

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WITHDRAWN (Y/N)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

1 Committee/Subcommittee hearing PCB: Civil Justice Subcommittee
2 Representative Baxley offered the following:

3
4 **Amendment**

5 Remove lines 36-145 and insert:
6 by the clerk of court.

7 (b)1. Maintain a legal publication, advertisement, notice
8 of sale as provided in s. 45.031, or notice relating to a
9 foreclosure proceeding as provided in s. 702.035 for 90 days
10 following the first day of posting or for as long as provided in
11 paragraph (6) (b) or paragraph (6) (c).

12 2. Maintain a searchable archive of all legal
13 publications, advertisements, notices of sale, and notices
14 relating to foreclosure proceedings previously posted on the
15 publically accessible website as provided in subparagraph 1. for
16 10 years following the first day of posting.

17 (c) A link to the website must be displayed on the
18 homepage of the clerk of court in a conspicuous location with

Amendment No. 1

19 the heading "Electronic Legal Publications and Legal Notices
20 Related to Foreclosures."

21 (d) Maintain a customer support line by the website
22 hosting company with respect to technical issues that may arise
23 with the website, with live electronic communication and
24 telephone support provided by the website provider between the
25 hours of 8 a.m. and 6 p.m., E.S.T., Monday through Friday,
26 excluding legal holidays.

27 (e) Post information other than the legal publication,
28 advertisement, notice of sale, or notice relating to a
29 foreclosure proceeding in English and Spanish.

30 (f) Post online tutorials for users.

31 (g) Be maintained on a data center that is compliant with
32 the Statement on Auditing Standards No. 70. The website provider
33 shall provide a certificate of compliance to the Florida Clerks
34 of Court Operations Corporation.

35 (3) A user may not be required to register with the
36 website and may not be charged for access to active or archived
37 postings of legal publications, advertisements, notices of sale,
38 or notices relating to foreclosure proceedings that are posted
39 as provided in subparagraphs (2) (b)1. and 2.

40 (4) (a) Each clerk of court and deputy clerk shall have 24-
41 hour access at no charge to all records relevant to the legal
42 publications, advertisements, notices of sale, and notices
43 relating to foreclosure proceedings in the county of that clerk
44 of court through a fully secure portal accessed by a distinct
45 user name and password.

Amendment No. 1

46 (b) Each circuit judge, appellate judge, and their staff,
47 shall have access at no charge to all documents published or
48 maintained on the website.

49 (5) The website provider shall develop and maintain on
50 file, and provide to the clerk of court and the chief judge of
51 the judicial circuit, a disaster recovery plan for the website.

52 (6) (a) The website provider shall publish its affidavits
53 electronically in substantial conformity with ss. 50.041 and
54 50.051, and may use an electronic notary seal.

55 (b) Legal publications to effect constructive service of
56 process under chapter 49 shall be posted within 3 business days,
57 excluding court holidays, after issuance of a notice of action
58 by the clerk of court or judge and shall continue for at least
59 90 consecutive days.

60 (c) Advertisements or notices of sale as provided in s.
61 45.031, including notices relating to foreclosure proceedings as
62 provided in s. 702.035, shall be posted within 3 business days,
63 excluding court holidays, after the date for the foreclosure
64 sale is set, and shall continue for 10 days after the
65 foreclosure sale or for 90 consecutive days, whichever period is
66 longer. This paragraph does not affect the remaining provisions
67 in s. 45.031 except as provided herein.

68 (d) If the defendant refuses to accept or evades service
69 or if the agent serving process is unable to effect service,
70 legal publication or advertisement shall be posted on the
71 website beginning on the date that the affidavit of nonservice
72 is recorded and shall continue through the conclusion of the
73 action or for 90 consecutive days, whichever period is longer.

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Amendment No. 1

74 (7) The legal publication, advertisement, or notice of
75 sale as provided in s. 45.031, including the notice relating to
76 a foreclosure proceeding as provided in s. 702.035, on the
77 website must conform substantially with the requirements of s.
78 50.011, unless inconsistent with this section.

79 (8) Each clerk of the circuit court may contract with a
80 single publicly accessible Internet website provider for legal
81 publication, advertisement, or notice of sale as provided in s.
82 45.031, including notice relating to a foreclosure proceeding as
83 provided in s. 702.035. Each contract shall be for a one year
84 term, and shall provide:

85 (a) That title and ownership of all data is and shall
86 remain in the clerk of the circuit court.

87 (b) For the right of the clerk to inspect the physical
88 plant, books and records of the provider at any time without
89 notice.

90 (c) That the provider will operate in a physical location
91 within the state. However, this requirement shall not preclude
92 the provider from subcontracting with a provider for emergency
93 data backup services maintained in another state.

94 (d) For termination by the clerk without notice upon a
95 finding of material breach of the contract.

96 (e) That the provider is subject to the public records laws
97 of the state.

98 (f) That advertisements:

99 1. May not exceed 20% of the total visible space at any
100 given point on the webpage when viewed using any browser whose

Amendment No. 1

101 page impressions exceeds 1% of the total impressions to the
102 website.

103 2. Shall clearly be indicated as advertisements.

104 3. Shall clearly indicate that such advertisements are not
105 endorsed by the clerk of the court.

106 4. Shall be confined to a certain physical space and shall
107 not expand or contract.

108 5. May not place a tracking cookie on the computer of a
109 website visitor.

110 (g) A method for the website provider to publish affidavits
111 with the clerk in accordance with subsection (6) (a).

112 (9) The provider shall be chosen by competitive sealed
113 bids in the manner contemplated by s. 287.057(a), however the
114 clerk is not otherwise bound to ch. 287 procurement rules. The
115 maximum bid shall be \$100 per advertisement. The clerk shall,
116 from all qualified bidders, determine the lowest bid based on
117 the fees per legal advertisement. The winning bid shall be the
118 lowest offered fee per advertisement, subject to the clerk's
119 discretion as to the ability of the winning bidder to provide
120 the services set forth in the bid. If the two lowest bidders
121 have identical bids, the clerk shall select the most responsible
122 bidder. Two or more clerks may conduct a joint procurement.

123 (10) For purposes of this section, the term:

124 (a) "Website hosting company" means the company that hosts
125 the web server on which the website of the provider resides.

126 (b) "Website provider" means the company or individual
127 contracted by the clerk of court to provide the service of