



General Assembly

January Session, 2013

Raised Bill No. 1059

LCO No. 4147



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

AN ACT CONCERNING A MODERN METHOD OF FORECLOSURE.

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

1 Section 1. Section 49-24 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2013*):

3 All liens and mortgages affecting real property may, on the written
4 motion of any party to any suit relating thereto, be foreclosed by (1) a
5 decree of sale instead of a strict foreclosure at the discretion of the
6 court before which the foreclosure proceedings are pending or, (2) if
7 the property affected is real property containing any building or
8 structure occupied or intended to be occupied by not more than four
9 families, a decree of market sale in accordance with the provisions of
10 section 2 of this act and sections 49-26 and 49-27, as amended by this
11 act.

12 Sec. 2. (NEW) (*Effective October 1, 2013*) (a) Any party to a
13 foreclosure action may file a motion for a foreclosure by market sale.
14 Such motion shall include the moving party's proposed marketing
15 plan to market the property. The court, if it approves the marketing

16 plan, shall grant such motion and issue a decree fixing a date, not
17 earlier than one hundred twenty days from the date of granting such
18 motion, for the receipt of an offer to purchase the property being
19 foreclosed. A proposed marketing plan (1) may include listing the
20 property for sale with a person licensed under chapter 392 of the
21 general statutes, provided such plan includes the proposed
22 compensation to be paid to such person, (2) shall describe the
23 advertisement to be performed for purposes of marketing the property
24 and the proposed cost of such advertisement, and (3) shall require that
25 all offers received be provided to the court as soon as possible after
26 such offers have been received and prior to the date fixed for the
27 presentation of an offer and be subject to the approval of the court.

28 (b) Upon the receipt of a written offer, the court, after a hearing,
29 shall determine whether it is in the best interests of the parties to the
30 foreclosure to approve such offer. The court shall not reject an offer
31 solely on the basis that the offer contains contingencies for mortgage
32 financing or building or other inspections of the property but may
33 consider the absence of contingencies to an offer in deciding which of
34 several competing offers is in the best interests of the parties. The court
35 may extend the deadline for the receipt of offers set in accordance with
36 subsection (a) of this section upon a finding of good cause shown
37 which includes, but is not limited to, allowing an offeror a reasonable
38 time to meet contingencies set forth in an offer.

39 (c) If no offers are received or are acceptable to the court by the set
40 date fixed for the receipt or presentation of an offer in accordance with
41 subsection (a) of this section, the court may extend such date or issue a
42 decree of sale in accordance with section 49-24, as amended by this act,
43 or a decree of strict foreclosure.

44 (d) If the court approves an offer, it shall issue a decree ordering a
45 sale date not earlier than ninety days following the date of such decree
46 by which the offeror shall complete the sale, which date may be
47 extended for good cause shown upon the order of the court. The court

48 shall determine and approve the payment of conveyance taxes,
49 encumbrances having priority over the interests to be foreclosed,
50 marketing expenses, including compensation to persons licensed
51 pursuant to chapter 392 of the general statutes, recording fees and
52 reasonable attorney's fees for the attorney closing the sale for the seller,
53 to be paid from the closing proceeds on the date of closing.

54 Sec. 3. Section 49-26 of the general statutes is repealed and the
55 following is substituted in lieu thereof (*Effective October 1, 2013*):

56 When a sale has been made pursuant to a judgment therefor and
57 ratified by the court, a conveyance of the property sold shall be
58 executed by the person appointed to make the sale, or, in the event of a
59 foreclosure by market sale, by the mortgagors, which conveyance shall
60 vest in the purchaser the same estate that would have vested in the
61 mortgagee or lienholder if the mortgage or lien had been foreclosed by
62 strict foreclosure, and to this extent such conveyance shall be valid
63 against all parties to the cause and their privies, but against no other
64 persons. The court, at the time of or after ratification of the sale, may
65 order possession of the property sold to be delivered to the purchaser
66 and may issue an execution of ejectment after the time for appeal of the
67 ratification of the sale has expired.

68 Sec. 4. Section 49-27 of the general statutes is repealed and the
69 following is substituted in lieu thereof (*Effective October 1, 2013*):

70 The proceeds of each such sale or, in the event of a foreclosure by
71 market sale, the proceeds of such market sale less any expenses for
72 marketing and sale approved in accordance with section 2 of this act,
73 shall be brought into court, there to be applied if the sale is ratified, in
74 accordance with the provisions of a supplemental judgment then to be
75 rendered in the cause, specifying the parties who are entitled to the
76 same and the amount to which each is entitled. If any part of the debt
77 or obligation secured by the mortgage or lien foreclosed or by any
78 subsequent mortgage or lien was not payable at the date of the

79 judgment of foreclosure, it shall nevertheless be paid as far as may be
80 out of the proceeds of the sale as if due and payable, with rebate of
81 interest where the debt was payable without interest, provided, if the
82 plaintiff is the purchaser at any such sale, he shall be required to bring
83 into court only so much of the proceeds as exceed the amount due
84 upon his judgment debt, interest and costs.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	49-24
Sec. 2	<i>October 1, 2013</i>	New section
Sec. 3	<i>October 1, 2013</i>	49-26
Sec. 4	<i>October 1, 2013</i>	49-27

Statement of Purpose:

To support the Attorney General's settlement with five large mortgage servicers by providing a faster mechanism of short sales and discouraging double-tracking of short sale and foreclosure matters by all mortgage lenders.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]