

Tab 3		SB 48 by Garcia; Judicial Sales Procedures				
698220	D	S	RCS	JU, Garcia	Delete everything after	02/11 05:37 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

JUDICIARY
Senator Yarborough, Chair
Senator Burton, Vice Chair

MEETING DATE: Tuesday, February 11, 2025
TIME: 4:00—6:00 p.m.
PLACE: *Toni Jennings Committee Room, 110 Senate Building*

MEMBERS: Senator Yarborough, Chair; Senator Burton, Vice Chair; Senators DiCeglie, Gaetz, Hooper, Leek, Osgood, Passidomo, Polsky, Thompson, and Trumbull

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	Presentation by the Florida Sheriffs' Association on the effectiveness of recent anti-squatting legislation		Presented
2	Presentation by The Florida Bar on the regulation of the unlicensed practice of law		Presented
	Presentation by The Florida Bar on the regulation of lawyer advertising		Presented
3	SB 48 Garcia	Judicial Sales Procedures; Specifying that courts must follow certain provisions when ordering the sale of real or personal property unless the use of other specified procedures is ordered; designating the "Transparency in Judicial Sales and Foreclosure Sales Act"; prohibiting a court from allowing the use of bidding credits or certain other offsets in specified judicial sales or foreclosure sales; authorizing courts to order an alternate judicial sales procedure under specified conditions, etc. JU 02/11/2025 Fav/CS CA RC	Fav/CS Yeas 10 Nays 0
Other Related Meeting Documents			



Florida Sheriffs Association

Presentation to the Senate Judiciary Committee

February 11, 2025

Seminole County Sheriff's Office

Manuel Guarch, *Chief Counsel*

Bob Cortes, *Senior Administrator for Government & Community Affairs*

Overview of HB 621 (2024)

- The bill addressed a rise in instances in which squatters are moving into people's homes in Florida and claiming residence, forcing a lengthy judicial review process before they can be removed from the property.
- Allows an owner to file a complaint with the sheriff to request the sheriff remove the squatter if certain conditions are met.
- The sheriff must verify the complaint and serve a notice on any unlawful occupants.



Overview of HB 621 (2024)

- **Creates criminal penalties for squatters and for those who encourage squatting and teach others the scam.**
 - Makes it a first-degree misdemeanor if a person uses a false document with the intent to detain or remain upon the property.
 - Creates the crime of criminal mischief for a person who unlawfully detains or occupies or trespasses upon a residential dwelling and intentionally causes \$1,000 or more in damages, punishable as a second-degree felony.
 - Makes it a first-degree felony if a person knowingly advertises the sale or rent of a residential property without legal authority or ownership.



Florida Sheriffs Association



Sheriff Dennis Lemma spoke at the bill signing of HB 621 highlighting the importance of the new law and the need to hold squatters accountable.

Effectiveness of HB 621 (2024)

Case Example 1: Lying Landlord

In **September of 2024**, Owner contacted SO claiming he purchased the property the prior month and though he was aware of a few legal tenants who were previously allowed to be there, He claimed one of the residential units was vacant at the time he purchased the property and alleged that two weeks later he noticed lights on inside the unit that was supposed to be vacant. He alleged the occupant was a “squatter.” As this investigation continued it was determined that the owner was providing false statements regarding the relationship between the parties. The landlord has already completed the sworn affidavit requesting removal of the occupant. The occupant provided an unexpired lease with the prior building owner as well as **receipts** of rent paid to the current owner and even communications with the owner concerning the WiFi password for the location. As a result, the Landlord was placed under arrest for **False Statements to Law Enforcement under F.S. 837.05(1)(A)** and the prosecution **remains pending**.



Effectiveness of HB 621 (2024)

Case Example 2: Allegedly Duped Renter

This situation was more closely aligned with the situation the legislation was intended to address. The property owner contacted SCSO on **January 7, 2025**, and reported that a family was unlawfully occupying a residential property he owned. The property was an investment property for the owner which was rarely visited. The occupants, according to their statements to responding deputies, had entered into a lease with a third-party (not the owner). The were informed of the unlawful occupancy and provided Notice of same. The owner graciously provided them 3 days to vacate the property. Their removal occurred 3 days after the report was received. At the time of the removal, the occupant alleged that she was being wrongfully evicted, going so far as to have an alleged attorney speak with the deputy on scene, **threatening to file a complaint for wrongful eviction**. Despite allegations from the supposed victim that she was duped into entering the lease, several attempts to obtain information for use in prosecution of the third-party lessor after the removal were not responded to, with the **phone number of the occupant being deactivated**.



Effectiveness of HB 621 (2024)

Case Example 3: Textbook Case

As recently as last Thursday, **February 6, 2025**.

SCSO was contacted by a property management company for an apartment community after they discovered individuals occupying an apartment while attempting to show the property to prospective renters. The management company, on behalf of the owner, completed an Affidavit to Remove Persons Unlawfully Occupying Residential Real Property. The individuals were instructed to depart and deputies remained on scene while they vacated the residence. The unauthorized occupants claimed that they were scammed or defrauded by a possible third party. As a result, deputies **attempted to treat them as victims**, however, **they all declined to participate**, refusing to provide more detailed information. The matter was concluded without further action.



Suggested Revision to Prerequisites to Relief

- **#12 of the affidavit form specified in current law provides "I am requesting the sheriff to immediately remove the unauthorized person from the residential property."**
- **While consent to enter is implicit in the request for assistance, it may be beneficial to include language to provide explicit consent and note that entering the property may require force resulting in property damage.**
- "I am requesting the sheriff to immediately remove the unauthorized person from the residential property." **As part of this request, I am authorizing the Sheriff to enter the property using that force which is reasonably necessary to do so and to search the property to locate and remove the unauthorized occupant(s).**



Legal Challenges to a Removal

- The only threatened legal challenge we have encountered has yet to materialize. This is likely the result of the protection explicitly afforded by the law.



Technical Change Needed in 2025

- Law enforcement can currently only charge a landlord who lies on the affidavit with a misdemeanor of lying to an officer.
- The bill specifies that statements made in the affidavit are made under penalty of perjury punishable as provided in Section 837.02.
- S. 837.02 provides that whoever makes a false statement under oath **in an official proceeding** commits a third-degree felony.
- However, while the definition of “official proceeding” under s. 837.011 appears to be open to interpretation in terms of whether it applies to the affidavit, the legal consensus is that it cannot not apply. See Sevin v. State, 478 So.2d 521 (Fla. 2D DCA 1985)(Defendant who made contradictory statements under oath to police officer during criminal investigation was not subject to perjury charges although officer was a notary public); Schramm v. State, 374 So.2d 1043 (Fla. 3D DCA 1979).



Questions?

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

2-11-2025

Meeting Date

Judiciary

Committee

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Bob Cortes

Phone

407-840-3435

Address

100 Esplanade way Sanford

Street

Email

bcortes@seniorwleshunt.org

Sanford

City

FL

State

32703

Zip

Speaking:

☐

For

☐

Against

☒

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

F.S.A.

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

Squatter Legislation
Bill Number or Topic

2/11/23
Meeting Date

S. Just
Committee

Name Manuel Guanche

Amendment Barcode (if applicable)
Phone 407 951 9927

Address 100 Eslinger Way
Street

Email mguaich@seminole
Sheriff.org

Sanford FL 32773
City State Zip

Speaking: ☐ For ☐ Against ☒ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

Florida Sheriffs
Association

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S-001 (08/10/2021)



Senate Judiciary Committee

Overview of The Florida Bar

The Florida Bar

- The Florida Bar is an arm of the Florida Supreme Court
- Mandatory Bar – Lawyers must be members to practice Florida law
- The Florida Bar is charged with protecting the public by investigating and prosecuting lawyer misconduct and the unlicensed practice of law
- Funded entirely through membership fees and revenue from programs offered to members



Discipline System

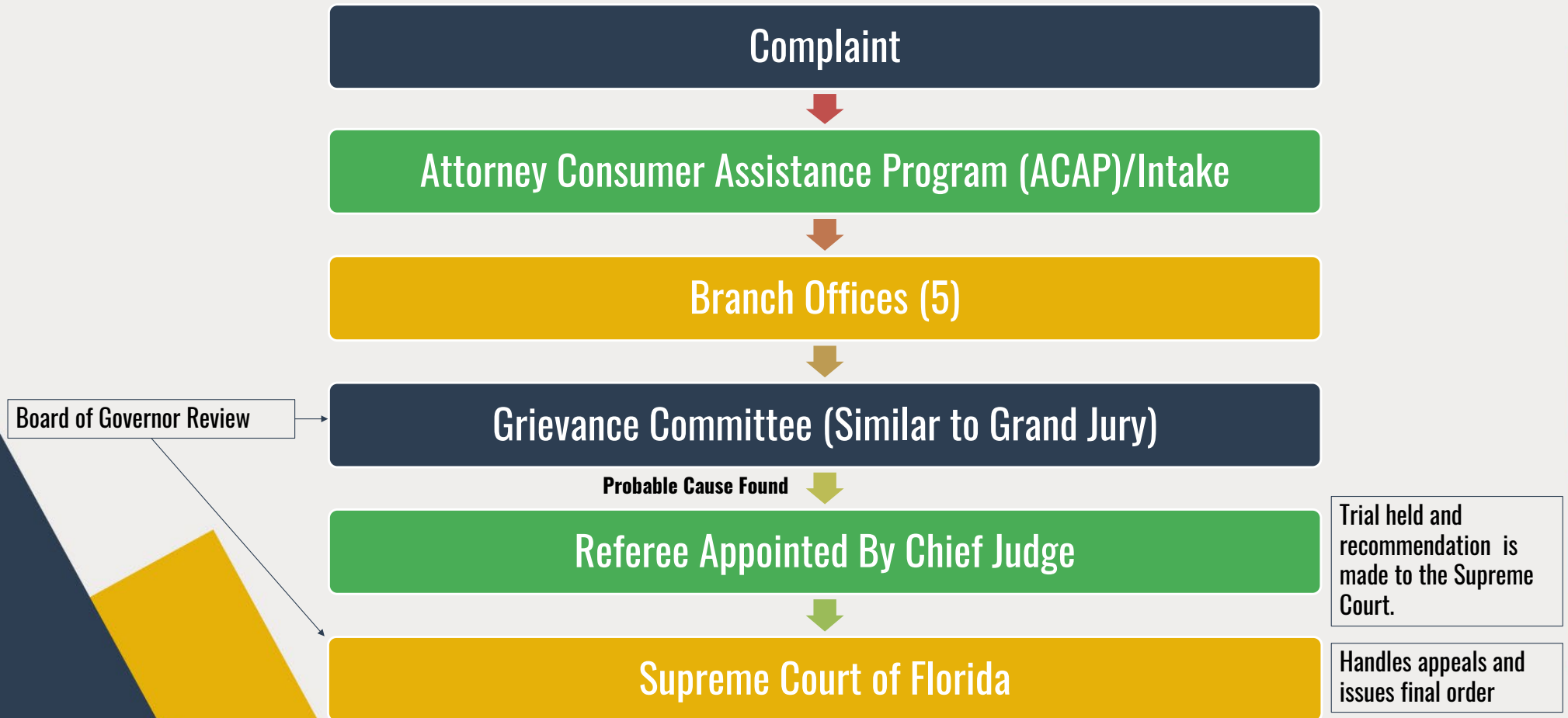
- Complaint Driven
- Anyone can file a complaint – there is no “standing” requirement
- The Bar investigates misconduct apparent from court documents, newspaper articles and other sources



Attorney Consumer Assistance Program ([ACAP](#))

- Staffed by lawyers and support staff
- Receives 14,000 inquiries annually
- Assists consumers in understanding the disciplinary process
- Informally resolves minor complaints
 - Communication issues
 - Failure to return documents
- Conducts initial review of written complaints

Overview of Disciplinary Process



Staff Level Investigations

Inquiry

- Jurisdiction?
- If true, is it a violation?

Complaint

- Response requested
- Rebuttal allowed
- Analysis of facts

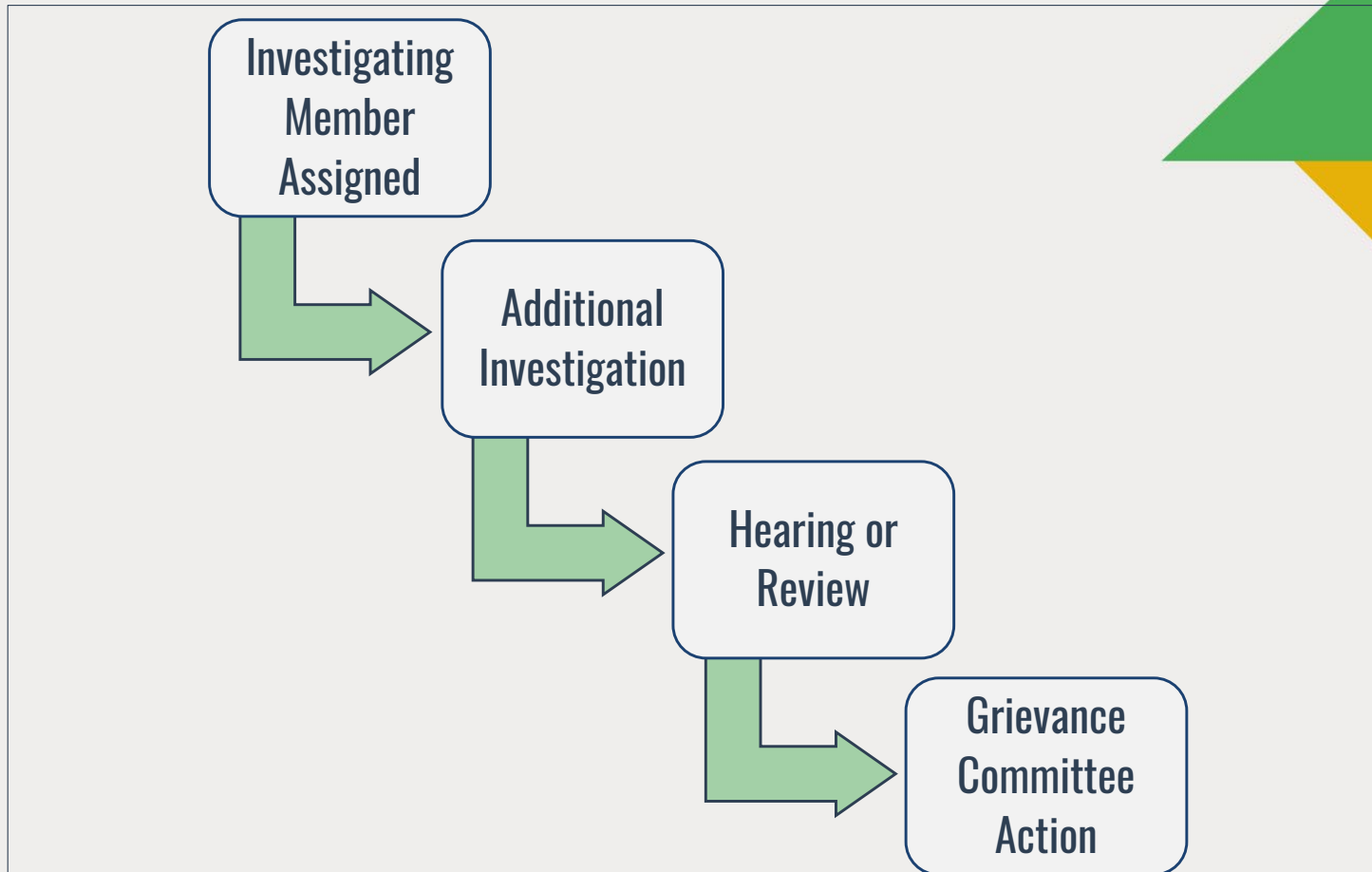
Options

- Mediation/Fee Arbitration
- Referral to Grievance Committee
- Closure

Grievance Committees

- Investigate allegations of lawyer misconduct
- Act like grand juries to determine whether there is probable cause for further disciplinary proceedings
- Each committee has 1/3 members who are not lawyers to obtain the public's perspective

Grievance Committee Process



Grievance Committee Options

- No Probable Cause
- No Probable Cause with Letter of Advice
- Diversion
 - Ethics School
 - Trust Accounting Workshop
 - Florida Lawyers Assistance, Inc.
 - Advertising Workshop
 - Professionalism Workshop
 - Stress Management Workshop
 - Diversion/Discipline Consultation Service (DDCS)
 - Additional CLE Hours
- Minor Misconduct
- Probable Cause

Public Records

Discipline Records

- Subject to Florida Rules of Court on public records except where Rules Regulating The Florida Bar specify otherwise
- Subject to Florida Statutes Section 119 as court rules provide
- Become public after probable cause is found or a case is closed without a probable cause finding - Rule Regulating The Florida Bar 3-7.1

Trial Process



	2019-20	2020-21	2021-22	2022-23	2023-24
Bar Population	108,615	109,830	110,806	111,424	112,473
Files Opened	3,557	3,364	3,380	3,312	3,659
Total Cases	414	318	388	271	235
Total Orders	262	224	236	180	176
Total Disbarments	42	38	36	25	18
Disbarment	32	28	28	21	16
Permanent Disbarment	7	5	5	3	2
License Revoked	0	3	1	0	0
Disbarment on Consent	3	2	2	1	0
Total Disciplinary Revocations	40	20	27	26	27
Revocation	32	16	19	16	24
Permanent Revocation	8	4	8	10	3

2023-24

TOP 10 COMPLAINTS

- Interference with Administration of Justice (Rules 4-3.3, 4-8.4(d), 4-8.2)
- Neglect (Rule 4-1.3 Diligence)
- Trust Accounting (Rules 5-1.1, 5-1.2)
- Inadequate Communication (Rule 4-1.4)
- Misrepresentation (Rules 4-3.3, 4-8.4(c))
- Excessive Fees (Rule 4-1.5)
- Incompetence (Rule 4-1.1)
- Criminal Charge (Rules 3-7.2, 4-8.4(b))
- Conflicts (Rules 4-1.7 through 4-1.12)
- Personal Behavior (Rule 4-8.4(d))

Clients' Security Fund



- Provides funds to consumers whose funds were stolen by a lawyer
- Funded solely from membership fees
- In fiscal year 2023-24, the fund reimbursed 81 claims totaling \$1,797,220
- Over the last 5 years, the fund reimbursed clients over \$9 million dollars (\$9,299,613)

Constitutional Law

Commercial Speech Doctrine

- Commercial speech is protected by the First Amendment - *Virginia State Board of Pharmacy v. Virginia Citizens Consumer Council*, 425 U.S. 748 (1976)
- Intermediate Scrutiny - Commercial speech is above unprotected speech (false, misleading statements, ads for unlawful activities), but below completely protected speech (political speech)
- Applied to lawyer ads in *Bates v. State Bar of Ariz.*, 433 U.S. 350 (1977)

Constitutional Law

- States may regulate speech that is false or misleading and may impose restrictions if the particular content or method of advertising is inherently misleading or if experience demonstrates that the advertising is subject to abuse. *In re R.M.J.*, 102 S.Ct. 929, 937 (1982).
- States may restrict non-misleading commercial speech if 1) there is a substantial government interest at stake, 2) the regulation advances that interest, and 3) the regulation is no more extensive than necessary to serve that interest. *Central Hudson Gas and Electric Corp. v. Public Serv. Comm'n of New York*, 447 U.S. 557, 100 S.Ct. 2343 (1980).

Advertising Rules Overview

Application (4-7.11)

Misleading (4-7.13)

Unduly Manipulative (4-7.15)

Paying for Ads (4-7.17)

Filing Requirement (4-7.19)

Firm Names and Letterhead (4-7.21)

Required Content (4-7.12)

Potentially Misleading (4-7.14)

Presumptively Valid Content (4-7.16)

Direct Contact/Solicitation (4-7.18)

Exemptions from Filing Requirement (4-7.20)

Qualifying Providers/Referral Services (4-7.22)

Florida Bar Advertising Regulation

- Florida's advertising rules are widely regarded as the strictest in the nation
- The rules focus on prohibiting advertisements that mislead consumers, in compliance with First Amendment law
- Many other states pattern their rules and regulation programs after The Florida Bar
- Florida's regulation of lawyer advertising is designed to obtain voluntary compliance

Advertising Evaluation Program



- Most ads are required to be filed for review before their first use
- Florida Bar staff performs first level of review
- Opinion must be issued within 15 days of receipt of complete filing
- ~3,000-4,000 new ads and 1,500-2,000 revised ads filed annually
- Lawyers in the department answer ~5,000 calls with advertising questions annually
- Complaints are handled through the Bar's disciplinary process with a statewide Advertising Grievance Committee

Advertising Case Statistics

23-24 Total Complaints - 33

- Diversion to Advertising Workshop - 2
- Closed by Staff - 30
- Closed by Board of Governors with a Letter of Advice - 1

22-23 Total Complaints - 25

- Diversion to Advertising Workshop - 3
- Closed by Grievance Committee Chair with a Letter of Advice - 1

Closed by Staff - 19

- Closed by Grievance Committee with No Probable Cause 1
- Closed by Board of Governors with a Letter of Advice - 1

21-22 Total Complaints - 32

- Diversion to Advertising Workshop - 2
- Closed by Staff - 22
- Closed by Grievance Committee with No Probable Cause - 4
- Closed by Board of Governors with a Letter of Advice - 4

Advertising Discipline Cases

- *The Florida Bar v. Allen-Dawson*, Case Nos. SC 21-472 & SC21-504 (Fla. Aug. 19, 2021). Lawyer suspended for 91 days in part for practicing law under the name of Allen & Dawson, PLLC, to appear to have multiple lawyers, despite being a sole practitioner with the name "Allen-Dawson."
- *The Florida Bar v. David Jay Bernstein*, 160 So. 3d 899, (Fla. 2015). Lawyer publicly reprimanded for using the trades names, "Federal Legal Center" and "Federal Criminal Defense Center," which implied a connection with a government agency.
- *The Florida Bar v. Nordt*, Case No. SC10-2137 (Fla. Nov. 10, 2010). Lawyer publicly reprimanded for sending a direct mail advertisement in foreclosure matters that appeared to be an official notification from a government entity that guaranteed results.
- *The Florida Bar v. Pape & Chandler*, 918 So.2d 240 (Fla. 2005). Two lawyers publicly reprimanded and ordered to attend advertising workshop after using 1-800-PITBULL and a picture of a pit bull in their television ads.
- *The Florida Bar v. Willmott*, SC05-2075 (2006). Lawyer publicly reprimanded for advertising "FREE INITIAL CONSULTATION" without disclosing that he charged a \$100 consultation fee if he was not retained.

Solicitation Discipline Cases

The Florida Bar v. Lim, SC21-1666 (Fla. 2022). Lawyer suspended for 1 year for affiliation with nonlawyer companies who engaged in solicitation in foreclosure and timeshare matters.

The Florida Bar v. Jaminder, SC21-507 (Fla. 2022). Lawyer suspended for 90 days for, among other violations, allowing respondent's wife and a private investigator to solicit clients.

The Florida Bar v. Roebuck, SC21-1558 (Fla. 2022). Lawyer suspended for 2 years for affiliating with nonlawyer timeshare exit company that directly solicited clients nationwide.

The Florida Bar v. Webster-Cooley, SC20561 & SC20-666 (Fla. 2020). Lawyer suspended for affiliating with nonlawyer company who solicited clients and provided little or no legal services.

The Florida Bar v. Braithwaite, SC20-55 (Fla. 2020). Lawyer suspended for improperly soliciting client.

The Florida Bar v. Lanier, Case No. SC18-186 (Fla. 2019). Lawyer disbarred for, among other violations, soliciting clients through a false network of lawyers nationwide.

Solicitation Discipline Cases

The Florida Bar v. Sloodsky, Case No. SC17-1960 (Fla. 2018). Lawyer's license disciplinarily revoked after pleading guilty to 15 felony counts of scheme to defraud, solicitation, patient brokering, and unlawful use of a 2-way communication device.

The Florida Bar v. Dopazo, 232 So.3d 258 (Fla. Oct. 5, 2017). Lawyer suspended for 1 year for soliciting mother of child with brain injury in a coma in the hospital.

The Florida Bar v. Barrett, 897 So. 2d 1269 (Fla. 2005). Lawyer disbarred by using his "paralegal," an ordained minister, to solicit injured persons in the hospital.

The Florida Bar v. Wolfe, 759 So. 2d 639 (Fla. 2000). Lawyer suspended for one year for direct solicitation of clients in wake of tornados and for paying nonlawyer for referrals.

The Florida Bar v. Stafford, 542 So. 2d 1321 (Fla. 1989). Lawyer suspended for 6 months for paying a police officer to solicit personal injury cases including ones in which the police officer investigated accident cases as a police officer.

Unlicensed Practice of Law ([UPL](#))

The Florida Bar:

- Protects the public by investigating and prosecuting allegations of the unlicensed practice of law
- Provides guidance by telephone and in writing to people with questions about UPL
- Issues formal advisory opinions on UPL
- Investigates cases against Florida Registered Paralegals
- Administers the Authorized House Counsel Program
- Assists with admission to The Florida Bar of lawyers who are spouses of military stationed in Florida

Authority to Prosecute UPL

- Florida Constitution, Article V, Section 15
- Chapter 10, Rules Regulating The Florida Bar
- Florida Statutes, Section [454.23](#): Any person not licensed or otherwise authorized to practice law in this state who practices law in this state or holds himself or herself out to the public as qualified to practice law in this state, or who willfully pretends to be, or willfully takes or uses any name, title, addition, or description implying that he or she is qualified, or recognized by law as qualified, to practice law in this state, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Unlicensed Practice of Law

- Information and complaint form are available on the Bar's website:
<https://www.floridabar.org/rules/upl/upl001/>
- Information and the complaint form are posted in Spanish and are being translated to Creole
- UPL and Communications are working on public service announcements in Spanish and Creole for radio, Facebook, and Instagram

UPL Process

Complaint



Branch Offices (5)



UPL Committee (Similar to Grand Jury)



Referee Appointed By Chief Judge



Supreme Court of Florida

UPL Remedies

- Letter of Advice or Advisement
- Cease and Desist Affidavit, without or without restitution or a monetary penalty
- Litigation
 - Civil Injunctive Relief with restitution, costs, civil penalty
 - Indirect criminal contempt with restitution, costs, fine, up to 5 months imprisonment
- Criminal Proceedings by local State Attorney's Office
 - Felony under Florida Statutes 454.23

UPL Case Statistics

	2022-23	2023-24	2024-25 YTD
Cases Investigated	335	362	234
Cease and Desist Affidavits	32	22	16
Cases in Litigation	15	13	11
Civil Injunctions	9	2	4
Indirect Criminal Contempt	2	0	0
Letters of Advisement	82	52	37

QUESTIONS?



Contact Us



Elizabeth Clark Tarbert
Division Director, Lawyer Regulation



etarbert@floridabar.org

Jonathan Grabb
Director, Ethics & Advertising



jgrabb@floridabar.org

Jeffrey Picker
Director, Unlicensed Practice of Law



jpicker@floridabar.org

2/11/25

Meeting Date

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Roland Sanchez-Medina

Phone

850/561-5600

Address

651 E. Jefferson Street

Email

Street

Tallahassee FL 32399

City

State

Zip

Speaking:

☐

For

☐

Against

☒

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

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S-001 (08/10/2021)

2/11/25

Meeting Date

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Elizabeth Tarbert

Phone

850/561-5839

Address

651 E. Jefferson Street

Email

Street

Tallahassee FL 32399

City

State

Zip

Speaking:

☐

For

☐

Against

☒

Information

OR

Waive Speaking:

☐

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S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Judiciary

BILL: CS/SB 48

INTRODUCER: Judiciary Committee and Senator Garcia

SUBJECT: Judicial Sales Procedures

DATE: February 13, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bond	Cibula	JU	Fav/CS
2.			CA	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

SB 48 mandates use of the statutory real property foreclosure sales procedures, extends the time for conducting a foreclosure sale, and allows specified alternate judicial sales procedures to be used when appropriate.

The bill extends the time for conducting a foreclosure sale from the current time of between 20 and 35 days after the final judgment to between 45 and 60 days after the final judgment.

The bill requires that the plaintiff request the use of an alternative foreclosure sale procedure by separate motion. A deviation from the standard procedures that favors one bidder over another, gives the plaintiff a credit bid in excess of the amount owed, allows a bidder to post less than a 5 percent deposit, provides for a final payment more than 30 days from the date of the sale, or allows a sale outside of the county without consent of all parties, is prohibited.

If a deviation from standard foreclosure sale procedures proposes the use of an escrow agent or auctioneer other than the clerk of court, the escrow agent must be approved by the trial court and the auctioneer must be a state licensed auctioneer, real estate broker, attorney, or title agent. The bill creates a civil cause of action that may be filed against a private escrow agent or auctioneer who violates the foreclosure law or the requirements of the final judgment of foreclosure. The bill also creates a third degree felony for intentional violations of the foreclosure law or the requirements of the final judgment by a private escrow agent or auctioneer.

The bill does not appear to have a significant fiscal impact on state or local governments.

The bill is effective July 1, 2025.

II. Present Situation:

Foreclosure

Foreclosure is the legal process for forced sale at auction of real property to satisfy, in part or in whole, an unpaid lawful debt owed by the owner of the property. If the winning bidder is a third-party bidder, the proceeds of the sale first pay the costs of the foreclosure, then the rest of the proceeds are applied to the debt owed the judgment creditor. Some foreclosure auctions yield a surplus because the final bid exceeds the debt. A foreclosure surplus is paid to or for the benefit of the foreclosed former owner.

In most foreclosures, however, there is no surplus after the foreclosure sale. Commonly, the plaintiff is the winning bidder and takes title to the property. Foreclosure is most often used in the context of a mortgage where the property owner has agreed to the debt. Foreclosures also result from construction liens, certain tax liens, association liens, and judgment liens.

Current law does not require a certain sale procedure, a trial judge entering a final judgment in a foreclosure case may use any procedure that conforms to constitutional due process. However, a foreclosure procedure is created by statute¹ and embodied in court-created final judgment forms.² The statutory and rule procedures are followed by most courts in most foreclosure cases.³ Under the default procedures:

- The trial court directs the clerk of court to auction the property on a specific date that is not less than 20 days or more than 35 days after the date of judgment.⁴
- Certain notices regarding the possibility of a foreclosure surplus that may be claimed by foreclosed owner must be included in the final judgment.⁵
- The clerk must furnish every defendant with a copy of the final judgment setting the sale date.⁶
- Notice of the sale must be published for 2 consecutive weeks on a publicly available website or once a week for 2 consecutive weeks in a newspaper of general circulation. The requirements for information that must be in the notice are listed in statute.⁷
- The clerk must be paid a service charge of \$70.⁸

¹ Section 45.031, F.S.

² Form 1.996(a), F.R.C.P.

³ A 2012 appellate decision implies that the statutory procedure should be followed unless there is reason not to. *Royal Palm Corp. Ctr. Ass'n, Ltd. v. PNC Bank, NA*, 89 So. 3d 923, 927 (Fla. 4th DCA 2012). The statute is not a “procedural straightjacket” and a trial court has reasonable discretion to change the procedure in a case. *Id.* at 28, *LR5A–JV v. Little House, LLC*, 50 So. 3d 691 (Fla. 5th DCA 2010).

⁴ Section 45.031(1)(a), F.S.

⁵ Section 45.031(1)(b), F.S.

⁶ Section 45.031(1)(c), F.S. In practice, the foreclosing plaintiff must furnish the copies, addressed envelopes, and postage. The clerk merely certifies that the mailing was completed and that the clerk gave the mailing to the Postal Service.

⁷ Section 45.031(2), F.S.

⁸ Sections 45.031(3) and 45.035, F.S.

- The sale must be by public auction.⁹ The statute does not specify a time or place; it merely requires that the time and place be in final judgment and in the public notice. Historically, sales were conducted on a porch, patio, or exterior staircase of the courthouse, at a time and place set locally by longstanding tradition.¹⁰ Currently, most foreclosure sales are conducted through an internet-based auction system selected by the clerk.¹¹
- At a traditional auction sale, custom and practice is that the foreclosing plaintiff makes the first bid at \$100.¹² Often, there is no other bidder. If other bidders participate, the clerk must allow the foreclosing plaintiff a credit bid of any amount up to the amount of the judgment. The plaintiff's credit bid is not specified in statute but was created by custom and use because "no useful purpose [is] served in requiring a bondholder or a mortgagor to pay cash to a court officer conducting a judicial sale when he would be entitled to immediately have it paid back to him under the decree authorizing the sale."¹³ Note that the plaintiff's credit bid is limited to the amount of the judgment. A plaintiff bidding more than the amount of the judgment must pay the overage to the clerk.
- A successful third-party bidder (one other than the foreclosing plaintiff) must immediately post a deposit of 5 percent of the winning bid. If the winning bidder does not pay the remaining amount of his or her bid plus service charges and taxes by the stated deadline, the deposit is forfeited and is applied against the outstanding judgment.¹⁴ If the winning bidder fails to pay the full bid timely, the case file goes back to the trial court to set a new sale date. The statutory process does not specify the deadline for full payment. It appears that the deadlines are set by local custom. A review of 8 counties showed that half required full payment on the day of the sale and the latest deadline required full payment by 4:00 pm on the day after the auction.¹⁵
- Whether the winning bidder is the plaintiff or a third-party bidder, the parties to the foreclosure have 10 days to object to the sale. If no timely objection is filed, the clerk issues a Certificate of Title to the winning bidder,¹⁶ and the person named in the certificate is deemed the owner free and clear of any real property interest foreclosed.¹⁷ If a third party is the winning bidder and has paid the clerk the winning bid amount, the clerk, after deducting any outstanding costs, service charges, and taxes pays the remaining sum to the plaintiff, up to the amount of the outstanding judgment. If there are funds then remaining, known as a surplus, the clerk disburses the funds accordingly.¹⁸

⁹ Section 45.031(3), F.S.

¹⁰ For instance, Leon County historically conducted sales weekdays starting at 11:00 am on the west exterior patio of the courthouse. The west side of the building was still in the shade at that time, summer rainstorms usually did not start until after 2:00 pm., and the midday sale time gave the deputy clerk time before and after the sale to complete paperwork.

¹¹ Section 45.031(10), F.S.

¹² The customary first bid of \$100 likely comes from the calculation of the documentary stamp tax of \$0.70 for every \$100 or portion thereof, making \$0.70 the minimum tax imposed. The documentary stamp tax is due on all documents transferring title to real property, including the clerk's Certificate of Title.

¹³ *Branch Banking & Tr. Co. v. Tomblin*, 163 So. 3d 1229, 1230 (Fla. 5th DCA 2015), *Grable v. Nunez*, 66 So. 2d 675, 677 (Fla.1953).

¹⁴ Section 45.031(3), F.S.

¹⁵ Surveyed counties were Broward, Duval, Escambia, Hillsborough, Leon, Miami-Dade, Orange, Palm Beach, Pinellas, and Sarasota.

¹⁶ Section 45.035(5), F.S.

¹⁷ Section 45.035(6), F.S.

¹⁸ The distribution of the surplus from a foreclosure sale is not affected by this bill.

- The clerk of court may retain a vendor to conduct foreclosure auctions through the internet.¹⁹ It appears that most of the clerks use this option.²⁰

Current Concerns related to Foreclosure Sales

In practice, trial court judges do not prepare ordinary final judgments. Instead, they require the attorney for the prevailing party to prepare the judgment form, subject to the court's supervision. Recently some attorneys have requested that courts allow procedures that differ from the suggested statutory procedure, and trial court judges have allowed those differences.²¹ Examples of questionable differences include:

- An auctioneer other than a clerk or the clerk's selected internet sales vendor is used. In some cases, the auctioneer has been the foreclosing plaintiff's attorney.
- Auctions have been conducted on or near the foreclosed property, sometimes in places with little public access, little to no reasonable parking, or access that might not reasonably accommodate the disabled.
- In some auctions, the final judgment provided that the foreclosing plaintiff would take title should the winning bidder fail to timely pay the bid. A sham bidder would appear and would drive up the bids to where all others would drop out. Later, the sham bidder would not pay, leaving the plaintiff to be deemed the winning bidder.²²
- A bidder for the plaintiff was given an unlimited credit bid (i.e., was allowed to bid in excess of the judgment), but was not required to pay the excess of the bid that should have been paid as surplus to the former owner.

III. Effect of Proposed Changes:

SB 48 makes the existing statutory procedures for foreclosure sales mandatory and allows a trial court to use alternatives to those procedures, with certain limits.

The existing statutory procedures are not modified but for a change to the time between entry of a final judgment and the date of sale. The bill provides that a sale must be scheduled no sooner than 45 days after the final judgment and no later than 60 days after the final judgment.

The bill creates the Transparency in Alternative Judicial Sales Procedures Act at s. 45.0311, F.S. The stated purposes of this act are to:

- Recognize that alternatives to the statutory foreclosure sales procedures are beneficial in certain proceedings due to the nature of the real property to be sold under an order or a judgment, to maximize the potential sales proceeds, including the net proceeds thereof, for the benefit of all parties including the property owner.

¹⁹ Section 45.031(10), F.S.

²⁰ Forty-four of the state's 67 counties (including the 8 sample counties) use the same vendor. See RealAuction: Our Client site, <https://www.realauction.com/clients/index>.

²¹ Ben Weider and Brittany Wallman, *RIGGED. Florida lawyer writes rules to win condo auctions for \$100. Judges let him do it.* MIAMI HERALD, April 2, 2024, updated January 23, 2025, <https://www.miamiherald.com/news/business/real-estate-news/article285934076.html>.

²² Motion to Vacate Amended Final Judgment (November 3, 2021), *Emerald Tower Assoc. v. Celano*, Broward County Circuit Court case CACE202112603.

- Recognize that transparency is necessary for all alternative procedures to prevent overreach by any party, avoid fraud, and maximize the sales price while minimizing expenses and delays.
- Recognize that persons facilitating alternative sales and handling deposits and sales proceeds, including surplus proceeds, must be qualified, independent, and not related to any party or the attorneys for a party and must be subject to the jurisdiction of the court.

A request to use an alternative sales procedure must be made by separate motion, and thus cannot be slipped into a proposed final judgment of foreclosure. The motion must be made by, or agreed to, by the property owner, and must be filed at least 20 days prior to hearing the motion. The motion must include:

- A description of the property.
- An explanation of why the court should use the proposed alternative, including how the alternative may lead to a higher net proceeds.
- A description of the proposed alternative.
- A statement as to whether the clerk of court or another person will handle the proceeds.
- A declaration under penalty of perjury that the person to conduct the foreclosure sale satisfies the statutory qualifications and is free of conflicts of interests, if the person is not the clerk of court.
- The form of the notice for publication of the sale and bidding procedures.

The following minimum requirements of the sale cannot be modified by the court:

- Bidding procedures must be uniform among all bidders.
- The published notice of sale must include at a minimum the information required in the standard procedures.
- The credit bid of a plaintiff may not exceed the amount set by the final judgment.
- The winning bidder must post at least 5 percent of the bid at or before the time of the sale.
- The time to pay the winning bid may not exceed 30 days.
- The sale may not be sooner than 45 days after the entry of the final judgment.
- The sale must be in the county that the property lies in, except that a sale may be conducted outside of the county if the plaintiff and property owner agree and the location of the sale is open to the public and has internet access.
- The winning bidder must pay all clerk's fees.

If someone other than the clerk of court is holding funds, the funds must be held in an authorized trust account.

The bill creates relevant forms.

The bill provides that the existing 10-day limit for filing an objection to sale applies to any sale under an alternative procedure.

The alternative procedure may provide for recognition of a backup bidder in lieu of conducting a new sale. If there is a surplus, it must be distributed pursuant to current law.

The bill also creates s. 45.0312, F.S. to govern the appointment of private sector professionals to perform some of the functions related to a foreclosure sale. A private auctioneer for a foreclosure sale must be licensed by the state as an auctioneer, real estate broker, attorney, or title insurer.²³ A private auctioneer must have errors and omissions coverage of at least \$250,000 with no more than a \$10,000 deductible, or post a fidelity bond in an amount set by the court but no less than \$50,000. A private auctioneer must file a declaration under oath that the auctioneer meets the requirements in statute.

Appointment of a private escrow agent for the foreclosure deposits and sales proceeds must be approved by the trial court. The motion must be filed at least 20 days prior to the hearing. The following individuals and entities may be appointed:

- A qualified public depository.
- A title insurance agency or title insurer whose accounts are in a qualified public depository.
- An attorney licensed in Florida whose trust account is in a qualified public depository and who has errors and omissions coverage of at least \$250,000 with no more than a \$10,000 deductible, or who posts a fidelity bond in an amount set by the court but no less than \$50,000.

A private auctioneer or private escrow agent must be independent. The bill provides that the following persons and entities are not independent and thus may not be appointed:

- A party to the action, an attorney representing a party in the action, or an employee of a party or the attorney of a party in the action.
- A relative of a party to the action, or an employee, an officer, a director, an affiliate, or a subsidiary thereof; or an attorney representing a party in the action, or a relative, an employee, an officer, a director, or an affiliate or an associate thereof.
- Any person or entity that has any financial relationship to the action, to the real or personal property being sold, or to a party or attorney or a relative as described above. Payment to the private auctioneer or escrow agent of fees authorized by the court is not a disqualifying financial relationship.

The bill creates a private cause of action available to any party to the foreclosure proceeding for damages resulting from failure to follow the requirements of a final judgment of foreclosure using alternative procedures. The bill also creates a third degree felony²⁴ for intentional violation of the alternative procedures statute or the requirements of the final judgment of foreclosure. The offense only applies to a private auctioneer or private escrow agent appointed by the trial court.

The bill takes effect July 1, 2025.

²³ Sections 468.385, 475.01(1)(a), and 454.021, F.S.

²⁴ A third degree felony is punishable by imprisonment of up to 5 years and a fine of no more than \$5,000. Sections 775.082 and 775.083, F.S.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The change in the allowable time period for conducting a foreclosure sale will delay the plaintiff's recovery, which may lessen a plaintiff's net recovery in foreclosures where the debt already exceeds the value of the real property. The potential losses include property depreciation, the common risks related to real property (vandalism and natural disaster), and the time value of money.

C. Government Sector Impact:

The bill may require courts to hold additional hearings relating to alternative foreclosure sales procedures.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends s. 45.031 of the Florida Statutes.

This bill creates the following sections of the Florida Statutes: 45.0311, 45.0312

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/11/2025	.	
	.	
	.	
	.	

The Committee on Judiciary (Garcia) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 45.031, Florida Statutes, is amended to
read:

45.031 Judicial sales procedure.—In any sale of real or
personal property under an order or a judgment, the procedures
provided in this section and ss. 45.0315-45.035 must ~~may~~ be
followed unless the court orders the use of alternate sales
procedures under s. 45.0311 or s. 45.03112 ~~as an alternative to~~



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~~any other sale procedure if so ordered by the court.~~

(1) FINAL JUDGMENT.—

(a) In the order or final judgment, the court shall direct the clerk to sell the property at public sale on a specified day that ~~is no shall be not~~ less than 45 ~~20~~ days or more than 60 ~~35~~ days after the date thereof, on terms and conditions specified in the order or judgment. A sale may be held more than 35 days after the date of final judgment or order if the plaintiff or plaintiff's attorney consents to such time. The final judgment must ~~shall~~ contain the following statement in conspicuous type:

IF THIS PROPERTY IS SOLD AT PUBLIC AUCTION, THERE MAY BE ADDITIONAL MONEY FROM THE SALE AFTER PAYMENT OF PERSONS WHO ARE ENTITLED TO BE PAID FROM THE SALE PROCEEDS PURSUANT TO THIS FINAL JUDGMENT.

IF YOU ARE A SUBORDINATE LIENHOLDER CLAIMING A RIGHT TO FUNDS REMAINING AFTER THE SALE, IF ANY, YOU MUST FILE A CLAIM WITH THE CLERK NO LATER THAN THE DATE THAT THE CLERK REPORTS THE FUNDS AS UNCLAIMED. IF YOU FAIL TO FILE A TIMELY CLAIM, YOU WILL NOT BE ENTITLED TO ANY REMAINING FUNDS.

(b) If the property being foreclosed on has qualified for the homestead tax exemption in the most recent approved tax roll, the final judgment must ~~shall~~ additionally contain the following statement in conspicuous type:

IF YOU ARE THE PROPERTY OWNER, YOU MAY CLAIM THESE



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FUNDS YOURSELF. YOU ARE NOT REQUIRED TO HAVE A LAWYER OR ANY OTHER REPRESENTATION AND YOU DO NOT HAVE TO ASSIGN YOUR RIGHTS TO ANYONE ELSE IN ORDER FOR YOU TO CLAIM ANY MONEY TO WHICH YOU ARE ENTITLED. PLEASE CHECK WITH THE CLERK OF THE COURT, ... (INSERT INFORMATION FOR APPLICABLE COURT)... WITHIN TEN (10) DAYS AFTER THE SALE TO SEE IF THERE IS ADDITIONAL MONEY FROM THE FORECLOSURE SALE THAT THE CLERK HAS IN THE REGISTRY OF THE COURT.

IF YOU DECIDE TO SELL YOUR HOME OR HIRE SOMEONE TO HELP YOU CLAIM THE ADDITIONAL MONEY, YOU SHOULD READ VERY CAREFULLY ALL PAPERS YOU ARE REQUIRED TO SIGN, ASK SOMEONE ELSE, PREFERABLY AN ATTORNEY WHO IS NOT RELATED TO THE PERSON OFFERING TO HELP YOU, TO MAKE SURE THAT YOU UNDERSTAND WHAT YOU ARE SIGNING AND THAT YOU ARE NOT TRANSFERRING YOUR PROPERTY OR THE EQUITY IN YOUR PROPERTY WITHOUT THE PROPER INFORMATION. IF YOU CANNOT AFFORD TO PAY AN ATTORNEY, YOU MAY CONTACT ... (INSERT LOCAL OR NEAREST LEGAL AID OFFICE AND TELEPHONE NUMBER)... TO SEE IF YOU QUALIFY FINANCIALLY FOR THEIR SERVICES. IF THEY CANNOT ASSIST YOU, THEY MAY BE ABLE TO REFER YOU TO A LOCAL BAR REFERRAL AGENCY OR SUGGEST OTHER OPTIONS. IF YOU CHOOSE TO CONTACT ... (NAME OF LOCAL OR NEAREST LEGAL AID OFFICE)... FOR ASSISTANCE, YOU SHOULD DO SO AS SOON AS POSSIBLE AFTER RECEIPT OF THIS NOTICE.

(c) A copy of the final judgment must ~~shall~~ be furnished by



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the clerk by first-class mail to the last known address of every party to the action or to the attorney of record for such party. Any irregularity in such mailing, including the failure to include this statement in any final judgment or order, does ~~shall~~ not affect the validity or finality of the final judgment or order or any sale held pursuant to the final judgment or order. Any sale held more than 60 ~~35~~ days after the final judgment or order does ~~shall~~ not affect the validity or finality of the final judgment or order or any sale held pursuant to such judgment or order.

(2) PUBLICATION OF SALE.—Notice of sale must ~~shall~~ be published on a publicly accessible website as provided in s. 50.0311 for at least 2 consecutive weeks before the sale or once a week for 2 consecutive weeks in a newspaper of general circulation, as provided in chapter 50, published in the county where the sale is to be held. The second publication by newspaper must ~~shall~~ be at least 5 days before the sale. The notice must ~~shall~~ contain:

- (a) A description of the property to be sold.
- (b) The time and place of sale.
- (c) A statement that the sale will be made pursuant to the order or final judgment.
- (d) The caption of the action.
- (e) The name of the clerk making the sale.
- (f) A statement that any person claiming an interest in the surplus from the sale, if any, other than the property owner as of the date of the lis pendens must file a claim before the clerk reports the surplus as unclaimed.



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The court may, in its discretion, extend ~~may enlarge~~ the time of the sale. Notice of the changed time of sale must ~~shall~~ be published as provided herein.

(3) CONDUCT OF SALE; DEPOSIT REQUIRED.—The sale must ~~shall~~ be conducted at public auction at the time and place set forth in the final judgment. The clerk shall receive the service charge imposed in s. 45.035 for services in making, recording, and certifying the sale and title that must ~~shall~~ be assessed as costs. At the time of the sale, the successful high bidder must ~~shall~~ post with the clerk a deposit equal to 5 percent of the final bid. The deposit must ~~shall~~ be applied to the sale price at the time of payment. If final payment is not made within the prescribed period, the clerk must ~~shall~~ readvertise the sale as provided in this section and pay all costs of the sale from the deposit. Any remaining funds must ~~shall~~ be applied toward the judgment.

(4) CERTIFICATION OF SALE.—After a sale of the property the clerk shall promptly file a certificate of sale and serve a copy of it on each party in substantially the following form:

(Caption of Action)

CERTIFICATE OF SALE

The undersigned clerk of the court certifies that notice of public sale of the property described in the order or final judgment was published in, a newspaper circulated in County, Florida, in the manner shown by the proof of publication attached, and on, ...(year)..., the property was offered



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for public sale to the highest and best bidder for cash. The highest and best bid received for the property in the amount of \$.... was submitted by, to whom the property was sold. The proceeds of the sale are retained for distribution in accordance with the order or final judgment or law. WITNESS my hand and the seal of this court on, ...(year)....

...(Clerk)...

By ...(Deputy Clerk)...

(5) CERTIFICATE OF TITLE.—If no objections to the sale are filed within 10 days after filing the certificate of sale, the clerk must ~~shall~~ file a certificate of title and serve a copy of it on each party in substantially the following form:

(Caption of Action)

CERTIFICATE OF TITLE

The undersigned clerk of the court certifies that he or she executed and filed a certificate of sale in this action on, ...(year)...., for the property described herein and that no objections to the sale have been filed within the time allowed for filing objections.

The following property in County, Florida:

(description)

was sold to

WITNESS my hand and the seal of the court on, ...(year)....

...(Clerk)...



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By ...(Deputy Clerk)...

(6) CONFIRMATION; RECORDING.—When the certificate of title is filed the sale stands ~~shall stand~~ confirmed, and title to the property passes ~~shall pass~~ to the purchaser named in the certificate without the necessity of any further proceedings or instruments. The certificate of title must ~~shall~~ be recorded by the clerk.

(7) DISBURSEMENTS OF PROCEEDS.—

(a) On filing a certificate of title, the clerk shall disburse the proceeds of the sale in accordance with the order or final judgment and shall file a report of such disbursements and serve a copy of it on each party, and on the Department of Revenue if the department was named as a defendant in the action or if the Department of Commerce or the former Agency for Workforce Innovation was named as a defendant while the Department of Revenue was providing reemployment assistance tax collection services under contract with the Department of Commerce or the former Agency for Workforce Innovation through an interagency agreement pursuant to s. 443.1316.

(b) The certificate of disbursements must ~~shall~~ be in substantially the following form:

(Caption of Action)

CERTIFICATE OF DISBURSEMENTS

The undersigned clerk of the court certifies that he or she disbursed the proceeds received from the sale of the property as



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provided in the order or final judgment to the persons and in
the amounts as follows:

Name	Amount
------	--------

Total disbursements: \$....

Surplus retained by clerk, if any: \$....

IF YOU ARE A PERSON CLAIMING A RIGHT TO FUNDS REMAINING AFTER
THE SALE, YOU MUST FILE A CLAIM WITH THE CLERK NO LATER THAN THE
DATE THAT THE CLERK REPORTS THE FUNDS AS UNCLAIMED. IF YOU FAIL
TO FILE A CLAIM, YOU WILL NOT BE ENTITLED TO ANY REMAINING
FUNDS. AFTER THE FUNDS ARE REPORTED AS UNCLAIMED, ONLY THE OWNER
OF RECORD AS OF THE DATE OF THE LIS PENDENS MAY CLAIM THE
SURPLUS.

WITNESS my hand and the seal of the court on, ...(year)....
...(Clerk)..
By ...(Deputy Clerk)...

(c) If no objections to the report are filed ~~served~~ within
10 days after the report ~~it~~ is filed, the disbursements by the
clerk ~~shall~~ stand approved as reported. If timely objections to
the report are filed, the party who filed such objections must
~~served, they shall~~ be heard by the court. Filing or service of
objections to the report does not affect or cloud the title of
the purchaser of the property in any manner.

(d) If any ~~there are~~ funds remain ~~remaining~~ after payment
of all disbursements required by the final judgment of
foreclosure and shown on the certificate of disbursements, the



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surplus must ~~shall~~ be distributed as provided in this section
and ss. 45.0315-45.035.

(8) VALUE OF PROPERTY.—The amount of the bid for the
property at the sale is ~~shall be~~ conclusively presumed to be
sufficient consideration for the sale. Any party may file ~~serve~~
an objection to the amount of the bid within 10 days after the
clerk files the certificate of sale. If timely objections to the
bid are filed, the party who filed such objections must ~~served,~~
~~the objections shall~~ be heard by the court. Filing or service of
objections to the amount of the bid does not affect or cloud the
title of the purchaser in any manner. If the case is one in
which a deficiency judgment may be sought and application is
made for a deficiency, the amount bid at the sale may be
considered by the court as one of the factors in determining a
deficiency under the usual equitable principles.

(9) EXECUTION SALES.—This section does ~~shall~~ not apply to
property sold under executions.

(10) ELECTRONIC SALES.—The clerk may conduct the sale of
real or personal property under an order or judgment pursuant to
this section by electronic means. Such electronic sales must
~~shall~~ comply with the procedures provided in this chapter,
except that electronic proxy bidding must ~~shall~~ be allowed and
the clerk may require bidders to advance sufficient funds to pay
the deposit required by subsection (3). The clerk shall provide
access to the electronic sale by computer terminals open to the
public at a designated location and shall accept an advance
credit proxy bid from the plaintiff of any amount up to the
maximum allowable credit bid of the plaintiff. A clerk who
conducts such electronic sales may receive electronic deposits



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and payments related to the sale.

Section 2. Section 45.0311, Florida Statutes, is created to read:

45.0311 Alternative judicial sales procedures.—

(1) SHORT TITLE.—The section may be cited as the “Transparency in Alternative Judicial Sales Procedures Act.”

(2) PURPOSE.—The purpose of this section is to:

(a) Recognize that alternatives to the judicial sales procedures under s. 45.031 are beneficial in certain proceedings, due to the nature of the real or personal property to be sold under an order or a judgment, to maximize the potential sales proceeds, including the net proceeds thereof, for the benefit of all parties, including the property owner.

(b) Recognize that transparency is necessary for all alternative procedures to prevent overreach by any party, avoid fraud, and maximize the sales price while minimizing expenses and delays.

(c) Recognize that persons facilitating alternative sales and handling deposits and sales proceeds, including surplus proceeds, must be qualified, independent, and not related to any party or the attorneys for a party and must be subject to the provisions of this section and the jurisdiction of the court.

(3) REQUEST FOR ALTERNATIVE JUDICIAL SALES PROCEDURES.—Any party, including the property owner, may file a motion for the use of alternative sales procedures in the court where the action is pending. The motion must contain, at a minimum, all of the following:

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

(b) A short narrative addressing why the court should



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authorize alternative sales procedures for the sale of real or personal property and how such alternative sales procedures would maximize the sales price, including the net proceeds of the sale.

(c) The requested sales procedures, including the manner, date, time, place, method of sale, advertising, and manner of publication.

(d) An express statement of whether the sale will be conducted by the clerk of the circuit court or another person.

(e) An express statement of whether bids, deposits, and sales proceeds will be received and handled by the clerk of the circuit court or another person.

(f) For all persons to be employed under s. 43.0312 to conduct an aspect of the sale or to handle deposits or sales proceeds, including any surplus proceeds, the declaration required by s. 45.0312 for such person addressing his or her qualifications. This declaration may be attached to the motion.

(g) If the movant is not the property owner, a separate written joinder or the consent from the property owner, either of which must be contemporaneous to and reference this motion.

(h) In the body or as an attachment thereto, a proposed notice for publication of the sale and bidding procedures for the sale.

(4) MINIMUM REQUIREMENTS FOR ALTERNATIVE SALES.—An alternative sales procedure must meet all of the following minimum requirements:

(a) A hearing must be held in response to a motion filed under subsection (3) and the hearing date must be at least 20 days after the date the motion is filed.



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(b) The property owner must be joined or have consented to the motion under subsection (3) at the time of filing or by the end of the hearing required under paragraph (a).

(c) There may be only one set of bidding procedures. Each bidder must follow the same procedures and receive the same information relating to the sale of the real or personal property. Preferences or advantages may not be given to any party, person, or bidder.

(d) Publication of the notice of sale must meet or exceed the requirements of s. 45.031(2) and include the requirements of the sale and the requirements of this subsection.

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

(f) As a prerequisite to bidding, a deposit of 5 percent of a bidder's presale high bid amount must be posted in cash, by wire transfer, or by cashier's check, and a process must be in place for returning such funds to a bidder that is not the winning bidder.

(g) The highest cash bidder must win the bid.

(h) The winning bidder must post a deposit of 5 percent of the winning bid before 5 p.m. of the day after the auction sale, and such deposit is forfeited if the bidder fails to make the final payment by the required closing date.

(i) The date to close and consummate the sale must be within 30 days after the date of the sale auction, and the winning bidder forfeits his or her bid if the final payment is not made by such date.



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(j) The sale must be held at least 45 days after the entry of the court's order authorizing an alternative sales procedure under this section.

(k) The place of sale must be the county where the action is pending, unless the filing party and property owner consent in writing to a specific location outside of the county which is open and freely available to the public, without any restriction, at the time of the sale and which includes Internet access.

(l) The bid instructions must specify whether backup bidders are authorized and the terms and conditions for such bidders.

(m) The winning bidder must pay all fees of the clerk of the court, including registry fees that may not be waived by the court, on the high bid amount, as prescribed by ss. 28.24(11) and 45.035(1).

The requirements of this subsection may not be waived.

(5) POSSESSION OF DEPOSITS AND PAYMENTS.—

(a) If the bidder's deposit, the bid amount, or any other funds paid by a bidder or a party are not held by the clerk of the court, the funds or cashier's check must be held in an escrow or trust account by a person appointed by the court pursuant to s. 45.0312.

(b) For all deposits and sales held by a clerk, the funds are subject to the service charge in s. 28.24 and may not be waived by the court.

(6) CERTIFICATION OF SALE.—After a sale of a property pursuant to this section, the person who conducted the sale, or



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its attorney, must promptly file a certificate of sale and serve
a copy on each party in substantially the following form:

(Caption of Action)

CERTIFICATE OF JUDICIAL SALE

The undersigned clerk of the court certifies that notice of
public sale of the property described in the order and the
approved sale notice were published by(include all
locations of publication)...., in the manner shown by attached,
and on, ...(year)...., the property was offered for public
sale to the highest and best bidder for cash. The highest and
best bid received for the property in the amount of \$.... was
submitted by, to whom the property was sold, and such
bidder paid \$.... as of this date(insert deadline to close
sale).... . The proceeds of the sale are retained for
distribution in accordance with the order or final judgment or
ss. 45.0311 and 45.0315-45.035, Florida Statutes. WITNESS my
hand and the seal of this court on, ...(year)....

...(...)

By ...(...)

(7) OBJECTIONS TO SALE.—Objections to the sale must be
filed within 10 days after filing the certificate of judicial
sale. If timely objections to the certificate of judicial sale
are filed, the court must hear from the party who filed such
objections.

(8) CERTIFICATE OF RECEIPT OF SALE PROCEEDS.—If the sale is



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conducted by a person other than the clerk, such person must file a certificate of receipt of sales proceeds at the same time the certificate of judicial sale is filed and must file additional certificates of receipt of sales proceeds within 1 business day after the receipt of additional sums from the high bidder or backup bidder.

(9) BACKUP BIDDER.—If the high bidder fails to make the final payment by the required sale closing date, the deposit is forfeited and must first be used to pay all costs of the sale, after which any remaining sums must be applied toward the judgment. In such a circumstance, the person conducting the sale shall notify the backup bidder that he or she must timely make payment by the deadline for backup bidders and file a certificate of forfeiture and an amended certificate of sale identifying the backup bidder as the winning bidder and the sale price and details applicable to such bidder.

(10) CERTIFICATE OF TITLE.—If no objections to the sale are timely filed or the court has not entered an order overruling any objection to the sale, and if the purchase price and clerk fees have been paid, the person conducting the sale must file a notice that confirms that the sale is consummated, names the bidder purchasing the property, and states that a certificate of title is ready to be issued by the clerk of the circuit court. After filing such notice, or, for sales conducted by the clerk of the court, after receipt of the purchase price and clerk fees, the clerk shall file a certificate of title and serve a copy of such title on each party in substantially the following form:



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(Caption of Action)

CERTIFICATE OF TITLE

The undersigned clerk of the court certifies that in accordance with the certificate of sale and consummation of sale filed in this action on, ...(year)..., for:

The following property in County, Florida:
(description)
was sold to, and that no
objections to the sale have been filed within the time allowed
for filing objections or have been determined.

WITNESS my hand and the seal of the court on, ...(year)....
...(Clerk)...
By ...(Deputy Clerk)...

(11) CONFIRMATION; RECORDING.—When the certificate of title is filed, the sale stands confirmed and the title to the property passes to the purchaser named in such certificate without the need of any other proceeding or instrument. The clerk of the circuit court shall record the certificate of title.

(12) DISBURSEMENT OF PROCEEDS.—If the sale is conducted by a person other than the clerk of the circuit court, such person is authorized to disburse the sale proceeds as expressly authorized by the court order, but any surplus funds must be deposited with the clerk of the court together with court fees under ss. 28.24 and 45.031(1). For sales conducted by the clerk,



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s. 45.031(7) governs.

(13) SURPLUS FUNDS.—The requirements related to distribution of surplus funds by the clerk as provided in ss. 45.031(1), 45.032, 45.033, and 45.035(2) apply and may not be waived by a court.

(14) VALUE OF PROPERTY.—Section 45.031(8) applies to sales conducted under this section.

(15) REDEMPTION OF RIGHTS.—Section 45.0315 applies to sales conducted under this section.

Section 3. Section 45.0312, Florida Statutes, is created to read:

45.0312 Appointment of auctioneers and escrow agents for alternative judicial sales.—

(1) AUCTIONEERS AND SALE PROFESSIONALS.—Subject to court approval, after a motion and a hearing held no later than 20 days after notice for such hearing, a person may serve as an auctioneer, or in another professional role necessary to the alternative sales procedure authorized by the court under s. 45.0311, only if such person:

(a) Is an auctioneer licensed under part VI of chapter 468, a real estate broker licensed under chapter 475 and in good standing for the preceding 5 years, an attorney who is a member in good standing with The Florida Bar and has been practicing for at least 5 years, or a title insurer authorized to transact business in this state pursuant to s. 624.401 and in good standing for the preceding 5 years;

(b) Is insured individually or under an entity policy for errors and omissions with a minimum of \$250,000 per incident and a deductible of no more than \$10,000, or a fidelity bond of no



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less than \$50,000 or such higher coverage or bond amounts as the court may require;

(c) Declares in writing under penalty of perjury that he or she is eligible under this subsection and independent as required by subsection (3); and

(d) Has such additional qualifications as the court requires.

(2) ESCROW AGENTS.—Subject to court approval, after a motion and a hearing held no less than 20 days after notice for such hearing, a person may serve as an escrow agent for the handling of deposits and sales proceeds necessary to the alternative sales procedures authorized by the court under s. 45.0311 only if such person:

(a) Is a qualified public depository as defined in s. 280.02;

(b) Is a title insurance agent licensed pursuant to s. 626.8417, a title insurance agency licensed pursuant to s. 626.8418, or a title insurer authorized to transact business in this state pursuant to s. 624.401; has been in good standing for the preceding 5 years; and such person's trust and escrow accounts are maintained with a qualified public depository as defined in s. 280.02;

(c) Is an attorney who is a member in good standing of The Florida Bar who has been practicing law for at least 5 years; such person's trust account is maintained with a qualified public depository as defined in s. 280.02; and such person is insured individually or under an entity policy for errors and omissions with a minimum of \$250,000 per incident and a deductible of no more than \$10,000 or a fidelity bond of no less



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than \$50,000, or such higher coverage or bond amounts as the court may require; and

(d) Declares in writing under penalty of perjury that such person is eligible under this subsection and independent as required by subsection (3).

(3) INDEPENDENCE.—

(a) As used in this subsection, the term "relative" means an individual who is related to another as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

(b) To be independent for the purposes of this section, a person may not:

1. Be a party to the action, an attorney representing a party in the action, or an employee of a party or the attorney of a party in the action.

2. Be a relative of a party to the action, or an employee, an officer, a director, an affiliate, or a subsidiary thereof; or an attorney representing a party in the action, or a relative, an employee, an officer, a director, or an affiliate or an associate thereof.

3. Have any financial relationship to the action, to the real or personal property being sold, or to a party or attorney described in paragraph (a) or a relative as described in paragraph (b), other than the payment of the fees authorized by court order.

(4) ACTIONS FOR FAILURE TO FOLLOW COURT ORDER AND



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ALTERNATIVE SALES PROCEDURES.—

(a) An action for actual damages for a material violation of this section may be brought by the property owner or any party to the action for the failure of a person approved by the court under this section to follow the alternative judicial sales procedures in s. 45.0311 or this section, or court orders entered pursuant to s. 45.0311 or this section.

(b) Notwithstanding any other law, a person approved by the court under this section who intentionally violates s. 45.0311, this section, or any court order entered under s. 45.0311 or this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 4. This act shall take effect July 1, 2025.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to alternative judicial procedures;
amending s. 45.031, F.S.; requiring, rather than
authorizing, that specified sales procedures be
followed for certain sales of real or personal
property unless a court orders the use of other sales
procedures; revising the timeframe during which the
court directs the clerk to sell property at a public
sale; specifying that if objections are not filed
within a specified timeframe after a certain report is
filed, disbursements stand as reported; requiring that



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a hearing be held if specified objections are timely
filed; creating s. 45.0311, F.S.; providing a short
title; providing legislative purpose; requiring
parties that want to use an alternative sales
procedure to file a motion with the court where the
action is pending; providing requirements for such
motion; requiring that alternative sales procedures
meet specified minimum requirements; requiring that
certain funds be placed in an escrow or trust account
if not held by the clerk of the court; specifying that
such funds, if held by the clerk, are subject to a
certain service charge and may not be waived by a
court; requiring that the person who conducts the sale
promptly file a certain certificate of sale and serve
a copy of such certificate on all parties involved;
requiring that objections to the sale be filed within
a specified timeframe; requiring a court to hold a
hearing on such objections; requiring the filing of a
additional certificates within certain timeframes in
specified circumstances; providing the procedures for
selecting a backup bidder if the original winning
bidder fails to make the final payment before the sale
closing date; requiring the person conducting the sale
to file a certain notice; requiring the clerk to file
such certificate of title and serve copies to all
parties involved; providing that when certificates of
title are filed, the sale stands confirmed and title
passes to the purchaser without additional proceedings
or instruments; requiring the clerk to record the



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certificate of title; providing that certain persons
are authorized to disburse sale proceeds as authorized
by a court order, but surplus funds must be deposited
with the clerk together with court fees; providing
applicability; creating s. 45.0312, F.S.; authorizing
persons to serve as auctioneers or in other roles,
under specified conditions; providing qualifications
for such persons; authorizing persons to serve as
escrow agents under specified conditions; providing
qualifications for such person; defining the term
"relative"; specifying what constitutes independence;
authorizing civil actions under specified conditions;
providing criminal penalties for persons who
intentionally violate specified provisions or certain
court orders; providing an effective date.

By Senator Garcia

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1 A bill to be entitled
 2 An act relating to judicial sales procedures; amending
 3 s. 45.031, F.S.; specifying that courts must follow
 4 certain provisions when ordering the sale of real or
 5 personal property unless the use of other specified
 6 procedures is ordered; creating s. 45.0311, F.S.;
 7 providing a short title; prohibiting a court from
 8 allowing the use of bidding credits or certain other
 9 offsets in specified judicial sales or foreclosure
 10 sales; requiring the winning bidder to remit the full
 11 purchase price within a specified timeframe; requiring
 12 that the sale be voided and the property reauctioned
 13 under certain circumstances; prohibiting specified
 14 persons and entities from bidding on properties in
 15 certain sales; requiring that a property be
 16 reauctioned if the property does not sell for a
 17 specified percentage of the recent assessed property
 18 value; requiring that specified sales be held at
 19 locations that are open and available to the public;
 20 providing construction; prohibiting the courts from
 21 allowing certain sales of property unless specified
 22 rules and provisions are followed; prohibiting the
 23 courts from issuing certain orders for the judicial
 24 sale or foreclosure sale of property; providing that
 25 specified sales of property are void and the property
 26 must be reauctioned if certain conditions are met;
 27 creating s. 45.036, F.S.; authorizing courts to order
 28 an alternate judicial sales procedure under specified
 29 conditions; requiring that such procedure follow

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30 specified notice provisions; requiring that the person
 31 conducting a sale hold a specified license unless he
 32 or she is a clerk of the court; prohibiting parties to
 33 the sale action and their attorneys from conducting
 34 such sale; prohibiting the person conducting the sale
 35 from directly or indirectly bidding on the property or
 36 profiting from the sale, except for receiving a
 37 certain fee; prohibiting an alternate judicial sales
 38 procedure from authorizing specified preferences or
 39 advantages; requiring that funds be held in an escrow
 40 or trust account unless the clerk of the court holds
 41 those funds; authorizing the court to audit such
 42 accounts and issue certain orders; providing that the
 43 clerk of the court is entitled to a specified service
 44 charge; prohibiting the court from waiving such
 45 charge; requiring the person who conducted the sale to
 46 file a specified certificate of sale and provide
 47 service of such certificate to specified parties;
 48 requiring the clerk of the court to file a specified
 49 certificate of title and provide service of such
 50 certificate to specified parties; prohibiting courts
 51 from waiving requirements related to a foreclosure
 52 surplus; requiring certain persons to file a specified
 53 certificate of disbursement; providing an effective
 54 date.

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

58 Section 1. Section 45.031, Florida Statutes, is amended to

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read:

45.031 Judicial sales procedure.—In any sale of real or personal property under an order or judgment, the procedures provided in this section and ss. 45.0315-45.035 ~~must~~ may be followed unless the court orders use of the alternate judicial sales procedure in s. 45.036 or other procedures expressly provided by law as an alternative to any other sale procedure if so ordered by the court.

(1) FINAL JUDGMENT.—

(a) In the order or final judgment, the court shall direct the clerk to sell the property at public sale on a specified day that shall be not less than 20 days or more than 35 days after the date thereof, on terms and conditions specified in the order or judgment. A sale may be held more than 35 days after the date of final judgment or order if the plaintiff or plaintiff's attorney consents to such time. The final judgment shall contain the following statement in conspicuous type:

IF THIS PROPERTY IS SOLD AT PUBLIC AUCTION, THERE MAY BE ADDITIONAL MONEY FROM THE SALE AFTER PAYMENT OF PERSONS WHO ARE ENTITLED TO BE PAID FROM THE SALE PROCEEDS PURSUANT TO THIS FINAL JUDGMENT.

IF YOU ARE A SUBORDINATE LIENHOLDER CLAIMING A RIGHT TO FUNDS REMAINING AFTER THE SALE, IF ANY, YOU MUST FILE A CLAIM WITH THE CLERK NO LATER THAN THE DATE THAT THE CLERK REPORTS THE FUNDS AS UNCLAIMED. IF YOU FAIL TO FILE A TIMELY CLAIM, YOU WILL NOT BE ENTITLED TO ANY REMAINING FUNDS.

(b) If the property being foreclosed on has qualified for

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the homestead tax exemption in the most recent approved tax roll, the final judgment shall additionally contain the following statement in conspicuous type:

IF YOU ARE THE PROPERTY OWNER, YOU MAY CLAIM THESE FUNDS YOURSELF. YOU ARE NOT REQUIRED TO HAVE A LAWYER OR ANY OTHER REPRESENTATION AND YOU DO NOT HAVE TO ASSIGN YOUR RIGHTS TO ANYONE ELSE IN ORDER FOR YOU TO CLAIM ANY MONEY TO WHICH YOU ARE ENTITLED. PLEASE CHECK WITH THE CLERK OF THE COURT, ...(INSERT INFORMATION FOR APPLICABLE COURT)... WITHIN TEN (10) DAYS AFTER THE SALE TO SEE IF THERE IS ADDITIONAL MONEY FROM THE FORECLOSURE SALE THAT THE CLERK HAS IN THE REGISTRY OF THE COURT.

IF YOU DECIDE TO SELL YOUR HOME OR HIRE SOMEONE TO HELP YOU CLAIM THE ADDITIONAL MONEY, YOU SHOULD READ VERY CAREFULLY ALL PAPERS YOU ARE REQUIRED TO SIGN, ASK SOMEONE ELSE, PREFERABLY AN ATTORNEY WHO IS NOT RELATED TO THE PERSON OFFERING TO HELP YOU, TO MAKE SURE THAT YOU UNDERSTAND WHAT YOU ARE SIGNING AND THAT YOU ARE NOT TRANSFERRING YOUR PROPERTY OR THE EQUITY IN YOUR PROPERTY WITHOUT THE PROPER INFORMATION. IF YOU CANNOT AFFORD TO PAY AN ATTORNEY, YOU MAY CONTACT ...(INSERT LOCAL OR NEAREST LEGAL AID OFFICE AND TELEPHONE NUMBER)... TO SEE IF YOU QUALIFY FINANCIALLY FOR THEIR SERVICES. IF THEY CANNOT ASSIST YOU, THEY MAY BE ABLE TO REFER YOU TO A LOCAL BAR REFERRAL AGENCY OR SUGGEST OTHER OPTIONS. IF YOU CHOOSE TO CONTACT ...(NAME OF LOCAL OR NEAREST LEGAL AID OFFICE)... FOR ASSISTANCE, YOU SHOULD DO SO AS SOON AS POSSIBLE AFTER RECEIPT OF THIS NOTICE.

(c) A copy of the final judgment shall be furnished by the

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clerk by first-class mail to the last known address of every party to the action or to the attorney of record for such party. Any irregularity in such mailing, including the failure to include this statement in any final judgment or order, shall not affect the validity or finality of the final judgment or order or any sale held pursuant to the final judgment or order. Any sale held more than 35 days after the final judgment or order shall not affect the validity or finality of the final judgment or order or any sale held pursuant to such judgment or order.

(2) PUBLICATION OF SALE.—Notice of sale shall be published on a publicly accessible website as provided in s. 50.0311 for at least 2 consecutive weeks before the sale or once a week for 2 consecutive weeks in a newspaper of general circulation, as provided in chapter 50, published in the county where the sale is to be held. The second publication by newspaper shall be at least 5 days before the sale. The notice shall contain:

- (a) A description of the property to be sold.
- (b) The time and place of sale.
- (c) A statement that the sale will be made pursuant to the order or final judgment.
- (d) The caption of the action.
- (e) The name of the clerk making the sale.
- (f) A statement that any person claiming an interest in the surplus from the sale, if any, other than the property owner as of the date of the lis pendens must file a claim before the clerk reports the surplus as unclaimed.

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

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provided herein.

(3) CONDUCT OF SALE; DEPOSIT REQUIRED.—The sale shall be conducted at public auction at the time and place set forth in the final judgment. The clerk shall receive the service charge imposed in s. 45.035 for services in making, recording, and certifying the sale and title that shall be assessed as costs. At the time of the sale, the successful high bidder shall post with the clerk a deposit equal to 5 percent of the final bid. The deposit shall be applied to the sale price at the time of payment. If final payment is not made within the prescribed period, the clerk shall readvertise the sale as provided in this section and pay all costs of the sale from the deposit. Any remaining funds shall be applied toward the judgment.

(4) CERTIFICATION OF SALE.—After a sale of the property the clerk shall promptly file a certificate of sale and serve a copy of it on each party in substantially the following form:

(Caption of Action)

CERTIFICATE OF SALE

The undersigned clerk of the court certifies that notice of public sale of the property described in the order or final judgment was published in, a newspaper circulated in County, Florida, in the manner shown by the proof of publication attached, and on, ... (year) ..., the property was offered for public sale to the highest and best bidder for cash. The highest and best bid received for the property in the amount of \$.... was submitted by, to whom the property was sold. The

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proceeds of the sale are retained for distribution in accordance with the order or final judgment or law. WITNESS my hand and the seal of this court on, ...(year)....

...(Clerk)...

By ...(Deputy Clerk)...

(5) CERTIFICATE OF TITLE.—If no objections to the sale are filed within 10 days after filing the certificate of sale, the clerk shall file a certificate of title and serve a copy of it on each party in substantially the following form:

(Caption of Action)

CERTIFICATE OF TITLE

The undersigned clerk of the court certifies that he or she executed and filed a certificate of sale in this action on, ...(year)...., for the property described herein and that no objections to the sale have been filed within the time allowed for filing objections.

The following property in County, Florida:

(description)

was sold to

WITNESS my hand and the seal of the court on, ...(year)....

...(Clerk)...

By ...(Deputy Clerk)...

(6) CONFIRMATION; RECORDING.—When the certificate of title

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is filed the sale shall stand confirmed, and title to the property shall pass to the purchaser named in the certificate without the necessity of any further proceedings or instruments. The certificate of title shall be recorded by the clerk.

(7) DISBURSEMENTS OF PROCEEDS.—

(a) On filing a certificate of title, the clerk shall disburse the proceeds of the sale in accordance with the order or final judgment and shall file a report of such disbursements and serve a copy of it on each party, and on the Department of Revenue if the department was named as a defendant in the action or if the Department of Commerce or the former Agency for Workforce Innovation was named as a defendant while the Department of Revenue was providing reemployment assistance tax collection services under contract with the Department of Commerce or the former Agency for Workforce Innovation through an interagency agreement pursuant to s. 443.1316.

(b) The certificate of disbursements shall be in substantially the following form:

(Caption of Action)

CERTIFICATE OF DISBURSEMENTS

The undersigned clerk of the court certifies that he or she disbursed the proceeds received from the sale of the property as provided in the order or final judgment to the persons and in the amounts as follows:

Name	Amount
------	--------

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233 Total disbursements: \$....

234 Surplus retained by clerk, if any: \$....

235

236 IF YOU ARE A PERSON CLAIMING A RIGHT TO FUNDS REMAINING AFTER

237 THE SALE, YOU MUST FILE A CLAIM WITH THE CLERK NO LATER THAN THE

238 DATE THAT THE CLERK REPORTS THE FUNDS AS UNCLAIMED. IF YOU FAIL

239 TO FILE A CLAIM, YOU WILL NOT BE ENTITLED TO ANY REMAINING

240 FUNDS. AFTER THE FUNDS ARE REPORTED AS UNCLAIMED, ONLY THE OWNER

241 OF RECORD AS OF THE DATE OF THE LIS PENDENS MAY CLAIM THE

242 SURPLUS.

243

244 WITNESS my hand and the seal of the court on, ...(year)....

245(Clerk)...

246 By ...(Deputy Clerk)...

247

248 (c) If no objections to the report are served within 10

249 days after it is filed, the disbursements by the clerk shall

250 stand approved as reported. If timely objections to the report

251 are served, they shall be heard by the court. Service of

252 objections to the report does not affect or cloud the title of

253 the purchaser of the property in any manner.

254 (d) If there are funds remaining after payment of all

255 disbursements required by the final judgment of foreclosure and

256 shown on the certificate of disbursements, the surplus shall be

257 distributed as provided in this section and ss. 45.0315-45.035.

258 (8) VALUE OF PROPERTY.—The amount of the bid for the

259 property at the sale shall be conclusively presumed to be

260 sufficient consideration for the sale. Any party may serve an

261 objection to the amount of the bid within 10 days after the

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262 clerk files the certificate of sale. If timely objections to the

263 bid are served, the objections shall be heard by the court.

264 Service of objections to the amount of the bid does not affect

265 or cloud the title of the purchaser in any manner. If the case

266 is one in which a deficiency judgment may be sought and

267 application is made for a deficiency, the amount bid at the sale

268 may be considered by the court as one of the factors in

269 determining a deficiency under the usual equitable principles.

270 (9) EXECUTION SALES.—This section shall not apply to

271 property sold under executions.

272 (10) ELECTRONIC SALES.—The clerk may conduct the sale of

273 real or personal property under an order or judgment pursuant to

274 this section by electronic means. Such electronic sales shall

275 comply with the procedures provided in this chapter, except that

276 electronic proxy bidding shall be allowed and the clerk may

277 require bidders to advance sufficient funds to pay the deposit

278 required by subsection (3). The clerk shall provide access to

279 the electronic sale by computer terminals open to the public at

280 a designated location and shall accept an advance credit proxy

281 bid from the plaintiff of any amount up to the maximum allowable

282 credit bid of the plaintiff. A clerk who conducts such

283 electronic sales may receive electronic deposits and payments

284 related to the sale.

285 Section 2. Section 45.0311, Florida Statutes, is created to

286 read:

287 45.0311 Transparency in judicial sales and foreclosure

288 sales.—

289 (1) This section may be cited as the "Transparency in

290 Judicial Sales and Foreclosure Sales Act."

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291 (2) Notwithstanding s. 45.031 or any other law to the
 292 contrary:
 293 (a) A court of competent jurisdiction presiding over a
 294 judicial sale or other foreclosure sale conducted in this state
 295 or pursuant to the laws of this state may not allow the use of
 296 bidding credits or other offsets in excess of 10 percent of the
 297 most recent assessed value of the property, as determined by the
 298 property appraiser in the county where the property is located.
 299 (b) If the winning bidder of a judicial sale or other
 300 foreclosure sale conducted in this state or pursuant to the laws
 301 of this state does not remit the full purchase price within 30
 302 days after the sale, or cause the full purchase price to be
 303 remitted to the seller within 30 days after the sale, the sale
 304 is voided and the property must be reauctioned.
 305 (c) If a judicial sale or other foreclosure sale conducted
 306 in this state or pursuant to the laws of this state is
 307 orchestrated or facilitated by an attorney, a parent, a child, a
 308 brother, a sister, a grandparent, or a grandchild of that
 309 attorney may not bid on the property. A current or former client
 310 of such attorney may not bid on the property. For the purposes
 311 of this paragraph, a legal entity wholly or predominantly owned
 312 by a parent, a child, a brother, a sister, a grandparent, or a
 313 grandchild of such attorney or a current or former client of
 314 such attorney, may not bid on the property.
 315 (d) If a property sold pursuant to a judicial sale or other
 316 foreclosure sale conducted in this state or pursuant to the laws
 317 of this state is not sold for at least 75 percent of the most
 318 recent assessed value of the property, as determined by the
 319 property appraiser in the county where the property is located,

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320 such property must be reauctioned.
 321 (e) Any judicial sale or other foreclosure sale conducted
 322 in this state or pursuant to the laws of this state must be held
 323 at a location that is open and available to the public, and the
 324 public must be provided reasonable notice of such sale. For the
 325 purposes of this paragraph, an area of a building or property
 326 which is normally accessible only by a security card, key card,
 327 key fob, or other similar means is not open and available to the
 328 public.
 329 (f) A court of competent jurisdiction in this state may not
 330 allow any judicial sale or other foreclosure sale to proceed if
 331 such sale is conducted pursuant to rules that contradict this
 332 section. A court may not issue an order allowing a property to
 333 be sold by way of judicial sale or foreclosure sale which does
 334 not comply with the requirements of this section.
 335 (g) Any judicial sale or other foreclosure sale conducted
 336 in this state or pursuant to the laws of this state in violation
 337 of this section is void, upon a successful legal challenge, and
 338 the property must be reauctioned pursuant to a valid judicial
 339 sale.
 340 Section 3. Section 45.036, Florida Statutes, is created to
 341 read:
 342 45.036 Alternate judicial sales procedure.—A court may
 343 order the use of alternate judicial sales procedures in ss.
 344 45.031-45.035 if the exceptions are consistent with the
 345 requirements of this section and the goals of minimizing
 346 expenses and delays, avoiding fraud, and maximizing the sale
 347 price.
 348 (1) ALTERNATE PUBLICATION OF SALE PROCEDURE.—Any

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publication of sale procedure which is not fully consistent with the publication of sale procedures specified in s. 45.031(2) must require notice of all the information specified in that subsection.

(2) SALES NOT CONDUCTED BY THE CLERK OF THE COURT.—If the clerk of the court is not conducting the sale, the person conducting the sale:

(a) Must be an auctioneer licensed under part VI of chapter 468, a real estate broker licensed under chapter 475, or an attorney licensed by The Florida Bar;

(b) May not be a party to the action or an attorney representing a party in the action; and

(c) May not directly or indirectly bid on the property or profit from the sale of the property by any means other than the fee authorized by the court.

(3) PREFERENCES PROHIBITED.—An alternate judicial sales procedure may not authorize any bidding preferences, credit preferences, or other preference or advantage to any party or bidder or other person seeking ownership of the property.

(4) POSSESSION OF DEPOSITS AND PAYMENTS.—If the bidder's deposit, the bid amount, or any other funds paid by a bidder or a party are not held by the clerk of the court, the funds must be held in an escrow or trust account pursuant to the laws and rules regulating the license of the person conducting the sale or held in an escrow account of the title insurance agent regulated under part V of chapter 626. The court may audit any such escrow or trust account and may enter an ex parte order at any time requiring the immediate transfer of all related funds to the clerk of the court.

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(5) CERTIFICATION OF SALE.—After the sale of a property to which this section applies:

(a) The clerk is entitled to the service charge in s. 45.035(1), which may not be waived by the court; and

(b) The clerk of the court or other person who conducted the sale must promptly file a certificate of sale and serve a copy on each party in substantially the following form:

(Caption of Action)

CERTIFICATE OF JUDICIAL SALE

The undersigned certifies that notice of public sale of the property described in the order or final judgment was furnished by, in the manner shown by the attached, and on, ...(year)...., the property was offered for public sale to the highest and best bidder for cash. The highest and best bid received for the property in the amount of \$.... was submitted by, to whom the property was sold. The proceeds of the sale are retained for distribution in accordance with the order or final judgment or law. WITNESS my hand and the seal of this court on, ...(year)....

...(...)...
By ...(...)...

(6) CERTIFICATE OF TITLE.—If property is sold under the method authorized by this section and an objection to the sale is not filed within 10 days after filing the certificate of sale, or such other time as authorized by the court, the clerk

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407 must file a certificate of title and serve a copy of such title
408 on each party in substantially the following form:

409
410 (Caption of Action)

411
412 CERTIFICATE OF TITLE

413
414 The undersigned clerk of the court certifies that a
415 certificate of sale was filed in this action on,
416 ...(year)..., for the property described herein and that no
417 objections to the sale have been filed within the time allowed
418 for filing objections.

419 The following property in County, Florida:
420 (description)

421 was sold to

422
423 WITNESS my hand and the seal of the court on, ...(year)....
424 ...(Clerk)...
425 By ...(Deputy Clerk)...

426
427 (7) SURPLUS FUNDS.-The requirements related to a
428 foreclosure surplus as provided in ss. 45.031(1), 45.032,
429 45.033, and 45.035(2) may not be waived by the court.

430 (8) DISBURSEMENTS OF PROCEEDS.-If the clerk of the court is
431 not disbursing the proceeds of the sale, the person who
432 conducted the sale, or a title company licensed under part V of
433 chapter 626, must file a certificate of disbursements in
434 substantially the same form as required by s. 45.031(7).

435 Section 4. This act shall take effect July 1, 2025.



The Florida Senate

Committee Agenda Request

To: Senator Clay Yarborough, Chair
Committee on Judiciary

Subject: Committee Agenda Request

Date: January 22, 2025

I respectfully request that **Senate Bill # 48**, relating to **Judicial Sales Procedures**; Specifying that courts must follow certain provisions when ordering the sale of real or personal property unless the use of other specified procedures is ordered; designating the "Transparency in Judicial Sales and Foreclosure Sales Act"; prohibiting a court from allowing the use of bidding credits or certain other offsets in specified judicial sales or foreclosure sales; authorizing courts to order an alternate judicial sales procedure under specified conditions, etc. be placed on the:

- ☐ committee agenda at your earliest possible convenience.
- ☒ next committee agenda.

A handwritten signature in blue ink, appearing to read "Ileana Garcia", is written over a horizontal line.

Senator Ileana Garcia
Florida Senate, District 36



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Committee on Pre-K - 12 Education,
Vice Chair
Education Postsecondary
Education Pre-K - 12
Fiscal Policy
Judiciary
Military and Veterans Affairs, Space, and
Domestic Security
Rules

**SENATOR GERALDINE F. "GERI"
THOMPSON**
15th District

January 15, 2025

The Honorable Chair Yarborough
Chairman
404 South Monroe Street
Tallahassee, FL 32399

Dear Chair Yarborough,

I am writing to formally request a leave of absence due to a medical condition from the Committee on Judiciary during the interim committee meetings scheduled from January 13 through February 21, 2025. While I regret being unable to actively participate in Senate proceedings during this period, this temporary leave is essential to enable me to return to my duties fully restored.

I greatly appreciate your understanding and support during this time. If additional documentation or details are needed, please let me know.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script that reads "Geraldine F. Thompson".

Senator Geraldine F. Thompson
FL Senate District 15

Cc: Tim Cibula, Staff Director
Lisa Larson, Committee Administrative Assistant
Maggie Gerson, Staff Director

REPLY TO:

- ☐ 511 W. South Street, Suite 205, Orlando, Florida 32805 (407) 245-0194
- ☐ 205 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5015

Senate's Website: www.flsenate.gov

BEN ALBRITTON
President of the Senate

JASON BRODEUR
President Pro Tempore

CourtSmart Tag Report

Room: SB 110
Case No.:
Caption: Senate Committee on Judiciary

Type:
Judge:

Started: 2/11/2025 4:01:39 PM
Ends: 2/11/2025 5:12:55 PM **Length:** 01:11:17

4:01:45 PM Chair Yarborough calls meeting to order
4:01:48 PM Roll call
4:02:01 PM Chair Yarborough opening remarks
4:02:17 PM Tab 3: SB 48 by Senator Garcia
4:02:19 PM Chair Yarborough recognizes Senator Garcia
4:02:33 PM Amendment 698220
4:02:45 PM Senator Garcia explains the amendment
4:05:55 PM Questions:
4:06:07 PM Senator Garcia waives close
4:06:15 PM Amendment is reported out
4:06:29 PM Debate
4:06:30 PM Senator Passidomo
4:07:15 PM Senator Garcia closes on the bill
4:08:01 PM Roll call
4:08:35 PM Tab 1: Presentation by Florida Sheriffs' Association
4:09:07 PM Chair Yarborough recognizes Bob Cortes
4:09:15 PM Bob Cortes, Senior Administrator for Government & Community Affairs, Florida Sheriffs' Association
4:11:34 PM Manuel Guarch, General Counsel for the Seminole County Sheriffs' Office, Florida Sheriffs' Association
4:17:54 PM Questions:
4:17:57 PM Senator DiCeglie
4:19:35 PM Chair Yarborough
4:19:56 PM Manuel Guarch
4:20:28 PM Bob Cortes
4:20:51 PM Chair Yarborough
4:21:09 PM Bob Cortes
4:21:27 PM Manuel Guarch
4:21:58 PM Tab 2: Presentation by The Florida Bar
4:22:12 PM Chair Yarborough recognizes Roland Sanchez-Medina President, The Florida Bar
4:22:27 PM Roland Sanchez-Medina
4:31:35 PM Chair Yarborough recognizes Elizabeth Tarbert, Division Director, Lawyer Regulation
4:31:40 PM Elizabeth Tarbert
5:01:10 PM Questions:
5:01:14 PM Senator Leek
5:01:27 PM Elizabeth Tarbert
5:01:40 PM Senator Leek
5:01:59 PM Elizabeth Tarbert
5:02:20 PM Senator Leek
5:02:25 PM Elizabeth Tarbert
5:02:33 PM Senator Leek
5:03:00 PM Elizabeth Tarbert

5:03:14 PM Senator Leek
5:03:18 PM Elizabeth Tarbert
5:03:31 PM Senator Leek
5:03:37 PM Chair Yarborough
5:03:57 PM Roland Sanchez-Medina
5:04:26 PM Chair Yarborough
5:04:45 PM Elizabeth Tarbert
5:05:17 PM Chair Yarborough
5:05:31 PM Elizabeth Tarbert
5:06:21 PM Chair Yarborough
5:06:36 PM Elizabeth Tarbert
5:07:25 PM Roland Sanchez-Medina
5:07:59 PM Elizabeth Tarbert
5:08:04 PM Chair Yarborough
5:08:08 PM Roland Sanchez-Medina
5:08:14 PM Senator Gaetz
5:08:30 PM Elizabeth Tarbert
5:09:10 PM Senator Gaetz
5:09:15 PM Elizabeth Tarbert
5:09:42 PM Senator Gaetz
5:10:04 PM Elizabeth Tarbert
5:10:37 PM Senator Gaetz
5:11:15 PM Elizabeth Tarbert
5:12:08 PM Roland Sanchez-Medina
5:12:26 PM Chair Yarborough makes comments
5:12:34 PM Senator Polsky moves to adjourn
5:12:46 PM Meeting adjourned