



General Assembly

January Session, 2011

Amendment

LCO No. 8141

HB0635108141HDO

Offered by:

REP. TONG, 147th Dist.

SEN. DUFF, 25th Dist.

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To: Subst. House Bill No. 6351

File No. 287

Cal. No. 184

"AN ACT CONCERNING FORECLOSURE MEDIATION."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

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 Section 49-31k of the general statutes is repealed and the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

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

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

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

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

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

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

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

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 Section 49-31l of the general statutes is repealed and the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

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

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

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

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

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

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

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

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

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

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

110 contact information for authority-approved consumer credit
111 counseling agencies, which form and notice shall be in such form as
112 the Chief Court Administrator prescribes. Such mediation information
113 form shall be designed to elicit current financial information and such
114 other nonfinancial information from the mortgagor as the Chief Court
115 Administrator, in consultation with representatives from the banking
116 industry and consumer advocates, determines will be useful to the
117 mediation process. The instructions to the mediation information form
118 shall explain that the completed mediation information form, along
119 with accompanying documentation reasonably requested from the
120 mortgagor by way of such instructions, shall be delivered to the
121 mortgagor's counsel not later than fifteen business days prior to the
122 date of the initial mediation session, as identified in the notice
123 provided pursuant to subdivision (2) of subsection (c) of section 49-
124 31n, as amended by this act.

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

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

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

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

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

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

177 amended by this act, and the mediation sessions held pursuant to such
178 program, provided (i) a mortgagor seeking to contest the court's
179 jurisdiction may file a motion to dismiss and the mortgagee may object
180 to such motion to dismiss in accordance with applicable law and the
181 rules of the courts, and (ii) if the mortgagor elects to make any other
182 motion, request or demand with respect to the mortgagee, the eight-
183 month limit shall no longer apply to either party; and (B) no judgment
184 of strict foreclosure nor any judgment ordering a foreclosure sale shall
185 be entered in any action subject to the provisions of this subsection and
186 instituted by the mortgagee to foreclose a mortgage on residential real
187 property or real property owned by a religious organization unless:
188 [(A)] (i) The mediation period set forth in subsection (c) of section 49-
189 31n, as amended by this act, has expired or has otherwise terminated,
190 whichever is earlier, and, if fewer than eight months has elapsed from
191 the return date at the time of termination, fifteen days have elapsed
192 since such termination, or [(B)] (ii) the mediation program is not
193 otherwise required or available. Nothing in this subdivision shall affect
194 any motion made or any default or judgment entered on or before June
195 30, 2011.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 436 (8) The Banking Commissioner, or the commissioner's designee;
- 437 (9) The chief housing officer of the Connecticut Housing Finance
438 Authority, or the officer's designee;
- 439 (10) The chairpersons of the joint standing committee of the General
440 Assembly having cognizance of matters relating to banks, or the
441 chairpersons' designee; and
- 442 (11) The chairpersons of the joint standing committee of the General
443 Assembly having cognizance of matters relating to housing, or the
444 chairpersons' designee.
- 445 (c) The task force members shall elect a chairperson from among the
446 members of the task force.
- 447 (d) The chairperson shall schedule the first meeting of the task force,
448 which shall be held not later than sixty days after the effective date of
449 this section.
- 450 (e) The administrative staff of the joint standing committee of the
451 General Assembly having cognizance of matters relating to banks shall
452 serve as administrative staff of the task force.
- 453 (f) Not later than January 1, 2012, the task force shall submit a report
454 on its findings and recommendations to the joint standing committee
455 of the General Assembly having cognizance of matters relating to
456 banks, in accordance with the provisions of section 11-4a of the general
457 statutes. The task force shall terminate on the date that it submits such
458 report or January 1, 2012, whichever is later.
- 459 Sec. 6. Section 31-76i of the general statutes is repealed and the
460 following is substituted in lieu thereof (*Effective from passage*):
- 461 The provisions of sections 31-76b to 31-76j, inclusive, shall not apply
462 with respect to (a) any driver or helper, excluding drivers or helpers
463 employed by exempt employers, with respect to whom the Interstate
464 Commerce Commission or its successor agency or the Secretary of

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

500 of section 31-58, (3) more than half of whose compensation for a
501 representative period, being not less than one month, represents
502 commissions on goods or services, and (4) who does not work more
503 than fifty-four hours during a work week of seven consecutive days. In
504 determining the proportion of compensation representing
505 commissions, all earnings resulting from the application of a bona fide
506 commission rate shall be deemed commissions on goods or services
507 without regard to whether the computed commissions exceed the
508 draw or guarantee; (k) any person employed in agriculture; (l) any
509 permanent paid members of the uniformed police force of
510 municipalities and permanent paid members of the uniformed
511 firefighters of municipalities; (m) any person employed as a firefighter
512 by a private nonprofit corporation which on May 24, 1984, has a valid
513 contract with any municipality to extinguish fires and protect its
514 inhabitants from loss by fire; (n) any person, except a person paid on
515 an hourly basis, employed as a beer delivery truck driver by a licensed
516 distributor, as defined by section 12-433; [or] (o) any person employed
517 as a mechanic primarily engaged in the servicing of motor vehicles, as
518 defined in section 14-1, or farm implements, as defined in section 14-1,
519 by a nonmanufacturing employer primarily engaged in the business of
520 selling such vehicles or implements to consumers, to the extent that
521 such employees are exempt under the federal Wage-Hour and Equal
522 Pay Act, 29 USC 201 et seq. and 29 USC 213(b)(10), provided such
523 person's actual weekly earnings exceed an amount equal to the total of
524 (1) such person's basic contractual hourly rate of pay times the number
525 of hours such person has actually worked plus (2) such person's basic
526 contractual hourly rate of pay times one-half the number of hours such
527 person has actually worked in excess of forty hours in such week. For
528 the purposes of this section, "basic contractual hourly rate" means the
529 compensation payable to a person at an hourly rate separate from and
530 exclusive of any flat rate, incentive rate or any other basis of
531 calculation; or (p) any mortgage loan originator, as defined in section
532 36a-485, who is a highly compensated employee, as defined in 29 CFR
533 541.601, provided this subsection shall not apply to an individual who
534 performs the functions of a mortgage loan originator solely from the

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

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

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

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

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

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

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

602 protections for tenants.

603 Sec. 9. (NEW) (*Effective October 1, 2011*) (a) As used in this section,
604 "general-use prepaid card" has the same meaning given to that term in
605 12 CFR 205.20(a)(3), as from time to time amended.

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

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

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

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

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

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

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

666 October 1, 2011):

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

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

672 As used in sections 7-148ff, 7-148ii, as amended by this act, 7-152c,
673 19a-206, 47a-52, 47a-53, 47a-58 and 49-73b, as amended by this act:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

827 registration is required prior to the time that title passes to the
 828 foreclosing party.

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

832 (h) The provisions of this section shall not apply to policies on
 833 single-family or two-family dwellings, unless such dwellings are
 834 [vacant] residential properties owned by a registrant subject to section
 835 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)