

CHAPTER 69

MISCELLANEOUS PROCEDURAL MATTERS

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69.011 Supreme Court; bond not to be required of certain officers in certain original proceedings.—Constitutional officers of the state, boards of county commissioners, and school boards of the several counties of this state shall not be required to furnish any bond or other security for the procurement of or to render effective any restraining order, injunction, or other order, writ or judgment in cases of original jurisdiction in the Supreme Court of Florida.

History.—s. 1, ch. 19172, 1939; CGL 4621(1); s. 23, ch. 67-254; s. 1, ch. 69-300.

Note.—Former s. 69.03.

69.021 Bondholders' committee.—

(1) **SELECTION.**—In any action to foreclose the lien of any mortgage or deed of trust given to secure any issue of bonds or other obligations and encumbering real or personal property or both when the owners of the bonds or beneficiaries of the trust exceed ten in number, on motion of a party or on its own initiative, the court may appoint three persons, two of whom shall constitute a quorum for all purposes, as a committee for the protection of the holders of bonds or units or certificates of beneficial interest. The committee is vested with such powers and authority and shall discharge such duties in connection with the litigation and its subject matter as is necessary and proper in the court's discretion to protect the interest of the holders of the bonds and beneficiaries of the trust involved in, or affected by, the litigation. During the pendency of such litigation, the court may prescribe, modify, abrogate or nullify the powers and authority of the committee.

(2) **QUALIFICATIONS.**—No person is eligible for appointment to, nor qualified to act as a member of, the committee who is interested in the outcome of the action or in the subject matter thereof, or who is an officer, director or stockholder of any party to the actions, or who is related by blood or marriage to, or directly or indirectly associated with or employed by:

- (a) Any official of the court.
- (b) Any person who is interested in the outcome of the actions.
- (c) Any person who is interested in the subject matter.
- (d) Any person who is an officer, director or stockholder of any corporate party to the action.

(3) **COMPENSATION AND EXPENSES.**—The compensation and expenses of the committee shall be fixed by the court and may be taxed as costs and ordered paid by such parties in interest, and in such manner and at such time, and out of such funds or property involved in the action as the court determines. The court may remove any members of the committee and appoint a successor or successors to fill the vacancies that result from removal, resignation or death of members of the committee. The committee is subject to the supervision and control of the court at all times, and amenable to its orders until the approval of the final reports, if any, of the committee and the discharge of the committee by the court.

(4) **EMPLOYMENT OF COUNSEL.**—The employment of counsel by the committee shall be approved by the court and the compensation of counsel shall be fixed by the court.

(5) **ONLY LEGALLY APPOINTED COMMITTEES RECOGNIZED.**—Any bondholders' committee not appointed by the court in which the action is pending shall be heard in the action or permitted, directly or indirectly, to dominate or control the litigation or the action of the trustee or trustees under deed or deeds of trust under which the action is predicated, nor permitted to acquire, directly or indirectly, the property at any sale in said action.

History.—ss. 1, 2, 3, 4, 5, ch. 16831, 1935; CGL 1936 Supp. 5977(22)-(26); s. 23, ch. 67-254; s. 18, ch. 79-400.

Note.—Former ss. 69.09-69.13.

69.031 Designated financial institutions for assets in hands of guardians, curators, administrators, trustees, receivers, or other officers.—

(1) When it is expedient in the judgment of any court having jurisdiction of any estate in process of administration by any guardian, curator, executor, administrator, trustee, receiver, or other officer, because the size of the bond required of the officer is burdensome or for other cause, the court may order part or all of the personal assets of the estate placed with a bank, trust company, or savings and loan association (which savings and loan association is a member of the Federal Savings and Loan Insurance Corporation and doing business in this state) designated by the court, consideration being given to any bank, trust company or savings and loan association proposed by the officer. When the assets are placed with the designated financial institution, it shall file a receipt therefor in the name of the estate and give the officer a copy. Such receipt shall acknowledge the assets received by the financial institution. All interest, dividends, principal and other debts collected by the financial institution on account thereof shall be held by the financial institution in safekeeping, subject to the instructions of the officer authorized by order of the court directed to the financial institution.

(2) Accountings shall be made to the officer at reasonably frequent intervals. After the receipt for the original assets has been filed by the financial institution, the court shall waive the bond given or to be given or reduce

it so that it shall apply only to the estate remaining in the hands of the officer, whichever the court deems proper.

(3) When the court has ordered any assets of an estate to be placed with a designated financial institution, any person or corporation having possession or control of any of the assets, or owing interest, dividends, principal or other debts on account thereof, shall pay and deliver such assets, interest, dividends, principal and other debts to the financial institution on its demand whether the officer has duly qualified or not, and the receipt of the financial institution relieves the person or corporation from further responsibility therefor.

(4) Any bank, trust company, or savings and loan association which is designated under this section, may accept or reject the designation in any instance, and shall file its acceptance or rejection with the court making the designation within 15 days after actual knowledge of the designation comes to the attention of the financial institution, and if the financial institution accepts, it shall be allowed a reasonable amount for its services and expenses which the court may allow as a charge against the assets placed with the financial institution.

History.—ss. 1, 2, 3, ch. 21980, 1943; s. 1, ch. 57-198; s. 23, ch. 67-254.
Note.—Former s. 69.15.

69.041 State named party; lien foreclosure, suit to quiet title.—

(1) Under the conditions prescribed in this section for the protection of the state, the state may be named a party to a civil action in any court of this state, or in any district court of the United States, having jurisdiction of the subject matter, either:

(a) To quiet title to real property wherein the state has or claims any adverse interest in the title to real estate; or

(b) For the foreclosure of a mortgage or other lien on real or personal property on which the state has or claims a mortgage or other lien.

(2) The complaint shall set forth with particularity the nature of the interest claimed by the state in such real property with respect to quiet title proceedings. In the case of mortgage or lien foreclosure, the complaint shall set forth with particularity the nature of the lien claimed by the state in such real property.

(3) A judicial sale in a mortgage foreclosure action shall have the same effect respecting the discharge of the property from liens and encumbrances held by the state as is provided about such matters by the law of this state. A sale to satisfy a lien inferior to one of the state shall be made subject to and without disturbing the lien of the state, unless the state consents that the property may be sold free of its liens and the proceeds divided as the parties may be entitled.

(4)(a) The Department of Revenue has the right to participate in the disbursement of funds remaining in the registry of the court after distribution pursuant to s. 45.031(7). The department shall participate in accordance with applicable procedures in any mortgage foreclosure action in which the department has a duly filed tax warrant against the subject property and with the same priority, regardless of whether a default against the department has been entered for failure to file an answer or other responsive pleading.

(b) Paragraph (a) applies only to mortgage foreclosure actions initiated on or after July 1, 1994, and to those mortgage foreclosure actions initiated before July 1, 1994, in which no default has been entered against the Department of Revenue before July 1, 1994.

History.—ss. 1, 2, 3, ch. 29724, 1955; s. 23, ch. 67-254; s. 1, ch. 70-326; s. 2, ch. 94-314; s. 2, ch. 94-353.

Note.—Former ss. 69.17-69.19.

69.051 Masters in chancery; compensation.—Masters in chancery shall be allowed such compensation for any services as the court deems reasonable including time consumed in legal research required in preparing and summarizing their findings of fact and law.

History.—s. 1, ch. 28169, 1953; s. 23, ch. 67-254; s. 356, ch. 95-147.
Note.—Former s. 62.071.

69.061 Loss of negotiable instrument; indemnity. The court may order that the loss of a negotiable instrument shall not be set up in any action to recover on it if satisfactory indemnity is given against the claims of any other person on the instrument.

History.—s. 73, ch. 1096, 1861; RS 1080; GS 1486; RGS 2686; CGL 4353; s. 23, ch. 67-254.

Note.—Former s. 54.01.

69.071 Number of jurors.—In all civil actions when a jury is impaneled, a jury of six qualified jurors is sufficient.

History.—s. 1, ch. 4717, 1899; GS 1494; RGS 2694; CGL 4361; s. 8, ch. 67-254; s. 25, ch. 73-333.

Note.—Former ss. 54.14, 53.041.

69.081 Sunshine in litigation; concealment of public hazards prohibited.—

(1) This section may be cited as the "Sunshine in Litigation Act."

(2) As used in this section, "public hazard" means an instrumentality, including but not limited to any device, instrument, person, procedure, product, or a condition of a device, instrument, person, procedure or product, that has caused and is likely to cause injury.

(3) Except pursuant to this section, no court shall enter an order or judgment which has the purpose or effect of concealing a public hazard or any information concerning a public hazard, nor shall the court enter an order or judgment which has the purpose or effect of concealing any information which may be useful to members of the public in protecting themselves from injury which may result from the public hazard.

(4) Any portion of an agreement or contract which has the purpose or effect of concealing a public hazard, any information concerning a public hazard, or any information which may be useful to members of the public in protecting themselves from injury which may result from the public hazard, is void, contrary to public policy, and may not be enforced.

(5) Trade secrets as defined in s. 688.002 which are not pertinent to public hazards shall be protected pursuant to chapter 688.

(6) Any substantially affected person, including but not limited to representatives of news media, has standing to contest an order, judgment, agreement, or contract that violates this section. A person may contest an order, judgment, agreement, or contract that violates this section by motion in the court that entered the order or judgment, or by bringing a declaratory judgment action pursuant to chapter 86.

(7) Upon motion and good cause shown by a party attempting to prevent disclosure of information or materials which have not previously been disclosed, including but not limited to alleged trade secrets, the court shall examine the disputed information or materials in camera. If the court finds that the information or materials or portions thereof consist of information concerning a public hazard or information which may be useful to members of the public in protecting themselves from injury which may result from a public hazard, the court shall allow disclosure of the information or materials. If allowing disclosure, the court shall allow disclosure of only that portion of the information or materials necessary or useful to the public regarding the public hazard.

(8)(a) Any portion of an agreement or contract which has the purpose or effect of concealing information relating to the settlement or resolution of any claim or action against the state, its agencies, or subdivisions or against any municipality or constitutionally created body or commission is void, contrary to public policy, and may not be enforced. Any person has standing to contest an order, judgment, agreement, or contract that violates this section. A person may contest an order, judgment, agreement, or contract that violates this subsection by

motion in the court that entered such order or judgment, or by bringing a declaratory judgment action pursuant to chapter 86.

(b) Any person having custody of any document, record, contract, or agreement relating to any settlement as set forth in this section shall maintain said public records in compliance with chapter 119.

(c) Failure of any custodian to disclose and provide any document, record, contract, or agreement as set forth in this section shall be subject to the sanctions as set forth in chapter 119.

This subsection does not apply to trade secrets protected pursuant to chapter 688, proprietary confidential business information, or other information that is confidential under state or federal law.

(9) A governmental entity which settles a claim in tort which requires the expenditure of public funds in excess of \$5,000, shall provide notice, in accordance with the provisions of chapter 50, of such settlement, in the county in which the claim arose, within 60 days of entering into such settlement; provided that no notice shall be required if the settlement has been approved by a court of competent jurisdiction.

History.—s. 1, ch. 90-20; s. 1, ch. 91-85.