



450290

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/06/2017	.	
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The Committee on Banking and Insurance (Passidomo) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

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

702.12 Actions in foreclosure.—

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



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11 by the defendant.

12 (b) The lienholder's entry of a document the defendant  
13 filed in the defendant's bankruptcy case which evidences  
14 intention to surrender to the lienholder the property that is  
15 the subject of the foreclosure, which document has not been  
16 withdrawn by the defendant, together with the submission of a  
17 final order entered in the bankruptcy case which discharges the  
18 defendant's debts or confirms the defendant's repayment plan  
19 which intention is contained therein, creates a rebuttable  
20 presumption that the defendant has waived any defenses to the  
21 foreclosure.

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

25 (3) This section does not preclude the defendant in a  
26 foreclosure action from raising a defense based upon the  
27 lienholder's action or inaction subsequent to the filing of the  
28 document filed in the bankruptcy case which evidenced the  
29 defendant's intention to surrender the mortgaged property to the  
30 lienholder.

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

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

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 Delete everything before the enacting clause  
38 and insert:

39 A bill to be entitled



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40 An act relating to bankruptcy matters in foreclosure  
41 proceedings; creating s. 702.12, F.S.; authorizing  
42 lienholders to use certain documents as an admission  
43 in an action to foreclose a mortgage; providing that  
44 submission of certain documents in a foreclosure  
45 action creates a rebuttable presumption; authorizing  
46 lienholders to make a request for judicial notice of  
47 final orders entered in bankruptcy cases; providing  
48 construction; providing applicability; providing an  
49 effective date.