

NEW FLORIDA RULES ON FORECLOSURE LAW

The Florida Supreme Court on Thursday formalized amendments to the Rules of Civil Procedure for mortgage foreclosures, adopting changes for pleadings and forms.

The amendments come after the Civil Procedure Rules Committee filed a fast-track, out-of-cycle report to amend the rules to reflect legislative changes from 2013 that were meant to speed up foreclosure proceedings under Section 702.015 of the Florida Statutes.

Rule 1.115 on pleadings was amended to specify the rule governs mortgage or lien foreclosures on residential property secured by promissory notes.

Another change adds a reference to Section 702.11 to protect lenders against losses if an unauthorized party tries to enforce the note and provides guidelines for making allowances when notes are lost, destroyed or stolen.

A paragraph was added to Form 1.944(a), a mortgage foreclosure document on delegated authority. The new paragraph provides choices to clarify whether the plaintiff is the holder of the original note or another party who doesn't hold the note but has the owner's authorization to enforce it.

A change to Form 1.944(b), used when lenders don't know the location of the original note, incorporates the pleading requirements and other language for consistency with Form 1.944(a).

Form 1.944(c), used to create a motion for an order to show cause, and Form 1.944(d), the order to show cause, were amended to remove references to homestead status.