

CONCURRENCE IN SENATE AMENDMENTS

AB 1957 (Pacheco)

As Amended August 3, 2026

Majority vote

SUMMARY

Strengthens and refines California's post-foreclosure home acquisition process under Civil Code Section 2924m ("SB 1079 process").

Major Provisions

- 1) Defines "eligible property" as a property that meets *either* of the following requirements:
 - a) *If the party submitting a bid is an eligible community property, the property is residential real property that contains four or fewer units sold at a trustee's sale pursuant to a power of sale contained in a first lien deed of trust or mortgage.*
 - b) *If the party submitting a bid is an eligible tenant bidder, the property is residential real property that contains four or fewer units sold at a trustee's sale pursuant to a power of sale contained in a first lien deed of trust or mortgage and meets both of the following:*
 - i) *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 is not subject to a red tag or substandard building code violation preventing occupancy on the date of the sale.*
 - ii) *The fair market value of the property, as determined, is equal to or less than the maximum Federal Housing Administration loan limits, as specified.*
- 2) Adds the additional requirement that a person maintain occupancy for at least one year pursuant to a recorded deed restriction in order to qualify as an "eligible tenant buyer."
- 3) *Modifies the definition of "eligible bidder" and removes prospective owner-occupant from the definition.*
- 4) Requires an eligible bidder who is not an eligible nonprofit corporation, as defined, 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% 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 shall return any losing bid to the bidder that submitted it and distribute to the last and highest bidder at the trustee's sale the amount provided by the winning bidder.
- 9) Defines "eligible nonprofit corporation" for purposes of qualifying as an "eligible bidder" as one that has all of 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.
 - f) It is a qualified entity for purposes of the Affordable Housing Preservation Law.
- 10) Defines "mission driven nonprofit entity" to include both an "eligible nonprofit corporation, as defined in 9) above, and a Community land trust, as defined.
- 11) Authorizes the Attorney General, a county counsel, a city attorney, or a district attorney to bring an action and seek the following remedies:
 - a) Specific performance.
 - b) A civil penalty equal to one-third of the fair market value of the property, if a bid was submitted by a person or entity not entitled to submit a bid.
 - c) Any other remedy at equity or at law.

Senate Amendments

- 1) *Modify the definitions of "eligible property" and "eligible bidder."*
- 2) *Make technical and conforming changes.*

COMMENTS

SB 1079 (Skinner) Chapter 202, Statutes of 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 occupants.

According to the author and sponsor, the SB 1079 process 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.

This bill amends existing law to more narrowly focus on properties with modest valuations, narrows the definitions of "eligible property" and "eligible buyer," strengthens documentary requirements to deter fraud, enhances transparency and oversight, and provides clearer procedures and enforcement mechanisms.

Time-value of money reimbursement in order to encourage foreclosure sale participation. This bill also requires an eligible bidder, other than an eligible nonprofit corporation, exercising post-sale rights under the SB 1079 process to 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. 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% 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.

Key difference between this bill and last year's AB 1158: Last year's AB 1158 (Chen) 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. This bill eliminates the private right of action. However, the bill authorizes a county counsel, a city attorney, or a district attorney to bring an action for specific performance and to seek a civil penalty (equal to one-third the fair market value of the property) against a person or entity that submits an unauthorized bid.

According to the Author

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.

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.

Arguments in Opposition

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."

FISCAL COMMENTS

According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

VOTES:**ASM JUDICIARY: 12-0-0**

YES: Kalra, Macedo, Lee, Bryan, Connolly, Dixon, Harabedian, Pacheco, Papan, Sanchez, Stefani, Zbur

ASM APPROPRIATIONS: 14-0-1

YES: Wicks, Hoover, Aguiar-Curry, Caloza, Dixon, Fong, Mark González, Krell, Pacheco, Pellerin, Sharp-Collins, Solache, Ta, Tangipa

ABS, ABST OR NV: Arambula

ASSEMBLY FLOOR: 70-1-9

YES: Aguiar-Curry, Ahrens, Alanis, Alvarez, Arambula, Ávila Farías, Bains, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Chen, Connolly, Davies, DeMaio, Dixon, Elhawary, Ellis, Flora, Fong, Gabriel, Gallagher, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Harabedian, Hoover, Irwin, Johnson, Kalra, Krell, Lackey, Lee, Lowenthal, Macedo, McKinnor, Nguyen, Ortega, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Michelle Rodriguez, Rogers, Blanca Rubio, Sanchez, Schultz, Sharp-Collins, Solache, Soria, Stefani, Ta, Tangipa, Valencia, Wallis, Ward, Wicks, Wilson, Rivas

NO: Schiavo

ABS, ABST OR NV: Addis, Bauer-Kahan, Castillo, Garcia, Hart, Jackson, Muratsuchi, Celeste Rodriguez, Zbur

SENATE FLOOR: 39-0-1

YES: Allen, Alvarado-Gil, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Choi, Cortese, Dahle, Durazo, Gonzalez, Grayson, Grove, Hurtado, Jones, Laird, Limón, McGuire, McNerney, Menjivar, Niello, Ochoa Bogh, Padilla, Pérez, Reyes, Richardson, Rubio, Seyarto, Smallwood-Cuevas, Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson

ABS, ABST OR NV: Wiener

UPDATED

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CONSULTANT: Tom Clark / JUD. / (916) 319-2334

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