



General Assembly

February Session, 2010

Raised Bill No. 225

LCO No. 1252

01252_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT CONCERNING THE DUTIES OF A MORTGAGEE IN A FORECLOSURE ACTION ON RESIDENTIAL REAL PROPERTY.

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

- 1 Section 1. (NEW) (*Effective July 1, 2010*) (a) As used in this section:
- 2 (1) "Mortgagee" means the original lender or servicer under a
3 mortgage, or its successors or assigns, who is the holder of any
4 mortgage on residential real property securing a loan made primarily
5 for personal, family or household purposes that is the subject of a
6 foreclosure action.
- 7 (2) "Mortgagor" means the owner-occupant of one-to-four family
8 residential real property located in this state who is also the borrower
9 under a mortgage encumbering such residential real property, which is
10 the primary residence of such owner-occupant; and
- 11 (3) "Residential real property" means a one-to-four family dwelling
12 occupied as a residence by a mortgagor.
- 13 (b) When a mortgagee commences an action for the foreclosure of a
14 mortgage on residential real property with a return date on or after

15 July 1, 2010, the mortgagee shall give notice to the mortgagor, in such
16 form as the Chief Court Administrator prescribes, of the name,
17 business mailing address, electronic mail address and telephone
18 number of an individual who has authority, on behalf of the
19 mortgagee, to (1) renew, refinance or restructure the mortgage
20 agreement in connection with a workout situation, (2) agree to a
21 mortgage forbearance agreement, or (3) agree to any other material
22 modification of the terms of the mortgage agreement. The notice shall
23 indicate the name of the individual and such individual's business
24 mailing address, electronic mail address and telephone number in
25 boldface type at least fourteen points in size.

26 (c) Notwithstanding any provision of the general statutes or any
27 rule of law to the contrary, a court may delay the entry of a judgment
28 of strict foreclosure or foreclosure by sale, or determine that no
29 judgment of strict foreclosure nor any judgment ordering a foreclosure
30 sale shall be entered when, in the court's judgment, fairness and equity
31 require such determination, if the court finds that the mortgagee in an
32 action instituted by the mortgagee to foreclose a mortgage on
33 residential real property (1) failed to provide notice in accordance with
34 subsection (b) of this section, (2) failed to respond within a reasonable
35 amount of time to a request from the mortgagor to renew, refinance or
36 restructure the mortgage agreement in connection with a workout
37 situation, (3) failed to agree in good faith to a reasonable mortgage
38 forbearance agreement or any other reasonable material modification
39 of the terms of the mortgage agreement, or (4) engaged in conduct that
40 was immoral, unethical, oppressive or unscrupulous with respect to
41 the mortgage agreement or mortgagee.

42 (d) Notwithstanding any provision of the general statutes or any
43 rule of law to the contrary, a court may delay the entry of a deficiency
44 judgment on behalf of the mortgagee or determine that no deficiency
45 judgment shall be entered on behalf of the mortgagee when, in the
46 court's judgment, fairness and equity require such determination, if the
47 court finds that the mortgagee in an action instituted by the mortgagee

48 to foreclose a mortgage on residential real property (1) failed to
49 provide notice in accordance with subsection (b) of this section, (2)
50 failed to respond within a reasonable amount of time to a request from
51 the mortgagor to renew, refinance or restructure the mortgage
52 agreement in connection with a workout situation, (3) failed to agree in
53 good faith to a reasonable mortgage forbearance agreement or any
54 other reasonable material modification of the terms of the mortgage
55 agreement, or (4) engaged in conduct that was immoral, unethical,
56 oppressive or unscrupulous with respect to the mortgage agreement or
57 mortgagee.

58 Sec. 2. Section 49-14 of the general statutes is repealed and the
59 following is substituted in lieu thereof (*Effective July 1, 2010*):

60 (a) At any time within thirty days after the time limited for
61 redemption has expired, any party to a mortgage foreclosure may file a
62 motion seeking a deficiency judgment. Such motion shall be placed on
63 the short calendar for an evidentiary hearing. Such hearing shall be
64 held not less than fifteen days following the filing of the motion, except
65 as the court may otherwise order. At such hearing the court shall hear
66 the evidence, establish a valuation for the mortgaged property and
67 shall render judgment for the plaintiff for the difference, if any,
68 between such valuation and the plaintiff's claim, except as provided in
69 subsection (d) of section 1 of this act. The plaintiff in any further action
70 upon the debt, note or obligation, shall recover only the amount of
71 such judgment.

72 (b) Upon the motion of any party and for good cause shown, the
73 court may refer such motion to a state referee, who shall have and
74 exercise the powers of the court with respect to trial, judgment and
75 appeal in such case.

76 (c) Any party to a mortgage foreclosure who has moved for an
77 appraisal of property for the purpose of obtaining a deficiency
78 judgment, but has not been granted a deficiency judgment, or has not
79 received full satisfaction of any deficiency judgment obtained

80 subsequent to the filing of such motion, may make a motion to the
81 court for a deficiency judgment as set forth in subsection (a) of this
82 section. If such motion is made on or before November 1, 1979, such
83 moving party shall be deemed to have complied with all of the
84 requirements of subsection (a) of this section and shall be entitled to
85 the benefit of any deficiency judgment rendered pursuant to said
86 subsection (a).

87 (d) Any appeal pending in the Supreme Court with regard to any
88 deficiency judgment or proceedings relating thereto shall be stayed
89 until a hearing is held pursuant to subsection (a) of this section. Any
90 appellant in such an appeal shall have the right for a period of thirty
91 days after the rendering of judgment pursuant to subsection (a) of this
92 section to amend his appeal. There shall be no stay of such an appeal if
93 no motion has been filed pursuant to this section on or before
94 November 1, 1979.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2010</i>	New section
Sec. 2	<i>July 1, 2010</i>	49-14

Statement of Purpose:

To require mortgage lenders who seek to foreclose on residential real property to provide notice to the defendant that identifies the individual who has authority to refinance the mortgage, and to permit the court to deny or delay entry of a mortgage lender's motion to foreclose or motion for a deficiency judgment when the court finds that the mortgage lender did not provide such notice or act reasonably, provided the court finds that fairness and equity requires such result.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]