



215606

LEGISLATIVE ACTION

Senate

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House

Senator Richter moved the following:

1 **Senate Amendment to Amendment (310022) (with title**
2 **amendment)**

3
4 Between lines 1020 and 1021

5 insert:

6 Section 39. Section 702.12, Florida Statutes, is created to
7 read:

8 702.12 Actions in foreclosure.—

9 (1) A lienholder in an action to foreclose its mortgage may
10 use as an admission by the defendant in the foreclosure action
11 any document that the defendant filed in a bankruptcy case under



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12 penalty of perjury. In addition to the other matters identified
13 in s. 90.202, the lienholder may also request that the court
14 take judicial notice of any final order entered in the
15 bankruptcy case.

16 (2) The lienholder's submission in such foreclosure action
17 of any document filed by the defendant in the bankruptcy case
18 which evidences an intention to surrender to the lienholder the
19 property that is the subject of the foreclosure action and which
20 document has not been withdrawn by the defendant, together with
21 a final order entered in the bankruptcy case which discharges
22 the defendant's debts or confirms the defendant's repayment
23 plan, creates a rebuttable presumption that the defendant:

24 (a) Has surrendered to the lienholder the defendant's
25 interest in the mortgaged property that is the subject of such
26 foreclosure action; and

27 (b) Has waived any defenses to such foreclosure.

28 (3) This section may not be deemed to preclude the
29 defendant in a foreclosure action from raising a defense based
30 upon the lienholder's conduct subsequent to the filing of the
31 document filed in the bankruptcy case which evidenced the
32 defendant's intention to surrender the mortgaged property to the
33 lienholder.

34
35 ===== T I T L E A M E N D M E N T =====

36 And the title is amended as follows:

37 Between lines 1158 and 1159

38 insert:

39 creating s. 702.12, F.S.; authorizing certain

40 lienholders to use certain documents as an admission



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41 in certain bankruptcy cases; authorizing the
42 lienholders to make certain requests of the court;
43 providing that submission of certain documents in a
44 foreclosure action creates certain presumptions;
45 providing construction;