providing for the applicability of the  
43 term "termination"; amending s. 121.091, F.S.;

44 providing that as of a specified date a retired  
45 justice or retired judge is not subject to certain  
46 limitations otherwise applicable to retired employees;

47 amending s. 121.591, F.S.; providing that, as of a  
48 specified date, a retired justice or retired judge who  
49 returns to temporary employment as a senior judge in  
50 any court may continue to receive a distribution of  
51 his or her retirement account after providing proof of  
52 termination from his or her regularly established  
53 position; creating s. 702.015, F.S.; providing  
54 legislative intent; specifying required contents of a  
55 complaint seeking to foreclose on certain types of  
56 residential properties with respect to the authority  
57 of the plaintiff to foreclose on the note and the  
58 location of the note; authorizing sanctions against

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59 plaintiffs who fail to comply with complaint  
60 requirements; providing for non-applicability to  
61 proceedings involving timeshare interests; amending s.  
62 702.035, F.S.; providing for the applicability of  
63 electronic publication if such publication effects  
64 advertisement, publication, or legal notice regarding  
65 a foreclosure proceeding; providing that only the  
66 costs charged by the host of the Internet website may  
67 be charged as costs in the action; creating s.  
68 702.036, F.S.; requiring a court to treat a collateral  
69 attack on a final judgment of foreclosure on a  
70 mortgage as a claim for monetary damages under certain  
71 circumstances; prohibiting such court from granting  
72 certain relief affecting title to the foreclosed  
73 property; providing for construction relating to the  
74 rights of certain persons to seek specified types of  
75 relief or pursue claims against the foreclosed  
76 property under certain circumstances; amending s.  
77 702.06, F.S.; limiting the amount of a deficiency  
78 judgment; amending s. 702.10, F.S.; revising the class  
79 of persons authorized to move for expedited  
80 foreclosure to include lienholders; defining the term  
81 "lienholder"; providing requirements and procedures  
82 with respect to an order directed to defendants to  
83 show cause why a final judgment of foreclosure should  
84 not be entered; providing that certain failures by a  
85 defendant to make certain filings or to make certain  
86 appearances may have specified legal consequences;  
87 requiring the court to enter a final judgment of

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88 foreclosure and order a foreclosure sale under certain  
89 circumstances; revising a restriction on a mortgagee  
90 to request a court to order a mortgagor defendant to  
91 make payments or to vacate the premises during an  
92 action to foreclose on residential real estate to  
93 provide that the restriction applies to all but owner-  
94 occupied residential property; providing a presumption  
95 regarding owner-occupied residential property;  
96 creating s. 702.11, F.S.; providing requirements for  
97 reasonable means of providing adequate protection  
98 under s. 673.3091, F.S., in mortgage foreclosures of  
99 certain residential properties; providing for  
100 liability of persons who wrongly claim to be holders  
101 of or entitled to enforce a lost, stolen, or destroyed  
102 note and cause the mortgage secured thereby to be  
103 foreclosed in certain circumstances; providing for  
104 construction and applicability; declaring that the act  
105 is remedial in nature and applies to all mortgages  
106 encumbering real property and all promissory notes  
107 secured by a mortgage, whether executed before, on, or  
108 after the effective date of this act; requiring that  
109 employer contribution rates be adjusted; providing a  
110 directive to the Division of Law Revision and  
111 Information; providing legislature findings;  
112 requesting the Florida Supreme Court to adopt rules  
113 and forms to expedite foreclosure proceedings;  
114 providing that certain specified provisions of the act  
115 take effect only if the Legislature appropriates a  
116 certain amount on a recurring basis to the judicial

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117 system and if the Governor does not veto the  
118 appropriation; providing that certain sections of the  
119 act stand repealed on a stated date; providing an  
120 effective date.

121

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

123

124 Section 1. Subsection (4) is added to section 25.073,  
125 Florida Statutes, to read:

126 25.073 Retired justices or judges assigned to temporary  
127 duty; additional compensation; appropriation.—

128 (4) To assist with the backlog of foreclosure cases and  
129 otherwise assist with the caseload in the court system, a  
130 retired justice or retired judge may be reemployed in temporary  
131 employment as a senior judge in any court, as assigned by the  
132 Chief Justice of the Supreme Court in accordance with s. 2, Art.  
133 V of the State Constitution, if the following conditions are  
134 met:

135 (a) The justice or judge attains the later of his or her  
136 normal retirement age or age when vested and retires under  
137 chapter 121.

138 (b) The justice or judge meets the definition of  
139 "termination" as provided in s. 121.021(39) (d).

140 (c) The reemployment provisions as provided in s.  
141 121.091(9) (c) do not apply to justices or judges reemployed  
142 under these provisions.

143 (d) Renewed membership in the Florida Retirement System is  
144 not authorized under these provisions.

145 Section 2. Subsection (2) of section 45.031, Florida

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146 Statutes, is amended to read:

147 45.031 Judicial sales procedure.—In any sale of real or  
148 personal property under an order or judgment, the procedures  
149 provided in this section and ss. 45.0315-45.035 may be followed  
150 as an alternative to any other sale procedure if so ordered by  
151 the court.

152 (2) PUBLICATION OF SALE.—Notice of sale shall be published  
153 once a week for 2 consecutive weeks in a newspaper of general  
154 circulation, as defined in chapter 50, published in the county  
155 where the sale is to be held. The second publication shall be at  
156 least 5 days before the sale or, in the alternative, may be  
157 published on a publicly accessible website of the clerk of the  
158 court authorized by s. 50.015 in lieu of publication in another  
159 form of media. The notice of sale must ~~shall~~ contain:

160 (a) A description of the property to be sold.

161 (b) The time and place of sale.

162 (c) A statement that the sale will be made pursuant to the  
163 order or final judgment.

164 (d) The caption of the action.

165 (e) The name of the clerk making the sale.

166 (f) A statement that any person claiming an interest in the  
167 surplus from the sale, if any, other than the property owner as  
168 of the date of the lis pendens must file a claim within 60 days  
169 after the sale.

170 (g) A statement of the name of the newspaper or the website  
171 home page address in, or on which, the notice will be published.

173 The court, in its discretion, may enlarge the time of the sale.

174 Notice of the changed time of sale shall be published as

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175 provided herein.

176 Section 3. Section 50.011, Florida Statutes, is amended to  
177 read:

178 50.011 Where and in what language legal notices to be  
179 published.—

180 (1) Whenever by statute an official or legal advertisement  
181 or a publication, or notice in a newspaper has been or is  
182 directed or permitted in the nature of or in lieu of process, or  
183 for constructive service, or in initiating, assuming, reviewing,  
184 exercising or enforcing jurisdiction or power, or for any  
185 purpose, including all legal notices and advertisements of  
186 sheriffs and tax collectors, the contemporaneous and continuous  
187 intent and meaning of such legislation all and singular,  
188 existing or repealed, is and has been and is hereby declared to  
189 be and to have been, and the rule of interpretation is and has  
190 been, a publication in a newspaper printed and published  
191 periodically once a week or oftener, containing at least 25  
192 percent of its words in the English language, entered or  
193 qualified to be admitted and entered as periodicals matter at a  
194 post office in the county where published, for sale to the  
195 public generally, available to the public generally for the  
196 publication of official or other notices and customarily  
197 containing information of a public character or of interest or  
198 of value to the residents or owners of property in the county  
199 where published, or of interest or of value to the general  
200 public.

201 (2) As allowed by s. 45.031(2), the requirements of  
202 subsection (1) do not apply to any electronic publication of a  
203 notice of sale on a publicly accessible Internet website meeting

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204 the standards of s. 50.015.

205 Section 4. Section 50.015, Florida Statutes, is created to  
206 read:

207 50.015 Publicly accessible Internet website.-

208 (1) A publicly accessible Internet website must be approved  
209 for legal publication, advertisement, and notice by the Florida  
210 Clerks of Court Operations Corporation and must:

211 (a) Maintain a notice of foreclosure action for 90 days  
212 following the first day of posting or for as long as provided in  
213 subsection (3), and maintain publications of sales searchable  
214 and accessible to users for 10 years following the first day of  
215 posting.

216 (b) Receive at least 100,000 total impressions a month,  
217 which must be certified by a recognized Internet search engine.  
218 As used in this paragraph, the term "impression" means the time  
219 at which a notice is viewed once by a visitor on an Internet web  
220 page.

221 (c) Maintain 24-hour customer support, along with live  
222 electronic communication and telephone support for a minimum of  
223 12 hours a day during peak-time usage, and post online tutorials  
224 for users.

225 (d) Be maintained on a data center that is compliant with  
226 the Statement of Auditing Standards No. 70, and the website  
227 provider shall provide the clerk of court with a certificate of  
228 compliance with the Standards.

229 (e) Provide 24-hour access at no charge to the chief judge  
230 of each judicial circuit and his or her designee, as well as to  
231 each clerk of court and each deputy clerk. The website provider  
232 must develop and maintain on file and provide to each clerk of



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233 court and each chief judge a disaster recovery plan for the  
234 website.

235 (2) The website provider shall publish its affidavits  
236 electronically in substantial conformity with ss. 50.041 and  
237 50.051 and may use an electronic notary seal.

238 (3) Legal publication, advertisement, or notice of  
239 foreclosure action shall be posted within 3 business days,  
240 excluding court holidays, after the date for the foreclosure  
241 sale is set and shall continue for 10 days after the foreclosure  
242 sale, or for 90 consecutive days, whichever period is longer.

243 (4) Each clerk of court may contract with a publicly  
244 accessible Internet website provider for legal publication of  
245 notice of foreclosure action as required by s. 702.035.

246 (5) A publicly accessible Internet website may charge a fee  
247 of up to \$50 per notice.

248 Section 5. Paragraph (b) of subsection (2) of section  
249 95.11, Florida Statutes, is amended, and paragraph (h) is added  
250 to subsection (5) of that section, to read:

251 95.11 Limitations other than for the recovery of real  
252 property.—Actions other than for recovery of real property shall  
253 be commenced as follows:

254 (2) WITHIN FIVE YEARS.—

255 (b) A legal or equitable action on a contract, obligation,  
256 or liability founded on a written instrument, except for an  
257 action to enforce a claim against a payment bond, which shall be  
258 governed by the applicable provisions of paragraph (5)(e), s.  
259 255.05(10), s. 337.18(1), or s. 713.23(1)(e), and except for an  
260 action for a deficiency judgment governed by paragraph (5)(h).

261 (5) WITHIN ONE YEAR.—

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262       (h) An action to enforce a claim of a deficiency related to  
263 a note secured by a mortgage against a residential property that  
264 is a one-family to four-family dwelling unit. The limitations  
265 period shall commence on the day after the certificate is issued  
266 by the clerk of court or the day after the mortgagee accepts a  
267 deed in lieu of foreclosure.

268       Section 6. The amendments made by this act to s. 95.11,  
269 Florida Statutes, apply to any action commenced on or after July  
270 1, 2013, regardless of when the cause of action accrued.  
271 However, any action that would not have been barred under s.  
272 95.11(2)(b), Florida Statutes, before the effective date of this  
273 act must be commenced within 5 years after the action accrued or  
274 by July 1, 2014, whichever occurs first.

275       Section 7. Subsection (39) of section 121.021, Florida  
276 Statutes, is amended to read:

277       121.021 Definitions.—The following words and phrases as  
278 used in this chapter have the respective meanings set forth  
279 unless a different meaning is plainly required by the context:

280       (39) (a) "Termination" occurs, except as provided in  
281 paragraph (b), when a member ceases all employment relationships  
282 with participating employers, however:

283       1. For retirements effective before July 1, 2010, if a  
284 member is employed by any such employer within the next calendar  
285 month, termination shall be deemed not to have occurred. A leave  
286 of absence constitutes a continuation of the employment  
287 relationship, except that a leave of absence without pay due to  
288 disability may constitute termination if such member makes  
289 application for and is approved for disability retirement in  
290 accordance with s. 121.091(4). The department or state board may

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291 require other evidence of termination as it deems necessary.

292 2. For retirements effective on or after July 1, 2010, if a  
293 member is employed by any such employer within the next 6  
294 calendar months, termination shall be deemed not to have  
295 occurred. A leave of absence constitutes a continuation of the  
296 employment relationship, except that a leave of absence without  
297 pay due to disability may constitute termination if such member  
298 makes application for and is approved for disability retirement  
299 in accordance with s. 121.091(4). The department or state board  
300 may require other evidence of termination as it deems necessary.

301 (b) "Termination" for a member electing to participate in  
302 the Deferred Retirement Option Program occurs when the program  
303 participant ceases all employment relationships with  
304 participating employers in accordance with s. 121.091(13),  
305 however:

306 1. For termination dates occurring before July 1, 2010, if  
307 the member is employed by any such employer within the next  
308 calendar month, termination will be deemed not to have occurred,  
309 except as provided in s. 121.091(13)(b)4.c. A leave of absence  
310 shall constitute a continuation of the employment relationship.

311 2. For termination dates occurring on or after July 1,  
312 2010, if the member becomes employed by any such employer within  
313 the next 6 calendar months, termination will be deemed not to  
314 have occurred, except as provided in s. 121.091(13)(b)4.c. A  
315 leave of absence constitutes a continuation of the employment  
316 relationship.

317 (c) Effective July 1, 2011, "termination" for a member  
318 receiving a refund of employee contributions occurs when a  
319 member ceases all employment relationships with participating

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320 employers for 3 calendar months. A leave of absence constitutes  
321 a continuation of the employment relationship.

322 (d) Effective July 1, 2013, the act of "termination" for a  
323 justice or judge occurs when the justice or judge has reached  
324 the later of his or her normal retirement age or age when  
325 vested, has terminated all employment under the Florida  
326 Retirement System for at least 1 calendar month, and retires  
327 from the system. Additionally, the justice or judge must  
328 subsequently return to temporary employment as a senior judge in  
329 any court, as assigned by the Chief Justice of the Supreme Court  
330 in accordance with s. 2, Art. V of the State Constitution.

331 Section 8. Subsection (9) of section 121.091, Florida  
332 Statutes, is amended to read:

333 121.091 Benefits payable under the system.—Benefits may not  
334 be paid under this section unless the member has terminated  
335 employment as provided in s. 121.021(39) (a) or begun  
336 participation in the Deferred Retirement Option Program as  
337 provided in subsection (13), and a proper application has been  
338 filed in the manner prescribed by the department. The department  
339 may cancel an application for retirement benefits when the  
340 member or beneficiary fails to timely provide the information  
341 and documents required by this chapter and the department's  
342 rules. The department shall adopt rules establishing procedures  
343 for application for retirement benefits and for the cancellation  
344 of such application when the required information or documents  
345 are not received.

346 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

347 (a) Any person who is retired under this chapter, except  
348 under the disability retirement provisions of subsection (4),

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349 may be employed by an employer that does not participate in a  
350 state-administered retirement system and receive compensation  
351 from that employment without limiting or restricting in any way  
352 the retirement benefits payable to that person.

353 (b) Any person whose retirement is effective before July 1,  
354 2010, or whose participation in the Deferred Retirement Option  
355 Program terminates before July 1, 2010, except under the  
356 disability retirement provisions of subsection (4) or as  
357 provided in s. 121.053, may be reemployed by an employer that  
358 participates in a state-administered retirement system and  
359 receive retirement benefits and compensation from that employer,  
360 except that the person may not be reemployed by an employer  
361 participating in the Florida Retirement System before meeting  
362 the definition of termination in s. 121.021 and may not receive  
363 both a salary from the employer and retirement benefits for 12  
364 calendar months immediately subsequent to the date of  
365 retirement. However, a DROP participant shall continue  
366 employment and receive a salary during the period of  
367 participation in the Deferred Retirement Option Program, as  
368 provided in subsection (13).

369 1. A retiree who violates such reemployment limitation  
370 before completion of the 12-month limitation period must give  
371 timely notice of this fact in writing to the employer and to the  
372 Division of Retirement or the state board and shall have his or  
373 her retirement benefits suspended for the months employed or the  
374 balance of the 12-month limitation period as required in sub-  
375 subparagraphs b. and c. A retiree employed in violation of this  
376 paragraph and an employer who employs or appoints such person  
377 are jointly and severally liable for reimbursement to the

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378 retirement trust fund, including the Florida Retirement System  
379 Trust Fund and the Public Employee Optional Retirement Program  
380 Trust Fund, from which the benefits were paid. The employer must  
381 have a written statement from the retiree that he or she is not  
382 retired from a state-administered retirement system. Retirement  
383 benefits shall remain suspended until repayment has been made.  
384 Benefits suspended beyond the reemployment limitation shall  
385 apply toward repayment of benefits received in violation of the  
386 reemployment limitation.

387       a. A district school board may reemploy a retiree as a  
388 substitute or hourly teacher, education paraprofessional,  
389 transportation assistant, bus driver, or food service worker on  
390 a noncontractual basis after he or she has been retired for 1  
391 calendar month. A district school board may reemploy a retiree  
392 as instructional personnel, as defined in s. 1012.01(2)(a), on  
393 an annual contractual basis after he or she has been retired for  
394 1 calendar month. Any member who is reemployed within 1 calendar  
395 month after retirement shall void his or her application for  
396 retirement benefits. District school boards reemploying such  
397 teachers, education paraprofessionals, transportation  
398 assistants, bus drivers, or food service workers are subject to  
399 the retirement contribution required by subparagraph 2.

400       b. A community college board of trustees may reemploy a  
401 retiree as an adjunct instructor or as a participant in a phased  
402 retirement program within the Florida Community College System,  
403 after he or she has been retired for 1 calendar month. A member  
404 who is reemployed within 1 calendar month after retirement shall  
405 void his or her application for retirement benefits. Boards of  
406 trustees reemploying such instructors are subject to the

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407 retirement contribution required in subparagraph 2. A retiree  
408 may be reemployed as an adjunct instructor for no more than 780  
409 hours during the first 12 months of retirement. A retiree  
410 reemployed for more than 780 hours during the first 12 months of  
411 retirement must give timely notice in writing to the employer  
412 and to the Division of Retirement or the state board of the date  
413 he or she will exceed the limitation. The division shall suspend  
414 his or her retirement benefits for the remainder of the 12  
415 months of retirement. Any retiree employed in violation of this  
416 sub-subparagraph and any employer who employs or appoints such  
417 person without notifying the division to suspend retirement  
418 benefits are jointly and severally liable for any benefits paid  
419 during the reemployment limitation period. The employer must  
420 have a written statement from the retiree that he or she is not  
421 retired from a state-administered retirement system. Any  
422 retirement benefits received by the retiree while reemployed in  
423 excess of 780 hours during the first 12 months of retirement  
424 must be repaid to the Florida Retirement System Trust Fund, and  
425 retirement benefits shall remain suspended until repayment is  
426 made. Benefits suspended beyond the end of the retiree's first  
427 12 months of retirement shall apply toward repayment of benefits  
428 received in violation of the 780-hour reemployment limitation.

429 c. The State University System may reemploy a retiree as an  
430 adjunct faculty member or as a participant in a phased  
431 retirement program within the State University System after the  
432 retiree has been retired for 1 calendar month. A member who is  
433 reemployed within 1 calendar month after retirement shall void  
434 his or her application for retirement benefits. The State  
435 University System is subject to the retired contribution

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436 required in subparagraph 2., as appropriate. A retiree may be  
437 reemployed as an adjunct faculty member or a participant in a  
438 phased retirement program for no more than 780 hours during the  
439 first 12 months of his or her retirement. A retiree reemployed  
440 for more than 780 hours during the first 12 months of retirement  
441 must give timely notice in writing to the employer and to the  
442 Division of Retirement or the state board of the date he or she  
443 will exceed the limitation. The division shall suspend his or  
444 her retirement benefits for the remainder of the 12 months. Any  
445 retiree employed in violation of this sub-subparagraph and any  
446 employer who employs or appoints such person without notifying  
447 the division to suspend retirement benefits are jointly and  
448 severally liable for any benefits paid during the reemployment  
449 limitation period. The employer must have a written statement  
450 from the retiree that he or she is not retired from a state-  
451 administered retirement system. Any retirement benefits received  
452 by the retiree while reemployed in excess of 780 hours during  
453 the first 12 months of retirement must be repaid to the Florida  
454 Retirement System Trust Fund, and retirement benefits shall  
455 remain suspended until repayment is made. Benefits suspended  
456 beyond the end of the retiree's first 12 months of retirement  
457 shall apply toward repayment of benefits received in violation  
458 of the 780-hour reemployment limitation.

459 d. The Board of Trustees of the Florida School for the Deaf  
460 and the Blind may reemploy a retiree as a substitute teacher,  
461 substitute residential instructor, or substitute nurse on a  
462 noncontractual basis after he or she has been retired for 1  
463 calendar month. Any member who is reemployed within 1 calendar  
464 month after retirement shall void his or her application for



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465 retirement benefits. The Board of Trustees of the Florida School  
466 for the Deaf and the Blind reemploying such teachers,  
467 residential instructors, or nurses is subject to the retirement  
468 contribution required by subparagraph 2.

469 e. A developmental research school may reemploy a retiree  
470 as a substitute or hourly teacher or an education  
471 paraprofessional as defined in s. 1012.01(2) on a noncontractual  
472 basis after he or she has been retired for 1 calendar month. A  
473 developmental research school may reemploy a retiree as  
474 instructional personnel, as defined in s. 1012.01(2)(a), on an  
475 annual contractual basis after he or she has been retired for 1  
476 calendar month after retirement. Any member who is reemployed  
477 within 1 calendar month voids his or her application for  
478 retirement benefits. A developmental research school that  
479 reemploys retired teachers and education paraprofessionals is  
480 subject to the retirement contribution required by subparagraph  
481 2.

482 f. A charter school may reemploy a retiree as a substitute  
483 or hourly teacher on a noncontractual basis after he or she has  
484 been retired for 1 calendar month. A charter school may reemploy  
485 a retired member as instructional personnel, as defined in s.  
486 1012.01(2)(a), on an annual contractual basis after he or she  
487 has been retired for 1 calendar month after retirement. Any  
488 member who is reemployed within 1 calendar month voids his or  
489 her application for retirement benefits. A charter school that  
490 reemploys such teachers is subject to the retirement  
491 contribution required by subparagraph 2.

492 2. The employment of a retiree or DROP participant of a  
493 state-administered retirement system does not affect the average

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494 final compensation or years of creditable service of the retiree  
495 or DROP participant. Before July 1, 1991, upon employment of any  
496 person, other than an elected officer as provided in s. 121.053,  
497 who is retired under a state-administered retirement program,  
498 the employer shall pay retirement contributions in an amount  
499 equal to the unfunded actuarial liability portion of the  
500 employer contribution which would be required for regular  
501 members of the Florida Retirement System. Effective July 1,  
502 1991, contributions shall be made as provided in s. 121.122 for  
503 retirees who have renewed membership or, as provided in  
504 subsection (13), for DROP participants.

505       3. Any person who is holding an elective public office  
506 which is covered by the Florida Retirement System and who is  
507 concurrently employed in nonelected covered employment may elect  
508 to retire while continuing employment in the elective public  
509 office if he or she terminates his or her nonelected covered  
510 employment. Such person shall receive his or her retirement  
511 benefits in addition to the compensation of the elective office  
512 without regard to the time limitations otherwise provided in  
513 this subsection. A person who seeks to exercise the provisions  
514 of this subparagraph as they existed before May 3, 1984, may not  
515 be deemed to be retired under those provisions, unless such  
516 person is eligible to retire under this subparagraph, as amended  
517 by chapter 84-11, Laws of Florida.

518       (c) Any person whose retirement is effective on or after  
519 July 1, 2010, or whose participation in the Deferred Retirement  
520 Option Program terminates on or after July 1, 2010, who is  
521 retired under this chapter, except under the disability  
522 retirement provisions of subsection (4) or as provided in s.

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523 121.053, may be reemployed by an employer that participates in a  
524 state-administered retirement system and receive retirement  
525 benefits and compensation from that employer. However, a person  
526 may not be reemployed by an employer participating in the  
527 Florida Retirement System before meeting the definition of  
528 termination in s. 121.021 and may not receive both a salary from  
529 the employer and retirement benefits for 6 calendar months after  
530 meeting the definition of termination, except as provided in  
531 paragraph (f). However, a DROP participant shall continue  
532 employment and receive a salary during the period of  
533 participation in the Deferred Retirement Option Program, as  
534 provided in subsection (13).

535 1. The reemployed retiree may not renew membership in the  
536 Florida Retirement System.

537 2. The employer shall pay retirement contributions in an  
538 amount equal to the unfunded actuarial liability portion of the  
539 employer contribution that would be required for active members  
540 of the Florida Retirement System in addition to the  
541 contributions required by s. 121.76.

542 3. A retiree initially reemployed in violation of this  
543 paragraph and an employer that employs or appoints such person  
544 are jointly and severally liable for reimbursement of any  
545 retirement benefits paid to the retirement trust fund from which  
546 the benefits were paid, including the Florida Retirement System  
547 Trust Fund and the Public Employee Optional Retirement Program  
548 Trust Fund, as appropriate. The employer must have a written  
549 statement from the employee that he or she is not retired from a  
550 state-administered retirement system. Retirement benefits shall  
551 remain suspended until repayment is made. Benefits suspended

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552 beyond the end of the retiree's 6-month reemployment limitation  
553 period shall apply toward the repayment of benefits received in  
554 violation of this paragraph.

555 (d) Except as provided in paragraph (f), this subsection  
556 applies to retirees, as defined in s. 121.4501(2), of the  
557 Florida Retirement System Investment Plan, subject to the  
558 following conditions:

559 1. A retiree may not be reemployed with an employer  
560 participating in the Florida Retirement System until such person  
561 has been retired for 6 calendar months.

562 2. A retiree employed in violation of this subsection and  
563 an employer that employs or appoints such person are jointly and  
564 severally liable for reimbursement of any benefits paid to the  
565 retirement trust fund from which the benefits were paid. The  
566 employer must have a written statement from the retiree that he  
567 or she is not retired from a state-administered retirement  
568 system.

569 (e) The limitations of this subsection apply to  
570 reemployment in any capacity irrespective of the category of  
571 funds from which the person is compensated except as provided in  
572 paragraph (f).

573 (f) Effective July 1, 2013, a retired justice or retired  
574 judge who has reached the later of his or her normal retirement  
575 age or the age when vested, who has terminated all employment  
576 with employers participating under the Florida Retirement System  
577 for at least 1 calendar month, and who subsequently returns to  
578 temporary employment as a senior judge in any court, as assigned  
579 by the Chief Justice of the Supreme Court in accordance with s.  
580 2, Art. V of the State Constitution, is not subject to paragraph

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581 (c), paragraph (d), or paragraph (e) while reemployed as a  
582 senior judge.

583 Section 9. Paragraph (a) of subsection (1) of section  
584 121.591, Florida Statutes, is amended to read:

585 121.591 Payment of benefits.—Benefits may not be paid under  
586 the Florida Retirement System Investment Plan unless the member  
587 has terminated employment as provided in s. 121.021(39)(a) or is  
588 deceased and a proper application has been filed as prescribed  
589 by the state board or the department. Benefits, including  
590 employee contributions, are not payable under the investment  
591 plan for employee hardships, unforeseeable emergencies, loans,  
592 medical expenses, educational expenses, purchase of a principal  
593 residence, payments necessary to prevent eviction or foreclosure  
594 on an employee's principal residence, or any other reason except  
595 a requested distribution for retirement, a mandatory de minimis  
596 distribution authorized by the administrator, or a required  
597 minimum distribution provided pursuant to the Internal Revenue  
598 Code. The state board or department, as appropriate, may cancel  
599 an application for retirement benefits if the member or  
600 beneficiary fails to timely provide the information and  
601 documents required by this chapter and the rules of the state  
602 board and department. In accordance with their respective  
603 responsibilities, the state board and the department shall adopt  
604 rules establishing procedures for application for retirement  
605 benefits and for the cancellation of such application if the  
606 required information or documents are not received. The state  
607 board and the department, as appropriate, are authorized to cash  
608 out a de minimis account of a member who has been terminated  
609 from Florida Retirement System covered employment for a minimum

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610 of 6 calendar months. A de minimis account is an account  
611 containing employer and employee contributions and accumulated  
612 earnings of not more than \$5,000 made under the provisions of  
613 this chapter. Such cash-out must be a complete lump-sum  
614 liquidation of the account balance, subject to the provisions of  
615 the Internal Revenue Code, or a lump-sum direct rollover  
616 distribution paid directly to the custodian of an eligible  
617 retirement plan, as defined by the Internal Revenue Code, on  
618 behalf of the member. Any nonvested accumulations and associated  
619 service credit, including amounts transferred to the suspense  
620 account of the Florida Retirement System Investment Plan Trust  
621 Fund authorized under s. 121.4501(6), shall be forfeited upon  
622 payment of any vested benefit to a member or beneficiary, except  
623 for de minimis distributions or minimum required distributions  
624 as provided under this section. If any financial instrument  
625 issued for the payment of retirement benefits under this section  
626 is not presented for payment within 180 days after the last day  
627 of the month in which it was originally issued, the third-party  
628 administrator or other duly authorized agent of the state board  
629 shall cancel the instrument and credit the amount of the  
630 instrument to the suspense account of the Florida Retirement  
631 System Investment Plan Trust Fund authorized under s.  
632 121.4501(6). Any amounts transferred to the suspense account are  
633 payable upon a proper application, not to include earnings  
634 thereon, as provided in this section, within 10 years after the  
635 last day of the month in which the instrument was originally  
636 issued, after which time such amounts and any earnings  
637 attributable to employer contributions shall be forfeited. Any  
638 forfeited amounts are assets of the trust fund and are not

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639 subject to chapter 717.

640 (1) NORMAL BENEFITS.—Under the investment plan:

641 (a) Benefits in the form of vested accumulations as  
642 described in s. 121.4501(6) are payable under this subsection in  
643 accordance with the following terms and conditions:

644 1. Benefits are payable only to a member, an alternate  
645 payee of a qualified domestic relations order, or a beneficiary.

646 2. Benefits shall be paid by the third-party administrator  
647 or designated approved providers in accordance with the law, the  
648 contracts, and any applicable board rule or policy.

649 3. The member must be terminated from all employment with  
650 all Florida Retirement System employers, as provided in s.  
651 121.021(39).

652 4. Benefit payments may not be made until the member has  
653 been terminated for 3 calendar months, except that the state  
654 board may authorize by rule for the distribution of up to 10  
655 percent of the member's account after being terminated for 1  
656 calendar month if the member has reached the normal retirement  
657 date as defined in s. 121.021. Effective July 1, 2013, a retired  
658 justice or retired judge who returns to temporary employment as  
659 a senior judge in any court pursuant to s. 25.073 may continue  
660 to receive a distribution of his or her account as provided  
661 under this paragraph after providing proof of termination from  
662 his or her regularly established position.

663 5. If a member or former member of the Florida Retirement  
664 System receives an invalid distribution, such person must either  
665 repay the full amount within 90 days after receipt of final  
666 notification by the state board or the third-party administrator  
667 that the distribution was invalid, or, in lieu of repayment, the

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668 member must terminate employment from all participating  
669 employers. If such person fails to repay the full invalid  
670 distribution within 90 days after receipt of final notification,  
671 the person may be deemed retired from the investment plan by the  
672 state board and is subject to s. 121.122. If such person is  
673 deemed retired, any joint and several liability set out in s.  
674 121.091(9)(d)2. is void, and the state board, the department, or  
675 the employing agency is not liable for gains on payroll  
676 contributions that have not been deposited to the person's  
677 account in the investment plan, pending resolution of the  
678 invalid distribution. The member or former member who has been  
679 deemed retired or who has been determined by the state board to  
680 have taken an invalid distribution may appeal the agency  
681 decision through the complaint process as provided under s.  
682 121.4501(9)(g)3. As used in this subparagraph, the term "invalid  
683 distribution" means any distribution from an account in the  
684 investment plan which is taken in violation of this section, s.  
685 121.091(9), or s. 121.4501.

686 Section 10. Section 702.015, Florida Statutes, is created  
687 to read:

688 702.015 Elements of complaint; lost, destroyed, or stolen  
689 note affidavit.—

690 (1) The Legislature intends that this section expedite the  
691 foreclosure process by ensuring initial disclosure of a  
692 plaintiff's status and the facts supporting that status, thereby  
693 ensuring the availability of documents necessary to the  
694 prosecution of the case.

695 (2) A complaint that seeks to foreclose a mortgage or other  
696 lien on residential real property, including individual units of



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697 condominiums and cooperatives, designed principally for  
698 occupation by from one to four families which secures a  
699 promissory note must:

700 (a) Contain affirmative allegations expressly made by the  
701 plaintiff at the time the proceeding is commenced that the  
702 plaintiff is the holder of the original note secured by the  
703 mortgage; or

704 (b) Allege with specificity the factual basis by which the  
705 plaintiff is a person entitled to enforce the note under s.  
706 673.3011.

707 (3) If a plaintiff has been delegated the authority to  
708 institute a mortgage foreclosure action on behalf of the person  
709 entitled to enforce the note, the complaint shall describe the  
710 authority of the plaintiff and identify, with specificity, the  
711 document that grants the plaintiff the authority to act on  
712 behalf of the person entitled to enforce the note. This  
713 subsection is intended to require initial disclosure of status  
714 and pertinent facts and not to modify law regarding standing or  
715 real parties in interest. The term "original note" or "original  
716 promissory note" means the signed or executed promissory note  
717 rather than a copy thereof. The term includes any renewal,  
718 replacement, consolidation, or amended and restated note or  
719 instrument given in renewal, replacement, or substitution for a  
720 previous promissory note. The term also includes a transferrable  
721 record, as defined by the Uniform Electronic Transaction Act in  
722 s. 668.50(16).

723 (4) If the plaintiff is in possession of the original  
724 promissory note, the plaintiff must file under penalty of  
725 perjury a certification with the court, contemporaneously with

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726 the filing of the complaint for foreclosure, that the plaintiff  
727 is in possession of the original promissory note. The  
728 certification must set forth the location of the note, the name  
729 and title of the individual giving the certification, the name  
730 of the person who personally verified such possession, and the  
731 time and date on which the possession was verified. Correct  
732 copies of the note and all allonges to the note must be attached  
733 to the certification. The original note and the allonges must be  
734 filed with the court before the entry of any judgment of  
735 foreclosure or judgment on the note.

736 (5) If the plaintiff seeks to enforce a lost, destroyed, or  
737 stolen instrument, an affidavit executed under penalty of  
738 perjury must be attached to the complaint. The affidavit must:

739 (a) Detail a clear chain of all endorsements, transfers, or  
740 assignments of the promissory note that is the subject of the  
741 action.

742 (b) Set forth facts showing that the plaintiff is entitled  
743 to enforce a lost, destroyed, or stolen instrument pursuant to  
744 s. 673.3091. Adequate protection as required under s.  
745 673.3091(2) shall be provided before the entry of final  
746 judgment.

747 (c) Include as exhibits to the affidavit such copies of the  
748 note and the allonges to the note, audit reports showing receipt  
749 of the original note, or other evidence of the acquisition,  
750 ownership, and possession of the note as may be available to the  
751 plaintiff.

752 (6) The court may sanction the plaintiff for failure to  
753 comply with this section.

754 (7) This section does not apply to any foreclosure

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755 proceeding involving timeshare interests under part III of  
756 chapter 721.

757 Section 11. Section 702.035, Florida Statutes, is amended  
758 to read:

759 702.035 Legal notice concerning foreclosure proceedings.—  
760 Whenever a legal advertisement, publication, or notice relating  
761 to a foreclosure proceeding is required to be placed in a  
762 newspaper or posted on an online website, it is the  
763 responsibility of the petitioner or petitioner's attorney to  
764 place such advertisement, publication, or notice. For counties  
765 with more than 1 million total population as reflected in the  
766 2000 Official Decennial Census of the United States Census  
767 Bureau as shown on the official website of the United States  
768 Census Bureau, any notice of publication required by this  
769 section shall be deemed to have been published in accordance  
770 with the law if the notice is published in a newspaper that has  
771 been entered as a periodical matter at a post office in the  
772 county in which the newspaper is published, is published a  
773 minimum of 5 days a week, exclusive of legal holidays, and has  
774 been in existence and published a minimum of 5 days a week,  
775 exclusive of legal holidays, for 1 year or is a direct successor  
776 to a newspaper that has been in existence for 1 year that has  
777 been published a minimum of 5 days a week, exclusive of legal  
778 holidays. If the advertisement, publication, or notice is  
779 effected by an electronic publication, it shall be deemed to  
780 have been published in accordance with the law if the  
781 requirements of s. 50.011(2) have been met. The advertisement,  
782 publication, or notice shall be placed directly by the attorney  
783 for the petitioner, by the petitioner if acting pro se, or by

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784 the clerk of the court. Only the actual costs charged by the  
785 newspaper or by the host of the Internet website for the  
786 advertisement, publication, or notice may be charged as costs in  
787 the action.

788 Section 12. Section 702.036, Florida Statutes, is created  
789 to read:

790 702.036 Finality of mortgage foreclosure judgment.-

791 (1) (a) In any action or proceeding in which a party seeks  
792 to set aside, invalidate, or challenge the validity of a final  
793 judgment of foreclosure of a mortgage or to establish or  
794 reestablish a lien or encumbrance on the property in abrogation  
795 of the final judgment of foreclosure of a mortgage, the court  
796 shall treat such request solely as a claim for monetary damages  
797 and may not grant relief that adversely affects the quality or  
798 character of the title to the property, if:

799 1. The party seeking relief from the final judgment of  
800 foreclosure of the mortgage was properly served in the  
801 foreclosure lawsuit as provided in chapter 48 or chapter 49.

802 2. The final judgment of foreclosure of the mortgage was  
803 entered as to the property.

804 3. All applicable appeals periods have run as to the final  
805 judgment of foreclosure of the mortgage with no appeals having  
806 been taken or any appeals having been finally resolved.

807 4. The property has been acquired for value, by a person  
808 not affiliated with the foreclosing lender or the foreclosed  
809 owner, at a time in which no lis pendens regarding the suit to  
810 set aside, invalidate, or challenge the foreclosure appears in  
811 the official records of the county where the property was  
812 located.

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813       (b) This subsection does not limit the right to pursue any  
814 other relief to which a person may be entitled, including, but  
815 not limited to, compensatory damages, punitive damages,  
816 statutory damages, consequential damages, injunctive relief, or  
817 fees and costs, which does not adversely affect the ownership of  
818 the title to the property as vested in the unaffiliated  
819 purchaser for value.

820       (2) For purposes of this section, the following, without  
821 limitation, shall be considered persons affiliated with the  
822 foreclosing lender:

823       (a) The foreclosing lender or any loan servicer for the  
824 loan being foreclosed;

825       (b) Any past or present owner or holder of the loan being  
826 foreclosed;

827       (c) Any maintenance company, holding company, foreclosure  
828 services company, or law firm under contract to any entity  
829 listed in paragraph (a), paragraph (b), or this paragraph, with  
830 regard to the loan being foreclosed; or

831       (d) Any parent entity, subsidiary, or other person who  
832 directly, or indirectly through one or more intermediaries,  
833 controls or is controlled by, or is under common control with,  
834 any entity listed in paragraph (a), paragraph (b), or paragraph  
835 (c).

836       (3) After foreclosure of a mortgage based upon the  
837 enforcement of a lost, destroyed, or stolen note, a person who  
838 is not a party to the underlying foreclosure action but who  
839 claims to be the person entitled to enforce the promissory note  
840 secured by the foreclosed mortgage has no claim against the  
841 foreclosed property after it is conveyed for valuable

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842 consideration to a person not affiliated with the foreclosing  
843 lender or the foreclosed owner. This section does not preclude  
844 the person entitled to enforce the promissory note from pursuing  
845 recovery from any adequate protection given pursuant to s.  
846 673.3091 or from the party who wrongfully claimed to be the  
847 person entitled to enforce the promissory note under s.  
848 702.11(2) or otherwise, from the maker of the note, or from any  
849 other person against whom it may have a claim relating to the  
850 note.

851 Section 13. Section 702.06, Florida Statutes, is amended to  
852 read:

853 702.06 Deficiency decree; common-law suit to recover  
854 deficiency.—In all suits for the foreclosure of mortgages  
855 heretofore or hereafter executed the entry of a deficiency  
856 decree for any portion of a deficiency, should one exist, shall  
857 be within the sound discretion of the court; however, in the  
858 case of an owner-occupied residential property, the amount of  
859 the deficiency may not exceed the difference between the  
860 judgment amount, or in the case of a short sale, the outstanding  
861 debt, and the fair market value of the property on the date of  
862 sale. For purposes of this section, there is a rebuttable  
863 presumption that a residential property for which a homestead  
864 exemption for taxation was granted according to the certified  
865 rolls of the latest assessment by the county property appraiser,  
866 before the filing of the foreclosure action, is an owner-  
867 occupied residential property. ~~shall be within the sound~~  
868 ~~judicial discretion of the court, but~~ The complainant shall also  
869 have the right to sue at common law to recover such deficiency,  
870 unless the court in the foreclosure action has granted or denied

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871 ~~a claim for a deficiency judgment provided no suit at law to~~  
872 ~~recover such deficiency shall be maintained against the original~~  
873 ~~mortgagor in cases where the mortgage is for the purchase price~~  
874 ~~of the property involved and where the original mortgagee~~  
875 ~~becomes the purchaser thereof at foreclosure sale and also is~~  
876 ~~granted a deficiency decree against the original mortgagor.~~

877 Section 14. Section 702.10, Florida Statutes, is amended to  
878 read:

879 702.10 Order to show cause; entry of final judgment of  
880 foreclosure; payment during foreclosure.-

881 (1) A lienholder ~~After a complaint in a foreclosure~~  
882 ~~proceeding has been filed, the mortgagee may request an order to~~  
883 ~~show cause for the entry of final judgment in a foreclosure~~  
884 ~~action. For purposes of this section, the term "lienholder"~~  
885 ~~includes the plaintiff and a defendant to the action who holds a~~  
886 ~~lien encumbering the property or a defendant who, by virtue of~~  
887 ~~its status as a condominium association, cooperative~~  
888 ~~association, or homeowners' association, may file a lien against~~  
889 ~~the real property subject to foreclosure. Upon filing, and the~~  
890 ~~court shall immediately review the request and the court file in~~  
891 ~~chambers and without a hearing complaint.~~ If, upon examination  
892 of the court file ~~complaint~~, the court finds that the complaint  
893 is verified, complies with s. 702.015, and alleges a cause of  
894 action to foreclose on real property, the court shall promptly  
895 issue an order directed to the other parties named in the action  
896 ~~defendant~~ to show cause why a final judgment of foreclosure  
897 should not be entered.

898 (a) The order shall:

899 1. Set the date and time for a hearing ~~on the order~~ to show

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900 cause. ~~However,~~ The date for the hearing may not occur ~~be set~~  
901 sooner than the later of 20 days after ~~the~~ service of the order  
902 to show cause or 45 days after service of the initial complaint.  
903 When service is obtained by publication, the date for the  
904 hearing may not be set sooner than 30 days after the first  
905 publication. ~~The hearing must be held within 60 days after the~~  
906 ~~date of service. Failure to hold the hearing within such time~~  
907 ~~does not affect the validity of the order to show cause or the~~  
908 ~~jurisdiction of the court to issue subsequent orders.~~

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

911 3. State that the filing of defenses by a motion,  
912 responsive pleading, affidavits, or other papers ~~or by a~~  
913 ~~verified or sworn answer at or~~ before the hearing to show cause  
914 may constitute ~~constitutes~~ cause for the court not to enter ~~the~~  
915 ~~attached~~ final judgment.

916 4. State that a ~~the~~ defendant has the right to file  
917 affidavits or other papers before ~~at~~ the time of the hearing to  
918 show cause and may appear personally or by way of an attorney at  
919 the hearing.

920 5. State that, if a ~~the~~ defendant files defenses by a  
921 motion, a verified or sworn answer, affidavits, or other papers  
922 or appears personally or by way of an attorney at the time of  
923 the hearing, the hearing time will ~~may~~ be used to hear and  
924 consider whether the defendant's motion, answer, affidavits,  
925 other papers, and other evidence and argument as may be  
926 presented by the defendant or the defendant's attorney raise a  
927 genuine issue of material fact which would preclude the entry of  
928 summary judgment or otherwise constitute a legal defense to



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929 foreclosure. The order shall also state that the court may enter  
930 an order of final judgment of foreclosure at the hearing and  
931 order the clerk of the court to conduct a foreclosure sale.

932 6. State that, if a the defendant fails to appear at the  
933 hearing to show cause or fails to file defenses by a motion or  
934 by a verified or sworn answer or files an answer not contesting  
935 the foreclosure, such ~~the~~ defendant may be considered to have  
936 waived the right to a hearing, and in such case, the court may  
937 enter a default against such defendant and, if appropriate, a  
938 final judgment of foreclosure ordering the clerk of the court to  
939 conduct a foreclosure sale.

940 7. State that if the mortgage provides for reasonable  
941 attorney ~~attorney's~~ fees and the requested attorney ~~attorney's~~  
942 fees do not exceed 3 percent of the principal amount owed at the  
943 time of filing the complaint, it is unnecessary for the court to  
944 hold a hearing or adjudge the requested attorney ~~attorney's~~ fees  
945 to be reasonable.

946 8. Attach the form of the proposed final judgment of  
947 foreclosure which the movant requests the court to will enter,  
948 ~~if the defendant waives the right to be heard~~ at the hearing on  
949 the order to show cause.

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

953 a. If a party ~~the mortgagor~~ has been served pursuant to  
954 chapter 48 with the complaint and original process, or the other  
955 party is the plaintiff in the action, service of the order to  
956 show cause on that party ~~order~~ may be made in the manner  
957 provided in the Florida Rules of Civil Procedure.

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958           b. If a defendant ~~the mortgagor~~ has not been served  
959 pursuant to chapter 48 with the complaint and original process,  
960 the order to show cause, together with the summons and a copy of  
961 the complaint, shall be served on the party ~~mortgagor~~ in the  
962 same manner as provided by law for original process.

963

964 Any final judgment of foreclosure entered under this subsection  
965 is for in rem relief only. ~~Nothing in~~ This subsection does not  
966 ~~shall~~ preclude the entry of a deficiency judgment where  
967 otherwise allowed by law. The Legislature intends that this  
968 alternative procedure may run simultaneously with other court  
969 procedures.

970           (b) The right to be heard at the hearing to show cause is  
971 waived if a ~~the~~ defendant, after being served as provided by law  
972 with an order to show cause, engages in conduct that clearly  
973 shows that the defendant has relinquished the right to be heard  
974 on that order. The defendant's failure to file defenses by a  
975 motion or by a sworn or verified answer, affidavits, or other  
976 papers or to appear personally or by way of an attorney at the  
977 hearing duly scheduled on the order to show cause presumptively  
978 constitutes conduct that clearly shows that the defendant has  
979 relinquished the right to be heard. If a defendant files  
980 defenses by a motion, ~~or by a verified or sworn answer,~~  
981 affidavits, or other papers or presents evidence at or before  
982 the hearing which raise a genuine issue of material fact which  
983 would preclude entry of summary judgment or otherwise constitute  
984 a legal defense to foreclosure, such action constitutes cause  
985 and precludes the entry of a final judgment at the hearing to  
986 show cause.

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987 (c) In a mortgage foreclosure proceeding, when a final  
988 ~~default~~ judgment of foreclosure has been entered against the  
989 mortgagor and the note or mortgage provides for the award of  
990 reasonable attorney ~~attorney's~~ fees, it is unnecessary for the  
991 court to hold a hearing or adjudge the requested attorney  
992 ~~attorney's~~ fees to be reasonable if the fees do not exceed 3  
993 percent of the principal amount owed on the note or mortgage at  
994 the time of filing, even if the note or mortgage does not  
995 specify the percentage of the original amount that would be paid  
996 as liquidated damages.

997 (d) If the court finds that all defendants have ~~the~~  
998 ~~defendant has~~ waived the right to be heard as provided in  
999 paragraph (b), the court shall promptly enter a final judgment  
1000 of foreclosure without the need for further hearing if the  
1001 plaintiff has shown entitlement to a final judgment and upon the  
1002 filing with the court of the original note, satisfaction of the  
1003 conditions for establishment of a lost note, or upon a showing  
1004 to the court that the obligation to be foreclosed is not  
1005 evidenced by a promissory note or other negotiable instrument.  
1006 If the court finds that a ~~the~~ defendant has not waived the right  
1007 to be heard on the order to show cause, the court shall ~~then~~  
1008 determine whether there is cause not to enter a final judgment  
1009 of foreclosure. If the court finds that the defendant has not  
1010 shown cause, the court shall promptly enter a judgment of  
1011 foreclosure. If the time allotted for the hearing is  
1012 insufficient, the court may announce at the hearing a date and  
1013 time for the continued hearing. Only the parties who appear,  
1014 individually or through an attorney, at the initial hearing must  
1015 be notified of the date and time of the continued hearing.

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1016           (2) Except as provided in paragraph (i), as part of any ~~in~~  
1017 an action for foreclosure, and in addition to any other relief  
1018 that the court may award ~~other than residential real estate, the~~  
1019 plaintiff ~~the mortgagee~~ may request that the court enter an  
1020 order directing the mortgagor defendant to show cause why an  
1021 order to make payments during the pendency of the foreclosure  
1022 proceedings or an order to vacate the premises should not be  
1023 entered.

1024           (a) The order shall:

1025           1. Set the date and time for hearing on the order to show  
1026 cause. However, the date for the hearing may ~~shall~~ not be set  
1027 sooner than 20 days after the service of the order. If ~~Where~~  
1028 service is obtained by publication, the date for the hearing may  
1029 ~~shall~~ not be set sooner than 30 days after the first  
1030 publication.

1031           2. Direct the time within which service of the order to  
1032 show cause and the complaint shall be made upon each ~~the~~  
1033 defendant.

1034           3. State that a ~~the~~ defendant has the right to file  
1035 affidavits or other papers at the time of the hearing and may  
1036 appear personally or by way of an attorney at the hearing.

1037           4. State that, if a ~~the~~ defendant fails to appear at the  
1038 hearing to show cause and fails to file defenses by a motion or  
1039 by a verified or sworn answer, the defendant is ~~may be~~ deemed to  
1040 have waived the right to a hearing and in such case the court  
1041 may enter an order to make payment or vacate the premises.

1042           5. Require the movant ~~mortgagee~~ to serve a copy of the  
1043 order to show cause on the defendant ~~mortgager~~ in the following  
1044 manner:

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1045 a. If a defendant ~~the mortgagor~~ has been served with the  
1046 complaint and original process, service of the order may be made  
1047 in the manner provided in the Florida Rules of Civil Procedure.

1048 b. If a defendant ~~the mortgagor~~ has not been served with  
1049 the complaint and original process, the order to show cause,  
1050 together with the summons and a copy of the complaint, shall be  
1051 served on the defendant ~~mortgagor~~ in the same manner as provided  
1052 by law for original process.

1053 (b) The right of a defendant to be heard at the hearing to  
1054 show cause is waived if the defendant, after being served as  
1055 provided by law with an order to show cause, engages in conduct  
1056 that clearly shows that the defendant has relinquished the right  
1057 to be heard on that order. A ~~The~~ defendant's failure to file  
1058 defenses by a motion or by a sworn or verified answer or to  
1059 appear at the hearing duly scheduled on the order to show cause  
1060 presumptively constitutes conduct that clearly shows that the  
1061 defendant has relinquished the right to be heard.

1062 (c) If the court finds that a ~~the~~ defendant has waived the  
1063 right to be heard as provided in paragraph (b), the court may  
1064 promptly enter an order requiring payment in the amount provided  
1065 in paragraph (f) or an order to vacate.

1066 (d) If the court finds that the mortgagor has not waived  
1067 the right to be heard on the order to show cause, the court  
1068 shall, at the hearing on the order to show cause, consider the  
1069 affidavits and other showings made by the parties appearing and  
1070 make a determination of the probable validity of the underlying  
1071 claim alleged against the mortgagor and the mortgagor's  
1072 defenses. If the court determines that the plaintiff ~~mortgagee~~  
1073 is likely to prevail in the foreclosure action, the court shall

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1074 enter an order requiring the mortgagor to make the payment  
1075 described in paragraph (e) to the plaintiff ~~mortgagee~~ and  
1076 provide for a remedy as described in paragraph (f). However, the  
1077 order shall be stayed pending final adjudication of the claims  
1078 of the parties if the mortgagor files with the court a written  
1079 undertaking executed by a surety approved by the court in an  
1080 amount equal to the unpaid balance of the lien being foreclosed  
1081 ~~the mortgage on the property~~, including all principal, interest,  
1082 unpaid taxes, and insurance premiums paid by the plaintiff ~~the~~  
1083 ~~mortgagee~~.

1084 (e) If ~~In the event~~ the court enters an order requiring the  
1085 mortgagor to make payments to the plaintiff ~~mortgagee~~, payments  
1086 shall be payable at such intervals and in such amounts provided  
1087 for in the mortgage instrument before acceleration or maturity.  
1088 The obligation to make payments pursuant to any order entered  
1089 under this subsection shall commence from the date of the motion  
1090 filed under this section ~~hereunder~~. The order shall be served  
1091 upon the mortgagor no later than 20 days before the date  
1092 specified for the first payment. The order may permit, but may  
1093 ~~shall~~ not require, the plaintiff ~~mortgagee~~ to take all  
1094 appropriate steps to secure the premises during the pendency of  
1095 the foreclosure action.

1096 (f) If ~~In the event~~ the court enters an order requiring  
1097 payments, the order shall also provide that the plaintiff is  
1098 ~~mortgagee shall be~~ entitled to possession of the premises upon  
1099 the failure of the mortgagor to make the payment required in the  
1100 order unless at the hearing on the order to show cause the court  
1101 finds good cause to order some other method of enforcement of  
1102 its order.

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1103 (g) All amounts paid pursuant to this section shall be  
1104 credited against the mortgage obligation in accordance with the  
1105 terms of the loan documents; ~~provided, however, that any~~  
1106 payments made under this section do ~~shall~~ not constitute a cure  
1107 of any default or a waiver or any other defense to the mortgage  
1108 foreclosure action.

1109 (h) Upon the filing of an affidavit with the clerk that the  
1110 premises have not been vacated pursuant to the court order, the  
1111 clerk shall issue to the sheriff a writ for possession which  
1112 shall be governed by ~~the provisions of~~ s. 83.62.

1113 (i) This subsection does not apply to foreclosure of an  
1114 owner-occupied residence. For purposes of this paragraph, there  
1115 is a rebuttable presumption that a residential property for  
1116 which a homestead exemption for taxation was granted according  
1117 to the certified rolls of the latest assessment by the county  
1118 property appraiser, before the filing of the foreclosure action,  
1119 is an owner-occupied residential property.

1120 Section 15. Section 702.11, Florida Statutes, is created to  
1121 read:

1122 702.11 Adequate protections for lost, destroyed, or stolen  
1123 notes in mortgage foreclosure.—

1124 (1) In connection with a mortgage foreclosure, the  
1125 following constitute reasonable means of providing adequate  
1126 protection under s. 673.3091, if so found by the court:

1127 (a) A written indemnification agreement by a person  
1128 reasonably believed sufficiently solvent to honor such an  
1129 obligation;

1130 (b) A surety bond;

1131 (c) A letter of credit issued by a financial institution;

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1132 (d) A deposit of cash collateral with the clerk of the  
1133 court; or

1134 (e) Such other security as the court may deem appropriate  
1135 under the circumstances.

1136  
1137 Any security given shall be on terms and in amounts set by the  
1138 court, for a time period through the running of the statute of  
1139 limitations for enforcement of the underlying note, and  
1140 conditioned to indemnify and hold harmless the maker of the note  
1141 against any loss or damage, including principal, interest, and  
1142 attorney fees and costs, that might occur by reason of a claim  
1143 by another person to enforce the note.

1144 (2) Any person who wrongly claims to be the holder of or  
1145 pursuant to s. 673.3011 to be entitled to enforce a lost,  
1146 stolen, or destroyed note and causes the mortgage secured  
1147 thereby to be foreclosed is liable to the actual holder of the  
1148 note, without limitation to any adequate protections given, for  
1149 actual damages suffered together with attorney fees and costs of  
1150 the actual holder of the note in enforcing rights under this  
1151 subsection. In addition, the actual holder of the note may  
1152 pursue recovery directly against any adequate protections given.

1153 (a) The actual holder of the note is not required to pursue  
1154 recovery against the maker of the note or any guarantor thereof  
1155 as a condition precedent to pursuing remedies under this  
1156 section.

1157 (b) This section does not limit or restrict the ability of  
1158 the actual holder of the note to pursue any other claims or  
1159 remedies it may have against the maker, the person who wrongly  
1160 claimed to be the holder, or any person who facilitated or



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1161 participated in the claim to the note or enforcement thereof.

1162 Section 16. The Legislature finds that this act is remedial  
1163 in nature and applies to all mortgages encumbering real property  
1164 and all promissory notes secured by a mortgage, whether executed  
1165 before, on, or after the effective date of this act. In  
1166 addition, the Legislature finds that s. 702.015, Florida  
1167 Statutes, as created by this act, applies to cases filed on or  
1168 after July 1, 2013; however, the amendments to s. 702.10,  
1169 Florida Statutes, and the creation of s. 702.11, Florida  
1170 Statutes, by this act, apply to causes of action pending on the  
1171 effective date of this act.

1172 Section 17. (1) Effective July 1, 2013, in order to fund  
1173 the benefit changes provided in this act, the required employer  
1174 contribution rates for members of the Florida Retirement System  
1175 established in s. 121.71(4), Florida Statutes, must be adjusted  
1176 as follows:

1177 (a) Elected Officers' Class for Justices and Judges shall  
1178 be increased by 0.45 percentage points; and

1179 (b) Deferred Retirement Option Program shall be increased  
1180 by 0.01 percentage points.

1181 (2) Effective July 1, 2013, in order to fund the benefit  
1182 changes provided in this act, the required employer contribution  
1183 rates for the unfunded actuarial liability of the Florida  
1184 Retirement System established in s. 121.71(5), Florida Statutes,  
1185 for the Elected Officers' Class for Justices and Judges shall be  
1186 increased by 0.91 percentage points.

1187 (3) The adjustments provided in subsections (1) and (2)  
1188 shall be in addition to all other changes to such contribution  
1189 rates which may be enacted into law to take effect on July 1,

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1190 2013, and July 1, 2014. The Division of Law Revision and  
1191 Information is requested to adjust accordingly the contribution  
1192 rates provided in s. 121.71, Florida Statutes.

1193 Section 18. The Legislature finds that a proper and  
1194 legitimate state purpose is served if employees and retirees of  
1195 the state and its political subdivisions, and the dependents,  
1196 survivors, and beneficiaries of such employees and retirees, are  
1197 extended the basic protections afforded by governmental  
1198 retirement systems which provide fair and adequate benefits and  
1199 which are managed, administered, and funded in an actuarially  
1200 sound manner as required by s. 14, Article X of the State  
1201 Constitution, and part VII of chapter 112, Florida Statutes.  
1202 Therefore, the Legislature determines and declares that this act  
1203 fulfills an important state interest.

1204 Section 19. The Supreme Court is requested to amend the  
1205 Florida Rules of Civil Procedures to provide expedited  
1206 foreclosure proceedings in conformity with this act and is  
1207 requested to develop and publish forms for use in such expedited  
1208 proceedings.

1209 Section 20. Sections 1, 6 through 9, 17, and 18 of this act  
1210 shall take effect only if the Legislature appropriates during  
1211 the 2013 Legislative Session the sum of at least \$1.6 million  
1212 from the General Revenue Fund on a recurring basis to the  
1213 judicial branch in order to fund the increased employer  
1214 contributions associated with the costs of the retirement  
1215 benefits granted in this act and if the Governor does not veto  
1216 the appropriation.

1217 Section 21. The changes in sections 1, 6 through 9, 17, and  
1218 18 of this act relating to retired justices and retired judges

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1219 shall stand repealed effective July 1, 2016.

1220 Section 22. This act shall take effect upon becoming a law.