

Legislative Regulation Review Committee

2008-063

Department of Banking

**PROTECTION FROM MORTGAGE
FORECLOSURE**

STATE OF CONNECTICUT
REGULATION
OF

IMPORTANT: Read Instructions on bottom of Certification Page before completing this form. Failure to comply with instructions may cause disapproval of proposed Regulations.

NAME OF AGENCY

Department of Banking

Concerning

SUBJECT MATTER OF REGULATION

Protection from Mortgage Foreclosure

SECTION 1

Text of Proposed Regulations:

Section 1. Sections 49-31j-1 and 49-31j-2 of the Regulations of Connecticut State Agencies are amended to read as follows:

Sec. 49-31j-1. Definitions

[For purposes of these regulations, any word or phrase which is defined in P.A. 83-547 as amended by P.A. 83-29 of the June Special Session (hereinafter referred to as the "Act") shall have that same meaning in these regulations, unless such word or phrase is specifically given a different meaning in these regulations.] As used in sections 49-31j-1 to 49-31j-5, inclusive, of the Regulations of Connecticut State Agencies:

- (1) "Additional principal" means the sum added to the existing principal balance by the court pursuant to subsection (a) of section 49-31i of the Connecticut General Statutes;
- (2) "Existing principal balance" means the principal balance of the mortgage debt due the lender as of the entry date of the court ordered restructuring of the mortgage debt;
- (3) "Homeowner" means "homeowner" as defined in section 49-31d of the Connecticut General Statutes;
- (4) "Lender" means "lender" as defined in section 49-31d of the Connecticut General Statutes;
- (5) "Original mortgage interest rate" means the interest rate set forth in the mortgage note. If the mortgage note provides for a different rate of interest after default or after judgment, those provisions shall not apply; and
- (6) "Prevailing interest rate" means the most recent "National Average Contract Mortgage Rate for the Purchase of Previously Occupied Homes by Combined Lenders" made available by the Federal Housing Finance Board not less than fifteen nor more than forty-five days prior to the entry of the court ordered restructuring of the mortgage debt.

Sec. 49-31j-2. Notice

Without limiting the [acceptability] sufficiency of other forms of notice, it shall be sufficient for a [Lender] lender to give notice to a [Homeowner] homeowner of the [possible] availability of the [relief] protection from foreclosure provisions of [the Act] sections 49-31d to 49-31i, inclusive, of the Connecticut General Statutes by inserting language [which] that reads substantially as follows in capital letters at the end of the foreclosure complaint immediately following the prayers for relief:

"Notice: A person who is [unemployed or under-employed] underemployed or unemployed and who has [for a continuous period of at least two years prior to the commencement of this foreclosure action] owned and occupied the property being foreclosed as such person's principal residence, may be entitled to certain relief provisions under [Connecticut Public Act 83-547, as amended by Public Act 83-29 of the June special session] sections 49-31d to 49-31i, inclusive, of the Connecticut General Statutes. You should consult an attorney to determine your rights under [this act] sections 49-31d to 49-31i, inclusive, of the Connecticut General Statutes."

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REGULATION
 OF

NAME OF AGENCY

Department of Banking

SECTION 2 & 3

Sec. 2. Section 49-31j-5 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 49-31j-5. Composite interest rate

[The court shall establish the Composite Interest Rate which shall apply to the Restructured Principal Debt at the end of the restructuring period.

(a) **Definitions:**

(1) The interest rate used to determine the interest in paragraph (a) (3) of Section 3 hereof with respect to interest during the restructuring period shall be the "Old Interest Rate."

(2) "Prevailing Interest Rate" shall mean the "Contract Interest Rate, Purchase of Previously Occupied Homes, National Average for All Major Types of Lenders" as made available by the Federal Home Loan Bank Board. The rate used shall be the most recent rate made available by the Federal Home Loan Bank Board not less than 15 nor more than 45 days prior to the entry of the restructuring order.

(3) The amount referred to in paragraph (a) (1) of Section 3 hereof is referred to herein as the Old Principal.

(4) The sum of the amounts referred to in paragraphs (a) (2) through (a) (7) inclusive of Section 3, less the amount referred to in paragraph (b) of Section 3 is referred to herein as the New Principal.

(b)] The [Composite Interest Rate] composite interest rate for the new mortgage debt shall be a combination of the [Old Interest Rate and the Prevailing Interest Rate. The Composite Interest Rate] original mortgage interest rate and the prevailing interest rate and shall be calculated as follows:

(1) The [Old Interest Rate] original mortgage interest rate shall be multiplied by a fraction, the numerator of which shall be the [Old Principal] existing principal balance and the denominator of which shall be the [Old Principal] existing principal balance plus the [New Principal] additional principal.

(2) The [Prevailing Interest Rate] prevailing interest rate shall be multiplied by a fraction, the numerator of which shall be the [New Principal] additional principal and the denominator of which shall be the [Old Principal] existing principal balance plus the [New Principal] additional principal.

(3) The sum of [paragraphs] subdivisions (1) and (2) of this section, rounded to the nearest one-eighth of one [percent] per cent, shall be the [Composite Interest Rate] composite interest rate.

Sec. 3. Sections 49-31j-3 and 49-31j-4 and 49-31j-6 to 49-31j-9, inclusive, of the Regulations of Connecticut State Agencies are repealed.

Statement of Purpose: To replace references to public acts with statutory cites; revise the form lenders may use to give notice pursuant to Sections 49-31e and 49-31j of the Connecticut General Statutes, to a homeowner of the availability of the provisions of Sections 49-31d to 49-31i, inclusive; place definitions at the beginning of the provisions concerning protection from mortgage foreclosure; eliminate paraphrasing provisions already in the Connecticut General Statutes and Regulations of Connecticut State Agencies that exceed the scope of the authorizing statute; and make other technical changes to the provisions of the regulations concerning protection from mortgage foreclosure.

Be it known that the foregoing:

Regulations Emergency Regulations

Are:

Adopted Amended as hereinabove stated Repealed

By the aforesaid agency pursuant to:

Section 49-31j of the General Statutes.

Section _____ of the General Statutes, as amended by Public Act No. _____ of the _____ Public Acts.

Public Act No. _____ of the Public Acts.

After publication in the Connecticut Law Journal on July 22, 2008 ~~27~~, of the notice of the proposal to:

Adopt Amend Repeal such regulations

(If applicable): And the holding of an advertised public hearing on _____ day of _____ 19____

WHEREFORE, the foregoing regulations are hereby:

Adopted Amended as hereinabove stated Repealed

Effective:

When filed with the Secretary of the State.

(OR)

The _____ day of _____ 19____.

In Witness Whereof:	DATE <u>10/8/08</u>	SIGNED (Head of Board, Agency or Commission) <u>Howard A. P...</u>	OFFICIAL TITLE, DULY AUTHORIZED Banking Commissioner
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Approved by the Attorney General as to legal sufficiency in accordance with Sec. 4-169, as amended, C.G.S.:	SIGNED <u>[Signature]</u>	DATE <u>11/4/08</u>	OFFICIAL TITLE, DULY AUTHORIZED ASSOC. ATTY. GENERAL
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- Approved
- Disapproved
- Disapproved in part, (Indicate Section Numbers disapproved only)
- Rejected without prejudice.

By the Legislative Regulation Review Committee in accordance with Sec. 4-170, as amended, of the General Statutes.	DATE	SIGNED (Clerk of the Legislative Regulation Review Committee)
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Two certified copies received and filed, and one such copy forwarded to the Commission on Official Legal Publications in accordance with Section 4-172, as amended, of the General Statutes.

DATE	SIGNED (Secretary of the State.)	BY
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INSTRUCTIONS

1. One copy of all regulations for adoption, amendment or repeal, except emergency regulations, must be presented to the Attorney General for his determination of legal sufficiency. Section 4-169 of the General Statutes.
2. Seventeen copies of all regulations for adoption, amendment or repeal, except emergency regulations, must be presented to the standing Legislative Regulation Review Committee for its approval. Section 4-170 of the General Statutes.
3. Each regulation must be in the form intended for publication and must include the appropriate regulation section number and section heading. Section 4-172 of the General Statutes.
4. Indicate by "(NEW)" in heading if new regulation. Amended regulations must contain new language in capital letters and deleted language in brackets. Section 4-170 of the General Statutes.