

1 A bill to be entitled
2 An act relating to mortgage foreclosures; amending s.
3 95.11, F.S.; reducing the limitations period for
4 commencing an action to enforce a claim of a
5 deficiency judgment subsequent to a foreclosure
6 action; providing for application to existing causes
7 of action; amending s. 702.10, F.S.; expanding the
8 class of persons authorized to move for expedited
9 foreclosure; creating a definition; providing
10 requirements and procedures with respect to an order
11 directed to defendants to show cause why a final
12 judgment of foreclosure should not be entered;
13 providing that certain failures by a defendant to make
14 certain filings or to make certain appearances may
15 have specified legal consequences; requiring the court
16 to enter a final judgment of foreclosure and order a
17 foreclosure sale under certain circumstances; amending
18 a restriction on a mortgagee to request a court to
19 order a mortgagor defendant to make payments or to
20 vacate the premises during an action to foreclose on
21 residential real estate to provide that the
22 restriction applies to all but owner-occupied
23 residential property; providing a presumption
24 regarding owner-occupied property; requesting the
25 Supreme Court to promulgate rules and forms for use in
26 expedited foreclosure proceedings; creating s. 702.11,
27 F.S.; establishing expedited foreclosure proceedings
28 for abandoned residential real property and procedures

29 and requirements with respect thereto; creating s.
 30 702.12, F.S.; requiring certain documents to be filed
 31 contemporaneously with the filing of an initial
 32 complaint for foreclosure; providing legislative
 33 intent; providing that failure to file such documents
 34 does not affect title to property subsequent to a
 35 foreclosure sale; creating s. 702.13, F.S.; providing
 36 for case management conferences in foreclosure
 37 proceedings; providing that a court may not order a
 38 continuance in a mortgage foreclosure proceeding
 39 unless the owner pays assessments due to a
 40 condominium, cooperative or homeowners association;
 41 providing application of this act to existing cases
 42 and causes of action; providing application to
 43 existing notes and mortgages; providing an effective
 44 date.

45
 46 Be It Enacted by the Legislature of the State of Florida:

47
 48 Section 1. Paragraph (b) of subsection (2) of section
 49 95.11, Florida Statutes, is amended, and a new paragraph (h) is
 50 added to that subsection, to read:

51 95.11 Limitations other than for the recovery of real
 52 property.—Actions other than for recovery of real property shall
 53 be commenced as follows:

54 (2) WITHIN FIVE YEARS.—

55 (b) A legal or equitable action on a contract, obligation,
 56 or liability founded on a written instrument, except for an

57 | action to enforce a claim against a payment bond, which shall be
 58 | governed by the applicable provisions of ss. 255.05(10) and
 59 | 713.23(1) (e), and except for an action for a deficiency
 60 | judgment, which shall be governed by paragraph (4) (h).

61 | (4) WITHIN TWO YEARS.—

62 | (h) An action to enforce a claim of a deficiency related
 63 | to a note secured by a mortgage against real property. The
 64 | limitations period shall commence on the eleventh day after the
 65 | foreclosure sale or the day after the mortgagee accepts a deed
 66 | in lieu of foreclosure.

67 | Section 2. The amendment to s. 95.11, Florida Statutes,
 68 | made by this act shall apply to any action commenced on or after
 69 | July 1, 2012, regardless of when the cause of action accrued,
 70 | except that any action that would not have been barred under s.
 71 | 95.11(2) (b), Florida Statutes, prior to the amendments made by
 72 | this act may be commenced no later than 5 years after the action
 73 | accrued and in no event later than July 1, 2014, and if it is
 74 | not commenced by that date is barred by the amendments made by
 75 | this act.

76 | Section 3. Section 702.10, Florida Statutes, is amended to
 77 | read:

78 | 702.10 Order to show cause; entry of final judgment of
 79 | foreclosure; payment during foreclosure.—

80 | (1) ~~After a complaint in a foreclosure proceeding has been~~
 81 | ~~filed,~~ Any lienholder ~~the mortgagee~~ may request an order to show
 82 | cause for the entry of final judgment in a foreclosure action.
 83 | For purposes of this section, the term "lienholder" includes the
 84 | plaintiff and any defendant to the action who holds a lien

85 encumbering the property or any defendant who, by virtue of its
 86 status as a condominium association, cooperative association, or
 87 homeowners association, may file a lien against the real
 88 property subject to foreclosure. Upon filing, ~~and~~ the court
 89 shall immediately review the request and the court file in
 90 chambers and without a hearing ~~complaint~~. If, upon examination
 91 of the court file ~~complaint~~, the court finds that the complaint
 92 is verified, complies with s. 702.12, and alleges a cause of
 93 action to foreclose on real property, the court shall promptly
 94 issue an order directed to the other parties named in the action
 95 ~~defendant~~ to show cause why a final judgment of foreclosure
 96 should not be entered.

97 (a) The order shall:

98 1. Set the date and time for a hearing on the order to
 99 show cause. ~~However,~~ The date for the hearing may not be ~~set~~
 100 sooner than 20 days after the service of the order. ~~When service~~
 101 ~~is obtained by publication, the date for the hearing may not be~~
 102 ~~set sooner than 30 days after the first publication.~~ The hearing
 103 must be held within 90 ~~60~~ days after the date of service.
 104 Failure to hold the hearing within such time does not affect the
 105 validity of the order to show cause or the jurisdiction of the
 106 court to issue subsequent orders.

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

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

113 ~~attached~~ final judgment.

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

118 5. State that, if any ~~the~~ defendant files defenses by a
 119 motion, a verified or sworn answer, affidavits, or other papers
 120 or appears personally or by way of an attorney at the time of
 121 the hearing, the hearing time shall ~~may~~ be used to hear and
 122 consider the defendant's motion, answer, affidavits, other
 123 papers, and other evidence and argument as may be presented by
 124 any defendant or any defendant's counsel, and the court shall
 125 then make a determination as to whether a preponderance of the
 126 evidence and the arguments presented support entry of a final
 127 judgment of foreclosure, and if so, the court shall enter a
 128 final judgment of foreclosure ordering the clerk of the court to
 129 conduct a foreclosure sale.

130 6. State that, if a ~~the~~ defendant fails to appear at the
 131 hearing to show cause or fails to file defenses by a motion or
 132 by a verified or sworn answer or files an answer not contesting
 133 the foreclosure, such ~~the~~ defendant may be considered to have
 134 waived the right to a hearing, and in such case, the court may
 135 enter a default against such defendant and, if appropriate, a
 136 final judgment of foreclosure ordering the clerk of the court to
 137 conduct a foreclosure sale.

138 7. State that if the mortgage provides for reasonable
 139 attorney ~~attorney's~~ fees and the requested attorney ~~attorney's~~
 140 fees do not exceed 3 percent of the principal amount owed at the

141 time of filing the complaint, it is unnecessary for the court to
 142 hold a hearing or adjudge the requested attorney ~~attorney's~~ fees
 143 to be reasonable.

144 8. Attach the form of the proposed final judgment of
 145 foreclosure the movant requests the court to ~~will~~ enter, ~~if the~~
 146 ~~defendant waives the right to be heard~~ at the hearing on the
 147 order to show cause. The form may contain blanks for the court
 148 to enter the amounts due.

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

152 a. If a party ~~the mortgagor~~ has been served with the
 153 complaint and original process, or the other party is the
 154 plaintiff in the action, service of the order to show cause on
 155 that party ~~order~~ may be made in the manner provided in the
 156 Florida Rules of Civil Procedure.

157 b. If a defendant ~~the mortgagor~~ has not been served with
 158 the complaint and original process, the order to show cause,
 159 together with the summons and a copy of the complaint, shall be
 160 served on the party ~~mortgagor~~ in the same manner as provided by
 161 law for original process.

162 c. Service of process by publication may not be used
 163 except as provided in s. 702.11.

164
 165 Any final judgment of foreclosure entered under this subsection
 166 is for in rem relief only. Nothing in this subsection shall
 167 preclude the entry of a deficiency judgment where otherwise
 168 allowed by law. It is the intent of the legislature that this

169 alternative procedure may run simultaneously with other court
 170 procedures.

171 (b) The right to be heard at the hearing to show cause is
 172 waived if a ~~the~~ defendant, after being served as provided by law
 173 with an order to show cause, engages in conduct that clearly
 174 shows that such ~~the~~ defendant has relinquished the right to be
 175 heard on that order. Such ~~The~~ defendant's failure to file
 176 defenses by a motion, or by a sworn or verified answer,
 177 affidavits, or other papers or to appear personally or by way of
 178 an attorney at the hearing duly scheduled on the order to show
 179 cause presumptively constitutes conduct that clearly shows that
 180 such ~~the~~ defendant has relinquished the right to be heard. If a
 181 defendant files defenses by a motion, or by a verified or sworn
 182 answer, affidavits, or other papers at or before the hearing,
 183 such action may constitute ~~constitutes~~ cause and may preclude
 184 ~~precludes~~ the entry of a final judgment at the hearing to show
 185 cause.

186 (c) In a mortgage foreclosure proceeding, when a final
 187 ~~default~~ judgment of foreclosure has been entered against the
 188 mortgagor and the note or mortgage provides for the award of
 189 reasonable attorney ~~attorney's~~ fees, it is unnecessary for the
 190 court to hold a hearing or adjudge the requested attorney
 191 ~~attorney's~~ fees to be reasonable if the fees do not exceed 3
 192 percent of the principal amount owed on the note or mortgage at
 193 the time of filing, even if the note or mortgage does not
 194 specify the percentage of the original amount that would be paid
 195 as liquidated damages.

196 (d) If the court finds that all defendants have the

197 ~~defendant has~~ waived the right to be heard as provided in
 198 paragraph (b), the court shall promptly enter a final judgment
 199 of foreclosure without the need for further hearing provided the
 200 plaintiff has shown entitlement to a final judgment. If the
 201 court finds that any ~~the~~ defendant has not waived the right to
 202 be heard on the order to show cause, the court shall then
 203 determine whether there is cause not to enter a final judgment
 204 of foreclosure. If the court determines that a preponderance of
 205 the evidence and the arguments presented support entry of a
 206 final judgment of foreclosure, the court shall enter a final
 207 judgment of foreclosure ordering the clerk of the court to
 208 conduct a foreclosure sale ~~finds that the defendant has not~~
 209 ~~shown cause, the court shall promptly enter a judgment of~~
 210 ~~foreclosure.~~ If the time allotted for the hearing is
 211 insufficient, the court may announce at the hearing a date and
 212 time for the continued hearing. Only the parties who appear,
 213 individually or through counsel, at the initial hearing need be
 214 notified of the date and time of the continued hearing.

215 (2) This subsection shall not apply to foreclosure of an
 216 owner-occupied residence. As part of any other ~~In an~~ action for
 217 foreclosure, and in addition to any other relief that the court
 218 may award ~~other than residential real estate, the plaintiff the~~
 219 ~~mortgagee~~ may request that the court enter an order directing
 220 the mortgagor defendant to show cause why an order to make
 221 payments during the pendency of the foreclosure proceedings or
 222 an order to vacate the premises should not be entered.

223 (a) The order shall:

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

225 cause. However, the date for the hearing may ~~shall~~ not be set
 226 sooner than 20 days after the service of the order. If ~~where~~
 227 service is obtained by publication, the date for the hearing may
 228 ~~shall~~ not be set sooner than 30 days after the first
 229 publication.

230 2. Direct the time within which service of the order to
 231 show cause and the complaint shall be made upon each ~~the~~
 232 defendant.

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

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

241 5. Require the movant ~~mortgagee~~ to serve a copy of the
 242 order to show cause on the mortgagor in the following manner:

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

246 b. If a defendant ~~the mortgagor~~ has not been served with
 247 the complaint and original process, the order to show cause,
 248 together with the summons and a copy of the complaint, shall be
 249 served on the mortgagor in the same manner as provided by law
 250 for original process.

251 (b) The right of a defendant to be heard at the hearing to
 252 show cause is waived if the defendant, after being served as

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ORIGINAL

2012

253 provided by law with an order to show cause, engages in conduct
254 that clearly shows that the defendant has relinquished the right
255 to be heard on that order. A ~~The~~ defendant's failure to file
256 defenses by a motion or by a sworn or verified answer or to
257 appear at the hearing duly scheduled on the order to show cause
258 presumptively constitutes conduct that clearly shows that the
259 defendant has relinquished the right to be heard.

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

264 (d) If the court finds that the mortgagor has not waived
265 the right to be heard on the order to show cause, the court
266 shall, at the hearing on the order to show cause, consider the
267 affidavits and other showings made by the parties appearing and
268 make a determination of the probable validity of the underlying
269 claim alleged against the mortgagor and the mortgagor's
270 defenses. If the court determines that the plaintiff mortgagee
271 is likely to prevail in the foreclosure action, the court shall
272 enter an order requiring the mortgagor to make the payment
273 described in paragraph (e) to the mortgagee and provide for a
274 remedy as described in paragraph (f). However, the order shall
275 be stayed pending final adjudication of the claims of the
276 parties if the mortgagor files with the court a written
277 undertaking executed by a surety approved by the court in an
278 amount equal to the unpaid balance of the lien being foreclosed
279 ~~the mortgage on the property~~, including all principal, interest,
280 unpaid taxes, and insurance premiums paid by a ~~the~~ mortgagee.

281 (e) If ~~In the event~~ the court enters an order requiring
 282 the mortgagor to make payments to the mortgagee, payments shall
 283 be payable at such intervals and in such amounts provided for in
 284 the mortgage instrument before acceleration or maturity. The
 285 obligation to make payments pursuant to any order entered under
 286 this subsection shall commence from the date of the motion filed
 287 under this section ~~hereunder~~. The order shall be served upon the
 288 mortgagor no later than 20 days before the date specified for
 289 the first payment. The order may permit, but may ~~shall~~ not
 290 require, the plaintiff ~~mortgagee~~ to take all appropriate steps
 291 to secure the premises during the pendency of the foreclosure
 292 action.

293 (f) If ~~In the event~~ the court enters an order requiring
 294 payments, the order shall also provide that the plaintiff is
 295 ~~mortgagee shall be~~ entitled to possession of the premises upon
 296 the failure of the mortgagor to make the payment required in the
 297 order unless at the hearing on the order to show cause the court
 298 finds good cause to order some other method of enforcement of
 299 its order.

300 (g) All amounts paid pursuant to this section shall be
 301 credited against the mortgage obligation in accordance with the
 302 terms of the loan documents; ; ~~provided,~~ however, ~~that any~~
 303 payments made under this section do ~~shall~~ not constitute a cure
 304 of any default or a waiver or any other defense to the mortgage
 305 foreclosure action.

306 (h) Upon the filing of an affidavit with the clerk that
 307 the premises have not been vacated pursuant to the court order,
 308 the clerk shall issue to the sheriff a writ for possession which

309 shall be governed by the provisions of s. 83.62.

310 (i) For purposes of this section, there is a rebuttable
 311 presumption that a residential property for which a homestead
 312 exemption for taxation was granted according to the certified
 313 rolls of the latest assessment by the county property appraiser,
 314 before the filing of the foreclosure action, is an owner-
 315 occupied residential property.

316 (3) The Supreme Court is requested to amend the Rules of
 317 Civil Procedure to provide for expedited foreclosure proceedings
 318 in conformity with this section. The Supreme Court is requested
 319 to develop and publish forms for use under this section.

320 Section 4. Section 702.11, Florida Statutes, is created to
 321 read:

322 702.11 Expedited foreclosure of abandoned residential real
 323 property.-

324 (1) As used in this section, the term "abandoned
 325 residential real property" means residential real property that
 326 is deemed abandoned upon a showing that:

327 (a) A duly licensed process server has made at least three
 328 attempts to locate an occupant of the residential real property.
 329 The attempts must have been made at least 72 hours apart, and at
 330 least one of such attempts must have been made before 12:00
 331 p.m., between 12:00 p.m. and 6:00 p.m., and between 6:00 p.m.
 332 and 10:00 p.m. Each attempt must include physically knocking or
 333 ringing at the door of the residential real property and such
 334 other efforts as are normally sufficient to obtain a response
 335 from an occupant. The process server must have no business
 336 affiliation with the owner or servicer of any mortgage on the

337 residential real property or with the attorney or law firm
 338 representing such owner or servicer.

339 (b) Two or more of the following conditions appear:

340 1. Windows or entrances to the premises are boarded up or
 341 closed off or multiple window panes are broken and unrepaired.

342 2. Doors to the premises are smashed through, broken off,
 343 unhinged, or continuously unlocked.

344 3. Rubbish, trash, or debris has accumulated on the
 345 mortgaged premises.

346 4. The premises are deteriorating and are below or in
 347 imminent danger of falling below minimum community standards for
 348 public safety and sanitation.

349 5. Interviews with at least two neighbors in at least two
 350 different households indicate that the residence has been
 351 abandoned. The neighbors must be adjoining, across the street in
 352 view of the home, or across the hall in a condominium or
 353 cooperative.

354
 355 The process server making attempts to locate an occupant of the
 356 residential real property may provide, by affidavit and
 357 photographic or other documentation, evidence of the condition
 358 of the residential real property.

359 (2) (a) Any party to a foreclosure action regarding real
 360 property appearing to be abandoned must file a petition before
 361 the court seeking to determine the status of the residential
 362 real property and to invoke an expedited foreclosure proceeding
 363 relating to the property. Upon the filing of an affidavit of
 364 diligent search and inquiry and the affidavit or documentary

365 evidence set forth in subsection (1), the clerk shall, upon
 366 request of the petitioner, issue subpoenas to electrical and
 367 water utilities serving the residential real property commanding
 368 disclosure of the status of utility service to the subject
 369 property, including whether utilities are currently turned off
 370 and whether all outstanding utility payments have been made and,
 371 if so, by whom.

372 (b) If, after review of the response of the utility
 373 companies to the subpoenas and all other matters of record, the
 374 court determines the property to have been abandoned, the party
 375 entitled to enforce the note and mortgage encumbering the
 376 residential real property shall be entitled to foreclose the
 377 mortgage using the expedited mortgage foreclosure procedures set
 378 forth in s. 702.10 upon service by publication. However, service
 379 must be made on associations holding liens for dues and
 380 assessments and all other junior lienholders as required by law.

381 Section 5. Section 702.12, Florida Statutes, is created to
 382 read:

383 702.12 Elements of foreclosure complaint; lost, destroyed,
 384 or stolen note affidavit.—The complaint in a foreclosure action
 385 alleging breach of a promissory note secured by a mortgage must
 386 contain affirmative allegations expressly made by the plaintiff
 387 at the time the proceeding is commenced that the plaintiff is
 388 the holder of the original note secured by the mortgage or must
 389 allege with specificity the factual basis by which the plaintiff
 390 is a person entitled to enforce the note under s. 673.3011 or
 391 under other applicable law. When a party has been delegated the
 392 authority to institute a mortgage foreclosure action on behalf

393 of the holder of the note, the complaint shall describe the
 394 authority of the plaintiff and identify, with specificity, the
 395 document that grants the plaintiff the authority to act on
 396 behalf of the holder of the note.

397 (1) Unless the complaint includes a count to enforce a
 398 lost, destroyed, or stolen instrument, the plaintiff shall cause
 399 to be filed with the court, contemporaneously with and as a
 400 condition precedent to the filing of the complaint for
 401 foreclosure, either:

402 (a) The original promissory note; or

403 (b) Certification, under penalty of perjury, that the
 404 plaintiff is in physical possession of the original promissory
 405 note. Such certification must set forth the physical location of
 406 the note, the name and title of the individual giving the
 407 certification, and the name of the person who personally
 408 verified such physical possession and the time and date on which
 409 possession was verified. Correct copies of the note and all
 410 allonges thereto shall be attached to the certification. The
 411 original note shall then be filed with the court prior to the
 412 entry of any judgment of foreclosure or judgment on such note.
 413 However, if the real property is in two or more jurisdictions
 414 and the original note has been filed with the clerk in another
 415 jurisdiction, the court may accept any competent proof of such
 416 note filed in the other jurisdiction.

417 (2) When the complaint includes a count to enforce a lost,
 418 destroyed, or stolen instrument, an affidavit executed under
 419 penalty of perjury shall be attached to the complaint. The
 420 affidavit shall:

PCS for HB 213

ORIGINAL

2012

421 (a) Detail a clear chain of all assignments for the
422 promissory note that is the subject of the action.

423 (b) Set forth facts showing that the plaintiff is entitled
424 to enforce a lost, destroyed, or stolen instrument pursuant to
425 s. 673.3091.

426 (c) Include as exhibits to the affidavit such copies of
427 the note and allonges thereto, assignments of mortgage, audit
428 reports showing physical receipt of the original note, or other
429 evidence of the acquisition, ownership, and possession of the
430 note as may be available to the plaintiff.

431 (3) If the foreclosure case is dismissed without prejudice
432 and without completion of a foreclosure sale, upon request of
433 the plaintiff the clerk must return the original promissory note
434 to the plaintiff without need for further order of the court.

435 (4) The legislature intends that the requirements of this
436 section are to expedite the foreclosure process by ensuring
437 initial disclosure of a plaintiff's status and the facts
438 supporting that status and thereby ensuring the availability of
439 documents necessary to the prosecution of the case. This section
440 shall not be interpreted to modify existing law regarding
441 standing or real parties in interest. The court may sanction the
442 plaintiff for failure to comply with this section, but any
443 noncompliance with this section shall not affect the validity of
444 a foreclosure sale or title to real property subsequent to a
445 foreclosure sale.

446 Section 6. Section 702.13, Florida Statutes, is created to
447 read:

448 702.13 Defaults and case management conferences in
449 foreclosure actions.—

450 (1) In any mortgage foreclosure case in which all
451 defendants have been served; and the defendants have failed to
452 timely file an answer or other response denying, contesting, or
453 asserting defenses to the plaintiff's entitlement to the
454 foreclosure, the court, on its own motion or motion of any
455 party, may enter defaults against nonresponding parties in
456 accordance with the Florida Rules of Civil Procedure.
457 Thereafter, the court shall direct the plaintiff in the
458 foreclosure action to file all affidavits, certifications, and
459 proofs necessary or appropriate for the entry of a summary
460 judgment of foreclosure within a time certain or show cause why
461 such a filing should not be made. The filing of these materials
462 shall be construed as a motion for summary judgment, and the
463 court may enter final summary judgment or set the case for trial
464 in accord with its sound judicial discretion. This subsection
465 does not restrict the authority of the court to set aside a
466 default or a judgment granted thereon pursuant to the Florida
467 Rules of Civil Procedure.

468 (2) After all parties have been served and not earlier
469 than 48 days after the filing of the foreclosure case, any party
470 may request a case management conference at which the court
471 shall set definite timetables for moving the case forward. If
472 any other hearings are set in the case, the case management
473 conference shall be conducted at the same time as the scheduled
474 case. At the conference, the court may grant extensions or
475 stays in the proceedings on a showing that the plaintiff and

PCS for HB 213

ORIGINAL

2012

476 property owner defendant are engaged in mediation or good faith
477 negotiations with regard to a loan modification or other
478 settlement only if the property owner pays, or the lender agrees
479 to pay, applicable condominium, cooperative, or homeowners'
480 association assessments coming due after the entry of the
481 extension or stay and keeping such assessments paid current
482 through the conclusion of the foreclosure action.

483 Section 7. The amendments to ss. 702.10, Florida Statutes,
484 and the creation of s. 702.13, Florida Statutes, are remedial in
485 nature and shall apply to causes of action pending on the
486 effective date of this act. Sections 702.11 and 702.12, Florida
487 Statutes, created by this act, apply to cases filed on or after
488 July 1, 2012.

489 Section 8. The legislature finds that the provisions of
490 this act are remedial in nature. Accordingly, it is the intent
491 of the legislature that the provisions of this act shall apply
492 to all mortgages encumbering real property and all promissory
493 notes secured by a mortgage, whether executed before of after
494 the effective date of this act.

495 Section 9. This act shall take effect July 1, 2012.