



**SENATE AMENDMENT 1,
TO 2007 SENATE BILL 298**

January 9, 2008 – Offered by Senator SULLIVAN.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 4, line 1: before that line insert:

3 **“SECTION 1g.** 165.25 (4) (ar) of the statutes is amended to read:

4 165.25 (4) (ar) The department of justice shall furnish all legal services
5 required by the department of agriculture, trade and consumer protection relating
6 to the enforcement of ss. 100.171, 100.173, 100.174, 100.175, 100.177, 100.18,
7 100.182, 100.20, 100.205, 100.207, 100.209, 100.21, 100.28, 100.37, 100.42, 100.50,
8 100.51, and 100.195, and 846.45 and chs. 126, 136, 344, 704, 707, and 779, together
9 with any other services as are necessarily connected to the legal services.”.

10 **2.** Page 4, line 1: delete **“SECTION 1”** and substitute **“SECTION 1m”**.

11 **3.** Page 6, line 1: after “property” insert “located in this state”.

12 **4.** Page 6, line 9: after “type,” insert “both in English and”.

13 **5.** Page 6, line 11: after “foreclosure” insert “if other than English”.

1 **6.** Page 8, line 1: delete lines 1 to 9 and substitute:

2 “(b) Cancellation occurs when the foreclosed homeowner delivers to the
3 foreclosure purchaser, personally or by certified mail, a signed and dated written
4 notice of cancellation. The contract and notice of cancellation form under sub. (5) (b)
5 must contain a street or physical address to which notice of cancellation may be
6 mailed by certified mail or personally delivered. A post office box may be designated
7 for delivery by certified mail only if it is accompanied by a street or physical address
8 at which the notice may be personally delivered. If the notice of cancellation is
9 personally delivered, the foreclosure purchaser must provide a receipt to the
10 foreclosed homeowner. If cancellation is mailed by certified mail, delivery is effective
11 when the notice of cancellation is deposited in the U.S. mail. If cancellation is
12 personally delivered, delivery is effective when the notice of cancellation is handed
13 to the foreclosure purchaser.”.

14 **7.** Page 9, line 12: delete lines 12 to 16 and substitute:

15 “2. To cancel this transaction, you may mail by certified mail or personally
16 deliver a signed and dated copy of this notice of cancellation to (name of purchaser)
17 at (street or physical address of purchaser’s place of business) NOT LATER THAN
18 (date and time of day). If you personally deliver this notice of cancellation,
19 (name of purchaser) must give you a receipt.”.

20 **8.** Page 11, line 11: delete lines 11 to 17.

21 **9.** Page 15, line 7: after that line insert:

22 “(g) If a foreclosure purchaser extends credit to, or arranges for credit to be
23 extended to, the foreclosed homeowner, the foreclosure purchaser or other person
24 with whom the foreclosure purchaser has arranged for the extension of credit shall

1 comply with all requirements specified in Regulation Z under the federal Truth in
2 Lending Act, 12 CFR 226, that apply to a creditor, as defined in 12 CFR 226.2 (a) (17)
3 (i), in a residential mortgage transaction, as defined in 12 CFR 226.2 (24), regardless
4 of whether the foreclosure purchaser or other person extending credit actually meets
5 the definition of a creditor under 12 CFR 226.2 (a) (17) (i).”.

6 **10.** Page 19, line 4: after that line insert:

7 “j. An adjustment service company licensed under s. 218.02, but only when
8 engaged in business unrelated to real estate.”.

9 **11.** Page 20, line 3: delete lines 3 to 8 and substitute:

10 “(b) 1. Cancellation occurs when the foreclosed homeowner delivers, personally
11 or by certified mail, written notice of cancellation to the foreclosure consultant at the
12 foreclosure consultant’s address specified in the contract.

13 2. If notice of cancellation is given by certified mail, cancellation is effective
14 when the notice is deposited in the U.S. mail, properly addressed with postage
15 prepaid. If notice of cancellation is personally delivered, the foreclosure consultant
16 must give the foreclosed homeowner a receipt. Cancellation, if personally delivered,
17 is effective when the foreclosed homeowner hands the notice to the foreclosure
18 consultant.”.

19 **12.** Page 21, line 1: after “written” insert “both in English and”.

20 **13.** Page 21, line 2: after “contract” insert “if other than English”.

21 **14.** Page 21, line 12: delete lines 12 to 17 and substitute:

22 “1. The name and street or physical address of the foreclosure consultant to
23 which the notice of cancellation is to be mailed by certified mail or personally
24 delivered. A post office box does not constitute a physical address. A post office box

1 may be designated for delivery by certified mail only if it is accompanied by a street
2 or physical address at which the notice may be personally delivered.”.

3 **15.** Page 21, line 22: after “language” insert “or languages”.

4 **16.** Page 22, line 3: delete lines 3 to 8 and substitute:

5 “2. To cancel this transaction, you may either mail by certified mail or
6 personally deliver a signed and dated copy of this notice of cancellation, or any other
7 written notice of cancellation, to (name of foreclosure consultant) at (street or
8 physical address of foreclosure consultant’s place of business) NOT LATER THAN
9 MIDNIGHT OF (date). If you personally deliver a notice of cancellation, (name
10 of foreclosure consultant) must give you a receipt.”.

11 **17.** Page 23, line 15: after that line insert:

12 “(h) Fail to give a receipt to a foreclosed homeowner if the foreclosed homeowner
13 personally delivers timely written notice of cancellation of a contract under sub. (2)
14 (b).”.

15 **18.** Page 23, line 21: delete the material beginning with that line and ending
16 with page 24, line 16, and substitute:

17 “**(6)** PENALTIES AND REMEDIES. (a) The department of agricultural, trade and
18 consumer protection may investigate violations of this section under ss. 93.14 and
19 93.15.

20 (b) Any person suffering a pecuniary loss because of a violation of this section
21 may commence an action against the violator. If the court determines that the person
22 suffered a pecuniary loss because of the violation, the court shall award the person
23 twice the amount of the pecuniary loss or \$200, whichever is greater, for each

1 violation, together with costs and, notwithstanding s. 814.04 (1), reasonable attorney
2 fees.

3 (c) The department of agricultural, trade and consumer protection may
4 commence an action to restrain a violation of this section. In addition to providing
5 any equitable relief, the court may award any person who suffered a pecuniary loss
6 because of the violation twice the amount of the pecuniary loss or \$200, whichever
7 is greater, for each violation.

8 (d) The department of agricultural, trade and consumer protection or the
9 district attorney may commence an action to recover a forfeiture of not less than \$100
10 nor more than \$10,000 for a violation of this section.

11 (e) Whoever violates this section may be fined not less than \$25 nor more than
12 \$10,000 or imprisoned for not more than one year in the county jail, or both.”.

13 **19.** Page 24, line 17: delete “(8)” and substitute “(7)”.

14 **20.** Page 24, line 20: delete “void” and substitute “voidable”.

15 **21.** Page 24, line 20: after that line insert:

16 “(8) STATUTORY CONFLICTS RELATED TO ADJUSTMENT SERVICE COMPANIES. To the
17 extent that any provision of this section is inconsistent with s. 218.02 with respect
18 to a foreclosure consultant that is licensed under s. 218.02 and engages in
19 adjustment service company business related to real estate, the provisions of this
20 section shall supersede any conflicting provision of s. 218.02.”.

21 (END)