



CONNECTICUT ASSOCIATION OF  
**REALTORS®** INC.

**Statement on S.B. No. 1059 (RAISED): An Act Concerning a Modern Method of Foreclosure**  
**SUPPORT**

**Submitted to the Judiciary Committee**

**March 13, 2013**

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Connecticut Association of REALTORS®, Inc

Good afternoon. My name is Eugene Marconi and I am the General Counsel for the Connecticut Association of REALTORS®. I have the privilege of speaking on behalf of the 15,000 members of the Association in support of SB 1059 (Raised) An Act Concerning a Modern Method of Foreclosure.

The bill seeks to add an item to the menu of foreclosure options: a foreclosure by market sale. The current foreclosure by sale procedure has changed little in over a century and is an antique. This process does not and will not produce market value sales as it severely restricts the universe of buyers qualified to participate by failing to allow for the usual and customary contingencies for home inspection, lead paint inspection and financing; and provides extremely limited inspection periods (typically two hours before the auction according to the Standing Orders of the Superior court). This process effectively shuts out purchasers who require financing or simply do not have the money or inclination to risk a property that they cannot adequately inspect in order to apprise themselves of the risks of ownership.

The strict foreclosure process has led to unfortunate consequences as lenders are unequipped to manage and market foreclosed properties. That is not to blame the lenders; they are not in the business of managing and marketing real estate. These properties often sit empty for long periods of time while they deteriorate for lack of basic maintenance, serve as a target for vandalism and theft and become a source of adverse comparable sale information that drives down appraisals on surrounding properties. It would certainly serve our towns, cities and the public to have these properties come directly out of the foreclosure process to their ultimate purchasers. The bill attempts to leverage our court processes with Connecticut's army of 20,000 real estate licensees who have the training and tools to market and sell these properties on the open market.

The market sale proposal would permit a mortgagor to present a marketing plan for the court's approval after a hearing where the encumbrance's would be heard. The plan could include listing with a real estate licensee on the open market and would obligate the mortgagor to present all offers to the court. Offers could contain the usual and customary contingencies for financing and inspections. This would also allow properties to be marketed through multiple listing service systems and their Web partners.

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*The Voice for Real Estate™ in Connecticut*

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There is nothing unusual or novel in court-approved sales on the open market. Probate courts have been doing them for years. Our courts routinely approve such sales in divorce proceedings. Bankruptcy courts also do the same, and the federal courts use a similar procedure in selling forfeited properties. Our courts routinely decide find fair market value in all sorts of disputes.

We would make three suggestions to the bill language. First, the wording of the bill should state more clearly that offers may be submitted to the court for approval as soon as they are received. Second, the wording of the bill should state more clearly that the encumbrance's input on aspects of the sale such as list price and marketing time is both necessary and welcomed. Finally, the bill language should permit the court to consider the lack of potential equity as a factor in deciding whether to grant a foreclosure by market sale but not the sole determining factor.

The current foreclosure auction sale serves no one but well-heeled purchasers who have the wherewithal to purchase for cash and assume unknown risks. It certainly does not benefit mortgagors nor does it benefit mortgagees who more often than not assume ownership of these properties and spend money on asset managers, insurance, upkeep and the cost of disposition. It is time to bring foreclosure sales out of the horse and buggy days and into some semblance of a modern real estate transaction.

Thank you for your time, and I look forward to answering any questions.



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