

SURPLUS PROCEEDS PROCEDURES

Statutorily, there are two categories of claimants under Fla. Stat. § 45.032 (3)(a) & (3)(b).

Under Fla. Stat. § 45.032 (3)(a), if you are the owner of record and there are no subordinate lienholders, please fill out completely the following form, OWNER'S CLAIM FOR MORTGAGE FORECLOSURE SURPLUS, and have it notarized. Once the form has been signed and notarized, you must file it with the clerk and serve copies to all parties of record. The Court will then review the claim.

For all other persons, heirs at law, equity assignees or subordinate lienholders Fla. Stat. § 45.032 (3)(b) applies and an evidentiary hearing will be scheduled upon the motion of any of the parties.

At the evidentiary hearing, an equity assignee has the burden of proving that he or she is entitled to some or all of the surplus funds at the evidentiary hearing. Witness lists and any evidence list must be submitted as outlined below.

If you are an heir at law and you are seeking surplus, you must testify at the evidentiary hearing. *See* Fla. Stat. §45.032(3)(b).

If you are a subordinate lienholder, you must file a Motion for Summary Judgment which may be heard prior to or at the evidentiary hearing. *See* Fla. Stat. §45.032(3)(b). The Motion for Summary Judgment must indicate numerically the priority of your lien (including statutory authority, if applicable) and the priority of all other subordinate lienholders, and indicate the type of lien, the date of recordation (Book/Page), date of perfection, if different, to whom the lien is directed and compliance with Fla. Stat. § 55.10 requirements, if required.

All evidentiary hearings will be scheduled in accordance with Fla. Stat. §45.032(3)(c).

All parties must receive permission from the Court to notice or cross notice any motion.

Parties are required to submit to the Court all necessary documents in preparation for the evidentiary hearing five (5) days prior to the hearing. This includes copies of all e-filed witness and exhibit lists.

Parties are responsible for knowledge of Fla. Stat. §45.031; Fla. Stat. §45.032; Fla. Stat. §45.033; and the rules of evidence and civil procedure.

To schedule a hearing contact call (352) 754-4287 or email mconner@circuit5.org.