Bill No. CS/HB 213 (2012)

Amendment No. 1a

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COMMITTEE/SUBCOMMITTEE	ACTION
ADOPTED	(Y/N)
ADOPTED AS AMENDED	(Y/N)
ADOPTED W/O OBJECTION	(Y/N)
FAILED TO ADOPT	(Y/N)
WITHDRAWN	(Y/N)
OTHER	

Committee/Subcommittee hearing bill: Judiciary Committee Representative Soto offered the following:

Amendment to Amendment (647667) by Representative Passidomo (with title amendment) Remove lines 35-97 of the amendment and insert:

Section 3. Section 702.015, Florida Statutes, is created to read:

702.015 Elements of complaint; lost, destroyed, or stolen 10 note affidavit.-

(1) Any complaint that seeks to foreclose a mortgage or 11 other lien on residential real property, including individual 12 13 units of condominiums and cooperatives, designed principally for occupation by from one to four families, but not including an 14 15 interest in a timeshare property, which secures a promissory note must include at the commencement of the proceeding: 16 17 (a) Affirmative, certified allegations expressly made by 18 the plaintiff at the time the proceeding is commenced that the

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19	Amendment No. 1a 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	Amendment No. 1a 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	TITLE AMENDMENT
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
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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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