

Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED (Y/N)
 ADOPTED AS AMENDED (Y/N)
 ADOPTED W/O OBJECTION (Y/N)
 FAILED TO ADOPT (Y/N)
 WITHDRAWN (Y/N)
 OTHER

1 Committee/Subcommittee hearing bill: Civil Justice & Claims
 2 Subcommittee

3 Representative Fant offered the following:

4
 5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:
 7 Section 1. Section 702.12, Florida Statutes, is created to
 8 read:

9 702.12 Actions in foreclosure.-

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

14 (b) The lienholder's submission of a document the
 15 defendant filed in the defendant's bankruptcy case that
 16 evidences intention to surrender to the lienholder the property

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17 that is the subject of the foreclosure, which document has not
18 been withdrawn by the defendant, together with the submission of
19 a final order entered in the bankruptcy case that discharges the
20 defendant's debts or confirms the defendant's repayment plan
21 which intention is contained therein, creates a rebuttable
22 presumption that the defendant has waived any defenses to the
23 foreclosure.

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

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

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

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

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37 **T I T L E A M E N D M E N T**

38 Remove everything before the enacting clause and insert:
39 An act relating to bankruptcy matters in foreclosure
40 proceedings; creating s. 702.12, F.S.; authorizing certain
41 lienholders to use certain documents as an admission in an

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42 | action to foreclose a mortgage; providing that submission of
43 | certain documents in a foreclosure action creates certain
44 | presumptions; authorizing a lienholder to make a request for
45 | judicial notice; providing construction; providing an effective
46 | date.