



General Assembly

January Session, 2013

**Governor's Bill No. 6355**

LCO No. 2890



Referred to Committee on BANKS

Introduced by:

REP. SHARKEY, 88<sup>th</sup> Dist.  
REP. ARESIMOWICZ, 30<sup>th</sup> Dist.  
SEN. WILLIAMS, 29<sup>th</sup> Dist.  
SEN. LOONEY, 11<sup>th</sup> Dist.

***AN ACT CONCERNING HOMEOWNER PROTECTION RIGHTS.***

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 Section 49-31k of the general statutes is repealed and the  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 from passage*):

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

5 (1) "Mortgagor" means: (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] one unit of which is the principal  
14 residence of a mortgagor;

15 (3) "Mortgagee" means the [original lender or servicer under a  
16 mortgage, or its successors or assigns, who is the holder of any  
17 mortgage] owner of the debt secured by a mortgage on residential real  
18 property or real property owned by a religious organization securing a  
19 loan made primarily for personal, family, religious or household  
20 purposes that is the subject of a foreclosure action or, if such owner has  
21 completely delegated full settlement authority to another party, such  
22 fully authorized party, or the trustee, executor or other court-  
23 appointed representative for such fully authorized party;

24 (4) "Authority" means the Connecticut Housing Finance Authority  
25 created under section 8-244;

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

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

32 (7) "Full settlement authority" (A) means possessing the immediate  
33 ability to participate in foreclosure mediation and meet or accept  
34 another party's demand or offer during a foreclosure mediation  
35 session, within the mediation period established pursuant to section  
36 49-31n, as amended by this act, without requiring the approval of any  
37 other person, as defined in section 49-8a, provided such demand or  
38 offer is in the best interests of the party receiving such demand or offer  
39 and (i) such party is given a reasonable time to review such demand or  
40 offer with such party's spouse, and (ii) the mortgagor is given a  
41 reasonable time following the mediation session to review an offer  
42 made at or shortly prior to such mediation session with a counseling

43 agency approved by the authority or with an attorney, but (B) does not  
44 include settlement authority provided on a preestablished basis; and

45 (8) "FDIC" means the Federal Deposit Insurance Corporation.

46 Sec. 2. Subdivisions (6) and (7) of subsection (c) of section 49-31l of  
47 the general statutes are repealed and the following is substituted in  
48 lieu thereof (*Effective from passage*):

49 (6) Notwithstanding any provision of the general statutes or any  
50 rule of law, [prior to July 1, 2014, (A) for the period of time which shall  
51 not exceed eight months from the return date,] (A) no mortgagee or  
52 mortgagor shall make any motion, request or demand with respect to  
53 the other, except those motions, requests or demands that relate to the  
54 mediation program described in section 49-31m, as amended by this  
55 act, and the mediation sessions held pursuant to such program,  
56 provided (i) a mortgagor seeking to contest the court's jurisdiction may  
57 file a motion to dismiss and the mortgagee may object to such motion  
58 to dismiss in accordance with applicable law and the rules of the  
59 courts, and (ii) if the mortgagor elects to make any other motion,  
60 request or demand with respect to the mortgagee, [the eight-month  
61 limit] except an answer, special defense or counterclaim, which shall  
62 not be treated as a motion, request or demand, the restriction on  
63 making a motion, request or demand shall no longer apply to either  
64 party; and (B) no judgment of strict foreclosure nor any judgment  
65 ordering a foreclosure sale shall be entered in any action subject to the  
66 provisions of this subsection and instituted by the mortgagee to  
67 foreclose a mortgage on residential real property or real property  
68 owned by a religious organization unless: (i) The mediation period set  
69 forth in subsection (c) of section 49-31n, as amended by this act, has  
70 expired or has otherwise terminated, whichever is earlier, and [, if  
71 fewer than eight months has elapsed from the return date at the time  
72 of termination,] fifteen days have elapsed since such termination, or  
73 (ii) the mediation program is not otherwise required or available.  
74 Nothing in this subdivision shall affect any motion made or any

75 default or judgment entered on or before June 30, 2011.

76 (7) With respect to foreclosure actions with a return date on or after  
77 July 1, 2011, notwithstanding any provision of the general statutes or  
78 any rule of law to the contrary, the mortgagee shall be permitted [, on  
79 or before July 1, 2014, and] following the [eight-month or] fifteen-day  
80 period described in subdivision (6) of this subsection, to  
81 simultaneously file, as applicable, (A) a motion for default, and (B) a  
82 motion for judgment of strict foreclosure or a motion for judgment of  
83 foreclosure by sale with respect to the mortgagor in the foreclosure  
84 action.

85 Sec. 3. Section 49-31m of the general statutes is repealed and the  
86 following is substituted in lieu thereof (*Effective from passage*):

87 The Chief Court Administrator shall establish in each judicial  
88 district a foreclosure mediation program in actions to foreclose  
89 mortgages on residential real property or real property owned by a  
90 religious organization. Such foreclosure mediation shall (1) address all  
91 issues of foreclosure, including, but not limited to, reinstatement of the  
92 mortgage, disposition of the property through means other than the  
93 foreclosure process, including short sales and deeds in lieu of  
94 foreclosure, assignment of law days, assignment of sale date,  
95 restructuring of the mortgage debt and foreclosure by decree of sale,  
96 and (2) be conducted by foreclosure mediators who (A) are employed  
97 by the Judicial Branch, (B) are trained in mediation and all relevant  
98 aspects of the law, as determined by the Chief Court Administrator,  
99 (C) have knowledge of the community-based resources that are  
100 available in the judicial district in which they serve, and (D) have  
101 knowledge of the mortgage assistance programs. Such mediators may  
102 refer mortgagors who participate in the foreclosure mediation  
103 program to community-based resources when appropriate and to the  
104 mortgage assistance programs.

105 Sec. 4. Section 49-31n of the general statutes is repealed and the

106 following is substituted in lieu thereof (*Effective from passage*):

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

117 (b) (1) For any action for the foreclosure of a mortgage on residential  
118 real property with a return date during the period from July 1, 2008, to  
119 June 30, 2009, inclusive, the mediation period under the foreclosure  
120 mediation program established in section 49-31m, as amended by this  
121 act, shall commence when the court sends notice to each appearing  
122 party that a foreclosure mediation request form has been submitted by  
123 a mortgagor to the court, which notice shall be sent not later than three  
124 business days after the court receives a completed foreclosure  
125 mediation request form. The mediation period shall conclude not more  
126 than sixty days after the return date for the foreclosure action, except  
127 that the court may, in its discretion, for good cause shown, (A) extend  
128 [ by not more than thirty days,] or shorten the mediation period on its  
129 own motion or upon motion of any party, or (B) extend [by not more  
130 than thirty days] the mediation period upon written request of the  
131 mediator. If the mediation period extends beyond six months after the  
132 return date, the court shall make particularized findings on the record  
133 for granting such an extension.

134 (2) The first mediation session shall be held not later than fifteen  
135 business days after the court sends notice to all parties that a  
136 foreclosure mediation request form has been submitted to the court.  
137 The mortgagor and mortgagee shall appear in person at each

138 mediation session and shall have [authority to agree to a proposed]  
139 full settlement authority, except that (A) if [the mortgagee] a party is  
140 represented by counsel, the [mortgagee's] party's counsel may appear  
141 in lieu of the [mortgagee] party to represent the [mortgagee's] party's  
142 interests at the mediation, provided [such counsel has the authority to  
143 agree to a proposed settlement] the party has full settlement authority,  
144 the mortgagor attends the first mediation session in person, and the  
145 [mortgagee] party is available (i) during the mediation session by  
146 telephone, and (ii) to participate in the mediation session by  
147 speakerphone, provided an opportunity is afforded for confidential  
148 discussions between the [mortgagee and mortgagee's] party and  
149 party's counsel, [and] (B) following the initial mediation session, if  
150 there are two or more mortgagors, only one mortgagor shall be  
151 required to appear in person at each subsequent mediation session  
152 unless good cause is shown, provided the other mortgagors are  
153 available (i) during the mediation session, and (ii) to participate in the  
154 mediation session by speakerphone, [provided an opportunity is  
155 afforded for confidential discussions among the mortgagors and such  
156 mortgagors' counsel. The] and (C) if a party suffers from a disability or  
157 other significant hardship that imposes an undue burden on such  
158 party to appear in person, the mediator may grant permission to such  
159 party to participate in the mediation session by telephone. A  
160 mortgagor's spouse, who is not a mortgagor but who lives in the  
161 subject property, may appear at each mediation session, provided all  
162 appearing mortgagors consent to such spouse's appearance or such  
163 spouse shows good cause for his or her appearance. Following each  
164 mediation session, the mediator shall file with the court a report  
165 indicating the extent to which the parties complied with the  
166 requirements set forth in this subdivision, including whether the  
167 mortgagor submitted a reasonably complete package of financial  
168 documentation to the mortgagee and whether the mediator  
169 recommends that sanctions be imposed on any party due to such  
170 party's conduct in any mediation session. If a mediator determines that  
171 a mortgagor has submitted a reasonably complete package of financial

172 documentation to the mortgagee, such mortgagee shall use such  
173 information to evaluate the mortgagor and treat such information as  
174 current under all applicable rules. The court may impose sanctions on  
175 any party while the case is pending, except the court shall not award  
176 attorney's fees to any mortgagee for time spent in any mediation  
177 session if the court finds that such mortgagee has failed to comply with  
178 this subdivision, unless the court finds reasonable cause for such  
179 failure.

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

189 (4) If the mediator has submitted a report to the court that the  
190 parties may benefit from further mediation pursuant to subdivision (3)  
191 of this subsection, not more than two days after the conclusion of the  
192 mediation, but not later than the termination of the mediation period  
193 set forth in subdivision (1) of this subsection, the mediator shall file a  
194 report with the court describing the proceedings and specifying the  
195 issues resolved, if any, and any issues not resolved pursuant to the  
196 mediation. The filing of the report shall terminate the mediation period  
197 automatically. If certain issues have not been resolved pursuant to the  
198 mediation, the mediator may refer the mortgagor to any appropriate  
199 community-based services that are available in the judicial district, but  
200 any such referral shall not cause a delay in the mediation process.

201 (5) The Chief Court Administrator shall establish policies and  
202 procedures to implement this subsection. Such policies and procedures  
203 shall, at a minimum, provide that the mediator shall advise the

204 mortgagor at the first mediation session required by subdivision (2) of  
205 this subsection that [:(A) Such mediation does not suspend the  
206 mortgagor's obligation to respond to the foreclosure action; and (B)] a  
207 judgment of strict foreclosure or foreclosure by sale may cause the  
208 mortgagor to lose the residential real property to foreclosure.

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

211 (7) Foreclosure mediation request forms shall not be accepted by the  
212 court under this subsection on or after July 1, 2012, and the foreclosure  
213 mediation program shall terminate when all mediation has concluded  
214 with respect to any applications submitted to the court prior to July 1,  
215 2014.

216 (8) At any time during the mediation period, the mediator may refer  
217 a mortgagor who is the owner-occupant of one-to-four family  
218 residential real property to the mortgage assistance programs, except  
219 that any such referral shall not prevent a mortgagee from proceeding  
220 to judgment when the conditions specified in subdivision (6) of  
221 subsection (b) of section 49-311 have been satisfied.

222 (9) Parties and their counsel shall mediate all issues in good faith.  
223 "Good faith" includes, but is not limited to, (A) complying with the  
224 requirements of (i) any applicable guidance or rule issued by the  
225 federal government and its agencies or a government-sponsored  
226 enterprise, or (ii) arising out of a mortgage-related settlement to which  
227 the Attorney General, Department of Banking or Department of  
228 Consumer Protection is a party, and producing documentation of such  
229 compliance, (B) providing, in writing, the reasons for and details of  
230 any denial of an application for available foreclosure workout  
231 programs, (C) providing reasonable advance notice to the opposing  
232 party if additional documentation or time is needed for a party to be  
233 prepared for an upcoming mediation session, and (D) filing accurate  
234 loss mitigation affidavits with the court. If any party or attorney fails to

235 mediate in good faith, the court may impose sanctions on such party or  
236 attorney. Failing to mediate in good faith shall include (i) failing to  
237 comply with the general statutes governing foreclosure mediation or  
238 any court rule or order, (ii) unreasonably requesting additional or  
239 updated documentation following a determination that a mortgagor's  
240 package was reasonably complete in accordance with subdivision (2)  
241 of this subsection, or (iii) otherwise engaging in conduct incompatible  
242 with an efficient and expeditious process without good cause.  
243 Demonstrating that a party or attorney failed to mediate in good faith  
244 does not require a showing that such party or attorney acted with  
245 malice, intent to injure or an otherwise affirmative showing of bad  
246 faith. Available sanctions shall include, but not be limited to, imposing  
247 fines payable to the court or aggrieved party, dismissing the  
248 foreclosure action, barring interest accrual with regard to the  
249 underlying loan, awarding attorney's fees, compensation for lost  
250 income and expenses arising out of a failure to mediate in good faith,  
251 and forbidding the mortgagee from charging the mortgagor for the  
252 mortgagee's attorney's fees. Nothing in section 49-311, as amended by  
253 this act, or this section shall prevent a court from imposing the  
254 sanctions contemplated in this subdivision.

255 (10) If the third mediation session concludes without resolution of  
256 the action and with a request for a subsequent mediation session, the  
257 court shall conduct a hearing following such third mediation session  
258 and each subsequent mediation session as to the status of the case and  
259 the reasons for which a resolution has not yet been achieved, except no  
260 such hearing shall be held if, through a motion by a mediator or a  
261 party to the mediation, good cause is shown for postponing such  
262 hearing until the conclusion of the subsequent mediation session.

263 (c) (1) For any action for the foreclosure of a mortgage on residential  
264 real property with a return date during the period from July 1, 2009, to  
265 June 30, 2014, inclusive, or for any action for the foreclosure of a  
266 mortgage on real property owned by a religious organization with a  
267 return date during the period from October 1, 2011, to June 30, 2014,

268 inclusive, the mediation period under the foreclosure mediation  
269 program established in section 49-31m, as amended by this act, shall  
270 commence when the court sends notice to each appearing party  
271 scheduling the first foreclosure mediation session. The mediation  
272 period shall conclude not later than the date sixty days after the return  
273 date for the foreclosure action, except that the court may, in its  
274 discretion, for good cause shown, (A) extend [, by not more than thirty  
275 days,] or shorten the mediation period on its own motion or upon  
276 motion of any party, or (B) extend [by not more than thirty days] the  
277 mediation period upon written request of the mediator. If the  
278 mediation period extends beyond six months after the return date, the  
279 court shall make particularized findings on the record for granting  
280 such an extension.

281 (2) The first mediation session shall be held not later than fifteen  
282 business days after the court sends notice to each appearing party in  
283 accordance with subdivision (4) of subsection (c) of section 49-31l. On  
284 and after October 1, 2011, the first mediation session shall be held not  
285 later than thirty-five days after the court sends notice to each  
286 appearing party in accordance with subdivision (4) of subsection (c) of  
287 this section. On and after October 1, 2011, not later than fifteen  
288 business days prior to the date of the initial mediation session, the  
289 mortgagee shall deliver to the mortgagor (A) an account history  
290 written in plain English, as defined in section 42-152, identifying all  
291 credits and debits assessed to the loan account in the immediately  
292 preceding twelve-month period, and (B) the name, business mailing  
293 address, electronic mail address, facsimile number and direct  
294 telephone number of an individual able to process requests to  
295 refinance or modify the mortgage loan at issue or otherwise take action  
296 to avoid foreclosure of the mortgage. Any updates to the information  
297 provided pursuant to subparagraph (B) of this subdivision shall be  
298 provided reasonably promptly to the mortgagor and such mortgagor's  
299 counsel. The mortgagor and mortgagee shall appear in person at each  
300 mediation session and shall have [authority to agree to a proposed]

301 full settlement authority, except that (i) if [the mortgagee] a party is  
302 represented by counsel, the [mortgagee's] party's counsel may appear  
303 in lieu of the [mortgagee] party to represent the [mortgagee's] party's  
304 interests at the mediation, provided [such counsel has the authority to  
305 agree to a proposed settlement] the party has full settlement authority,  
306 the mortgagor attends the first mediation session in person and the  
307 [mortgagee] party is available (I) during the mediation session by  
308 telephone, and (II) to participate in the mediation session by  
309 speakerphone, provided an opportunity is afforded for confidential  
310 discussions between the [mortgagee] party and [mortgagee's] party's  
311 counsel, [and] (ii) following the initial mediation session, if there are  
312 two or more mortgagors who are self-represented, only one mortgagor  
313 shall be required to appear in person at each subsequent mediation  
314 session unless good cause is shown, provided the other mortgagors are  
315 available (I) during the mediation session, and (II) to participate in the  
316 mediation session by speakerphone, [provided an opportunity is  
317 afforded for confidential discussions among the mortgagors and such  
318 mortgagors' counsel. The] and (iii) if a party suffers from a disability or  
319 other significant hardship that imposes an undue burden on such  
320 party to appear in person, the mediator may grant permission to such  
321 party to participate in the mediation session by telephone. A  
322 mortgagor's spouse, who is not a mortgagor but who lives in the  
323 subject property, may appear at each mediation session, provided all  
324 appearing mortgagors consent to such spouse's appearance or such  
325 spouse shows good cause for his or her appearance. Following each  
326 mediation session, the mediator shall file with the court a report  
327 indicating the extent to which the parties complied with the  
328 requirements set forth in this subdivision, including whether the  
329 mortgagor submitted a reasonably complete package of financial  
330 documentation to the mortgagee, whether the parties completed in full  
331 the net present value worksheet in the FDIC's loan modification  
332 program guide and, if the matter is not settled, the outcomes of the net  
333 present value worksheet and whether the mediator recommends  
334 sanctions be imposed against any party due to its conduct in any

335 mediation session. If a mediator determines that a mortgagor has  
336 submitted a reasonably complete package of financial documentation  
337 to the mortgagee, such mortgagee shall use such information to  
338 evaluate the mortgagor and treat such information as current under all  
339 applicable rules. The court may impose sanctions on any party while  
340 the case is pending, except the court shall not award attorney's fees to  
341 any mortgagee for time spent in any mediation session if the court  
342 finds that such mortgagee has failed to comply with this subdivision,  
343 unless the court finds reasonable cause for such failure.

344 (3) Not later than two days after the conclusion of the first  
345 mediation session, the mediator shall determine whether the parties  
346 will benefit from further mediation. The mediator shall file with the  
347 court a report setting forth such determination and mail a copy of such  
348 report to each appearing party. If the mediator reports to the court that  
349 the parties will not benefit from further mediation, the mediation  
350 period shall terminate automatically. If the mediator reports to the  
351 court after the first mediation session that the parties may benefit from  
352 further mediation, the mediation period shall continue. Either party's  
353 failure to comply with the documentation requirements of this section  
354 or section 49-31/, as amended by this act, shall not be grounds for  
355 terminating the mediation period before a second mediation session is  
356 conducted.

357 (4) If the mediator has submitted a report to the court that the  
358 parties may benefit from further mediation pursuant to subdivision (3)  
359 of this subsection, not more than two days after the conclusion of the  
360 mediation, but not later than the termination of the mediation period  
361 set forth in subdivision (1) of this subsection, the mediator shall file a  
362 report with the court describing the proceedings and specifying the  
363 issues resolved, if any, and any issues not resolved pursuant to the  
364 mediation. The filing of the report shall terminate the mediation period  
365 automatically. If certain issues have not been resolved pursuant to the  
366 mediation, the mediator may refer the mortgagor to any appropriate  
367 community-based services that are available in the judicial district, but

368 any such referral shall not cause a delay in the mediation process.

369 (5) The Chief Court Administrator shall establish policies and  
370 procedures to implement this subsection. Such policies and procedures  
371 shall, at a minimum, provide that the mediator shall advise the  
372 mortgagor at the first mediation session required by subdivision (2) of  
373 this subsection that [ (A) Such mediation does not suspend the  
374 mortgagor's obligation to respond to the foreclosure action beyond the  
375 limited time frame described in subdivision (6) of subsection (c) of  
376 section 49-31l; and (B)] a judgment of strict foreclosure or foreclosure  
377 by sale may cause the mortgagor to lose the residential real property or  
378 real property owned by a religious organization to foreclosure.

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

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

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

392 (9) Parties and their counsel shall mediate all issues in good faith.  
393 "Good faith" includes, but is not limited to, (A) complying with the  
394 requirements (i) of any applicable guidance or rule issued by the  
395 federal government and its agencies or a government-sponsored  
396 enterprise, or (ii) arising out of a mortgage-related settlement to which  
397 the Attorney General, Department of Banking or Department of  
398 Consumer Protection is a party, and producing documentation of such

399 compliance, (B) providing, in writing, the reasons for and details of  
400 any denial of an application for available foreclosure workout  
401 programs and, to the extent a mortgagor is evaluated for a loan  
402 workout connected to home retention, including an evaluation of such  
403 workout to the extent feasible using the calculations, assumptions and  
404 forms established by the FDIC and published in the FDIC loan  
405 modification program guide, (C) providing reasonable advance notice  
406 to the opposing party if additional documentation or time is needed  
407 for a party to be prepared for an upcoming mediation session, and (D)  
408 filing accurate loss mitigation affidavits with the court. If any party or  
409 attorney fails to mediate in good faith, the court may impose sanctions  
410 on such party or attorney. Failing to mediate in good faith shall  
411 include (i) failing to comply with the general statutes governing  
412 mediation or any court rule or order, (ii) unreasonably requesting  
413 additional or updated documentation following a determination that a  
414 mortgagor's package was reasonably complete in accordance with  
415 subdivision (2) of this subsection, or (iii) otherwise engaging in  
416 conduct incompatible with an efficient and expeditious process  
417 without good cause. Demonstrating that a party or attorney failed to  
418 mediate in good faith does not require a showing that such party or  
419 attorney acted with malice, intent to injure or an otherwise affirmative  
420 showing of bad faith. Available sanctions shall include, but not be  
421 limited to, imposing fines payable to the court or aggrieved party,  
422 dismissing the foreclosure action, barring interest accrual with regard  
423 to the underlying loan, awarding attorney's fees, compensation for lost  
424 income and expenses arising out of a failure to mediate in good faith,  
425 and forbidding the mortgagee from charging the mortgagor for the  
426 mortgagee's attorney's fees. Nothing in section 39-31l, as amended by  
427 this act, or any other provision of this section shall prevent a court  
428 from imposing the sanctions contemplated in this subdivision.

429 (10) If the third mediation session concludes without resolution of  
430 the action and with a request for a subsequent mediation session, the  
431 court shall conduct a hearing following such third mediation session

432 and each subsequent mediation session as to the status of the case and  
433 the reasons for which a resolution has not yet been achieved, except no  
434 such hearing shall be held if, through a motion by a mediator or a  
435 party to the mediation, good cause is shown for postponing such  
436 hearing until the conclusion of the subsequent mediation session.

437 Sec. 5. (NEW) (*Effective from passage*) (a) In a foreclosure action, the  
438 mortgagee may, notwithstanding any other law or rule to the contrary,  
439 file a motion for judgment of foreclosure simultaneously with a motion  
440 for default for failure to appear, if such mortgagee proves, by clear and  
441 convincing evidence and the use of a proper affidavit, that the real  
442 property that is the subject of the foreclosure action is not occupied by  
443 a mortgagee, tenant or other occupant and not less than three of the  
444 following conditions exist:

445 (1) Statements of neighbors, delivery persons or government  
446 employees indicating that the property is vacant and abandoned;

447 (2) Windows or entrances to the property that are boarded up or  
448 closed off or multiple window panes that are damaged, broken or  
449 unrepaired;

450 (3) Doors to the property are smashed through, broken off,  
451 unhinged or continuously unlocked;

452 (4) Risk to the health, safety or welfare of the public or any  
453 adjoining or adjacent property owners that exists due to acts of  
454 vandalism, loitering, criminal conduct or the physical destruction of  
455 the property;

456 (5) An order by municipal authorities declaring the property to be  
457 unfit for occupancy and to remain vacant and unoccupied;

458 (6) The mortgagee secured or winterized the property due to the  
459 property being deemed vacant and unprotected or in danger of  
460 freezing; or

461 (7) A written statement issued by any mortgagor or tenant  
462 expressing the clear intent of all occupants to abandon the property.

463 (b) A foreclosure shall not proceed under the expedited procedures  
464 contemplated under subsection (a) of this section if there is on the  
465 property (1) an unoccupied building undergoing construction,  
466 renovation or rehabilitation that is (A) proceeding diligently toward  
467 completion, and (B) in compliance with all applicable ordinances,  
468 codes, regulations and statutes, (2) a secure building occupied on a  
469 seasonal basis, or (3) a secure building that is the subject of a probate  
470 action to quiet title or other ownership dispute.

471 Sec. 6. (NEW) (*Effective from passage*) In a foreclosure action,  
472 notwithstanding any provision of law, the mortgagor shall be entitled  
473 to plead, via special defenses, counterclaim or otherwise and  
474 irrespective of whether such pleading relates to the making, validity or  
475 enforcement of the subject note and mortgage, (1) any alleged violation  
476 of any federal or state lending or servicing law, regulation or rule, (2)  
477 any mortgage-related settlement to which the Attorney General,  
478 Department of Banking or Department of Consumer Protection is a  
479 party, or (3) any other pleading arising out of facts that occurred after  
480 the making of the note or mortgage or after any alleged default on the  
481 note or mortgage that the mortgagor alleges the court should, in law or  
482 in equity, consider.

483 Sec. 7. Subsection (a) of section 36a-65 of the general statutes is  
484 repealed and the following is substituted in lieu thereof (*Effective July*  
485 *1, 2013*):

486 (a) The commissioner shall annually, on or after July first for the  
487 fiscal year commencing on said July first, collect pro rata based on  
488 asset size from each Connecticut bank and each Connecticut credit  
489 union an amount sufficient in the commissioner's judgment to meet  
490 the expenses of the Department of Banking, including expenses of the  
491 foreclosure mediation program established under section 49-31m, as

492 amended by this act, and a reasonable reserve for contingencies,  
493 provided the commissioner shall not collect such amount from a newly  
494 organized Connecticut credit union until July first following the third  
495 full calendar year after issuance by the commissioner of such credit  
496 union's certificate of authority. Such assessments and expenses shall  
497 not exceed the budget estimates submitted in accordance with section  
498 36a-13. Such assessments may be made more frequently than annually  
499 at the discretion of the commissioner. Such assessments for any fiscal  
500 year shall be reduced pro rata by the amount of any surplus from the  
501 assessments of prior fiscal years, which surplus shall be maintained in  
502 accordance with subdivision (4) of subsection (b) of this section. The  
503 commissioner may reduce any such assessment collected from a  
504 Connecticut bank up to the amount of any assessment for the same  
505 fiscal year collected from such bank by another state in which such  
506 bank has established a branch, limited branch or mobile branch. The  
507 commissioner may reduce any such assessment collected from a  
508 Connecticut credit union up to the amount of any assessment for the  
509 same fiscal year collected from such credit union by another state in  
510 which such credit union has established a branch. Such assessments  
511 for any fiscal year shall be a liability of such banks and credit unions as  
512 of the assessment date. Except as provided in this subsection, such  
513 assessments shall not be prorated for any reason.

514 Sec. 8. Subsection (g) of section 49-10 of the general statutes is  
515 repealed and the following is substituted in lieu thereof (*Effective from*  
516 *passage*):

517 (g) Any assignor of mortgage debt shall report biannually to the  
518 Secretary of the Office of Policy and Management regarding every  
519 mortgage assignment involving property located in this state. If such  
520 an assignment is not recorded in the municipal land records, the  
521 assignor shall pay to the State Treasurer for each such assignment a fee  
522 of forty dollars. Thirty-six dollars of such fee shall be deposited into  
523 the General Fund and credited to the community investment account  
524 established pursuant to section 4-66aa. The State Treasurer shall remit

525 four dollars of such fee to the municipality in which the property is  
526 located to become part of the general revenue of such municipality and  
527 be used to pay for local capital improvement projects, as defined in  
528 section 7-536. The report shall contain (1) the name, address, telephone  
529 number and electronic mail address of the registrant; (2) a list  
530 containing the street address and municipality in which security for  
531 such assigned mortgage debt exists; and (3) the date of execution of  
532 such assignment. Any person who violates any provision of this  
533 subsection shall be subject to a civil penalty of one hundred dollars for  
534 each day of such violation. Each failure to report any single assignment  
535 shall constitute an independent violation. The Attorney General may  
536 institute a civil action in Superior Court to collect such penalty, which  
537 shall be payable to the state. Recordation of an assignment of mortgage  
538 debt is not sufficient notice of the assignment to the party obliged to  
539 pay for purposes of subsection (d) or (e) of this section.

540       Sec. 9. (NEW) (*Effective from passage*) (a) The Banking Commissioner  
541 shall adopt regulations, in accordance with the provisions of chapter  
542 54 of the general statutes, requiring a bank, as defined in section 36a-2  
543 of the general statutes, to file a regular report with the Department of  
544 Banking concerning foreclosures of a mortgage on real property  
545 located in this state that is securing debt owned by such bank or that is  
546 serviced by such bank, including, but not limited to, (1) the number of  
547 such foreclosures involving vacant or abandoned property in  
548 comparison to the number of such foreclosures involving occupied  
549 property; (2) the number of delinquent mortgage loans held by the  
550 bank and the length of time such loans have been delinquent; (3) the  
551 ratio of the number of mortgage loans owned by the bank to the  
552 number of mortgage loans serviced by such bank; and (4) whether  
553 each mortgage loan serviced by the bank is owned by a bank or trust.

554       (b) Any such report filed by a bank in accordance with subsection  
555 (a) of this section shall be treated as a trade secret and therefore  
556 exempt from disclosure under the Freedom of Information Act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	49-31k
Sec. 2	<i>from passage</i>	49-31l(c)(6) and (7)
Sec. 3	<i>from passage</i>	49-31m
Sec. 4	<i>from passage</i>	49-31n
Sec. 5	<i>from passage</i>	New section
Sec. 6	<i>from passage</i>	New section
Sec. 7	<i>July 1, 2013</i>	36a-65(a)
Sec. 8	<i>from passage</i>	49-10(g)
Sec. 9	<i>from passage</i>	New section

**Statement of Purpose:**

To implement the Governor's budget recommendations.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*