



House of Representatives

General Assembly

File No. 150

February Session, 2024

Substitute House Bill No. 5342

House of Representatives, March 27, 2024

The Committee on Banking reported through REP. DOUCETTE of the 13th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING MORTGAGE FORECLOSURES AND UNDISCHARGED MORTGAGES.

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

1 Section 1. (NEW) (*Effective July 1, 2024*) Notwithstanding any
2 provision of the general statutes, an action to foreclose a mortgage on
3 residential real property, as defined in section 49-31k of the general
4 statutes, shall not be commenced following the earliest of:

5 (1) Ten years from the date fixed for the making of the last payment
6 or the maturity date set forth in the mortgage or the note, bond or other
7 obligation secured by the mortgage, whether the date is itself set forth
8 or may be calculated from information contained in the mortgage or
9 note, bond or other obligation, except if the date fixed for the making of
10 the last payment or the maturity date has been extended by a written
11 instrument, the action to foreclose shall not be commenced after ten
12 years from the extended date under the terms of the written instrument;

13 (2) Forty years from the date of recording of the mortgage, or, if the

14 mortgage is not recorded, forty years from the date of execution,
15 provided the mortgage itself does not provide for a period of repayment
16 in excess of forty years; or

17 (3) Ten years from the date on which the debtor defaulted, which
18 default has not been cured, as to any of the obligations or covenants
19 contained in the mortgage or in the note, bond or other obligation
20 secured by the mortgage, except if the date to perform any of the
21 obligations or covenants has been extended by a written instrument or
22 payment on account has been made, the action to foreclose shall not be
23 commenced after ten years from the date on which the default or
24 payment on account thereof occurred under the terms of the written
25 instrument.

26 Sec. 2. Section 49-13a of the general statutes is repealed and the
27 following is substituted in lieu thereof (*Effective July 1, 2024*):

28 (a) When record title to real property remains encumbered by any
29 undischarged mortgage, and the mortgagor or those owning the
30 mortgagor's interest therein have been in undisturbed possession of the
31 property for at least [twenty] ten years after the expiration of the time
32 limited in the mortgage for the full performance of the conditions
33 thereof, or for at least forty years from the recording of the mortgage if
34 the mortgage does not disclose the time when the note or indebtedness
35 is payable or the time for full performance of the conditions of the
36 mortgage, unless a notice is recorded pursuant to subsection (b) of this
37 section, the mortgage shall be invalid as a further lien against the real
38 property, provided an affidavit, subscribed and sworn to by the party
39 in possession, stating the fact of such possession, is recorded on the land
40 records of the town in which the property is situated.

41 (b) The record holder of an undischarged mortgage on real property
42 may, prior to the expiration of the applicable time period specified in
43 subsection (a) of this section, record a notice, on the land records of the
44 town in which the property is situated, that contains: (1) The name or
45 names of the mortgagors; (2) the recording information for the mortgage
46 and any assignment of the mortgage; and (3) a statement of the reasons

47 why the mortgage is valid and effective. Upon the recording of such
 48 notice in accordance with this subsection, the applicable time period
 49 after which the mortgage shall be invalid as a further lien against the
 50 real property as provided in subsection (a) of this section shall be tolled
 51 for a period of ten years from the recording of such notice. Any such
 52 notice shall be indexed in the grantor's index under the name or names
 53 of the mortgagors and in the grantee's index under the name of the
 54 record holder of the mortgage.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2024	New section
Sec. 2	July 1, 2024	49-13a

BA *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill establishes a statute of limitations for bringing an action to foreclose on certain mortgages and reduces the time after which an unreleased mortgage is invalid, resulting in no fiscal impact to the state.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis

sHB 5342

AN ACT CONCERNING MORTGAGE FORECLOSURES AND UNDISCHARGED MORTGAGES.

SUMMARY

This bill establishes a statute of limitations for bringing an action to foreclose on a mortgage for a one-to-four family dwelling that the mortgagor (borrower) uses as his or her home. Under the bill, this bar on bringing an action is generally the earliest of (1) 10 years after the date for making the last payment; (2) 10 years after the default date; or (3) 40 years after the mortgage's recording date, or if unrecorded, after its execution date. Existing law, unchanged by the bill, has a six-year statute of limitations on actions based on contract law (CGS § 52-576).

The bill also reduces, from 20 to 10 years after full performance was due, the time after which an unreleased mortgage is invalid under certain circumstances.

EFFECTIVE DATE: July 1, 2024

STATUTE OF LIMITATIONS

The bill provides that a foreclosure action on these residential mortgages must begin by the earliest of:

1. 10 years after the date for making the mortgage's last payment or the maturity date set in the mortgage or the note, bond, or other obligation secured by the mortgage;
2. 10 years after the date of the mortgagor's uncured default (regarding the mortgage's terms or other obligation the mortgage secures); or
3. for mortgages with a repayment period of 40 years or less, 40

years after the date the mortgage is recorded, or if unrecorded, the mortgage's execution date.

The bill's 10-year bars may be extended if there is a written instrument that extends the last payment, maturity date, or performance dates. Similarly, the 10-year bar does not apply on an action due to payment default if payment on the account was made. In these cases, the new statute of limitations is 10 years after the extended or payment date, as applicable.

INVALIDITY OF OLD MORTGAGES

Under current law, when the land records have an unreleased mortgage and the mortgagor or current landowner has been in undisputed possession for at least 20 years after the mortgage should have been paid off, the mortgage is invalid if the person in possession files an affidavit that meets certain conditions in the land records. The bill reduces the time from 20 to 10 years.

COMMITTEE ACTION

Banking Committee

Joint Favorable Substitute

Yea 12 Nay 0 (03/12/2024)