

Connecticut Title Association

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March 16, 2018

**TO: Honorable Co-Chairs Representative William Tong, Senator Paul R. Doyle, and Senator John A. Kissel;
Honorable Members of the Joint Committee on Judiciary**

RE: Testimony in Support of Raised Bill No. 485

The Connecticut Title Association urges you to vote in favor of Raised Bill 485: **An Act Concerning the Provision of a Payoff Statement by a Judgment Lienholder.**

The Members of our Association, title insurance companies operating in Connecticut, thank you for the opportunity to be heard on this important matter. Our Members have identified difficulties with clearing judgment liens from real property titles in Connecticut. Specifically, we are very concerned that judgment lienholders are failing to provide payoff statements to interested parties who wish to pay off such liens in good faith. This is not only a problem for the title insurance industry, but also for the real estate community at large, as well as your most important constituents, everyday citizens.

Raised Bill No. 485 has its roots in an existing legal framework found in Connecticut General Statute Section 49-10a, which compels mortgage holders to provide payoff statements within a specified time frame when requested by mortgagors or their agents. Similarly, the Raised Bill establishes a time frame applicable to a judgment lienholder's response to a request for a payoff statement by a judgment debtor, the debtor's attorney or an authorized representative for the current owner of the encumbered property. If the esteemed Members of this Committee agree that a judgment lienholder should have a minimum level of responsibility, that responsibility should be to provide a payoff statement to interested parties in a timely manner, which would allow the debt to be satisfied and the associated judgment lien to be released from the land records.

Certainly a problem exists, and passage of Raised Bill No. 485 is necessary to help solve it. However, the Connecticut Title Association does not feel that the penalty provision in subsection (b) is necessary at this time. Reason and conscientious regard for good policy that benefits society demand a solution. Here, that solution is to create a statutory time frame under which a judgment lienholder is minimally accountable to an interested person who wishes to pay off the debt in good faith.

Unreleased liens are often the reason why real estate transactions are either delayed or cancelled. The reason for this is because the seller of real estate is most often contractually bound to deliver a marketable title to a buyer. When the title is clouded by a judgment lien that cannot be released because the judgment lienholder refuses to provide a payoff statement, the title is unmarketable, and there is likely a real estate transaction that is either being delayed or terminated. This creates many negative downstream consequences that affect numerous stakeholders.

For example, imagine a property that has gone through foreclosure, and because of human error, an enforceable judgment lien encumbering the title was missed in a title search. The new owner of the

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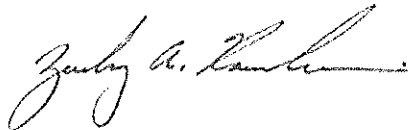
property, a contractor who purchased the property at the foreclosure auction, becomes aware that the unreleased judgment lien exists and files a claim under a title insurance policy. After having renovated the property, the contractor has signed a contract to sell the property to a buyer, but the claims department at the seller's title insurer cannot get the lien released because the lienholder refuses to provide a payoff statement, and the buyer will not proceed with the transaction on the basis that the title is clouded.

This is uneconomical. The absurd result that is being created is that the judgement lienholder is refusing to accept its legal remedy, which is the satisfaction of a debt. I stress that, in such a situation, the lienholder *should* be paid in full. Moreover, when a real estate transaction does not close, many stakeholders lose. The contractor mentioned above is in danger of losing the investment made in rehabbing a foreclosure property, putting a Connecticut business and its employees at risk, real estate agents and other service providers do not collect their fees, and state and local governments do not collect conveyance and income taxes, just to name a few.

The honorable Members of this Committee would be upholding the welfare of the public by passing Raised Bill No. 485. In addition to the economic burdens placed onto society, judgment lienholders who refuse to provide payoff statements to interested parties in a timely manner are displacing people. Think of the person living out of a moving van because that person's former property has been sold, and the closing on the new property cannot move forward because of an unreleased judgment lien. Think of the contractor whose investment is evaporating as statutory interest on the lien accrues and lives under the threat of the judgment lienholder foreclosing the lien. This problem affects regular folks.

The Connecticut Title Association respectfully asks the Honorable Members of the Joint Committee on Judiciary to consider these points and to vote in favor of Raised Bill No. 485.

Respectfully submitted,



Zachary A. Kammerdeiner, Esq.
President, Connecticut Title Association

Raised Bill No. 485

February Session, 2018

LCO No. 2347

02347 _____ JUD

Referred to Committee on JUDICIARY

Introduced by:

(JUD)

AN ACT CONCERNING THE PROVISION OF A PAYOFF STATEMENT BY A JUDGMENT LIENHOLDER.

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

Section 1. (NEW) (Effective October 1, 2018) (a) A judgment lienholder or an attorney who has filed an appearance on behalf of such judgment lienholder, shall, upon written request of the debtor, debtor's attorney or authorized representative for the current owner of the property which is subject to the lien, provide a payoff statement, in writing, to the person requesting the payoff statement on or before the date specified in such request, provided such request date is not less than twenty-one business days after the date of receipt of the written request. When requesting a payoff statement, the debtor, debtor's attorney or authorized representative for the current owner of the property which is subject to the lien may rely on the last recorded lien of record securing the lienholder's judgment in identifying the name and mailing address of the holder of such lien, unless the holder of such lien is the plaintiff in an action pending in Superior Court to enforce such interest, in which case the request for a payoff statement shall be provided to the attorney appearing on behalf of the plaintiff.

Comment [zk1]: Proposed addition

[(b) If the judgment lienholder or an attorney who has filed an appearance on behalf of such judgment lienholder does not provide the payoff statement on or before the date specified in the request, the judgment lienholder or attorney who has filed an appearance on behalf of such judgment lienholder shall be liable for damages to any person aggrieved at the rate of two hundred dollars for each week of failure to provide such a payoff statement, up to a maximum of three thousand dollars, or in an amount equal to the loss sustained by such aggrieved person as a result of the failure of the judgment lienholder or attorney to provide such a payoff statement, whichever is greater, plus costs and reasonable attorney's fees.]

Comment [zk2]: Proposed deletion

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

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2018</i>	New section
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Statement of Purpose:

To establish the time frame applicable to a judgment lienholder's response to a request for a payoff statement from a judgment debtor or an agent acting on behalf of such judgment debtor.

[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.]