

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 orders  
 10          entered in bankruptcy cases under certain  
 11          circumstances; providing construction; providing  
 12          applicability; providing an 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 under penalty of  
 21          perjury in the defendant's bankruptcy case for use as an  
 22          admission by the defendant.

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

26 which:

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

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 Have not been withdrawn by the defendant; and

30 3. Show that a final order has been entered in the  
 31 defendant's bankruptcy case which discharges the defendant's  
 32 debts or confirms the defendant's repayment plan that provides  
 33 for the surrender of the property.

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

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

43 (4) This section applies to any foreclosure action filed  
 44 on or after October 1, 2018.

45 Section 2. This act shall take effect October 1, 2018.