

Legislative History for Connecticut Act

HB 5902	PA 282	1984
House - 3123-3130		(8)
Senate - 2516-2519, 2622, 2624-2625		(7)
Judiciary - 966-967		(2)
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CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
1984

VOL. 27

PART 9

5061-3455

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House of Representatives

Wednesday, April 25, 1984

your vote properly recorded? Have all the members voted? Have all the members voted? If all the members have voted, the machine will be locked, and the Clerk will take a tally.

Will the Clerk please announce the tally.

CLERK:

House Bill 5373, as amended by House "A".

Total Number Voting	145
Necessary for Passage	73
Those Voting Yea	145
Those Voting Nay	0
Those Absent and Not Voting	6

SPEAKER STOLBERG:

The bill is passed.

CLERK:

Page 17, Calendar 506, Substitute for House Bill 5902, AN ACT CONCERNING ATTORNEY'S FEES IN JUDGMENT LIENS FORECLOSURE ACTIONS. Favorable Report of the Committee on Judiciary.

SPEAKER STOLBERG:

The Chairman of the Judiciary Committee, Richard Tulisano.

REP. TULISANO: (29th)

Mr. Speaker.

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SPEAKER STOLBERG:

Rep. Tulisano.

REP. TULISANO: (29th)

I move acceptance of the Joint Committee's Favorable Report and passage of the bill.

SPEAKER STOLBERG:

Will you remark?

REP. TULISANO: (29th)

Yes, Mr. Speaker. The Clerk has an amendment, LCO 3879.

SPEAKER STOLBERG:

The Clerk has an amendment, LCO 3879, designated House "A". Will the Clerk please call and read.

CLERK:

LCO 3879, designated House "A", offered by Rep. Tulisano.

In line 9, delete the words "ATTORNEY'S FEES" and substitute in lieu thereof the words "A REASONABLE ATTORNEY'S FEE".

Delete lines 10 and 11 in their entirety.

In line 12, delete the word "COURT"

REP. TULISANO: (29th)

Mr. Speaker.

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SPEAKER STOLBERG:

Rep. Tulisano.

REP. TULISANO: (29th)

I move for adoption of the amendment.

SPEAKER STOLBERG:

Will you remark?

REP. TULISANO: (29th)

Yes, Mr. Speaker. The amendment is designed to insure that 15% does not become the amount that is necessarily given but only that which is fair in any particular foreclosure action. In reviewing the file, I could perceive where 15% became the rule and very expensive real estate, depending upon the value of it, that 15% could be a substantial amount of money, as opposed to something a judge would determine reasonable for the amount of work done on the particular case. I would move for its adoption.

SPEAKER STOLBERG:

Will you remark further on House "A"? If not, all those in favor of the amendment, please indicate by saying aye.

REPRESENTATIVES:

Aye.

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SPEAKER STOLBERG:

All those to the contrary, nay.

The amendment is adopted and ruled technical. Will you remark further on the bill? Rep. Thomas Ritter.

REP. RITTER: (2nd)

Thank you, Mr. Speaker. The Clerk has amendment LCO No. 3828. Will he call it, and may I be allowed to summarize.

SPEAKER STOLBERG:

The Clerk has an amendment, LCO 3828, House "B". Will the Clerk please call.

CLERK:

LCO 3828, designated House "B", offered by Rep. Ritter.

SPEAKER STOLBERG:

Is there objection to summarization? Seeing none, please proceed.

REP. RITTER: (2nd)

Mr. Speaker, this amendment affects municipalities who foreclose on a piece of property. Right now they no longer can collect interest on the tax delinquency once the judgment has been entered. This would just allow them to continue to get interest until they get paid. I move its adoption.

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SPEAKER STOLBERG:

Will you remark further on House "B"? If not, all those in favor of the amendment, please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER STOLBERG:

All those to the contrary, nay.

The amendment is adopted and ruled technical.

House Amendment Schedule "B".

After line 29, insert the following new section:

"Sec. 3. Section 12-146 of the general statutes, as amended by section 1 of public act 83-361, is repealed and the following is substituted in lieu thereof:

Unless the context otherwise requires, wherever used in this section, "tax" includes each property tax and each installment and part thereof due to a municipality as it may have been increased by interest, fees and charges. If any tax due in a single instalment or if any instalment of any tax due in two or more instalments is not paid in full on or before the same date of the next succeeding month corresponding to that of the month on which it became due and payable, the whole or such part of such instalment as is unpaid shall thereupon be delinquent and shall be subject to interest from the due date of such delinquent instalment. Except for unpaid real estate taxes the collection of which was, or is, deferred under the provisions of section 12-174, and any predecessor and successor thereto, which unpaid real estate taxes continue to be subject to the provisions of such deferred collection statutes, the delinquent portion of the principal of any tax shall be subject to interest at the rate of eighteen per cent per annum from the time when it became due and payable until the same is paid, subject to a minimum

interest charge of two dollars which any municipality, by vote of its legislative body, may elect not to impose, and provided, in any computation of such interest, under any provision of this section, each fractional part of a month in which any portion of the principal of such tax remains unpaid shall be considered to be equivalent to a whole month. Each addition of interest shall become, and shall be collectible as, a part of such tax. INTEREST SHALL ACCRUE AT SAID RATE UNTIL PAYMENT OF SUCH TAXES DUE NOTWITHSTANDING THE ENTRY OF ANY JUDGMENT IN FAVOR OF THE MUNICIPALITY AGAINST THE TAXPAYER OR HIS PROPERTY. Except as hereinafter specified for taxes representing two or more items of property, the collector shall not receive any partial payment of a delinquent tax which is less than the total accrued interest on the principal of such tax up to the date of payment and shall apply each partial payment to the wiping out of such interest before making any application thereof to the reduction of such principal; provided, whenever the first partial payment is made after delinquency, interest from the due date of such delinquent tax to the date of such partial payment shall be figured on the whole or such part of the principal of such tax as is unpaid at the beginning of delinquency and provided, whenever a subsequent partial payment of such tax is made, interest shall be figured from the date of payment of the last-preceding, to the date of payment of such subsequent, partial payment on the whole or such balance of the principal of such tax as remains unpaid on the date of the last-preceding partial payment. If any tax, at the time of assessment or because of a subsequent division, represents two or more items of property, the collector may receive payment in full of such part of the principal and interest of such tax as represents one or more of such items, even though interest in full of the entire amount of the principal of such tax has not been received up to the date of such payment; in which event, interest on the remaining portion of the principal of any such tax shall be computed, as the case may be, from the due date of such tax if no other payment after delinquency has been made or from the last date of payment of interest in full on the whole amount or unpaid balance of the principal of such delinquent tax if previous payment of interest has been made. Each collector shall keep a separate account of such interest and the time when the same has been received and shall pay over the same to the treasurer of his municipality as a part of such tax. No tax or instalment thereof shall be construed

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to be delinquent under the provisions of this section if the envelope containing the amount due as such tax or instalment, as received by the tax collector of the municipality to which such tax is payable, bears a postmark showing a date within the time allowed by statute for the payment of such tax or instalment."

SPEAKER STOLBERG:

Will you remark further on the bill? If not, will members please be seated. Will staff and guests come to the well of the House. Will you remark further?

If not, the machine will be opened.

CLERK:

The House of Representatives is voting by roll call. Members return to the Chamber immediately.

The House of Representatives is voting by roll.

Members return to the Chamber immediately.

SPEAKER STOLBERG:

Have all the members voted? Have all the members voted? If all the members have voted, the machine will be locked, and the Clerk will take a tally.

Rep. Lavine.

REP. LAVINE: (100th)

In the affirmative.

SPEAKER STOLBERG:

Rep. Lavine in the affirmative.

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Rep. Broulliet, from the third district, do you care to vote? The machine is locked. Rep. Arthur Broulliet.

REP. BROULLIET: (3rd)

In the affirmative, please, Mr. Speaker.

SPEAKER STOLBERG:

Rep. Broulliet in the affirmative.

Will the Clerk please announce the tally.

CLERK:

House Bill 5902, as amended by House "A" and House "B".

Total Number Voting	145
Necessary for Passage	73
Those Voting Yea	144
Those Voting Nay	1
Those Absent and Not Voting	6

SPEAKER STOLBERG:

The bill is passed.

CLERK:

Calendar 511, Substitute for House Bill 5826,
AN ACT CONCERNING EJECTION OF TENANTS UPON FORECLOSURE.
Favorable Report of the Committee on Judiciary.

REP. LOONEY: (96th)

Mr. Speaker.

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THE CHAIR:

Well, move House A. All those in favor of House A, please indicate by saying aye. Those opposed, nay. The ayes have it. The Amendment is adopted. That seems to be the Bill and your remarks are applicable to the Bill. You're moving to the Consent Calendar. Any objection? No objection. The matter is placed on the Consent Calendar. Thank you.

THE CLERK:

Calendar 626, File 632, Substitute for House Bill 5902, AN ACT CONCERNING ATTORNEY'S FEES IN JUDGMENT LIEN FORCLOSURE ACTIONS, as amended by House Amendment, Schedules A and B, Favorable Report of the Committee on Judiciary.

THE CHAIR:

Senator Owens.

SENATOR OWENS:

Mr. President, I move acceptance of the Joint Committee's Favorable Report as amended by House Amendment A and House Amendment B, and passage of the Bill. Mr. President, House Amendment A grants a plaintiff reasonable attorney's fees instead of attorney's fees of not more than 15 percent of the amount of any judgment which would have been granted by the original Bill. And

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House Amendment B adds--

THE CHAIR:

We'll go one at a time.

SENATOR OWENS:

I move adoption of House Amendment A.

THE CHAIR:

The motion is to adopt House A. Do you wish to remark further? All those in favor signify by saying aye. Those opposed nay. The ayes have it. The Amendment is adopted. House B.

SENATOR OWENS:

Adds a section dealing with the payment of interest on delinquent taxes. I move adoption of House B.

THE CHAIR:

All those in favor signify by saying aye. Those opposed, nay. The ayes have it. The Amendment is adopted.

SENATOR OWENS:

On the Bill itself, Mr. President, it would in a successful lawsuit to foreclose a mortgage or lien, grant a plaintiff reasonable attorney's fees and if there was hearing, as to the form of judgment or the limitation of time for redemption. The Bill would make it clear that court costs, reasonable appraisal fees and reasonable

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attorney's fees incurred by a municipality as a result of and directly related to any foreclosure instead of just to a summary foreclosure of any municipal tax lien must be paid by the person who owns the foreclosed property.

I'd ask if there is no objection that this Bill as amended by House Amendment A be placed on Consent.

THE CHAIR:

Senator Dorr, do you wish to be recognized?

SENATOR DORR:

Yes Mr. President. Through you a question for Senator Owens.

THE CHAIR:

You may proceed.

SENATOR DORR:

Thank you Mr. President. Senator Owens, it's your understanding that this measure as adopted by House Amendment A and House Amendment B would put a 15 percent limit on the amount of attorney's fees that would be collected in a successful action or could an attorney collect 15 percent on a judgment, file a lien against the property and then foreclose on that lien and add another or additional 15 percent?

SENATOR OWENS:

Through you Mr. President, the answer to that would

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be that House Amendment A grants reasonable attorney's fees instead of attorney's fees of not more than 15 percent and obviously that could be set on the court based on the complexity of the matter.

THE CHAIR:

Senator Dorr.

SENATOR DORR:

Thank you Mr. President, I have no objection to this Bill as amended.

THE CHAIR:

Do you have any objection to placing on Consent Calendar?

SENATOR DORR:

No Mr. President.

THE CHAIR:

Thank you. The matter is placed on the Consent Calendar. Senator Regina Smith.

SENATOR REGINA SMITH:

Thank you Mr. President. I was absent from the chamber when a Roll Call vote was taken on Calendar 624 and I would appreciate it if I could be recorded in the affirmative.

THE CHAIR:

The record will so note.

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5110, I would ask to be removed from the Consent Calendar.

THE CHAIR:

Calendar 607 will be removed. We'll vote on it.

Any other remarks? Senator Dorr.

SENATOR DORR:

Yes Mr. President, I would ask that on page 14, Calendar 626, Substitute for House Bill 5902, AN ACT CONCERNING ATTORNEYS FEES IN JUDGMENT LIEN FORECLOSURE ACTIONS, I'd ask that that be removed from the Consent Calendar so I will have an opportunity to vote against it.

THE CHAIR:

HB5902
Calendar 626 will be removed. Any other item? If not, the machine is open. Senator Morano, Senator Robertson.

TOTAL VOTING 36

VOTING YEA 36

The Consent Calendar is adopted. The Clerk will call the first of those three matters that were removed from the Consent Calendar. We'll vote on them immediately before returning to the Unfavorable.

THE CLERK:

HB5110
On page 10, Calendar 607, File 675.

THE CHAIR:

I believe Senator Matthews asked that that be removed. Will you remark?

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TOTAL VOTING	36
NECESSARY FOR PASSAGE	19
VOTING YEA	34
VOTING NAY	2

The measure is adopted.

THE CLERK:

HB 5902
Page 14, Calendar 626, File 632.

THE CHAIR:

Senator Dorr, do you care to remark or do you request a Roll Call.

SENATOR DORR:

Yes Mr. President, I would care to remark. This Bill would create a statutory provision to allow attorneys fees in judgment lien foreclosure actions. Attorneys fees could be assessed and can be assessed when a suit is brought and then attorneys fees would be added to the bill and it will be incorporated in the lien already and then the Bill is somewhat ambiguous and for those reasons and several others, I would oppose the measure.

THE CHAIR:

Remark further? Clerk will make the announcement for a Roll Call.

THE CLERK:

An immediate Roll Call has been called for in the

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Senate. Will all Senators please be seated. An immediate Roll Call has been called for in the Senate. Will all Senators please take their seats.

THE CHAIR:

The issue before the chamber is Calendar 626, Substitute for House Bill 5902. The machine is open.

The machine will be closed and locked.

TOTAL VOTING 36

NECESSARY FOR PASSAGE 19

VOTING YEA 32

The measure is adopted.

THE CLERK:

HB 5268

Page 17, Calendar 644, File 707.

THE CHAIR:

Senator Zinsser.

SENATOR ZINSSER:

Thank you Mr. President. Basically I asked that this be taken off the Consent Calendar in order to clear up a point that I had and if I may, I'd like to address a question to Senator Owens, through you.

THE CHAIR:

Proceed.

SENATOR ZINSSER:

According to the OLR report, this Bill would exclude

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March 21, 1984

REP. TULISANO: Peter.

MR. PETER ROSSO: Thank you. Excuse me, Mr. Chairman and members of the committee. For the record, my name is Pete Rosso from the Department of Motor Vehicles. I come here with much respect and ask that you not consider favorably Raised Committee Bill 602. The Motor Vehicle Department feels that the present system is adequate and we are working quite well with the Judicial Department, who as a matter of fact, has access to our computers and now have the capability to enter information into our computers.

REP. TULISANO: Will this be more expensive to the Department of Transportation if we shifted it?

MR. ROSSO: It would cost considerably more to set up a similar adjudications unit in Transportation than to increase the staffing in our unit. The only question I had is if police would have a power of arrest for a civil penalty. I'm not a lawyer, and I just raise that question for the committee's consideration. But if the committee is intent on moving it, MVD may be the most logical choice to place in it. Thank you, Mr. Chairman.

REP. TULISANO: That ends the public. How much time will you take, Raphael? Go. That ends the official. We're back to the public alone. Raphael.

MR. PODOLSKY: My name is Raphael Podolsky from Legal Services Training and Advocacy Project. On Bill No. 5902, it deals with the training season foreclosure actions. First of all, I don't think the bill does what the statement of purpose says it does, and I don't know what it's supposed to be trying to do, but either way, either way I do not think, I think it is not a good bill. If you're dealing with a foreclosure action, whether it's a mortgage or a judgment lien, and the contract on which the action is based has an attorney's fee clause in it, they're going to get attorney's fees anyway.

REP. TULISANO: But not for foreclosing.

MR. PODOLSKY: Sure they will. Because the attorney's fee clause will say reasonable attorney's fees for costs related to collection.

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REP. TULISANO: The courts have interpreted it does not include a whole new action of foreclosure.

MR. PODOLSKY: No, but you can write it into the contract. If you put it in the contract, you've got it. What this does is it creates statutory attorney's fees when there is no contract that agrees to any attorney's fees at all. And what you're trying to do is solve the problem where the contract language isn't broad enough. People have read the case and they'll change the contract. The other thing is you just don't use, it makes the attorney's a taxable cost. You don't do that for anything else.

REP. TULISANO: We've opened this hearing just so Raphael can --

MR. PODOLSKY: On Bill No. 601, I just want to mention something. I testified on, 601 is the one on fees for serving a capeus. I testified on Senate Bill 578 that was the proposed judgment remedies amendment that you need to address the capeus problem. I don't know which bills are going to go on which agendas if ever or any. Because my suggestion was a post judgment remedy suggestion, 578 was the logical place for it. For some reason that bill's not moving and 601 is. 601 is also a suitable place for it. I just think you need to deal with that.

REP. TULISANO: Give me the amendment again.

MR. PODOLSKY: Well, the substance is that in a post judgment remedies proceeding that you should not be able to issue a capeus unless there's --

REP. TULISANO: Wait a minute. Do you always have 55,000 pieces of paper? You must have a copy.

MR. PODOLSKY: I'll get you one. On Bill 5913, an age of majority study commission. My only comment on that is that you should just make sure that you don't structure a commission that's designed to say that you should raise the age of majority to 21. Because that is not necessarily a good idea, but there's no harm studying it. Thank you.

REP. TULISANO: Thank you. The hearing is now closed. Thank you very much, ladies and gentlemen.