

Select Year:

The 2012 Florida Statutes

[Title VI](#)

CIVIL PRACTICE AND
PROCEDURE

[Chapter 61](#)

DISSOLUTION OF MARRIAGE; SUPPORT; TIME-
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61.077 Determination of entitlement to setoffs or credits upon sale of marital home.—A party is not entitled to any credits or setoffs upon the sale of the marital home unless the parties' settlement agreement, final judgment of dissolution of marriage, or final judgment equitably distributing assets or debts specifically provides that certain credits or setoffs are allowed or given at the time of the sale. In the absence of a settlement agreement involving the marital home, the court shall consider the following factors before determining the issue of credits or setoffs in its final judgment:

- (1) Whether exclusive use and possession of the marital home is being awarded, and the basis for the award;
- (2) Whether alimony is being awarded to the party in possession and whether the alimony is being awarded to cover, in part or otherwise, the mortgage and taxes and other expenses of and in connection with the marital home;
- (3) Whether child support is being awarded to the party in possession and whether the child support is being awarded to cover, in part or otherwise, the mortgage and taxes and other expenses of and in connection with the marital home;
- (4) The value to the party in possession of the use and occupancy of the marital home;
- (5) The value of the loss of use and occupancy of the marital home to the party out of possession;
- (6) Which party will be entitled to claim the mortgage interest payments, real property tax payments, and related payments in connection with the marital home as tax deductions for federal income tax purposes;
- (7) Whether one or both parties will experience a capital gains taxable event as a result of the sale of the marital home; and
- (8) Any other factor necessary to bring about equity and justice between the parties.

History.—s. 1, ch. 97-249.