

By the Appropriations Committee on Criminal and Civil Justice;
the Committee on Judiciary; and Senator Garcia

604-02918-25

202548c2

1 A bill to be entitled
2 An act relating to foreclosure procedures; creating s.
3 45.0311, F.S.; specifying mandatory requirements for
4 foreclosure sales; providing legislative intent;
5 requiring that a request to deviate from certain
6 procedures be in a separate pleading; requiring courts
7 to set forth any deviations in writing in the final
8 judgement of foreclosure or other order; listing
9 procedures that may be waived; providing requirements
10 for an alternative auctioneer; creating a cause of
11 action; providing an effective date.

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

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15 Section 1. Section 45.0311, Florida Statutes, is created to
16 read:

17 45.0311 Mandatory requirements for judicial sales.—

18 (1) The court may not approve a request from a party to
19 substantially deviate from the judicial sales procedures of s.
20 45.031, except as provided in this section.

21 (2) The Legislature finds that a deviation from the
22 judicial sales procedures under s. 45.031 may be beneficial in
23 certain proceedings due to the nature of the real or personal
24 property to be sold under an order or a judgment to maximize the
25 potential sales proceeds, including the net proceeds thereof,
26 for the benefit of all parties. Transparency is necessary for
27 all alternative procedures to prevent overreach by any party,
28 avoid fraud, and maximize the sales price while minimizing
29 expenses and delays. A person who facilitates alternative sales

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30 or handles deposits or sales proceeds, including surplus
31 proceeds, must be qualified, independent, and not related to any
32 party or an attorney for a party and must be subject to the
33 provisions of this section and the jurisdiction of the court.

34 (3) A party requesting a deviation must request the relief
35 clearly and in a separate pleading. Any deviation authorized by
36 the court must be set forth in writing in the final judgment of
37 foreclosure or other order.

38 (4) A trial court may not alter any of the following
39 requirements for a judicial sale:

40 (a) Only one set of bidding procedures may apply to a sale.
41 Each bidder must follow the same procedures and receive the same
42 information relating to the sale of the real or personal
43 property. Preferences or advantages may not be given to any
44 party, person, or bidder.

45 (b) The publication of the notice of sale must meet or
46 exceed the requirements of s. 45.031(2).

47 (c) Credit bid rights must be limited to the amount owed to
48 the creditor or lienholder as provided in the order or final
49 judgment that determined such amount. Any overbid amount must be
50 paid in cash.

51 (d) The highest cash bidder must win the bid. The deadline
52 for payment of the winning bid may not exceed 5 business days.

53 (e) An in-person auction may not be conducted outside of
54 the county of foreclosure.

55 (f) Costs, fees, and service charges that are payable to
56 the clerk of the court may not be waived.

57 (g) The 10-day period to object to the sale as provided in
58 s. 45.031(5), and the confirmation of the sale as provided in s.

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59 45.031(6), may not be altered.

60 (h) The requirements related to a foreclosure surplus in
61 ss. 45.031(1), 45.032, 45.033, and 45.035(2) may not be waived.

62 (5) If the party requests that the court authorize someone
63 other than the clerk of the court or the sheriff to conduct the
64 sale, the request must be clear and the following requirements
65 apply:

66 (a) An alternative auctioneer must have insurance or post a
67 bond filed with and payable to the clerk of court to protect the
68 interests of the parties. The court shall set the amount of the
69 bond as the approximate the value of the property to be sold. An
70 attorney in the action may not be the auctioneer. The auctioneer
71 must recuse himself or herself if a business partner or relative
72 within the third degree consanguinity registers or attempts to
73 bid.

74 (b) Any person holding funds must have insurance or post
75 sufficient bond to protect the interests of the parties.

76 (c) An in-person auction must be conducted in a place that
77 is open to the general public at the time of the auction and
78 that is reasonably accessible.

79 (6) A person harmed by violation of this section has a
80 cause of action for damages resulting from the violation.

81 Section 2. This act shall take effect July 1, 2025.