



House of Representatives

File No. 636

General Assembly

February Session, 2006

(Reprint of File No. 502)

Substitute House Bill No. 5734
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
April 26, 2006

**AN ACT CONCERNING MORTGAGE PAYOFF STATEMENTS AND
FORECLOSURE COMMITTEE FEES AND COSTS.**

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

1 Section 1. Section 49-10a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2006*):

3 (a) A mortgagee shall, upon written request of the mortgagor or the
4 mortgagor's attorney or other authorized agent, provide a payoff
5 statement in writing to the person requesting [such] the payoff
6 statement on or before the date specified in such request, provided
7 such request date is at least [ten] eight business days [from] after the
8 date of receipt of the written request for a payoff statement. The
9 written request shall specify a date through which the amount
10 specified in the payoff statement shall be valid. If the request is made
11 in connection with a default, the mortgagor's attorney may make such
12 written request directly to the mortgagee, provided such written
13 request contains a representation that the person requesting the payoff
14 statement is the mortgagor's attorney and that the mortgagor has
15 authorized the request.

16 (b) If the mortgagee fails to provide [such] the payoff statement on
17 or before such request date, the mortgagee shall not be entitled to the
18 payment of any interest on the mortgage loan which is secured by such
19 mortgage which accrues after the expiration of such request date. If the
20 mortgagee provides the payoff statement to the person requesting the
21 [same] payoff statement after the expiration of such request date,
22 interest on the mortgage loan which accrues after the receipt of [such]
23 the payoff statement by the person who has requested it shall again be
24 payable. The burden of proof shall be on the mortgagor with respect to
25 the receipt by the mortgagee of the mortgagor's request for a payoff
26 statement of the mortgage loan, and thereafter shall be on the
27 mortgagee with respect to the receipt of the payoff statement by the
28 mortgagor or the mortgagor's attorney or other authorized agent.

29 (c) The mortgagee shall not impose any fee or charge for the first
30 payoff statement requested within a calendar year, unless the
31 mortgagor or the mortgagor's attorney or other authorized agent
32 requests expedited delivery of the payoff statement, agrees to pay a fee
33 for such expedited delivery and the payoff statement is provided by
34 the agreed upon date.

35 (d) (1) Notwithstanding the provisions of subsections (a) to (c),
36 inclusive, of this section, in the case of a request made in connection
37 with a mortgage default after entry of judgment of foreclosure by sale,
38 it shall be the duty of the mortgagor or the mortgagor's attorney to
39 make a written request upon the foreclosure committee for a written
40 statement of the foreclosure committee's fees and costs. The request
41 shall specify a "good through date" which shall be the last date as of
42 which the foreclosure committee shall have performed any and all
43 duties required to be performed, pursuant to order of the court,
44 including the filing of a written report of foreclosure committee fees
45 and costs with the court, except that such filing shall not be required if
46 the foreclosure committee receives its fees and costs before it files the
47 report with the court.

48 (2) The foreclosure committee shall provide a written statement of

49 fees and costs to the mortgagor or the mortgagor's attorney not later
 50 than three business days after receiving a written request pursuant to
 51 subdivision (1) of this subsection. The mortgagor or the mortgagor's
 52 attorney shall pay such fees and costs directly to the foreclosure
 53 committee. The foreclosure committee shall provide the mortgagor or
 54 the mortgagor's attorney with a written receipt for payment of such
 55 fees and costs not later than twenty-four hours after the foreclosure
 56 committee receives such payment.

57 (3) If a mortgagor or the mortgagor's attorney pays the foreclosure
 58 committee an amount that exceeds the amount of the foreclosure
 59 committee's actual fees and costs, the foreclosure committee shall
 60 refund the excess amount not later than seven business days after the
 61 excess amount is received by the foreclosure committee.

62 (4) It shall be an express condition to the delivery of a satisfaction of
 63 judgment or release of the mortgage that all foreclosure committee fees
 64 and costs be received by the foreclosure committee and that the
 65 foreclosure committee shall have delivered written acknowledgement
 66 to the mortgagee or the mortgagee's attorney that all foreclosure
 67 committee fees and costs have been paid to the foreclosure committee.

68 (5) In the event that a judgment of foreclosure by sale is opened for
 69 the purpose of extending the sale date, and the court has further
 70 ordered that the mortgagor pay the foreclosure committee's fees and
 71 costs incurred to the date of entry of such order, the provisions of this
 72 subsection shall apply.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2006	49-10a

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill as amended reduces the amount of days that a mortgagee has to provide a written payoff statement to a mortgagor. The bill as amended makes several other various changes to laws concerning requests for payoff statements, none of which have a fiscal impact.

House "A" requires that the date in the request for a payoff statement be at least eight days instead of ten. This has no fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis

sHB 5734 (as amended by House "A")*

AN ACT CONCERNING REQUESTS FOR PAYOFF STATEMENTS.

SUMMARY:

Under current law, a mortgagee must, upon written request of the mortgagor or his attorney or other authorized agent, provide a written payoff statement by the date the request specifies, if this date is at least 10 business days after the date the mortgagee received the written request. The bill decreases this time period from 10 to eight business days.

The bill requires that the request specify a date through which the amount specified in the payoff statement is valid. If the request is made in connection with a default, the bill authorizes the mortgagor's attorney to make the request directly to the mortgagee, if the request specifies that the person asking for the payoff statement is the mortgagor's attorney and that the mortgagor has authorized the request.

The bill establishes additional requirements if the request is made in connection with a mortgage default after a court enters a judgment of foreclosure by sale and the mortgagor redeems the mortgage by either selling the property privately or refinancing it and paying off the foreclosing mortgage. Specifically, it requires the mortgagor or his attorney to pay all foreclosure committee costs and expenses directly to the committee (see COMMENT), and establishes requirements regarding requests to, and responses from, the committee regarding expenses and costs. Under current law, the mortgagor includes an

amount for the committee's costs and expenses in the amount it sends to the foreclosing party's attorney when he redeems the mortgage. The attorney subsequently forwards this payment to the committee.

The bill makes it an express condition to the delivery of a satisfaction of judgment or release of the mortgage that the foreclosure committee has (1) received all foreclosure committee fees and costs, and (2) delivered written acknowledgement to the mortgagee or his attorney that all foreclosure committee fees and costs have been paid to the foreclosure committee.

*House Amendment "A" requires that the date in the request for a payoff statement be at least eight instead of 10 business days after the mortgagee receives the request. It requires that the request specify a date through which the amount specified in the payoff statement will be valid instead of a "good through date" for the payoff statement. Finally, it establishes additional requirements if the request is made in connection with a mortgage default after a court enters a judgment of foreclosure by sale.

EFFECTIVE DATE: October 1, 2006

REQUESTS MADE AFTER ENTRY OF FORECLOSURE BY SALE JUDGMENT

If the request for a payoff statement is made in connection with a mortgage default after the court enters a judgment of foreclosure by sale, the bill also requires the mortgagor or his attorney to make a written request to the foreclosure committee for a written statement of the foreclosure committee's fees and costs. The request must specify a "good through date," which the bill defines as the last date the foreclosure committee performed any court-ordered duties. The bill specifies that these duties include filing a written report of committee fees and costs unless the committee already received its fees and costs before it files the report with the court. (It is not clear what this last requirement means because it seems to relieve the committee of the duty to file a report of its fees and costs while at the same time

referring to its filing such a report. It may refer to the final report the committee must submit to the court and not to the report of fees and costs specified in the first part of the provision.) (see COMMENT)

The bill requires the foreclosure committee to provide a written statement of fees and costs to the mortgagor or his attorney within three business days after receiving the request. It requires the mortgagor or his attorney to pay these fees and costs directly to the foreclosure committee. (see COMMENT) The foreclosure committee must provide the mortgagor or his attorney a written receipt within 24 hours after the foreclosure committee receives such payment.

If a mortgagor or his attorney pays the foreclosure committee an amount that exceeds the amount of the foreclosure committee's actual fees and costs, the bill requires the foreclosure committee to refund the excess amount not later than seven business days after the committee receives the excess amount.

The bill specifies that if a judgment of foreclosure by sale is opened to extend the sale date, and the court has further ordered that the mortgagor pay the foreclosure committee's fees and costs incurred up to the date of entry of the order, the notice, payment, and reimbursement provisions of the bill apply.

BACKGROUND

Satisfaction of Judgment

In a foreclosure of sale, a "satisfaction of judgment" apparently refers to the document that indicates that the mortgagor has paid the foreclosing plaintiff all that he owes.

Foreclosure Committee

When the court determines that a foreclosure by sale should be decreed, it appoints a person to make the sale and fix a date for it. This person is known as the foreclosure committee. The court's decree directs whether the property must be sold as a whole or in parcels, and how the sale must be made and advertised (CGS § 49-25).

COMMENT***Payment Directly to the Foreclosure Committee***

Current law, unamended by the bill, appears to require the foreclosing party (the plaintiff) to pay the expenses of the sale if the property owner redeems the property before it is sold at public sale. But the bill makes the mortgagor responsible for paying the committee directly.

Specifically, if the property is redeemed at any time before the approval of the sale, the expense of the sale and appraisal or appraisals must be paid by the plaintiff and be taxed with the costs of the case. If, after judgment has been rendered, the amount found to be due and for which foreclosure is decreed, together with the interest and the costs, is paid to the plaintiff before the sale, all further proceedings in the suit must be stayed (CGS § 49-25).

Report to the Court

The bill refers to a report to the court by the committee. But under current law, the committee does not submit a report to the court if the mortgagor redeems the property.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 38 Nay 0 (03/27/2006)

Banks Committee

Joint Favorable

Yea 14 Nay 0 (04/19/2006)