



General Assembly

Substitute Bill No. 360

February Session, 2012

* _____SB00360JUD__050312_____*

**AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE
CONNECTICUT HOUSING FINANCE AUTHORITY TASK FORCE.**

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

1 Section 1. Subsection (b) of section 8-265dd of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective from*
3 *passage*):

4 (b) Notwithstanding any provision of the general statutes, or any
5 rule of law to the contrary, on and after July 1, 2008, no judgment of
6 strict foreclosure nor any judgment ordering a foreclosure sale shall be
7 entered in any action instituted by the mortgagee to foreclose a
8 mortgage commenced on or after said date, for the foreclosure of an
9 eligible mortgage unless (1) notice to the mortgagor has been given by
10 the mortgagee in accordance with section 8-265ee, as amended by this
11 act, and the time for response has expired, and (2) a determination has
12 been made on the mortgagor's application for emergency mortgage
13 assistance payments in accordance with section 8-265ff, as amended by
14 this act, or the applicable time periods set forth in sections 8-265cc to 8-
15 265kk, inclusive, as amended by this act, have expired, whichever is
16 earlier. For purposes of this section and sections 8-265ee to 8-265kk,
17 inclusive, as amended by this act, an "eligible mortgage" is a mortgage
18 which satisfies the standards contained in subdivisions (1), [(3), (8) and
19 (10) to (13)], (7) and (9) to (12) inclusive, of subsection (e) of section 8-

20 265ff, as amended by this act.

21 Sec. 2. Section 8-265ee of the general statutes is repealed and the
22 following is substituted in lieu thereof (*Effective from passage*):

23 (a) On and after July 1, 2008, a mortgagee who desires to foreclose
24 upon a mortgage which satisfies the standards contained in
25 subdivisions (1), [(3), (10), (11) and (12)] (9), (10) and (11) of subsection
26 (e) of section 8-265ff, as amended by this act, shall give notice to the
27 mortgagor by registered, or certified mail, postage prepaid at the
28 address of the property which is secured by the mortgage. No such
29 mortgagee may commence a foreclosure of a mortgage prior to mailing
30 such notice. Such notice shall advise the mortgagor of his delinquency
31 or other default under the mortgage and shall state that the mortgagor
32 has sixty days from the date of such notice in which to (1) have a face-
33 to-face meeting, telephone or other conference acceptable to the
34 authority with the mortgagee or a face-to-face meeting with a
35 consumer credit counseling agency to attempt to resolve the
36 delinquency or default by restructuring the loan payment schedule or
37 otherwise, and (2) contact the authority, at an address and phone
38 number contained in the notice, to obtain information and apply for
39 emergency mortgage assistance payments if the mortgagor and
40 mortgagee are unable to resolve the delinquency or default.

41 (b) Except in cases in which the mortgagee refuses to meet with the
42 mortgagor, if the mortgagor fails to meet with the mortgagee or
43 comply with any of the time limitations specified in the notice as
44 provided in subsection (a) of this section, or if the mortgagor's
45 application is not filed by the date thirty days after the date of any
46 default in payment under an agreement as provided in subsection (c)
47 of this section or if the mortgagor's application for emergency
48 mortgage assistance payments is not approved by the date thirty
49 calendar days after the date of receipt of the mortgagor's application in
50 accordance with the provisions of section 8-265ff, as amended by this
51 act, the foreclosure of the mortgagor's mortgage may, at any time
52 thereafter, except as provided in subsection (e) of this section, continue

53 without any further restriction or requirement under the provisions of
54 sections 8-265cc to 8-265kk, inclusive, as amended by this act, provided
55 the mortgagee files an affidavit with the court stating the notice
56 provisions of subsection (a) of this section have been complied with
57 and that either the mortgagor failed to meet with the mortgagee or
58 failed to comply with all of the time limitations specified in the notice
59 as provided in subsection (a) of this section or that the mortgagor's
60 application for emergency assistance payments was not approved by
61 the date thirty calendar days after the date of receipt of the
62 mortgagor's application, or that a determination of ineligibility was
63 made.

64 (c) If, after a face-to-face meeting, telephone or other conference
65 acceptable to the authority, as provided in subsection (a) of this
66 section, the mortgagor and the mortgagee reach an agreement to
67 resolve the delinquency or default and, because of financial hardship
68 due to circumstances beyond the mortgagor's control, the mortgagor is
69 unable to fulfill the obligations of the agreement, the mortgagor may
70 apply to the authority for emergency mortgage assistance payments
71 under sections 8-265cc to 8-265kk, inclusive, as amended by this act, by
72 the date thirty days after the date of any default in payment under the
73 agreement. The mortgagee shall not be required to send any additional
74 notice to the mortgagor other than the notice required under
75 subsection (a) of this section.

76 [(d) No person receiving financial relief under sections 8-265cc to 8-
77 265kk, inclusive, may file a defense, counterclaim or set-off to any
78 action for foreclosure of the mortgage for which such financial relief
79 was provided.]

80 [(e)] (d) Nothing in sections 8-265cc to 8-265kk, inclusive, as
81 amended by this act, shall prevent a mortgagor from exercising rights
82 that may exist under the foreclosure mediation program and those
83 rights may be exercised concurrently with the rights afforded under
84 sections 8-265cc to 8-265kk, inclusive, as amended by this act, provided
85 the exercise of rights under the foreclosure mediation program shall

86 not cause a delay in the determination under subsection (e) of section
87 8-265ff, as amended by this act. Nothing in sections 8-265cc to 8-265kk,
88 inclusive, as amended by this act, shall prevent a mortgagor from
89 applying or reapplying and being considered for emergency mortgage
90 assistance if such mortgagor is referred to the emergency mortgage
91 assistance program by the foreclosure mediation program.

92 Sec. 3. Subsections (d) and (e) of section 8-265ff of the general
93 statutes are repealed and the following is substituted in lieu thereof
94 (*Effective from passage*):

95 (d) The mortgagor shall provide the authority with full disclosure of
96 all assets and liabilities, whether singly or jointly held, and all
97 household income regardless of source. For purposes of this
98 subsection, both of the following are included as assets:

99 (1) The sum of the household's savings and checking accounts,
100 market value of stocks, bonds and other securities, other capital
101 investments, [pensions and retirement funds,] personal property and
102 equity in real property including the subject mortgage property.
103 Income derived from family assets shall be considered as income.
104 Equity is the difference between the market value of the property and
105 the total outstanding principal of any loans secured by the property
106 and other liens.

107 (2) Lump-sum additions to family assets such as inheritances,
108 capital gains, insurance payments included under health, accident,
109 hazard or worker's compensation policies and settlements, verdicts or
110 awards for personal or property losses or transfer of assets without
111 consideration within one year of the time of application. Pending
112 claims for such items must be identified by the homeowner as
113 contingent assets.

114 (e) The authority shall make a determination of eligibility for
115 emergency mortgage assistance payments by the date thirty calendar
116 days after the date of receipt of the mortgagor's application. During
117 said thirty-day period no judgment of strict foreclosure or any

118 judgment ordering foreclosure by sale shall be entered in any action
119 for the foreclosure of any mortgage any mortgagee holds on the
120 mortgagor's real property. No emergency mortgage assistance
121 payments may be provided unless the authority finds that:

122 (1) The real property securing the mortgage is a one-to-four family
123 owner-occupied residence, including, but not limited to, a single
124 family unit in a common interest community, is the principal residence
125 of the mortgagor and is located in this state;

126 (2) Payments, including amounts [required to be paid into escrow or
127 impound accounts as reserves] for taxes and insurance payments,
128 including mortgage insurance, or for charges, assessments and fees
129 associated with a condominium or common interest community, as
130 such terms are defined in section 47-202, or any combination of such
131 payments, whether or not such payments are made into escrow or
132 impound accounts as reserves, owed by the mortgagor under any
133 mortgage on such real property have been [contractually] delinquent
134 and the mortgagee, taxing authority, or unit owners association has
135 indicated to the mortgagor its intention to foreclose;

136 [(3) The mortgage is not insured by the Federal Housing
137 Administration under Title II of the National Housing Act, 12 USC
138 Section 1707 et seq.;

139 [(4)] (3) The mortgagor is a resident of this state and is suffering
140 financial hardship which renders the mortgagor unable to correct the
141 delinquency or delinquencies within a reasonable time and make full
142 mortgage payments. For the purposes of subdivision [(8)] (7) of this
143 subsection, in order to determine whether the financial hardship is due
144 to circumstances beyond the mortgagor's control, the authority may
145 consider information regarding the mortgagor's employment, credit
146 history and current and past household income, assets, total debt
147 service, net worth, eligibility for other types of assistance and any
148 other criteria or related factors it deems necessary and relevant;

149 [(5)] (4) There is a reasonable prospect that the mortgagor will be

150 able to resume full mortgage payments on the original, modified or
151 refinanced mortgage within sixty months after the beginning of the
152 period in which emergency mortgage assistance payments are
153 provided in accordance with a written plan formulated or approved by
154 the authority and pay the mortgage in full in level monthly payments
155 of principal and interest, subject only to payment changes as provided
156 in the mortgage, by its maturity date;

157 ~~[(6)]~~ (5) The mortgagor has applied to the authority for emergency
158 mortgage assistance payments on an application form prescribed by
159 the authority which includes a financial statement disclosing all assets
160 and liabilities of the mortgagor, whether singly or jointly held, and all
161 household income regardless of source;

162 ~~[(7)]~~ (6) Based on the financial statement, the mortgagor has
163 insufficient household income or net worth to correct the delinquency
164 or delinquencies within a reasonable period of time and make full
165 mortgage payments;

166 ~~[(8)]~~ (7) There is a reasonable prospect that the mortgagor, as
167 determined by the authority, will be able to repay the emergency
168 mortgage assistance within a reasonable amount of time under the
169 terms of section 8-265hh, including through a refinancing of the
170 mortgage, and the authority finds that, except for the current
171 delinquency, the mortgagor has had a favorable residential mortgage
172 credit history for the previous two years or period of ownership,
173 whichever is less. For the purposes of this subdivision, if a mortgagor
174 has been more than thirty days in arrears four or more times on a
175 residential mortgage within the previous year, the mortgagor shall be
176 ineligible for emergency mortgage assistance payments unless the
177 mortgagor can demonstrate that the prior delinquency was the result
178 of financial hardship due to circumstances beyond the mortgagor's
179 control. In making a determination under this subsection, the authority
180 may consider information regarding the structure of the mortgage, its
181 repayment schedule, the length of time the mortgagor has lived in his
182 or her home, and any other relevant factors or criteria it deems

183 appropriate;

184 [(9)] (8) The mortgagee is not otherwise prevented by law from
185 foreclosing upon the mortgage;

186 [(10)] (9) The mortgagor has not mortgaged the real property for
187 commercial or business purposes;

188 [(11)] (10) The mortgagor has not previously received emergency
189 mortgage assistance payments from the authority, provided a
190 mortgagor who has previously received such payments shall be
191 eligible to reapply if the mortgagor has reinstated the mortgage and
192 the mortgagor shall not have been delinquent for at least six
193 consecutive months immediately following such reinstatement;

194 [(12)] (11) The mortgagor is not in default under the mortgage
195 except for the monetary delinquency referred to in subdivision (2) of
196 this subsection; and

197 [(13)] (12) The mortgagor meets such other procedural requirements
198 as the authority may establish.

199 Sec. 4. Subsection (a) of section 8-265gg of the general statutes is
200 repealed and the following is substituted in lieu thereof (*Effective from*
201 *passage*):

202 (a) If the authority approves a mortgagor for assistance under the
203 provisions of section 8-265ff, as amended by this act, the authority
204 shall make monthly emergency mortgage assistance payments directly
205 to each mortgagee secured by the mortgagor's real property for a
206 period not to exceed sixty months, either consecutively or
207 nonconsecutively, except no such payments shall be made after sixty
208 months have passed since the date of the initial payment. The total
209 monthly payment made by the authority, to or on behalf of a
210 mortgagor under subsection (c) of this section, shall be not more than
211 twenty-eight per cent of one hundred forty per cent of annual area
212 median income, as published by the United States Department of

213 Housing and Urban Development, divided by twelve. Upon receipt of
214 payment in full from a mortgagor of the monthly amount established
215 under subsection (b) of this section, the authority shall pay to each
216 mortgagee the full amount then due to the mortgagee pursuant to the
217 terms of the mortgage without regard to any acceleration under the
218 mortgage. Such payments shall include, but not be limited to,
219 principal, interest, taxes, assessments and insurance premiums. The
220 initial payment made by the authority to each mortgagee may be an
221 amount which pays all arrearages and pays reasonable costs and
222 reasonable attorney's fees incurred by the mortgagee in connection
223 with foreclosure of the mortgage.

224 Sec. 5. (*Effective July 1, 2012*) (a) For the purposes described in
225 subsection (b) of this section, the State Bond Commission shall have
226 the power, from time to time, to authorize the issuance of bonds of the
227 state in one or more series and in principal amounts not exceeding in
228 the aggregate sixty million dollars.

229 (b) The proceeds of the sale of said bonds, to the extent of the
230 amount stated in subsection (a) of this section, shall be used by the
231 Department of Economic and Community Development for the
232 purpose of a grant to the Connecticut Housing Finance Authority for
233 the purposes of sections 8-265cc to 8-265kk, inclusive, of the general
234 statutes.

235 (c) All provisions of section 3-20 of the general statutes, or the
236 exercise of any right or power granted thereby, which are not
237 inconsistent with the provisions of this section are hereby adopted and
238 shall apply to all bonds authorized by the State Bond Commission
239 pursuant to this section, and temporary notes in anticipation of the
240 money to be derived from the sale of any such bonds so authorized
241 may be issued in accordance with said section 3-20 and from time to
242 time renewed. Such bonds shall mature at such time or times not
243 exceeding twenty years from their respective dates as may be provided
244 in or pursuant to the resolution or resolutions of the State Bond
245 Commission authorizing such bonds. None of said bonds shall be

246 authorized except upon a finding by the State Bond Commission that
247 there has been filed with it a request for such authorization which is
248 signed by or on behalf of the Secretary of the Office of Policy and
249 Management and states such terms and conditions as said commission,
250 in its discretion, may require. Said bonds issued pursuant to this
251 section shall be general obligations of the state and the full faith and
252 credit of the state of Connecticut are pledged for the payment of the
253 principal of and interest on said bonds as the same become due, and
254 accordingly and as part of the contract of the state with the holders of
255 said bonds, appropriation of all amounts necessary for punctual
256 payment of such principal and interest is hereby made, and the State
257 Treasurer shall pay such principal and interest as the same become
258 due.

259 Sec. 6. (NEW) (*Effective October 1, 2012*) (a) A mortgagee, as defined
260 in section 49-8a of the general statutes, shall include the form
261 promulgated by the judicial branch, in accordance with subdivision (3)
262 of subsection (c) of section 49-311 of the general statutes, concerning
263 notice of community-based resources to parties involved in foreclosure
264 mediation with any notice to a mortgagor, as defined in said section
265 49-8a, of an intent to accelerate the mortgage loan.

266 (b) A municipality shall include such form with any statements sent
267 to a homeowner regarding an arrearage owed by the homeowner for
268 public sewer or water services or for property taxes.

269 (c) The judicial branch shall provide such form to parties involved
270 in foreclosure mediation to public libraries, religious organizations and
271 community-based programs throughout this state to ensure that such
272 form is readily available to mortgagors.

273 (d) Such form shall include the following:

274 (1) A reference to CHFA/HUD-Approved Housing Counselors in
275 lieu of a reference to CHFA-Approved Housing Counselors;

276 (2) A column in the approved housing counselor chart that includes

277 the counties in which each housing counselor serves; and

278 (3) A notification to mortgagors who are currently parties to a
279 foreclosure action that they should contact the Department of
280 Banking's foreclosure assistance hotline for assistance with time
281 sensitive foreclosure concerns.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	8-265dd(b)
Sec. 2	<i>from passage</i>	8-265ee
Sec. 3	<i>from passage</i>	8-265ff(d) and (e)
Sec. 4	<i>from passage</i>	8-265gg(a)
Sec. 5	<i>July 1, 2012</i>	New section
Sec. 6	<i>October 1, 2012</i>	New section

BA *Joint Favorable Subst.-LCO*

FIN *Joint Favorable*

JUD *Joint Favorable*