

By the Committee on Banking and Insurance; and Senator Passidomo

597-02142-17

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1 A bill to be entitled

2 An act relating to bankruptcy matters in foreclosure
3 proceedings; creating s. 702.12, F.S.; authorizing
4 lienholders to use certain documents as an admission
5 in an action to foreclose a mortgage; providing that
6 submission of certain documents in a foreclosure
7 action creates a rebuttable presumption; authorizing
8 lienholders to make a request for judicial notice of
9 final orders entered in bankruptcy cases; providing
10 construction; providing applicability; providing an
11 effective date.

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13 Be It Enacted by the Legislature of the State of Florida:

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15 Section 1. Section 702.12, Florida Statutes, is created to
16 read:

17 702.12 Actions in foreclosure.—

18 (1) (a) A lienholder, in an action to foreclose a mortgage,
19 may submit any document the defendant filed in the defendant's
20 bankruptcy case under penalty of perjury for use as an admission
21 by the defendant.

22 (b) The lienholder's entry of a document the defendant
23 filed in the defendant's bankruptcy case which evidences
24 intention to surrender to the lienholder the property that is
25 the subject of the foreclosure, which document has not been
26 withdrawn by the defendant, together with the submission of a
27 final order entered in the bankruptcy case which discharges the
28 defendant's debts or confirms the defendant's repayment plan
29 which intention is contained therein, creates a rebuttable

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30 presumption that the defendant has waived any defenses to the
31 foreclosure.

32 (2) In addition to a request set forth in s. 90.203, the
33 lienholder may request that the court take judicial notice of
34 any final order entered in a bankruptcy case.

35 (3) This section does not preclude the defendant in a
36 foreclosure action from raising a defense based upon the
37 lienholder's action or inaction subsequent to the filing of the
38 document filed in the bankruptcy case which evidenced the
39 defendant's intention to surrender the mortgaged property to the
40 lienholder.

41 (4) This section applies to any foreclosure action filed on
42 or after October 1, 2017.

43 Section 2. This act shall take effect October 1, 2017.