



Judiciary Committee

March 28, 2013

10:30 AM

404 HOB

Action Packet

Will Weatherford
Speaker

Dennis Baxley
Chair

COMMITTEE MEETING REPORT

Judiciary Committee

3/28/2013 10:30:00AM

Location: 404 HOB

Summary:

Judiciary Committee

Thursday March 28, 2013 10:30 am

HB 87	Favorable With Committee Substitute	Yeas: 12	Nays: 6
	Amendment 388491 Adopted Without Objection		
	Amendment 160001 Withdrawn		
	Amendment 852745 Withdrawn		
CS/HB 361	Favorable	Yeas: 16	Nays: 0
CS/CS/HB 405	Favorable	Yeas: 17	Nays: 0
CS/CS/HB 457	Favorable	Yeas: 18	Nays: 0
HM 545	Favorable	Yeas: 12	Nays: 6
CS/HB 607	Favorable	Yeas: 18	Nays: 0
HB 727	Favorable	Yeas: 13	Nays: 5
HB 757	Temporarily Deferred		
CS/HB 775	Favorable	Yeas: 17	Nays: 0
CS/HB 903	Favorable	Yeas: 18	Nays: 0
CS/HB 995	Favorable	Yeas: 17	Nays: 0
CS/HB 1355	Favorable With Committee Substitute	Yeas: 18	Nays: 0
	Amendment 581939 Adopted Without Objection		

Committee meeting was reported out: Thursday, March 28, 2013 1:46:51PM

COMMITTEE MEETING REPORT

Judiciary Committee

3/28/2013 10:30:00AM

Location: 404 HOB

Attendance:

	<i>Present</i>	<i>Absent</i>	<i>Excused</i>
Dennis Baxley (Chair)	X		
Daphne Campbell	X		
Marti Coley	X		
Dwight Dudley	X		
Heather Fitzenhagen	X		
Matt Gaetz	X		
Bill Hager	X		
Dave Kerner	X		
Charles McBurney	X		
Kionne McGhee	X		
Larry Metz	X		
Jared Moskowitz	X		
Kathleen Passidomo	X		
Ray Pilon	X		
Kenneth Roberson	X		
Elaine Schwartz	X		
Ross Spano	X		
Charlie Stone	X		
Totals:	18	0	0

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COMMITTEE MEETING REPORT

Judiciary Committee

3/28/2013 10:30:00AM

Location: 404 HOB

HB 87 : Mortgage Foreclosures

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Daphne Campbell		X			
Marti Coley	X				
Dwight Dudley		X			
Heather Fitzenhagen	X				
Matt Gaetz	X				
Bill Hager	X				
Dave Kerner		X			
Charles McBurney	X				
Kionne McGhee		X			
Larry Metz	X				
Jared Moskowitz	X				
Kathleen Passidomo	X				
Ray Pilon	X				
Kenneth Roberson	X				
Elaine Schwartz		X			
Ross Spano		X			
Charlie Stone	X				
Dennis Baxley (Chair)	X				
Total Yeas: 12		Total Nays: 6			

HB 87 Amendments

Amendment 388491

Adopted Without Objection

Amendment 160001

Withdrawn

Amendment 852745

Withdrawn

Appearances:

Frary, Richard (General Public) - Opponent
Mortgage Justice Group
3649 Aster Drive
Sarasota FL 34233
Phone: 941-400-7530

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COMMITTEE MEETING REPORT

Judiciary Committee

3/28/2013 10:30:00AM

Location: 404 HOB

HB 87 : Mortgage Foreclosures (continued)

Appearances: (continued)

Sublett, Robert (General Public) - Opponent
Mortgage Justice Group
2319 Oak Terrace
Sarasota FL 34231
Phone: 941-921-0802

Ryan, Woody (General Public) - Opponent
The Mortgage Group
1675 Fortuna Street
Sarasota FL 34239
Phone: 941-726-9397

Cammarata, Dean (General Public) - Opponent
Mortgage Justice Group
4431 Emerald Ridge Drive
Sarasota FL 34233
Phone: 941-284-1303

Landry, Dale (General Public) - Opponent
Vice President, Chair, Legislative Affairs, Florida State Conference NAACP
1940 Nanticoke Circle
Tallahassee FL
Phone: 850-459-3460

Barker, Dorene (Lobbyist) - Waive In Opposition
Florida Legal Services, Inc
2425 Torreya Dr
Tallahassee FL 32312
Phone: 850)509-3631

Schoen, Karen (General Public) - Waive In Opposition
Group Agenders, Panhandle Patriots
2196 Shelby Ct
Chipley FL 32428
Phone: 954-864-0530

Gillis, Ronald (General Public) - Opponent
P O Box 380842
Murdoch FL 33938
Phone: 941-766-8279

Pitts, Brian - Information Only
Justice-2-Jesus
1119 Newton Ave. S.
St. Petersburg FL 33705
Phone: 727-897-9291

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Judiciary Committee

3/28/2013 10:30:00AM

Location: 404 HOB

HB 87 : Mortgage Foreclosures (continued)

Appearances: (continued)

Vickers, Alice (Lobbyist) - Opponent
Florida Consumer Action Network
623 Beard Street
Tallahassee FL 32303
Phone: 850-556-3121

Walker, Eddie (General Public) - Opponent
PICO United FL
4815 Cherokee Rose Drive
Orlando FL 32808
Phone: 321-594-3907

Goin, Yeline (Lobbyist) - Waive In Support
Community Associates Leadership Lobby
204 S Monroe Street, Suite 203
Tallahassee FL 32301
Phone: 850-284-2460

Moore, Travis (Lobbyist) - Waive In Support
Community Associations Institute
931 N:SR 434 #1201-220
Altamonte Springs FL 32714
Phone: (727)421-6902

Christian, David (Lobbyist) - Waive In Support
Vice President, Government Affairs, Florida Chamber of Commerce
136 S Bronough
Tallahassee FL 32301
Phone: 850-521-1211

Goldman, Trey (Lobbyist) - Waive In Support
Legislative Counsel, Florida Realtors
P O Box 1853
Tallahassee FL 32301
Phone: 850-224-1400

Dunbar, Peter (Lobbyist) - Waive In Support
Real Property, Probate & Trust Law Section
c/o The Florida Bar 651 E Jefferson St
Tallahassee FL 32399
Phone: (850)222-3533

Fishman, Julie (General Public) - Waive In Support
Governmental Affairs Liaison, Community Advocacy Network
5297 W Copans Rd
Margate FL 33064
Phone: 954-213-0979

Committee meeting was reported out: Thursday, March 28, 2013 1:46:51PM



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COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
 ADOPTED AS AMENDED _____ (Y/N)
 ADOPTED W/O OBJECTION _____ (Y/N)
 FAILED TO ADOPT _____ (Y/N)
 WITHDRAWN _____ (Y/N)
 OTHER _____

*Favorable
3.28.13*

1 Committee/Subcommittee hearing bill: Judiciary Committee
 2 Representative Passidomo offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

6 Section 1. Paragraph (b) of subsection (2) of section
 7 95.11, Florida Statutes, is amended, and paragraph (h) is added
 8 to subsection (5) of that section, to read:

9 95.11 Limitations other than for the recovery of real
 10 property.—Actions other than for recovery of real property shall
 11 be commenced as follows:

12 (2) WITHIN FIVE YEARS.—

13 (b) A legal or equitable action on a contract, obligation,
 14 or liability founded on a written instrument, except for an
 15 action to enforce a claim against a payment bond, which shall be
 16 governed by the applicable provisions of paragraph (5)(e), s.
 17 255.05(10), s. 337.18(1), or s. 713.23(1)(e), and except for an
 18 action for a deficiency judgment governed by paragraph (5)(h).

19 (5) WITHIN ONE YEAR.—



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

26 Section 2. The amendments made by this act to s. 95.11,
27 Florida Statutes, apply to any action commenced on or after July
28 1, 2013, regardless of when the cause of action accrued.
29 However, any action that would not have been barred under s.
30 95.11(2)(b), Florida Statutes, before the effective date of this
31 act must be commenced within 5 years after the action accrued or
32 by July 1, 2014, whichever occurs first.

33 Section 3. Subsection (39) of section 121.021, Florida
34 Statutes, is amended to read:

35 121.021 Definitions.—The following words and phrases as
36 used in this chapter have the respective meanings set forth
37 unless a different meaning is plainly required by the context:

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

41 1. For retirements effective before July 1, 2010, if a
42 member is employed by any such employer within the next calendar
43 month, termination shall be deemed not to have occurred. A leave
44 of absence constitutes a continuation of the employment
45 relationship, except that a leave of absence without pay due to
46 disability may constitute termination if such member makes
47 application for and is approved for disability retirement in



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48 accordance with s. 121.091(4). The department or state board may
49 require other evidence of termination as it deems necessary.

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

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

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

69 2. For termination dates occurring on or after July 1,
70 2010, if the member becomes employed by any such employer within
71 the next 6 calendar months, termination will be deemed not to
72 have occurred, except as provided in s. 121.091(13)(b)4.c. A
73 leave of absence constitutes a continuation of the employment
74 relationship.



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75 (c) Effective July 1, 2011, "termination" for a member
76 receiving a refund of employee contributions occurs when a
77 member ceases all employment relationships with participating
78 employers for 3 calendar months. A leave of absence constitutes
79 a continuation of the employment relationship.

80 (d) Effective July 1, 2013, through June 30, 2016,
81 "termination" for a retired justice or judge who reached the
82 later of his or her normal retirement age or age when vested at
83 retirement and subsequently returns to temporary employment as a
84 judge in any court, as assigned by the Chief Justice of the
85 Supreme Court in accordance with s. 2, Art. V of the State
86 Constitution, occurs when the justice or judge has terminated
87 all employment relationships with employers under the Florida
88 Retirement System for at least 1 calendar month prior to
89 reemployment as a senior judge.

90 Section 4. Subsection (9) of section 121.091, Florida
91 Statutes, is amended to read:

92 121.091 Benefits payable under the system.--Benefits may
93 not be paid under this section unless the member has terminated
94 employment as provided in s. 121.021(39)(a) or begun
95 participation in the Deferred Retirement Option Program as
96 provided in subsection (13), and a proper application has been
97 filed in the manner prescribed by the department. The department
98 may cancel an application for retirement benefits when the
99 member or beneficiary fails to timely provide the information
100 and documents required by this chapter and the department's
101 rules. The department shall adopt rules establishing procedures
102 for application for retirement benefits and for the cancellation



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103 of such application when the required information or documents
104 are not received.

105 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

106 (a) Any person who is retired under this chapter, except
107 under the disability retirement provisions of subsection (4),
108 may be employed by an employer that does not participate in a
109 state-administered retirement system and receive compensation
110 from that employment without limiting or restricting in any way
111 the retirement benefits payable to that person.

112 (b) Any person whose retirement is effective before July
113 1, 2010, or whose participation in the Deferred Retirement
114 Option Program terminates before July 1, 2010, except under the
115 disability retirement provisions of subsection (4) or as
116 provided in s. 121.053, may be reemployed by an employer that
117 participates in a state-administered retirement system and
118 receive retirement benefits and compensation from that employer,
119 except that the person may not be reemployed by an employer
120 participating in the Florida Retirement System before meeting
121 the definition of termination in s. 121.021 and may not receive
122 both a salary from the employer and retirement benefits for 12
123 calendar months immediately subsequent to the date of
124 retirement. However, a DROP participant shall continue
125 employment and receive a salary during the period of
126 participation in the Deferred Retirement Option Program, as
127 provided in subsection (13).

128 1. A retiree who violates such reemployment limitation
129 before completion of the 12-month limitation period must give
130 timely notice of this fact in writing to the employer and to the



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131 | Division of Retirement or the state board and shall have his or
132 | her retirement benefits suspended for the months employed or the
133 | balance of the 12-month limitation period as required in sub-
134 | subparagraphs b. and c. A retiree employed in violation of this
135 | paragraph and an employer who employs or appoints such person
136 | are jointly and severally liable for reimbursement to the
137 | retirement trust fund, including the Florida Retirement System
138 | Trust Fund and the Public Employee Optional Retirement Program
139 | Trust Fund, from which the benefits were paid. The employer must
140 | have a written statement from the retiree that he or she is not
141 | retired from a state-administered retirement system. Retirement
142 | benefits shall remain suspended until repayment has been made.
143 | Benefits suspended beyond the reemployment limitation shall
144 | apply toward repayment of benefits received in violation of the
145 | reemployment limitation.

146 | a. A district school board may reemploy a retiree as a
147 | substitute or hourly teacher, education paraprofessional,
148 | transportation assistant, bus driver, or food service worker on
149 | a noncontractual basis after he or she has been retired for 1
150 | calendar month. A district school board may reemploy a retiree
151 | as instructional personnel, as defined in s. 1012.01(2)(a), on
152 | an annual contractual basis after he or she has been retired for
153 | 1 calendar month. Any member who is reemployed within 1 calendar
154 | month after retirement shall void his or her application for
155 | retirement benefits. District school boards reemploying such
156 | teachers, education paraprofessionals, transportation
157 | assistants, bus drivers, or food service workers are subject to
158 | the retirement contribution required by subparagraph 2.



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159 b. A community college board of trustees may reemploy a
160 retiree as an adjunct instructor or as a participant in a phased
161 retirement program within the Florida Community College System,
162 after he or she has been retired for 1 calendar month. A member
163 who is reemployed within 1 calendar month after retirement shall
164 void his or her application for retirement benefits. Boards of
165 trustees reemploying such instructors are subject to the
166 retirement contribution required in subparagraph 2. A retiree
167 may be reemployed as an adjunct instructor for no more than 780
168 hours during the first 12 months of retirement. A retiree
169 reemployed for more than 780 hours during the first 12 months of
170 retirement must give timely notice in writing to the employer
171 and to the Division of Retirement or the state board of the date
172 he or she will exceed the limitation. The division shall suspend
173 his or her retirement benefits for the remainder of the 12
174 months of retirement. Any retiree employed in violation of this
175 sub-subparagraph and any employer who employs or appoints such
176 person without notifying the division to suspend retirement
177 benefits are jointly and severally liable for any benefits paid
178 during the reemployment limitation period. The employer must
179 have a written statement from the retiree that he or she is not
180 retired from a state-administered retirement system. Any
181 retirement benefits received by the retiree while reemployed in
182 excess of 780 hours during the first 12 months of retirement
183 must be repaid to the Florida Retirement System Trust Fund, and
184 retirement benefits shall remain suspended until repayment is
185 made. Benefits suspended beyond the end of the retiree's first



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186 12 months of retirement shall apply toward repayment of benefits
187 received in violation of the 780-hour reemployment limitation.

188 c. The State University System may reemploy a retiree as
189 an adjunct faculty member or as a participant in a phased
190 retirement program within the State University System after the
191 retiree has been retired for 1 calendar month. A member who is
192 reemployed within 1 calendar month after retirement shall void
193 his or her application for retirement benefits. The State
194 University System is subject to the retired contribution
195 required in subparagraph 2., as appropriate. A retiree may be
196 reemployed as an adjunct faculty member or a participant in a
197 phased retirement program for no more than 780 hours during the
198 first 12 months of his or her retirement. A retiree reemployed
199 for more than 780 hours during the first 12 months of retirement
200 must give timely notice in writing to the employer and to the
201 Division of Retirement or the state board of the date he or she
202 will exceed the limitation. The division shall suspend his or
203 her retirement benefits for the remainder of the 12 months. Any
204 retiree employed in violation of this sub-subparagraph and any
205 employer who employs or appoints such person without notifying
206 the division to suspend retirement benefits are jointly and
207 severally liable for any benefits paid during the reemployment
208 limitation period. The employer must have a written statement
209 from the retiree that he or she is not retired from a state-
210 administered retirement system. Any retirement benefits received
211 by the retiree while reemployed in excess of 780 hours during
212 the first 12 months of retirement must be repaid to the Florida
213 Retirement System Trust Fund, and retirement benefits shall



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214 remain suspended until repayment is made. Benefits suspended
215 beyond the end of the retiree's first 12 months of retirement
216 shall apply toward repayment of benefits received in violation
217 of the 780-hour reemployment limitation.

218 d. The Board of Trustees of the Florida School for the
219 Deaf and the Blind may reemploy a retiree as a substitute
220 teacher, substitute residential instructor, or substitute nurse
221 on a noncontractual basis after he or she has been retired for 1
222 calendar month. Any member who is reemployed within 1 calendar
223 month after retirement shall void his or her application for
224 retirement benefits. The Board of Trustees of the Florida School
225 for the Deaf and the Blind reemploying such teachers,
226 residential instructors, or nurses is subject to the retirement
227 contribution required by subparagraph 2.

228 e. A developmental research school may reemploy a retiree
229 as a substitute or hourly teacher or an education
230 paraprofessional as defined in s. 1012.01(2) on a noncontractual
231 basis after he or she has been retired for 1 calendar month. A
232 developmental research school may reemploy a retiree as
233 instructional personnel, as defined in s. 1012.01(2)(a), on an
234 annual contractual basis after he or she has been retired for 1
235 calendar month after retirement. Any member who is reemployed
236 within 1 calendar month voids his or her application for
237 retirement benefits. A developmental research school that
238 reemploys retired teachers and education paraprofessionals is
239 subject to the retirement contribution required by subparagraph
240 2.



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241 f. A charter school may reemploy a retiree as a substitute
242 or hourly teacher on a noncontractual basis after he or she has
243 been retired for 1 calendar month. A charter school may reemploy
244 a retired member as instructional personnel, as defined in s.
245 1012.01(2)(a), on an annual contractual basis after he or she
246 has been retired for 1 calendar month after retirement. Any
247 member who is reemployed within 1 calendar month voids his or
248 her application for retirement benefits. A charter school that
249 reemploys such teachers is subject to the retirement
250 contribution required by subparagraph 2.

251 2. The employment of a retiree or DROP participant of a
252 state-administered retirement system does not affect the average
253 final compensation or years of creditable service of the retiree
254 or DROP participant. Before July 1, 1991, upon employment of any
255 person, other than an elected officer as provided in s. 121.053,
256 who is retired under a state-administered retirement program,
257 the employer shall pay retirement contributions in an amount
258 equal to the unfunded actuarial liability portion of the
259 employer contribution which would be required for regular
260 members of the Florida Retirement System. Effective July 1,
261 1991, contributions shall be made as provided in s. 121.122 for
262 retirees who have renewed membership or, as provided in
263 subsection (13), for DROP participants.

264 3. Any person who is holding an elective public office
265 which is covered by the Florida Retirement System and who is
266 concurrently employed in nonelected covered employment may elect
267 to retire while continuing employment in the elective public
268 office if he or she terminates his or her nonelected covered



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269 employment. Such person shall receive his or her retirement
270 benefits in addition to the compensation of the elective office
271 without regard to the time limitations otherwise provided in
272 this subsection. A person who seeks to exercise the provisions
273 of this subparagraph as they existed before May 3, 1984, may not
274 be deemed to be retired under those provisions, unless such
275 person is eligible to retire under this subparagraph, as amended
276 by chapter 84-11, Laws of Florida.

277 (c) Any person whose retirement is effective on or after
278 July 1, 2010, or whose participation in the Deferred Retirement
279 Option Program terminates on or after July 1, 2010, who is
280 retired under this chapter, except under the disability
281 retirement provisions of subsection (4) or as provided in s.
282 121.053, may be reemployed by an employer that participates in a
283 state-administered retirement system and receive retirement
284 benefits and compensation from that employer. However, a person
285 may not be reemployed by an employer participating in the
286 Florida Retirement System before meeting the definition of
287 termination in s. 121.021 and may not receive both a salary from
288 the employer and retirement benefits for 6 calendar months after
289 meeting the definition of termination, except as provided in
290 paragraph (f). However, a DROP participant shall continue
291 employment and receive a salary during the period of
292 participation in the Deferred Retirement Option Program, as
293 provided in subsection (13).

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



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

301 3. A retiree initially reemployed in violation of this
302 paragraph and an employer that employs or appoints such person
303 are jointly and severally liable for reimbursement of any
304 retirement benefits paid to the retirement trust fund from which
305 the benefits were paid, including the Florida Retirement System
306 Trust Fund and the Public Employee Optional Retirement Program
307 Trust Fund, as appropriate. The employer must have a written
308 statement from the employee that he or she is not retired from a
309 state-administered retirement system. Retirement benefits shall
310 remain suspended until repayment is made. Benefits suspended
311 beyond the end of the retiree's 6-month reemployment limitation
312 period shall apply toward the repayment of benefits received in
313 violation of this paragraph.

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

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

321 2. A retiree employed in violation of this subsection and
322 an employer that employs or appoints such person are jointly and
323 severally liable for reimbursement of any benefits paid to the



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324 retirement trust fund from which the benefits were paid. The
325 employer must have a written statement from the retiree that he
326 or she is not retired from a state-administered retirement
327 system.

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

332 (f) Effective July 1, 2013, through June 30, 2016, a
333 retired justice or retired judge who has reached the later of
334 his or her normal retirement age or the age when vested, who has
335 terminated all employment with employers participating under the
336 Florida Retirement System for at least 1 calendar month, and who
337 subsequently returns to temporary employment as a senior judge
338 in any court, as assigned by the Chief Justice of the Supreme
339 Court in accordance with s. 2, Art. V of the State Constitution,
340 is not subject to paragraph (c), paragraph (d), or paragraph (e)
341 while reemployed as a senior judge.

342 Section 5. Paragraph (a) of subsection (1) of section
343 121.591, Florida Statutes, is amended to read:

344 121.591 Payment of benefits.—Benefits may not be paid
345 under the Florida Retirement System Investment Plan unless the
346 member has terminated employment as provided in s.
347 121.021(39)(a) or is deceased and a proper application has been
348 filed as prescribed by the state board or the department.
349 Benefits, including employee contributions, are not payable
350 under the investment plan for employee hardships, unforeseeable
351 emergencies, loans, medical expenses, educational expenses,



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352 purchase of a principal residence, payments necessary to prevent
353 eviction or foreclosure on an employee's principal residence, or
354 any other reason except a requested distribution for retirement,
355 a mandatory de minimis distribution authorized by the
356 administrator, or a required minimum distribution provided
357 pursuant to the Internal Revenue Code. The state board or
358 department, as appropriate, may cancel an application for
359 retirement benefits if the member or beneficiary fails to timely
360 provide the information and documents required by this chapter
361 and the rules of the state board and department. In accordance
362 with their respective responsibilities, the state board and the
363 department shall adopt rules establishing procedures for
364 application for retirement benefits and for the cancellation of
365 such application if the required information or documents are
366 not received. The state board and the department, as
367 appropriate, are authorized to cash out a de minimis account of
368 a member who has been terminated from Florida Retirement System
369 covered employment for a minimum of 6 calendar months. A de
370 minimis account is an account containing employer and employee
371 contributions and accumulated earnings of not more than \$5,000
372 made under the provisions of this chapter. Such cash-out must be
373 a complete lump-sum liquidation of the account balance, subject
374 to the provisions of the Internal Revenue Code, or a lump-sum
375 direct rollover distribution paid directly to the custodian of
376 an eligible retirement plan, as defined by the Internal Revenue
377 Code, on behalf of the member. Any nonvested accumulations and
378 associated service credit, including amounts transferred to the
379 suspense account of the Florida Retirement System Investment



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380 Plan Trust Fund authorized under s. 121.4501(6), shall be
381 forfeited upon payment of any vested benefit to a member or
382 beneficiary, except for de minimis distributions or minimum
383 required distributions as provided under this section. If any
384 financial instrument issued for the payment of retirement
385 benefits under this section is not presented for payment within
386 180 days after the last day of the month in which it was
387 originally issued, the third-party administrator or other duly
388 authorized agent of the state board shall cancel the instrument
389 and credit the amount of the instrument to the suspense account
390 of the Florida Retirement System Investment Plan Trust Fund
391 authorized under s. 121.4501(6). Any amounts transferred to the
392 suspense account are payable upon a proper application, not to
393 include earnings thereon, as provided in this section, within 10
394 years after the last day of the month in which the instrument
395 was originally issued, after which time such amounts and any
396 earnings attributable to employer contributions shall be
397 forfeited. Any forfeited amounts are assets of the trust fund
398 and are not subject to chapter 717.

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

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

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

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



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408 3. The member must be terminated from all employment with
409 all Florida Retirement System employers, as provided in s.
410 121.021(39).

411 4. Benefit payments may not be made until the member has
412 been terminated for 3 calendar months, except that the state
413 board may authorize by rule for the distribution of up to 10
414 percent of the member's account after being terminated for 1
415 calendar month if the member has reached the normal retirement
416 date as defined in s. 121.021. Effective July 1, 2013, through
417 June 30, 2016, a retired justice or retired judge who returns to
418 temporary employment as a senior judge in any court pursuant to
419 s. 2, Art. V of the State Constitution and meets the definition
420 of termination in s. 121.021(39)(d) may continue to receive a
421 distribution of his or her account as provided under this
422 paragraph after providing proof of assignment as a senior judge.

423 5. If a member or former member of the Florida Retirement
424 System receives an invalid distribution, such person must either
425 repay the full amount within 90 days after receipt of final
426 notification by the state board or the third-party administrator
427 that the distribution was invalid, or, in lieu of repayment, the
428 member must terminate employment from all participating
429 employers. If such person fails to repay the full invalid
430 distribution within 90 days after receipt of final notification,
431 the person may be deemed retired from the investment plan by the
432 state board and is subject to s. 121.122. If such person is
433 deemed retired, any joint and several liability set out in s.
434 121.091(9)(d)2. is void, and the state board, the department, or
435 the employing agency is not liable for gains on payroll



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436 contributions that have not been deposited to the person's
437 account in the investment plan, pending resolution of the
438 invalid distribution. The member or former member who has been
439 deemed retired or who has been determined by the state board to
440 have taken an invalid distribution may appeal the agency
441 decision through the complaint process as provided under s.
442 121.4501(9)(g)3. As used in this subparagraph, the term "invalid
443 distribution" means any distribution from an account in the
444 investment plan which is taken in violation of this section, s.
445 121.091(9), or s. 121.4501.

446 Section 6. Section 702.015, Florida Statutes, is created
447 to read:

448 702.015 Elements of complaint; lost, destroyed, or stolen
449 note affidavit.-

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

455 (2) A complaint that seeks to foreclose a mortgage or
456 other lien on residential real property, including individual
457 units of condominiums and cooperatives, designed principally for
458 occupation by from one to four families which secures a
459 promissory note must:

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



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464 (b) Allege with specificity the factual basis by which the
465 plaintiff is a person entitled to enforce the note under s.
466 673.3011.

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

483 (4) If the plaintiff is in possession of the original
484 promissory note, the plaintiff must file under penalty of
485 perjury a certification with the court, contemporaneously with
486 the filing of the complaint for foreclosure, that the plaintiff
487 is in possession of the original promissory note. The
488 certification must set forth the location of the note, the name
489 and title of the individual giving the certification, the name
490 of the person who personally verified such possession, and the
491 time and date on which the possession was verified. Correct



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492 copies of the note and all allonges to the note must be attached
493 to the certification. The original note and the allonges must be
494 filed with the court before the entry of any judgment of
495 foreclosure or judgment on the note.

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

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

502 (b) Set forth facts showing that the plaintiff is entitled
503 to enforce a lost, destroyed, or stolen instrument pursuant to
504 s. 673.3091. Adequate protection as required under s.
505 673.3091(2) shall be provided before the entry of final
506 judgment.

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

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

514 (7) This section does not apply to any foreclosure
515 proceeding involving timeshare interests under part III of
516 chapter 721.

517 Section 7. Section 702.036, Florida Statutes, is created
518 to read:

519 702.036 Finality of mortgage foreclosure judgment.-



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

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

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

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

536 4. The property has been acquired for value, by a person
537 not affiliated with the foreclosing lender or the foreclosed
538 owner, at a time in which no lis pendens regarding the suit to
539 set aside, invalidate, or challenge the foreclosure appears in
540 the official records of the county where the property was
541 located.

542 (b) This subsection does not limit the right to pursue any
543 other relief to which a person may be entitled, including, but
544 not limited to, compensatory damages, punitive damages,
545 statutory damages, consequential damages, injunctive relief, or
546 fees and costs, which does not adversely affect the ownership of



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547 the title to the property as vested in the unaffiliated
548 purchaser for value.

549 (2) For purposes of this section, the following, without
550 limitation, shall be considered persons affiliated with the
551 foreclosing lender:

552 (a) The foreclosing lender or any loan servicer for the
553 loan being foreclosed;

554 (b) Any past or present owner or holder of the loan being
555 foreclosed;

556 (c) Any maintenance company, holding company, foreclosure
557 services company, or law firm under contract to any entity
558 listed in paragraph (a), paragraph (b), or this paragraph, with
559 regard to the loan being foreclosed; or

560 (d) Any parent entity, subsidiary, or other person who
561 directly, or indirectly through one or more intermediaries,
562 controls or is controlled by, or is under common control with,
563 any entity listed in paragraph (a), paragraph (b), or paragraph
564 (c).

565 (3) After foreclosure of a mortgage based upon the
566 enforcement of a lost, destroyed, or stolen note, a person who
567 is not a party to the underlying foreclosure action but who
568 claims to be the person entitled to enforce the promissory note
569 secured by the foreclosed mortgage has no claim against the
570 foreclosed property after it is conveyed for valuable
571 consideration to a person not affiliated with the foreclosing
572 lender or the foreclosed owner. This section does not preclude
573 the person entitled to enforce the promissory note from pursuing
574 recovery from any adequate protection given pursuant to s.



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575 673.3091 or from the party who wrongfully claimed to be the
576 person entitled to enforce the promissory note under s.
577 702.11(2) or otherwise, from the maker of the note, or from any
578 other person against whom it may have a claim relating to the
579 note.

580 Section 8. Section 702.06, Florida Statutes, is amended to
581 read:

582 702.06 Deficiency decree; common-law suit to recover
583 deficiency.—In all suits for the foreclosure of mortgages
584 heretofore or hereafter executed the entry of a deficiency
585 decree for any portion of a deficiency, should one exist, shall
586 be within the sound discretion of the court; however, in the
587 case of an owner-occupied residential property, the amount of
588 the deficiency may not exceed the difference between the
589 judgment amount, or in the case of a short sale, the outstanding
590 debt, and the fair market value of the property on the date of
591 sale. For purposes of this section, there is a rebuttable
592 presumption that a residential property for which a homestead
593 exemption for taxation was granted according to the certified
594 rolls of the latest assessment by the county property appraiser,
595 before the filing of the foreclosure action, is an owner-
596 occupied residential property. ~~shall be within the sound~~
597 ~~judicial discretion of the court, but~~ The complainant shall also
598 have the right to sue at common law to recover such deficiency,
599 unless the court in the foreclosure action has granted or denied
600 a claim for a deficiency judgment ~~provided no suit at law to~~
601 ~~recover such deficiency shall be maintained against the original~~
602 ~~mortgagor in cases where the mortgage is for the purchase price~~



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603 ~~of the property involved and where the original mortgagee~~
604 ~~becomes the purchaser thereof at foreclosure sale and also is~~
605 ~~granted a deficiency decree against the original mortgagor.~~

606 Section 9. Section 702.10, Florida Statutes, is amended to
607 read:

608 702.10 Order to show cause; entry of final judgment of
609 foreclosure; payment during foreclosure.-

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

627 (a) The order shall:

628 1. Set the date and time for a hearing ~~on the order~~ to
629 show cause. ~~However,~~ The date for the hearing may not occur ~~be~~
630 ~~set~~ sooner than the later of 20 days after ~~the~~ service of the



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631 order to show cause or 45 days after service of the initial
632 complaint. When service is obtained by publication, the date for
633 the hearing may not be set sooner than 30 days after the first
634 publication. ~~The hearing must be held within 60 days after the~~
635 ~~date of service. Failure to hold the hearing within such time~~
636 ~~does not affect the validity of the order to show cause or the~~
637 ~~jurisdiction of the court to issue subsequent orders.~~

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

640 3. State that the filing of defenses by a motion,
641 responsive pleading, affidavits, or other papers ~~or by a~~
642 ~~verified or sworn answer at or~~ before the hearing to show cause
643 that raises a genuine issue of material fact which would
644 preclude the entry of summary judgment or otherwise constitutes
645 a legal defense to foreclosure shall constitute ~~constitutes~~
646 cause for the court not to enter ~~the attached~~ final judgment.

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

651 5. State that, if a ~~the~~ defendant files defenses by a
652 motion, a verified or sworn answer, affidavits, or other papers
653 or appears personally or by way of an attorney at the time of
654 the hearing, the hearing time will ~~may~~ be used to hear and
655 consider whether the defendant's motion, answer, affidavits,
656 other papers, and other evidence and argument as may be
657 presented by the defendant or the defendant's attorney raise a
658 genuine issue of material fact which would preclude the entry of



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659 summary judgment or otherwise constitute a legal defense to
660 foreclosure. The order shall also state that the court may enter
661 an order of final judgment of foreclosure at the hearing and
662 order the clerk of the court to conduct a foreclosure sale.

663 6. State that, if a ~~the~~ defendant fails to appear at the
664 hearing to show cause or fails to file defenses by a motion or
665 by a verified or sworn answer or files an answer not contesting
666 the foreclosure, such ~~the~~ defendant may be considered to have
667 waived the right to a hearing, and in such case, the court may
668 enter a default against such defendant and, if appropriate, a
669 final judgment of foreclosure ordering the clerk of the court to
670 conduct a foreclosure sale.

671 7. State that if the mortgage provides for reasonable
672 attorney ~~attorney's~~ fees and the requested attorney ~~attorney's~~
673 fees do not exceed 3 percent of the principal amount owed at the
674 time of filing the complaint, it is unnecessary for the court to
675 hold a hearing or adjudge the requested attorney ~~attorney's~~ fees
676 to be reasonable.

677 8. Attach the form of the proposed final judgment of
678 foreclosure which the movant requests the court to will enter,
679 ~~if the defendant waives the right to be heard~~ at the hearing on
680 the order to show cause.

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

684 a. If a party ~~the mortgagor~~ has been served pursuant to
685 chapter 48 with the complaint and original process, or the other
686 party is the plaintiff in the action, service of the order to



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687 show cause on that party order may be made in the manner
688 provided in the Florida Rules of Civil Procedure.

689 b. If a defendant ~~the mortgager~~ has not been served
690 pursuant to chapter 48 with the complaint and original process,
691 the order to show cause, together with the summons and a copy of
692 the complaint, shall be served on the party mortgager in the
693 same manner as provided by law for original process.

694
695 Any final judgment of foreclosure entered under this subsection
696 is for in rem relief only. ~~Nothing in~~ This subsection does not
697 ~~shall~~ preclude the entry of a deficiency judgment where
698 otherwise allowed by law. The Legislature intends that this
699 alternative procedure may run simultaneously with other court
700 procedures.

701 (b) The right to be heard at the hearing to show cause is
702 waived if a ~~the~~ defendant, after being served as provided by law
703 with an order to show cause, engages in conduct that clearly
704 shows that the defendant has relinquished the right to be heard
705 on that order. The defendant's failure to file defenses by a
706 motion or by a sworn or verified answer, affidavits, or other
707 papers or to appear personally or by way of an attorney at the
708 hearing duly scheduled on the order to show cause presumptively
709 constitutes conduct that clearly shows that the defendant has
710 relinquished the right to be heard. If a defendant files
711 defenses by a motion, or by a verified or sworn answer,
712 affidavits, or other papers or presents evidence at or before
713 the hearing which raise a genuine issue of material fact which
714 would preclude entry of summary judgment or otherwise constitute



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715 a legal defense to foreclosure, such action constitutes cause
716 and precludes the entry of a final judgment at the hearing to
717 show cause.

718 (c) In a mortgage foreclosure proceeding, when a final
719 ~~default~~ judgment of foreclosure has been entered against the
720 mortgagor and the note or mortgage provides for the award of
721 reasonable attorney ~~attorney's~~ fees, it is unnecessary for the
722 court to hold a hearing or adjudge the requested attorney
723 ~~attorney's~~ fees to be reasonable if the fees do not exceed 3
724 percent of the principal amount owed on the note or mortgage at
725 the time of filing, even if the note or mortgage does not
726 specify the percentage of the original amount that would be paid
727 as liquidated damages.

728 (d) If the court finds that all defendants have ~~the~~
729 ~~defendant has~~ waived the right to be heard as provided in
730 paragraph (b), the court shall promptly enter a final judgment
731 of foreclosure without the need for further hearing if the
732 plaintiff has shown entitlement to a final judgment and upon the
733 filing with the court of the original note, satisfaction of the
734 conditions for establishment of a lost note, or upon a showing
735 to the court that the obligation to be foreclosed is not
736 evidenced by a promissory note or other negotiable instrument.
737 If the court finds that a ~~the~~ defendant has not waived the right
738 to be heard on the order to show cause, the court shall ~~then~~
739 determine whether there is cause not to enter a final judgment
740 of foreclosure. If the court finds that the defendant has not
741 shown cause, the court shall promptly enter a judgment of
742 foreclosure. If the time allotted for the hearing is



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743 insufficient, the court may announce at the hearing a date and
744 time for the continued hearing. Only the parties who appear,
745 individually or through an attorney, at the initial hearing must
746 be notified of the date and time of the continued hearing.

747 (2) Except as provided in paragraph (i), as part of any ~~in~~
748 an action for foreclosure, and in addition to any other relief
749 that the court may award ~~other than residential real estate, the~~
750 plaintiff ~~the mortgagee~~ may request that the court enter an
751 order directing the mortgagor defendant to show cause why an
752 order to make payments during the pendency of the foreclosure
753 proceedings or an order to vacate the premises should not be
754 entered.

755 (a) The order shall:

756 1. Set the date and time for hearing on the order to show
757 cause. However, the date for the hearing may ~~shall~~ not be set
758 sooner than 20 days after the service of the order. If ~~where~~
759 service is obtained by publication, the date for the hearing may
760 ~~shall~~ not be set sooner than 30 days after the first
761 publication.

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

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

768 4. State that, if a ~~the~~ defendant fails to appear at the
769 hearing to show cause and fails to file defenses by a motion or
770 by a verified or sworn answer, the defendant is ~~may be~~ deemed to



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771 have waived the right to a hearing and in such case the court
772 may enter an order to make payment or vacate the premises.

773 5. Require the movant mortgagee to serve a copy of the
774 order to show cause on the defendant mortgagor in the following
775 manner:

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

779 b. If a defendant the mortgagor has not been served with
780 the complaint and original process, the order to show cause,
781 together with the summons and a copy of the complaint, shall be
782 served on the defendant mortgagor in the same manner as provided
783 by law for original process.

784 (b) The right of a defendant to be heard at the hearing to
785 show cause is waived if the defendant, after being served as
786 provided by law with an order to show cause, engages in conduct
787 that clearly shows that the defendant has relinquished the right
788 to be heard on that order. A ~~The~~ defendant's failure to file
789 defenses by a motion or by a sworn or verified answer or to
790 appear at the hearing duly scheduled on the order to show cause
791 presumptively constitutes conduct that clearly shows that the
792 defendant has relinquished the right to be heard.

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

797 (d) If the court finds that the mortgagor has not waived
798 the right to be heard on the order to show cause, the court



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799 shall, at the hearing on the order to show cause, consider the
800 affidavits and other showings made by the parties appearing and
801 make a determination of the probable validity of the underlying
802 claim alleged against the mortgagor and the mortgagor's
803 defenses. If the court determines that the plaintiff mortgagee
804 is likely to prevail in the foreclosure action, the court shall
805 enter an order requiring the mortgagor to make the payment
806 described in paragraph (e) to the plaintiff mortgagee and
807 provide for a remedy as described in paragraph (f). However, the
808 order shall be stayed pending final adjudication of the claims
809 of the parties if the mortgagor files with the court a written
810 undertaking executed by a surety approved by the court in an
811 amount equal to the unpaid balance of the lien being foreclosed
812 ~~the mortgage on the property~~, including all principal, interest,
813 unpaid taxes, and insurance premiums paid by the plaintiff the
814 ~~mortgagee~~.

815 (e) ~~If in the event~~ the court enters an order requiring
816 the mortgagor to make payments to the plaintiff mortgagee,
817 payments shall be payable at such intervals and in such amounts
818 provided for in the mortgage instrument before acceleration or
819 maturity. The obligation to make payments pursuant to any order
820 entered under this subsection shall commence from the date of
821 the motion filed under this section hereunder. The order shall
822 be served upon the mortgagor no later than 20 days before the
823 date specified for the first payment. The order may permit, but
824 ~~may shall~~ not require, the plaintiff mortgagee to take all
825 appropriate steps to secure the premises during the pendency of
826 the foreclosure action.



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827 (f) ~~If In the event~~ the court enters an order requiring
828 payments, the order shall also provide that the plaintiff is
829 ~~mortgagee shall be~~ entitled to possession of the premises upon
830 the failure of the mortgagor to make the payment required in the
831 order unless at the hearing on the order to show cause the court
832 finds good cause to order some other method of enforcement of
833 its order.

834 (g) All amounts paid pursuant to this section shall be
835 credited against the mortgage obligation in accordance with the
836 terms of the loan documents; ~~provided, however, that any~~
837 payments made under this section do shall not constitute a cure
838 of any default or a waiver or any other defense to the mortgage
839 foreclosure action.

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

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

851 Section 10. Section 702.11, Florida Statutes, is created
852 to read:

853 702.11 Adequate protections for lost, destroyed, or stolen
854 notes in mortgage foreclosure.-



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

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

861 (b) A surety bond;

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

863 (d) A deposit of cash collateral with the clerk of the
864 court; or

865 (e) Such other security as the court may deem appropriate
866 under the circumstances.

867

868 Any security given shall be on terms and in amounts set by the
869 court, for a time period through the running of the statute of
870 limitations for enforcement of the underlying note, and
871 conditioned to indemnify and hold harmless the maker of the note
872 against any loss or damage, including principal, interest, and
873 attorney fees and costs, that might occur by reason of a claim
874 by another person to enforce the note.

875 (2) Any person who wrongly claims to be the holder of or
876 pursuant to s. 673.3011 to be entitled to enforce a lost,
877 stolen, or destroyed note and causes the mortgage secured
878 thereby to be foreclosed is liable to the actual holder of the
879 note, without limitation to any adequate protections given, for
880 actual damages suffered together with attorney fees and costs of
881 the actual holder of the note in enforcing rights under this



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882 subsection. In addition, the actual holder of the note may
883 pursue recovery directly against any adequate protections given.

884 (a) The actual holder of the note is not required to
885 pursue recovery against the maker of the note or any guarantor
886 thereof as a condition precedent to pursuing remedies under this
887 section.

888 (b) This section does not limit or restrict the ability of
889 the actual holder of the note to pursue any other claims or
890 remedies it may have against the maker, the person who wrongly
891 claimed to be the holder, or any person who facilitated or
892 participated in the claim to the note or enforcement thereof.

893 Section 11. The Legislature finds that this act is
894 remedial in nature and applies to all mortgages encumbering real
895 property and all promissory notes secured by a mortgage, whether
896 executed before, on, or after the effective date of this act. In
897 addition, the Legislature finds that s. 702.015, Florida
898 Statutes, as created by this act, applies to cases filed on or
899 after July 1, 2013; however, the amendments to s. 702.10,
900 Florida Statutes, and the creation of s. 702.11, Florida
901 Statutes, by this act, apply to causes of action pending on the
902 effective date of this act.

903 Section 12. (1) Effective July 1, 2013, in order to fund
904 the benefit changes provided in this act, the required employer
905 contribution rates for members of the Florida Retirement System
906 established in s. 121.71(4), Florida Statutes, must be adjusted
907 as follows:

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



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

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

918 (3) The adjustments provided in subsections (1) and (2)
919 shall be in addition to all other changes to such contribution
920 rates which may be enacted into law to take effect on July 1,
921 2013, and July 1, 2014. The Division of Law Revision and
922 Information is requested to adjust accordingly the contribution
923 rates provided in s. 121.71, Florida Statutes.

924 Section 13. (1) The Legislature finds that a proper and
925 legitimate state purpose is served if employees and retirees of
926 the state and its political subdivisions, and the dependents,
927 survivors, and beneficiaries of such employees and retirees, are
928 extended the basic protections afforded by governmental
929 retirement systems which provide fair and adequate benefits and
930 which are managed, administered, and funded in an actuarially
931 sound manner as required by s. 14, Article X of the State
932 Constitution and part VII of chapter 112, Florida Statutes.
933 Therefore, the Legislature determines and declares that this act
934 fulfills an important state interest.

935 (2) The Legislature further finds that the assignment of
936 former justices and judges to temporary employment as a judge in
937 any court, by the Chief Justice of the Supreme Court in



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938 accordance with s. 2, Art. V of the State Constitution, assists
939 the State Courts System in managing caseloads and providing
940 individuals and businesses with access to courts. In particular,
941 these assignments are critically important in assisting with the
942 disposition of the current backlog in foreclosure cases in this
943 state. Therefore, the Legislature further determines and
944 declares that this act fulfills an important state interest by
945 facilitating the ability of justices and judges who retire under
946 the Florida Retirement System to return to temporary employment
947 as a judge in a timely manner.

948 Section 14. The Supreme Court is requested to amend the
949 Florida Rules of Civil Procedures to provide expedited
950 foreclosure proceedings in conformity with this act and is
951 requested to develop and publish forms for use in such expedited
952 proceedings.

953 Section 15. Sections 3 through 5, 12, and 13 of this act
954 shall take effect only if the Legislature appropriates during
955 the 2013 Legislative Session the sum of at least \$1.6 million
956 from the General Revenue Fund on a recurring basis to the
957 judicial branch in order to fund the increased employer
958 contributions associated with the costs of the retirement
959 benefits granted in this act and the Governor does not veto the
960 appropriation.

961 Section 16. This act shall take effect upon becoming a
962 law.

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Amendment No. 1

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T I T L E A M E N D M E N T

Remove everything before the enacting clause and insert:
An act relating to mortgage foreclosures; amending s. 95.11, F.S.; revising the limitations period for commencing an action to enforce a claim of a deficiency judgment after a foreclosure action; providing for applicability to existing causes of action; providing that the amendments made by this act to s. 95.11, F.S., apply to any action commenced on or after July 1, 2013; amending s. 121.021, F.S.; defining terms; providing for the applicability of the term "termination"; amending s. 121.091, F.S.; providing that between two specified dates, a retired justice or retired judge is not subject to certain limitations otherwise applicable to retired employees; amending s. 121.591, F.S.; providing that, between two specified dates, a retired justice or retired judge who returns to temporary employment as a senior judge in any court may continue to receive a distribution of his or her retirement account after providing proof of termination from his or her regularly established position; creating s. 702.015, F.S.; providing legislative intent; specifying required contents of a complaint seeking to foreclose on certain types of residential properties with respect to the authority of the plaintiff to foreclose on the note and the location of the note; authorizing sanctions against plaintiffs who fail to comply with complaint requirements; providing for non-applicability to proceedings involving timeshare interests; creating s. 702.036, F.S.;



Amendment No. 1

994 requiring a court to treat a collateral attack on a final
995 judgment of foreclosure on a mortgage as a claim for monetary
996 damages under certain circumstances; prohibiting such court from
997 granting certain relief affecting title to the foreclosed
998 property; providing for construction relating to the rights of
999 certain persons to seek specified types of relief or pursue
1000 claims against the foreclosed property under certain
1001 circumstances; amending s. 702.06, F.S.; limiting the amount of
1002 a deficiency judgment; amending s. 702.10, F.S.; revising the
1003 class of persons authorized to move for expedited foreclosure to
1004 include lienholders; defining the term "lienholder"; providing
1005 requirements and procedures with respect to an order directed to
1006 defendants to show cause why a final judgment of foreclosure
1007 should not be entered; providing that certain failures by a
1008 defendant to make certain filings or to make certain appearances
1009 may have specified legal consequences; requiring the court to
1010 enter a final judgment of foreclosure and order a foreclosure
1011 sale under certain circumstances; revising a restriction on a
1012 mortgagee to request a court to order a mortgagor defendant to
1013 make payments or to vacate the premises during an action to
1014 foreclose on residential real estate to provide that the
1015 restriction applies to all but owner-occupied residential
1016 property; providing a presumption regarding owner-occupied
1017 residential property; creating s. 702.11, F.S.; providing
1018 requirements for reasonable means of providing adequate
1019 protection under s. 673.3091, F.S., in mortgage foreclosures of
1020 certain residential properties; providing for liability of
1021 persons who wrongly claim to be holders of or entitled to



Amendment No. 1

1022 enforce a lost, stolen, or destroyed note and cause the mortgage
1023 secured thereby to be foreclosed in certain circumstances;
1024 providing for construction and applicability; declaring that the
1025 act is remedial in nature and applies to all mortgages
1026 encumbering real property and all promissory notes secured by a
1027 mortgage, whether executed before, on, or after the effective
1028 date of this act; requiring that employer contribution rates be
1029 adjusted; providing a directive to the Division of Law Revision
1030 and Information; providing legislature findings; requesting the
1031 Florida Supreme Court to adopt rules and forms to expedite
1032 foreclosure proceedings; providing that certain specified
1033 provisions of the act take effect only if the Legislature
1034 appropriates a certain amount on a recurring basis to the
1035 judicial system and if the Governor does not veto the
1036 appropriation; providing that certain sections of the act stand
1037 repealed on a stated date; providing an effective date.



Amendment No. 1a

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

*Withdrawn
3.28.13*

1 Committee/Subcommittee hearing bill: Judiciary Committee
 2 Representative Spano offered the following:

4 **Amendment to Amendment (388491) by Representative Passidomo**

6 Remove line 631 of the amendment and insert:
 7 order to show cause or 18 months after service of the initial



Amendment No. 1b

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

*Withdrawn
3-28-13*

1 Committee/Subcommittee hearing bill: Judiciary Committee
 2 Representative Spano offered the following:

3
 4 **Amendment to Amendment (388491) by Representative Passidomo**

5
 6 Remove lines 711-715 of the amendment and insert:
 7 defenses by a motion, ~~or by~~ a verified or sworn answer,
 8 affidavits, or other papers or presents evidence at or before
 9 the hearing, such action constitutes cause

COMMITTEE MEETING REPORT

Judiciary Committee

3/28/2013 10:30:00AM

Location: 404 HOB

CS/HB 361 : Public Meetings/Criminal Justice Commissions

Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Daphne Campbell	X				
Marti Coley	X				
Dwight Dudley	X				
Heather Fitzenhagen			X		
Matt Gaetz			X		
Bill Hager	X				
Dave Kerner	X				
Charles McBurney	X				
Kionne McGhee	X				
Larry Metz	X				
Jared Moskowitz	X				
Kathleen Passidomo	X				
Ray Pilon	X				
Kenneth Roberson	X				
Elaine Schwartz	X				
Ross Spano	X				
Charlie Stone	X				
Dennis Baxley (Chair)	X				
Total Yeas: 16		Total Nays: 0			

Appearances:

Pitts, Brian - Information Only
Justice-2-Jesus
1119 Newton Ave. S.
St. Petersburg FL 33705
Phone: 727-897-9291

Committee meeting was reported out: Thursday, March 28, 2013 1:46:51PM

COMMITTEE MEETING REPORT

Judiciary Committee

3/28/2013 10:30:00AM

Location: 404 HOB

CS/CS/HB 405 : Garnishment

Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Daphne Campbell	X				
Marti Coley	X				
Dwight Dudley	X				
Heather Fitzenhagen	X				
Matt Gaetz			X		
Bill Hager	X				
Dave Kerner	X				
Charles McBurney	X				
Kionne McGhee	X				
Larry Metz	X				
Jared Moskowitz	X				
Kathleen Passidomo	X				
Ray Pilon	X				
Kenneth Roberson	X				
Elaine Schwartz	X				
Ross Spano	X				
Charlie Stone	X				
Dennis Baxley (Chair)	X				
Total Yeas: 17		Total Nays: 0			

Committee meeting was reported out: Thursday, March 28, 2013 1:46:51PM

COMMITTEE MEETING REPORT

Judiciary Committee

3/28/2013 10:30:00AM

Location: 404 HOB

CS/CS/HB 457 : Collection of Worthless Payment Instruments

Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Daphne Campbell	X				
Marti Coley	X				
Dwight Dudley	X				
Heather Fitzenhagen	X				
Matt Gaetz	X				
Bill Hager	X				
Dave Kerner	X				
Charles McBurney	X				
Kionne McGhee	X				
Larry Metz	X				
Jared Moskowitz	X				
Kathleen Passidomo	X				
Ray Pilon	X				
Kenneth Roberson	X				
Elaine Schwartz	X				
Ross Spano	X				
Charlie Stone	X				
Dennis Baxley (Chair)	X				
Total Yeas: 18		Total Nays: 0			

Appearances:

Perdue, Tammy (Lobbyist) - Waive In Support
Associated Industries of Florida
516 N. Adams St.
Tallahassee FL 32301
Phone: (850) 224-7173

Lozano, Lance (Lobbyist) - Waive In Support
Florida United Businesses Association
PO Box 1302
Tallahassee FL 32302
Phone: (850)681-6265

Joiner, Melissa (Lobbyist) - Waive In Support
Director of Government Affairs, Florida Retail Federation
Phone: 850-570-0269

Diaz, Pablo (Lobbyist) - Waive In Support
National Federation of Independent Business
110 E Jefferson St
Tallahassee FL 32301
Phone: 850)385-1109

Committee meeting was reported out: Thursday, March 28, 2013 1:46:51PM

COMMITTEE MEETING REPORT

Judiciary Committee

3/28/2013 10:30:00AM

Location: 404 HOB

HM 545 : Right to Keep and Bear Arms

Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Daphne Campbell		X			
Marti Coley	X				
Dwight Dudley		X			
Heather Fitzenhagen	X				
Matt Gaetz	X				
Bill Hager	X				
Dave Kerner		X			
Charles McBurney	X				
Kionne McGhee		X			
Larry Metz	X				
Jared Moskowitz		X			
Kathleen Passidomo	X				
Ray Pilon	X				
Kenneth Roberson	X				
Elaine Schwartz		X			
Ross Spano	X				
Charlie Stone	X				
Dennis Baxley (Chair)	X				
Total Yeas: 12		Total Nays: 6			

Appearances:

Pitts, Brian - Information Only

Justice-2-Jesus
1119 Newton Ave. S.
St. Petersburg FL 33705
Phone: 727-897-9291

Hammer, Marion (Lobbyist) - Proponent

NRA and Unified Sportsmen of Florida
P.O Box 1387
Tallahassee FL 32302
Phone: 850-222-9518

Committee meeting was reported out: Thursday, March 28, 2013 1:46:51PM

COMMITTEE MEETING REPORT

Judiciary Committee

3/28/2013 10:30:00AM

Location: 404 HOB

CS/HB 607 : Canned or Perishable Food Distributed Free of Charge

Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Daphne Campbell	X				
Marti Coley	X				
Dwight Dudley	X				
Heather Fitzenhagen	X				
Matt Gaetz	X				
Bill Hager	X				
Dave Kerner	X				
Charles McBurney	X				
Kionne McGhee	X				
Larry Metz	X				
Jared Moskowitz	X				
Kathleen Passidomo	X				
Ray Pilon	X				
Kenneth Roberson	X				
Elaine Schwartz	X				
Ross Spano	X				
Charlie Stone	X				
Dennis Baxley (Chair)	X				
Total Yeas: 18		Total Nays: 0			

Appearances:

Pitts, Brian - Waive In Support
Justice-2-Jesus
1119 Newton Ave. S.
St. Petersburg FL 33705
Phone: 727-897-9291

Committee meeting was reported out: Thursday, March 28, 2013 1:46:51PM

COMMITTEE MEETING REPORT

Judiciary Committee

3/28/2013 10:30:00AM

Location: 404 HOB

HB 727 : Liens on Personal Property in Self-Service Storage Facilities & Self-Contained Storage Units

Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Daphne Campbell		X			
Marti Coley	X				
Dwight Dudley		X			
Heather Fitzenhagen	X				
Matt Gaetz	X				
Bill Hager	X				
Dave Kerner		X			
Charles McBurney	X				
Kionne McGhee		X			
Larry Metz	X				
Jared Moskowitz	X				
Kathleen Passidomo	X				
Ray Pilon	X				
Kenneth Roberson	X				
Elaine Schwartz		X			
Ross Spano	X				
Charlie Stone	X				
Dennis Baxley (Chair)	X				
Total Yeas: 13		Total Nays: 5			

Appearances:

Yaeger, Jeanette (Lobbyist) - Waive In Support
Florida Self Storage Association
PO Box 1248
Palm City FL 34991
Phone: (850)412-0300

Kottkamp, Jeff (Lobbyist) - Opponent
Keep the Public Notice Coalition
3311 Dartmoor Drive
Tallahassee FL

Ridings, Dean (Lobbyist) (General Public) - Opponent
Florida Press Association
336 E. College Avenue Suite 203
Tallahassee FL undefined
Phone: 850-521-1162

Committee meeting was reported out: Thursday, March 28, 2013 1:46:51PM

COMMITTEE MEETING REPORT

Judiciary Committee

3/28/2013 10:30:00AM

Location: 404 HOB

HB 757 : Mandatory Reports of Child Abuse

Temporarily Deferred

Committee meeting was reported out: Thursday, March 28, 2013 1:46:51PM

COMMITTEE MEETING REPORT

Judiciary Committee

3/28/2013 10:30:00AM

Location: 404 HOB

CS/HB 775 : Jurisdiction of the Courts

Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Daphne Campbell	X				
Marti Coley	X				
Dwight Dudley	X				
Heather Fitzenhagen			X		
Matt Gaetz	X				
Bill Hager	X				
Dave Kerner	X				
Charles McBurney	X				
Kionne McGhee	X				
Larry Metz	X				
Jared Moskowitz	X				
Kathleen Passidomo	X				
Ray Pilon	X				
Kenneth Roberson	X				
Elaine Schwartz	X				
Ross Spano	X				
Charlie Stone	X				
Dennis Baxley (Chair)	X				
Total Yeas: 17		Total Nays: 0			

Appearances:

Christian, David (Lobbyist) - Waive In Support
Vice President, Government Affairs, Florida Chamber of Commerce
136 S Bronough
Tallahassee FL 32301
Phone: 850-521-1211

Pitts, Brian - Waive In Support
Justice-2-Jesus
1119 Newton Ave. S.
St. Petersburg FL 33705
Phone: 727-897-9291

Kocourek, Todd (General Public) - Waive In Support
1351 N Gadsden St
Tallahassee FL 32303
Phone: 850-222-5198

Committee meeting was reported out: Thursday, March 28, 2013 1:46:51PM

COMMITTEE MEETING REPORT

Judiciary Committee

3/28/2013 10:30:00AM

Location: 404 HOB

CS/HB 903 : Adverse Possession

Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Daphne Campbell	X				
Marti Coley	X				
Dwight Dudley	X				
Heather Fitzenhagen	X				
Matt Gaetz	X				
Bill Hager	X				
Dave Kerner	X				
Charles McBurney	X				
Kionne McGhee	X				
Larry Metz	X				
Jared Moskowitz	X				
Kathleen Passidomo	X				
Ray Pilon	X				
Kenneth Roberson	X				
Elaine Schwartz	X				
Ross Spano	X				
Charlie Stone	X				
Dennis Baxley (Chair)	X				
Total Yeas: 18		Total Nays: 0			

Appearances:

Pitts, Brian - Information Only

Justice-2-Jesus
1119 Newton Ave. S.
St. Petersburg FL 33705
Phone: 727-897-9291

Fishman, Julie (General Public) - Waive In Support

Governmental Affairs Liaison, Community Advocacy Network
5297 W Copans Rd
Margate FL 33064
Phone: 954-213-0979

Ericks, Dave (Lobbyist) - Waive In Support

Broward County Property Appraiser
205 S Adams St
Tallahassee FL 32301
Phone: 850-591-7550

Vickers, Alice (Lobbyist) - Opponent

Florida Consumer Action Network
623 Beard Street
Tallahassee FL 32303
Phone: 850-556-3121

Committee meeting was reported out: Thursday, March 28, 2013 1:46:51PM

COMMITTEE MEETING REPORT

Judiciary Committee

3/28/2013 10:30:00AM

Location: 404 HOB

CS/HB 903 : Adverse Possession (continued)

Appearances: (continued)

Ryan, Woody (General Public) - Proponent

1675 Fortuna Street

Sarasota FL 34239

Phone: 941-726-9397

Committee meeting was reported out: Thursday, March 28, 2013 1:46:51PM

COMMITTEE MEETING REPORT

Judiciary Committee

3/28/2013 10:30:00AM

Location: 404 HOB

CS/HB 995 : Conveyances of Real Property

Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Daphne Campbell	X				
Marti Coley	X				
Dwight Dudley	X				
Heather Fitzenhagen			X		
Matt Gaetz	X				
Bill Hager	X				
Dave Kerner	X				
Charles McBurney	X				
Kionne McGhee	X				
Larry Metz	X				
Jared Moskowitz	X				
Kathleen Passidomo	X				
Ray Pilon	X				
Kenneth Roberson	X				
Elaine Schwartz	X				
Ross Spano	X				
Charlie Stone	X				
Dennis Baxley (Chair)	X				
	Total Yeas: 17	Total Nays: 0			

Appearances:

Aubuchon, Joshua (Lobbyist) - Waive In Support
Real Property, Probate & Trust Law Section
c/o The Florida Bar 651 E Jefferson St
Tallahassee FL 32399
Phone: (850)222-3533

Committee meeting was reported out: Thursday, March 28, 2013 1:46:51PM

COMMITTEE MEETING REPORT

Judiciary Committee

3/28/2013 10:30:00AM

Location: 404 HOB

CS/HB 1355 : Purchase of Firearms by Mentally Ill Persons

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Daphne Campbell	X				
Marti Coley	X				
Dwight Dudley	X				
Heather Fitzenhagen	X				
Matt Gaetz	X				
Bill Hager	X				
Dave Kerner	X				
Charles McBurney	X				
Kionne McGhee	X				
Larry Metz	X				
Jared Moskowitz	X				
Kathleen Passidomo	X				
Ray Pilon	X				
Kenneth Roberson	X				
Elaine Schwartz	X				
Ross Spano	X				
Charlie Stone	X				
Dennis Baxley (Chair)	X				
Total Yeas: 18		Total Nays: 0			

CS/HB 1355 Amendments

Amendment 581939

Adopted Without Objection

Appearances:

Pitts, Brian - Waive In Support
Justice-2-Jesus
1119 Newton Ave. S.
St. Petersburg FL 33705
Phone: 727-897-9291

Hammer, Marion (Lobbyist) - Proponent
NRA and Unified Sportsmen of Florida
P.O Box 1387
Tallahassee FL 32302
Phone: 850-222-9518

Committee meeting was reported out: Thursday, March 28, 2013 1:46:51PM



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

- ADOPTED _____ (Y/N)
- ADOPTED AS AMENDED _____ (Y/N)
- ADOPTED W/O OBJECTION _____ (Y/N)
- FAILED TO ADOPT _____ (Y/N)
- WITHDRAWN _____ (Y/N)
- OTHER _____

*Favorable
3.28.13*

1 Committee/Subcommittee hearing bill: Judiciary Committee
 2 Representative Watson, B. offered the following:

Amendment (with title amendment)

Remove lines 40-135 and insert:

4. Has been adjudicated mentally defective or has been
 committed to a mental institution by a court or as provided in
sub-sub-subparagraph b.(II), and as a result is prohibited by
state or federal law from purchasing a firearm.

a. As used in this subparagraph, "adjudicated mentally
 defective" means a determination by a court that a person, as a
 result of marked subnormal intelligence, or mental illness,
 incompetency, condition, or disease, is a danger to himself or
 herself or to others or lacks the mental capacity to contract or
 manage his or her own affairs. The phrase includes a judicial
 finding of incapacity under s. 744.331(6)(a), an acquittal by
 reason of insanity of a person charged with a criminal offense,
 and a judicial finding that a criminal defendant is not
 competent to stand trial.



Amendment No. 1

20 b. As used in this subparagraph, "committed to a mental
21 institution" means:

22 (I) Involuntary commitment, commitment for mental
23 defectiveness or mental illness, and commitment for substance
24 abuse. The phrase includes involuntary inpatient placement as
25 defined in s. 394.467, involuntary outpatient placement as
26 defined in s. 394.4655, involuntary assessment and stabilization
27 under s. 397.6818, and involuntary substance abuse treatment
28 under s. 397.6957, but does not include a person in a mental
29 institution for observation or discharged from a mental
30 institution based upon the initial review by the physician or a
31 voluntary admission to a mental institution; or-

32 (II) Notwithstanding sub-sub-subparagraph (I), voluntary
33 admission to a mental institution for outpatient or inpatient
34 treatment of a person who had an involuntary examination under
35 s. 394.463, where each of the following conditions have been
36 met:

37 (A) An examining physician found that the person is an
38 imminent danger to himself or herself or others.

39 (B) The examining physician certified that if the person
40 did not agree to voluntary treatment, a petition for involuntary
41 outpatient or inpatient treatment would have been filed under s.
42 394.463(2)(i)4., or the examining physician certified that a
43 petition was filed and the person subsequently agreed to
44 voluntary treatment prior to a court hearing on the petition.

45 (C) Before agreeing to voluntary treatment, the person
46 received written notice of that finding and certification, and
47 written notice that as a result of such finding, he or she may



Amendment No. 1

48 be prohibited from purchasing a firearm, and may not be eligible
49 to apply for or retain a concealed weapon or firearms license
50 under s. 790.06 and the person acknowledged such notice in
51 writing, in substantially the following form:

52
53 "I understand that the doctor who examined me believes
54 I am a danger to myself or to others. I understand
55 that if I do not agree to voluntary treatment, a
56 petition will be filed in court to require me to
57 receive involuntary treatment. I understand that if
58 that petition is filed, I have the right to contest
59 it. In the event a petition has been filed, I
60 understand that I can subsequently agree to voluntary
61 treatment prior to a court hearing. I understand that
62 by agreeing to voluntary treatment in either of these
63 situations, I may be prohibited from buying firearms
64 and from applying for or retaining a concealed weapons
65 or firearms license until I apply for and receive
66 relief from that restriction under Florida law."

67
68 (D) A judge or a magistrate has, pursuant to sub-sub-
69 subparagraph c.(II), reviewed the record of the finding,
70 certification, notice, and written acknowledgement classifying
71 the person as an imminent danger to himself or herself or
72 others, and ordered that such record be submitted to the
73 department.

74 c. In order to check for these conditions, the department
75 shall compile and maintain an automated database of persons who



Amendment No. 1

76 are prohibited from purchasing a firearm based on court records
77 of adjudications of mental defectiveness or commitments to
78 mental institutions.

79 (I) Except as provided in sub-sub-subparagraph (II),
80 clerks of court shall submit these records to the department
81 within 1 month after the rendition of the adjudication or
82 commitment. Reports shall be submitted in an automated format.
83 The reports must, at a minimum, include the name, along with any
84 known alias or former name, the sex, and the date of birth of
85 the subject.

86 (II) For persons committed to a mental institution
87 pursuant to sub-sub-subparagraph b.(II), within 24 hours after
88 the person's agreement to voluntary admission, a record of the
89 finding, certification, notice, and written acknowledgement must
90 be filed by the administrator of the receiving or treatment
91 facility, as defined in s. 394.455, with the clerk of the court
92 for the county in which the involuntary examination under s.
93 394.463 occurred. No fee shall be charged for the filing under
94 this sub-sub-subparagraph. The clerk must present the records to
95 a judge or magistrate within 24 hours after receipt of the
96 records. A judge or magistrate is required and has the lawful
97 authority to review the records ex parte and, if the judge or
98 magistrate determines that the record supports the classifying
99 of the person as an imminent danger to himself or herself or
100 others, to order that the record be submitted to the department.
101 If a judge or magistrate orders the submittal of the record to
102 the department, the record must be submitted to the department
103 within 24 hours.



Amendment No. 1

104 d. A person who has been adjudicated mentally defective or
105 committed to a mental institution, as those terms are defined in
106 this paragraph, may petition the circuit court that made the
107 adjudication or commitment, or the court that ordered that the
108 record be submitted to the department pursuant to sub-sub-
109 subparagraph c.(II), for relief from the firearm disabilities
110
111

112 -----

113 **T I T L E A M E N D M E N T**

114 Remove lines 16-18 and insert:
115 records and order such records be submitted to the Department of
116 Law Enforcement; providing a timeframe for submission of records
117 to the department upon order
118