

HB 145

2012

1 A bill to be entitled
2 An act relating to residential foreclosure
3 proceedings; providing a short title; creating s.
4 501.1379, F.S.; defining terms; prohibiting certain
5 acts by mortgage collection firms; providing that
6 violations are deceptive and unfair trade practices;
7 providing penalties and remedies; providing for the
8 award of attorney's fees and costs under certain
9 circumstances; providing an effective date.

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

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13 Section 1. This act may be cited as the "Florida Mortgage
14 Collection Fairness Act."

15 Section 2. Section 501.1379, Florida Statutes, is created
16 to read:

17 501.1379 Mortgage collection firms; prohibited practices;
18 penalties and remedies.—

19 (1) As used in this section, the term:

20 (a) "Mortgage collection firm" means:

21 1. An attorney or law firm engaged to represent a party
22 filing a residential mortgage foreclosure action; or

23 2. A person engaged in debt collection services for a
24 residential mortgage loan.

25 (b) "Mortgage modification agreement" means a written
26 agreement to modify the interest rate or other terms of a
27 residential mortgage to avoid default of the mortgage or
28 foreclosure proceedings.

29 (2) A mortgage collection firm may not:

30 (a) Offer evidence in a residential mortgage foreclosure
31 proceeding that the firm knows to be false.

32 (b) Knowingly breach a bona fide mortgage modification
33 agreement.

34 (c) Retake possession, without judicial process, of
35 residential real property for a party filing a mortgage
36 foreclosure action upon such property, unless such property is
37 abandoned for more than 30 days.

38 (3) A violation of subsection (2) is a deceptive and
39 unfair trade practice and constitutes a violation of the Florida
40 Deceptive and Unfair Trade Practices Act. A mortgage collection
41 firm that violates subsection (2) is subject to the penalties
42 and remedies provided in part II of this chapter, including the
43 award of reasonable attorney's fees and costs under s. 501.2105.

44 Section 3. This act shall take effect July 1, 2012.