

Amendment No. 1a

19 plaintiff is the owner and holder of the original note secured
20 by the mortgage and the mortgage; or

21 (b) Allege with specificity and certify the factual basis
22 by which the plaintiff is a person entitled to enforce the note
23 under s. 673.3011.

24 (2) If a party has been delegated the authority to
25 institute a mortgage foreclosure action on behalf of the owner
26 and holder of the note and mortgage, the complaint shall
27 describe and verify the authority of the plaintiff and identify,
28 with specificity, the document that grants the plaintiff the
29 authority to act on behalf of the owner and holder of the note
30 and mortgage. The document granting authority shall be attached
31 to the complaint. This subsection is intended to require initial
32 disclosure of status and pertinent facts and not to modify law
33 regarding standing or real parties in interest.

34 (3) If the plaintiff is in physical possession of the
35 original promissory note, the plaintiff must file with the
36 court, contemporaneously with and as a condition precedent to
37 the filing of the complaint for foreclosure, certification,
38 under penalty of perjury, that the plaintiff is in physical
39 possession of the original promissory note. The certification
40 must set forth the physical location of the note, the name,
41 title and authority of the individual giving the certification,
42 the name, title and authority of the person who personally
43 verified such physical possession, and the time and date on
44 which the possession was verified. Correct copies of the note
45 and all allonges to the note must be attached to the complaint
46 and certification. The original note, allonges and mortgage must

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47 be filed with the court before the entry of any judgment of
48 foreclosure or judgment on the note and mortgage.

49 (4) If the plaintiff seeks to enforce a lost, destroyed,
50 or stolen instrument, an affidavit executed under penalty of
51 perjury must be attached to the complaint. The affidavit must:

52 (a) Detail a clear, continuous and unbroken chain of all
53 endorsements and/or assignments for the promissory note and a
54 clear, continuous and unbroken chain of all assignments of the
55 mortgage that are the subject of the action.

56 (b) Set forth facts showing that the plaintiff is entitled
57 to enforce a lost, destroyed, or stolen instrument pursuant to
58 s. 673.3091 or s.71.011, in the case of a non-negotiable note.

59 (c) Include as exhibits to the affidavit such copies of
60 the note and the allonges to the note, assignments of mortgage,
61 audit reports showing physical receipt of the original note and
62 mortgage, or other evidence of the acquisition, ownership, and
63 possession of the note as may be available to the plaintiff.

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69 **T I T L E A M E N D M E N T**

70 Remove lines 446-452 of the amendment and insert:
71 of action; creating s. 702.015, F.S.; specifying the
72 contents of a complaint seeking to foreclose a
73 mortgage or other lien on residential real property;
74 requiring that if a party has been delegated the

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 213 (2012)

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75 authority to institute a mortgage foreclosure action
76 on behalf of the owner and holder of the note and
77 mortgage, the complaint must describe and verify the
78 authority of the plaintiff and identify, with
79 specificity, the document that grants the plaintiff
80 the authority; requiring that a plaintiff in physical
81 possession of the original promissory note must file
82 with the court certification, under penalty of
83 perjury, that the plaintiff is in physical possession
84 of the original promissory note and containing
85 specified information; requiring that a plaintiff who
86 seeks to enforce a lost, destroyed, or stolen
87 instrument must attach an affidavit meeting specified
88 requirements to the complaint; amending s. 702.06,
89 F.S.; limiting the amount
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