

By the Committees on Judiciary; and Banking and Insurance; and
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.; limiting the eligibility of retired
4 judges to receive compensation and reimbursement under
5 certain circumstances; amending s. 95.11, F.S.;
6 revising the limitations period for commencing an
7 action to enforce a claim of a deficiency judgment
8 after a foreclosure action; providing for
9 applicability to existing causes of action; providing
10 that the amendments made by this act to s. 95.11,
11 F.S., apply to any action commenced on or after July
12 1, 2013; amending s. 121.021, F.S.; defining terms;
13 providing for the applicability of the term
14 "termination"; amending s. 121.091, F.S.; providing
15 that between two specified dates, a retired justice or
16 retired judge is not subject to certain limitations
17 otherwise applicable to retired employees; amending s.
18 121.591, F.S.; providing that, between two specified
19 dates, a retired justice or retired judge who returns
20 to temporary employment as a senior judge in any court
21 may continue to receive a distribution of his or her
22 retirement account after providing proof of
23 termination from his or her regularly established
24 position; creating s. 702.015, F.S.; providing
25 legislative intent; specifying required contents of a
26 complaint seeking to foreclose on certain types of
27 residential properties with respect to the authority
28 of the plaintiff to foreclose on the note and the
29 location of the note; authorizing sanctions against

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30 plaintiffs who fail to comply with complaint
31 requirements; providing for non-applicability to
32 proceedings involving timeshare interests; creating s.
33 702.036, F.S.; requiring a court to treat a collateral
34 attack on a final judgment of foreclosure on a
35 mortgage as a claim for monetary damages under certain
36 circumstances; prohibiting such court from granting
37 certain relief affecting title to the foreclosed
38 property; providing for construction relating to the
39 rights of certain persons to seek specified types of
40 relief or pursue claims against the foreclosed
41 property under certain circumstances; amending s.
42 702.06, F.S.; limiting the amount of a deficiency
43 judgment; amending s. 702.10, F.S.; revising the class
44 of persons authorized to move for expedited
45 foreclosure to include lienholders; defining the term
46 "lienholder"; providing requirements and procedures
47 with respect to an order directed to defendants to
48 show cause why a final judgment of foreclosure should
49 not be entered; providing that certain failures by a
50 defendant to make certain filings or to make certain
51 appearances may have specified legal consequences;
52 requiring the court to enter a final judgment of
53 foreclosure and order a foreclosure sale under certain
54 circumstances; revising a restriction on a mortgagee
55 to request a court to order a mortgagor defendant to
56 make payments or to vacate the premises during an
57 action to foreclose on residential real estate to
58 provide that the restriction applies to all but owner-

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59 occupied residential property; providing a presumption
60 regarding owner-occupied residential property;
61 creating s. 702.11, F.S.; providing requirements for
62 reasonable means of providing adequate protection
63 under s. 673.3091, F.S., in mortgage foreclosures of
64 certain residential properties; providing for
65 liability of persons who wrongly claim to be holders
66 of or entitled to enforce a lost, stolen, or destroyed
67 note and cause the mortgage secured thereby to be
68 foreclosed in certain circumstances; providing for
69 construction and applicability; declaring that the act
70 is remedial in nature and applies to all mortgages
71 encumbering real property and all promissory notes
72 secured by a mortgage, whether executed before, on, or
73 after the effective date of this act; requiring that
74 employer contribution rates be adjusted; providing a
75 directive to the Division of Law Revision and
76 Information; providing legislature findings;
77 requesting the Florida Supreme Court to adopt rules
78 and forms to expedite foreclosure proceedings;
79 providing that certain specified provisions of the act
80 take effect only if the Legislature appropriates a
81 certain amount on a recurring basis to the judicial
82 system and if the Governor does not veto the
83 appropriation; providing that certain sections of the
84 act stand repealed on a stated date; providing an
85 effective date.

86

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

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89 Section 1. Section 25.073, Florida Statutes, is amended to
90 read:

91 25.073 Retired justices or judges assigned to temporary
92 duty; additional compensation; appropriation.—

93 (1) For purposes of this section, the term "retired
94 justice" or "retired judge" means any former justice or judge
95 who:

96 (a) Has not been defeated in seeking reelection to, or has
97 not failed to be retained in seeking retention in, his or her
98 last judicial office or was not defeated when last seeking
99 election to judicial office; and

100 (b) Is not engaged in the practice of law.

101 (2) Any retired justice of the Supreme Court or retired
102 judge of a district court of appeal or circuit or county court
103 assigned to temporary duty in any of such courts, pursuant to
104 Art. V of the State Constitution, shall be compensated as
105 follows:

106 (a) Any such justice or judge shall be paid not less than
107 \$200 for each day or portion of a day that such justice or judge
108 is assigned to temporary duty; however, no such justice or judge
109 may serve for more than 60 days in any year without the approval
110 of the Chief Justice.

111 (b) Necessary travel expense incident to the performance of
112 duties required by assignment of such justice or judge to
113 temporary duty shall be paid by the state in accordance with the
114 provisions of s. 112.061.

115 (3) (a) A payment to a retired circuit court or county court
116 judge may be made only to a retired judge who:

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117 1. Serves in the same circuit court or county court in
118 which he or she last served in a permanent capacity; or

119 2. In a circuit court or county court in which the retired
120 judge previously served as a retired judge before July 1, 2013.

121 (b) Notwithstanding paragraph (a), a payment may be made to
122 a retired judge who did not previously serve in the particular
123 circuit court or county court, if the chief judge of the circuit
124 court certifies in writing to the Chief Justice of the Supreme
125 Court that the chief judge, after a reasonable search, was
126 unable to identify a qualified retired judge who previously
127 served in the circuit or county court who is available for the
128 temporary duty.

129 (4)~~(3)~~ Payments required under this section shall be made
130 from moneys to be appropriated for this purpose.

131 Section 2. Paragraph (b) of subsection (2) of section
132 95.11, Florida Statutes, is amended, and paragraph (h) is added
133 to subsection (5) of that section, to read:

134 95.11 Limitations other than for the recovery of real
135 property.—Actions other than for recovery of real property shall
136 be commenced as follows:

137 (2) WITHIN FIVE YEARS.—

138 (b) A legal or equitable action on a contract, obligation,
139 or liability founded on a written instrument, except for an
140 action to enforce a claim against a payment bond, which shall be
141 governed by the applicable provisions of paragraph (5)(e), s.
142 255.05(10), s. 337.18(1), or s. 713.23(1)(e), and except for an
143 action for a deficiency judgment governed by paragraph (5)(h).

144 (5) WITHIN ONE YEAR.—

145 (h) An action to enforce a claim of a deficiency related to

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146 a note secured by a mortgage against a residential property that
147 is a one-family to four-family dwelling unit. The limitations
148 period shall commence on the day after the certificate of title
149 is issued by the clerk of court or the day after the mortgagee
150 accepts a deed in lieu of foreclosure.

151 Section 3. The amendments made by this act to s. 95.11,
152 Florida Statutes, apply to any action commenced on or after July
153 1, 2013, regardless of when the cause of action accrued.
154 However, any action that would not have been barred under s.
155 95.11(2)(b), Florida Statutes, before the effective date of this
156 act must be commenced within 5 years after the action accrued or
157 by July 1, 2014, whichever occurs first.

158 Section 4. Subsection (39) of section 121.021, Florida
159 Statutes, is amended to read:

160 121.021 Definitions.—The following words and phrases as
161 used in this chapter have the respective meanings set forth
162 unless a different meaning is plainly required by the context:

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

166 1. For retirements effective before July 1, 2010, if a
167 member is employed by any such employer within the next calendar
168 month, termination shall be deemed not to have occurred. A leave
169 of absence constitutes a continuation of the employment
170 relationship, except that a leave of absence without pay due to
171 disability may constitute termination if such member makes
172 application for and is approved for disability retirement in
173 accordance with s. 121.091(4). The department or state board may
174 require other evidence of termination as it deems necessary.

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

184 (b) "Termination" for a member electing to participate in
185 the Deferred Retirement Option Program occurs when the program
186 participant ceases all employment relationships with
187 participating employers in accordance with s. 121.091(13),
188 however:

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

194 2. For termination dates occurring on or after July 1,
195 2010, if the member becomes employed by any such employer within
196 the next 6 calendar months, termination will be deemed not to
197 have occurred, except as provided in s. 121.091(13)(b)4.c. A
198 leave of absence constitutes a continuation of the employment
199 relationship.

200 (c) Effective July 1, 2011, "termination" for a member
201 receiving a refund of employee contributions occurs when a
202 member ceases all employment relationships with participating
203 employers for 3 calendar months. A leave of absence constitutes

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204 a continuation of the employment relationship.

205 (d) Effective July 1, 2013, through June 30, 2016,
206 "termination" for a retired justice or judge who reached the
207 later of his or her normal retirement age or age when vested at
208 retirement and subsequently returns to temporary employment as a
209 judge in any court, as assigned by the Chief Justice of the
210 Supreme Court in accordance with s. 2, Art. V of the State
211 Constitution, occurs when the justice or judge has terminated
212 all employment relationships with employers under the Florida
213 Retirement System for at least 1 calendar month prior to
214 reemployment as a senior judge.

215 Section 5. Subsection (9) of section 121.091, Florida
216 Statutes, is amended to read:

217 121.091 Benefits payable under the system.—Benefits may not
218 be paid under this section unless the member has terminated
219 employment as provided in s. 121.021(39)(a) or begun
220 participation in the Deferred Retirement Option Program as
221 provided in subsection (13), and a proper application has been
222 filed in the manner prescribed by the department. The department
223 may cancel an application for retirement benefits when the
224 member or beneficiary fails to timely provide the information
225 and documents required by this chapter and the department's
226 rules. The department shall adopt rules establishing procedures
227 for application for retirement benefits and for the cancellation
228 of such application when the required information or documents
229 are not received.

230 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

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

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

237 (b) Any person whose retirement is effective before July 1,
238 2010, or whose participation in the Deferred Retirement Option
239 Program terminates before July 1, 2010, except under the
240 disability retirement provisions of subsection (4) or as
241 provided in s. 121.053, may be reemployed by an employer that
242 participates in a state-administered retirement system and
243 receive retirement benefits and compensation from that employer,
244 except that the person may not be reemployed by an employer
245 participating in the Florida Retirement System before meeting
246 the definition of termination in s. 121.021 and may not receive
247 both a salary from the employer and retirement benefits for 12
248 calendar months immediately subsequent to the date of
249 retirement. However, a DROP participant shall continue
250 employment and receive a salary during the period of
251 participation in the Deferred Retirement Option Program, as
252 provided in subsection (13).

253 1. A retiree who violates such reemployment limitation
254 before completion of the 12-month limitation period must give
255 timely notice of this fact in writing to the employer and to the
256 Division of Retirement or the state board and shall have his or
257 her retirement benefits suspended for the months employed or the
258 balance of the 12-month limitation period as required in sub-
259 subparagraphs b. and c. A retiree employed in violation of this
260 paragraph and an employer who employs or appoints such person
261 are jointly and severally liable for reimbursement to the

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262 retirement trust fund, including the Florida Retirement System
263 Trust Fund and the Public Employee Optional Retirement Program
264 Trust Fund, from which the benefits were paid. The employer must
265 have a written statement from the retiree that he or she is not
266 retired from a state-administered retirement system. Retirement
267 benefits shall remain suspended until repayment has been made.
268 Benefits suspended beyond the reemployment limitation shall
269 apply toward repayment of benefits received in violation of the
270 reemployment limitation.

271 a. A district school board may reemploy a retiree as a
272 substitute or hourly teacher, education paraprofessional,
273 transportation assistant, bus driver, or food service worker on
274 a noncontractual basis after he or she has been retired for 1
275 calendar month. A district school board may reemploy a retiree
276 as instructional personnel, as defined in s. 1012.01(2)(a), on
277 an annual contractual basis after he or she has been retired for
278 1 calendar month. Any member who is reemployed within 1 calendar
279 month after retirement shall void his or her application for
280 retirement benefits. District school boards reemploying such
281 teachers, education paraprofessionals, transportation
282 assistants, bus drivers, or food service workers are subject to
283 the retirement contribution required by subparagraph 2.

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

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291 retirement contribution required in subparagraph 2. A retiree
292 may be reemployed as an adjunct instructor for no more than 780
293 hours during the first 12 months of retirement. A retiree
294 reemployed for more than 780 hours during the first 12 months of
295 retirement must give timely notice in writing to the employer
296 and to the Division of Retirement or the state board of the date
297 he or she will exceed the limitation. The division shall suspend
298 his or her retirement benefits for the remainder of the 12
299 months of retirement. Any retiree employed in violation of this
300 sub-subparagraph and any employer who employs or appoints such
301 person without notifying the division to suspend retirement
302 benefits are jointly and severally liable for any benefits paid
303 during the reemployment limitation period. The employer must
304 have a written statement from the retiree that he or she is not
305 retired from a state-administered retirement system. Any
306 retirement benefits received by the retiree while reemployed in
307 excess of 780 hours during the first 12 months of retirement
308 must be repaid to the Florida Retirement System Trust Fund, and
309 retirement benefits shall remain suspended until repayment is
310 made. Benefits suspended beyond the end of the retiree's first
311 12 months of retirement shall apply toward repayment of benefits
312 received in violation of the 780-hour reemployment limitation.

313 c. The State University System may reemploy a retiree as an
314 adjunct faculty member or as a participant in a phased
315 retirement program within the State University System after the
316 retiree has been retired for 1 calendar month. A member who is
317 reemployed within 1 calendar month after retirement shall void
318 his or her application for retirement benefits. The State
319 University System is subject to the retired contribution

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320 required in subparagraph 2., as appropriate. A retiree may be
321 reemployed as an adjunct faculty member or a participant in a
322 phased retirement program for no more than 780 hours during the
323 first 12 months of his or her retirement. A retiree reemployed
324 for more than 780 hours during the first 12 months of retirement
325 must give timely notice in writing to the employer and to the
326 Division of Retirement or the state board of the date he or she
327 will exceed the limitation. The division shall suspend his or
328 her retirement benefits for the remainder of the 12 months. Any
329 retiree employed in violation of this sub-subparagraph and any
330 employer who employs or appoints such person without notifying
331 the division to suspend retirement benefits are jointly and
332 severally liable for any benefits paid during the reemployment
333 limitation period. The employer must have a written statement
334 from the retiree that he or she is not retired from a state-
335 administered retirement system. Any retirement benefits received
336 by the retiree while reemployed in excess of 780 hours during
337 the first 12 months of retirement must be repaid to the Florida
338 Retirement System Trust Fund, and retirement benefits shall
339 remain suspended until repayment is made. Benefits suspended
340 beyond the end of the retiree's first 12 months of retirement
341 shall apply toward repayment of benefits received in violation
342 of the 780-hour reemployment limitation.

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

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349 retirement benefits. The Board of Trustees of the Florida School
350 for the Deaf and the Blind reemploying such teachers,
351 residential instructors, or nurses is subject to the retirement
352 contribution required by subparagraph 2.

353 e. A developmental research school may reemploy a retiree
354 as a substitute or hourly teacher or an education
355 paraprofessional as defined in s. 1012.01(2) on a noncontractual
356 basis after he or she has been retired for 1 calendar month. A
357 developmental research school may reemploy a retiree as
358 instructional personnel, as defined in s. 1012.01(2)(a), on an
359 annual contractual basis after he or she has been retired for 1
360 calendar month after retirement. Any member who is reemployed
361 within 1 calendar month voids his or her application for
362 retirement benefits. A developmental research school that
363 reemploys retired teachers and education paraprofessionals is
364 subject to the retirement contribution required by subparagraph
365 2.

366 f. A charter school may reemploy a retiree as a substitute
367 or hourly teacher on a noncontractual basis after he or she has
368 been retired for 1 calendar month. A charter school may reemploy
369 a retired member as instructional personnel, as defined in s.
370 1012.01(2)(a), on an annual contractual basis after he or she
371 has been retired for 1 calendar month after retirement. Any
372 member who is reemployed within 1 calendar month voids his or
373 her application for retirement benefits. A charter school that
374 reemploys such teachers is subject to the retirement
375 contribution required by subparagraph 2.

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

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378 final compensation or years of creditable service of the retiree
379 or DROP participant. Before July 1, 1991, upon employment of any
380 person, other than an elected officer as provided in s. 121.053,
381 who is retired under a state-administered retirement program,
382 the employer shall pay retirement contributions in an amount
383 equal to the unfunded actuarial liability portion of the
384 employer contribution which would be required for regular
385 members of the Florida Retirement System. Effective July 1,
386 1991, contributions shall be made as provided in s. 121.122 for
387 retirees who have renewed membership or, as provided in
388 subsection (13), for DROP participants.

389 3. Any person who is holding an elective public office
390 which is covered by the Florida Retirement System and who is
391 concurrently employed in nonelected covered employment may elect
392 to retire while continuing employment in the elective public
393 office if he or she terminates his or her nonelected covered
394 employment. Such person shall receive his or her retirement
395 benefits in addition to the compensation of the elective office
396 without regard to the time limitations otherwise provided in
397 this subsection. A person who seeks to exercise the provisions
398 of this subparagraph as they existed before May 3, 1984, may not
399 be deemed to be retired under those provisions, unless such
400 person is eligible to retire under this subparagraph, as amended
401 by chapter 84-11, Laws of Florida.

402 (c) Any person whose retirement is effective on or after
403 July 1, 2010, or whose participation in the Deferred Retirement
404 Option Program terminates on or after July 1, 2010, who is
405 retired under this chapter, except under the disability
406 retirement provisions of subsection (4) or as provided in s.

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407 121.053, may be reemployed by an employer that participates in a
408 state-administered retirement system and receive retirement
409 benefits and compensation from that employer. However, a person
410 may not be reemployed by an employer participating in the
411 Florida Retirement System before meeting the definition of
412 termination in s. 121.021 and may not receive both a salary from
413 the employer and retirement benefits for 6 calendar months after
414 meeting the definition of termination, except as provided in
415 paragraph (f). However, a DROP participant shall continue
416 employment and receive a salary during the period of
417 participation in the Deferred Retirement Option Program, as
418 provided in subsection (13).

419 1. The reemployed retiree may not renew membership in the
420 Florida Retirement System.

421 2. The employer shall pay retirement contributions in an
422 amount equal to the unfunded actuarial liability portion of the
423 employer contribution that would be required for active members
424 of the Florida Retirement System in addition to the
425 contributions required by s. 121.76.

426 3. A retiree initially reemployed in violation of this
427 paragraph and an employer that employs or appoints such person
428 are jointly and severally liable for reimbursement of any
429 retirement benefits paid to the retirement trust fund from which
430 the benefits were paid, including the Florida Retirement System
431 Trust Fund and the Public Employee Optional Retirement Program
432 Trust Fund, as appropriate. The employer must have a written
433 statement from the employee that he or she is not retired from a
434 state-administered retirement system. Retirement benefits shall
435 remain suspended until repayment is made. Benefits suspended

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

439 (d) Except as provided in paragraph (f), this subsection
440 applies to retirees, as defined in s. 121.4501(2), of the
441 Florida Retirement System Investment Plan, subject to the
442 following conditions:

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

446 2. A retiree employed in violation of this subsection and
447 an employer that employs or appoints such person are jointly and
448 severally liable for reimbursement of any benefits paid to the
449 retirement trust fund from which the benefits were paid. The
450 employer must have a written statement from the retiree that he
451 or she is not retired from a state-administered retirement
452 system.

453 (e) The limitations of this subsection apply to
454 reemployment in any capacity irrespective of the category of
455 funds from which the person is compensated except as provided in
456 paragraph (f).

457 (f) Effective July 1, 2013, through June 30, 2016, a
458 retired justice or retired judge who has reached the later of
459 his or her normal retirement age or the age when vested, who has
460 terminated all employment with employers participating under the
461 Florida Retirement System for at least 1 calendar month, and who
462 subsequently returns to temporary employment as a senior judge
463 in any court, as assigned by the Chief Justice of the Supreme
464 Court in accordance with s. 2, Art. V of the State Constitution,

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465 is not subject to paragraph (c), paragraph (d), or paragraph (e)
466 while reemployed as a senior judge.

467 Section 6. Paragraph (a) of subsection (1) of section
468 121.591, Florida Statutes, is amended to read:

469 121.591 Payment of benefits.—Benefits may not be paid under
470 the Florida Retirement System Investment Plan unless the member
471 has terminated employment as provided in s. 121.021(39)(a) or is
472 deceased and a proper application has been filed as prescribed
473 by the state board or the department. Benefits, including
474 employee contributions, are not payable under the investment
475 plan for employee hardships, unforeseeable emergencies, loans,
476 medical expenses, educational expenses, purchase of a principal
477 residence, payments necessary to prevent eviction or foreclosure
478 on an employee's principal residence, or any other reason except
479 a requested distribution for retirement, a mandatory de minimis
480 distribution authorized by the administrator, or a required
481 minimum distribution provided pursuant to the Internal Revenue
482 Code. The state board or department, as appropriate, may cancel
483 an application for retirement benefits if the member or
484 beneficiary fails to timely provide the information and
485 documents required by this chapter and the rules of the state
486 board and department. In accordance with their respective
487 responsibilities, the state board and the department shall adopt
488 rules establishing procedures for application for retirement
489 benefits and for the cancellation of such application if the
490 required information or documents are not received. The state
491 board and the department, as appropriate, are authorized to cash
492 out a de minimis account of a member who has been terminated
493 from Florida Retirement System covered employment for a minimum

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494 of 6 calendar months. A de minimis account is an account
495 containing employer and employee contributions and accumulated
496 earnings of not more than \$5,000 made under the provisions of
497 this chapter. Such cash-out must be a complete lump-sum
498 liquidation of the account balance, subject to the provisions of
499 the Internal Revenue Code, or a lump-sum direct rollover
500 distribution paid directly to the custodian of an eligible
501 retirement plan, as defined by the Internal Revenue Code, on
502 behalf of the member. Any nonvested accumulations and associated
503 service credit, including amounts transferred to the suspense
504 account of the Florida Retirement System Investment Plan Trust
505 Fund authorized under s. 121.4501(6), shall be forfeited upon
506 payment of any vested benefit to a member or beneficiary, except
507 for de minimis distributions or minimum required distributions
508 as provided under this section. If any financial instrument
509 issued for the payment of retirement benefits under this section
510 is not presented for payment within 180 days after the last day
511 of the month in which it was originally issued, the third-party
512 administrator or other duly authorized agent of the state board
513 shall cancel the instrument and credit the amount of the
514 instrument to the suspense account of the Florida Retirement
515 System Investment Plan Trust Fund authorized under s.
516 121.4501(6). Any amounts transferred to the suspense account are
517 payable upon a proper application, not to include earnings
518 thereon, as provided in this section, within 10 years after the
519 last day of the month in which the instrument was originally
520 issued, after which time such amounts and any earnings
521 attributable to employer contributions shall be forfeited. Any
522 forfeited amounts are assets of the trust fund and are not

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523 subject to chapter 717.

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

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

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

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

533 3. The member must be terminated from all employment with
534 all Florida Retirement System employers, as provided in s.
535 121.021(39).

536 4. Benefit payments may not be made until the member has
537 been terminated for 3 calendar months, except that the state
538 board may authorize by rule for the distribution of up to 10
539 percent of the member's account after being terminated for 1
540 calendar month if the member has reached the normal retirement
541 date as defined in s. 121.021. Effective July 1, 2013, through
542 June 30, 2016, a retired justice or retired judge who returns to
543 temporary employment as a senior judge in any court pursuant to
544 s. 2, Art. V of the State Constitution and meets the definition
545 of termination in s. 121.021(39)(d) may continue to receive a
546 distribution of his or her account as provided under this
547 paragraph after providing proof of assignment as a senior judge.

548 5. If a member or former member of the Florida Retirement
549 System receives an invalid distribution, such person must either
550 repay the full amount within 90 days after receipt of final
551 notification by the state board or the third-party administrator

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552 that the distribution was invalid, or, in lieu of repayment, the
553 member must terminate employment from all participating
554 employers. If such person fails to repay the full invalid
555 distribution within 90 days after receipt of final notification,
556 the person may be deemed retired from the investment plan by the
557 state board and is subject to s. 121.122. If such person is
558 deemed retired, any joint and several liability set out in s.
559 121.091(9)(d)2. is void, and the state board, the department, or
560 the employing agency is not liable for gains on payroll
561 contributions that have not been deposited to the person's
562 account in the investment plan, pending resolution of the
563 invalid distribution. The member or former member who has been
564 deemed retired or who has been determined by the state board to
565 have taken an invalid distribution may appeal the agency
566 decision through the complaint process as provided under s.
567 121.4501(9)(g)3. As used in this subparagraph, the term "invalid
568 distribution" means any distribution from an account in the
569 investment plan which is taken in violation of this section, s.
570 121.091(9), or s. 121.4501.

571 Section 7. Section 702.015, Florida Statutes, is created to
572 read:

573 702.015 Elements of complaint; lost, destroyed, or stolen
574 note affidavit.—

575 (1) The Legislature intends that this section expedite the
576 foreclosure process by ensuring initial disclosure of a
577 plaintiff's status and the facts supporting that status, thereby
578 ensuring the availability of documents necessary to the
579 prosecution of the case.

580 (2) A complaint that seeks to foreclose a mortgage or other

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581 lien on residential real property, including individual units of
582 condominiums and cooperatives, designed principally for
583 occupation by from one to four families which secures a
584 promissory note must:

585 (a) Contain affirmative allegations expressly made by the
586 plaintiff at the time the proceeding is commenced that the
587 plaintiff is the holder of the original note secured by the
588 mortgage; or

589 (b) Allege with specificity the factual basis by which the
590 plaintiff is a person entitled to enforce the note under s.
591 673.3011.

592 (3) If a plaintiff has been delegated the authority to
593 institute a mortgage foreclosure action on behalf of the person
594 entitled to enforce the note, the complaint shall describe the
595 authority of the plaintiff and identify, with specificity, the
596 document that grants the plaintiff the authority to act on
597 behalf of the person entitled to enforce the note. This
598 subsection is intended to require initial disclosure of status
599 and pertinent facts and not to modify law regarding standing or
600 real parties in interest. The term "original note" or "original
601 promissory note" means the signed or executed promissory note
602 rather than a copy thereof. The term includes any renewal,
603 replacement, consolidation, or amended and restated note or
604 instrument given in renewal, replacement, or substitution for a
605 previous promissory note. The term also includes a transferrable
606 record, as defined by the Uniform Electronic Transaction Act in
607 s. 668.50(16).

608 (4) If the plaintiff is in possession of the original
609 promissory note, the plaintiff must file under penalty of

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610 perjury a certification with the court, contemporaneously with
611 the filing of the complaint for foreclosure, that the plaintiff
612 is in possession of the original promissory note. The
613 certification must set forth the location of the note, the name
614 and title of the individual giving the certification, the name
615 of the person who personally verified such possession, and the
616 time and date on which the possession was verified. Correct
617 copies of the note and all allonges to the note must be attached
618 to the certification. The original note and the allonges must be
619 filed with the court before the entry of any judgment of
620 foreclosure or judgment on the note.

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

624 (a) Detail a clear chain of all endorsements, transfers, or
625 assignments of the promissory note that is the subject of the
626 action.

627 (b) Set forth facts showing that the plaintiff is entitled
628 to enforce a lost, destroyed, or stolen instrument pursuant to
629 s. 673.3091. Adequate protection as required under s.
630 673.3091(2) shall be provided before the entry of final
631 judgment.

632 (c) Include as exhibits to the affidavit such copies of the
633 note and the allonges to the note, audit reports showing receipt
634 of the original note, or other evidence of the acquisition,
635 ownership, and possession of the note as may be available to the
636 plaintiff.

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

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639 (7) This section does not apply to any foreclosure
640 proceeding involving timeshare interests under part III of
641 chapter 721.

642 Section 8. Section 702.036, Florida Statutes, is created to
643 read:

644 702.036 Finality of mortgage foreclosure judgment.—

645 (1) (a) In any action or proceeding in which a party seeks
646 to set aside, invalidate, or challenge the validity of a final
647 judgment of foreclosure of a mortgage or to establish or
648 reestablish a lien or encumbrance on the property in abrogation
649 of the final judgment of foreclosure of a mortgage, the court
650 shall treat such request solely as a claim for monetary damages
651 and may not grant relief that adversely affects the quality or
652 character of the title to the property, if:

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

656 2. The final judgment of foreclosure of the mortgage was
657 entered as to the property.

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

661 4. The property has been acquired for value, by a person
662 not affiliated with the foreclosing lender or the foreclosed
663 owner, at a time in which no lis pendens regarding the suit to
664 set aside, invalidate, or challenge the foreclosure appears in
665 the official records of the county where the property was
666 located.

667 (b) This subsection does not limit the right to pursue any

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668 other relief to which a person may be entitled, including, but
669 not limited to, compensatory damages, punitive damages,
670 statutory damages, consequential damages, injunctive relief, or
671 fees and costs, which does not adversely affect the ownership of
672 the title to the property as vested in the unaffiliated
673 purchaser for value.

674 (2) For purposes of this section, the following, without
675 limitation, shall be considered persons affiliated with the
676 foreclosing lender:

677 (a) The foreclosing lender or any loan servicer for the
678 loan being foreclosed;

679 (b) Any past or present owner or holder of the loan being
680 foreclosed;

681 (c) Any maintenance company, holding company, foreclosure
682 services company, or law firm under contract to any entity
683 listed in paragraph (a), paragraph (b), or this paragraph, with
684 regard to the loan being foreclosed; or

685 (d) Any parent entity, subsidiary, or other person who
686 directly, or indirectly through one or more intermediaries,
687 controls or is controlled by, or is under common control with,
688 any entity listed in paragraph (a), paragraph (b), or paragraph
689 (c).

690 (3) After foreclosure of a mortgage based upon the
691 enforcement of a lost, destroyed, or stolen note, a person who
692 is not a party to the underlying foreclosure action but who
693 claims to be the person entitled to enforce the promissory note
694 secured by the foreclosed mortgage has no claim against the
695 foreclosed property after it is conveyed for valuable
696 consideration to a person not affiliated with the foreclosing

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697 lender or the foreclosed owner. This section does not preclude
698 the person entitled to enforce the promissory note from pursuing
699 recovery from any adequate protection given pursuant to s.
700 673.3091 or from the party who wrongfully claimed to be the
701 person entitled to enforce the promissory note under s.
702 702.11(2) or otherwise, from the maker of the note, or from any
703 other person against whom it may have a claim relating to the
704 note.

705 Section 9. Section 702.06, Florida Statutes, is amended to
706 read:

707 702.06 Deficiency decree; common-law suit to recover
708 deficiency.—In all suits for the foreclosure of mortgages
709 heretofore or hereafter executed the entry of a deficiency
710 decree for any portion of a deficiency, should one exist, shall
711 be within the sound discretion of the court; however, in the
712 case of an owner-occupied residential property, the amount of
713 the deficiency may not exceed the difference between the
714 judgment amount, or in the case of a short sale, the outstanding
715 debt, and the fair market value of the property on the date of
716 sale. For purposes of this section, there is a rebuttable
717 presumption that a residential property for which a homestead
718 exemption for taxation was granted according to the certified
719 rolls of the latest assessment by the county property appraiser,
720 before the filing of the foreclosure action, is an owner-
721 occupied residential property. ~~shall be within the sound~~
722 ~~judicial discretion of the court, but~~ The complainant shall also
723 have the right to sue at common law to recover such deficiency,
724 unless the court in the foreclosure action has granted or denied
725 a claim for a deficiency judgment ~~provided no suit at law to~~

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726 ~~recover such deficiency shall be maintained against the original~~
727 ~~mortgagor in cases where the mortgage is for the purchase price~~
728 ~~of the property involved and where the original mortgagee~~
729 ~~becomes the purchaser thereof at foreclosure sale and also is~~
730 ~~granted a deficiency decree against the original mortgagor.~~

731 Section 10. Section 702.10, Florida Statutes, is amended to
732 read:

733 702.10 Order to show cause; entry of final judgment of
734 foreclosure; payment during foreclosure.—

735 (1) A lienholder ~~After a complaint in a foreclosure~~
736 ~~proceeding has been filed, the mortgagee~~ may request an order to
737 show cause for the entry of final judgment in a foreclosure
738 action. For purposes of this section, the term "lienholder"
739 includes the plaintiff and a defendant to the action who holds a
740 lien encumbering the property or a defendant who, by virtue of
741 its status as a condominium association, cooperative
742 association, or homeowners' association, may file a lien against
743 the real property subject to foreclosure. Upon filing, and the
744 court shall immediately review the request and the court file in
745 chambers and without a hearing ~~complaint~~. If, upon examination
746 of the court file ~~complaint~~, the court finds that the complaint
747 is verified, complies with s. 702.015, and alleges a cause of
748 action to foreclose on real property, the court shall promptly
749 issue an order directed to the other parties named in the action
750 ~~defendant~~ to show cause why a final judgment of foreclosure
751 should not be entered.

752 (a) The order shall:

753 1. Set the date and time for a hearing ~~on the order~~ to show
754 cause. ~~However,~~ The date for the hearing may not occur ~~be set~~

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755 sooner than the later of 20 days after ~~the~~ service of the order
756 to show cause or 45 days after service of the initial complaint.
757 When service is obtained by publication, the date for the
758 hearing may not be set sooner than 30 days after the first
759 publication. ~~The hearing must be held within 60 days after the~~
760 ~~date of service. Failure to hold the hearing within such time~~
761 ~~does not affect the validity of the order to show cause or the~~
762 ~~jurisdiction of the court to issue subsequent orders.~~

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

765 3. State that the filing of defenses by a motion, a
766 responsive pleading, an affidavit, or other papers ~~or by a~~
767 ~~verified or sworn answer at or~~ before the hearing to show cause
768 that raise a genuine issue of material fact which would preclude
769 the entry of summary judgment or otherwise constitute a legal
770 defense to foreclosure shall constitute ~~constitutes~~ cause for
771 the court not to enter ~~the attached~~ final judgment.

772 4. State that a ~~the~~ defendant has the right to file
773 affidavits or other papers before ~~at~~ the time of the hearing to
774 show cause and may appear personally or by way of an attorney at
775 the hearing.

776 5. State that, if a ~~the~~ defendant files defenses by a
777 motion, a verified or sworn answer, affidavits, or other papers
778 or appears personally or by way of an attorney at the time of
779 the hearing, the hearing time will ~~may~~ be used to hear and
780 consider whether the defendant's motion, answer, affidavits,
781 other papers, and other evidence and argument as may be
782 presented by the defendant or the defendant's attorney raise a
783 genuine issue of material fact which would preclude the entry of

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784 summary judgment or otherwise constitute a legal defense to
785 foreclosure. The order shall also state that the court may enter
786 an order of final judgment of foreclosure at the hearing and
787 order the clerk of the court to conduct a foreclosure sale.

788 6. State that, if a ~~the~~ defendant fails to appear at the
789 hearing to show cause or fails to file defenses by a motion or
790 by a verified or sworn answer or files an answer not contesting
791 the foreclosure, such ~~the~~ defendant may be considered to have
792 waived the right to a hearing, and in such case, the court may
793 enter a default against such defendant and, if appropriate, a
794 final judgment of foreclosure ordering the clerk of the court to
795 conduct a foreclosure sale.

796 7. State that if the mortgage provides for reasonable
797 attorney ~~attorney's~~ fees and the requested attorney ~~attorney's~~
798 fees do not exceed 3 percent of the principal amount owed at the
799 time of filing the complaint, it is unnecessary for the court to
800 hold a hearing or adjudge the requested attorney ~~attorney's~~ fees
801 to be reasonable.

802 8. Attach the form of the proposed final judgment of
803 foreclosure which the movant requests the court to will enter,
804 ~~if the defendant waives the right to be heard~~ at the hearing on
805 the order to show cause.

806 9. Require the party seeking final judgment ~~mortgagee~~ to
807 serve a copy of the order to show cause on the other parties ~~the~~
808 ~~mortgager~~ in the following manner:

809 a. If a party ~~the mortgager~~ has been served pursuant to
810 chapter 48 with the complaint and original process, or the other
811 party is the plaintiff in the action, service of the order to
812 show cause on that party ~~order~~ may be made in the manner

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813 provided in the Florida Rules of Civil Procedure.

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

819

820 Any final judgment of foreclosure entered under this subsection
821 is for in rem relief only. ~~Nothing in~~ This subsection does not
822 ~~shall~~ preclude the entry of a deficiency judgment where
823 otherwise allowed by law. The Legislature intends that this
824 alternative procedure may run simultaneously with other court
825 procedures.

826 (b) The right to be heard at the hearing to show cause is
827 waived if a ~~the~~ defendant, after being served as provided by law
828 with an order to show cause, engages in conduct that clearly
829 shows that the defendant has relinquished the right to be heard
830 on that order. The defendant's failure to file defenses by a
831 motion or by a sworn or verified answer, affidavits, or other
832 papers or to appear personally or by way of an attorney at the
833 hearing duly scheduled on the order to show cause presumptively
834 constitutes conduct that clearly shows that the defendant has
835 relinquished the right to be heard. If a defendant files
836 defenses by a motion, ~~or by a verified or sworn answer,~~
837 affidavits, or other papers or presents evidence at or before
838 the hearing which raise a genuine issue of material fact which
839 would preclude entry of summary judgment or otherwise constitute
840 a legal defense to foreclosure, such action constitutes cause
841 and precludes the entry of a final judgment at the hearing to

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842 show cause.

843 (c) In a mortgage foreclosure proceeding, when a final
844 ~~default~~ judgment of foreclosure has been entered against the
845 mortgagor and the note or mortgage provides for the award of
846 reasonable attorney ~~attorney's~~ fees, it is unnecessary for the
847 court to hold a hearing or adjudge the requested attorney
848 ~~attorney's~~ fees to be reasonable if the fees do not exceed 3
849 percent of the principal amount owed on the note or mortgage at
850 the time of filing, even if the note or mortgage does not
851 specify the percentage of the original amount that would be paid
852 as liquidated damages.

853 (d) If the court finds that all defendants have ~~the~~
854 ~~defendant has~~ waived the right to be heard as provided in
855 paragraph (b), the court shall promptly enter a final judgment
856 of foreclosure without the need for further hearing if the
857 plaintiff has shown entitlement to a final judgment and upon the
858 filing with the court of the original note, satisfaction of the
859 conditions for establishment of a lost note, or upon a showing
860 to the court that the obligation to be foreclosed is not
861 evidenced by a promissory note or other negotiable instrument.
862 If the court finds that a ~~the~~ defendant has not waived the right
863 to be heard on the order to show cause, the court shall ~~then~~
864 determine whether there is cause not to enter a final judgment
865 of foreclosure. If the court finds that the defendant has not
866 shown cause, the court shall promptly enter a judgment of
867 foreclosure. If the time allotted for the hearing is
868 insufficient, the court may announce at the hearing a date and
869 time for the continued hearing. Only the parties who appear,
870 individually or through an attorney, at the initial hearing must

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871 be notified of the date and time of the continued hearing.

872 (2) Except as provided in paragraph (i), in any an action
873 for foreclosure, other than owner-occupied residential real
874 estate, in addition to any other relief that the court may
875 award, the plaintiff ~~the mortgagee~~ may request that the court
876 enter an order directing the mortgagor defendant to show cause
877 why an order to make payments during the pendency of the
878 foreclosure proceedings or an order to vacate the premises
879 should not be entered.

880 (a) The order shall:

881 1. Set the date and time for hearing on the order to show
882 cause. However, the date for the hearing may ~~shall~~ not be set
883 sooner than 20 days after the service of the order. If where
884 service is obtained by publication, the date for the hearing may
885 ~~shall~~ not be set sooner than 30 days after the first
886 publication.

887 2. Direct the time within which service of the order to
888 show cause and the complaint shall be made upon each ~~the~~
889 defendant.

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

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

898 5. Require the movant ~~mortgagee~~ to serve a copy of the
899 order to show cause on the defendant ~~mortgagor~~ in the following

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900 manner:

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

904 b. If a defendant ~~the mortgagor~~ has not been served with
905 the complaint and original process, the order to show cause,
906 together with the summons and a copy of the complaint, shall be
907 served on the defendant ~~mortgagor~~ in the same manner as provided
908 by law for original process.

909 (b) The right of a defendant to be heard at the hearing to
910 show cause is waived if the defendant, after being served as
911 provided by law with an order to show cause, engages in conduct
912 that clearly shows that the defendant has relinquished the right
913 to be heard on that order. A ~~The~~ defendant's failure to file
914 defenses by a motion or by a sworn or verified answer or to
915 appear at the hearing duly scheduled on the order to show cause
916 presumptively constitutes conduct that clearly shows that the
917 defendant has relinquished the right to be heard.

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

922 (d) If the court finds that the mortgagor has not waived
923 the right to be heard on the order to show cause, the court
924 shall, at the hearing on the order to show cause, consider the
925 affidavits and other showings made by the parties appearing and
926 make a determination of the probable validity of the underlying
927 claim alleged against the mortgagor and the mortgagor's
928 defenses. If the court determines that the plaintiff ~~mortgagee~~

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929 is likely to prevail in the foreclosure action, the court shall
930 enter an order requiring the mortgagor to make the payment
931 described in paragraph (e) to the plaintiff ~~mortgagee~~ and
932 provide for a remedy as described in paragraph (f). However, the
933 order shall be stayed pending final adjudication of the claims
934 of the parties if the mortgagor files with the court a written
935 undertaking executed by a surety approved by the court in an
936 amount equal to the unpaid balance of the lien being foreclosed
937 ~~the mortgage on the property~~, including all principal, interest,
938 unpaid taxes, and insurance premiums paid by the plaintiff ~~the~~
939 ~~mortgagee~~.

940 (e) ~~If In the event~~ the court enters an order requiring the
941 mortgagor to make payments to the plaintiff ~~mortgagee~~, payments
942 shall be payable at such intervals and in such amounts provided
943 for in the mortgage instrument before acceleration or maturity.
944 The obligation to make payments pursuant to any order entered
945 under this subsection shall commence from the date of the motion
946 filed under this section ~~hereunder~~. The order shall be served
947 upon the mortgagor no later than 20 days before the date
948 specified for the first payment. The order may permit, but may
949 ~~shall not require~~, the plaintiff ~~mortgagee~~ to take all
950 appropriate steps to secure the premises during the pendency of
951 the foreclosure action.

952 (f) ~~If In the event~~ the court enters an order requiring
953 payments, the order shall also provide that the plaintiff is
954 ~~mortgagee shall be~~ entitled to possession of the premises upon
955 the failure of the mortgagor to make the payment required in the
956 order unless at the hearing on the order to show cause the court
957 finds good cause to order some other method of enforcement of

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958 its order.

959 (g) All amounts paid pursuant to this section shall be
960 credited against the mortgage obligation in accordance with the
961 terms of the loan documents; ~~provided, however, that any~~
962 payments made under this section ~~do shall~~ not constitute a cure
963 of any default or a waiver or any other defense to the mortgage
964 foreclosure action.

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

969 (i) This subsection does not apply to foreclosure of an
970 owner-occupied residence. For purposes of this paragraph, there
971 is a rebuttable presumption that a residential property for
972 which a homestead exemption for taxation was granted according
973 to the certified rolls of the latest assessment by the county
974 property appraiser, before the filing of the foreclosure action,
975 is an owner-occupied residential property.

976 Section 11. Section 702.11, Florida Statutes, is created to
977 read:

978 702.11 Adequate protections for lost, destroyed, or stolen
979 notes in mortgage foreclosure.-

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

983 (a) A written indemnification agreement by a person
984 reasonably believed sufficiently solvent to honor such an
985 obligation;

986 (b) A surety bond;

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

988 (d) A deposit of cash collateral with the clerk of the
989 court; or

990 (e) Such other security as the court may deem appropriate
991 under the circumstances.

992
993 Any security given shall be on terms and in amounts set by the
994 court, for a time period through the running of the statute of
995 limitations for enforcement of the underlying note, and
996 conditioned to indemnify and hold harmless the maker of the note
997 against any loss or damage, including principal, interest, and
998 attorney fees and costs, that might occur by reason of a claim
999 by another person to enforce the note.

1000 (2) Any person who wrongly claims to be the holder of or
1001 pursuant to s. 673.3011 to be entitled to enforce a lost,
1002 stolen, or destroyed note and causes the mortgage secured
1003 thereby to be foreclosed is liable to the actual holder of the
1004 note, without limitation to any adequate protections given, for
1005 actual damages suffered together with attorney fees and costs of
1006 the actual holder of the note in enforcing rights under this
1007 subsection. In addition, the actual holder of the note may
1008 pursue recovery directly against any adequate protections given.

1009 (a) The actual holder of the note is not required to pursue
1010 recovery against the maker of the note or any guarantor thereof
1011 as a condition precedent to pursuing remedies under this
1012 section.

1013 (b) This section does not limit or restrict the ability of
1014 the actual holder of the note to pursue any other claims or
1015 remedies it may have against the maker, the person who wrongly

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1016 claimed to be the holder, or any person who facilitated or
1017 participated in the claim to the note or enforcement thereof.

1018 Section 12. The Legislature finds that this act is remedial
1019 in nature and applies to all mortgages encumbering real property
1020 and all promissory notes secured by a mortgage, whether executed
1021 before, on, or after the effective date of this act. In
1022 addition, the Legislature finds that s. 702.015, Florida
1023 Statutes, as created by this act, applies to cases filed on or
1024 after July 1, 2013; however, the amendments to s. 702.10,
1025 Florida Statutes, and the creation of s. 702.11, Florida
1026 Statutes, by this act, apply to causes of action pending on the
1027 effective date of this act.

1028 Section 13. (1) Effective July 1, 2013, in order to fund
1029 the benefit changes provided in this act, the required employer
1030 contribution rates for members of the Florida Retirement System
1031 established in s. 121.71(4), Florida Statutes, must be adjusted
1032 as follows:

1033 (a) Elected Officers' Class for Justices and Judges shall
1034 be increased by 0.45 percentage points; and

1035 (b) Deferred Retirement Option Program shall be increased
1036 by 0.01 percentage points.

1037 (2) Effective July 1, 2013, in order to fund the benefit
1038 changes provided in this act, the required employer contribution
1039 rates for the unfunded actuarial liability of the Florida
1040 Retirement System established in s. 121.71(5), Florida Statutes,
1041 for the Elected Officers' Class for Justices and Judges shall be
1042 increased by 0.91 percentage points.

1043 (3) The adjustments provided in subsections (1) and (2)
1044 shall be in addition to all other changes to such contribution

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1045 rates which may be enacted into law to take effect on July 1,
1046 2013, and July 1, 2014. The Division of Law Revision and
1047 Information is requested to adjust accordingly the contribution
1048 rates provided in s. 121.71, Florida Statutes.

1049 Section 14. (1) The Legislature finds that a proper and
1050 legitimate state purpose is served if employees and retirees of
1051 the state and its political subdivisions, and the dependents,
1052 survivors, and beneficiaries of such employees and retirees, are
1053 extended the basic protections afforded by governmental
1054 retirement systems which provide fair and adequate benefits and
1055 which are managed, administered, and funded in an actuarially
1056 sound manner as required by s. 14, Article X of the State
1057 Constitution and part VII of chapter 112, Florida Statutes.
1058 Therefore, the Legislature determines and declares that this act
1059 fulfills an important state interest.

1060 (2) The Legislature further finds that the assignment of
1061 former justices and judges to temporary employment as a judge in
1062 any court, by the Chief Justice of the Supreme Court in
1063 accordance with s. 2, Art. V of the State Constitution, assists
1064 the State Courts System in managing caseloads and providing
1065 individuals and businesses with access to courts. In particular,
1066 these assignments are critically important in assisting with the
1067 disposition of the current backlog in foreclosure cases in this
1068 state. Therefore, the Legislature further determines and
1069 declares that this act fulfills an important state interest by
1070 facilitating the ability of justices and judges who retire under
1071 the Florida Retirement System to return to temporary employment
1072 as a judge in a timely manner.

1073 Section 15. The Supreme Court is requested to amend the

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1074 Florida Rules of Civil Procedure to provide expedited
1075 foreclosure proceedings in conformity with this act and is
1076 requested to develop and publish forms for use in such expedited
1077 proceedings.

1078 Section 16. Sections 4 through 6, 13, and 14 of this act
1079 shall take effect only if the Legislature appropriates during
1080 the 2013 Legislative Session the sum of at least \$1.6 million
1081 from the General Revenue Fund on a recurring basis to the
1082 judicial branch in order to fund the increased employer
1083 contributions associated with the costs of the retirement
1084 benefits granted in this act and the Governor does not veto the
1085 appropriation.

1086 Section 17. This act shall take effect upon becoming a law.