

SENATE BILL 1589

By Finney L

AN ACT to amend Tennessee Code Annotated, Title 35,
Chapter 5, relative to judicial or trust sales.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 35, Chapter 5, Part 1, is amended by adding the following as a new section thereto:

35-5-117.

Where in any sale of land to foreclose a deed of trust, mortgage or other lien securing the payment of money or other thing of value, or under judicial orders or process, the mortgaged premises sells for less than the amount due and to become due on the mortgage debt and costs of sale, an action may be commenced to recover the balance due upon the obligation for which the trust deed was given as security. In that action, the complaint shall set forth the entire amount of the indebtedness that was secured by the trust deed, the amount for which the property was sold, and the fair market value of the property at the date of sale. Before rendering judgment, the court shall find the fair market value of the property at the date of sale. The court may not render judgment for more than the amount by which the amount of the indebtedness with interest, costs, and expenses of sale, including trustee's and attorney's fees, exceeds the fair market value of the property as of the date of the sale. If the property is later sold by the judgment creditor to a third party for an amount greater than the fair market value determined by the court, the deficiency judgment shall be reduced by the difference in such amount, less the expenses of the sale.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.