

Amendment No. 01 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
1		.	
2		.	
3		.	
4		.	

ORIGINAL STAMP BELOW

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

The Committee on Judicial Oversight offered the following:

Amendment (with title amendment)

On page 1, between lines 20 and 21

insert

Section 1. Section 697.07, Florida Statutes, is amended to read:

697.07 Assignment of rents.--

(1) A mortgage or separate instrument may provide for an assignment of rents of real property or any interest therein as security for repayment of an indebtedness.

(2) If such an assignment is made, the mortgagee shall hold a lien on the rents, and the lien created by the assignment shall be perfected and effective against third parties upon recordation of the mortgage or separate instrument in the public records of the county in which the real property is located, according to law.

(3) Unless otherwise agreed to in writing by the mortgagee and mortgagor, the assignment of rents shall be

Amendment No. 01 (for drafter's use only)

1 enforceable upon the mortgagor's default and written demand
2 for the rents made by the mortgagee to the mortgagor,
3 whereupon the mortgagor shall turn over all rents in the
4 possession or control of the mortgagor at the time of the
5 written demand or collected thereafter (the "collected rents")
6 to the mortgagee less payment of any expenses authorized by
7 the mortgagee in writing.

8 (4) Upon application by the mortgagee or mortgagor, in
9 a foreclosure action, and notwithstanding any asserted
10 defenses or counterclaims of the mortgagor, a court of
11 competent jurisdiction, pending final adjudication of any
12 action, may require the mortgagor to deposit the collected
13 rents into the registry of the court, or in such other
14 depository as the court may designate. However, the court may
15 authorize the use of the collected rents, before deposit into
16 the registry of the court or other depository, to:

17 (a) Pay the reasonable expenses solely to protect,
18 preserve, and operate the real property, including, without
19 limitation, real estate taxes and insurance;

20 (b) Escrow sums required by the mortgagee ~~mortgagor~~ or
21 separate assignment of rents ~~assignment-of-rents~~ instrument;
22 and

23 (c) Make payments to the mortgagee.
24

25 The court shall require the mortgagor to account to the court
26 and the mortgagee for the receipt and use of the collected
27 rents and may also impose other conditions on the mortgagor's
28 use of the collected rents.

29 (5) Nothing herein shall preclude the court from
30 granting any other appropriate relief regarding the collected
31 rents pending final adjudication of the action. The

Amendment No. 01 (for drafter's use only)

1 undisbursed collected rents remaining in the possession of the
2 mortgagor or in the registry of the court, or in such other
3 depository as ordered by the court, shall be disbursed at the
4 conclusion of the action in accordance with the court's final
5 judgment or decree.

6 (6) The court shall expedite the hearing on the
7 application by the mortgagee or mortgagor to enforce the its
8 assignment of rents. The procedures authorized by this
9 statute are in addition to any other rights or remedies of the
10 mortgagee or mortgagor under the mortgage, separate assignment
11 of rents ~~assignment of rents~~ instrument, promissory note, at
12 law, or in equity.

13 (7) Nothing herein shall alter the lien priorities,
14 rights, or interests among mortgagees or other lienholders or
15 alter the rights of the mortgagee under the mortgage, separate
16 assignment of rents ~~assignment of rents~~ instrument, at law or
17 in equity, concerning rents collected before the written
18 demand by the mortgagee. A mortgagee's enforcement of its
19 assignment ~~assignments~~ of rents under this statute shall not
20 operate to transfer title to any rents not received by the
21 mortgagee.

22 (8) Any moneys received by the mortgagee pursuant to
23 this statute shall be applied by the mortgagee in accordance
24 with the mortgage, separate assignment of rents
25 ~~assignment of rents~~ instrument, or promissory note, and the
26 mortgagee shall account to the mortgagor for such application.
27
28

29 ===== T I T L E A M E N D M E N T =====

30 And the title is amended as follows:

31 On page 1, lines 2 through 3

Amendment No. 01 (for drafter's use only)

1 remove from the title of the bill: all of said lines
2
3 and insert in lieu thereof:
4 An act relating to mortgages; amending s.
5 697.07, F.S.; providing that rents in the
6 control of a mortgagor are subject to
7 assignment of rents; correcting language
8 regarding assignment of rents; providing for
9 expedited procedure
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31