

Date of Hearing: April 7, 2026

ASSEMBLY COMMITTEE ON JUDICIARY
Ash Kalra, Chair
AB 1957 (Pacheco) – As Amended March 27, 2026

SUBJECT: MORTGAGES: FORECLOSURE

KEY ISSUE: IN ORDER TO ADDRESS CONCERNS ABOUT MISUSE AND FRAUD, SHOULD THE LEGISLATURE REFORM CALIFORNIA’S POST-FORECLOSURE PROPERTY ACQUISITION PROCESS (“SB 1079 PROCESS”)?

SYNOPSIS

This bill addresses widespread concerns about the alleged misuse of California’s post-foreclosure bidding framework enacted under SB 1079 (Skinner) Chap. 202, Stats. 2020, which was intended to allow tenants, affordable housing nonprofits, and public entities to acquire residential properties after foreclosure. While the law’s purpose was to prevent displacement and promote equitable housing opportunities, its implementation has been undermined by fraudulent actors exploiting loose eligibility requirements and procedural delays, ultimately suppressing competitive bidding and depriving borrowers of their remaining equity. This bill narrows the definition of “eligible property” to exclude uninhabitable, high-value, and junior lien properties; eliminates the categories of prospective owner-occupants and nonprofit corporations from the list of eligible post-sale bidders; and imposes enhanced documentation requirements on tenant buyers, including a recorded one-year occupancy covenant.

In response to reports of manipulation and suppression of foreclosure auction activity, the bill requires successful SB 1079 bidders to pay a 1.2% time-value reimbursement to the original auction winner. These changes aim to restore integrity and transparency to the foreclosure sale process, deter abuse of the SB 1079 framework, and protect borrower equity by encouraging competitive, fair-market bidding.

This bill is sponsored by the United Trustee’s Association. A prior version of this bill, which would have allowed SB 1079 to expire by moving the sunset date to January 1, 2027, was opposed by several affordable housing advocates, who favored amending rather than eliminating the SB 1079 process. These groups continue to oppose the current version unless amended, claiming that the amended bill is overly broad and does not target the most important forms of fraud. The California Association of Realtors is opposed to the bill in print unless it is amended to restore the prospective owner occupant as an eligible bidder.

SUMMARY: Strengthens and refines California’s post-foreclosure home acquisition process under Civil Code Section 2924m (“SB 1079 process”). Specifically, **this bill:**

- 1) Defines “eligible property” as a property that meets all of the following requirements:
 - a) The property is residential real property sold at a trustee’s sale pursuant to the power of sale contained in a first lien deed of trust or mortgage.

- b) The city or county in which the property is located has issued a certificate of occupancy that was valid on the date of the trustee's sale and the property was not subject to a red tag or substandard building code violation preventing occupancy on the date of the sale.
 - c) The property contains four or fewer residential units.
 - d) The fair market value of the property is equal or less than the maximum Federal Housing Administration loan limits, as established, for the specific metropolitan statistical area in which the property is located on the date of the sale.
- 2) Adds the additional requirement that a person will maintain occupancy for at least one year pursuant to a recorded deed restriction in order to qualify as an "eligible tenant buyer."
 - 3) Removes from the definition of "eligible bidder" the following:
 - a) A prospective owner-occupant.
 - b) An eligible nonprofit corporation, as provided.
 - 4) Requires an eligible bidder who submits a bid pursuant to the process by which an eligible bidder may purchase foreclosed residential properties to include in a bid an amount equal to 1.2 percent of the last and highest bid at the trustee's sale.
 - 5) Provides that a trustee may reasonably rely on affidavits and declarations regarding bidder eligibility received.
 - 6) Provides that a trustee does not have a duty to investigate or verify the information contained in the affidavits or declarations or the bidder's eligibility.
 - 7) Provides that a trustee is not liable to any person or entity on any claim arising under this process.
 - 8) Establishes that within 30 days of a sale being deemed final, the trustee is required to do the following:
 - a) Return any losing bid to the bidder that submitted it.
 - b) Distribute to the last and highest bidder at the trustee's sale the amount provided by the winning bidder.
 - 9) Updates the definition of "eligible nonprofit corporation" for purposes of qualifying as a "mission-driven nonprofit entity" as having the following attributes:
 - a) It has a determination letter from the Internal Revenue Service affirming its tax-exempt status and is not a private foundation, as defined.
 - b) It has its principal place of business in California.
 - c) The primary residences of all board members are located in California.

- d) One of its primary activities is the development and preservation of affordable rental or home ownership housing in California.
- e) It is registered and in good standing with the Attorney General's Registry of Charities and Fundraisers, as provided.

EXISTING LAW:

- 1) Requires a trustee to send written notice of remaining proceeds to all persons with recorded interests in the real property within 30 days of the foreclosure sale. (Civil Code Section 2924j (a). Unless otherwise noted, all further references are to the Civil Code.)
- 2) Requires a trustee to distribute the proceeds of a trustee's sale in an order of priority, starting with the costs and expenses of the sale, the payment obligation secured by the mortgage that is the subject of the sale, any junior liens and then to the borrower. (Section 2924k.)
- 3) Requires a trustee to provide notice of a trustee sale by publishing notice of sale in a newspaper of general circulation where the property is located, containing information such as the borrower's name and the amount owed, at least 20 days before the sale date. (Section 2924f.)
- 4) Declares that vulnerable homeowners are increasingly relying on the services of foreclosure consultants, who often charge an exorbitant fee for a service when the homeowner could have obtained the remaining funds from the trustee's sale from the trustees directly if the homeowner had sufficient time to receive notices from the trustee regarding how and where to make a claim for excess proceeds. (Section 2945 (a).)
- 5) Defines "foreclosure consultant" as any person who, for compensation, offers a homeowner any services relating to a pending foreclosure, including, among other things, representations that the consultant will stop or postpone the foreclosure sale; obtain any forbearances from any beneficiary or mortgagee; assist the owner to obtain a loan or advance of funds; assist the owner in exercising or extending the right of reinstatement; ameliorate damage caused to the homeowners credit as a result of the foreclosure; or assist the owner in obtaining any remaining proceeds from a foreclosure sale. Excludes from the definition of "foreclosure consultant" certain licensed professionals, such as attorneys or mortgage lenders, engaged in the practice of their profession. (Section 2945.1 (a).)
- 6) Prohibits a foreclosure consultant from entering a contract to recover surplus funds after a foreclosure sale. (Section 2945.4 (h).)
- 7) Establishes comprehensive procedures for conducting a foreclosure sale through an auction. (Sections 2924g and 2924h.)
- 8) Enacts a statutory scheme whereby eligible bidders may acquire properties consisting of one to four residential dwelling units offered at a foreclosure auction by matching or exceeding the last and highest offer made at the auction. (Section 2924m.)
- 9) Provides tenants, prospective owner-occupants, nonprofit affordable housing providers, and public entities a 45-day window to purchase residential properties of 1-4 units if they can match or exceed the highest bid at a preceding foreclosure auction. (Section 2924m.)

- 10) Provides liability protection to trustees in performing any required acts for any good faith error resulting from reliance on information provided in good faith by the beneficiary concerning the amount or nature of the default. (Section 2924 (b).)
- 11) Permits a trustee to recover reasonable costs and expenses incurred in enforcing the terms of the obligation, deed of trust, or mortgage, and trustee's or attorney's fees. (Section 2924c (a)(1).)
- 12) Permits a trustee to collect costs and expenses associated with recording, mailing, publishing, and posting certain required notices. (Section 2924c (c).)
- 13) Prohibits bidders from submitting successive bids. (Section 2924m (c)(3).)
- 14) Requires a trustee to submit a recorded deed for any successful transaction conducted under SB 1079's post-sale bid process to the Attorney General's Office. (Section 2924m (i)(4).)

FISCAL EFFECT: As currently in print this bill is keyed fiscal.

COMMENTS: According to the author, AB 1957 will address concerns about California's post-foreclosure property acquisition process, known as the "SB 1079 process" for the legislation that created it. The author describes the problematic and unintended consequences of SB 1079 as follows:

In 2020, the Legislature passed SB 1079 to create alternative pathways to homeownership using the foreclosure process by allowing certain qualified buyers, including nonprofit organizations, to purchase a foreclosed property after the public auction by slightly exceeding the winning bid. Unfortunately, this process has been misused by bad actors who exploit the foreclosure sales system, effectively bypassing public auctions and depriving former homeowners of their hard-earned equity.

These individuals use straw buyers to avoid participating in the public foreclosure auction and instead acquire the property after the sale for as little as one cent more than the winning bid. This misuse of the system undermines fairness and transparency in the foreclosure process and suppresses competitive bidding.

Creating and reforming the "SB 1079 process." SB 1079 (Skinner) Chap. 202, Stats. 2020, sought to facilitate the purchase of foreclosed residential properties by owner-occupants, tenants, and nonprofit affordable housing groups by imposing certain restrictions on a trustee's sale of residential property containing one to four units. Specifically, SB 1079 gave an "eligible bidder" a 45-day window to come in after the initial auction sale and purchase the property before the sale to the initial bidder became final. The bill initially defined an "eligible bidder" to include a tenant of the property, a prospective owner occupant, a nonprofit, and certain government agencies. An eligible bidder could then purchase the property by offering any amount matching or exceeding the highest bid made at the foreclosure auction sale. By granting eligible bidders a statutory right of first refusal, SB 1079 sought to mitigate the trend of corporate consolidation of California's housing stock and preserve opportunities for individual owner-occupancy and affordable housing.

While the bill's purpose was to promote more equitable housing opportunities, its implementation, according to the author and sponsor, has resulted in unintended and unwanted

consequences. They contend that widespread fraud and abuse have undermined the bill's original purpose and, indeed, has harmed the very borrowers it was created to help. According to the sponsors, the lack of a meaningful mechanism for verifying bidders, the broad definition of "prospective owner-occupants," and minimal scrutinization of nonprofits have invited manipulation of the process. Bad faith participants often delay their bids until after the foreclosure sale has concluded, submitting overbids as little as one dollar higher than the original price, thereby exploiting the statutory preference to gain control of the property. The result is a chilling effect on legitimate auction participation, as qualified bidders are deterred by the risk of having substantial funds tied up for 45 days only to be displaced without recourse. Indeed, the "bad faith" actors are apparently some of the business "flippers" and corporate entities that SB 1079 original targeted. Even when the process works as planned, by allowing a tenant or prospective owner occupant to purchase a home at below market price, it necessarily harms the foreclosed-upon property owner by returning to them less of the equity they have built up in the home.

This is not the first time the Legislature has recognized problems with the "SB 1079 process" and attempted to remedy them. Most notably, AB 1837 (Bonta) Chap. 642, Stats. 2022, attempted to revise the process to address problems of fraud; it also extended the sunset date to January 1, 2031. AB 295 (Lowenthal) Chap. 142, Stats. 2024, made additional changes aimed at preventing efforts to scam the process. Last year, AB 1158 (Chen, 2025) attempted to address abuse of the process by, among other things, narrowing the definition of "eligible property" and greatly restricting the categories of "eligible bidders." AB 1158 passed out of this Committee on consent; however, it was held in the Assembly Appropriations Committee, presumably due to the "unknown but potentially significant" court costs resulting from a new cause of action created by the bill. (See Assembly Appropriations Committee Analysis of AB 1156, May 7, 2025.)

This bill is substantially similar to last year's AB 1158 except that it removes the private right of action that was part of AB 1158. The bill amends existing law to more narrowly focus on properties with modest valuations, strengthens documentary requirements to deter fraud, enhances transparency and oversight, and provides clearer procedures and enforcement mechanisms. These changes are aimed at increasing the efficacy, integrity, and fairness of California's post-foreclosure home acquisition process for community-minded purchasers. Each of these changes is discussed in turn below.

Narrowed definition of "eligible property." Existing law applies the SB 1079 post-foreclosure acquisition process broadly to all residential properties with one to four units, regardless of value or condition. This bill narrows the scope of eligible properties to better align with the original intent of SB 1079—namely, to facilitate acquisition by lower-income buyers and mission-driven entities seeking habitable homes. This measure tightens the scope of properties subject to the SB 1079 process to only properties that meet the following attributes: (1) Property is residential real property sold pursuant to a first lien deed of trust or mortgage. (2) Property was not red-tagged or deemed uninhabitable at the time of sale. (3) Fair market value is at or below HUD's FHA loan limits, tailoring the process to more modest housing stock and ensuring that the law benefits lower-income buyers. The FHA loan limit requirement is intended to exclude high-value, multimillion-dollar homes that were never the intended focus of SB 1079. For example, in high-cost areas of California, the FHA limit is currently \$1,209,750. Sponsors argue that these thresholds ensure the law benefits the underserved communities it was meant to protect and prevent manipulation of the process by well-resourced investors.

Additionally, by restricting eligibility to first lien foreclosures, the bill addresses a significant problem reported by trustees: unsophisticated bidders using the SB 1079 process to purchase properties in junior lien sales—often unaware they are acquiring title subject to a senior lien. These buyers frequently complain that they cannot obtain clear title, which creates administrative burdens and undermines the integrity of the process. By excluding junior lien foreclosures, the bill reduces confusion and legal exposure for both trustees and buyers.

Finally, the exclusion of red-tagged and partially constructed properties is intended to prevent foreclosed properties that are uninhabitable or incomplete (e.g., foundations only) from entering the SB 1079 process. The statute was designed to provide stable housing opportunities, not speculative investment in distressed, unlivable assets.

Expand restrictions for tenant buyers. Existing law already establishes detailed requirements for a tenant to qualify as an “eligible tenant buyer,” including pre-default occupancy, arm’s-length tenancy, and a prohibition on related-party purchases. This bill newly requires the tenant buyer to agree to maintain occupancy for at least one year through a recorded deed restriction, formalizing the prior occupancy requirement and adding enforceability. This language was added to ensure the buyer is a genuine occupant and not a straw purchaser or investor abusing the tenant preference.

Eliminate prospective owner-occupant category. This bill seeks to eliminate the “prospective owner-occupant” category previously established under SB 1079 and AB 1837. Under prior law, prospective owner-occupants – defined as natural persons who intended to occupy the foreclosed property as their primary residence within 60 days and remain for at least one year – were granted bidding priority if they submitted a sworn affidavit. That category was designed to facilitate owner-occupancy and reduce investor consolidation of single-family homes. This bill removes this category entirely, narrowing the pool of eligible bidders to existing tenants, limited-equity cooperatives, community land trusts, and public entities. As a result, under this measure, individual homebuyers who do not reside in the property at the time of foreclosure would no longer be eligible to submit post-sale bids under the SB 1079 process, even if they intend to occupy the property. As noted in the arguments section below, the California Association of Realtors (CAR) opposes this bill unless it is amended to restore the prospective owner-occupant category. CAR notes that facilitating owner occupant participation in the foreclosure bidding process was a primary reason for establishing the SB 1079 process, and removing this category fundamentally alters this animating purpose. *If the bill moves out of this Committee, the author may wish to consider CAR’s concerns and whether there is a way to restore the prospective owner-occupant without opening the process back up to the kinds of fraud that this bill seeks to eliminate.*

Eliminate non-profit category. Trustees report that the nonprofit bidder category is one of the most frequently exploited provisions of the SB 1079 framework, second only to the eliminated prospective owner-occupant category. Although existing law attempts to define “eligible nonprofit” with objective criteria—such as requiring an IRS 501(c)(3) determination letter and in-state operations—trustees routinely encounter instances where individuals form or co-opt nonprofit entities for the sole purpose of acquiring properties through the SB 1079 post-sale process, rather than participating as regular bidders at the foreclosure auction. In some cases, foreclosure bidders have directly contacted trustees to ask how closely they must be affiliated with a nonprofit they plan to create in order to qualify under the statute. These inquiries underscore the ease with which the nonprofit category can be manipulated, and the inadequacy

of current safeguards to distinguish bona fide mission-driven entities from speculative actors. This bill eliminates the nonprofit category entirely to close this loophole and restore integrity to the post-sale bid process.

Time-value of money reimbursement in order to encourage foreclosure sale participation. This bill introduces a new requirement that any eligible bidder exercising post-sale rights under the SB 1079 process must pay an additional 1.2% of the last and highest bid at the foreclosure sale, with that amount to be remitted directly to the foreclosure auction purchaser if they are ultimately displaced. This amount is not a minimum overbid threshold, but rather a time-value of money reimbursement designed to compensate the foreclosure sale's high-bidder for tying up significant capital – often hundreds of thousands of dollars – for up to 45 days while subject to the statutory post-sale bidding process. Under existing law, this capital is submitted in full at the time of sale but earns no interest and is at risk of being displaced by a nominal overbid. Trustees and foreclosure professionals have identified this uncompensated holding period as a significant deterrent to legitimate auction participation, chilling bidding activity and resulting in artificially low sale prices. This, in turn, deprives defaulted homeowners of surplus proceeds to which they are legally entitled. By requiring SB 1079 bidders to internalize the cost of displacing a prior bidder, this provision restores fairness, deters abuse, and encourages robust participation at foreclosure sales, which directly benefits the defaulted borrower by maximizing auction proceeds and protecting remaining equity.

Codify obligations of the trustee after a final sale. The amended statute imposes new post-sale responsibilities on trustees intended to ensure timely resolution and distribution of funds following the conclusion of the SB 1079 bidding process. Specifically, within 30 days of a sale being deemed final, the trustee must (1) return any losing bid funds to the bidder that submitted them, and (2) distribute to the last and highest bidder the 1.2 percent deposit submitted by the winning eligible bidder. These provisions establish clear deadlines for fund disbursement and reduce ambiguity regarding the financial obligations and entitlements of both prevailing and unsuccessful bidders in the post-sale process.

Limit liability on trustee. This bill codifies and clarifies liability protections for trustees responsible for administering the post-sale bid process under Civil Code Section 2924m. Trustees are expressly permitted to reasonably rely on affidavits or declarations submitted by eligible bidders without undertaking any independent investigation or verification of the bidder's eligibility. As long as the trustee acts in good faith and relies on the submitted documentation, they are shielded from liability for claims arising from later disputes about the truth or accuracy of that information. In cases where no affidavit is required, for example, when no eligible bidder displaces the auction's high bidder, the trustee may simply record a statement to that effect, and the absence of a declaration does not invalidate the deed. This provision was included in response to significant litigation reported by trustees and the bill's sponsors, typically brought by foreclosure sale bidders who were later displaced under SB 1079 and who alleged that the post-sale bidder committed fraud. Plaintiffs in such cases often contend that the trustee should have independently verified eligibility or refused to record the deed. This bill makes clear that trustees are not investigators and should not be tasked with adjudicating the validity of eligibility claims, thereby preserving their neutral role and protecting them from costly and unwarranted litigation.

Key difference between this bill and last year's AB 1158: As noted above, last year's AB 1158 included a private right action that would have allowed the successful high bidder at a foreclosure sale to bring an action challenging the validity of the post-sale bid. AB 1158 would

have required the successful high bidder at the foreclosure sale to show “by clear and convincing evidence” that the post-sale bidder failed to satisfy the statutory requirements to be an “eligible bidder.” AB 1158 was held in the Assembly Appropriations Committee, with the committee analysis noting “unknown but potentially significant” court costs resulting from the new cause of action. The bill now before the Committee would avoid those potential costs by eliminating the private right of action.

ARGUMENTS IN SUPPORT: The United Trustees Association (UTA), the bill’s sponsor, concedes that SB 1079 was a “well-intentioned measure . . . designed to broaden access to homeownership, by creating alternative pathways in the nonjudicial foreclosure process.” UTA continues:

Despite these good intentions, UTA maintains, the process has been “manipulated by fraudsters to the great detriment of borrowers who are losing their homes to foreclosure.” The problems, according to UTA, include the following: (1) “Real estate investors creating bogus nonprofits to avoid the open, transparent bidding process at the foreclosure sale, and coming in after the sale to claim the property.” (2) “Entities using tenants as “straw-buyers” in order to qualify as eligible tenant bidders.” (3) “Perhaps most commonly, entities which are simply “flippers” of homes claiming to be prospective owner-occupants, often at the same time and in locations all around California.”

“Taken together,” UTA concludes, “these avenues to manipulate the law have created a disincentive to bid at the public foreclosure sales, robbing homeowners of the equity they have developed in their properties. Why bid at the foreclosure sale, and tie huge sums of money up for at least 45 days, when you can wait, and cherry-pick properties that you think might have sold at a low price? To be clear, the whole point of the foreclosure sale is to obtain the highest possible price on the property, because the defaulting borrower is entitled to all of the proceeds of the sale, less the loan being foreclosed and costs. *Anything which discourages bidding is bad for borrowers.*”

Arguments in Opposition (unless amended). The California Association of Realtors (CAR) opposes this bill unless it is amended to restore the “prospective owner occupant” as an eligible bidder. CAR argues that eliminating the prospective owner occupant from the definition of “eligible bidder” undermines the original purpose of SB 1079, which was to “expand homeownership opportunities and stabilize communities by prioritizing owner-occupant participation in the acquisition of foreclosed homes.” While CAR supports most other provisions of the bill seeking to address problems of fraud and other unintended consequences of SB 1079, it urges “that AB 1957 be amended to retain eligibility for prospective owner-occupant bidders in the post-foreclosure bidding process established under SB 1079.”

A coalition of several affordable housing advocates oppose the bill unless amended. They allege that the bill is “overly broad” and does not address the most important forms of fraud.

REGISTERED SUPPORT / OPPOSITION:

Support

United Trustees Association (sponsor)
Brookfields Real Estate Group

Opposition (unless amended)

California Association of Realtors
California Community Land Trust Network
California Low-income Consumer Coalition
Consumer Federation of California
Legal Assistance for the Elderly
National Consumer Law Center
National Housing Law Project
Northern California Land Trust
Oakland Community Land Trust
Public Counsel
Rise Economy

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