

By the Committees on Judiciary; and Banking and Insurance; and
Senator Passidomo

590-02718-17

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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 that the
8 defendant has waived any defenses to the foreclosure;
9 requiring a court to take judicial notice of final
10 orders entered in bankruptcy cases; providing
11 construction; providing applicability; providing an
12 effective date.

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

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

18 702.12 Actions in foreclosure.—

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

23 (b) A rebuttable presumption that the defendant has waived
24 any defenses to the foreclosure is created if a lienholder
25 enters documents filed in the defendant's bankruptcy case which:

- 26 1. Evidence the defendant's intention to surrender to the
27 lienholder the property that is the subject of the foreclosure;
28 2. Have not been withdrawn by the defendant; and
29 3. Show that a final order has been entered in the

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30 defendant's bankruptcy case which discharges the defendant's
31 debts or confirms the defendant's repayment plan that provides
32 for the surrender of the property.

33 (2) Pursuant to s. 90.203, a court shall take judicial
34 notice of any order entered in a bankruptcy case upon the
35 request of a lienholder.

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

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

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