

1989

Session Law 89-041

Florida Senate & House of Representatives

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H 1173 GENERAL BILL/CS/2ND ENG by Judiciary; Ostrau (Compare CS/S 859, S 1277)

Mortgage/Assignment; provides for general exclusion of real estate interests from Uniform Commercial Code-Secured Transactions provisions; requires that assignment of mortgage must be contained in document which indicates assignment in its title to be effectual against certain parties. Amends 701.02; reenacts 679.104(10). Effective Date: 10/01/89.

03/22/89 HOUSE Prefiled
03/24/89 HOUSE Referred to Judiciary
03/30/89 HOUSE Subreferred to Subcommittee on Real Property and Family Law
04/04/89 HOUSE Introduced, referred to Judiciary -HJ 110; Subreferred to Subcommittee on Real Property and Family Law; On subcommittee agenda—Judiciary, 04/05/89, 1:15 pm, 415-HOB
04/05/89 HOUSE Subcommittee Recommendation: Favorable with 3 amendments; On Committee agenda—Judiciary, 04/06/89, 3:30 pm, 413-C—For ratification of referral to subcommittee; On Committee agenda, pending subcommittee action—Judiciary, 04/06/89, 3:30 pm, 413-C
04/06/89 HOUSE Preliminary Committee Action by Judiciary: Favorable as a CS
04/14/89 HOUSE Comm. Report: CS by Judiciary, placed on Calendar -HJ 232; CS read first time -HJ 231
04/25/89 HOUSE Placed on Special Order Calendar; Read second time; Amendment adopted -HJ 270
04/27/89 HOUSE Read third time; CS passed as amended; YEAS 112 NAYS 0 -HJ 283
04/28/89 SENATE In Messages
05/05/89 SENATE Received, referred to Judiciary-Civil -SJ 272
05/10/89 SENATE Withdrawn from Judiciary-Civil; Substituted for CS/SB 859; CS passed as amended; YEAS 35 NAYS 0 -SJ 304; Immediately certified -SJ 304
05/10/89 HOUSE In Messages
05/19/89 HOUSE Concurred; CS passed as further amended; YEAS 114 NAYS 0 -HJ 542
05/19/89 Ordered engrossed, then enrolled
05/25/89 Signed by Officers and presented to Governor -HJ 657
06/02/89 Became Law without Governor's Signature; Chapter No. 89-41 -HJ 1123

NOTES: Above bill history from Division of Legislative Information's *FINAL LEGISLATIVE BILL INFORMATION, 1989 SESSIONS*. Staff Analyses for bills amended beyond final committee action may not be in accordance with the enacted law. Journal page numbers (HJ & SJ) refer to daily Journals and may not be the same as final bound Journals.

STORAGE NAME: h1173s.jud
DATE: March 30, 1989

AS REPORTED TO CLERK

HOUSE OF REPRESENTATIVES
COMMITTEE ON JUDICIARY
STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: CS/HB 1173

RELATING TO: Assignment of Mortgages

SPONSOR(S): Representative Ostrau

EFFECTIVE DATE: October 1, 1989

COMPANION BILL(S): SB 859

OTHER COMMITTEES OF REFERENCE: (1)

(2)

I. SUMMARY:

A. PRESENT SITUATION:

Presently, s. 701.01, Florida Statutes, makes mortgages freely transferrable to an assignee and any subsequent assignees. A person to whom a mortgage is assigned may lawfully pursue the same remedies which the mortgagee may lawfully have, take, or pursue, for the foreclosure of a mortgage and for the recovery of the money secured thereby. An assignment of a mortgage is not valid against creditors or subsequent purchasers unless the assignment is recorded. Section 701.02, Florida Statutes.

B. EFFECT OF PROPOSED CHANGES:

HB 1173 provides that any assignment of a mortgage made after October 1, 1989, shall not be effective against creditors and subsequent purchasers unless contained in a document which indicates the assignment in its title. This change would facilitate the notice of assignments of mortgages and expedite title searches.

C. SECTION-BY-SECTION ANALYSIS:

Section 1. Subsection (2) of s. 701.01, Florida Statutes, is created to provide that any assignment of mortgage made after October 1, 1989, is not effective against creditors or subsequent purchasers unless contained in a document which indicates the assignment in its title.

Section 2. The act would take effect October 1, 1989.

STORAGE NAME: h1173.jud

DATE: March 30, 1989

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II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

none

2. Recurring or Annualized Continuation Effects:

none

3. Long Run Effects Other Than Normal Growth:

none

4. Appropriations Consequences:

none

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

none

2. Recurring or Annualized Continuation Effects:

none

3. Long Run Effects Other Than Normal Growth:

none

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

This bill increases the administrative costs of assigning the mortgage and recording the assignment, but the costs should not be extensive.

2. Direct Private Sector Benefits:

This change will decrease the amount of errors due to overlooked assignments of mortgages in title searches.

3. Effects on Competition, Private Enterprise, and Employment Markets:

none

D. FISCAL COMMENTS:

III. LONG RANGE CONSEQUENCES:

The bill does not affect the State Comprehensive Plan.

IV. COMMENTS:

This bill offers a protection that helps to ensure the accuracy of a title search. The search involves an extensive amount of paperwork and the assignment may be a one line sentence within a lengthy mortgage. Because of the relative importance of finding the assignment, this requirement would not seem to be unjustified.

The bill does not directly affect the House Policy Statement or Committee Mission Statement.

V. AMENDMENTS:

VI. SIGNATURES:

SUBSTANTIVE COMMITTEE: .

Prepared by:
Laura Dizney



Staff Director:
Richard Hixson



SECOND COMMITTEE OF REFERENCE:
Prepared by:

Staff Director:

APPROPRIATIONS:
Prepared by:

Staff Director:


REVISED: _____

BILL NO. CS/SB 859

DATE: April 25, 1989

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SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Wiehle</u> ^{KW}	<u>Smawley</u> 	1. <u>JCI</u>	<u>Fav/CS</u>
2. _____	_____	2. _____	_____
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

SUBJECT:

Mortgage/Assignment

BILL NO. AND SPONSOR:

CS/SB 859 by
Judiciary-Civil and Senator
McPherson

I. SUMMARY:

A. Present Situation:

Section 701.02, F.S., provides guidance as to when an assignment of a mortgage is effective against creditors or subsequent purchasers for valuable consideration and without notice. The section requires, in part, that the assignment be recorded according to law.

B. Effect of Proposed Changes:

The bill would add a requirement that the assignment document indicate in its title that it is an assignment of a mortgage.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

None.

B. Government:

None.

III. COMMENTS:

None.

IV. AMENDMENTS:

None.

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 859

The committee substitute provides that the assignment document must indicate in its title that it is an assignment of a mortgage.

Committee on Judiciary-Civil


Staff Director

(FILE THREE COPIES WITH THE SECRETARY OF THE SENATE)