



450852

LEGISLATIVE ACTION

Senate

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House

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Floor: WD

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03/11/2016 02:26 PM

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Senator Richter moved the following:

Senate Amendment (with title amendment)

Between lines 1130 and 1131

insert:

Section 49. Section 702.12, Florida Statutes, is created to
read:

702.12 Actions in foreclosure.—

(1) A lienholder in an action to foreclose its mortgage may
use as an admission by the defendant in the foreclosure action
any document that the defendant filed in a bankruptcy case under
penalty of perjury. In addition to the other matters identified



12 in s. 90.202, the lienholder may also request that the court
13 take judicial notice of any final order entered in the
14 bankruptcy case.

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19 document has not been withdrawn by the defendant, together with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

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

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

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

33
34 ===== T I T L E A M E N D M E N T =====

35 And the title is amended as follows:

36 Delete line 139

37 and insert:

38 adopt rules; creating s. 702.12, F.S.; authorizing
39 certain lienholders to use certain documents as an
40 admission in certain bankruptcy cases; authorizing the



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41 lienholder to make certain requests of the court;
42 providing that submission of certain documents in a
43 foreclosure action creates certain presumptions;
44 providing construction; providing an effective date.