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LEGISLATIVE ACTION

Senate

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House

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Floor: 1a/RE/2R

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05/04/2017 10:16 PM

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Senator Passidomo moved the following:

1 **Senate Amendment to Amendment (885236) (with title**
2 **amendment)**

3
4 Between lines 4 and 5
5 insert:

6 Section 1. Section 702.12, Florida Statutes, is created to
7 read:

8 702.12 Actions in foreclosure.—

9 (1) (a) A lienholder, in an action to foreclose a mortgage,
10 may submit any document the defendant filed in the defendant's
11 bankruptcy case under penalty of perjury for use as an admission



338424

12 by the defendant.

13 (b) A rebuttable presumption that the defendant has waived
14 any defenses to the foreclosure is created if a lienholder
15 submits documents filed in the defendant's bankruptcy case
16 which:

17 1. Evidence the defendant's intention to surrender to the
18 lienholder the property that is the subject of the foreclosure;

19 2. Have not been withdrawn by the defendant; and

20 3. Show that a final order has been entered in the
21 defendant's bankruptcy case which discharges the defendant's
22 debts or confirms the defendant's repayment plan that provides
23 for the surrender of the property.

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

27 (3) This section does not preclude the defendant in a
28 foreclosure action from raising a defense based upon the
29 lienholder's action or inaction 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 (4) This section applies to any foreclosure action filed on
34 or after October 1, 2017.

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

37 And the title is amended as follows:

38 Delete line 638

39 and insert:

40 An act relating to real property; creating s. 702.12,



338424

41 F.S.; authorizing lienholders to use certain documents
42 as an admission in an action to foreclose a mortgage;
43 providing that submission of certain documents in a
44 foreclosure action creates a rebuttable presumption
45 that the defendant has waived any defenses to the
46 foreclosure; requiring a court to take judicial notice
47 of final orders entered in bankruptcy cases; providing
48 construction; providing applicability;