

Tab 1		SB 286 by Powell; (Identical to H 00237) Legal Instruments					
417302	A	S	RCS	BI, Powell	Delete L.28 - 255:	02/08 10:43 AM	

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

BANKING AND INSURANCE
Senator Boyd, Chair
Senator DiCeglie, Vice Chair

MEETING DATE: Wednesday, February 8, 2023

TIME: 9:30—11:30 a.m.

PLACE: *Pat Thomas Committee Room, 412 Knott Building*

MEMBERS: Senator Boyd, Chair; Senator DiCeglie, Vice Chair; Senators Broxson, Burgess, Burton, Hutson, Ingoglia, Mayfield, Powell, Thompson, Torres, and Trumbull

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 286 Powell (Identical H 237)	Legal Instruments; Requiring that a lien created by an assignment of rents be perfected against a mortgagor in addition to third parties under certain conditions; revising the types of expenses that may be paid by collected rents in foreclosure actions under certain circumstances; expanding the scope of a final judgment of foreclosure to include other liens; requiring the award of attorney fees in certain circumstances, etc. BI 02/08/2023 Fav/CS JU RC	Fav/CS Yeas 10 Nays 0
Presentation by the Florida Hurricane Catastrophe Fund			Presented
Presentation by the Office of Insurance Regulation			Presented
Other Related Meeting Documents			

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 Banking and Insurance

BILL: CS/SB 286

INTRODUCER: Banking and Insurance Committee and Senator Powell

SUBJECT: Legal Instruments

DATE: February 9, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Moody	Knudson	BI	Fav/CS
2.			JU	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

Senate Bill 286 expands the scope of actions to challenge the finality of foreclosure judgments by including other liens in the types of instruments that the court must treat as a claim for monetary damages if certain criteria are met. The category of persons who must be considered affiliated with the foreclosing lender is also expanded to include the foreclosing lienholder. The bill requires the court to award attorney fees to senior lienholders when a junior lienholder wrongfully forecloses a senior lien.

Provisions on assignment of rents, and the statutory lien created by the assignment of rents, are amended to be enforceable against the mortgagor and any subsequent owners who have acquired title to the property. Further, the court is authorized to order that rent collected during the pendency of foreclosure proceedings be used to pay assessments that become due after the entry of the court's order to certain associations or corporations. The bill exempts such associations and corporations from s. 697.07, F.S., assessment of rents, if they hold title to the property being foreclosed and apply the rents towards the assessments that are then due or collect rents pursuant to certain statutory authority. The terms "mortgagor" and "mortgagee" are defined.

The bill defines the term "mortgagor" in s. 702.10, F.S., so that the provisions on orders to show cause in foreclosure proceedings apply to subsequent owners but exclude certain associations and corporations provided they hold title and any rents collected are applied to assessments that are then due.

The bill defines “witness” in the provisions relating to notary public for when it is used as a noun for purposes of remote online notarization or witnessing.

See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2023.

II. Present Situation:

Finality of Foreclosure Judgments

In 1940, the Florida Supreme Court stated that “[t]he law is pretty well settled that a first or senior mortgagee is not a necessary or even proper party to foreclosure proceedings brought by a second or junior mortgagee,” and held that a prior mortgagee cannot be forced to be a party to a suit by a junior encumbrancer foreclosing a lien.¹ The Fourth District Court of Appeal applied this law recently when it held that a junior lienholder cannot require the senior lienholder to be a party to its foreclosure action, and that the judgment could not foreclose the interests of the senior lienholder.² The court concluded, therefore, that the judgment was void but denied the senior lienholder’s request to vacate the judgment because s. 702.036, F.S., “precluded the court from granting relief that ‘adversely affects the quality and character of the title to the property’” when the specified criteria under the section were met.³

Section 702.036, F.S., provides that if a party seeks to set aside, invalidate, or challenge any final judgment of foreclosure of a mortgage, the court is required to treat such request as a claim for money damages and may not grant relief that adversely affects the quality or character of the title to the property if certain conditions are met, including, in summary:

- The party seeking relief was properly served in the foreclosure action.
- The final judgment was entered as to the property.
- All applicable appeals periods have run with no unresolved appeals.
- The property has been acquired for value, by a person not affiliated with the foreclosing lender or the foreclosed owner, when no lis pendens regarding the suit appears in the official county records where the property is located.⁴

Persons affiliated with the foreclosing lender include:

- The foreclosing lender or any loan servicer;
- Any past or present owner or holder of the loan;
- Any maintenance company, holding company, foreclosure services company, or law firm under contract with any of the entities listed above; or

¹ *Cone Bros. Const. Co. et. al. v. Moore*, 141 Fla. 420 (1940) (citing Jones on Mortgages, 8th Edition, Section 1830; Wiltsie on Mortgage Foreclosure, 4th Edition, Section 404, which states: “‘It may be stated as a general rule that persons holding mortgages or liens prior to the mortgage under foreclosure are neither necessary nor proper parties to the action,’ citing numerous cases among them, Broward v. Hoeg, 15 Fla. 370).

² *Wells Fargo Bank, N.A. v. Tan*, 320 So.3d 782, 784 (Fla. 4th DCA 2021).

³ *Id.* at 784-786.

⁴ Section 702.036(1), F.S.

- Any parent entity, subsidiary, or other person who directly or indirectly controls or is under the control of any of the entities listed above.⁵

Assignment of Rents

Florida law provides that a mortgage or separate document may provide for an assignment of rents of real property as security for repayment of an indebtedness.⁶ The mortgagee holds a lien on the rents when an assignment is made, and the lien is perfected and effective against third parties upon recordation of the mortgage or separate document in the public records of the county in which the real property is located.⁷ Unless otherwise agreed to in writing, the mortgagee may enforce the assignment of rents upon the mortgagor's default by written demand for the rents to the mortgagor.⁸ The mortgagor is then required to provide the mortgagee with all rents, less payment of any expenses authorized by the mortgagee in writing, that are in his or her possession or control.⁹

During the pendency of final adjudication in a foreclosure proceeding, the mortgagee or mortgagor may apply to the court, and the court may require, the mortgagor to deposit rents collected into the registry of the court or in such other registry designated by the court. In 2018, the Second District Court of Appeal reversed a trial court order that required the owner of the property, which was the subject of a foreclosure action by a senior lienholder, to deposit rents collected on the real property into the trust account of the senior lienholder's attorney pending resolution of the foreclosure action.¹⁰ The court noted the title passed to the owner through a junior-lien foreclosure that could not bind the owner to the terms of the mortgage as a third party who is not an assignee of the mortgagors. The court stated "[s. 697.07, F.S.,] does not require that the third-party title owner assign to the mortgagee rents owed to it under a separate document not subject to the foreclosure action."¹¹ The court commented on the potential benefit of third parties purchasing properties at junior-lien foreclosure sales and subsequently renting them, and the potential detriment "...including significant delay of mortgage foreclosure proceedings, 'that ought to be regulated or prohibited.'"¹² The court opined:

In instances of unwarranted delay, the inability of the mortgagee to sequester rents as against the third-party title owners—particularly where that third party is collecting rent but not paying the homeowners' association dues, property taxes, or property insurance, let alone the mortgage—further discourages a speedy resolution of the mortgage foreclosure action from the third party's perspective. However, we must apply the language of the mortgage and section 697.07 as they are plainly written.¹³

⁵ Section 702.036(2), F.S.

⁶ Section 697.07(1), F.S.

⁷ Section 697.07(2), F.S.

⁸ Section 697.07(3), F.S.

⁹ *Id.*

¹⁰ *Green Emerald Homes, LLC v. Residential Credit Opportunities Trust*, 256 So.3d 211, 213 (Fla. 2d DCA 2018).

¹¹ *Id.* at 215.

¹² *Id.* at 216 (citing *Bonafide Props. v. Wells Fargo Bank, N.A., ex. rel. Certificate Holders of Banc of Am. Alt. Loan Tr. 2006-5, Mortg. Pass-Through Certificates, Series 2006-5m* 198 So.3d 694, 696-98 (Fla. 2d DCA 2016) (Altenbernd, J., concurring)).

¹³ *Id.*

Before the rents are deposited into a registry, the court may authorize the rents collected to be used to make payments to the mortgagee, or for reasonable expenses or required escrow sums. Reasonable expenses may include real estate taxes, insurance, or other expenses solely for the purpose of protecting, preserving, and operating the real property.¹⁴ Assessments for community associations are not explicitly listed as one of the reasonable expenses that may be paid from rents collected.

The mortgagor is required to account to the court and the mortgagee for the use of rents collected and the court may place other restrictions on the mortgagor's use of them.¹⁵ The court has discretion to grant other relief with respect to the rents collected, but such rents must be disbursed at the conclusion of the foreclosure proceeding.¹⁶ The terms "mortgagee" and "mortgagor" currently are not defined in this section on assignment of rents.

Orders to Show Cause

During the pendency of a foreclosure proceeding, the plaintiff may request the court to make an order directing the mortgagor to show cause why an order to make payments or to vacate the premises should not be entered.¹⁷ If the court enters an order, the order must, in short:

- Set the date and time for the hearing on the order to show cause.
- Direct the time within which service of the order and complaint must be made upon the defendant.
- State that the defendant has the right to file affidavits or other papers at the time of the hearing and may appear personally or by way of an attorney.
- State that, if the defendant fails to appear and fails to file a defense, the defendant is deemed to have waived the right to a hearing and the court may enter an order for the requested relief.
- Require the movant to serve a copy of the order to show cause on the mortgagor in the specified manner.¹⁸

The right of the defendant to be heard at a hearing to show cause is waived if the defendant's conduct clearly shows that the defendant has relinquished the right to be heard. Failure to file a defense or to appear at the hearing presumptively constitutes conduct that clearly shows that the defendant has relinquished the right to be heard,¹⁹ and the court then has the discretion to enter an order for the requested relief.²⁰ This section does not apply to foreclosure of an owner-occupied residence.²¹

¹⁴ Section 697.07(4), F.S.

¹⁵ *Id.*

¹⁶ Section 697.07(5), F.S.

¹⁷ Section 702.10(2), F.S.

¹⁸ Section 702.10(2)(a), F.S.

¹⁹ Section 702.10(2)(b), F.S.

²⁰ Section 702.10(2)(c), F.S.

²¹ Section 702.10(2)(a) and (i), F.S.

Remote Online Notarization of Documents

In 2019, the Florida Legislature passed a bill relating to electronic legal documents²² that established Part II of ch. 117, F.S., for online notarization, which is defined as the performance of a notarial act using electronic²³ means in which the principal²⁴ or any witness appears before the notary public by means of audio-video communication technology.²⁵ The effective date for most provisions of this part was January 1, 2020, and the term “witness” is not defined in it.

Compliance with the online electronic witnessing standards under s. 117.285, F.S., and any applicable rules satisfy the requirement of a provision that requires a signature or an act to be witnessed.²⁶ A notary public may supervise the witnessing of electronic records by complying with several conditions, including, in part:

- The witness may be in the principal’s physical presence or remote from the principal so long as they are using audio-video communication technology at the time the principal affixes the electronic signature and the witness hears the principal verbally confirm that the principal has signed the electronic record.
- If the witness is remote from the principal, the principal’s and witness’s identities must be verified.
- The witness verbally confirms that he or she is a resident of and physically located within the United States or a territory at the time of witnessing.²⁷

The section sets out additional requirements for several types of electronic estate planning documents when fewer than two witnesses are in the physical presence of the principal.²⁸ The laws of the state of Florida determine the validity of an online notarization performed by an online notary public registered in the state regardless of the physical location of any witness at the time of the notarization.²⁹

III. Effect of Proposed Changes:

Finality of Foreclosure Judgments

Section 3 of the bill amends provisions under s. 702.036(1), F.S., relating to proceedings to set aside, invalidate, or challenge the validity of a final judgment of foreclosure of a mortgage to

²² Chapter 2019-71, L.O.F.

²³ Section 117.201(4), F.S., states that the term “electronic” has the same meaning as provided in s. 668.50, F.S., which defines the term to mean relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

²⁴ Section 117.201(12), F.S., defines “principal” as an individual whose electronic signature is acknowledged, witnessed, or attested to in an online notarization or who takes an oath or affirmation administered by the online notary public.

²⁵ Section 117.201(9), F.S. “Audio-video communication technology” is defined as technology in compliance with applicable law which enables real-time, two-way communication using electronic means in which participants are able to see, hear, and communicate with one another. Section 117.201(2), F.S.

²⁶ Section 117.215(2), F.S.

²⁷ Section 117.285(1)-(4), F.S.

²⁸ Section 117.285(5), F.S. (specifying this requirements apply when the electronic record to be signed is a will under ch. 732, F.S., revocable trust with testamentary aspects as described in s. 736.0403(2)(b), F.S., a health care advance directive, an agreement concerning succession or a waiver of spousal rights under s. 732.701, F.S., or s. 732.702, F.S., respectively, or a power of attorney authorizing any of the transactions enumerated in s. 709.2208, F.S.).

²⁹ Sections 117.209(4) and 117.285(8), F.S.

include liens, such as community association liens and construction liens. The bill expands the scope of persons affiliated with the foreclosing lender under s. 702.036(2)(a)-(c), F.S., to include liens held by foreclosure lienholders.

The section is amended to discourage junior lienholders from initiating improper foreclosure proceedings against senior lienholders. The bill creates subsection (5) to require the court to award reasonable attorney fees to a prevailing party who seeks relief from a final judgment foreclosing a mortgage or lien, or files a separate action attacking such a final judgment, if the party claims that it holds or held a lien superior in right, priority, or dignity to the mortgage or lien foreclosed. This provision applies regardless of whether the action to challenge the final judgment is in the case in which the judgement is entered or in a separate cause of action. This new provision shifts attorneys' fees from a senior lienholder to a junior lienholder who wrongfully forecloses a senior lien.

The bill defines the term "property" for use in only section 702.036, F.S., to clarify that the term means real property.

Assignment of Rents

Section 2 of the bill provides that the assignment of rents, and the statutory lien created by such assignment, is enforceable against the mortgagor, including third parties who may have acquired title to the property. The bill authorizes the court to order that rents collected be used to pay for assessments that become due after the entry of the court's order to a homeowners' association or association,³⁰ or a corporation regulated under ch. 718, F.S., relating to condominiums, or ch. 719, F.S., relating to cooperatives. The bill exempts such associations and corporations from the provisions relating to the assignment of rents, provided they hold title to the property that is the subject of the foreclosure action and apply the rents towards the assessments that are then due, or are collecting pursuant to s. 718.116(11), F.S.,³¹ s. 719.108(10), F.S.,³² or s. 720.3085(8), F.S.³³

The bill defines the term "mortgagee" as a person entitled to enforce an obligation secured by a mortgage. The term "mortgagor" is defined as a person who grants a mortgage or a successor in ownership of the real property described in the mortgage.

Orders to Show Cause

Section 4 of the bill defines the term "mortgagor," for purposes of s. 702.10(2), F.S., as:

³⁰ Section 720.301(9), F.S., defines "homeowners' association" or "association" as "a Florida corporation responsible for the operation of a community or a mobile home subdivision in which the voting membership is made up of parcel owners or their agents, or a combination thereof, and in which membership is a mandatory condition of parcel ownership, and which is authorized to impose assessments that, if unpaid, may become a lien on the parcel. The term "homeowners' association" does not include a community development district or other similar special taxing district created pursuant to statute."

³¹ Section 718.116(11), F.S., authorizes an association to make written demand that a tenant of a condominium pay any future rent to the association until any delinquent monetary obligation has been paid in full.

³² Section 719.108(10), F.S., provides that a cooperative unit owner is liable for all rents and assessments that become due while the unit owner is in exclusive possession of the unit.

³³ Section 720.3085(8), F.S., authorizes an association to make written demand that a tenant pay any future rent to the association until any delinquent monetary obligation of the parcel owner has been paid in full.

A person who grants a mortgage or a successor in ownership of the real property described in the mortgage. The term does not include a homeowners' association or an association, as those terms are defined in s. 720.301, F.S., or a corporation regulated under the chapter 718, F.S., or chapter 719, F.S., that:

- Acquires title to a parcel or unit through the foreclosure of its claim of lien, or a deed in lieu of foreclosure, provided that title remains vested in the association or corporation and any rents collected are applied to assessments that are then due; or
- Collects rents from the tenants in the parcel or unit pursuant to s. 718.116(11), F.S., s. 719.108(10), F.S., or s. 720.3085(8), F.S.

This definition means that the subsection applies to subsequent owners but not a community association provided it holds title and any rents collected are applied to assessments that are then due. The exception for owner-occupied residential real estate has been struck from s. 702.10(2), F.S., because it is duplicative as it is included in s. 702.10(2)(i), F.S.

Remote Online Notarization of Documents

Section 1 of the bill defines the term “witness” for purposes of a witness’s role with remote online notarization. When used as a noun, “witness” means an individual whose electronic signature is affixed to an electronic record to attest or subscribe to a principal’s signature on such record.

Section 5 provides that this definition of “witness” applies retroactively to January 1, 2020, which is the effective date for most of the provisions for online notarization.

The bill is effective July 1, 2023.

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 identified.

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

None.

B. Private Sector Impact:

To the extent that the bill expands the scope of several sections relating to the finality of foreclosure judgments, assignment of rents, and orders to show cause that could increase the amount of litigation, or to the extent that the award of attorney fees reduces the amount of litigation, the bill may result in increased legal fees for any lienholders or title owners who engage in additional litigation.

C. Government Sector Impact:

To the extent that the bill expands the scope of several sections relating to the finality of foreclosure judgments, assignment of rents, and orders to show cause, or to the extent that the award of attorney fees reduces the amount of litigation, the bill may result in an indeterminate fiscal impact on the state court system.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends ss. 117.201, 697.07, 702.036, and 702.10 of the Florida Statutes.

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

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

CS by Banking and Insurance Committee on February 8, 2023:

The committee substitute makes the following changes:

- Amends the definition of “witness” with respect to online remote notarization.
- Amends the definitions of “mortgagee” and “mortgagor” with regards to assignment of rents, and “mortgagor” with respect to orders to show cause in certain foreclosure proceedings.
- Removes the amendment in the bill to s. 702.10(2), F.S., that modified the provision to apply to a “mortgagor” to refer to a “defendant,” as the respondent in an order to show cause and as provided for under current law,
- Makes other technical changes.

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

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Comm: RCS	.	
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The Committee on Banking and Insurance (Powell) recommended the following:

Senate Amendment (with title amendment)

Delete lines 28 - 255
and insert:
whose electronic signature is affixed to an electronic record to
attest or subscribe to a principal's signature on such record.

Section 2. Present subsections (1) through (8) of section 697.07, Florida Statutes, are redesignated as subsections (2) through (9), respectively, present subsections (2), (3), and (4) of that section are amended, and a new subsection (1) and



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subsection (10) are added to that section, to read:

697.07 Assignment of rents.—

(1) For purposes of this section, the term:

(a) "Mortgagee" means a person entitled to enforce an obligation secured by a mortgage.

(b) "Mortgagor" means a person who grants a mortgage or a successor in ownership of the real property described in the mortgage.

(3)~~(2)~~ If such an assignment is made, the mortgagee shall hold a lien on the rents, and the lien created by the assignment shall be perfected and effective against the mortgagor and third parties upon recordation of the mortgage or separate instrument in the public records of the county in which the real property is located, according to law.

(4)~~(3)~~ Unless otherwise agreed to in writing by the mortgagee and mortgagor, the lien created by the assignment of rents ~~is shall be~~ enforceable upon the mortgagor's default and written demand for the rents made by the mortgagee to the mortgagor, whereupon the mortgagor shall turn over all rents in the possession or control of the mortgagor at the time of the written demand or collected thereafter (the "collected rents") to the mortgagee less payment of any expenses authorized by the mortgagee in writing.

(5)~~(4)~~ Upon application by the mortgagee or mortgagor, in a foreclosure action, and notwithstanding any asserted defenses or counterclaims of the mortgagor, a court of competent jurisdiction, pending final adjudication of any action, may require the mortgagor to deposit the collected rents into the registry of the court, or in such other depository as the court



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may designate. However, the court may authorize the use of the collected rents, before deposit into the registry of the court or other depository, to:

(a) Pay the reasonable expenses solely to protect, preserve, and operate the real property, including, without limitation, real estate taxes, and insurance, and assessments that become due after the entry of the court's order to a homeowners' association or an association, as those terms are defined in s. 720.301, or a corporation regulated under chapter 718 or chapter 719;

(b) Escrow sums required by the mortgagee or separate assignment of rents instrument; and

(c) Make payments to the mortgagee.

The court shall require the mortgagor to account to the court and the mortgagee for the receipt and use of the collected rents and may also impose other conditions on the mortgagor's use of the collected rents.

(10) This section does not apply to a corporation that is a homeowners' association or an association, as those terms are defined in s. 720.301, or a corporation regulated under chapter 718 or chapter 719, that:

(a) Acquires title to a parcel or unit through the foreclosure of its claim of lien, or a deed in lieu of foreclosure, provided that title remains vested in the association or corporation and any rents collected are applied to assessments that are then due; or

(b) Collects rents from tenants in a parcel or unit pursuant to s. 718.116(11), s. 719.108(10), or s. 720.3085(8).



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Section 3. Present subsections (1), (2), and (3) of section 702.036, Florida Statutes, are redesignated as subsections (2), (3), and (4), respectively, a new subsection (1) and subsection (5) are added to that section, and paragraph (a) of present subsection (1) and present subsection (2) of that section are amended, to read:

702.036 Finality of ~~mortgage~~ foreclosure judgment.—

(1) As used in this section, the term "property" means real property.

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

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

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

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

4. The property has been acquired for value, by a person not affiliated with the foreclosing mortgageholder, the foreclosing lienholder, lender or the foreclosed owner, at a



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time in which no lis pendens regarding the suit to set aside, invalidate, or challenge the foreclosure appears in the official records of the county where the property was located.

(3)(2) For purposes of this section, the following, without limitation, shall be considered persons affiliated with the foreclosing ~~lender~~ mortgageholder or foreclosing lienholder:

(a) The foreclosing mortgageholder, the foreclosing lienholder, ~~lender~~ or any loan servicer for the mortgage or lien ~~loan~~ being foreclosed;

(b) Any past or present owner or holder of the mortgage or lien ~~loan~~ being foreclosed;

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

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

(5) If a party seeks relief from a final judgment foreclosing a mortgage or lien, or files a separate action attacking such a final judgment, and the party claims that it holds or held a lien superior in right, priority, or dignity to the mortgage or lien foreclosed in the judgment, the court must award reasonable attorney fees to the party prevailing on the claim. This subsection applies whether the litigation seeking relief from the final judgment occurs in the case in which the judgment was entered or in any separate case or proceeding.



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Section 4. Subsection (2) of section 702.10, Florida Statutes, is amended to read:

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

(2) Except as provided in paragraph (i), in any action for foreclosure, ~~other than owner-occupied residential real estate,~~ in addition to any other relief that the court may award, the plaintiff may request that the court enter an order directing the mortgagor defendant to show cause why an order to make payments during the pendency of the foreclosure proceedings or an order to vacate the premises should not be entered.

(a) The order shall:

1. Set the date and time for hearing on the order to show cause. However, the date for the hearing may not be set sooner than 20 days after the service of the order. If service is obtained by publication, the date for the hearing may not be set sooner than 30 days after the first publication.

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

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

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

5. Require the movant to serve a copy of the order to show cause on the defendant in the following manner:



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156 a. If a defendant has been served with the complaint and
157 original process, service of the order may be made in the manner
158 provided in the Florida Rules of Civil Procedure.

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

164 (b) The right of a defendant to be heard at the hearing to
165 show cause is waived if the defendant, after being served as
166 provided by law with an order to show cause, engages in conduct
167 that clearly shows that the defendant has relinquished the right
168 to be heard on that order. A defendant's failure to file
169 defenses by a motion or by a sworn or verified answer or to
170 appear at the hearing duly scheduled on the order to show cause
171 presumptively constitutes conduct that clearly shows that the
172 defendant has relinquished the right to be heard.

173 (c) If the court finds that a defendant has waived the
174 right to be heard as provided in paragraph (b), the court may
175 promptly enter an order requiring payment in the amount provided
176 in paragraph (f) or an order to vacate.

177 (d) If the court finds that the mortgagor has not waived
178 the right to be heard on the order to show cause, the court
179 shall, at the hearing on the order to show cause, consider the
180 affidavits and other showings made by the parties appearing and
181 make a determination of the probable validity of the underlying
182 claim alleged against the mortgagor and the mortgagor's
183 defenses. If the court determines that the plaintiff is likely
184 to prevail in the foreclosure action, the court shall enter an



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order requiring the mortgagor to make the payment described in paragraph (e) to the plaintiff and provide for a remedy as described in paragraph (f). However, the order shall be stayed pending final adjudication of the claims of the parties if the mortgagor files with the court a written undertaking executed by a surety approved by the court in an amount equal to the unpaid balance of the lien being foreclosed, including all principal, interest, unpaid taxes, and insurance premiums paid by the plaintiff.

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

(f) If the court enters an order requiring payments, the order shall also provide that the plaintiff is entitled to possession of the premises upon the failure of the mortgagor to make the payment required in the order unless at the hearing on the order to show cause the court finds good cause to order some other method of enforcement of its order.

(g) All amounts paid pursuant to this section shall be credited against the mortgage obligation in accordance with the terms of the loan documents; however, payments made under this



417302

section do not constitute a cure of any default or a waiver or any other defense to the mortgage foreclosure action.

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

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

(j) For purposes of this subsection, the term "mortgagor" means a person who grants a mortgage or a successor in ownership of the real property described in the mortgage. The term does not include a

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

And the title is amended as follows:

Delete lines 16 - 17

and insert:

702.10, F.S.; making conforming

By Senator Powell

24-00376-23

2023286__

A bill to be entitled

An act relating to legal instruments; amending s. 117.201, F.S.; defining the term "witness"; amending s. 697.07, F.S.; defining the terms "mortgagee" and "mortgagor"; requiring that a lien created by an assignment of rents be perfected against a mortgagor in addition to third parties under certain conditions; making technical changes; revising the types of expenses that may be paid by collected rents in foreclosure actions under certain circumstances; providing applicability; amending s. 702.036, F.S.; defining the term "property"; expanding the scope of a final judgment of foreclosure to include other liens; requiring the award of attorney fees in certain circumstances; providing applicability; amending s. 702.10, F.S.; revising the class of persons authorized to move for expedited foreclosure; making conforming changes; defining the term "mortgagor"; providing for retroactive applicability of a specified provision; providing an effective date.

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

Section 1. Subsection (16) is added to section 117.201, Florida Statutes, to read:

117.201 Definitions.—As used in this part, the term:

(16) "Witness," when used as a noun, means an individual whose electronic signature is affixed to an electronic record as an attesting or subscribing witness.

Page 1 of 10

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

24-00376-23

2023286__

Section 2. Present subsections (1) through (8) of section 697.07, Florida Statutes, are redesignated as subsections (2) through (9), respectively, present subsections (2), (3), and (4) of that section are amended, and a new subsection (1) and subsection (10) are added to that section, to read:

697.07 Assignment of rents.—

(1) For purposes of this section, the term:

(a) "Mortgagee" means any party entitled to enforce the mortgage or assignment of rents instrument under applicable law.

(b) "Mortgagor" means the original mortgagor and all parties who have subsequently acquired title to the property subject to the assignment.

(3)(2) If such an assignment is made, the mortgagee shall hold a lien on the rents, and the lien created by the assignment shall be perfected and effective against the mortgagor and third parties upon recordation of the mortgage or separate instrument in the public records of the county in which the real property is located, according to law.

(4)(3) Unless otherwise agreed to in writing by the mortgagee and mortgagor, the lien created by the assignment of rents ~~is shall be~~ enforceable upon the mortgagor's default and written demand for the rents made by the mortgagee to the mortgagor, whereupon the mortgagor shall turn over all rents in the possession or control of the mortgagor at the time of the written demand or collected thereafter (the "collected rents") to the mortgagee less payment of any expenses authorized by the mortgagee in writing.

(5)(4) Upon application by the mortgagee or mortgagor, in a foreclosure action, and notwithstanding any asserted defenses or

Page 2 of 10

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counterclaims of the mortgagor, a court of competent jurisdiction, pending final adjudication of any action, may require the mortgagor to deposit the collected rents into the registry of the court, or in such other depository as the court may designate. However, the court may authorize the use of the collected rents, before deposit into the registry of the court or other depository, to:

(a) Pay the reasonable expenses solely to protect, preserve, and operate the real property, including, without limitation, real estate taxes, ~~and insurance, and assessments~~ that become due after the entry of the court's order to a homeowners' association or an association, as those terms are defined in s. 720.301, or a corporation regulated under chapter 718 or chapter 719;

(b) Escrow sums required by the mortgagee or separate assignment of rents instrument; and

(c) Make payments to the mortgagee.

The court shall require the mortgagor to account to the court and the mortgagee for the receipt and use of the collected rents and may also impose other conditions on the mortgagor's use of the collected rents.

(10) This section does not apply to a corporation that is a homeowners' association or an association, as those terms are defined in s. 720.301, or a corporation regulated under chapter 718 or chapter 719, that:

(a) Acquires title to a parcel or unit through the foreclosure of its claim of lien, or a deed in lieu of foreclosure, provided that title remains vested in the

24-00376-23

2023286__

association or corporation and any rents collected are applied to assessments that are then due; or

(b) Collects rents from tenants in a parcel or unit pursuant to s. 718.116(11), s. 719.108(10), or s. 720.3085(8).

Section 3. Present subsections (1), (2), and (3) of section 702.036, Florida Statutes, are redesignated as subsections (2), (3), and (4), respectively, a new subsection (1) and subsection (5) are added to that section, and paragraph (a) of present subsection (1) and present subsection (2) of that section are amended, to read:

702.036 Finality of ~~mortgage~~ foreclosure judgment.-

(1) As used in this section, the term "property" means real property.

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

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

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

3. All applicable appeals periods have run as to the final judgment of foreclosure of the mortgage or lien with no appeals

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having been taken or any appeals having been finally resolved.

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

~~(3)(2)~~ For purposes of this section, the following, without limitation, shall be considered persons affiliated with the foreclosing lender:

(a) The foreclosing mortgageholder, the foreclosing lienholder, lender or any loan servicer for the mortgage or lien ~~loan~~ being foreclosed;

(b) Any past or present owner or holder of the mortgage or lien ~~loan~~ being foreclosed;

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

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

(5) If a party seeks relief from a final judgment foreclosing a mortgage or lien, or files a separate action attacking such a final judgment, and the party claims that it holds or held a lien superior in right, priority, or dignity to the mortgage or lien foreclosed in the judgment, the court must

24-00376-23

2023286

award reasonable attorney fees to the party prevailing on the claim. This subsection applies whether the litigation seeking relief from the final judgment occurs in the case in which the judgment was entered or in any separate case or proceeding.

Section 4. Subsection (2) of section 702.10, Florida Statutes, is amended to read:

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

(2) Except as provided in paragraph (i), in any action for foreclosure, ~~other than owner-occupied residential real estate,~~ in addition to any other relief that the court may award, the plaintiff may request that the court enter an order directing the mortgagor ~~defendant~~ to show cause why an order to make payments during the pendency of the foreclosure proceedings or an order to vacate the premises should not be entered.

(a) The order shall:

1. Set the date and time for hearing on the order to show cause. However, the date for the hearing may not be set sooner than 20 days after the service of the order. If service is obtained by publication, the date for the hearing may not be set sooner than 30 days after the first publication.

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

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

4. State that, if the mortgagor ~~a defendant~~ fails to appear at the hearing to show cause and fails to file defenses by a

24-00376-23

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175 motion or by a verified or sworn answer, the mortgagor ~~defendant~~
 176 is deemed to have waived the right to a hearing and in such case
 177 the court may enter an order to make payment or vacate the
 178 premises.

179 5. Require the movant to serve a copy of the order to show
 180 cause on the mortgagor ~~defendant~~ in the following manner:

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

184 b. If the mortgagor ~~a defendant~~ has not been served with
 185 the complaint and original process, the order to show cause,
 186 together with the summons and a copy of the complaint, shall be
 187 served on the mortgagor ~~defendant~~ in the same manner as provided
 188 by law for original process.

189 (b) The right of the mortgagor ~~a defendant~~ to be heard at
 190 the hearing to show cause is waived if the mortgagor ~~defendant~~,
 191 after being served as provided by law with an order to show
 192 cause, engages in conduct that clearly shows that the mortgagor
 193 ~~defendant~~ has relinquished the right to be heard on that order.
 194 The mortgagor's ~~A defendant's~~ failure to file defenses by a
 195 motion or by a sworn or verified answer or to appear at the
 196 hearing duly scheduled on the order to show cause presumptively
 197 constitutes conduct that clearly shows that the mortgagor
 198 ~~defendant~~ has relinquished the right to be heard.

199 (c) If the court finds that the mortgagor ~~a defendant~~ has
 200 waived the right to be heard as provided in paragraph (b), the
 201 court may promptly enter an order requiring payment in the
 202 amount provided in paragraph (f) or an order to vacate.

203 (d) If the court finds that the mortgagor has not waived

Page 7 of 10

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

24-00376-23

2023286__

204 the right to be heard on the order to show cause, the court
 205 shall, at the hearing on the order to show cause, consider the
 206 affidavits and other showings made by the parties appearing and
 207 make a determination of the probable validity of the underlying
 208 claim alleged against the mortgagor and the mortgagor's
 209 defenses. If the court determines that the plaintiff is likely
 210 to prevail in the foreclosure action, the court shall enter an
 211 order requiring the mortgagor to make the payment described in
 212 paragraph (e) to the plaintiff and provide for a remedy as
 213 described in paragraph (f). However, the order shall be stayed
 214 pending final adjudication of the claims of the parties if the
 215 mortgagor files with the court a written undertaking executed by
 216 a surety approved by the court in an amount equal to the unpaid
 217 balance of the lien being foreclosed, including all principal,
 218 interest, unpaid taxes, and insurance premiums paid by the
 219 plaintiff.

220 (e) If the court enters an order requiring the mortgagor to
 221 make payments to the plaintiff, payments shall be payable at
 222 such intervals and in such amounts provided for in the mortgage
 223 instrument before acceleration or maturity. The obligation to
 224 make payments pursuant to any order entered under this
 225 subsection shall commence from the date of the motion filed
 226 under this section. The order shall be served upon the mortgagor
 227 no later than 20 days before the date specified for the first
 228 payment. The order may permit, but may not require, the
 229 plaintiff to take all appropriate steps to secure the premises
 230 during the pendency of the foreclosure action.

231 (f) If the court enters an order requiring payments, the
 232 order shall also provide that the plaintiff is entitled to

Page 8 of 10

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24-00376-23 2023286__

possession of the premises upon the failure of the mortgagor to make the payment required in the order unless at the hearing on the order to show cause the court finds good cause to order some other method of enforcement of its order.

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

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

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

(j) For purposes of this subsection, the term "mortgagor" means the original mortgagor and any subsequent owner or party in possession of the property. The term does not include a homeowners' association or an association, as those terms are defined in s. 720.301, or a corporation regulated under chapter 718 or chapter 719, that:

1. Acquires title to a parcel or unit through the foreclosure of its claim of lien, or a deed in lieu of foreclosure, provided that title remains vested in the

24-00376-23 2023286__

association or corporation and any rents collected are applied to assessments that are then due; or

2. Collects rents from the tenants in the parcel or unit pursuant to s. 718.116(11), s. 719.108(10), or s. 720.3085(8).

Section 5. The amendment to s. 117.201, Florida Statutes, made by this act is intended to clarify existing law and applies retroactively to January 1, 2020.

Section 6. This act shall take effect July 1, 2023.

The Florida Senate
APPEARANCE RECORD

2/8/23

Meeting Date

BANKING & INSURANCE

Committee

SB 286

Bill Number or Topic

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

Amendment Barcode (if applicable)

Name

FRENCH BROWN

Phone

850-459-0992

Address

106 E. College Ave, Suite 1200

Email

Street

Tallahassee FL

32301

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:

The REAL Property, Probate, AND TRUST LAW SECTION of the FL BAR

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

2/8/23

Meeting Date

SB 286

Bill Number or Topic

Banking & Insurance

Committee

Amendment Barcode (if applicable)

Name Kenneth Pratt

Phone 850-509-8020

Address 1001 Thomasville Rd Ste 201

Street

Email kpratt@floridabankers.com

Tallahassee FL 32301

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:

Florida Bankers Association

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

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

S-001 (08/10/2021)

COMMITTEE: Banking and Insurance
ITEM: SB 286
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Wednesday, February 8, 2023
TIME: 9:30—11:30 a.m.
PLACE: 412 Knott Building

[illegible]

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call

WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

STATE BOARD OF ADMINISTRATION

FLORIDA HURRICANE CATASTROPHE FUND REINSURANCE TO ASSIST POLICYHOLDERS PROGRAM FLORIDA OPTIONAL REINSURANCE ASSISTANCE PROGRAM

Senate Banking and Insurance Committee

February 8, 2023

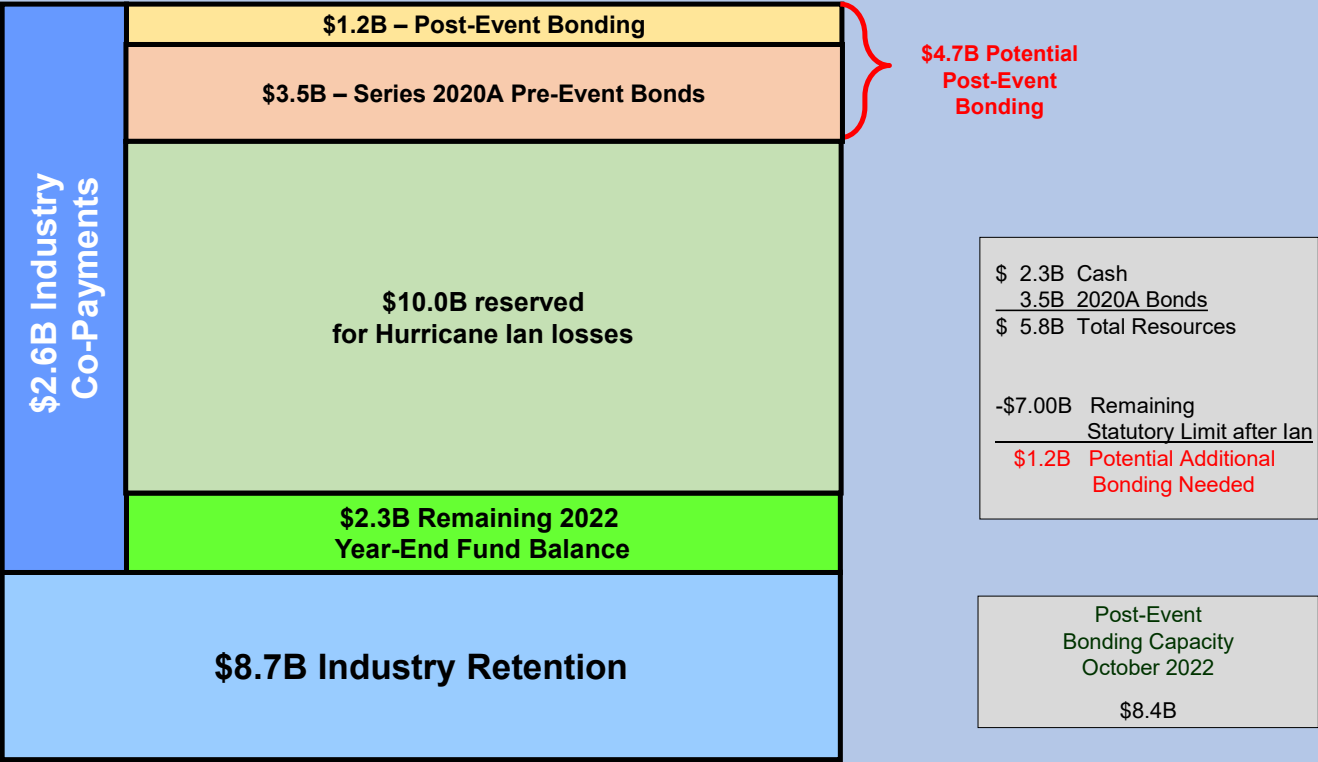


Maximum Coverage Chart - \$17B FHCF Capacity

(Loss Adjustment Expense of 10% is included in the capacity)

as of January 23, 2023

Ultimate Losses are net of \$7.8B for Hurricane Irma, \$1.45B for Hurricane Michael, and \$10B for Hurricane Ian



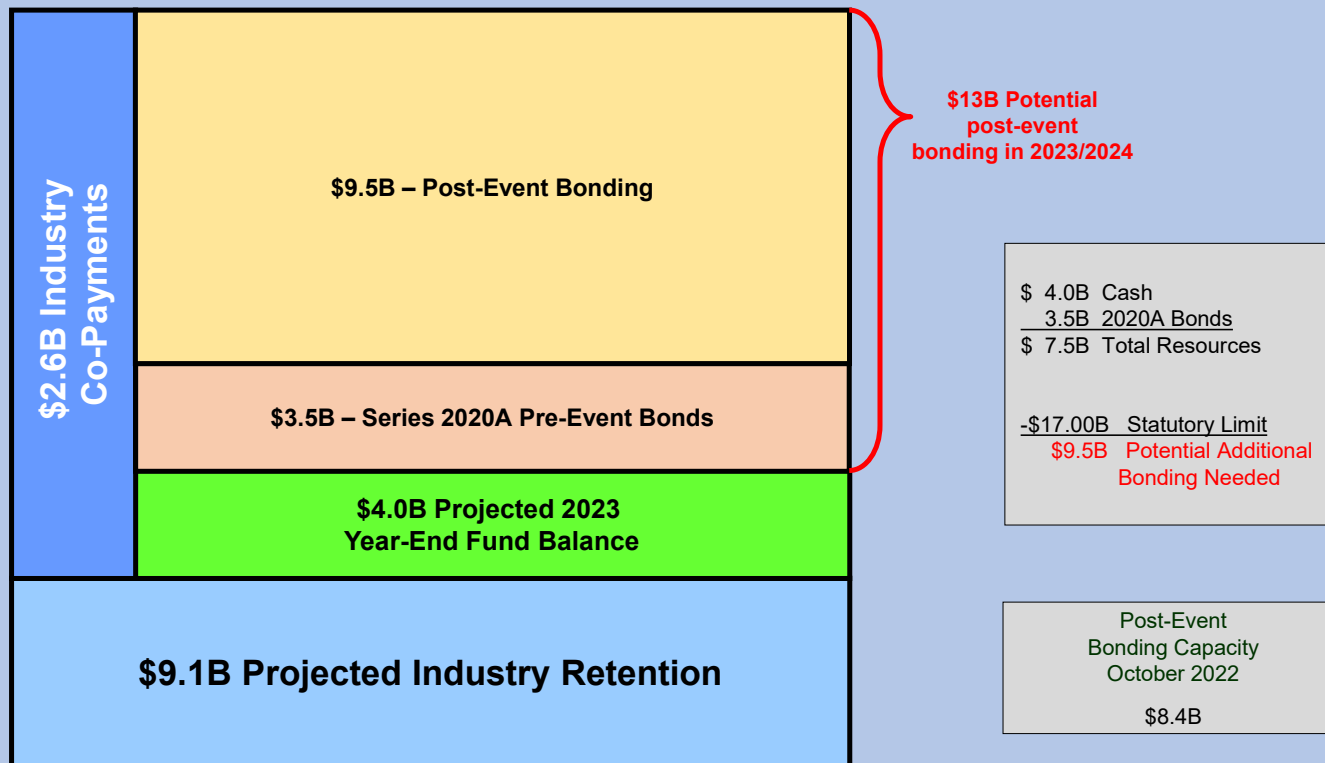
• Relevant data is aggregated for all participating insurers. Each participating insurer has its own retention and maximum coverage level. All insurers would need to reach their maximum coverage limits in order to exhaust the last billion of FHCF Coverage. Insurers can trigger coverage below the industry retention.

Maximum Coverage Chart - \$17B FHCF Capacity

as of January 23, 2023

(Loss Adjustment Expense of 10% is included in the capacity)

Ultimate Losses are net of \$7.8B for Hurricane Irma, \$1.45B for Hurricane Michael and \$10B for Hurricane Ian



- Relevant data is aggregated for all participating insurers. Each participating insurer has its own retention and maximum coverage level. All insurers would need to reach their maximum coverage limits in order to exhaust the last billion of FHCF Coverage. Insurers can trigger coverage below the industry retention.

FHCF Hurricane Losses

Summary of Reported Losses

As of December 31, 2022 (\$Billions)

	Irma	Michael	Ian	Total
Projected Industry Ultimate Total Incurred Loss (prior to FHCF retention & co-pay)	\$16.72	\$5.56	\$21.17	\$43.45
Projected FHCF Ultimate Total Incurred Loss	\$7.80	\$1.45	\$10.00	\$19.25

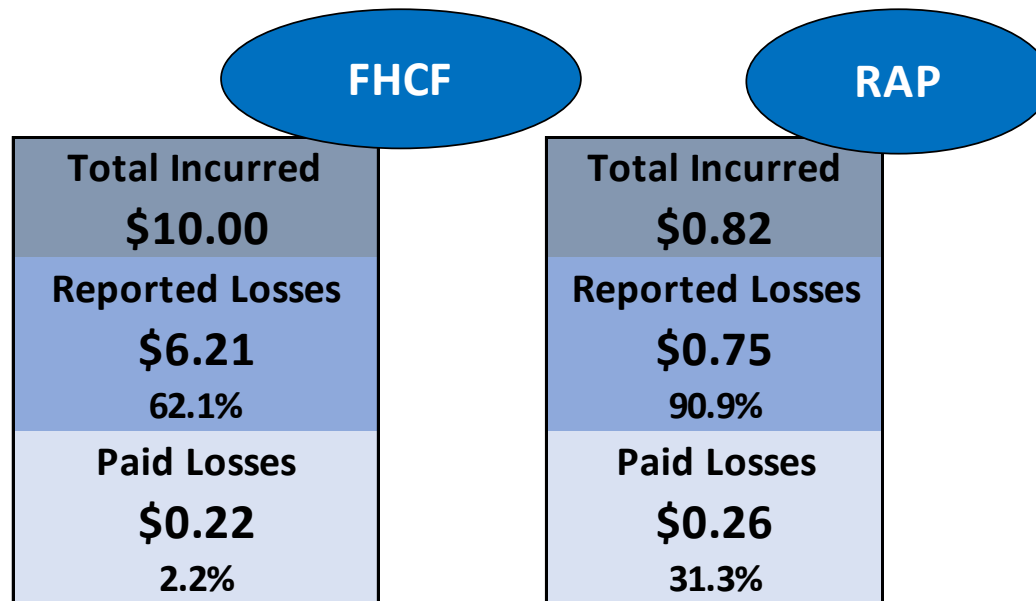
FHCF Paid Losses

As of December 31, 2022 (\$Billions)

Year	Covered Event	# of Insurers Paid to Date	# Insurers Expected to be Paid	Total Paid to Date
2017	Irma	102	106	\$6.87
2018	Michael	35	39	\$1.16
2022	Ian	19	91	\$0.22

FHCF and RAP Losses

HURRICANE IAN



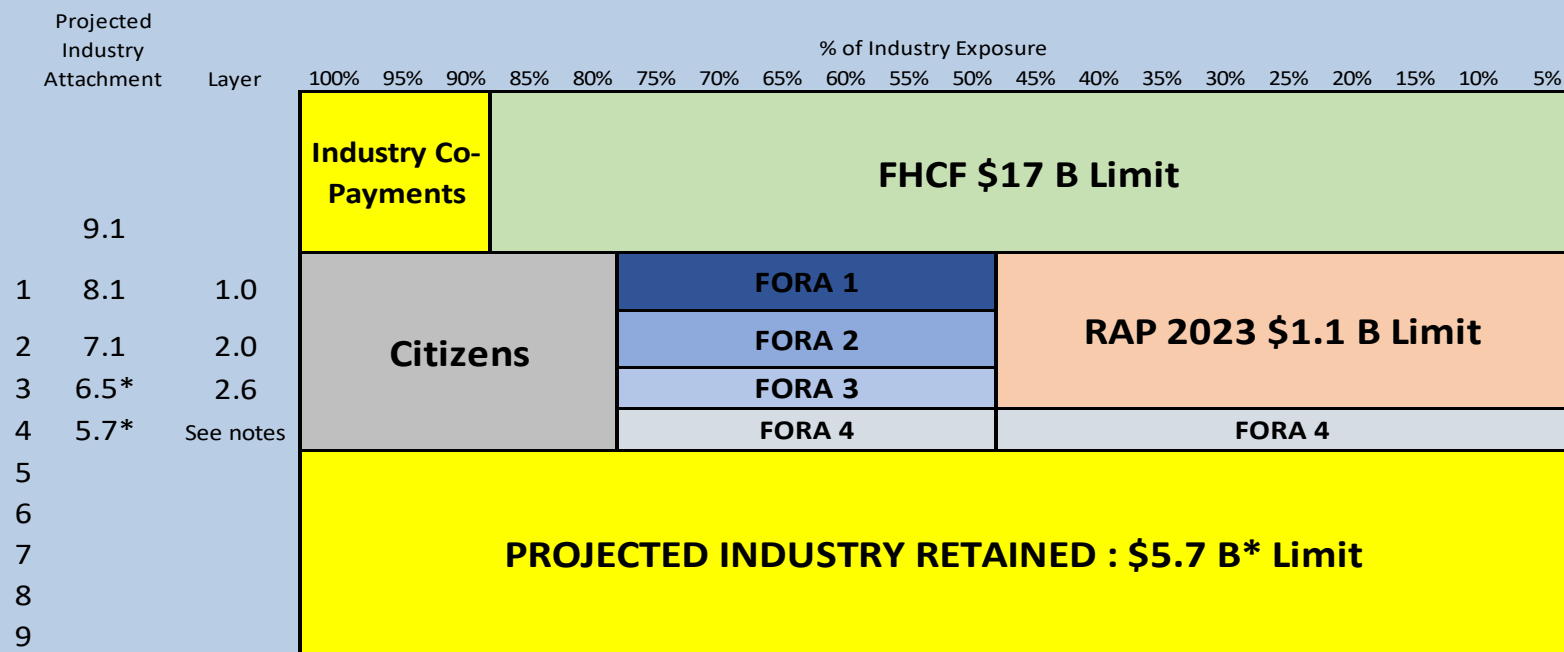
as of: 12/31/2022

* in billions

Comparison of FHCF, RAP & FORA Programs

	FHCF	RAP	FORA
Percent of coverage	Election levels: 90%, 75% or 45%	90%	100%
Loss Adjustment Expense Allowance	10%	10%	None
Cost for Coverage	Actuarially determined premium	None	Rate on Line: Layer 1 – 50% Layer 2 – 55% Layer 3 – 60% Layer 4 – 65%
Premium Due Date	Annual Installments due August 1, October 1 & December 1	N/A	July 1, 2023
Funding source	Premiums	General Revenue funds	Premiums and General Revenue funds
Events Covered	Multiple events up to an aggregate limit	Two events with the largest losses for the insurer, up to an aggregate limit	Two events with the largest losses for the insurer, up to an aggregate limit
Participation	Mandatory	Mandatory	Optional
Program Term	Perpetual – on a contract year basis	One of two years (2022 or 2023)	One year (2023)

Coverage Chart - FHCF, RAP & FORA Programs



All values in this diagram are for illustrative purposes only.

Notes:

- FORA layers 1 through 3 assumes approximately \$0.9 B capacity available only to companies that selected RAP for 2022.
- FORA layers 1 through 4 must be purchased sequentially.
- FORA layer 4 is only available to companies purchasing FORA layer 3 & RAP 2023 insurers.
- FORA 4 layer is dependent on the available limit after take-up for FORA layers 1,2,3 is known.
- 6.5B* is a preliminary estimate and is dependent on final RAP qualification values for 2023.
- 5.7B* is a preliminary estimate and final value is dependent on take-up for FORA layers 1,2,3.

The Florida Senate
APPEARANCE RECORD

2-8-23

Meeting Date

SB+I

Committee

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

Bill Number or Topic

Amendment Barcode (if applicable)

Name Gina Wilson Phone 850-413-1340

Address 1801 Hermitage Blvd Email gina.wilson@sbafla.com
Street

Tallahassee FL 32308
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:

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. [2020-2022JointRules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

OIR Overview

FLORIDA OFFICE OF INSURANCE REGULATION

February 8, 2023

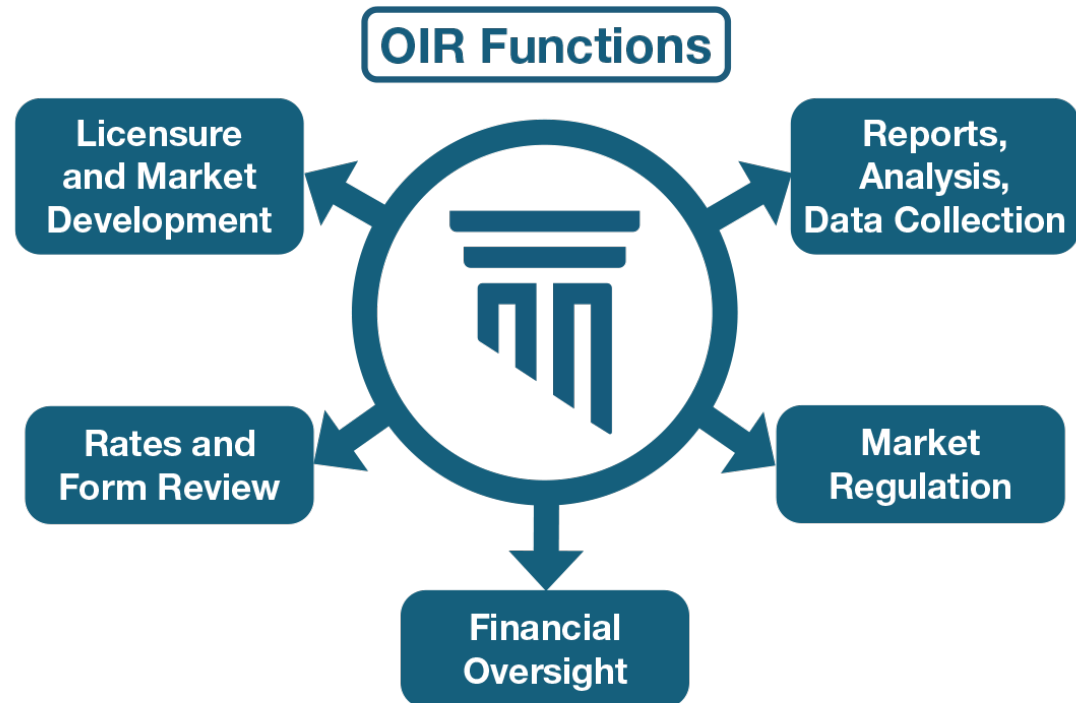
Florida Office of Insurance Regulation (OIR) Overview

Mission

To promote a stable and competitive insurance market for consumers.

Vision

OIR envisions a robust and competitive insurance market while maintaining protections for the insurance-buying public.





Product Review

OIR Product Review monitors the products that insurers provide in the marketplace. The principal function is to review the rate, rule, and form filings submitted by insurers to ensure compliance with all applicable laws.



The Product Review Units provide actuarial and insurance coverage reviews for new and existing products to maintain protections for insurance consumers.

FILING REVIEW

RATE REVIEW

NEW PRODUCTS



Financial Oversight

OIR Financial Oversight monitors the financial condition of all regulated entities through the use of internal financial analysis and on-site examinations. Financial Oversight is also responsible for conducting reviews of all new applicants desiring entrance to the Florida marketplace as well as those proposing to expand into additional lines of business.



OIR receives financial statement filings and other information related to the business operations of regulated entities and takes action to address compliance issues in order to protect consumers.

**COMPANY
ADMISSIONS**

**FINANCIAL
ANALYSIS**

**FINANCIAL
EXAMINATION**



Market Regulation

OIR Market Regulation monitors the conduct of insurers in the marketplace, enforcing Florida Statutes through remediation and administrative action.



OIR receives information from a variety of stakeholders and takes action to identify issues and best protect consumers.

INQUIRY

INVESTIGATION

EXAMINATION



Contact Information

Alexis Bakofsky, Chief of Staff

Alexis.Bakofsky@floir.com

(850) 413-5000

Kevin Jacobs, Deputy Chief of Staff

Kevin.Jacobs@floir.com

(850) 413-5011

Stephen Marante, Deputy Government Affairs Director

Stephen.Marante@floir.com

(850) 413-2427

For more information visit www.floir.com.



February 8, 2023

Florida Office of Insurance Regulation

The Florida Senate

APPEARANCE RECORD

2/8/2023

Meeting Date

Senate B+I

Committee

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

Bill Number or Topic

Amendment Barcode (if applicable)

Name Alexis Bakofsky

Phone (850) 413-5000

Address 200 E Gaines St.
Street

Email Alexis.Bakofsky@flsirr.com

Tallahassee FL
City State

32399
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: OIR

☐ 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)

CourtSmart Tag Report

Room: KB 412
Caption: Senate Banking and Insurance Committee

Case No.: -

Type:
Judge:

Started: 2/8/2023 9:30:44 AM
Ends: 2/8/2023 10:11:55 AM
Length: 00:41:12

9:30:44 AM Chair Boyd calls meeting to order
9:30:49 AM Chair Boyd calls makes brief comment
9:31:04 AM Roll called
9:31:21 AM Quorum present
9:31:29 AM Chair gives committee meeting instructions
9:31:48 AM Tab 1
9:31:57 AM SB 286 on Legal Instruments by Senator Powell
9:32:32 AM Senator Powell explains bill
9:33:08 AM Senator Boyd
9:33:20 AM No questions
9:33:42 AM Amendment 1 Barcode #417302
9:33:43 AM Amendment explained
9:33:50 AM No debate
9:33:54 AM Amendment reported favorable
9:34:01 AM Back on the bill
9:34:13 AM Kenneth Pratt of the Florida Bankers Association waives speaking in support of the bill
9:34:16 AM French Brown of The Real Property, Probate, and Trust Law Section of The Florida Bar waives speaking in support of bill
9:34:31 AM No debate
9:34:38 AM Roll called
9:35:07 AM Bill reported favorable
9:35:23 AM Tab 2
9:35:25 AM Presentation by Gina Wilson, Florida Hurricane Catastrophe Fund
9:35:33 AM Senator Boyd
9:35:48 AM Presentation by Gina Wilson
9:49:42 AM Gina Wilson concludes presentation
9:50:45 AM Senator Boyd makes comments on the presentation
9:50:55 AM Questions:
9:51:13 AM Senator Torres
9:52:12 AM Gina Wilson
9:52:38 AM Senator Torres
9:52:53 AM Gina Wilson
9:53:07 AM Gina Wilson additional comments
9:53:12 AM Senator Boyd makes comments
9:53:37 AM Senator Boyd
9:53:39 AM Gina Wilson
9:53:57 AM Senator Torres
9:54:04 AM Senator Torres makes comments
9:54:27 AM Senator Torres directs question and comments to Chair Boyd
9:54:28 AM Senator Boyd responds to Senator Torres
9:55:10 AM Senator Broxson makes comments
9:55:28 AM Presentation concludes
9:56:03 AM Senator Boyd thanks presenter
9:56:23 AM Tab 3
9:56:45 AM Presentation by Alexis Bakofsky, Office of Insurance Regulation
9:56:46 AM Senator Boyd makes comments
9:56:51 AM Alexis Bakofsky begins presentation
10:02:02 AM Alexis Bakeofsky concludes presentation
10:03:05 AM Senator Boyd
10:03:10 AM Questions:
10:03:13 AM Senator Powell
10:03:50 AM Alexis Bakofsky

10:04:02 AM	Senator Powell
10:04:39 AM	Senator Boyd
10:04:41 AM	Senator Thompson
10:04:54 AM	Alexis Bakofsky
10:05:08 AM	Senator Thompson
10:05:44 AM	Senator Boyd
10:05:51 AM	Senator Thompson
10:05:56 AM	Alexis Bakofsky
10:06:01 AM	Senator Thompson
10:06:24 AM	Senator Boyd
10:06:51 AM	Alexis Bakofsky
10:07:02 AM	Senator Boyd
10:07:05 AM	Senator Torres
10:07:13 AM	Alexis Bakofsky
10:07:19 AM	Senator Torres
10:07:28 AM	Alexis Bakofsky
10:07:56 AM	Senator Torres
10:08:18 AM	Alexis Bakofsky
10:08:37 AM	Senator Torres
10:09:07 AM	Alexis Bakofsky
10:09:23 AM	Senator Torres
10:09:47 AM	Senator Boyd
10:10:03 AM	Presentation Concludes
10:10:16 AM	Senator Boyd thanks presenter, makes comments
10:11:07 AM	Senator Trumbull moves we adjourn; meeting adjourned.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR BLAISE INGOGLIA

11th District

COMMITTEES:

Finance and Tax, *Chair*
Appropriations
Appropriations Committee on Criminal
and Civil Justice
Banking and Insurance
Children, Families, and Elder Affairs
Criminal Justice
Ethics and Elections

SELECT COMMITTEE:

Select Committee on Resiliency

JOINT COMMITTEE:

Joint Administrative Procedures Committee, *Alternating
Chair*

February 7th, 2022

The Honorable Jim Boyd, Chairman
Suite 418, Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Chairman Boyd,

I respectfully ask to be excused from the Committee on Banking & Insurance that will be held on Wednesday, February 8th at 9:30 am.

Thank you for your leadership and consideration of this request.

Sincerely,

A handwritten signature in blue ink, consisting of a stylized 'B' and 'I' followed by a horizontal line.

Blaise Ingoglia
State Senator, District 11