



Substitute House Bill No. 6351

Public Act No. 11-201

AN ACT CONCERNING FORECLOSURE MEDIATION AND ASSISTANCE PROGRAMS, THE HIGHLY COMPENSATED EMPLOYEE EXEMPTION FOR MORTGAGE LOAN ORIGINATORS, GENERAL-USE PREPAID CARDS AND NEIGHBORHOOD PROTECTION.

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

Section 1. Section 49-31k of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2011*):

As used in this section and sections 49-31l to 49-31o, inclusive, as amended by this act:

(1) "Mortgagor" means: [the] (A) The owner-occupant of one-to-four family residential real property located in this state who is also the borrower under a mortgage encumbering such residential real property, which is the primary residence of such owner-occupant, or (B) a religious organization that is (i) the owner of real property located in this state, and (ii) the borrower under a mortgage encumbering such real property;

(2) "Residential real property" means a one-to-four family dwelling occupied as a residence by a mortgagor;

(3) "Mortgagee" means the original lender or servicer under a

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mortgage, or its successors or assigns, who is the holder of any mortgage on residential real property or real property owned by a religious organization securing a loan made primarily for personal, family, religious or household purposes that is the subject of a foreclosure action;

(4) "Authority" means the Connecticut Housing Finance Authority created under section 8-244; [and]

(5) "Mortgage assistance programs" means the mortgage assistance programs developed and implemented by the authority in accordance with sections 8-265cc to 8-265kk, inclusive, 8-265rr and 8-265ss; and

(6) "Religious organization" means an organization that meets the religious purposes test of Section 501(c)(3) of the Internal Revenue Code of 1986.

Sec. 2. Section 49-31l of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2011*):

(a) Prior to July 1, [2012] 2014: (1) Any action for the foreclosure of a mortgage on residential real property with a return date during the period from July 1, 2008, to June 30, 2009, inclusive, shall be subject to the provisions of subsection (b) of this section, and (2) any action for the foreclosure of a mortgage on (A) residential real property with a return date during the period from July 1, 2009, to June 30, [2012] 2014, inclusive, or (B) real property owned by a religious organization with a return date during the period from October 1, 2011, to June 30, 2014, inclusive, shall be subject to the provisions of subsection (c) of this section.

(b) (1) Prior to July 1, 2012, when a mortgagee commences an action for the foreclosure of a mortgage on residential real property with a return date during the period from July 1, 2008, to June 30, 2009, inclusive, the mortgagee shall give notice to the mortgagor of the

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foreclosure mediation program established in section 49-31m, as amended by this act, by attaching to the front of the foreclosure complaint that is served on the mortgagor: (A) A copy of the notice of the availability of foreclosure mediation, in such form as the Chief Court Administrator prescribes, and (B) a foreclosure mediation request form, in such form as the Chief Court Administrator prescribes.

(2) Except as provided in subdivision (3) of this subsection, a mortgagor may request foreclosure mediation by submitting the foreclosure mediation request form to the court and filing an appearance not more than fifteen days after the return [day] date for the foreclosure action. Upon receipt of the foreclosure mediation request form, the court shall notify each appearing party that a foreclosure mediation request form has been submitted by the mortgagor.

(3) The court may grant a mortgagor permission to submit a foreclosure mediation request form and file an appearance after the fifteen-day period established in subdivision (2) of this subsection, for good cause shown, except that no foreclosure mediation request form may be submitted and no appearance may be filed more than twenty-five days after the return date.

(4) No foreclosure mediation request form may be submitted to the court on or after July 1, 2012.

(5) If at any time on or after July 1, 2008, but prior to July 1, 2012, the court determines that the notice requirement of subdivision (1) of this subsection has not been met, the court may, upon its own motion or upon the written motion of the mortgagor, issue an order that no judgment may enter for fifteen days during which period the mortgagor may submit a foreclosure mediation request form to the court.

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(6) Notwithstanding any provision of the general statutes or any rule of law to the contrary, prior to July 1, 2012, no judgment of strict foreclosure nor any judgment ordering a foreclosure sale shall be entered in any action subject to the provisions of this subsection and instituted by the mortgagee to foreclose a mortgage on residential real property unless: (A) Notice to the mortgagor has been given by the mortgagee in accordance with subdivision (1) of this subsection and the time for submitting a foreclosure mediation request form has expired and no foreclosure mediation request form has been submitted, or if such notice has not been given, the time for submitting a foreclosure mediation request form pursuant to subdivision (2) or (3) of this subsection has expired and no foreclosure mediation request form has been submitted, or (B) the mediation period set forth in subdivision (b) of section 49-31n, as amended by this act, has expired or has otherwise terminated, whichever is earlier.

(7) None of the mortgagor's or mortgagee's rights in the foreclosure action shall be waived by the mortgagor's submission of a foreclosure mediation request form to the court.

(c) (1) Prior to July 1, [2012] 2014, when a mortgagee commences an action for the foreclosure of a mortgage on residential real property with a return date on or after July 1, 2009, or, with respect to real property owned by a religious organization, a return date on or after October 1, 2011, the mortgagee shall give notice to the mortgagor of the foreclosure mediation program established in section 49-31m, as amended by this act, by attaching to the front of the writ, summons and complaint that is served on the mortgagor: (A) A copy of the notice of foreclosure mediation, in such form as the Chief Court Administrator prescribes, (B) a copy of the foreclosure mediation certificate form described in subdivision (3) of this subsection, in such form as the Chief Court Administrator prescribes, [and] (C) a blank appearance form, in such form as the Chief Court Administrator

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prescribes, and (D) with respect to an action for the foreclosure of a mortgage on residential real property with a return date on or after October 1, 2011, a mediation information form and a notice containing contact information for authority-approved consumer credit counseling agencies, which form and notice shall be in such form as the Chief Court Administrator prescribes. Such mediation information form shall be designed to elicit current financial information and such other nonfinancial information from the mortgagor as the Chief Court Administrator, in consultation with representatives from the banking industry and consumer advocates, determines will be useful to the mediation process. The instructions to the mediation information form shall explain that the completed mediation information form, along with accompanying documentation reasonably requested from the mortgagor by way of such instructions, shall be delivered to the mortgagee's counsel not later than fifteen business days prior to the date of the initial mediation session, as identified in the notice provided pursuant to subdivision (2) of subsection (c) of section 49-31n, as amended by this act.

(2) The court shall issue a notice of foreclosure mediation described in subdivision (3) of this subsection to the mortgagor not later than the date three business days after the date the mortgagee returns the writ to the court.

(3) The notice of foreclosure mediation shall instruct the mortgagor to file the appearance and foreclosure mediation certificate forms with the court [no] not later than the date fifteen days from the return date for the foreclosure action. Such notice shall remind the mortgagor to deliver the completed mediation information form and the accompanying documentation described in subdivision (1) of this subsection and encourage such delivery in advance of the required date. The mediation information form and accompanying documentation shall not, without the explicit written instruction of the

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mortgagor, be publicly available. Such notice shall be accompanied by materials from the Department of Banking, as prescribed by the Chief Court Administrator, which shall describe the community-based resources available to the mortgagor, including authority-approved housing counseling agencies that may assist with preparation of the mediation information form and application for mortgage assistance programs. The foreclosure mediation certificate form shall require the mortgagor to provide sufficient information to permit the court to confirm that the defendant in the foreclosure action is a mortgagor, and to certify that said mortgagor has sent a copy of the mediation certificate form to the plaintiff in the action.

(4) Upon receipt of the mortgagor's appearance and foreclosure mediation certificate forms, and provided the court confirms the defendant in the foreclosure action is a mortgagor and that said mortgagor has sent a copy of the mediation certificate form to the plaintiff, the court shall schedule a date for foreclosure mediation in accordance with subsection (c) of section 49-31n, as amended by this act. The court shall issue notice of such mediation date to all appearing parties not earlier than the date five business days after the return date or by the date three business days after the date on which the court receives the mortgagor's appearance and foreclosure mediation certificate forms, whichever is later, except that if the court does not receive the appearance and foreclosure mediation certificate forms from the mortgagor by the date fifteen days after the return date for the foreclosure action, the court shall not schedule such mediation.

(5) Notwithstanding the provisions of this subsection, the court may refer a foreclosure action brought by a mortgagee to the foreclosure mediation program at any time, provided the mortgagor has filed an appearance in said action and further provided the court shall, not later than the date three business days after the date on which it makes such referral, send a notice to each appearing party scheduling the first

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foreclosure mediation session for a date not later than the date [fifteen business] thirty-five days from the date of such referral.

(6) Notwithstanding any provision of the general statutes or any rule of law, prior to July 1, [2012,] 2014, (A) for the period of time which shall not exceed eight months from the return date, no mortgagee or mortgagor shall make any motion, request or demand with respect to the other, except those motions, requests or demands that relate to the mediation program described in section 49-31m, as amended by this act, and the mediation sessions held pursuant to such program, provided (i) a mortgagor seeking to contest the court's jurisdiction may file a motion to dismiss and the mortgagee may object to such motion to dismiss in accordance with applicable law and the rules of the courts, and (ii) if the mortgagor elects to make any other motion, request or demand with respect to the mortgagee, the eight-month limit shall no longer apply to either party; and (B) no judgment of strict foreclosure nor any judgment ordering a foreclosure sale shall be entered in any action subject to the provisions of this subsection and instituted by the mortgagee to foreclose a mortgage on residential real property or real property owned by a religious organization unless: [(A)] (i) The mediation period set forth in subsection (c) of section 49-31n, as amended by this act, has expired or has otherwise terminated, whichever is earlier, and, if fewer than eight months has elapsed from the return date at the time of termination, fifteen days have elapsed since such termination, or [(B)] (ii) the mediation program is not otherwise required or available. Nothing in this subdivision shall affect any motion made or any default or judgment entered on or before June 30, 2011.

(7) With respect to foreclosure actions with a return date on or after July 1, 2011, notwithstanding any provision of the general statutes or any rule of law to the contrary, the mortgagee shall be permitted, on or before July 1, 2014, and following the eight-month or fifteen-day

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period described in subdivision (6) of this subsection, to simultaneously file, as applicable, (A) a motion for default, and (B) a motion for judgment of strict foreclosure or a motion for judgment of foreclosure by sale with respect to the mortgagor in the foreclosure action.

[(7)] (8) None of the mortgagor's or mortgagee's rights in the foreclosure action shall be waived by participation in the foreclosure mediation program.

Sec. 3. Section 49-31m of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2011*):

[Not later than July 1, 2008, the] The Chief Court Administrator shall establish in each judicial district a foreclosure mediation program in actions to foreclose mortgages on residential real property or real property owned by a religious organization. Such foreclosure mediation shall (1) address all issues of foreclosure, including, but not limited to, reinstatement of the mortgage, assignment of law days, assignment of sale date, restructuring of the mortgage debt and foreclosure by decree of sale, and (2) be conducted by foreclosure mediators who (A) are employed by the Judicial Branch, (B) are trained in mediation and all relevant aspects of the law, as determined by the Chief Court Administrator, (C) have knowledge of the community-based resources that are available in the judicial district in which they serve, and (D) have knowledge of the mortgage assistance programs. Such mediators may refer mortgagors who participate in the foreclosure mediation program to community-based resources when appropriate and to the mortgage assistance programs.

Sec. 4. Section 49-31n of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2011*):

(a) Prior to July 1, [2012] 2014: (1) Any action for the foreclosure of a

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mortgage on residential real property with a return date during the period from July 1, 2008, to June 30, 2009, inclusive, shall be subject to the provisions of subsection (b) of this section, and (2) any action for the foreclosure of a mortgage on (A) residential real property with a return date during the period from July 1, 2009, to June 30, [2012] 2014, inclusive, or (B) real property owned by a religious organization with a return date during the period from October 1, 2011, to June 30, 2014, inclusive, shall be subject to the provisions of subsection (c) of this section.

(b) (1) For any action for the foreclosure of a mortgage on residential real property with a return date during the period from July 1, 2008, to June 30, 2009, inclusive, the mediation period under the foreclosure mediation program established in section 49-31m, as amended by this act, shall commence when the court sends notice to each appearing party that a foreclosure mediation request form has been submitted by a mortgagor to the court, which notice shall be sent not later than three business days after the court receives a completed foreclosure mediation request form. The mediation period shall conclude not more than sixty days after the return [day] date for the foreclosure action, except that the court may, in its discretion, for good cause shown, (A) extend, by not more than thirty days, or shorten the mediation period on its own motion or upon motion of any party, or (B) extend by not more than thirty days the mediation period upon written request of the mediator.

(2) The first mediation session shall be held not later than fifteen business days after the court sends notice to all parties that a foreclosure mediation request form has been submitted to the court. The mortgagor and mortgagee shall appear in person at each mediation session and shall have authority to agree to a proposed settlement, except that (A) if the mortgagee is represented by counsel, the mortgagee's counsel may appear in lieu of the mortgagee to

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represent the mortgagee's interests at the mediation, provided such counsel has the authority to agree to a proposed settlement and the mortgagee is available (i) during the mediation session by telephone, and (ii) to participate in the mediation session by speakerphone, provided an opportunity is afforded for confidential discussions between the mortgagee and mortgagee's counsel, and (B) following the initial mediation session, if there are two or more mortgagors, only one mortgagor shall appear in person at each subsequent mediation session unless good cause is shown, provided the other mortgagors are available (i) during the mediation session, and (ii) to participate in the mediation session by speakerphone, provided an opportunity is afforded for confidential discussions among the mortgagors and such mortgagors' counsel. The court shall not award attorney's fees to any mortgagee for time spent in any mediation session if the court finds that such mortgagee has failed to comply with this subdivision, unless the court finds reasonable cause for such failure.

(3) Not later than two days after the conclusion of the first mediation session, the mediator shall determine whether the parties will benefit from further mediation. The mediator shall file with the court a report setting forth such determination and mail a copy of such report to each appearing party. If the mediator reports to the court that the parties will not benefit from further mediation, the mediation period shall terminate automatically. If the mediator reports to the court after the first mediation session that the parties may benefit from further mediation, the mediation period shall continue.

(4) If the mediator has submitted a report to the court that the parties may benefit from further mediation pursuant to subdivision (3) of this subsection, not more than two days after the conclusion of the mediation, but no later than the termination of the mediation period set forth in subdivision (1) of this subsection, the mediator shall file a report with the court describing the proceedings and specifying the

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issues resolved, if any, and any issues not resolved pursuant to the mediation. The filing of the report shall terminate the mediation period automatically. If certain issues have not been resolved pursuant to the mediation, the mediator may refer the mortgagor to any appropriate community-based services that are available in the judicial district, but any such referral shall not cause a delay in the mediation process.

(5) The Chief Court Administrator shall establish policies and procedures to implement this subsection. Such policies and procedures shall, at a minimum, provide that the mediator shall advise the mortgagor at the first mediation session required by subdivision (2) of this subsection that: (A) Such mediation does not suspend the mortgagor's obligation to respond to the foreclosure action; and (B) a judgment of strict foreclosure or foreclosure by sale may cause the mortgagor to lose the residential real property to foreclosure.

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

(7) Foreclosure mediation request forms shall not be accepted by the court on or after July 1, 2012, and the foreclosure mediation program shall terminate when all mediation has concluded with respect to any applications submitted to the court prior to July 1, [2012] 2014.

(8) At any time during the mediation period, the mediator may refer [the] a mortgagor who is the owner-occupant of one-to-four family residential real property to the mortgage assistance programs, except that any such referral shall not prevent a mortgagee from proceeding to judgment when the conditions specified in subdivision (6) of subsection (b) of section 49-31/, as amended by this act, have been satisfied.

(c) (1) For any action for the foreclosure of a mortgage on residential real property with a return date during the period from July 1, 2009, to

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June 30, [2012] 2014, inclusive, or for any action for the foreclosure of a mortgage on real property owned by a religious organization with a return date during the period from October 1, 2011, to June 30, 2014, inclusive, the mediation period under the foreclosure mediation program established in section 49-31m, as amended by this act, shall commence when the court sends notice to each appearing party scheduling the first foreclosure mediation session. The mediation period shall conclude not later than the date sixty days after the return date for the foreclosure action, except that the court may, in its discretion, for good cause shown, (A) extend, by not more than thirty days, or shorten the mediation period on its own motion or upon motion of any party, or (B) extend by not more than thirty days the mediation period upon written request of the mediator.

(2) The first mediation session shall be held not later than fifteen business days after the court sends notice to each appearing party in accordance with subdivision (4) of subsection (c) of section 49-31l, as amended by this act. On and after October 1, 2011, the first mediation session shall be held not later than thirty-five days after the court sends notice to each appearing party in accordance with subdivision (4) of subsection (c) of this section. On and after October 1, 2011, not later than fifteen business days prior to the date of the initial mediation session, the mortgagee shall deliver to the mortgagor (A) an account history identifying all credits and debits assessed to the loan account in the immediately preceding twelve-month period, and (B) the name, business mailing address, electronic mail address, facsimile number and direct telephone number of an individual able to process requests to refinance or modify the mortgage loan at issue or otherwise take action to avoid foreclosure of the mortgage. Any updates to the information provided pursuant to subparagraph (B) of this subdivision shall be provided reasonably promptly to the mortgagor and such mortgagor's counsel. The mortgagor and mortgagee shall appear in person at each mediation session and shall have authority to agree to a

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proposed settlement, except that (i) if the mortgagee is represented by counsel, the mortgagee's counsel may appear in lieu of the mortgagee to represent the mortgagee's interests at the mediation, provided such counsel has the authority to agree to a proposed settlement and the mortgagee is available (I) during the mediation session by telephone, and (II) to participate in the mediation session by speakerphone, provided an opportunity is afforded for confidential discussions between the mortgagee and mortgagee's counsel, and (ii) following the initial mediation session, if there are two or more mortgagors, only one mortgagor shall appear in person at each subsequent mediation session unless good cause is shown, provided the other mortgagors are available (I) during the mediation session, and (II) to participate in the mediation session by speakerphone, provided an opportunity is afforded for confidential discussions among the mortgagors and such mortgagors' counsel. The court shall not award attorney's fees to any mortgagee for time spent in any mediation session if the court finds that such mortgagee has failed to comply with this subdivision, unless the court finds reasonable cause for such failure.

(3) Not later than two days after the conclusion of the first mediation session, the mediator shall determine whether the parties will benefit from further mediation. The mediator shall file with the court a report setting forth such determination and mail a copy of such report to each appearing party. If the mediator reports to the court that the parties will not benefit from further mediation, the mediation period shall terminate automatically. If the mediator reports to the court after the first mediation session that the parties may benefit from further mediation, the mediation period shall continue. Either party's failure to comply with the documentation requirements of this section or section 49-311, as amended by this act, shall not be grounds for terminating the mediation period before a second mediation session is conducted.

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(4) If the mediator has submitted a report to the court that the parties may benefit from further mediation pursuant to subdivision (3) of this subsection, not more than two days after the conclusion of the mediation, but no later than the termination of the mediation period set forth in subdivision (1) of this subsection, the mediator shall file a report with the court describing the proceedings and specifying the issues resolved, if any, and any issues not resolved pursuant to the mediation. The filing of the report shall terminate the mediation period automatically. If certain issues have not been resolved pursuant to the mediation, the mediator may refer the mortgagor to any appropriate community-based services that are available in the judicial district, but any such referral shall not cause a delay in the mediation process.

(5) The Chief Court Administrator shall establish policies and procedures to implement this subsection. Such policies and procedures shall, at a minimum, provide that the mediator shall advise the mortgagor at the first mediation session required by subdivision (2) of this subsection that: (A) Such mediation does not suspend the mortgagor's obligation to respond to the foreclosure action beyond the limited time frame described in subdivision (6) of subsection (c) of section 49-311, as amended by this act; and (B) a judgment of strict foreclosure or foreclosure by sale may cause the mortgagor to lose the residential real property or real property owned by a religious organization to foreclosure.

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

(7) The foreclosure mediation program shall terminate when all mediation has concluded with respect to any foreclosure action with a return date during the period from July 1, 2009, to June 30, [2012] 2014, inclusive.

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

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[the] a mortgagor who is the owner-occupant of one-to-four family residential real property to the mortgage assistance programs, except that any such referral shall not prevent a mortgagee from proceeding to judgment when the conditions specified in subdivision (6) of subsection (c) of section 49-311, as amended by this act, have been satisfied.

Sec. 5. (*Effective from passage*) (a) There is established a task force to review and evaluate loss mitigation programs administered by the Connecticut Housing Finance Authority.

(b) The task force shall consist of the following members:

(1) The Governor, or the Governor's designee;

(2) The speaker of the House of Representatives, or the speaker's designee;

(3) The majority leader of the House of Representatives, or the majority leader's designee;

(4) The minority leader of the House of Representatives, or the minority leader's designee;

(5) The president pro tempore of the Senate, or the president pro tempore's designee;

(6) The majority leader of the Senate, or the majority leader's designee;

(7) The minority leader of the Senate, or the minority leader's designee;

(8) The Banking Commissioner, or the commissioner's designee;

(9) The chief housing officer of the Connecticut Housing Finance

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Authority, or the officer's designee;

(10) The chairpersons of the joint standing committee of the General Assembly having cognizance of matters relating to banks, or the chairpersons' designee; and

(11) The chairpersons of the joint standing committee of the General Assembly having cognizance of matters relating to housing, or the chairpersons' designee.

(c) The task force members shall elect a chairperson from among the members of the task force.

(d) The chairperson shall schedule the first meeting of the task force, which shall be held not later than sixty days after the effective date of this section.

(e) The administrative staff of the joint standing committee of the General Assembly having cognizance of matters relating to banks shall serve as administrative staff of the task force.

(f) Not later than January 1, 2012, the task force shall submit a report on its findings and recommendations to the joint standing committee of the General Assembly having cognizance of matters relating to banks, in accordance with the provisions of section 11-4a of the general statutes. The task force shall terminate on the date that it submits such report or January 1, 2012, whichever is later.

Sec. 6. Section 31-76i of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

The provisions of sections 31-76b to 31-76j, inclusive, shall not apply with respect to (a) any driver or helper, excluding drivers or helpers employed by exempt employers, with respect to whom the Interstate Commerce Commission or its successor agency or the Secretary of

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Transportation has power to establish qualifications and maximum hours of service pursuant to the provisions of applicable federal law or regulation of any employee of a carrier by air subject to the Railway Labor Act or any employee of any employer subject to said Railway Labor Act; (b) any employee employed as a seaman; (c) any employee employed as an announcer, a news editor or chief engineer by a radio station or television station; (d) repealed by 1972, P.A. 116, S. 3, 6; (e) any person employed in a bona fide executive, administrative or professional capacity as defined in the regulations of the Labor Commissioner issued pursuant to section 31-60; (f) any person employed in the capacity of outside salesman as defined in the regulations of the Federal Fair Labor Standards Act; (g) any inside salesperson whose sole duty is to sell a product or service (1) whose regular rate of pay is in excess of two times the minimum hourly rate applicable to him under section 31-58, (2) more than half of whose compensation for a representative period, being not less than one month, represents commissions on goods or services, and (3) who does not work more than fifty-four hours during a work week of seven consecutive calendar days. In determining the proportion of compensation representing commissions, all earnings resulting from the application of a bona fide commission rate shall be deemed commissions on goods or services without regard to whether the computed commissions exceed the draw or guarantee; (h) any person employed as a taxicab driver by any employer engaged in the business of operating a taxicab, if such driver is paid forty per cent or more of the fares recorded on the meter of the taxicab operated by him; (i) any person employed in the capacity of a household delivery route salesman engaged in delivering milk or bakery products to consumers and who is paid on a commission basis as defined in the regulations of the Labor Commissioner issued pursuant to section 31-60; (j) any salesman primarily engaged in selling automobiles. For the purposes of this subsection, "salesman" includes any person employed by a licensed new car dealer (1) whose primary duty is to sell maintenance

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and repair services, (2) whose regular rate of pay is in excess of two times the minimum hourly rate applicable to him under the provisions of section 31-58, (3) more than half of whose compensation for a representative period, being not less than one month, represents commissions on goods or services, and (4) who does not work more than fifty-four hours during a work week of seven consecutive days. In determining the proportion of compensation representing commissions, all earnings resulting from the application of a bona fide commission rate shall be deemed commissions on goods or services without regard to whether the computed commissions exceed the draw or guarantee; (k) any person employed in agriculture; (l) any permanent paid members of the uniformed police force of municipalities and permanent paid members of the uniformed firefighters of municipalities; (m) any person employed as a firefighter by a private nonprofit corporation which on May 24, 1984, has a valid contract with any municipality to extinguish fires and protect its inhabitants from loss by fire; (n) any person, except a person paid on an hourly basis, employed as a beer delivery truck driver by a licensed distributor, as defined by section 12-433; [or] (o) any person employed as a mechanic primarily engaged in the servicing of motor vehicles, as defined in section 14-1, or farm implements, as defined in section 14-1, by a nonmanufacturing employer primarily engaged in the business of selling such vehicles or implements to consumers, to the extent that such employees are exempt under the federal Wage-Hour and Equal Pay Act, 29 USC 201 et seq. and 29 USC 213(b)(10), provided such person's actual weekly earnings exceed an amount equal to the total of (1) such person's basic contractual hourly rate of pay times the number of hours such person has actually worked plus (2) such person's basic contractual hourly rate of pay times one-half the number of hours such person has actually worked in excess of forty hours in such week. For the purposes of this section, "basic contractual hourly rate" means the compensation payable to a person at an hourly rate separate from and exclusive of any flat rate, incentive rate or any other basis of

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calculation; or (p) any mortgage loan originator, as defined in section 36a-485, who is a highly compensated employee, as defined in 29 CFR 541.601, provided this subsection shall not apply to an individual who performs the functions of a mortgage loan originator solely from the office of such mortgage loan originator's employer. For purposes of this subsection, an office in the mortgage loan originator's home shall not be considered the office of such mortgage loan originator's employer. Beginning on October 1, 2012, the total annual compensation for purposes of Subsection (a) of 29 CFR 541.601 shall be increased annually, effective October first of each year, based on the percentage increase, from year to year, in the average of all workers' weekly earnings as determined by the Labor Commissioner pursuant to subdivision (1) of subsection (b) of section 31-309.

Sec. 7. (NEW) (*Effective from passage*) (a) In the case of any foreclosure on a federally-related mortgage loan or on any dwelling or residential real property that has a return date on or after the effective date of this section, but not later than December 31, 2017, any immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to (1) the provision, by such successor in interest, of a notice to vacate to any bona fide tenant not less than ninety days before the effective date of such notice; and (2) the rights of any bona fide tenant, as of the date absolute title vests in such successor in interest (A) under any bona fide lease entered into before such date to occupy the premises until the end of the remaining term of the lease, except that a successor in interest may terminate a lease effective on the date of sale of the unit to a purchaser who will occupy the unit as a primary residence, subject to the receipt by the tenant of the ninety-day notice under subdivision (1) of this subsection; or (B) without a lease or with a lease terminable at will under state law, subject to the receipt by the tenant of the ninety-day notice under subdivision (1) of this subsection, except that nothing under this section shall affect the requirements for termination of any federally-

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subsidized or state-subsidized tenancy or of any state or local law that provides longer time periods or other additional protections for tenants.

(b) For purposes of this section, a lease or tenancy shall be considered bona fide only if (1) the mortgagor or the child, spouse, or parent of the mortgagor under the contract is not the tenant, (2) the lease or tenancy was the result of an arms-length transaction, and (3) the lease or tenancy requires the receipt of rent that is not substantially less than fair market rent for the property or the unit's rent is reduced or subsidized due to a federal, state or local subsidy.

(c) For purposes of this section, the term "federally-related mortgage loan" has the same meaning as in 12 USC 2602(1), the Real Estate Settlement Procedures Act of 1974. For purposes of this section, the date of a notice of foreclosure shall be deemed to be the date on which complete title to a property is transferred to a successor entity or person as a result of an order of a court or pursuant to provisions in a mortgage, deed of trust or security deed.

Sec. 8. (NEW) (*Effective from passage*) (a) On or before December 31, 2017, in the case of an owner who is an immediate successor in interest pursuant to foreclosure during the term of a lease, vacating the property prior to sale shall not constitute other good cause for terminating the lease of a tenant who is a recipient of assistance under 42 USC 1437f(o), the federal Housing Choice Voucher Program, except that the owner may terminate the tenancy effective on the date of transfer of the unit to the owner if the owner (1) will occupy the unit as a primary residence, and (2) has provided the tenant a notice to vacate at least ninety days before the effective date of such notice.

(b) On or before December 31, 2017, in the case of any foreclosure on any federally-related mortgage loan, as that term is defined in 12 USC 2602(1), the Real Estate Settlement Procedures Act of 1974, or on any

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residential real property in which a recipient of assistance under 42 USC 1437(o), the federal Housing Choice Voucher Program, resides, the immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to the lease between the prior owner and the tenant and to the housing assistance payments contract between the prior owner and the public housing agency for the occupied unit, except that this provision and the provisions related to foreclosure in subsection (a) of this section shall not affect any state or local law that provides longer time periods or other additional protections for tenants.

Sec. 9. (NEW) (*Effective October 1, 2011*) (a) As used in this section, "general-use prepaid card" has the same meaning given to that term in 12 CFR 205.20(a)(3), as from time to time amended.

(b) A general-use prepaid card shall not include an expiration date relative to the underlying funds that are redeemable through the use of the applicable card, code or device. Notwithstanding the provisions of this subsection, a general-use prepaid card may include an expiration date with regard to such card, code or device, provided: (1) The following disclosures are made, in writing, on such card, code or device: (A) That such card, code or device expires, but that the underlying funds do not expire and that the consumer may contact the issuer for a replacement card, code or device; and (B) a toll-free telephone number and an Internet web site address, if one is maintained, that a holder of a general-use prepaid card may use to obtain a replacement card, code or device after such card, code or device expires; (2) no fee or charge is imposed on such holder for replacing the card, code or device or for providing such holder with the remaining balance in some other manner, provided the card, code or device has not been lost or stolen; and (3) the seller of the card, code or device has established policies and procedures to provide consumers a reasonable opportunity to purchase a card, code or device

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that has not less than five years remaining until the card, code or device expires.

(c) For purposes of complying with the disclosure requirements of subdivision (1) of subsection (b) of this section, (1) the issuer of the general-use prepaid card may provide disclosures that are consistent with the applicable provisions of 12 CFR 205.20(e), as from time to time amended, and (2) such issuer shall make the disclosure required under subparagraph (A) of said subdivision (1) with equal prominence and in close proximity to the expiration date on the applicable card, code or device.

Sec. 10. Subdivision (5) of section 3-56a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2011*):

(5) "Gift certificate" means a record evidencing a promise, made for consideration, by the seller or issuer of the record that goods or services will be provided to the owner of the record to the value shown in the record and includes, but is not limited to, a record that contains a microprocessor chip, magnetic stripe or other means for the storage of information that is prefunded and for which the value is decremented upon each use, a gift card, an electronic gift card, stored-value card or certificate, a store card, or a similar record or card, but "gift certificate" does not include prepaid calling cards regulated under section 42-370₂ [or] prepaid commercial mobile radio services, as defined in [47 C.F.R. Sec. 20.3] 47 CFR 20.3 or general-use prepaid cards, as defined in section 9 of this act;

Sec. 11. Section 3-65c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2011*):

A holder of property subject to this part, or of a gift certificate, as defined in section 3-56a, or a general-use prepaid card, as defined in

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section 9 of this act, may not impose on the property a dormancy charge or fee, abandoned property charge or fee, unclaimed property charge or fee, escheat charge or fee, inactivity charge or fee, or any similar charge, fee or penalty for inactivity with respect to the property. Neither the property nor an agreement with respect to the property may contain language suggesting that the property may be subject to such a charge, fee or penalty for inactivity. The provisions of this section shall not apply to property subject to subdivision (1), (2), (3) or (5) of subsection (a) of section 3-57a, provided a holder of any such property may not impose an escheat charge or fee with respect to such property.

Sec. 12. Subsection (e) of section 3-73a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2011*):

(e) The provisions of this part shall not apply to gift certificates, as defined in section 3-56a, or general-use prepaid cards, as defined in section 9 of this act.

Sec. 13. Section 7-148hh of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2011*):

As used in sections 7-148ff, 7-148ii, as amended by this act, 7-152c, 19a-206, 47a-52, 47a-53, 47a-58 and 49-73b, as amended by this act:

(1) "Registrant" means the owner of [vacant] residential property who is required to register such property pursuant to section 7-148ii, as amended by this act.

(2) "Residential property" means a [one-to-four family] building containing one or more dwelling units and includes a commercial building containing one or more dwelling units.

(3) ["Vacant" means uninhabited.] "Dwelling unit" means any house

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or building, or portion thereof, which is occupied, designed to be occupied, or rented, leased or hired out to be occupied, exclusively as a home or residence of one or more persons.

(4) ["MERS" means the Mortgage Electronic Registration Systems.] "Mortgage" means a mortgage on residential real property that is held by a person other than a natural person.

(5) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

Sec. 14. Section 7-148ii of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2011*):

(a) Any person [in whom title to a residential property has vested after October 1, 2009, through a foreclosure action pursuant to sections 49-16 to 49-19, inclusive, or 49-26,] who, on or after October 1, 2011, commences an action to foreclose a mortgage on residential property shall register such property with the town clerk of the municipality in which the property is located [or with MERS (1) no later than ten days after the date title vests in such person if such residential property is vacant on the date title vests, or (2) if, as a result of an execution of ejectment pursuant to section 49-22 or a summary process action pursuant to chapter 832, such residential property becomes vacant before the date one hundred twenty days after the date title vests in such person, then no later than ten days after the date on which such property becomes vacant] at the time and place of the recording of the notice of lis pendens as to the residential property being foreclosed in accordance with section 52-325. Such registration shall be maintained by the municipality separate and apart from the land records.

(b) [If the registration is with the municipality, it] Registration made

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pursuant to subsection (a) of this section shall contain (1) the name, address, telephone number and electronic mail address of the [registrant] plaintiff in the foreclosure action and, if [the registrant] such plaintiff is [a corporation] an entity or an individual who resides out-of-state, the name, address, telephone number and electronic mail address of a direct contact in the state, provided such a direct contact is available; [and] (2) the name, address, telephone number and electronic mail address of the person, local property maintenance company [responsible for the security and maintenance of the vacant] or other entity serving as such plaintiff's contact with the municipality for any matters concerning the residential property; [, if such a management company has been engaged by the registrant] and (3) the following heading in at least ten-point boldface capital letters: NOTICE TO MUNICIPALITY: REGISTRATION OF PROPERTY BEING FORECLOSED. The [registrant] plaintiff in the foreclosure action shall indicate on such registration whether it prefers to be contacted by first class mail or electronic mail and the preferred addresses for such communications. [The registrant] Such plaintiff shall report to the town clerk of the municipality in which the property is located, by mail or other form of delivery, any change in the information provided on the registration [no] not later than [ten] thirty days following the date of the change of information. At the time of registration, [the registrant] such plaintiff shall pay a [one-hundred-dollar] land record filing fee to the municipality as specified in section 7-34a.

[(c) If the registration is with MERS, it shall contain (1) the name, address, telephone number and electronic mail address of the registrant, and (2) the name, address, telephone number and electronic address of the local property maintenance company responsible for the maintenance of the property, if such a management company has been engaged by the registrant.]

(c) Any person in whom title to a residential property has vested on

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or after October 1, 2011, through a foreclosure action pursuant to sections 49-16 to 49-21, inclusive, or 49-26, shall register such property, in accordance with subsection (d) of this section, with the municipality in which such property is located not later than fifteen days after absolute title vests in such person. If such person is the plaintiff in the foreclosure action, such person shall, prior to the expiration of such fifteen-day period, update the registration with any change in registration information for purposes of complying with said subsection (d). The updated registration shall include the following heading in at least ten-point boldface capital letters: NOTICE TO MUNICIPALITY: UPDATED REGISTRATION FOR PROPERTY ACQUIRED THROUGH FORECLOSURE.

(d) Registration made pursuant to subsection (c) of this section shall be mailed or delivered to the town clerk of the municipality in which the residential property is located and include (1) the name, address, telephone number and electronic mail address of the registrant and, if the registrant is an entity or an individual who resides out-of-state, the name, address, telephone number and electronic mail address of a direct contact in the state, provided such a direct contact is available; (2) the date on which absolute title vested in the registrant; (3) the name, address, telephone number and electronic mail address of the person, local property maintenance company or other entity responsible for the security and maintenance of the residential property; and (4) the following heading in at least ten-point boldface capital letters: NOTICE TO MUNICIPALITY: REGISTRATION OF PROPERTY ACQUIRED THROUGH FORECLOSURE. The registration, or updated registration, shall be accompanied by a land record filing fee payable to the municipality as specified in section 7-34a. The registrant shall report to the town clerk by mail or other form of delivery any change in the information provided on the registration not later than thirty days from the date of the change in information.

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[(d)] (e) If a registrant required to register pursuant to subsection (c) of this section fails to comply with any provision of the general statutes or of any municipal ordinance concerning the repair or maintenance of real estate, including, without limitation, an ordinance relating to the prevention of housing blight pursuant to subparagraph (H)(xv) of subdivision (7) of subsection (c) of section 7-148, the maintenance of safe and sanitary housing as provided in subparagraph (A) of subdivision (7) of subsection (c) of section 7-148, or the abatement of nuisances as provided in subparagraph (E) of subdivision (7) of subsection (c) of section 7-148, the municipality may issue a notice to the registrant citing the conditions on such property that violate such provisions. Such notice shall be sent by either first class or electronic mail, or both, and shall be sent to the address or addresses of the registrant identified on the registration. A copy of such notice shall be sent by first class mail or electronic mail to the person, property maintenance company [if such a company has been identified] or other entity responsible for the security and maintenance of the residential property designated on the registration. Such notice shall comply with section 7-148gg.

[(e)] (f) The notice described in subsection [(d)] (e) of this section shall provide a date, reasonable under the circumstances, by which the registrant [may] shall remedy the condition or conditions on such registrant's property. If the registrant, registrant's contact or [property management company] registrant's agent does not remedy the condition or conditions on such registrant's property before the date following the date specified in such notice, the municipality may enforce its rights under the relevant provisions of the general statutes or of any municipal ordinance.

[(f)] (g) A municipality shall only impose registration requirements upon registrants and plaintiffs in foreclosure actions in accordance with this section, except that any municipal registration requirements

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effective on or before passage of public act 09-144 shall remain effective.

(h) Any plaintiff in a foreclosure action who fails to register in accordance with this section shall be subject to a civil penalty of one hundred dollars for each violation, up to a maximum of five thousand dollars. Each property for which there has been a failure to register shall constitute a separate violation.

(i) Any person in whom title to a residential property has vested on or after October 1, 2011, through a foreclosure action pursuant to sections 49-16 to 49-21, inclusive, or 49-26, and who has not registered in accordance with subsection (c) of this section within thirty days of absolute title vesting in such owner shall be subject to a civil penalty of two hundred fifty dollars for each violation, up to a maximum of twenty-five thousand dollars. Each property for which there has been a failure to register shall constitute a separate violation.

(j) An authorized official of the municipality may file a civil action in Superior Court to collect the penalties imposed pursuant to subsections (h) and (i) of this section, which penalties shall be payable to the treasurer of such municipality. Such penalties shall not create or constitute a lien against the residential property.

(k) Neither the registration by a foreclosing party nor the failure to register in accordance with subsection (a) of this section shall imply or create any legal obligations on the part of the foreclosing party to repair, maintain or secure the residential property for which a registration is required prior to the time that title passes to the foreclosing party.

Sec. 15. Subsection (h) of section 49-73b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2011*):

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(h) The provisions of this section shall not apply to policies on single-family or two-family dwellings, unless such dwellings are [vacant] residential properties owned by a registrant subject to section 7-148ii, as amended by this act.

Approved July 13, 2011