



General Assembly

**Substitute Bill No. 619**

January Session, 2009

\* SB00619BA 031109 \*

**AN ACT CONCERNING FORECLOSURE PROCEDURES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 49-31l of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2009*):

3 (a) (1) Prior to July 1, 2010, when a mortgagee commences an action  
4 for the foreclosure of a mortgage on residential real property [with a  
5 return date on or after July 1, 2008,] the mortgagee shall give notice to  
6 the mortgagor of the foreclosure mediation program established in  
7 section 49-31m by attaching to the front of the foreclosure writ,  
8 summons and complaint that is served on the mortgagor: [(1)] (A) A  
9 copy of the notice of [the availability of] foreclosure mediation, in such  
10 form as the Chief Court Administrator prescribes, and [(2) a  
11 foreclosure mediation request form, in such form as the Chief Court  
12 Administrator prescribes] (B) a copy of the foreclosure mediation  
13 certificate form described in subsection (b) of this section, in such form  
14 as the Chief Court Administrator prescribes. Such mortgagee shall  
15 include with such notice, certificate, writ, summons and complaint a  
16 blank appearance form, in such form as the Chief Court Administrator  
17 prescribes.

18 (2) The court shall issue a notice of foreclosure mediation described  
19 in subsection (b) of this section to the mortgagor not later than three  
20 days after the mortgagee returns the writ to the court.

21 (b) (1) [Except as provided in subdivision (2) of this subsection, a  
22 mortgagor may request foreclosure mediation by submitting the  
23 foreclosure mediation request form to the court and filing an  
24 appearance not more than fifteen days after the return day for the  
25 foreclosure action. Upon receipt of the foreclosure mediation request  
26 form, the court shall notify each appearing party that a foreclosure  
27 mediation request form has been submitted by the mortgagor.] The  
28 notice of foreclosure mediation shall instruct the mortgagor to file the  
29 appearance and foreclosure mediation certificate forms with the court  
30 no later than the date fifteen days from the return date for the  
31 foreclosure action. The foreclosure mediation certificate form shall  
32 require the mortgagor to provide sufficient information to permit the  
33 court to confirm that the defendant in the foreclosure action is a  
34 mortgagor.

35 (2) [The court may grant a mortgagor permission to submit a  
36 foreclosure mediation request form and file an appearance after the  
37 fifteen-day period established in subdivision (1) of this subsection, for  
38 good cause shown, except that no foreclosure mediation request form  
39 may be submitted and no appearance may be filed more than twenty-  
40 five days after the return date.] Upon receipt of the mortgagor's  
41 appearance and foreclosure mediation certificate forms, and provided  
42 the court determines the defendant in the foreclosure action is a  
43 mortgagor, the court shall schedule a date for foreclosure mediation in  
44 accordance with section 49-31n, as amended by this act, and shall issue  
45 notice of such mediation date to all appearing parties no later than the  
46 date two business days after the date the appearance and foreclosure  
47 mediation certificate forms are filed. If the court does not receive the  
48 appearance and foreclosure mediation certificate forms from the  
49 mortgagor by the date fifteen days after the return date for the  
50 foreclosure action, the court shall not schedule such mediation.

51 (3) [No foreclosure mediation request form may be submitted to the  
52 court on or after July 1, 2010.] Notwithstanding the provisions of this  
53 section, the court may refer to the foreclosure mediation program at  
54 any time a mortgagor who appears in a foreclosure action.

55 [(c) If at any time on or after July 1, 2008, but prior to July 1, 2010,  
56 the court determines that the notice requirement of subsection (a) of  
57 this section has not been met, the court may, upon its own motion or  
58 upon the written motion of the mortgagor, issue an order that no  
59 judgment may enter for fifteen days during which period the  
60 mortgagor may submit a foreclosure mediation request form to the  
61 court.]

62 [(d)] (c) Notwithstanding any provision of the general statutes or  
63 any rule of law to the contrary, prior to July 1, 2010, no judgment of  
64 strict foreclosure nor any judgment ordering a foreclosure sale shall be  
65 entered in any action instituted by the mortgagee to foreclose a  
66 mortgage on residential real property unless: (1) [Notice to the  
67 mortgagor has been given by the mortgagee in accordance with  
68 subsection (a) of this section and the time for submitting a foreclosure  
69 mediation request form has expired and no foreclosure mediation  
70 request form has been submitted, or if such notice has not been given,  
71 the time for submitting a foreclosure mediation request form pursuant  
72 to subsection (b) or (c) of this section has expired and no foreclosure  
73 mediation request form has been submitted, or (2) the] The mediation  
74 period set forth in section 49-31n, as amended by this act, has expired  
75 or has otherwise terminated, whichever is earlier, or (2) the mediation  
76 program is not otherwise required or available.

77 (e) None of the mortgagor's or mortgagee's rights in the foreclosure  
78 action shall be waived by [the mortgagor's submission of a]  
79 participation in the foreclosure mediation [request form to the court]  
80 program.

81 Sec. 2. Section 49-31n of the general statutes is repealed and the  
82 following is substituted in lieu thereof (*Effective October 1, 2009*):

83 (a) The mediation period under the foreclosure mediation program  
84 established in section 49-31m shall commence when the court sends  
85 notice to each appearing party [that a] scheduling the first foreclosure  
86 mediation [request form has been submitted by a mortgagor to the

87 court, which] session, and except as provided in subsection (b) of  
88 section 49-31l, as amended by this act, said notice shall be sent not later  
89 than [three] two business days after [the court receives a completed  
90 foreclosure mediation request form] the return date for the foreclosure  
91 action. The mediation period shall conclude [not more than] no later  
92 than the date sixty days after the return [day] date for the foreclosure  
93 action, except that the court may, in its discretion, for good cause  
94 shown, (1) extend, by not more than thirty days, or shorten the  
95 mediation period on its own motion or upon motion of any party, or  
96 (2) extend by not more than thirty days the mediation period upon  
97 written request of the mediator.

98 (b) The first mediation session shall be held not later than fifteen  
99 business days after the court sends notice to [all parties that a  
100 foreclosure mediation request form has been submitted to the court]  
101 each appearing party in accordance with subsection (b) of section 49-  
102 31l, as amended by this act, or subsection (a) of this section. The  
103 mortgagor and mortgagee shall appear in person at each mediation  
104 session and shall have authority to agree to a proposed settlement,  
105 except that if the mortgagee is represented by counsel, the mortgagee's  
106 counsel may appear in lieu of the mortgagee to represent the  
107 mortgagee's interests at the mediation, provided such counsel has the  
108 authority to agree to a proposed settlement and the mortgagee is  
109 available during the mediation session by telephone or electronic  
110 means. The court shall not award attorney's fees to any mortgagee for  
111 time spent in the first mediation session if such mortgagee does not  
112 have a person with authority to agree to a proposed settlement  
113 available during such session either in person or by telephone or  
114 electronic means.

115 (c) Not later than two days after the conclusion of the first  
116 mediation session, the mediator shall determine whether the parties  
117 will benefit from further mediation. The mediator shall file with the  
118 court a report setting forth such determination and mail a copy of such  
119 report to each appearing party. If the mediator reports to the court that  
120 the parties will not benefit from further mediation, the mediation

121 period shall terminate automatically. If the mediator reports to the  
122 court after the first mediation session that the parties may benefit from  
123 further mediation, the mediation period shall continue.

124 (d) If the mediator has submitted a report to the court that the  
125 parties may benefit from further mediation pursuant to subsection (c)  
126 of this section, not more than two days after the conclusion of the  
127 mediation, but no later than the termination of the mediation period  
128 set forth in subsection (a) of this section, the mediator shall file a report  
129 with the court describing the proceedings and specifying the issues  
130 resolved, if any, and any issues not resolved pursuant to the  
131 mediation. The filing of the report shall terminate the mediation period  
132 automatically. If certain issues have not been resolved pursuant to the  
133 mediation, the mediator may refer the mortgagor to any appropriate  
134 community-based services that are available in the judicial district, but  
135 any such referral shall not cause a delay in the mediation process.

136 (e) The Chief Court Administrator shall establish policies and  
137 procedures to implement this section. Such policies and procedures  
138 shall, at a minimum, provide that the mediator shall advise the  
139 mortgagor at the first mediation session required by subsection (b) of  
140 this section that: (1) Such mediation does not suspend the mortgagor's  
141 obligation to respond to the foreclosure action in accordance with  
142 applicable rules of the court; and (2) a judgment of strict foreclosure or  
143 foreclosure by sale may cause the mortgagor to lose the residential real  
144 property to foreclosure.

145 (f) In no event shall any determination issued by a mediator under  
146 this program form the basis of an appeal of any foreclosure judgment.

147 (g) [Foreclosure mediation request forms shall not be accepted by  
148 the court on or after July 1, 2010, and the] The foreclosure mediation  
149 program shall terminate when all mediation has concluded with  
150 respect to any [applications submitted to the court] foreclosure action  
151 commenced prior to July 1, 2010.

152 (h) At any time during the mediation period, the mediator may refer

153 the mortgagor to the mortgage assistance programs, except that any  
154 such referral shall not prevent a mortgagee from proceeding to  
155 judgment when the conditions specified in subsection [(d)] (c) of  
156 section 49-31l, as amended by this act, have been satisfied.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2009</i>	<i>49-31l</i>
Sec. 2	<i>October 1, 2009</i>	<i>49-31n</i>

**BA**        *Joint Favorable Subst.*