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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/15/2013	.	
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The Committee on Judiciary (Soto) recommended the following:

Senate Amendment

Delete lines 671 - 717
and insert:

(a) Contain affirmative allegations expressly made by the plaintiff at the time the proceeding is commenced that the plaintiff is the owner and holder of the original note secured by the mortgage; or

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

(3) If a plaintiff has been delegated the authority to



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14 institute a mortgage foreclosure action on behalf of the person
15 entitled to enforce the note and mortgage, the complaint shall
16 describe the authority of the plaintiff and identify, with
17 specificity, the document that grants the plaintiff the
18 authority to act on behalf of the person entitled to enforce the
19 note and mortgage. This subsection is intended to require
20 initial disclosure of status and pertinent facts and not to
21 modify law regarding standing or real parties in interest. The
22 term "original note" or "original promissory note" means the
23 signed or executed promissory note rather than a copy thereof.
24 The term includes any renewal, replacement, consolidation, or
25 amended and restated note or instrument given in renewal,
26 replacement, or substitution for a previous promissory note. The
27 term also includes a transferrable record, as defined by the
28 Uniform Electronic Transaction Act in s. 668.50(16).

29 (4) If the plaintiff is in possession of the original
30 promissory note, the plaintiff must file under penalty of
31 perjury a certification with the court, contemporaneously with
32 the filing of the complaint for foreclosure, that the plaintiff
33 is in possession of the original promissory note. The
34 certification must set forth the location of the note, the name
35 and title of the individual giving the certification, the name
36 of the person who personally verified such possession, and the
37 time and date on which the possession was verified. Correct
38 copies of the note and all allonges to the note must be attached
39 to the certification. The original note and the allonges must be
40 filed with the court before the entry of any judgment of
41 foreclosure or judgment on the note.

42 (5) If the plaintiff seeks to enforce a lost, destroyed, or



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43 stolen instrument, an affidavit executed under penalty of
44 perjury must be attached to the complaint. The affidavit must:
45 (a) Detail a clear chain of all endorsements, transfers, or
46 assignments of the promissory note that is the subject of the
47 action.
48 (b) Set forth facts showing that the plaintiff is entitled
49 to enforce a lost, destroyed, or stolen instrument pursuant to
50 s. 673.3091 or s. 71.011, whichever is applicable. Adequate
51 protection as required under s. 673.3091(2), shall be provided
52 before the entry of final judgment.