



General Assembly

January Session, 2013

Raised Bill No. 6666

LCO No. 4790



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

**AN ACT ESTABLISHING TWO PILOT PROGRAMS FOR THE
MEDIATION OF CONDOMINIUM-RELATED DISPUTES AND
RELIEVING A COMMUNITY ASSOCIATION MANAGER OF ANY
RESPONSIBILITY FOR CERTIFYING THAT A CONDOMINIUM UNIT
OWNER IS COMPLIANT WITH A MUNICIPAL ORDINANCE
REQUIRING THE INSTALLATION OF CARBON MONOXIDE
DETECTORS AND SMOKE DETECTORS.**

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

1 Section 1. (NEW) (*Effective October 1, 2013*) (a) As used in this
2 section:

3 (1) "Administrative region" means two or more probate districts in a
4 geographic area designated by the Probate Court Administrator;

5 (2) "Association" means an association of unit owners, as defined in
6 section 47-68a of the general statutes, or an association, as defined in
7 section 47-202 of the general statutes;

8 (3) "Unit" means a unit, as defined in section 47-68a or 47-202 of the
9 general statutes; and

10 (4) "Unit owner" means a unit owner, as defined in section 47-68a or
11 47-202 of the general statutes.

12 (b) The Probate Court Administrator shall, within available
13 appropriations, establish a pilot program for the mediation of a
14 dispute arising between one or more unit owners and an association.
15 The pilot program shall be administered in two administrative regions
16 as determined by the Probate Court Administrator. The Probate Court
17 Administrator shall consult with the judges of the probate to
18 determine the administrative regions that shall participate in the pilot
19 program. The pilot program shall mediate disputes between unit
20 owners and an association relating to the application or interpretation
21 of an association's bylaws, rules and regulations and the provisions of
22 chapters 825 and 828 of the general statutes. Disputes that are related
23 to a foreclosure action initiated against a unit owner or exclusively
24 between unit owners with no association involvement shall not be
25 eligible for the pilot program.

26 (c) Any unit owner or association with a dispute that meets the
27 criteria set forth in subsection (b) of this section may file a request for
28 mediation under the pilot program. Such request shall: (1) Be in
29 writing, on such form as the Probate Court Administrator may
30 prescribe, (2) specifically set forth the nature of the dispute, (3) contain
31 an attestation by both the unit owner and a representative of the
32 association that his or her participation in the pilot program is
33 voluntary, (4) be accompanied by a filing fee of two hundred fifty
34 dollars, and (5) be filed in the probate district in which the unit is
35 located.

36 (d) Upon receipt of a request for mediation, the court shall promptly
37 notify the Probate Court Administrator of such request. Upon receipt
38 of notification that a court has received a request for mediation, the
39 Probate Court Administrator shall assign the matter to a special
40 appointment probate judge, appointed pursuant to section 45a-79b of
41 the general statutes, who possesses demonstrated expertise in

42 mediation of disputes.

43 (e) The court shall set a time and place for a mediation session and
44 shall give notice by regular mail of the session to each unit owner and
45 the association identified on the request for mediation and to such
46 other persons as the court determines. The special assignment probate
47 judge shall attempt to mediate a voluntary resolution of the dispute
48 between the unit owner and a representative of the association. A unit
49 owner or representative of the association may withdraw from
50 mediation at any time during the process after providing notice to all
51 persons participating in the mediation and the special assignment
52 probate judge. In addition, the special assignment probate judge may
53 terminate the mediation upon finding that further efforts to mediate
54 the dispute would be futile. If a resolution of the dispute is achieved,
55 the special assignment probate judge shall assist in the preparation of a
56 written agreement, setting forth the specific terms of the agreement.
57 The written agreement shall be signed by the unit owner, a
58 representative of the association and the special assignment probate
59 judge. Compliance with the terms of the written agreement by the unit
60 owner and the association shall be deemed an obligation imposed by
61 the provisions of chapter 825 or 828 of the general statutes, as the case
62 may be, and the unit owner or the association may bring an action in
63 the superior court to enforce the terms of the agreement.

64 (f) A participant in a mediation shall not voluntarily disclose or,
65 through discovery or compulsory process, be required to disclose any
66 oral or written communication received or obtained during the course
67 of a mediation, unless (1) each of the other participants agree in
68 writing to such disclosure, (2) the disclosure is necessary to enforce a
69 written agreement that resulted from the mediation, (3) the disclosure
70 is required by statute or regulation, or by any court, after notice to all
71 participants to the mediation, or (4) the disclosure is required as a
72 result of circumstances in which a court finds that the interest of justice
73 outweighs the need for confidentiality, consistent with the principles
74 of law.

75 (g) The remedies provided under this section are not exclusive and
76 are in addition to any other remedies in any section of the general
77 statutes or which are available under common law.

78 (h) The mediation pilot program established pursuant to this section
79 shall terminate on September 30, 2016.

80 Sec. 2. Section 45a-79b of the general statutes is repealed and the
81 following is substituted in lieu thereof (*Effective October 1, 2013*):

82 (a) There shall be special assignment probate judges appointed by
83 the Chief Justice of the Supreme Court, on nomination by the Probate
84 Court Administrator, from among the judges of probate elected as
85 provided in section 45a-18. A nominee of the Probate Court
86 Administrator shall have demonstrated the special skill, experience or
87 expertise necessary to serve as a special assignment probate judge. The
88 Probate Court Administrator shall issue regulations pursuant to
89 subsection (b) of section 45a-77 to establish requirements concerning
90 the responsibilities of special assignment probate judges and the
91 number, geographic distribution and expertise of such judges. A
92 special assignment probate judge shall serve at the pleasure of the
93 Chief Justice.

94 (b) Subject to the approval of the Chief Court Administrator, the
95 Probate Court Administrator shall fix the compensation of special
96 assignment probate judges appointed pursuant to this section. Such
97 compensation shall, on the order of the Probate Court Administrator,
98 be paid from the Probate Court Administration Fund established
99 under section 45a-82. [Such] Notwithstanding the provisions of section
100 45a-95a, such compensation, including compensation that a special
101 assignment probate judge receives as a judge of probate of the district
102 to which the judge was elected, shall not exceed the [compensation
103 provided for a judge of probate under subdivision (4) of subsection (a)
104 of section 45a-95a] maximum total compensation received by a
105 workers' compensation commissioner under section 31-277. A special

106 assignment probate judge shall have such benefits as may inure to him
107 or her as a judge of probate and shall receive no additional benefits,
108 except compensation provided under this subsection and retirement
109 benefits calculated in accordance with sections 45a-34 to 45a-54,
110 inclusive.

111 Sec. 3. (*Effective October 1, 2013*) (a) As used in this section:

112 (1) "Association" means an association of unit owners, as defined in
113 section 47-68a of the general statutes, or an association, as defined in
114 section 47-202 of the general statutes;

115 (2) "Unit" means a unit, as defined in section 47-68a or 47-202 of the
116 general statutes; and

117 (3) "Unit owner" means a unit owner, as defined in section 47-68a or
118 47-202 of the general statutes.

119 (b) The Chief Court Administrator shall, within available
120 appropriations, establish a pilot program for the mediation of a
121 dispute arising between one or more unit owners and an association.
122 The Chief Court Administrator shall determine the location for the
123 pilot program, provided the pilot program shall be conducted in a
124 judicial district for which a special housing session has been
125 established. The pilot program shall provide for the mediation of
126 disputes between unit owners and an association relating to the
127 application and interpretation of an association's bylaws, rules and
128 regulations and the provisions of chapters 825 and 828 of the general
129 statutes. Disputes that are related to a foreclosure action initiated
130 against a unit owner or exclusively between unit owners with no
131 association involvement shall not be eligible for the pilot program.

132 (c) Any unit owner or association with a dispute that meets the
133 criteria set forth in subsection (b) of this section may file a request to
134 participate in the pilot program. Such request shall: (1) Be in writing,
135 on such form as the Chief Court Administrator may prescribe, (2)

136 specifically set forth the nature of the dispute, (3) be accompanied by a
137 one-hundred-seventy-five-dollar entry fee, and (4) be filed in the
138 judicial district, that the Chief Court Administrator has designated to
139 operate the pilot program.

140 (d) Upon the receipt of a request for participation in the pilot
141 program, the matter shall be placed on the housing docket and
142 assigned for a mediation session. The mediation session shall be
143 conducted by a housing mediator who possesses demonstrated
144 knowledge in mediation of disputes, as more fully set forth in section
145 47a-69 of the general statutes.

146 (e) The court shall set the time and place for a mediation session and
147 shall give notice by regular mail of the session to each unit owner and
148 the association identified on the request for mediation and to such
149 other persons as the court determines. The housing mediator shall
150 attempt to mediate a voluntary resolution of the dispute between the
151 unit owner and a representative of the association. A unit owner or
152 representative of the association may (1) withdraw from mediation at
153 any time during the process after providing notice to all persons
154 participating in the mediation and the housing mediator, or (2) request
155 that the mediation matter be transferred to regular docket, in which
156 case, such matter shall be transferred to regular docket upon the unit
157 owner or the association paying a fee of one hundred twenty-five
158 dollars. In addition, the housing mediator may terminate the
159 mediation upon finding that further efforts to mediate the dispute
160 would be futile. If a resolution of the dispute is achieved, the housing
161 mediator shall assist in the preparation of a written agreement, setting
162 forth the specific terms of the agreement. The written agreement shall
163 be signed by the unit owner, a representative of the association and the
164 housing mediator.

165 (f) A participant in a mediation shall not voluntarily disclose or,
166 through discovery or compulsory process, be required to disclose any
167 oral or written communication received or obtained during the course

168 of a mediation, unless (1) each of the other participants agree in
169 writing to such disclosure, (2) the disclosure is necessary to enforce a
170 written agreement that resulted from the mediation, (3) the disclosure
171 is required by statute or regulation, or by any court, after notice to all
172 participants to the mediation, or (4) the disclosure is required as a
173 result of circumstances in which a court finds that the interest of justice
174 outweighs the need for confidentiality, consistent with the principles
175 of law.

176 (g) The remedies provided under this section are not exclusive and
177 are in addition to any other remedies in any section of the general
178 statutes or which are available under common law.

179 (h) The mediation pilot program established pursuant to this section
180 shall terminate on September 30, 2015.

181 Sec. 4. (NEW) (*Effective October 1, 2013*) No community association
182 manager, as defined in section 20-450 of the general statutes, shall be
183 required to provide to a local fire chief or local fire marshal a written
184 verification on behalf of a unit owner, as defined in section 47-68a or
185 47-202 of the general statutes, certifying the unit owner's compliance
186 with a municipal ordinance requiring the installation of smoke
187 detection and warning equipment and carbon monoxide detection and
188 warning equipment in the unit owner's private dwelling.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	New section
Sec. 2	<i>October 1, 2013</i>	45a-79b
Sec. 3	<i>October 1, 2013</i>	New section
Sec. 4	<i>October 1, 2013</i>	New section

Statement of Purpose:

To (1) establish pilot programs within the Probate Court system and the Judicial Branch for the mediation of disputes that arise between condominium unit owners and associations, and (2) relieve

community association managers from any obligation to certify that a condominium unit owner has complied with a municipal ordinance requiring the installation of carbon monoxide detectors and smoke detectors.

[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.]