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File No. 893

General Assembly

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Substitute House Bill No. 6351
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
June 3, 2011

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:

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 Section 49-31k of the general statutes is repealed and the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

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

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

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

14 (3) "Mortgagee" means the original lender or servicer under a
15 mortgage, or its successors or assigns, who is the holder of any
16 mortgage on residential real property or real property owned by a
17 religious organization securing a loan made primarily for personal,
18 family, religious or household purposes that is the subject of a
19 foreclosure action;

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

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

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

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 Section 49-31l of the general statutes is repealed and the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

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

40 (b) (1) Prior to July 1, 2012, when a mortgagee commences an action
41 for the foreclosure of a mortgage on residential real property with a

42 return date during the period from July 1, 2008, to June 30, 2009,
43 inclusive, the mortgagee shall give notice to the mortgagor of the
44 foreclosure mediation program established in section 49-31m, as
45 amended by this act, by attaching to the front of the foreclosure
46 complaint that is served on the mortgagor: (A) A copy of the notice of
47 the availability of foreclosure mediation, in such form as the Chief
48 Court Administrator prescribes, and (B) a foreclosure mediation
49 request form, in such form as the Chief Court Administrator
50 prescribes.

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

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

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

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

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

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

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

108 contact information for authority-approved consumer credit
109 counseling agencies, which form and notice shall be in such form as
110 the Chief Court Administrator prescribes. Such mediation information
111 form shall be designed to elicit current financial information and such
112 other nonfinancial information from the mortgagor as the Chief Court
113 Administrator, in consultation with representatives from the banking
114 industry and consumer advocates, determines will be useful to the
115 mediation process. The instructions to the mediation information form
116 shall explain that the completed mediation information form, along
117 with accompanying documentation reasonably requested from the
118 mortgagor by way of such instructions, shall be delivered to the
119 mortgagee's counsel not later than fifteen business days prior to the
120 date of the initial mediation session, as identified in the notice
121 provided pursuant to subdivision (2) of subsection (c) of section 49-
122 31n, as amended by this act.

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

127 (3) The notice of foreclosure mediation shall instruct the mortgagor
128 to file the appearance and foreclosure mediation certificate forms with
129 the court [no] not later than the date fifteen days from the return date
130 for the foreclosure action. Such notice shall remind the mortgagor to
131 deliver the completed mediation information form and the
132 accompanying documentation described in subdivision (1) of this
133 subsection and encourage such delivery in advance of the required
134 date. The mediation information form and accompanying
135 documentation shall not, without the explicit written instruction of the
136 mortgagor, be publicly available. Such notice shall be accompanied by
137 materials from the Department of Banking, as prescribed by the Chief
138 Court Administrator, which shall describe the community-based
139 resources available to the mortgagor, including authority-approved
140 housing counseling agencies that may assist with preparation of the
141 mediation information form and application for mortgage assistance

142 programs. The foreclosure mediation certificate form shall require the
143 mortgagor to provide sufficient information to permit the court to
144 confirm that the defendant in the foreclosure action is a mortgagor,
145 and to certify that said mortgagor has sent a copy of the mediation
146 certificate form to the plaintiff in the action.

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

161 (5) Notwithstanding the provisions of this subsection, the court may
162 refer a foreclosure action brought by a mortgagee to the foreclosure
163 mediation program at any time, provided the mortgagor has filed an
164 appearance in said action and further provided the court shall, not
165 later than the date three business days after the date on which it makes
166 such referral, send a notice to each appearing party scheduling the first
167 foreclosure mediation session for a date not later than the date [fifteen
168 business] thirty-five days from the date of such referral.

169 (6) Notwithstanding any provision of the general statutes or any
170 rule of law, prior to July 1, [2012,] 2014, (A) for the period of time
171 which shall not exceed eight months from the return date, no
172 mortgagee or mortgagor shall make any motion, request or demand
173 with respect to the other, except those motions, requests or demands
174 that relate to the mediation program described in section 49-31m, as

175 amended by this act, and the mediation sessions held pursuant to such
176 program, provided (i) a mortgagor seeking to contest the court's
177 jurisdiction may file a motion to dismiss and the mortgagee may object
178 to such motion to dismiss in accordance with applicable law and the
179 rules of the courts, and (ii) if the mortgagor elects to make any other
180 motion, request or demand with respect to the mortgagee, the eight-
181 month limit shall no longer apply to either party; and (B) no judgment
182 of strict foreclosure nor any judgment ordering a foreclosure sale shall
183 be entered in any action subject to the provisions of this subsection and
184 instituted by the mortgagee to foreclose a mortgage on residential real
185 property or real property owned by a religious organization unless:
186 [(A)] (i) The mediation period set forth in subsection (c) of section 49-
187 31n, as amended by this act, has expired or has otherwise terminated,
188 whichever is earlier, and, if fewer than eight months has elapsed from
189 the return date at the time of termination, fifteen days have elapsed
190 since such termination, or [(B)] (ii) the mediation program is not
191 otherwise required or available. Nothing in this subdivision shall affect
192 any motion made or any default or judgment entered on or before June
193 30, 2011.

194 (7) With respect to foreclosure actions with a return date on or after
195 July 1, 2011, notwithstanding any provision of the general statutes or
196 any rule of law to the contrary, the mortgagee shall be permitted, on or
197 before July 1, 2014, and following the eight-month or fifteen-day
198 period described in subdivision (6) of this subsection, to
199 simultaneously file, as applicable, (A) a motion for default, and (B) a
200 motion for judgment of strict foreclosure or a motion for judgment of
201 foreclosure by sale with respect to the mortgagor in the foreclosure
202 action.

203 [(7)] (8) None of the mortgagor's or mortgagee's rights in the
204 foreclosure action shall be waived by participation in the foreclosure
205 mediation program.

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

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

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

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

236 (b) (1) For any action for the foreclosure of a mortgage on residential
237 real property with a return date during the period from July 1, 2008, to
238 June 30, 2009, inclusive, the mediation period under the foreclosure
239 mediation program established in section 49-31m, as amended by this
240 act, shall commence when the court sends notice to each appearing

241 party that a foreclosure mediation request form has been submitted by
242 a mortgagor to the court, which notice shall be sent not later than three
243 business days after the court receives a completed foreclosure
244 mediation request form. The mediation period shall conclude not more
245 than sixty days after the return [day] date for the foreclosure action,
246 except that the court may, in its discretion, for good cause shown, (A)
247 extend, by not more than thirty days, or shorten the mediation period
248 on its own motion or upon motion of any party, or (B) extend by not
249 more than thirty days the mediation period upon written request of
250 the mediator.

251 (2) The first mediation session shall be held not later than fifteen
252 business days after the court sends notice to all parties that a
253 foreclosure mediation request form has been submitted to the court.
254 The mortgagor and mortgagee shall appear in person at each
255 mediation session and shall have authority to agree to a proposed
256 settlement, except that (A) if the mortgagee is represented by counsel,
257 the mortgagee's counsel may appear in lieu of the mortgagee to
258 represent the mortgagee's interests at the mediation, provided such
259 counsel has the authority to agree to a proposed settlement and the
260 mortgagee is available (i) during the mediation session by telephone,
261 and (ii) to participate in the mediation session by speakerphone,
262 provided an opportunity is afforded for confidential discussions
263 between the mortgagee and mortgagee's counsel, and (B) following the
264 initial mediation session, if there are two or more mortgagors, only one
265 mortgagor shall appear in person at each subsequent mediation
266 session unless good cause is shown, provided the other mortgagors are
267 available (i) during the mediation session, and (ii) to participate in the
268 mediation session by speakerphone, provided an opportunity is
269 afforded for confidential discussions among the mortgagors and such
270 mortgagors' counsel. The court shall not award attorney's fees to any
271 mortgagee for time spent in any mediation session if the court finds
272 that such mortgagee has failed to comply with this subdivision, unless
273 the court finds reasonable cause for such failure.

274 (3) Not later than two days after the conclusion of the first

275 mediation session, the mediator shall determine whether the parties
276 will benefit from further mediation. The mediator shall file with the
277 court a report setting forth such determination and mail a copy of such
278 report to each appearing party. If the mediator reports to the court that
279 the parties will not benefit from further mediation, the mediation
280 period shall terminate automatically. If the mediator reports to the
281 court after the first mediation session that the parties may benefit from
282 further mediation, the mediation period shall continue.

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

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

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

305 (7) Foreclosure mediation request forms shall not be accepted by the
306 court on or after July 1, 2012, and the foreclosure mediation program

307 shall terminate when all mediation has concluded with respect to any
308 applications submitted to the court prior to July 1, [2012] 2014.

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

316 (c) (1) For any action for the foreclosure of a mortgage on residential
317 real property with a return date during the period from July 1, 2009, to
318 June 30, [2012] 2014, inclusive, or for any action for the foreclosure of a
319 mortgage on real property owned by a religious organization with a
320 return date during the period from October 1, 2011, to June 30, 2014,
321 inclusive, the mediation period under the foreclosure mediation
322 program established in section 49-31m, as amended by this act, shall
323 commence when the court sends notice to each appearing party
324 scheduling the first foreclosure mediation session. The mediation
325 period shall conclude not later than the date sixty days after the return
326 date for the foreclosure action, except that the court may, in its
327 discretion, for good cause shown, (A) extend, by not more than thirty
328 days, or shorten the mediation period on its own motion or upon
329 motion of any party, or (B) extend by not more than thirty days the
330 mediation period upon written request of the mediator.

331 (2) The first mediation session shall be held not later than fifteen
332 business days after the court sends notice to each appearing party in
333 accordance with subdivision (4) of subsection (c) of section 49-31l, as
334 amended by this act. On and after October 1, 2011, the first mediation
335 session shall be held not later than thirty-five days after the court
336 sends notice to each appearing party in accordance with subdivision
337 (4) of subsection (c) of this section. On and after October 1, 2011, not
338 later than fifteen business days prior to the date of the initial mediation
339 session, the mortgagee shall deliver to the mortgagor (A) an account

340 history identifying all credits and debits assessed to the loan account in
341 the immediately preceding twelve-month period, and (B) the name,
342 business mailing address, electronic mail address, facsimile number
343 and direct telephone number of an individual able to process requests
344 to refinance or modify the mortgage loan at issue or otherwise take
345 action to avoid foreclosure of the mortgage. Any updates to the
346 information provided pursuant to subparagraph (B) of this subdivision
347 shall be provided reasonably promptly to the mortgagor and such
348 mortgagor's counsel. The mortgagor and mortgagee shall appear in
349 person at each mediation session and shall have authority to agree to a
350 proposed settlement, except that (i) if the mortgagee is represented by
351 counsel, the mortgagee's counsel may appear in lieu of the mortgagee
352 to represent the mortgagee's interests at the mediation, provided such
353 counsel has the authority to agree to a proposed settlement and the
354 mortgagee is available (I) during the mediation session by telephone,
355 and (II) to participate in the mediation session by speakerphone,
356 provided an opportunity is afforded for confidential discussions
357 between the mortgagee and mortgagee's counsel, and (ii) following the
358 initial mediation session, if there are two or more mortgagors, only one
359 mortgagor shall appear in person at each subsequent mediation
360 session unless good cause is shown, provided the other mortgagors are
361 available (I) during the mediation session, and (II) to participate in the
362 mediation session by speakerphone, provided an opportunity is
363 afforded for confidential discussions among the mortgagors and such
364 mortgagors' counsel. The court shall not award attorney's fees to any
365 mortgagee for time spent in any mediation session if the court finds
366 that such mortgagee has failed to comply with this subdivision, unless
367 the court finds reasonable cause for such failure.

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

374 period shall terminate automatically. If the mediator reports to the
375 court after the first mediation session that the parties may benefit from
376 further mediation, the mediation period shall continue. Either party's
377 failure to comply with the documentation requirements of this section
378 or section 49-31l, as amended by this act, shall not be grounds for
379 terminating the mediation period before a second mediation session is
380 conducted.

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

393 (5) The Chief Court Administrator shall establish policies and
394 procedures to implement this subsection. Such policies and procedures
395 shall, at a minimum, provide that the mediator shall advise the
396 mortgagor at the first mediation session required by subdivision (2) of
397 this subsection that: (A) Such mediation does not suspend the
398 mortgagor's obligation to respond to the foreclosure action beyond the
399 limited time frame described in subdivision (6) of subsection (c) of
400 section 49-31l, as amended by this act; and (B) a judgment of strict
401 foreclosure or foreclosure by sale may cause the mortgagor to lose the
402 residential real property or real property owned by a religious
403 organization to foreclosure.

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

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

410 (8) At any time during the mediation period, the mediator may refer
411 [the] a mortgagor who is the owner-occupant of one-to-four family
412 residential real property to the mortgage assistance programs, except
413 that any such referral shall not prevent a mortgagee from proceeding
414 to judgment when the conditions specified in subdivision (6) of
415 subsection (c) of section 49-311, as amended by this act, have been
416 satisfied.

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

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

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

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

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

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

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

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

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

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

435 (9) The chief housing officer of the Connecticut Housing Finance
436 Authority, or the officer's designee;

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

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

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

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

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

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

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

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

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

498 of section 31-58, (3) more than half of whose compensation for a
499 representative period, being not less than one month, represents
500 commissions on goods or services, and (4) who does not work more
501 than fifty-four hours during a work week of seven consecutive days. In
502 determining the proportion of compensation representing
503 commissions, all earnings resulting from the application of a bona fide
504 commission rate shall be deemed commissions on goods or services
505 without regard to whether the computed commissions exceed the
506 draw or guarantee; (k) any person employed in agriculture; (l) any
507 permanent paid members of the uniformed police force of
508 municipalities and permanent paid members of the uniformed
509 firefighters of municipalities; (m) any person employed as a firefighter
510 by a private nonprofit corporation which on May 24, 1984, has a valid
511 contract with any municipality to extinguish fires and protect its
512 inhabitants from loss by fire; (n) any person, except a person paid on
513 an hourly basis, employed as a beer delivery truck driver by a licensed
514 distributor, as defined by section 12-433; [or] (o) any person employed
515 as a mechanic primarily engaged in the servicing of motor vehicles, as
516 defined in section 14-1, or farm implements, as defined in section 14-1,
517 by a nonmanufacturing employer primarily engaged in the business of
518 selling such vehicles or implements to consumers, to the extent that
519 such employees are exempt under the federal Wage-Hour and Equal
520 Pay Act, 29 USC 201 et seq. and 29 USC 213(b)(10), provided such
521 person's actual weekly earnings exceed an amount equal to the total of
522 (1) such person's basic contractual hourly rate of pay times the number
523 of hours such person has actually worked plus (2) such person's basic
524 contractual hourly rate of pay times one-half the number of hours such
525 person has actually worked in excess of forty hours in such week. For
526 the purposes of this section, "basic contractual hourly rate" means the
527 compensation payable to a person at an hourly rate separate from and
528 exclusive of any flat rate, incentive rate or any other basis of
529 calculation; or (p) any mortgage loan originator, as defined in section
530 36a-485, who is a highly compensated employee, as defined in 29 CFR
531 541.601, provided this subsection shall not apply to an individual who
532 performs the functions of a mortgage loan originator solely from the

533 office of such mortgage loan originator's employer. For purposes of
534 this subsection, an office in the mortgage loan originator's home shall
535 not be considered the office of such mortgage loan originator's
536 employer. Beginning on October 1, 2012, the total annual
537 compensation for purposes of Subsection (a) of 29 CFR 541.601 shall be
538 increased annually, effective October first of each year, based on the
539 percentage increase, from year to year, in the average of all workers'
540 weekly earnings as determined by the Labor Commissioner pursuant
541 to subdivision (1) of subsection (b) of section 31-309.

542 Sec. 7. (NEW) (*Effective from passage*) (a) In the case of any
543 foreclosure on a federally-related mortgage loan or on any dwelling or
544 residential real property that has a return date on or after the effective
545 date of this section, but not later than December 31, 2017, any
546 immediate successor in interest in such property pursuant to the
547 foreclosure shall assume such interest subject to (1) the provision, by
548 such successor in interest, of a notice to vacate to any bona fide tenant
549 not less than ninety days before the effective date of such notice; and
550 (2) the rights of any bona fide tenant, as of the date absolute title vests
551 in such successor in interest (A) under any bona fide lease entered into
552 before such date to occupy the premises until the end of the remaining
553 term of the lease, except that a successor in interest may terminate a
554 lease effective on the date of sale of the unit to a purchaser who will
555 occupy the unit as a primary residence, subject to the receipt by the
556 tenant of the ninety-day notice under subdivision (1) of this subsection;
557 or (B) without a lease or with a lease terminable at will under state law,
558 subject to the receipt by the tenant of the ninety-day notice under
559 subdivision (1) of this subsection, except that nothing under this
560 section shall affect the requirements for termination of any federally-
561 subsidized or state-subsidized tenancy or of any state or local law that
562 provides longer time periods or other additional protections for
563 tenants.

564 (b) For purposes of this section, a lease or tenancy shall be
565 considered bona fide only if (1) the mortgagor or the child, spouse, or
566 parent of the mortgagor under the contract is not the tenant, (2) the

567 lease or tenancy was the result of an arms-length transaction, and (3)
568 the lease or tenancy requires the receipt of rent that is not substantially
569 less than fair market rent for the property or the unit's rent is reduced
570 or subsidized due to a federal, state or local subsidy.

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

578 Sec. 8. (NEW) (*Effective from passage*) (a) On or before December 31,
579 2017, in the case of an owner who is an immediate successor in interest
580 pursuant to foreclosure during the term of a lease, vacating the
581 property prior to sale shall not constitute other good cause for
582 terminating the lease of a tenant who is a recipient of assistance under
583 42 USC 1437f(o), the federal Housing Choice Voucher Program, except
584 that the owner may terminate the tenancy effective on the date of
585 transfer of the unit to the owner if the owner (1) will occupy the unit as
586 a primary residence, and (2) has provided the tenant a notice to vacate
587 at least ninety days before the effective date of such notice.

588 (b) On or before December 31, 2017, in the case of any foreclosure on
589 any federally-related mortgage loan, as that term is defined in 12 USC
590 2602(1), the Real Estate Settlement Procedures Act of 1974, or on any
591 residential real property in which a recipient of assistance under 42
592 USC 1437(o), the federal Housing Choice Voucher Program, resides,
593 the immediate successor in interest in such property pursuant to the
594 foreclosure shall assume such interest subject to the lease between the
595 prior owner and the tenant and to the housing assistance payments
596 contract between the prior owner and the public housing agency for
597 the occupied unit, except that this provision and the provisions related
598 to foreclosure in subsection (a) of this section shall not affect any state
599 or local law that provides longer time periods or other additional

600 protections for tenants.

601 Sec. 9. (NEW) (*Effective October 1, 2011*) (a) As used in this section,
602 "general-use prepaid card" has the same meaning given to that term in
603 12 CFR 205.20(a)(3), as from time to time amended.

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

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

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

635 (5) "Gift certificate" means a record evidencing a promise, made for
636 consideration, by the seller or issuer of the record that goods or
637 services will be provided to the owner of the record to the value shown
638 in the record and includes, but is not limited to, a record that contains
639 a microprocessor chip, magnetic stripe or other means for the storage
640 of information that is prefunded and for which the value is
641 decremented upon each use, a gift card, an electronic gift card, stored-
642 value card or certificate, a store card, or a similar record or card, but
643 "gift certificate" does not include prepaid calling cards regulated under
644 section 42-370, [or] prepaid commercial mobile radio services, as
645 defined in [47 C.F.R. Sec. 20.3] 47 CFR 20.3 or general-use prepaid
646 cards, as defined in section 9 of this act;

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

649 A holder of property subject to this part, or of a gift certificate, as
650 defined in section 3-56a, or a general-use prepaid card, as defined in
651 section 9 of this act, may not impose on the property a dormancy
652 charge or fee, abandoned property charge or fee, unclaimed property
653 charge or fee, escheat charge or fee, inactivity charge or fee, or any
654 similar charge, fee or penalty for inactivity with respect to the
655 property. Neither the property nor an agreement with respect to the
656 property may contain language suggesting that the property may be
657 subject to such a charge, fee or penalty for inactivity. The provisions of
658 this section shall not apply to property subject to subdivision (1), (2),
659 (3) or (5) of subsection (a) of section 3-57a, provided a holder of any
660 such property may not impose an escheat charge or fee with respect to
661 such property.

662 Sec. 12. Subsection (e) of section 3-73a of the general statutes is
663 repealed and the following is substituted in lieu thereof (*Effective*

664 October 1, 2011):

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

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

670 As used in sections 7-148ff, 7-148ii, as amended by this act, 7-152c,
671 19a-206, 47a-52, 47a-53, 47a-58 and 49-73b, as amended by this act:

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

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

678 (3) ["Vacant" means uninhabited.] "Dwelling unit" means any house
679 or building, or portion thereof, which is occupied, designed to be
680 occupied, or rented, leased or hired out to be occupied, exclusively as a
681 home or residence of one or more persons.

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

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

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

691 (a) Any person [in whom title to a residential property has vested

692 after October 1, 2009, through a foreclosure action pursuant to sections
693 49-16 to 49-19, inclusive, or 49-26,] who, on or after October 1, 2011,
694 commences an action to foreclose a mortgage on residential property
695 shall register such property with the town clerk of the municipality in
696 which the property is located [or with MERS (1) no later than ten days
697 after the date title vests in such person if such residential property is
698 vacant on the date title vests, or (2) if, as a result of an execution of
699 ejectment pursuant to section 49-22 or a summary process action
700 pursuant to chapter 832, such residential property becomes vacant
701 before the date one hundred twenty days after the date title vests in
702 such person, then no later than ten days after the date on which such
703 property becomes vacant] at the time and place of the recording of the
704 notice of lis pendens as to the residential property being foreclosed in
705 accordance with section 52-325. Such registration shall be maintained
706 by the municipality separate and apart from the land records.

707 (b) [If the registration is with the municipality, it] Registration made
708 pursuant to subsection (a) of this section shall contain (1) the name,
709 address, telephone number and electronic mail address of the
710 [registrant] plaintiff in the foreclosure action and, if [the registrant]
711 such plaintiff is [a corporation] an entity or an individual who resides
712 out-of-state, the name, address, telephone number and electronic mail
713 address of a direct contact in the state, provided such a direct contact is
714 available; [and] (2) the name, address, telephone number and
715 electronic mail address of the person, local property maintenance
716 company [responsible for the security and maintenance of the vacant]
717 or other entity serving as such plaintiff's contact with the municipality
718 for any matters concerning the residential property; [, if such a
719 management company has been engaged by the registrant] and (3) the
720 following heading in at least ten-point boldface capital letters: NOTICE
721 TO MUNICIPALITY: REGISTRATION OF PROPERTY BEING
722 FORECLOSED. The [registrant] plaintiff in the foreclosure action shall
723 indicate on such registration whether it prefers to be contacted by first
724 class mail or electronic mail and the preferred addresses for such
725 communications. [The registrant] Such plaintiff shall report to the

726 town clerk of the municipality in which the property is located, by
727 mail or other form of delivery, any change in the information provided
728 on the registration [no] not later than [ten] thirty days following the
729 date of the change of information. At the time of registration, [the
730 registrant] such plaintiff shall pay a [one-hundred-dollar] land record
731 filing fee to the municipality as specified in section 7-34a.

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

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

751 (d) Registration made pursuant to subsection (c) of this section shall
752 be mailed or delivered to the town clerk of the municipality in which
753 the residential property is located and include (1) the name, address,
754 telephone number and electronic mail address of the registrant and, if
755 the registrant is an entity or an individual who resides out-of-state, the
756 name, address, telephone number and electronic mail address of a
757 direct contact in the state, provided such a direct contact is available;
758 (2) the date on which absolute title vested in the registrant; (3) the

759 name, address, telephone number and electronic mail address of the
760 person, local property maintenance company or other entity
761 responsible for the security and maintenance of the residential
762 property; and (4) the following heading in at least ten-point boldface
763 capital letters: NOTICE TO MUNICIPALITY: REGISTRATION OF
764 PROPERTY ACQUIRED THROUGH FORECLOSURE. The
765 registration, or updated registration, shall be accompanied by a land
766 record filing fee payable to the municipality as specified in section 7-
767 34a. The registrant shall report to the town clerk by mail or other form
768 of delivery any change in the information provided on the registration
769 not later than thirty days from the date of the change in information.

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

789 [(e)] (f) The notice described in subsection [(d)] (e) of this section
790 shall provide a date, reasonable under the circumstances, by which the
791 registrant [may] shall remedy the condition or conditions on such
792 registrant's property. If the registrant, registrant's contact or [property

793 management company] registrant's agent does not remedy the
794 condition or conditions on such registrant's property before the date
795 following the date specified in such notice, the municipality may
796 enforce its rights under the relevant provisions of the general statutes
797 or of any municipal ordinance.

798 [(f)] (g) A municipality shall only impose registration requirements
799 upon registrants and plaintiffs in foreclosure actions in accordance
800 with this section, except that any municipal registration requirements
801 effective on or before passage of public act 09-144 shall remain
802 effective.

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

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

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

821 (k) Neither the registration by a foreclosing party nor the failure to
822 register in accordance with subsection (a) of this section shall imply or
823 create any legal obligations on the part of the foreclosing party to
824 repair, maintain or secure the residential property for which a

825 registration is required prior to the time that title passes to the
 826 foreclosing party.

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

830 (h) The provisions of this section shall not apply to policies on
 831 single-family or two-family dwellings, unless such dwellings are
 832 [vacant] residential properties owned by a registrant subject to section
 833 7-148ii, as amended by this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2011</i>	49-31k
Sec. 2	<i>July 1, 2011</i>	49-31l
Sec. 3	<i>October 1, 2011</i>	49-31m
Sec. 4	<i>July 1, 2011</i>	49-31n
Sec. 5	<i>from passage</i>	New section
Sec. 6	<i>from passage</i>	31-76i
Sec. 7	<i>from passage</i>	New section
Sec. 8	<i>from passage</i>	New section
Sec. 9	<i>October 1, 2011</i>	New section
Sec. 10	<i>October 1, 2011</i>	3-56a(5)
Sec. 11	<i>October 1, 2011</i>	3-65c
Sec. 12	<i>October 1, 2011</i>	3-73a(e)
Sec. 13	<i>October 1, 2011</i>	7-148hh
Sec. 14	<i>October 1, 2011</i>	7-148ii
Sec. 15	<i>October 1, 2011</i>	49-73b(h)

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 12 \$	FY 13 \$
Judicial Dept.	GF - Implements Budget	5.2 million	5.2 million
Depts. of Agriculture, Environmental Protection; Commission on Culture & Tourism; Connecticut Housing Finance Authority; State Library	GF - Revenue Gain	Greater than 200,000	Greater than 250,000

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 12 \$	FY 13 \$
All Municipalities	Revenue Impact	See Below	See Below
All Municipalities	Savings	Potential	Potential

Explanation

Foreclosure Mediation

Sections 1 to 11 of the bill extend the sunset date of the Foreclosure Mediation Program from July 1, 2012 to July 1, 2014, and result in a cost of \$5.2 million in both FY 13 and FY 14, and \$1.4 million in FY 15.¹ It should be noted that funding of \$5.2 million in FY 12 and FY 13 is included in PA 11-6 (the biennial budget) to continue funding for the foreclosure mediation program. Since the mediation deadline is 90 days after mediation begins, the cost of the bill would continue for three months into FY 15.

¹ HB 6650 (AAC Implementing the Provisions of the Budget Concerning the Judicial Branch, Child Protection, Criminal Justice, Weigh Stations and Certain State Agency Consolidations) also extends the sunset date for the foreclosure mediation program. This bill has passed both the House and Senate.

The bill also extends the foreclosure mediation program to owners of properties occupied by religious organizations. This is not expected to result in additional costs to the Judicial Department.

The bill also makes various changes to the foreclosure mediation process that do not result in a fiscal impact.

General-Use Prepaid Cards and Gift Certificates

Sections 9 to 12 of the bill do not result in a fiscal impact to the state as they concern the usage of “general-use prepaid card” and “gift certificate” transactions between individuals and private entities.

Registration of Properties in Foreclosure

Sections 13 to 15 of the bill will result in a State revenue gain estimated to be at least \$200,000 in FY 12 (based on partial year implementation) and \$250,000 in FY 13. Payment of the land record filing fee would be required of a person when registering a residential² property (the title of which has vested through foreclosure) with the municipality in which it is located. Similarly, registration and payment of the same fee would be required of any person commencing an action to foreclose a mortgage on residential property.³ The land record filing fee is \$53, of which \$38 is remitted to the State (\$36 is deposited to the Community Investment Account⁴; \$2 is deposited to the State Library).⁵

A minimal revenue impact to municipalities will result. The bill: (a) Expands the list of properties in foreclosure that are subject to mandatory registration to include commercial and residential

² As defined in the bill.

³ According to realtytrac.com, the number of new foreclosures in Connecticut was 747 in February 2011.

⁴ This account benefits programming under the Departments of Agriculture and Environmental Protection; the Commission on Culture and Tourism; and the Connecticut Housing Finance Authority.

⁵ HB 6651 (AAC the Provisions of the Budget Concerning General Government), which eliminates the sunset of a \$10 land record filing fee surcharge on 7/1/11, has passed both the House and Senate.

buildings containing one or more dwelling units (under current law mandatory registration is restricted to one-to-four family dwellings); (b) removes a requirement that the property be vacant; (c) requires registration when a foreclosure action is commenced; and (d) eliminates the option of registering with the Mortgage Electronic Registration Systems (MERS) instead of the municipality. However, the amount towns collect from registrants is reduced from \$100 to \$15, the municipal portion of the land record filing fee⁶. Survey responses from thirteen municipalities indicate that, since 10/1/09⁷, the number of \$100 registration fees collected per community has ranged from none to 53. The net revenue impact from the additional registrations and the fee reduction will vary according to each community's experience, but is anticipated to be less than \$5,000.

Additional local revenues would be generated by collection of civil penalties from persons failing to register properties. The bill specifies penalties of: (1) \$100 for a plaintiff in a foreclosure action, up to a maximum of \$5,000, and (2) \$250 for a person in whom title to a residential property has vested through a foreclosure action, up to a maximum of \$25,000. Municipalities would be authorized to institute civil actions to collect such penalties.

Reporting of occupied properties subject to foreclosure may result in earlier identification of persons responsible for remediating housing code violations that render housing units unsafe. Local governments may experience savings to the extent that this mitigates the need to provide for tenant's housing or health needs at town expense.

The bill would also result in additional hearings before the Superior Court. It is anticipated that the number of additional hearings would be minimal, and would not result in additional costs to the Judicial Department.

⁶ Of this amount: \$1 must be used for preservation and management of historic documents; \$3 must be deposited to general revenues for capital improvements; and \$11 is retained by the town clerk.

⁷ PA 09-144's effective date.

House "A" struck the underlying bill and its associated fiscal impact and results in the impacts described above.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation, as well as trends in property foreclosures.

Sources: Core-CT Financial Accounting System

OLR Bill Analysis**sHB 6351 (as amended by House "A")******AN ACT CONCERNING FORECLOSURE MEDIATION.*****SUMMARY:**

This bill makes changes in several programs and laws related to foreclosure as well as other banking- and housing-related issues.

The bill makes various changes in the judicial branch's foreclosure mediation program, including (1) extending the program's sunset date by two years, until July 1, 2014, for foreclosure actions with return dates on or after July 1, 2009; (2) extending the program to properties owned by religious organizations; (3) generally prohibiting the parties from making motions, other than those related to the mediation, for the eight months following the return date; and (4) increasing documentation requirements (§§ 1-4).

The bill creates a task force to study the Connecticut Housing Finance Authority's loss mitigation programs (§ 5).

The bill excludes from the state's overtime pay requirements mortgage loan originators designated as highly compensated employees under federal regulations, other than originators who work solely from an employer's office (§ 6).

The bill codifies into state law the federal Protecting Tenants at Foreclosure Act, with a sunset date of December 31, 2017, that extends its protections beyond the federal act's December 31, 2014 expiration (§§ 7-8).

The bill prohibits a general-use prepaid card from including an

expiration date for the underlying funds redeemable through its use, but it allows an expiration date for the card itself if certain requirements are met. It also explicitly excludes general-use prepaid cards from the definition of “gift certificate,” but it applies to them the same prohibition on inactivity charges, fees, or penalties and exemption from state escheat provisions as apply to gift certificates (§§ 9-12).

PA 09-144 created a registration system for tracking the owners of uninhabited one-to-four family residential property obtained through foreclosure. The bill establishes a new registration requirement that applies to a broader class of buildings when the foreclosure process begins, and expands the scope of the existing registration requirement. It provides civil penalties for violations. It also makes other changes to the mechanics of the registration process (§§ 13-15).

The bill also makes minor, technical, and conforming changes.

*House Amendment “A” strikes the underlying bill, which made changes to the foreclosure mediation program. It adds several provisions related to the program, including those (1) extending the program’s sunset date and (2) increasing documentation requirements. It deletes other provisions, such as those (1) extending the program to properties occupied by nonprofit charitable organizations and (2) eliminating the 30-day limit for extending the mediation period. It changes provisions concerning motion practice while the mediation is ongoing. The amendment also adds the provisions on topics other than the mediation program.

EFFECTIVE DATE: Various; see below.

§§ 1-4 — FORECLOSURE MEDIATION PROGRAM

Extension of Program Sunset Date

The bill extends the judicial foreclosure mediation program by two years, until July 1, 2014, for foreclosure actions with return dates on or after July 1, 2009. It retains the current program end date (July 1, 2012)

for foreclosure actions with return dates from July 1, 2008 to June 30, 2009.

Extension to Religious Organizations

The bill extends the foreclosure mediation program to religious organizations that own real property, starting with foreclosures with return dates on or after October 1, 2011. It defines “religious organizations” as organizations that meet the religious purposes test to be tax exempt under the Internal Revenue Code.

To be eligible for the program, as is the case with current requirements for residential owners, the religious organization must be the borrower on a mortgage encumbering the property, and the property must be located in Connecticut. By law, to participate in the program, a residential owner must be the owner-occupant of a one-to-four family property that is his or her primary residence.

Current law requires the loan that is the subject of the foreclosure action to be primarily for personal, family, or household purposes. The bill specifies that the loan may also be primarily for religious purposes.

Changes to Mediation Process: Actions on or After July 1, 2009

Except as specified below, the following changes apply to residential foreclosures with return dates on or after July 1, 2009 and foreclosures of properties owned by religious organizations with return dates on or after October 1, 2011.

Mediation Information Form and Other Documents. By law, when bringing a foreclosure action, the mortgagee (i.e., the lender, servicer, or successor or assignee) must provide the mortgagor (i.e., borrower) with a (1) notice of foreclosure mediation; (2) foreclosure mediation certificate; and (3) blank appearance form. The bill adds to the required information that a mortgagee must provide a residential mortgagor for foreclosures with return dates on or after October 1, 2011. For such foreclosure actions, the bill requires mortgagees to provide the mortgagor with a (1) mediation information form and (2)

notice containing contact information for consumer credit counseling agencies that the Connecticut Housing Finance Authority (CHFA) approves. As is the case with the documents described above, these must be attached to the front of the foreclosure writ, summons, and complaint and must be in a chief court administrator-prescribed form.

The mediation information form must be designed to elicit current financial information and other nonfinancial information from the mortgagor that will be useful in mediation, as the chief court administrator determines in consultation with banking industry representatives and consumer advocates. The form's instructions must explain that the completed form, plus any accompanying documents reasonably requested in the instructions, must be delivered to the mortgagee's counsel within 15 business days before the first mediation session. The bill specifies that the mediation information form and accompanying documentation must not be made publicly available, unless the mortgagor explicitly agrees in writing to make them public.

By law, the court must issue a notice of foreclosure mediation to the mortgagor within three business days of the mortgagee returning the writ to the court. Under the bill, the notice must remind the mortgagor to deliver the completed mediation information form and the accompanying documents. The notice must also encourage the mortgagor to deliver the form and accompanying documents earlier than the law requires him or her to do so.

The bill requires the notice to be accompanied by chief court administrator-prescribed materials from the banking department, which describe community-based resources available to the mortgagor. These resources must include CHFA-approved housing counseling agencies that may help the mortgagor (1) prepare the mediation information form and (2) apply for mortgage assistance programs.

First Mediation Session. The bill provides that on or after October 1, 2011, the first mediation session must be held within 35 calendar

days, rather than 15 business days, of the court sending the notice to each appearing party scheduling the first mediation session.

Account History and Contact Information. Under the bill, on and after October 1, 2011, the mortgagee must deliver to the mortgagor an account history identifying all credits and debits assessed to the mortgagor's loan account in the immediately preceding 12 months. The mortgagee must do so within 15 business days of the first session.

During this same time frame, the mortgagee must also provide the mortgagor with specified contact information for an individual able to process requests to refinance or modify the mortgage or take other action to avoid foreclosure. The required contact information is the person's name, business mailing address, electronic mail address, facsimile number, and direct telephone number. The bill requires mortgagees, with reasonable promptness, to provide the mortgagors or their counsel with updates to this contact information.

Prohibition on Motions and Judgments. Under existing law, when the mediation period is required and available, a court cannot enter a judgment of strict foreclosure or foreclosure by sale until the mediation period has expired or otherwise ends, whichever is earlier. The bill extends this restriction to 15 days after the mediation period has ended, if it ends fewer than eight months after the action's return date.

The bill further limits what can transpire during the litigation for a period up to eight months from the return date. During this time frame, the parties cannot make a motion, request, or demand with request to each other, other than those relating to the mediation. The bill specifies that this restriction does not apply to a mortgagor's motion to dismiss that challenges the court's jurisdiction, or to a mortgagee's response to such a motion. The bill also specifies that if the mortgagor makes any other type of motion, request, or demand with respect to the mortgagee within the eight-month period, the restriction during this period no longer applies to either party.

The bill specifies that these provisions do not affect any motions made on or before June 30, 2011, or defaults or judgments entered on or before that date.

Under the bill, in foreclosure actions with return dates on or after July 1, 2011, after the eight-month or 15-day periods described above, mortgagees may file simultaneously (1) a motion for default and (2) a motion for judgment of strict foreclosure or for judgment of foreclosure by sale with respect to the mortgagor. This applies despite any contrary law.

Failure Regarding Documents. The bill specifies that either party's failure to comply with any of the law's documentation requirements for the foreclosure mediation program is not grounds for ending the mediation period before a second session has been conducted.

Changes to Mediation Process: All Eligible Actions

These changes apply to all foreclosure actions eligible for the mediation program – i.e., residential foreclosures with return dates on or after July 1, 2008 and foreclosures of properties owned by religious organizations with return dates on or after October 1, 2011.

Parties' Appearance at Mediation. By law, the mortgagor and mortgagee must appear in person at each mediation session and must have authority to agree to a proposed settlement. Under current law, the mortgagee's attorney can appear instead if he or she has the authority to agree to a proposed settlement and the mortgagee is available by telephone. Under the bill, if a mortgagee's attorney is appearing on behalf of the mortgagee, the mortgagee must also be available to participate in the mediation session by speakerphone, as long as there is an opportunity for the mortgagee and its counsel to engage in confidential discussions.

The bill also provides that when there are multiple mortgagors, only one must appear at mediation sessions after the first session, unless there is good cause for all to appear. If only one mortgagor appears,

the others must be available during the session to participate by speakerphone, as long as they and their attorney have the opportunity to engage in confidential discussions.

By law, a court may not award attorney's fees to a mortgagee for time spent in a mediation session if it does not comply with the requirements for personal appearance or attorney appearance as specified above, unless the court finds reasonable cause for the failure.

Referral to CHFA Mortgage Assistance Programs. By law, the mediator can refer the mortgagor to certain CHFA mortgage assistance programs at any time during the mediation. The bill specifies that this only applies to residential mortgagors, not religious organizations.

EFFECTIVE DATE: July 1, 2011, except a conforming change is effective October 1, 2011.

§ 5 — TASK FORCE ON CHFA LOSS MITIGATION PROGRAMS

The bill establishes a task force to review and evaluate the loss mitigation programs that CHFA administers. The members are the following, or their designees:

1. the governor,
2. the six legislative leaders,
3. the chairpersons of the banks and housing committees,
4. the banking commissioner, and
5. CHFA's chief housing officer.

Under the bill, the task force must elect a chairperson from among its members. The chairperson must schedule the first meeting, which must be within 60 days of the bill's passage. The bill requires the Banks Committee's administrative staff to also serve in that capacity for the task force.

The bill requires the task force to submit a report on its findings and recommendations by January 1, 2012 to the Banks Committee. The task force terminates when it submits its report or on January 1, 2012, whichever is later.

EFFECTIVE DATE: Upon passage

§ 6 — MORTGAGE LOAN ORIGINATORS – EXCLUSION FROM OVERTIME REQUIREMENTS

The bill excludes from the state's overtime pay requirements (time and one-half after 40 hours a week) mortgage loan originators considered to be highly compensated employees under federal regulations, except for people who perform the functions of an originator solely from their employer's office. It specifies that for this purpose, an originator's home office is not considered an employer's office.

The bill applies the banking statute's existing definition of mortgage loan originator (see BACKGROUND).

Under federal regulations, someone with total annual compensation of at least \$100,000, whose primary duty includes office or non-manual work, and who customarily and regularly performs exempt duties or responsibilities of an executive, administrative, or professional employee as identified by regulation, is exempt from the minimum wage and overtime pay requirements of the federal Fair Labor Standards Act (29 C.F.R. § 541.601). The bill specifies that starting on October 1, 2012, the total annual compensation of a mortgage loan originator for this purpose must be increased annually, effective each October 1. The increase must be based on the year-to-year percentage increase in the average of all workers' weekly earnings as the labor commissioner determines under law.

EFFECTIVE DATE: Upon passage

§§ 7-8 — PROTECTIONS FOR TENANTS OF FORECLOSED HOMES

The bill provides protections for certain tenants of foreclosed homes. These provisions are nearly identical to those in the federal Protecting Tenants at Foreclosure Act. The federal act is set to expire on December 31, 2014. The bill's provisions regarding tenants of foreclosed homes will sunset on December 31, 2017.

Tenants of Foreclosed Homes

The following provisions apply to foreclosures with return dates on or after passage through December 31, 2017. The foreclosure must be on a federally related mortgage loan or on any dwelling or residential property. Under the bill, a "federally related mortgage loan" has the same meaning as in the federal Real Estate Settlement Procedures Act of 1974 (see BACKGROUND).

Under the bill, an immediate successor in interest to any such foreclosed property takes the property subject to the rights of bona fide tenants, as specified below, as of the date absolute title vests in the successor in interest. A successor in interest must provide tenants with a notice to vacate 90 days before the notice is effective.

Generally, the bill provides that tenants with a lease entered into before the successor takes absolute title must be allowed to remain until the end of the lease term. Despite a lease, tenants can be evicted on 90 days' notice as provided above if (1) the successor in interest sells the unit to a buyer who will occupy it as his or her primary residence or (2) the lease was terminable at will. Tenants who did not have leases can also be evicted on 90 days' notice.

These protections apply only to "bona fide" leases or tenancies. These are those (1) in which the mortgagor or the mortgagor's child, spouse, or parent is not the tenant; (2) that were the result of an arms-length transaction; and (3) that require rent that (a) is not substantially less than fair market rent for the property or (b) is reduced or subsidized due to a federal, state, or local subsidy.

The bill specifies that these provisions do not affect the termination

requirements for any federal- or state-subsidized tenancy (see below for changes regarding section 8 tenancies). They also do not affect any state or local laws that provide tenants with longer time periods or additional protections.

The bill specifies that for these purposes, the date of a notice of foreclosure is the date when complete title to a property is transferred to a successor entity or person under a court order or under the provisions in a mortgage, deed of trust, or security deed.

Section 8 Tenants

The bill also provides protections for tenants who are receiving assistance under the federal Housing Choice Voucher Program (i.e., section 8 tenants).

The bill limits the circumstances in which an owner who is an immediate successor in interest to a property following foreclosure may terminate the lease of a section 8 tenant. On or before December 31, 2017, the bill allows the owner to terminate the tenancy on the date of taking ownership if the owner (1) will occupy the unit as his or her primary residence and (2) has provided the tenant a notice to vacate at least 90 days before the notice's effective date. Otherwise, the bill specifies that vacating the property before sale cannot be considered good cause for terminating the tenant's lease.

Under the bill, on or before December 31, 2007, for foreclosures involving federally-related mortgage loans (as specified above) or any residential property occupied by a section 8 tenant, the immediate successor in interest takes the property subject to the (1) lease between the tenant and prior owner and (2) housing assistance payments contract between the prior owner and the public housing agency.

The bill specifies that all of these provisions related to section 8 tenants do not affect any state or local law that provide tenants with longer time periods or other protections.

EFFECTIVE DATE: Upon passage

§§ 9-12 — GENERAL-USE PREPAID CARDS

Definition

The bill specifically excludes general-use prepaid cards from the definition of gift certificate. A “general-use prepaid card” is a card, code, or other device issued to a consumer in exchange for payment, on a prepaid basis and in a specific amount, primarily for personal, family, or household purposes. It is redeemable when presented at multiple, unaffiliated merchants for goods or services, and can be used at automated teller machines.

By law, a “gift certificate” is 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, including (1) a prefunded record containing a microprocessor chip, magnetic strip, or other means to store information and for which an amount is deducted from the stored value upon each use; (2) a gift card or electronic gift card; and (3) a stored-value card or certificate, among others. It does not include prepaid calling cards or prepaid commercial mobile radio services (CGS § 3-56a(5)).

Current law prohibits gift certificates from having a dormancy, abandoned property, unclaimed property, escheat, or inactivity fee or charge or any similar charge, fee, or penalty for inactivity. Suggestive language on them or in any agreement relating to them that there is a charge, fee, or penalty for inactivity, is also prohibited. Gift certificates are exempted from state escheat provisions. The bill explicitly applies these fee, charge, and penalty prohibitions and the escheat exemption to general-use prepaid cards.

Expiration Date Requirements

Under the bill, a general-use prepaid card can include an expiration date if it provides the following information:

1. that the underlying funds do not expire and a consumer can obtain a replacement general-use prepaid card from the issuer

and

2. a toll-free telephone number and an Internet website address, if one is available, that a holder of a general-use prepaid card can use to replace it after it expires.

This information must be in writing. An issuer can satisfy this disclosure requirement by providing disclosures consistent with federal regulation (see BACKGROUND). The disclosure that the underlying funds do not expire and a replacement general-use prepaid card can be obtained must be made with equal prominence and in close proximity to the expiration date on the general-use prepaid card.

The bill also prohibits a general-use prepaid card from including an expiration date if a fee or charge is imposed on the holder for replacing it or providing the holder with its remaining balance, so long as it has not been lost or stolen. It requires the seller of a general-use prepaid card with an expiration date to have policies and procedures that give consumers a reasonable opportunity to purchase a card with at least five years remaining until it expires.

EFFECTIVE DATE: October 1, 2011

§§ 13-15 — REGISTRATION REQUIREMENTS FOR FORECLOSURES

Properties Subject to Registration Requirement

Under current law, the registration requirement applies only to one-to-four family residential properties. The bill requires registration of all buildings containing at least one dwelling unit, including commercial buildings. Under the bill, a dwelling unit is a house, building, or portion of either that is occupied or designed to be occupied, or is rented, leased, or hired out to be occupied, exclusively as a home or residence for at least one person.

The bill excludes properties where the mortgage being foreclosed is held by an individual. It also specifies that any individual or entity, including a government entity, that meets the bill's requirements must

register subject properties.

As explained further below, the registration requirement applies when such properties are in foreclosure or someone takes title to such properties after foreclosure.

Registration Requirement

Registration by Plaintiffs in Foreclosure Action. The bill requires registration by people or entities who, on or after October 1, 2011, bring a foreclosure action concerning a subject property.

The required registration information at this stage is generally similar to that required under current law and the bill for registration by those who take title to foreclosed properties (see below).

Anyone subject to this requirement must register the property with the town clerk in the municipality where the property is located. They must do so at the time and place that the notice of *lis pendens* regarding the property is recorded, according to the law's requirements for such a notice. The bill specifies that the municipality must maintain the registration separate from the land records.

The bill requires the registration to contain the name, address, telephone number, and electronic mail address ("contact information") of the plaintiff in the foreclosure action. Plaintiffs must indicate on the registration whether they prefer to be contacted by first class or electronic mail and the preferred addresses for such communications.

If the plaintiff is an individual or entity residing out of state, it must provide contact information for a direct contact in Connecticut, if such a contact is available.

The bill requires plaintiffs to also provide contact information for the local property maintenance company or other person or entity serving as the plaintiff's contact with the municipality for matters concerning the property.

The registration must contain the following heading, in at least 10-point, boldface capital letters: NOTICE TO MUNICIPALITY: REGISTRATION OF PROPERTY BEING FORECLOSED.

Under the bill, plaintiffs must report to the town clerk any change in the information provided on the registration within 30 days following the change. They may do so by mail or other form of delivery.

The bill also requires plaintiffs, when registering, to pay a land record filing fee to the municipality as specified in existing law.

Registration by Owners After Title Vests. Current law requires anyone in whom title to a subject property has vested after October 1, 2009, through a foreclosure action (whether strict foreclosure or foreclosure by sale) to register the property with the town clerk of the municipality where the property is located or with the Mortgage Electronic Registration Systems (MERS), an online system the real estate finance industry created for originating, selling, and servicing rights.

The bill modifies the registration requirement on anyone taking title to such a property following foreclosure on or after October 1, 2011, but the mechanics of the registration differ in some respects. Under the bill, registration must be with the municipality, not MERS. The registration must be mailed or delivered to the town clerk. Under current law, the registration deadline is ten days after the property becomes vacant. The bill instead requires registration within 15 days of absolute title vesting in the person.

If the registering owner was also the plaintiff in the foreclosure action, rather than registering anew, the person must update its prior registration with any change needed to comply with the bill's requirements for other registrants who take title to foreclosed property, as specified below. This update must occur within 15 days of absolute title vesting in the person. The updated registration must include, in at least 10-point boldface capital letters, the following heading: NOTICE TO MUNICIPALITY: UPDATED REGISTRATION

FOR PROPERTY ACQUIRED THROUGH FORECLOSURE.

Current law requires a corporation or individual residing out of state who registers with a municipality (but not with MERS) to provide contact information for a direct contact in Connecticut. The bill extends this requirement to any out-of-state registrant (not just individuals or corporations), as long as an in-state direct contact is available.

Current law requires registrants to also provide contact information for the local property maintenance company responsible for the property's security and maintenance (or maintenance only if registration is with MERS), if there is one. The bill requires such information, and specifies that the responsible person or entity need not be a property maintenance company.

The registration must indicate the date when absolute title vested in the registrant. It must also contain the following heading, in the same form as the headings described above: NOTICE TO MUNICIPALITY: REGISTRATION OF PROPERTY ACQUIRED THROUGH FORECLOSURE.

Current law requires those who register with a municipality, but not with MERS, to pay a \$100 fee to the municipality. The bill instead requires all registrants (including those who were plaintiffs in the foreclosure action and are updating their prior registration) to pay to the municipality a land record filing fee as specified by law.

The bill also requires registrants, by mail or other delivery form, to report to the town clerk any change in registration information within 30 days of the change. Current law requires those who register with municipalities to update their information within 10 days.

Current law requires those registering with municipalities to indicate their preferred contact method and address. The bill eliminates this requirement (but as described above, it imposes the requirement on registering plaintiffs to foreclosure actions).

Violation Notices

Under current law, if a registrant violates any state law or municipal ordinance on the repair or maintenance of real estate, the municipality can issue a notice citing the violating conditions. The bill permits a municipality to issue such a notice only for registrations after title has vested following foreclosure, including updated registrations by those who previously registered as plaintiffs, as specified above.

By law, violation notices must be sent by first class or electronic mail, or both, to the registrant. Current law also requires a copy of the notice to be sent by first class or electronic mail to the identified local property maintenance company, if there is one. The bill instead requires a copy to be sent to the property maintenance company or other person or entity designated on the registration as responsible for the property's security and maintenance. By law, the notice must also meet the same standards as notices to remedy a health, housing, or safety code violation (i.e., notice must be sent to the lienholder).

Current law requires the notice to provide a date by which the registrant may remedy the conditions in question. The bill instead requires a date by which the registrant must do so. As under current law, the date must be reasonable under the circumstances. Current law also provides that if the registrant or property maintenance company fails to remedy the violating conditions, the municipality can enforce its rights under the relevant statute or ordinance. The bill deletes this reference to property maintenance company and allows the municipality to enforce its rights if the registrant, or its contact or agent, fails to remedy the violation.

Restriction on Other Registration Requirements

By law, municipalities are prohibited from imposing registration requirements outside of these requirements unless they were in effect before the passage of PA 09-144 (the act that instituted the registration requirements that this bill amends). The bill specifies that this prohibition applies in the same manner regarding other requirements for plaintiffs in foreclosure actions whom the bill requires to register.

Civil Penalties

The bill provides civil penalties for anyone who fails to register as required by the bill. For foreclosing plaintiffs, the penalty is \$100 per violation, up to a maximum of \$5,000. For those who take title to foreclosed properties and who fail to register within 30 days of doing so, the penalty is \$250 per violation, up to a maximum of \$25,000. In either case, the bill specifies that each property for which someone fails to register is a separate violation.

The bill permits authorized municipal officials to bring a civil action to collect the penalties, which are payable to the municipality's treasurer.

The bill specifies that these penalties do not create or constitute a lien against the property. It also provides that registration by a foreclosing party, or such a party's failure to register, does not imply or create any legal obligation on that party to repair, maintain, or secure the property before that party takes title to the property.

Municipal Authority to Recover Expenses

By law, municipalities may recover from a property owner expenses incurred for the inspection, repair, demolition, maintenance, removal, or other disposition of real estate to secure the property, make it safe and sanitary, or remedy a blighted condition. The law allows the municipality to place a lien on the owner's interest in the real estate or on an insurance policy covering the real estate, but limits the insurance provisions to property other than single- or two-family dwellings. Under current law, the limitation does not apply to vacant residential properties subject to the registration requirements outlined above. The bill deletes the current requirement that the properties be vacant in order for the limitation not to apply.

EFFECTIVE DATE: October 1, 2011

BACKGROUND***Mortgage Loan Originators***

The banking law defines “mortgage loan originator” as an individual who takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan for or with the expectation of compensation or gain. The law specifically excludes:

1. an individual engaged solely as a loan processor or underwriter, except those acting as independent contractors;
2. a person who only performs real estate brokerage activities and is licensed under the statutes governing real estate brokers and salespersons, unless the person is compensated by a mortgage lender, correspondent lender, broker, or other originator or by one of their agents;
3. a person solely involved in extensions of credit relating to timeshare plans; or
4. any individual who only renegotiates terms for existing mortgages and does not otherwise act as an originator, unless the U. S. Department of Housing and Urban Development (HUD) or a court of competent jurisdiction determines the individual needs to be licensed under the federal S.A.F.E. Act (CGS § 36a-485(15)).

Federally Related Mortgage Loan Under RESPA

Under section 3 of the federal Real Estate Settlement Procedures Act (RESPA) of 1974 (12 USC § 2602), a “federally related mortgage loan” includes any loan, other than temporary financing such as a construction loan, which is secured by a first or subordinate lien on residential property (including units of condominiums and cooperatives) designed principally for one-to-four family occupancy, including any such secured loan, the proceeds of which are used to prepay or pay off an existing loan secured by the same property. The loan must also meet one of the following four criteria:

1. be made in whole or part by any lender (a) whose deposits or accounts are insured by a federal agency or (b) that is federally

regulated;

2. be made in whole or part, or insured, guaranteed, supplemented, or assisted in any way, by the HUD secretary or any other federal officer or agency, or under or in connection with a housing or urban development program administered by the HUD secretary or a housing or related program administered by any other federal officer or agency;
3. be intended to be sold by the originating lender to the Federal National Mortgage Association (Fannie Mae), the Government National Mortgage Association (Ginnie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), or a financial institution from which it is to be purchased by Freddie Mac; or
4. be made in whole or in part by any creditor, as defined in federal law regarding consumer credit disclosure, who makes or invests in residential real estate loans totaling more than \$1 million annually, except “creditor” does not include any state agency or instrumentality.

Related Federal Law—General-Use Prepaid Cards

Federal regulations establish disclosure requirements for selling or issuing a general-use prepaid card with an expiration date (12 CFR 205.20). In general, they require:

1. an expiration date for underlying funds or a statement that the underlying funds do not expire;
2. a toll-free number and website address, if one is maintained, that a consumer can use to obtain a replacement card after it expires if underlying funds are available; and
3. a statement that (a) the card expires but the underlying funds do not or expire later than card itself and (b) the consumer can contact the issuer for a replacement card.

These disclosures must be provided on the card.

Related Bills

sSB 957 as amended by Senate Amendment "A," passed by the Senate on May 20, 2011, contains identical provisions concerning registration requirements for foreclosed properties.

sSB 1078 as amended by Senate Amendment "A," passed by the Senate on May 12, 2011, contains identical provisions concerning general-use prepaid cards.

sSB 1212 (File 734) allows certain tenants who live in multi-family buildings that have been foreclosed upon to continue to live there unless (1) the foreclosing party has entered into an agreement to sell the building in which the buyer requires the building to be vacant as a condition of sale or (2) there is good cause to evict the tenant.

sHB 6454 (File 288) exempts highly compensated mortgage loan originators from the state's overtime pay requirements.

sHB 6650 as amended by Senate Amendment "A," passed by the Senate on May 27, 2011 and the House on May 31, 2011, extends the judicial foreclosure mediation program by two years, until July 1, 2014, for foreclosure actions with return dates on or after July 1, 2009.

COMMITTEE ACTION

Banks Committee

Joint Favorable Substitute

Yea 14 Nay 3 (03/15/2011)

Judiciary Committee

Joint Favorable

Yea 19 Nay 4 (05/31/2011)