

Form 1.944(b) Mortgage Foreclosure

(When location of original note unknown)

COMPLAINT

Plaintiff, ABC, sues defendant, XYZ, and states:

1. This is an action to foreclose a mortgage on real property in County, Florida.
2. On(date)....., defendant executed and delivered a promissory note and a mortgage securing the payment of said note to(plaintiff or plaintiff's predecessor)..... The mortgage was recorded on(date)....., in Official Records Book at page of the public records of County, Florida, and mortgaged the property described therein which was then owned by and in possession of the mortgagor. A copy of the mortgage and note are attached to the affidavit which is attached hereto as Composite Exhibit "1"; the contents of the affidavit are specifically incorporated by reference.
3. Plaintiff is not in possession of the note but is entitled to enforce it.
4. (select a, b, c, or d) Plaintiff cannot reasonably obtain possession of the note because
 - (a) the note was destroyed.
 - (b) the note is lost.
 - (c) the note is in the wrongful possession of an unknown person.
 - (d) the note is in the wrongful possession of a person that cannot be found or is not amenable to service of process.
5. (select a, b, c, d, e, or f)
 - (a) When loss of possession occurred, plaintiff was the holder of the original note secured by the mortgage.
 - (b) When loss of possession occurred, plaintiff was a person entitled to enforce the note under applicable law because(allege specific facts).....
 - (c) Plaintiff has directly or indirectly acquired ownership of the note from a person entitled to

enforce the note when loss of possession occurred as follows:(allege facts as to transfer of ownership).....

(d) Plaintiff has been delegated the authority to institute a mortgage foreclosure action on behalf of the holder of the original note who lost possession of the note. The document(s) that grant(s) plaintiff the authority to act on behalf of the person entitled to enforce the note is/are as follows (attach documents if not already attached).

(e) Plaintiff has been delegated the authority to institute a mortgage foreclosure action on behalf of the person entitled to enforce the note when loss of possession occurred because(allege specific facts)..... The document(s) that grant(s) plaintiff the authority to act on behalf of the person entitled to enforce the note is/are as follows (attach documents if not already attached).

(f) Plaintiff has been delegated the authority to institute a mortgage foreclosure action on behalf of the person or entity who directly or indirectly acquired ownership of the note from a person entitled to enforce the note when loss of possession occurred, as follows:(allege specific facts)..... the document(s) that grant(s) plaintiff the authority to act on behalf of the person entitled to enforce the note is/are as follows (attach documents if not already attached).

6. Plaintiff did not transfer the note or lose possession of it as the result of a lawful seizure.

7. The property is now owned by defendant who holds possession.

8. Defendant has defaulted under the note and mortgage by failing to pay the payment(s) due(date(s))..... , and all subsequent payments (identify other defaults as applicable).....

9. Plaintiff declares the full amount payable under the note and mortgage to be due.

10. Defendant owes plaintiff \$..... that is due on principal on the note and mortgage, interest from(date)....., and title search expense for ascertaining necessary parties to this action.

11. Plaintiff is obligated to pay its attorneys a reasonable fee for their services. Plaintiff is entitled to recover its attorneys' fees for prosecuting this claim pursuant to(identify statutory and/or contractual bases, as applicable).....

WHEREFORE, Plaintiff demands judgment re-establishing the promissory note, determining the amount and nature of adequate protection to be required by sections 673.3091(2) and 702.11, Florida Statutes, foreclosing the mortgage, for costs (and, where applicable, for attorneys' fees), and if the proceeds of the sale are insufficient to pay plaintiff's claim, a deficiency judgment.

NOTE: An action for foreclosure of a mortgage on residential real property must contain an oath, affirmation, or the following statement as required by rule 1.115(e).

VERIFICATION

Under penalty of perjury, I declare that I have read the foregoing, and the facts alleged therein are true and correct to the best of my knowledge and belief.

Executed on(date).....

(Person Signing Verification)

AFFIDAVIT OF COMPLIANCE

STATE OF FLORIDA

COUNTY OF

BEFORE ME, the undersigned authority, personally appeared(name)....., who, after being first duly sworn, deposes and states, under penalty of perjury:

1. I am the plaintiff (or plaintiff's) (identify relationship to plaintiff).

I am executing this affidavit in support of plaintiff's Complaint against defendant and I have personal knowledge of the matters set forth herein.

2. On(date)..... , the public records reflect that defendant executed and delivered a mortgage securing the payment of the note to(plaintiff/plaintiff's predecessor)..... The mortgage was recorded on(date)..... , in Official Records Book at page of the public records of County, Florida, and mortgaged the property described therein, which was then owned by and in possession of the mortgagor, a copy of the mortgage and the note being attached.

3. Plaintiff is not in possession of the note but is entitled to enforce it.

4. (select a, b, c, or d) Plaintiff cannot reasonably obtain possession of the note because

(a) the note was destroyed.

(b) the note is lost.

(c) the note is in the wrongful possession of an unknown person.

(d) the note is in the wrongful possession of a person who cannot be found or is not amenable to service of process.

5. (select a, b, c, d, e, or f)

(a) When loss of possession occurred, plaintiff was the holder of the original note secured by the mortgage.

(b) When loss of possession occurred, plaintiff was a person entitled to enforce the note under applicable law because(allege specific facts).....

(c) Plaintiff has directly or indirectly acquired ownership of the note from a person entitled to enforce the note when loss of possession occurred as follows:(allege facts regarding transfer of ownership).....

(d) Plaintiff has been delegated the authority to institute a mortgage foreclosure action on behalf of the holder of the original note who lost possession of the note. The document(s) that grant(s) plaintiff the authority to act on behalf of the person entitled to enforce the note is/are as follows (attach copy of document(s) or relevant portion(s) of the document(s)).

(e) Plaintiff has been delegated the authority to institute a mortgage foreclosure action on behalf of the person entitled to enforce the original note when loss of possession occurred, because(allege specific facts)..... The document(s) that grant(s) plaintiff the authority to act on behalf of the person entitled to enforce the note is/are as follows (attach documents if not already attached).

(f) Plaintiff has been delegated the authority to institute a mortgage foreclosure action on behalf of the person or entity who directly or indirectly acquired ownership of the note from a person entitled to enforce the original note when loss of possession occurred, as follows(allege specific facts)..... The document(s) that grant(s) plaintiff the authority to act on behalf of the person entitled to enforce the note is/are as follows (attach documents if not already attached).

6. Below is the clear chain of the endorsements, transfers, allonges or assignments of the note and all documents that evidence same as are available to Plaintiff:(identify in chronological order all endorsements, transfers, assignments of, allonges to, the note or other evidence of the acquisition, ownership and possession of the note)..... Correct copies of the foregoing

documents are attached to this affidavit.

7. Plaintiff did not transfer the note or lose possession of it as the result of a lawful seizure.

FURTHER, AFFIANT SAYETH NAUGHT.

[signature]

.....

[typed or printed name of affiant]

STATE OF FLORIDA

COUNTY OF

BEFORE ME, the undersigned authority appeared(name of affiant)....., whois personally known to me or produced identification and acknowledged that he/she executed the foregoing instrument for the purposes expressed therein and who did take an oath.

WITNESS my hand and seal in the State and County aforesaid, this(date).....

NOTARY PUBLIC, State of Florida

Print Name:

Commission Expires:.....