



General Assembly

January Session, 2011

Substitute Bill No. 950

* SB00950JUD __041311__ *

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 October 1, 2011*) (a) As used in this
2 section:

3 (1) "Mortgagee" means the original lender or servicer under a
4 mortgage, or its successors or assigns, who is the holder of any
5 mortgage on residential real property securing a loan made primarily
6 for personal, family or household purposes that is the subject of a
7 foreclosure action;

8 (2) "Mortgagor" means the owner-occupant of one-to-four family
9 residential real property located in this state who is also the borrower
10 under a mortgage encumbering such residential real property, which is
11 the primary residence of such owner-occupant; and

12 (3) "Residential real property" means a one-to-four family dwelling
13 occupied as a residence by a mortgagor.

14 (b) When a mortgagee commences an action for the foreclosure of a
15 mortgage on residential real property with a return date on or after
16 October 1, 2011, the mortgagee shall provide notice to the mortgagor,
17 in such form as the Chief Court Administrator prescribes, of the name,
18 business mailing address, electronic mail address and telephone
19 number of an individual the mortgagor may contact who has

20 authority, on behalf of the mortgagee, to process requests to refinance
21 or modify the mortgage agreement or otherwise take action to avoid
22 foreclosure of the mortgage. After a mortgagee provides such notice,
23 the mortgagee may assign a different individual who has such
24 authority to act as an individual the mortgagor may contact, provided
25 the mortgagee gives the mortgagor notice, not later than seven
26 calendar days after such individual is assigned, that permits the
27 mortgagor to contact such individual, which notice shall include the
28 name, business mailing address, electronic mail address and telephone
29 number of such individual. Each notice under this subsection shall
30 indicate the name of the individual and such individual's business
31 mailing address, electronic mail address and telephone number in
32 boldface type at least fourteen points in size.

33 (c) Notwithstanding any provision of the general statutes or any
34 rule of law to the contrary, a court may delay the entry of a judgment
35 of strict foreclosure or foreclosure by sale when, in the court's
36 judgment, such delay is appropriate or required under the facts and
37 circumstances of the case if the court finds that the mortgagee in an
38 action instituted by the mortgagee to foreclose a mortgage on
39 residential real property (1) failed to provide notice in accordance with
40 subsection (b) of this section, (2) failed to respond within a reasonable
41 amount of time to a request from the mortgagor to refinance or modify
42 the mortgage agreement to avoid foreclosure of the mortgage, or (3)
43 engaged in conduct with respect to the mortgagor that the court
44 determines would constitute an unfair or deceptive act or practice in
45 violation of subsection (a) of section 42-110b of the general statutes.

46 (d) Notwithstanding any provision of the general statutes or any
47 rule of law to the contrary, a court may delay the entry of a deficiency
48 judgment on behalf of the mortgagee when, in the court's judgment,
49 such delay is appropriate or required under the facts and
50 circumstances of the case if the court finds that the mortgagee in an
51 action instituted by the mortgagee to foreclose a mortgage on
52 residential real property (1) failed to provide notice in accordance with
53 subsection (b) of this section, (2) failed to respond within a reasonable

54 amount of time to a request from the mortgagor to refinance or modify
55 the mortgage agreement to avoid foreclosure of the mortgage, or (3)
56 engaged in conduct with respect to the mortgagor that the court
57 determines would constitute an unfair or deceptive act or practice in
58 violation of subsection (a) of section 42-110b of the general statutes.

59 Sec. 2. Section 49-14 of the general statutes is repealed and the
60 following is substituted in lieu thereof (*Effective October 1, 2011*):

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

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

77 (c) Any party to a mortgage foreclosure who has moved for an
78 appraisal of property for the purpose of obtaining a deficiency
79 judgment, but has not been granted a deficiency judgment, or has not
80 received full satisfaction of any deficiency judgment obtained
81 subsequent to the filing of such motion, may make a motion to the
82 court for a deficiency judgment as set forth in subsection (a) of this
83 section. If such motion is made on or before November 1, 1979, such
84 moving party shall be deemed to have complied with all of the
85 requirements of subsection (a) of this section and shall be entitled to

86 the benefit of any deficiency judgment rendered pursuant to said
87 subsection (a).

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2011	New section
Sec. 2	October 1, 2011	49-14

Statement of Legislative Commissioners:

In Sec. 1(b), reference to "an individual the mortgagor may contact" was changed for consistency.

JUD *Joint Favorable Subst.-LCO*