

1 A bill to be entitled
 2 An act relating to mortgage foreclosures; creating s.
 3 702.12, F.S.; authorizing certain lienholders to use
 4 certain documents as an admission in an action to
 5 foreclose a mortgage; providing that submission of
 6 certain documents in a foreclosure action creates
 7 certain presumptions; authorizing a lienholder to make
 8 a request for judicial notice; providing construction;
 9 providing an effective date.

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

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

15 702.12 Actions in foreclosure.-

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

20 (b) The lienholder's submission of a document that
 21 evidences the defendant's intention to surrender to the
 22 lienholder the property that is the subject of the foreclosure,
 23 which document has not been withdrawn by the defendant, together
 24 with the submission of a final order entered in the bankruptcy
 25 case that discharges the defendant's debts or confirms the

26 | defendant's repayment plan which intention is contained therein,
27 | creates a rebuttable presumption that the defendant has:

28 | 1. Surrendered to the lienholder the defendant's interest
29 | in the mortgaged property; and

30 | 2. Waived any defenses to the foreclosure.

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

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

39 | Section 2. This act shall take effect July 1, 2017.