



***An Act Concerning Foreclosure By Power Of Sale.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (a) If a mortgage of real property or other agreement  
2 between the mortgagor and mortgagee authorizes the mortgagee to  
3 foreclose by power of sale, the mortgagee, after the mortgagor's default  
4 and after giving the mortgagor notice of intention to foreclose by power  
5 of sale in accordance with section 2 of this act, may proceed to foreclose  
6 the mortgagor's interest in such real property by exercising a power of  
7 sale.

8 (b) The provisions of sections 1 to 9, inclusive, of this act shall not be  
9 applicable to mortgages of residential real property. "Residential real  
10 property" means real property containing at least one but not more than  
11 four dwelling units all or a portion of which has been occupied as a  
12 residence by the mortgagor, and containing no nonresidential uses,  
13 except nonresidential uses by a mortgagor.

14 (c) Nothing in sections 1 to 9, inclusive, of this act shall prevent a  
15 mortgagee from foreclosing a mortgage by strict foreclosure or judicial  
16 sale as otherwise provided by law.

17 (d) Foreclosure by power of sale as provided for in subsection (a) of  
18 this section shall not be permitted if a mortgagee has instituted an action  
19 or has previously obtained a judgment for money damages on the

20 underlying obligation which is secured by the mortgage to be foreclosed  
21 by power of sale.

22 (e) Foreclosure by power of sale is a bar to any then pending action or  
23 any further action upon the mortgage debt, note or obligation against the  
24 person or persons who are liable for the payment thereof, provided, if  
25 the mortgage debt, note or obligation is secured by more than one  
26 mortgage, foreclosure by power of sale of one of the mortgages shall not  
27 be a bar to foreclosure by power of sale or otherwise of any of the other  
28 mortgages.

29 (f) As used in sections 1 to 9, inclusive, of this act, "mortgagor"  
30 includes the mortgagor's successors, assigns or any other person holding  
31 title to the mortgaged real property under the mortgagor.

32 Sec. 2. (NEW) (a) Notice of intention to foreclose by power of sale shall  
33 be in writing and shall be (1) served upon persons described in  
34 subsection (c) of this section in the manner for service of process required  
35 under chapter 896 of the general statutes or section 33-929 of the general  
36 statutes to commence a civil action, and (2) recorded in the land records  
37 of the town in which the real property subject to foreclosure is located.

38 (b) The notice shall state (1) the particular mortgage to be foreclosed  
39 by power of sale, (2) the nature of the default claimed, (3) that the  
40 mortgagee has accelerated maturity of the debt or that the maturity date  
41 of the debt has occurred, (4) if the mortgage is being foreclosed for any  
42 reason other than maturity of the debt, that the mortgagor has the right  
43 to cure the default either under the mortgage or other agreements or  
44 under sections 1 to 9, inclusive, of this act, the amount to be paid or other  
45 action necessary to cure, and the time within which the cure is required  
46 to take place, and (5) those holders of subordinate interests in the real  
47 property, including subordinate leases, that the mortgagee determines  
48 will not be affected by the foreclosure by power of sale.

49 (c) A notice of intention to foreclose by power of sale required by this  
50 section shall be served upon the person specified by the mortgagor in the  
51 mortgage or, if none is specified, to all mortgagors, but notice must be

52 served upon any person in possession of the real property from whom  
53 the mortgagee has received a written demand to receive notice of  
54 intention to foreclose by power of sale. Notice shall also be served upon  
55 any holder of a subordinate interest or person in possession who, on the  
56 date of recording of the notice, has an interest in the real property that  
57 would be extinguished by a sale pursuant to the foreclosure. For  
58 informational purposes only, the mortgagee shall also deliver by  
59 certified mail, return receipt requested, a copy of the notice of intention  
60 to foreclose to all mortgagees and lien holders, other than the holder of  
61 an unrecorded real property tax lien, which are superior in right to the  
62 mortgagee delivering such notice, provided the recipients of such notice  
63 shall not have any right to participate in or receive further notices or  
64 share in the proceeds of the foreclosure by power of sale which is the  
65 subject of such notice.

66 (d) A person whose conveyance or encumbrance is executed or  
67 recorded or whose interest is obtained by descent or otherwise after  
68 notice of intention to foreclose is recorded is a subsequent purchaser or  
69 encumbrancer. A subsequent purchaser or encumbrancer is bound by all  
70 proceedings taken after the recording of such notice, to the same extent  
71 as if such person's interest had preceded the recording of the notice and  
72 as if such person had received actual notice of the proceedings. This  
73 section shall be construed to apply to mechanic's liens and all other  
74 inchoate liens, certificates of which are recorded after the notice is  
75 recorded. A sale under sections 1 to 9, inclusive, of this act extinguishes  
76 any right to claim an interest in the proceeds of the sale by the holder of  
77 any mechanic's lien or other inchoate lien, for which a certificate is  
78 recorded after recordation of the notice of intention to foreclose unless,  
79 before the sale, that lienholder gives notice of such lienholder's claimed  
80 priority to the foreclosing mortgagee and to all persons whom such  
81 lienholder alleges are junior to such lienholder's interest and records that  
82 notice of a claimed priority in the land records of the municipality in  
83 which the real property subject to foreclosure is located. This section  
84 shall not affect the priority of real property tax liens that are perfected  
85 and continued in accordance with the provisions of chapter 205 of the

86 general statutes.

87       Sec. 3. (NEW) (a) Except as to a mortgage debt that is due and payable  
88 as a result of the actual maturity date having occurred, not later than five  
89 days before the sale under a power of sale, the mortgagor or the holder  
90 of any subordinate mortgage or other interest securing a debt or  
91 obligation may cure the mortgagor's default, prevent the sale or other  
92 disposition of the real property and reinstate the mortgage by tendering  
93 the payment or performance due under the mortgage as provided by  
94 subsection (b) of this section.

95       (b) To the extent permitted by subsection (a) of this section, the  
96 mortgagor or holder of any subordinate mortgage or other interest  
97 securing a debt or obligation may cure the default and avoid operation of  
98 any acceleration clause in the mortgage by (1) paying or tendering all  
99 sums that would have been due at the time of tender in the absence of  
100 any acceleration clause, (2) performing any other obligation the  
101 mortgagor would have been bound to perform in the absence of any  
102 acceleration clause, and (3) paying or tendering the costs of the  
103 proceeding to foreclose reasonably incurred, including reasonable  
104 attorneys' fees of the mortgagee.

105       (c) After default, a mortgagor or any holder of a subordinate  
106 mortgage or other interest entitled to cure under this section may release  
107 the right to cure in writing.

108       (d) At any time up to the time of the sale, a mortgagor may redeem  
109 the mortgage by paying the entire indebtedness and other sums due  
110 under the mortgage and all costs incurred in connection with the  
111 proceeding to foreclose, including reasonable attorney's fees of the  
112 mortgagee.

113       Sec. 4. (NEW) (a) The mortgagee, after the mortgagor's default and  
114 upon compliance with sections 1 to 9, inclusive, of this act, may sell any  
115 or all of the real property that is subject to the mortgage. The sale shall be  
116 free and clear of the interest of the mortgage being foreclosed and of all  
117 interests subordinate in right thereto except for those interests which the

118 mortgagee has determined will not be affected by the foreclosure as set  
119 forth in the notice of foreclosure by power of sale which is recorded on  
120 the land records in the town where the real property is located. The sale  
121 may be by public sale or by private negotiation, by one or more  
122 contracts, as a unit or in parcels, at any time and place, and on any terms  
123 including sale on credit. The sale shall be conducted by a Commissioner  
124 of the Superior Court appointed by the mortgagee who is not an  
125 employee of the mortgagee. Every aspect of the sale, including the  
126 method, advertising, time, place, deposit and terms shall be reasonable,  
127 but a sale complying with the requirements of subsection (c) of this  
128 section shall be deemed to be reasonable. The mortgagee shall give to  
129 persons entitled to notice under subsection (c) of section 2 of this act  
130 reasonable written notice of the time and place of any public sale or, if a  
131 private sale is intended, reasonable notice of intention to enter into a  
132 contract to sell the real property and of the time after which a private  
133 disposition may be made. Such notice must also be sent to any other  
134 person who, on the date of notice, has a recorded interest in the real  
135 property that would be extinguished by the sale. The notice required by  
136 this section shall be sent not less than five weeks prior to any sale  
137 pursuant to sections 1 to 9, inclusive, of this act. Notice required by this  
138 section shall either be served in accordance with subsection (a) of section  
139 2 of this act or shall be sent by both certified mail and ordinary first class  
140 mail. All notices required by this section shall be deemed given and  
141 complete either upon being served in the manner required by subsection  
142 (a) of section 2 of this act or three days after being posted in the United  
143 States mail with postage prepaid. The sale may not be held until five  
144 weeks after the sending of the notice required by this subsection. If the  
145 mortgagee gives the notice required for exercising a power of sale under  
146 this section as part of the notice of intention to foreclose by power of sale  
147 under section 2 of this act, the minimum time required by this section  
148 commences when the mortgagee gives such notice of intention to  
149 foreclose by power of sale. The mortgagee may not purchase the real  
150 property at a private sale.

151 (b) At the time of acceptance of a bid at a public sale, the successful

152 bidder, other than the foreclosing mortgagee, shall pay the required  
153 deposit to the commissioner conducting the sale and execute and deliver  
154 to the commissioner conducting the sale a contract to purchase the real  
155 property, which may be a bond for deed. If the successful bidder fails to  
156 make such deposit on acceptance, or to purchase the property within five  
157 weeks after acceptance, the mortgagee may specifically enforce the  
158 contract to purchase such property or resell the real property under  
159 subsection (a) of this section. If the contract is not specifically enforced,  
160 the deposit of such bidder may be retained or recovered as liquidated  
161 damages. Any sums retained or recovered by the mortgagee shall be  
162 applied to the payment of the debt secured by the mortgage in the same  
163 manner as the proceeds of a completed sale.

164 (c) A sale under this section shall be deemed reasonable if: (1) The  
165 person appointed to conduct the sale complies with all relevant notice  
166 and sale provisions of sections 1 to 9, inclusive, of this act; (2) notice of  
167 the sale, including the address of the property to be sold, the date, place  
168 and time of the sale, a description of the current use of the property, the  
169 amount of the deposit required at the sale, and the name and telephone  
170 number of the commissioner conducting the sale, is posted on the  
171 property not less than three weeks before the sale; and (3) the sale is  
172 advertised in a newspaper of general circulation in the area of the sale at  
173 least once in each of three successive weeks before the sale in  
174 substantially the form customarily used for notices of judicial sale of real  
175 property including the address of the property to be sold, the date, place  
176 and time of the sale, a description of the current use of the property, the  
177 amount of the deposit required at the sale and the name and telephone  
178 number of the commissioner conducting the sale. A mortgagee, after  
179 serving the notice required by section 2 of this act, is authorized to enter  
180 upon the real property for the purpose of posting the notice of sale  
181 described in this subsection.

182 (d) Before the recording of a deed delivered pursuant to subsection (b)  
183 of section 8 of this act, the foreclosing mortgagee shall record an affidavit  
184 on the land records in the town in which the property is located. Such  
185 affidavit shall contain: (1) The authority of the individual executing the

186 affidavit; (2) the names of the original mortgagor and mortgagee, as  
187 stated in the mortgage being foreclosed, as well as the volume and page  
188 of the mortgage and the parties and recording information of the  
189 assignment, if any, to the foreclosing mortgagee; (3) a statement that the  
190 mortgagee has complied with the notice requirements of this section and  
191 section 2 of this act, together with the names of the persons upon whom  
192 notice has been served; (4) a statement that the mortgagor and any  
193 holder of a subordinate mortgage or other interest failed to reinstate the  
194 mortgage and that the mortgagor failed to redeem the property from the  
195 mortgage being foreclosed; and (5) in the case of an individual  
196 mortgagor, a statement setting forth facts showing that the mortgagor is  
197 not in the military or naval service, provided a separate affidavit of such  
198 nonmilitary service may be attached to the affidavit in lieu of such  
199 statement.

200 (e) Before the recording of a deed delivered pursuant to subsection (b)  
201 of section 8 of this act, the commissioner appointed to sell the real  
202 property shall cause to be recorded on the land records in the town in  
203 which the property is located an affidavit containing: (1) The name of the  
204 foreclosing mortgagee by whom the commissioner was appointed and  
205 the names of the original mortgagor and mortgagee as stated in the  
206 mortgage being foreclosed, as well as the volume and page of the  
207 mortgage, and the parties and recording information of the assignment,  
208 if any, to the foreclosing mortgagee; and (2) a statement that the  
209 commissioner appointed to conduct the sale in accordance with this  
210 section has complied with all requirements for the sale of the real  
211 property.

212 Sec. 5. (NEW) (a) Any person entitled to notice under subsection (c) of  
213 section 2 of this act may apply to the Superior Court for protective orders  
214 as provided in this section. The court shall set a date for a hearing on the  
215 application in accordance with short calendar procedures and order  
216 reasonable notice thereof to be given to all interested persons. If any  
217 person entitled to notice is not a resident of this state, the notice shall be  
218 given by personal service, registered or certified mail, publication or  
219 such other method as the court directs. Notice must be given to persons

220 entitled to notice at least four days before the hearing. The entry fee,  
221 procedures and rights to appeal shall be those provided for on  
222 application for execution of ejectment after sale under section 6 of this  
223 act. A sale or disposition of proceeds may be ordered or restrained on  
224 terms and conditions determined by the court if it is established by the  
225 mortgagor or any other person entitled to notice under subsection (c) of  
226 section 2 of this act that: (1) The obligation is invalid; (2) the mortgagor is  
227 not in default; (3) the mortgagee or other person exercising a power of  
228 sale under section 4 of this act is not complying or is not likely to comply  
229 with sections 1 to 9, inclusive, of this act; or (4) the proceeds of any sale  
230 are not being applied or are not likely to be applied as required by  
231 section 8 of this act.

232 (b) The mortgagee may apply to the Superior Court for any orders in  
233 aid of or in support of the mortgagee's rights under sections 1 to 9,  
234 inclusive, of this act, including, but not limited to, orders allowing the  
235 mortgagee and other interested persons reasonable access to the  
236 property for purposes of rehabilitation, preparation for sale, repair,  
237 maintenance, inspection, posting of the sign and conducting the sale. The  
238 court shall set a date for a hearing on the application in accordance with  
239 short calendar procedures and order reasonable notice thereof to be  
240 given to all interested persons. If any person entitled to notice is not a  
241 resident of this state, the notice shall be given by personal service,  
242 registered or certified mail, publication or such other method as the court  
243 directs. Notice must be given to persons entitled to notice at least four  
244 days before the hearing. The entry fee, procedures and rights to appeal  
245 shall be those provided for on application for execution of ejectment after  
246 sale under section 6 of this act.

247 (c) After a sale, a proceeding to set aside the sale may be undertaken  
248 only pursuant to subsection (d) of this section.

249 (d) If the mortgagee failed to comply with the procedural  
250 requirements of sections 1 to 9, inclusive, of this act, the mortgagor or  
251 any other person entitled to notice under subsection (c) of section 2 of  
252 this act may seek to set aside the sale within twenty days of the date on

253 which the sale was held by commencing a civil action in the Superior  
254 Court, except as otherwise provided in section 8 of this act. Absent any  
255 such actions, the facts asserted in the affidavit required by subsections  
256 (d) and (e) of section 4 of this act shall be conclusively presumed to be  
257 true and accurate except in an action for damages under section 8 of this  
258 act. Venue shall be in accordance with the provisions of subsection (b) of  
259 section 51-345 of the general statutes, as amended. The foreclosing  
260 mortgagee and the owner of record shall be necessary parties to such a  
261 proceeding, and service upon them shall be made within five days of the  
262 date of issuance of the complaint, but in no event more than twenty-five  
263 days following the date of the sale. No such action may be maintained  
264 unless the plaintiff causes a notice of lis pendens to be recorded on the  
265 land records in the town in which the property is located within five  
266 days of the date of issuance of the complaint, but in no event more than  
267 twenty-five days following the date of the sale. The notice of lis pendens  
268 shall comply with the provisions of section 52-325 of the general statutes,  
269 and shall be served on the foreclosing mortgagee, the commissioner  
270 appointed to conduct the sale and the owner within five days of the  
271 commencement of the action. Actions brought under this section shall be  
272 privileged cases to be heard by the court as soon after the return day as is  
273 practicable.

274 (e) In a judicial proceeding under this section, the prevailing party, in  
275 addition to any other remedy granted, shall be entitled to recover  
276 reasonable expenses of litigation including reasonable attorney's fees.

277 Sec. 6. (NEW) (a) If possession of the property is withheld after the  
278 commissioner conducting a sale under section 4 of this act conveys the  
279 property, the purchaser at the foreclosure sale may apply to the Superior  
280 Court for the judicial district in which the property is located for an  
281 execution of ejectment pursuant to section 49-22 of the general statutes.  
282 The application, which shall be submitted together with a proposed  
283 order and summons, shall request that a hearing be held to determine  
284 whether the applicant should be granted an execution of ejectment. On  
285 filing of the application, the court shall set a date for hearing on the  
286 application and order reasonable notice thereof to be given to the person

287 in possession whose interests were foreclosed. If the application was not  
288 made by all owners of record of the property, the court shall also order  
289 reasonable notice to be given to such other owners. If any person entitled  
290 to notice is not a resident of this state, the notice shall be given by  
291 personal service, registered or certified mail, publication or such other  
292 method as the court directs. The notice shall be given to the persons  
293 entitled to notice under this section at least four days before the hearing.

294 (b) The application, order and summons may be in such form as may  
295 be prescribed by the Office of the Chief Court Administrator.

296 (c) The clerk of the court, upon receipt of all the documents in  
297 triplicate, if the clerk finds them to be in proper form, shall affix a date  
298 for hearing on the application and sign the order of hearing and notice.  
299 An entry fee of twenty dollars shall be paid to the clerk and copies of the  
300 original documents shall be placed in the court file. The clerk shall  
301 deliver to the applicant, or the applicant's attorney, the original  
302 documents for service. The original documents shall be returned to court  
303 with the officer's return.

304 (d) At the hearing held on the application under this section, the  
305 applicant shall provide the court with evidence of title to the property.  
306 Unless the person in possession thereafter demonstrates a right to  
307 possession superior to that of the applicant, the court shall grant the  
308 order of ejectment.

309 (e) Any order entered as provided in subsection (d) of this section is a  
310 final judgment for the purpose of appeal. No appeal may be taken from  
311 the order except within twenty days thereof. The effect of the order shall  
312 be automatically stayed for the twenty-day period. If an appeal is taken  
313 within the twenty-day period, the party taking the appeal may, within  
314 such period, file an application with the clerk of the court requesting a  
315 stay of the order pending the appeal and setting forth the reasons for the  
316 request. A copy of the application shall be sent to each party by the  
317 applicant. Upon the filing of the application, the order shall be stayed  
318 until a decision is rendered on the application for stay. A hearing on the

319 application shall be held promptly. The order shall be stayed pending  
320 the appeal if the party taking the appeal posts a bond as provided in  
321 subsection (f) of this section.

322 (f) At the hearing on an application for a stay, the court shall: (1) On  
323 motion of the party taking the appeal, set a bond with surety for the stay  
324 of the order in an amount that the court deems sufficient to indemnify  
325 the adverse party for any damages that may result from the stay, in  
326 which case the order shall be stayed on posting of the bond; (2) grant the  
327 stay; (3) deny the stay; or (4) condition the granting of the stay on the  
328 giving of such bond.

329 (g) A lessee whose leasehold interest was not extinguished by the  
330 foreclosure by power of sale may not be ejected by an action under this  
331 section. In addition, a lessee, tenant or occupant of a dwelling unit, other  
332 than the mortgagor and the mortgagor's household, regardless of the  
333 number of dwelling units contained in the property, may not be ejected  
334 by an action under this section.

335 Sec. 7. (NEW) (a) The proceeds resulting from a sale of real property  
336 pursuant to a power of sale under sections 1 to 9, inclusive, of this act  
337 shall be held by the commissioner conducting the sale as a trustee for the  
338 benefit of the foreclosing mortgagee and all persons who may claim an  
339 interest in such proceeds, and such proceeds shall be distributed in the  
340 following order:

341 (1) The reasonable expenses of sale;

342 (2) The reasonable expenses of securing possession before sale and  
343 holding, maintaining and preparing the real property for sale, including  
344 premiums on hazard and liability insurance, and, to the extent provided  
345 for in the mortgage and not prohibited by law, reasonable attorney's fees  
346 and other legal expenses incurred by the mortgagee;

347 (3) Satisfaction of the indebtedness secured by the mortgage being  
348 foreclosed;

349 (4) Satisfaction in the order of priority of any subordinate security  
350 interest of record in accordance with the provisions of subsection (b) of  
351 this section; and

352 (5) Remittance of any excess to the mortgagor.

353 (b) If, after the payment of the obligations described in subdivisions  
354 (1), (2) and (3) of subsection (a) of this section, there remain excess sales  
355 proceeds available for distribution to the holders of subordinate security  
356 interests, such distribution shall be made in the following manner:

357 (1) Within five days following the transfer of title to the purchaser, the  
358 commissioner shall give notice to the holders of all subordinate security  
359 interests affected by the foreclosure and to the former owner of the  
360 existence and extent of excess proceeds. Such notice shall also set out the  
361 names and addresses of all of the holders of subordinate security  
362 interests. Such notice shall be sent by certified mail, return receipt  
363 requested;

364 (2) Within twenty days of the date of the notice required under  
365 subdivision (1) of this subsection, the former owner and all holders of  
366 subordinate security interests affected by the foreclosure desiring to  
367 make a claim to the excess proceeds shall forward to the commissioner  
368 an affidavit of debt setting out the priority and amount being claimed,  
369 including a statement of the per diem accrual rate subsequent to the date  
370 of the affidavit. Copies of the affidavit shall be mailed to the former  
371 owner and to all other holders of subordinate security interests listed in  
372 the commissioner's notice;

373 (3) Within ten days following the expiration of the period described in  
374 subdivision (2) of this subsection, the commissioner shall prepare a  
375 statement of distribution, setting out the proposed order of priorities and  
376 payments to the former owner and to each holder of a subordinate  
377 security interest to whom a payment is to be made;

378 (4) If, within ten days following the mailing of the statement of  
379 distribution, neither the former owner nor the holder of any subordinate

380 security interest affected by the foreclosure has given notice to the  
381 commissioner and to all other holders of subordinate security interests of  
382 an objection to the commissioner's proposed order of distribution, the  
383 commissioner shall forthwith make payment in accordance with the  
384 proposed order of distribution;

385 (5) If, within ten days following the mailing of the statement of  
386 distribution, the former owner or any holder of any subordinate security  
387 interest affected by the foreclosure gives notice to the commissioner and  
388 to all other holders of a subordinate security interest of an objection to  
389 the proposed order of distribution, the commissioner shall make  
390 distribution only to those persons whose interests are unaffected by the  
391 objection, and shall pay to the clerk of the court for the judicial district in  
392 which the property is located the proceeds at issue, and shall provide  
393 notice to the former owner and to every holder of a subordinate security  
394 interest affected by the foreclosure, by certified mail, return receipt  
395 requested, of the name and address of the court to which the moneys  
396 were paid, the person's right to file an application with the court for  
397 return of such moneys, and the amount of moneys paid to the court. Any  
398 such person may, within ninety days of the date the commissioner paid  
399 the moneys to the court, file an application with the court for return of  
400 the moneys. Any such person may make an application for payment of  
401 moneys deposited in court as provided for in this subdivision to the  
402 superior court for the judicial district in which the property that was the  
403 subject of the foreclosure is located or, if said court is not in session, to  
404 any judge thereof, for a determination of the equities of the parties  
405 having an interest in such moneys. Notice of such application shall be  
406 served in the same manner as to commence a civil action on all persons  
407 having an interest of record in such on the date of recording of the notice  
408 of foreclosure, or whose interest arose thereafter, but who has complied  
409 with the requirements of subsection (d) of section 2 of this act. The court  
410 or judge upon such motion or upon its own motion may appoint a state  
411 referee to hear the facts and to make a determination of the equities of  
412 the parties in such moneys. Such referee, after providing at least ten  
413 days' notice to the parties interested of the time and place of hearing,

414 shall hear the applicant and any parties interested, take such testimony  
415 as such referee deems material and determine the equities of the parties  
416 and immediately report to the court or judge. The report shall contain a  
417 detailed statement of findings by the referee, sufficient to enable the  
418 court to determine the consideration upon which the referee based the  
419 referee's conclusions. The report may be rejected for any irregular or  
420 improper conduct in the performance of the duties of such referee. If the  
421 report is rejected, the court or judge shall appoint another referee to  
422 make such determination and report. If the report is accepted, such  
423 determination of the equities shall be conclusive upon all parties given  
424 notice of such hearing, subject to appeal to the appellate court. If no  
425 appeal to the appellate court is filed within the time allowed by law, or if  
426 an appeal is filed and the proceedings have terminated in a final  
427 judgment determining the amount due each party, the clerk shall send a  
428 certified copy of the statement of compensation and of the judgment to  
429 the prevailing party or parties, as the case may be, and shall pay such  
430 parties the amount due.

431 (c) If the real property is sold at a public sale pursuant to a power of  
432 sale, or at a private sale under sections 1 to 9, inclusive, of this act, neither  
433 a mortgagor nor any comaker or guarantor of the secured indebtedness  
434 shall be liable for the deficiency, if any, between the secured  
435 indebtedness and the net proceeds delivered to the mortgagee from any  
436 such sale.

437 Sec. 8. (NEW) (a) Whenever real property is sold by a mortgagee  
438 under a power of sale, a purchaser for value in good faith acquires the  
439 mortgagor's and the mortgagee's rights in the real property, free of the  
440 mortgage under which the sale occurred and any subordinate interest,  
441 other than those subordinate interests which the notice of foreclosure by  
442 power of sale indicated would not be affected by the foreclosure, even  
443 though the mortgagee or commissioner conducting the sale fails to  
444 comply with the requirements of sections 1 to 9, inclusive, of this act.  
445 Notwithstanding that a subordinate mortgage or other security interest  
446 is extinguished by the sale, the underlying claim of the holder of the  
447 interest against the mortgagor shall be preserved to the extent not

448 satisfied. Any holder whose mortgage or other security interest is  
449 extinguished shall have a cause of action against the foreclosing  
450 mortgagee for loss of its mortgage or other security interest resulting  
451 from any material misstatement or omission made in the affidavit  
452 required by subsection (d) of section 4 of this act. No such action may be  
453 brought but within one year of the date of the recording of the affidavit.

454 (b) When a mortgage has been foreclosed pursuant to sections 1 to 9,  
455 inclusive, of this act and one or more persons owning any interest in or  
456 holding an encumbrance on such real property subsequent or  
457 subordinate to such mortgage, other than a subordinate mortgage or  
458 security interest that is subject to the provisions of subsection (a) of this  
459 section, has been omitted or has not been foreclosed of such interest or  
460 encumbrance because of improper service of the notice of foreclosure  
461 under subsection (c) of section 2 of this act, or for any other reason, all  
462 persons foreclosed by the foreclosure shall be bound thereby as fully as if  
463 no such omission or defect had occurred and shall not retain any equity  
464 or right to redeem such foreclosed real property. Such omission or  
465 failure to properly foreclose such person or persons may be completely  
466 cured and cleared by deed or foreclosure or other proper legal  
467 proceedings to which the only necessary parties shall be the party  
468 acquiring such foreclosure title, or such party's successor in title, and the  
469 party or parties thus not foreclosed, or their respective successors in title.

470 (c) The Commissioner of the Superior Court conducting a sale under a  
471 power of sale shall execute a deed to the purchaser sufficient to convey  
472 title, which deed shall identify the mortgage and the parties to the  
473 mortgage, indicate where recorded and recite that the deed is executed  
474 by the Commissioner of the Superior Court conducting the sale after a  
475 default and sale under sections 1 to 9, inclusive, of this act and the  
476 commissioner's authority to conduct the sale. Signature and title or  
477 authority of such commissioner signing the deed as grantor and a recital  
478 of the fact of default and the giving of notices required by sections 1 to 9,  
479 inclusive, of this act, together with the affidavits required by subsections  
480 (d) and (e) of section 4 of this act, are sufficient proof of the facts recited  
481 and of the signer's authority to sign.

482       Sec. 9. (NEW) Any mortgagor or other holder of a subordinate  
483 interest in real property securing a debt or other obligation affected by  
484 the exercise of a power of sale by a mortgagee under sections 1 to 9,  
485 inclusive, of this act may pursue in a separate civil action any rights or  
486 claims against such mortgagee that could not have been pursued or  
487 asserted under sections 1 to 9, inclusive, of this act and that were not  
488 extinguished by the exercise of such mortgagee's rights under sections 1  
489 to 9, inclusive, of this act or by any determinations of the Superior Court  
490 pursuant to sections 1 to 9, inclusive, of this act.

491       Sec. 10. Subsection (a) of section 12-498 of the general statutes, as  
492 amended by section 1 of public act 99-231 and section 55 of public act 99-  
493 241, is repealed and the following is substituted in lieu thereof:

494       (a) The tax imposed by section 12-494 shall not apply to: (1) Deeds  
495 which this state is prohibited from taxing under the constitution or  
496 laws of the United States; (2) deeds which secure a debt or other  
497 obligation; (3) deeds to which this state or any of its political  
498 subdivisions or its or their respective agencies is a party; (4) tax deeds;  
499 (5) deeds of release of property which is security for a debt or other  
500 obligation; (6) deeds of partition; (7) deeds made pursuant to mergers  
501 of corporations; (8) deeds made by a subsidiary corporation to its  
502 parent corporation for no consideration other than the cancellation or  
503 surrender of the subsidiary's stock; (9) deeds made pursuant to a  
504 decree of the Superior Court under section 46b-81, 49-24 or 52-495 or  
505 pursuant to a foreclosure by power of sale, as authorized under  
506 sections 1 to 9, inclusive, of this act; (10) deeds, when the consideration  
507 for the interest or property conveyed is less than two thousand dollars;  
508 (11) deeds between affiliated corporations, provided both of such  
509 corporations are exempt from taxation pursuant to paragraph (2), (3)  
510 or (25) of Section 501(c) of the Internal Revenue Code of 1986, or any  
511 subsequent corresponding internal revenue code of the United States,  
512 as from time to time amended; (12) deeds made by a corporation  
513 which is exempt from taxation pursuant to paragraph (3) of Section  
514 501(c) of the Internal Revenue Code of 1986, or any subsequent  
515 corresponding internal revenue code of the United States, as from time

516 to time amended, to any corporation which is exempt from taxation  
517 pursuant to said paragraph (3) of said Section 501(c); (13) deeds made  
518 to any nonprofit organization which is organized for the purpose of  
519 holding undeveloped land in trust for conservation or recreation  
520 purposes; (14) deeds between spouses; (15) deeds of property for the  
521 convention center site, the sportsplex site or the parking facilities site,  
522 each as defined in section 32-651; (16) land transfers made on or after  
523 July 1, 1998, to a water company, as defined in section 16-1, provided  
524 the land is classified as class I or class II land, as defined in section 25-  
525 37c, after such transfer; and (17) transfers or conveyances to effectuate  
526 a mere change of identity or form of ownership or organization, where  
527 there is no change in beneficial ownership.

**JUD Committee Vote:** Yea 31 Nay 8 JFS-LCO  
**FIN Committee Vote:** Yea 43 Nay 0 JF