

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

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system and if the Governor does not veto the appropriation; providing that certain sections of the act stand repealed on a stated date; providing an effective date.

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

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

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

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

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

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

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

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

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

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Statutes, is amended to read:

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

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

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

(b) The time and place of sale.

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

(d) The caption of the action.

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

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

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

The court, in its discretion, may enlarge the time of the sale. Notice of the changed time of sale shall be published as

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provided herein.

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

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

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

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

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the standards of s. 50.015.

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

50.015 Publicly accessible Internet website.—

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

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

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

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

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

(e) Provide 24-hour access at no charge to the chief judge of each judicial circuit and his or her designee, as well as to each clerk of court and each deputy clerk. The website provider 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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(h) An action to enforce a claim of a deficiency related to a note secured by a mortgage against a residential property that is a one-family to four-family dwelling unit. The limitations period shall commence on the day after the certificate is issued by the clerk of court or the day after the mortgagee accepts a deed in lieu of foreclosure.

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

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

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

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

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

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require other evidence of termination as it deems necessary.

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

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

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

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

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

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

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

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

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

(9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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subject to chapter 717.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

702.036 Finality of mortgage foreclosure judgment.—

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

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

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

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

4. The property has been acquired for value, by a person not affiliated with the foreclosing lender or the foreclosed owner, at a time in which no lis pendens regarding the suit to set aside, invalidate, or challenge the foreclosure appears in the official records of the county where the property was 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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consideration to a person not affiliated with the foreclosing lender or the foreclosed owner. This section does not preclude the person entitled to enforce the promissory note from pursuing recovery from any adequate protection given pursuant to s. 673.3091 or from the party who wrongfully claimed to be the person entitled to enforce the promissory note under s. 702.11(2) or otherwise, from the maker of the note, or from any other person against whom it may have a claim relating to the note.

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

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

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

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

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

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

(a) The order shall:

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

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cause. ~~However,~~ The date for the hearing may not occur ~~be set~~
sooner than the later of 20 days after ~~the~~ service of the order
to show cause or 45 days after service of the initial complaint.

When service is obtained by publication, the date for the
hearing may not be set sooner than 30 days after the first
publication. ~~The hearing must be held within 60 days after the~~
~~date of service. Failure to hold the hearing within such time~~
~~does not affect the validity of the order to show cause or the~~
~~jurisdiction of the court to issue subsequent orders.~~

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

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

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

5. State that, if a ~~the~~ defendant files defenses by a
motion, a verified or sworn answer, affidavits, or other papers
or appears personally or by way of an attorney at the time of
the hearing, the hearing time will ~~may~~ be used to hear and
consider whether the defendant's motion, answer, affidavits,
other papers, and other evidence and argument as may be
presented by the defendant or the defendant's attorney raise a
genuine issue of material fact which would preclude the entry of
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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b. If a defendant ~~the mortgager~~ has not been served pursuant to chapter 48 with the complaint and original process, the order to show cause, together with the summons and a copy of the complaint, shall be served on the party ~~mortgager~~ in the same manner as provided by law for original process.

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

(b) The right to be heard at the hearing to show cause is waived if a ~~the~~ defendant, after being served as provided by law with an order to show cause, engages in conduct that clearly shows that the defendant has relinquished the right to be heard on that order. The defendant's failure to file defenses by a motion or by a sworn or verified answer, affidavits, or other papers or to appear personally or by way of an attorney at the hearing duly scheduled on the order to show cause presumptively constitutes conduct that clearly shows that the defendant has relinquished the right to be heard. If a defendant files defenses by a motion, ~~or by a verified or sworn answer,~~ affidavits, or other papers or presents evidence at or before the hearing which raise a genuine issue of material fact which would preclude entry of summary judgment or otherwise constitute a legal defense to foreclosure, such action constitutes cause and precludes the entry of a final judgment at the hearing to 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 ~~mortgagor~~ 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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(g) All amounts paid pursuant to this section shall be credited against the mortgage obligation in accordance with the terms of the loan documents;~~; provided, however, that any~~ payments made under this section do ~~shall~~ not constitute a cure of any default or a waiver or any other defense to the mortgage foreclosure action.

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

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

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

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

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

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

(b) A surety bond;

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

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

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

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

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

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

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

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

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

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

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

Section 21. The changes in sections 1, 6 through 9, 17, and 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.