



Substitute House Bill No. 6355

Public Act No. 13-136

AN ACT CONCERNING HOMEOWNER PROTECTION RIGHTS.

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

Section 1. Section 49-31k of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 15, 2013*):

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

(1) "Mortgagor" means: (A) The owner-occupant of one-to-four family residential real property located in this state who is also the borrower under a mortgage encumbering such residential real property, except an heir or occupying nonowner of a property encumbered by a reverse annuity mortgage, which is the primary residence of such owner-occupant, or (B) a religious organization that is (i) the owner of real property located in this state, and (ii) the borrower under a mortgage encumbering such real property;

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

(3) "Mortgagee" means the [original lender or servicer under a mortgage, or its successors or assigns, who is the holder of any mortgage] owner or servicer of the debt secured by a mortgage on

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residential real property or real property owned by a religious organization securing a loan made primarily for personal, family, religious or household purposes that is the subject of a foreclosure action;

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

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

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

(7) "Objectives of the mediation program" (A) means a determination as to whether or not the parties can reach an agreement that will (i) avoid foreclosure by means that may include consideration of any loss mitigation options available through the mortgagee, or (ii) expedite or facilitate the foreclosure in a manner acceptable to the parties, and (B) includes an expectation that all parties shall endeavor to reach such determination with reasonable speed and efficiency by participating in the mediation process in good faith, but without unreasonable and unnecessary delays; and

(8) "Ability to mediate" means an exhibition on the part of the relevant person of a willingness, including a reasonable ability, to participate in the mediation process in a manner consistent with the objectives of the mediation program and in conformity with any obligations imposed in accordance with subdivision (2) of subsection (b) or (c), as applicable, of section 49-31n, as amended by this act, including, but not limited to, a willingness and reasonable ability to respond to questions and specify or estimate when particular decisions

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will be made or particular information will be furnished and, with respect to the mortgagee, a reasonable familiarity with the loan file, any loss mitigation options that are available to the mortgagor and the material issues raised in prior mediation sessions. Reasonable familiarity with such material issues may be achieved by becoming reasonably familiar with the mediator reports submitted in accordance with subdivision (4) of subsections (b) and (c) of section 49-31n, as amended by this act, to the extent such reports are available.

Sec. 2. Section 49-31l of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 15, 2013*):

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

(b) (1) Prior to July 1, [2012] 2014, when a mortgagee commences an action for the foreclosure of a mortgage on residential real property with a return date during the period from July 1, 2008, to June 30, 2009, inclusive, the mortgagee shall give notice to the mortgagor of the foreclosure mediation program established in section 49-31m by attaching to the front of the foreclosure complaint that is served on the mortgagor: (A) A copy of the notice of the availability of foreclosure mediation, in such form as the Chief Court Administrator prescribes, and (B) a foreclosure mediation request form, in such form as the Chief Court Administrator prescribes.

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

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

(4) No foreclosure mediation request form may be submitted to the court under this subsection on or after July 1, [2012] 2014.

(5) If at any time on or after July 1, 2008, but prior to July 1, [2012] 2014, the court determines that the notice requirement of subdivision (1) of this subsection has not been met, the court may, upon its own motion or upon the written motion of the mortgagor, issue an order that no judgment may enter for fifteen days during which period the mortgagor may submit a foreclosure mediation request form to the court.

(6) Notwithstanding any provision of the general statutes or any rule of law to the contrary, prior to July 1, [2012] 2014, no judgment of strict foreclosure nor any judgment ordering a foreclosure sale shall be entered in any action subject to the provisions of this subsection and instituted by the mortgagee to foreclose a mortgage on residential real property unless: (A) Notice to the mortgagor has been given by the mortgagee in accordance with subdivision (1) of this subsection and the time for submitting a foreclosure mediation request form has

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expired and no foreclosure mediation request form has been submitted, or if such notice has not been given, the time for submitting a foreclosure mediation request form pursuant to subdivision (2) or (3) of this subsection has expired and no foreclosure mediation request form has been submitted, or (B) the mediation period set forth in subdivision (b) of section 49-31n has expired or has otherwise terminated, whichever is earlier.

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

(c) (1) Prior to July 1, 2014, when a mortgagee commences an action for the foreclosure of a mortgage on residential real property with a return date on or after July 1, 2009, or, with respect to real property owned by a religious organization, a return date on or after October 1, 2011, the mortgagee shall give notice to the mortgagor of the foreclosure mediation program established in section 49-31m, as amended by this act, by attaching to the front of the writ, summons and complaint that is served on the mortgagor: (A) A copy of the notice of foreclosure mediation, in such form as the Chief Court Administrator prescribes, (B) a copy of the foreclosure mediation certificate form described in subdivision (3) of this subsection, in such form as the Chief Court Administrator prescribes, (C) a blank appearance form, in such form as the Chief Court Administrator prescribes, [and] (D) with respect to an action for the foreclosure of a mortgage on residential real property with a return date on or after October 1, 2011, to September 30, 2013, inclusive, a mediation information form and a notice containing contact information for authority-approved consumer credit counseling agencies, which form and notice shall be in such form as the Chief Court Administrator prescribes, [Such mediation information form shall be] and which form shall be designed to elicit current financial information and such

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other nonfinancial information from the mortgagor as the Chief Court Administrator, in consultation with representatives from the banking industry and consumer advocates, determines will [be useful to] further the objectives of the mediation [process] program. The instructions to the mediation information form shall explain that the completed mediation information form, along with accompanying documentation reasonably requested from the mortgagor by way of such instructions, shall be delivered to the mortgagee's counsel not later than fifteen business days prior to the date of the initial mediation session, as identified in the notice provided pursuant to subdivision (2) of subsection (c) of section 49-31n, as amended by this act, and (E) for an action to foreclose a mortgage on residential real property with a return date on or after October 1, 2013, the mediation information form shall instruct the mortgagor as to the objectives of the mediation program, explain the preliminary process of meeting with the mediator as described in subdivision (4) of this subsection, instruct the mortgagor to begin gathering financial documentation commonly used in foreclosure mediation for use in meeting with the mediator and in mediation, and include a notice containing contact information for authority-approved consumer counseling agencies, which shall be in such form as the Chief Court Administrator prescribes. The content of the mediation information form shall be designed by the Chief Court Administrator in consultation with representatives from the banking industry and consumer advocates.

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

(3) The notice of foreclosure mediation shall instruct the mortgagor to file the appearance and foreclosure mediation certificate forms with the court not later than the date fifteen days from the return date for

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the foreclosure action. [Such] With respect to actions with a return date on or after October 1, 2011, to September 30, 2013, inclusive, such notice shall remind the mortgagor to deliver the completed mediation information form and the accompanying documentation described in subdivision (1) of this subsection and encourage such delivery in advance of the required date. With respect to actions with a return date on or after October 1, 2013, to June 30, 2014, inclusive, such notice shall instruct the mortgagor to begin gathering financial information commonly used in foreclosure mediation for use in meeting with the mediator and in mediation. The mediation information form and accompanying documentation shall not, without the explicit written instruction of the mortgagor, be publicly available. Such notice of foreclosure mediation shall be accompanied by materials from the Department of Banking, as prescribed by the Chief Court Administrator, which shall describe the community-based resources available to the mortgagor, including authority-approved housing counseling agencies that may assist with preparation [of the mediation information form] for mediation and application for mortgage assistance programs. The foreclosure mediation certificate form shall require the mortgagor to provide sufficient information to permit the court to confirm that the defendant in the foreclosure action is a mortgagor, and to certify that said mortgagor has sent a copy of the mediation certificate form to the plaintiff in the action.

(4) Upon receipt of the mortgagor's appearance and foreclosure mediation certificate forms, and provided the court confirms the defendant in the foreclosure action is a mortgagor and that said mortgagor has sent a copy of the mediation certificate form to the plaintiff, the court shall [schedule a date for foreclosure mediation in accordance with subsection (c) of section 49-31n. The court shall issue notice of such mediation date to all appearing parties] assign the case to mediation and issue notice of such assignment to all appearing parties, which notice shall include an electronic mail address for all

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communications related to the mediation. The court shall issue such notice not earlier than the date five business days after the return date or by the date three business days after the date on which the court receives the mortgagor's appearance and foreclosure mediation certificate forms, whichever is later, except that if the court does not receive the appearance and foreclosure mediation certificate forms from the mortgagor by the date fifteen days after the return date for the foreclosure action, the court shall not [schedule such mediation.] assign the case to mediation. Promptly upon receipt of the notice of assignment, but not later than the thirty-fifth day following the return date, the mortgagee or its counsel shall deliver to the mediator, via the electronic mail address provided for communications related to the mediation, and to the mortgagor, via first class, priority or overnight mail, (A) an account history identifying all credits and debits assessed to the loan account and any related escrow account in the immediately preceding twelve-month period and an itemized statement of the amount required to reinstate the mortgage loan with accompanying information, written in plain language, to explain any codes used in the history and statement which are not otherwise self-explanatory, (B) the name, business mailing address, electronic mail address, facsimile number and direct telephone number of an individual able to respond with reasonable adequacy and promptness to questions relative to the information submitted to the mediator pursuant to this subdivision, and any subsequent updates to such contact information, which shall be provided reasonably promptly to the mediator via the electronic mail address provided for communication related to the mediation, (C) all reasonably necessary forms and a list of all documentation reasonably necessary for the mortgagee to evaluate the mortgagor for common alternatives to foreclosure that are available through the mortgagee, if any, (D) a copy of the note and mortgage, (E) summary information regarding the status of any pending foreclosure avoidance efforts being undertaken by the mortgagee, (F) a copy of any loss mitigation affidavit filed with the court, and (G) at the mortgagor's

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option, (i) the history of foreclosure avoidance efforts with respect to the mortgagor, (ii) information regarding the condition of mortgaged property, and (iii) such other information as the mortgagee may determine is relevant to meeting the objectives of the mediation program. Following the mediator's receipt of such information, the court shall assign a mediator to the mediation and schedule a meeting with the mediator and the mortgagor and shall endeavor to schedule such meeting on or prior to the forty-ninth day following the return date. The notice of such meeting shall instruct the mortgagor to complete the forms prior to the meeting and to furnish such forms together with the documentation contained in the list, as provided by the mortgagee following the filing of the foreclosure mediation certificate, at the meeting. At such meeting, the mediator shall review such forms and documentation with the mortgagor, along with the information supplied by the mortgagee, in order to discuss the options that may be available to the mortgagor, including any community-based resources, and assist the mortgagor in completing the forms and furnishing the documentation necessary for the mortgagee to evaluate the mortgagor for alternatives to foreclosure. The mediator may elect to schedule subsequent meetings with the mortgagor and determine whether any mortgagor may be excused from an in-person appearance at such subsequent meeting. As soon as practicable, but in no case later than the eighty-fourth day following the return date, the mediator shall facilitate and confirm the submission by the mortgagor of the forms and documentation to the mortgagee's counsel via electronic means and, at the mortgagee's election, directly to the mortgagee per the mortgagee's instruction, and determine, based on the mortgagor's attendance at the meetings and the extent the mortgagor completed the forms and furnished the documentation contemplated in this subdivision, or failed to perform such tasks through no material fault of the mortgagee, and file a report with the court indicating, (I) whether mediation shall be scheduled with the mortgagee, (II) whether the mortgagor attended scheduled meetings with the mediator, (III)

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whether the mortgagor fully or substantially completed the forms and furnished the documentation requested by the mortgagee, (IV) the date on which the mortgagee supplied the forms and documentation, and (V) any other information the mediator determines to be relevant to the objectives of the mediation program. No meeting or communication between the mediator and mortgagor under this subdivision shall be treated as an impermissible ex parte communication. If the mediator determines that the mortgagee shall participate in mediation, the court shall promptly issue notice to all parties of such determination and schedule a mediation session between the mortgagee and mortgagor in accordance with subsection (c) of section 49-31n, as amended by this act, to be held not later than five weeks following the submission to the mortgagee of the forms and documentation contemplated in this subdivision. If the mediator determines that no sessions between the mortgagee and mortgagor shall be scheduled, the court shall promptly issue notice to all parties regarding such determination and mediation shall be terminated. Any mortgagor wishing to contest such determination shall petition the court and show good cause for reinclusion in the mediation program, including, but not limited to, a material change in financial circumstances or a mistake or misunderstanding of the facts by the mediator.

(5) Notwithstanding the provisions of this subsection, the court may refer a foreclosure action brought by a mortgagee to the foreclosure mediation program at any time, for good cause shown, provided the mortgagor has filed an appearance in said action and further provided the court shall, not later than the date three business days after the date on which it makes such referral, send a notice to each appearing party [scheduling the first foreclosure mediation session for a date not later than the date thirty-five days from the date of such referral] assigning the case to mediation and requiring the parties to participate in the premediation process described in subdivision (4) of this subsection,

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with the court establishing deadlines to ensure that the premediation process is to be completed by the parties as expeditiously as the circumstances warrant and permit. When determining whether good cause exists, the court shall consider whether the parties are likely to benefit from mediation and, in the case of a referral after prior attempts at mediation have been terminated, whether there has been a material change in circumstances.

(6) Notwithstanding any provision of the general statutes or any rule of law, prior to July 1, 2014, (A) for the period of time which shall not exceed eight months from the return date, the mortgagor shall be permitted to file an answer, special defenses or counterclaims, but no mortgagee or mortgagor shall make any motion, request or demand with respect to the other, except those motions, requests or demands that relate to the mediation program described in section 49-31m, as amended by this act, and the mediation sessions held pursuant to such program, provided (i) a mortgagor seeking to contest the court's jurisdiction may file a motion to dismiss and the mortgagee may object to such motion to dismiss in accordance with applicable law and the rules of the courts, and (ii) if the mortgagor elects to make any other motion, request or demand with respect to the mortgagee, the eight-month limit shall no longer apply to either party; and (B) no judgment of strict foreclosure nor any judgment ordering a foreclosure sale shall be entered in any action subject to the provisions of this subsection and instituted by the mortgagee to foreclose a mortgage on residential real property or real property owned by a religious organization unless: (i) The mediation period set forth in subsection (c) of section 49-31n, as amended by this act, has expired or has otherwise terminated, whichever is earlier, and, if fewer than eight months has elapsed from the return date at the time of termination, fifteen days have elapsed since such termination and any pending motion or request to extend the mediation period has been heard and denied by the court, or (ii) the mediation program is not otherwise required or available. Nothing

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in this subdivision shall affect any motion made or any default or judgment entered on or before June 30, 2011.

(7) With respect to foreclosure actions with a return date on or after July 1, 2011, to June 30, 2014, inclusive, notwithstanding any provision of the general statutes or any rule of law to the contrary, the mortgagee shall be permitted [, on or before July 1, 2014, and] following the eight-month or fifteen-day period described in subdivision (6) of this subsection, to simultaneously file, as applicable, (A) a motion for default, and (B) a motion for judgment of strict foreclosure or a motion for judgment of foreclosure by sale with respect to the mortgagor in the foreclosure action.

(8) None of the mortgagor's or mortgagee's rights in the foreclosure action shall be waived by participation in the foreclosure mediation program.

Sec. 3. Section 49-31m of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 15, 2013*):

The Chief Court Administrator shall establish in each judicial district a foreclosure mediation program in actions to foreclose mortgages on residential real property or real property owned by a religious organization. Such foreclosure mediation shall (1) address all issues of foreclosure, including, but not limited to, reinstatement of the mortgage, disposition of the property through means other than the foreclosure process, including short sales and deeds in lieu of foreclosure, assignment of law days, assignment of sale date, restructuring of the mortgage debt and foreclosure by decree of sale, and (2) be conducted by foreclosure mediators who (A) have a duty to be unbiased and are employed by the Judicial Branch, (B) are trained in mediation and all relevant aspects of the law, as determined by the Chief Court Administrator, (C) have knowledge of the community-based resources that are available in the judicial district in which they

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serve, and (D) have knowledge of the mortgage assistance programs. Such mediators may refer mortgagors who participate in the foreclosure mediation program to community-based resources when appropriate and to the mortgage assistance programs. Such mediators shall not give legal advice to any party in mediation.

Sec. 4. Section 49-31n of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 15, 2013*):

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

(b) (1) For any action for the foreclosure of a mortgage on residential real property with a return date during the period from July 1, 2008, to June 30, 2009, inclusive, the mediation period under the foreclosure mediation program established in section 49-31m, as amended by this act, shall commence when the court sends notice to each appearing party that a foreclosure mediation request form has been submitted by a mortgagor to the court, which notice shall be sent not later than three business days after the court receives a completed foreclosure mediation request form. The mediation period shall conclude not [more than sixty days after the return date for the foreclosure action] later than the conclusion of the third mediation session between the mortgagor and mortgagee or seven months after the return date, whichever is earlier, except that the court may, in its discretion, for good cause shown, upon the motion of any party or the mediator, (A)

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extend [, by not more than thirty days, or shorten the mediation period on its own motion or upon motion of any party, or (B) extend by not more than thirty days the mediation period upon written request of the mediator] the mediation period subject to the provisions of subdivision (9) of this subsection or shorten the mediation period.

(2) The first mediation session shall be held not later than fifteen business days after the court sends notice to all parties that a foreclosure mediation request form has been submitted to the court. The mortgagor and mortgagee shall appear in person at each mediation session and shall have [authority to agree to a proposed settlement] the ability to mediate, except that (A) if [the mortgagee] a party is represented by counsel, the [mortgagee's] party's counsel may appear in lieu of the [mortgagee] party to represent the [mortgagee's] party's interests at the mediation, provided [such counsel has the authority to agree to a proposed settlement] the party has the ability to mediate, the mortgagor attends the first mediation session in person, and the [mortgagee] party is available (i) during the mediation session by telephone, and (ii) to participate in the mediation session by speakerphone, provided an opportunity is afforded for confidential discussions between the [mortgagee and mortgagee's] party and party's counsel, [and] (B) following the initial mediation session, if there are two or more mortgagors who are self-represented, only one mortgagor shall be required to appear in person at each subsequent mediation session unless good cause is shown, provided the other mortgagors are available (i) during the mediation session, and (ii) to participate in the mediation session by speakerphone, [provided an opportunity is afforded for confidential discussions among the mortgagors and such mortgagors' counsel. The court shall not award attorney's fees to any mortgagee for time spent in any mediation session if the court finds that such mortgagee has failed to comply with this subdivision, unless the court finds reasonable cause for such failure.] and (C) if a party suffers from a disability or other significant

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hardship that imposes an undue burden on such party to appear in person, the mediator may grant permission to such party to participate in the mediation session by telephone. A mortgagor's spouse, who is not a mortgagor but who lives in the subject property, may appear at each mediation session, provided all appearing mortgagors consent, in writing, to such spouse's appearance or such spouse shows good cause for his or her appearance and the mortgagors consent in writing to the disclosure of nonpublic personal information to such spouse. If the mortgagor has submitted a complete package of financial documentation in connection with a request for a particular foreclosure alternative, the mortgagee shall have thirty-five days from the receipt of the completed package to respond with a decision and, if the decision is a denial of the request, provide the reasons for such denial. If the mortgagor has, in connection with a request for a foreclosure alternative, submitted a financial package that is not complete, or if the mortgagee's evaluation of a complete package reveals that additional information is necessary to underwrite the request, the mortgagee shall request the missing or additional information within a reasonable period of time of such evaluation. If the mortgagee's evaluation of a complete package reveals that additional information is necessary to underwrite the request, the thirty-five-day deadline for a response shall be extended but only for so long as is reasonable given the timing of the mortgagor's submission of such additional information and the nature and context of the required underwriting. Not later than the third business day after each mediation session held on or after the effective date of this act, the mediator shall file with the court a report indicating, to the extent applicable, (i) the extent to which each of the parties complied with the requirements set forth in this subdivision, including the requirement to engage in conduct that is consistent with the objectives of the mediation program and to possess the ability to mediate, (ii) whether the mortgagor submitted a complete package of financial documentation to the mortgagee, (iii) a general description of the

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foreclosure alternative being requested by the mortgagor, (iv) whether the mortgagor has previously been evaluated for similar requests, whether prior to mediation or in mediation, and, if so, whether there has been any apparent change in circumstances since a decision was made with respect to that prior evaluation, (v) whether the mortgagee has responded to the mortgagor's request for a foreclosure alternative and, if so, a description of the response and whether the mediator is aware of any material reason not to agree with the response, (vi) whether the mortgagor has responded to an offer made by the mortgagee on a reasonably timely basis, and if so, an explanation of the response, (vii) whether the mortgagee has requested additional information from the mortgagor and, if so, the stated reasons for the request and the date by which such additional information shall be submitted so that information previously submitted by the mortgagor, to the extent possible, may still be used by the mortgagee in conducting its review, (viii) whether the mortgagor has supplied, on a reasonably timely basis, any additional information that was reasonably requested by the mortgagee, and, if not, the stated reason for not doing so, (ix) if information provided by the mortgagor is no longer current for purposes of evaluating a foreclosure alternative, a description of the out-of-date information and an explanation as to how and why such information is no longer current, (x) whether the mortgagee has provided a reasonable explanation of the basis for a decision to deny a request for a loss mitigation option or foreclosure alternative and whether the mediator is aware of any material reason not to agree with that decision, (xi) whether the mortgagee has complied with the timeframes set forth in this subdivision for responding to requests for decisions, (xii) if a subsequent mediation session is expected to occur, a general description of the expectations for such subsequent session and for the parties prior to such subsequent session and, if not otherwise addressed in the report, whether the parties satisfied the expectations set forth in previous reports, and (xiii) a determination of whether the parties will benefit

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from further mediation. The mediator shall deliver a copy of such report to each party to the mediation when the mediator files the report. The parties shall have the opportunity to submit their own supplemental information following the filing of the report, provided such supplemental information shall be submitted not later than five business days following the receipt of the mediator's report. Any request by the mortgagee to the mortgagor for additional or updated financial documentation shall be made in writing. The court may impose sanctions on any party or on counsel to a party if such party or such counsel engages in intentional or a pattern or practice of conduct during the mediation process that is contrary to the objectives of the mediation program. Any sanction that is imposed shall be proportional to the conduct and consistent with the objectives of the mediation program. Available sanctions shall include, but not be limited to, terminating mediation, ordering the mortgagor or mortgagee to mediate in person, forbidding the mortgagee from charging the mortgagor for the mortgagee's attorney's fees, awarding attorney's fees, and imposing fines. In the case of egregious misconduct, the sanctions shall be heightened. The court shall not award attorney's fees to any mortgagee for time spent in any mediation session if the court finds that such mortgagee has failed to comply with this subdivision, unless the court finds reasonable cause for such failure.

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

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

(5) The Chief Court Administrator shall establish policies and procedures to implement this subsection. Such policies and procedures shall, at a minimum, provide that the mediator shall advise the mortgagor at the first [mediation session] meeting required by [subdivision (2) of this subsection] subdivision (4) of subsection (c) of section 49-311, as amended by this act, that [:(A) Such mediation does not suspend the mortgagor's obligation to respond to the foreclosure action; and (B)] a judgment of strict foreclosure or foreclosure by sale may cause the mortgagor to lose the residential real property to foreclosure.

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

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

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

(9) (A) The mediation period shall conclude following the third mediation session or if more than seven months have elapsed since the return date. Not later than fifteen days following the conclusion of the mediation period, and any extended mediation sessions held in accordance with this subdivision, any party may move for, or the mediator may request, an extension of the mediation period. The court shall grant only one additional mediation session per motion or request upon a finding that it is highly probable the parties will reach an agreement through mediation. The court may also grant one additional mediation session per motion or request upon a finding that any party has engaged, either intentionally or by a pattern or practice, in conduct that is contrary to the objectives of the mediation program. The court shall make its ruling not later than twenty days after the filing of such motion or request, and no judgment of strict foreclosure or any judgment ordering a foreclosure sale shall be entered until (i) the court denies the motion or request, or (ii) the conclusion of the extended mediation session, except as provided in subparagraph (B) of this subdivision. Upon the grant of an additional mediation session following the proper finding, the court shall establish an expeditious deadline for such extended mediation session to occur. Such extended mediation period shall conclude following such extended mediation session.

(B) The mediation period may be extended for one additional mediation session without a hearing held pursuant to this subdivision

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provided all parties to the mediation agree that such parties would benefit from such a session and, in consultation with the mediator, establish an expeditious deadline for such session to take place.

(C) To determine whether to extend mediation, the court may consider all matters that have arisen in the mediation, including, but not limited to, the number of motions to extend mediation, the reasons for which an agreement has not been reached, the objectives of the mediation program, the extent to which the parties will benefit from further mediation, the reports submitted by the mediator, papers submitted in connection with any motion, and any supplemental reports submitted by a party. The court shall articulate its reasons in the order granting or denying any such motion or request to extend mediation.

(10) For any case pending as of October 1, 2013, in which mediation is ongoing, (A) if three or fewer sessions have been held, such case shall be treated as if no sessions have been held as of said date for purposes of subdivision (9) of this subsection, and (B) if four or more sessions have been held, then any party or the mediator may move to terminate the mediation period or extend such period in accordance with subdivision (9) of this subsection and, if no such motion to extend is made, the mediation period shall conclude after the third mediation session occurring after October 1, 2013.

(c) (1) For any action for the foreclosure of a mortgage on residential real property with a return date during the period from July 1, 2009, to June 30, 2014, inclusive, or for any action for the foreclosure of a mortgage on real property owned by a religious organization with a return date during the period from October 1, 2011, to June 30, 2014, inclusive, the mediation period under the foreclosure mediation program established in section 49-31m, as amended by this act, shall commence when the court sends notice to each appearing party scheduling the first foreclosure mediation session. The mediation

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period shall conclude [not later than the date sixty days after the return date for the foreclosure action] not later than the conclusion of the third mediation session between the mortgagor and mortgagee or seven months after the return date, whichever is earlier, except that the court may, in its discretion, for good cause shown, [(A) extend, by not more than thirty days, or shorten the mediation period on its own motion or upon motion of any party, or (B) extend by not more than thirty days the mediation period upon written request of the mediator] upon the motion of any party or request by the mediator, extend the mediation period subject to the provisions of subdivision (9) of this subsection or shorten the mediation period.

(2) [The first mediation session shall be held not later than fifteen business days after the court sends notice to each appearing party in accordance with subdivision (4) of subsection (c) of section 49-311. On and after October 1, 2011, the first mediation session shall be held not later than thirty-five days after the court sends notice to each appearing party in accordance with subdivision (4) of subsection (c) of this section. On and after October 1, 2011, not later than fifteen business days prior to the date of the initial mediation session, the mortgagee shall deliver to the mortgagor (A) an account history identifying all credits and debits assessed to the loan account in the immediately preceding twelve-month period, and (B) the name, business mailing address, electronic mail address, facsimile number and direct telephone number of an individual able to process requests to refinance or modify the mortgage loan at issue or otherwise take action to avoid foreclosure of the mortgage. Any updates to the information provided pursuant to subparagraph (B) of this subdivision shall be provided reasonably promptly to the mortgagor and such mortgagor's counsel.] The mortgagor and mortgagee shall appear in person at each mediation session and shall have [authority to agree to a proposed settlement] the ability to mediate, except that [(i)] (A) if [the mortgagee] a party is represented by counsel, the [mortgagee's]

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party's counsel may appear in lieu of the [mortgagee] party to represent the [mortgagee's] party's interests at the mediation, provided [such counsel has the authority to agree to a proposed settlement] the party has the ability to mediate, the mortgagor attends the first mediation session in person and the [mortgagee] party is available [(I) (i) during the mediation session by telephone, and [(II) (ii) to participate in the mediation session by speakerphone, provided an opportunity is afforded for confidential discussions between the [mortgagee] party and [mortgagee's] party's counsel, [and (ii) (B) following the initial mediation session, if there are two or more mortgagors who are self-represented, only one mortgagor shall be required to appear in person at each subsequent mediation session unless good cause is shown, provided the other mortgagors are available [(I) (i) during the mediation session, and [(II) (ii) to participate in the mediation session by speakerphone, [provided an opportunity is afforded for confidential discussions among the mortgagors and such mortgagors' counsel. The court shall not award attorney's fees to any mortgagee for time spent in any mediation session if the court finds that such mortgagee has failed to comply with this subdivision, unless the court finds reasonable cause for such failure.] and (C) if a party suffers from a disability or other significant hardship that imposes an undue burden on such party to appear in person, the mediator may grant permission to such party to participate in the mediation session by telephone. A mortgagor's spouse, who is not a mortgagor but who lives in the subject property, may appear at each mediation session, provided all appearing mortgagors consent, in writing, to such spouse's appearance or such spouse shows good cause for his or her appearance and the mortgagors consent, in writing, to the disclosure of nonpublic personal information to such spouse. If the mortgagor has submitted a complete package of financial documentation in connection with a request for a particular foreclosure alternative, the mortgagee shall have thirty-five days from the receipt of the completed package to respond with a decision and, if

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the decision is a denial of the request, provide the reasons for such denial. If the mortgagor has, in connection with a request for a foreclosure alternative, submitted a financial package that is not complete, or if the mortgagee's evaluation of a complete package reveals that additional information is necessary to underwrite the request, the mortgagee shall request the missing or additional information within a reasonable period of time of such evaluation. If the mortgagee's evaluation of a complete package reveals that additional information is necessary to underwrite the request, the thirty-five-day deadline for a response shall be extended but only for so long as is reasonable given the timing of the mortgagor's submission of such additional information and the nature and context of the required underwriting. Not later than the third business day after each mediation session, the mediator shall file with the court a report indicating, to the extent applicable, (i) the extent to which each of the parties complied with the requirements set forth in this subdivision, including the requirement to engage in conduct that is consistent with the objectives of the mediation program and to possess the ability to mediate, (ii) whether the mortgagor submitted a complete package of financial documentation to the mortgagee, (iii) a general description of the foreclosure alternative being requested by the mortgagor, (iv) whether the mortgagor has previously been evaluated for similar requests, whether prior to mediation or in mediation, and, if so, whether there has been any apparent change in circumstances since a decision was made with respect to that prior evaluation, (v) whether the mortgagee has responded to the mortgagor's request for a foreclosure alternative and, if so, a description of the response and whether the mediator is aware of any material reason not to agree with the response, (vi) whether the mortgagor has responded to an offer made by the mortgagee on a reasonably timely basis, and if so, an explanation of the response, (vii) whether the mortgagee has requested additional information from the mortgagor and, if so, the stated reasons for the request and the date by which such additional

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information shall be submitted so that information previously submitted by the mortgagor, to the extent possible, may still be used by the mortgagee in conducting its review, (viii) whether the mortgagor has supplied, on a reasonably timely basis, any additional information that was reasonably requested by the mortgagee, and, if not, the stated reason for not doing so, (ix) if information provided by the mortgagor is no longer current for purposes of evaluating a foreclosure alternative, a description of the out-of-date information and an explanation as to how and why such information is no longer current, (x) whether the mortgagee has provided a reasonable explanation of the basis for a decision to deny a request for a loss mitigation option or foreclosure alternative and whether the mediator is aware of any material reason not to agree with that decision, (xi) whether the mortgagee has complied with the timeframes set forth in this subdivision for responding to requests for decisions, (xii) if a subsequent mediation session is expected to occur, a general description of the expectations for such subsequent session and for the parties prior to such subsequent session and, if not otherwise addressed in the report, whether the parties satisfied the expectations set forth in previous reports, and (xiii) a determination of whether the parties will benefit from further mediation. The mediator shall deliver a copy of such report to each party to the mediation when the mediator files the report. The parties shall have the opportunity to submit their own supplemental information following the filing of the report, provided such supplemental information shall be submitted not later than five business days following the receipt of the mediator's report. Any request by the mortgagee to the mortgagor for additional or updated financial documentation shall be made in writing. The court may impose sanctions on any party or on counsel to a party if such party or such counsel engages in intentional or a pattern or practice of conduct during the mediation process that is contrary to the objectives of the mediation program. Any sanction that is imposed shall be proportional to the conduct and consistent with the objectives of the

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mediation program. Available sanctions shall include, but not be limited to, terminating mediation, ordering the mortgagor or mortgagee to mediate in person, forbidding the mortgagee from charging the mortgagor for the mortgagee's attorney's fees, awarding attorney's fees, and imposing fines. In the case of egregious misconduct, the sanctions shall be heightened. The court shall not award attorney's fees to any mortgagee for time spent in any mediation session if the court finds that such mortgagee has failed to comply with this subdivision, unless the court finds reasonable cause for such failure.

(3) [Not later than two days after the conclusion of the first mediation session, the mediator shall determine whether the parties will benefit from further mediation. The mediator shall file with the court a report setting forth such determination and mail a copy of such report to each appearing party.] If the mediator reports to the court that the parties will not benefit from further mediation, the mediation period shall terminate automatically. If the mediator reports to the court after the first or second mediation session that the parties may benefit from further mediation, the mediation period shall continue. [Either party's failure to comply with the documentation requirements of this section or section 49-311 shall not be grounds for terminating the mediation period before a second mediation session is conducted.]

(4) [If the mediator has submitted a report to the court that the parties may benefit from further mediation pursuant to subdivision (3) of this subsection, not more than two days after the conclusion of the mediation, but not later than the termination of the mediation period set forth in subdivision (1) of this subsection, the mediator shall file a report with the court describing the proceedings and specifying the issues resolved, if any, and any issues not resolved pursuant to the mediation. The filing of the report shall terminate the mediation period automatically.] If the mediation period concludes and certain issues

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have not been resolved pursuant to the mediation, the mediator may refer the mortgagor to any appropriate community-based services that are available in the judicial district, but any such referral shall not cause a delay in the mediation process.

(5) The Chief Court Administrator shall establish policies and procedures to implement this subsection. Such policies and procedures shall, at a minimum, provide that the mediator shall advise the mortgagor at the first [mediation session] meeting required by [subdivision (2) of this subsection] subdivision (4) of subsection (c) of section 49-311, as amended by this act, that: (A) Such mediation does not suspend the mortgagor's obligation to respond to the foreclosure action beyond the limited time frame described in subdivision (6) of subsection (c) of section 49-311, as amended by this act; and (B) a judgment of strict foreclosure or foreclosure by sale may cause the mortgagor to lose the residential real property or real property owned by a religious organization to foreclosure.

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

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

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

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(9) (A) The mediation period shall conclude following the third mediation session or if more than seven months have elapsed since the return date. Not later than fifteen days following the conclusion of the mediation period, and any subsequent extended mediation sessions held in accordance with this subdivision, any party may move for, or the mediator may request, an extension of the mediation period. The court shall grant only one additional mediation session per motion or request upon a finding that it is highly probable the parties will reach an agreement through mediation. The court may also grant one additional mediation session per motion or request upon a finding that any party has engaged, either intentionally or by a pattern or practice, in conduct that is contrary to the objectives of the mediation program. The court shall make its ruling not later than twenty days after the filing of such motion or request, and no judgment of strict foreclosure or any judgment ordering a foreclosure sale shall be entered until (i) the court denies the motion or request, or (ii) the conclusion of the subsequent extended mediation session, except as provided in subparagraph (B) of this subdivision. Upon the grant of an additional mediation session following the proper finding, the court shall establish a reasonably expeditious deadline for such subsequent extended mediation session to occur. Such extended mediation period shall conclude following such subsequent extended mediation session.

(B) The mediation period may be extended for one additional mediation session without a hearing held pursuant to this subdivision provided all parties to the mediation agree that such parties would benefit from such a session and, in consultation with the mediator, establish a reasonably expeditious deadline for such session to take place.

(C) To determine whether to extend mediation, the court may consider all matters that have arisen in the mediation, including, but not limited to, the number of motions to extend mediation, the reasons

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for which an agreement has not been reached, the objectives of the mediation program, the extent to which the parties will benefit from further mediation, the reports submitted by the mediator, papers submitted in connection with any motion, and any supplemental reports submitted by a party. The court shall articulate its reasons in the order granting or denying any such motion or request to extend mediation.

(10) For any case pending as of October 1, 2013, in which mediation is ongoing, (A) if three or fewer sessions have been held, such case shall be treated as if no sessions have been held as of said date for purposes of subdivision (9) of this subsection, and (B) if four or more sessions have been held, then any party or the mediator may move to terminate the mediation period or extend such period in accordance with subdivision (9) of this subsection and, if no such motion to extend is made, the mediation period shall conclude after the third mediation session occurring after October 1, 2013.

(d) (1) Not later than February 14, 2014, the Chief Court Administrator shall submit, in accordance with the provisions of section 11-4a, to the joint standing committee of the General Assembly having cognizance of matters relating to banks, a summary regarding the mediation program and a general summary of the data collected in the reports submitted pursuant to subdivision (2) of subsections (b) and (c) of this section from July 1, 2013, to December 31, 2013, inclusive. Such summaries shall include, but not be limited to, the aggregate data regarding the number of cases in mediation, the number of mediation sessions held, the number of agreements reached before the conclusion of the mediation period, the number of motions or requests for an extension or continuance and the identity of the party that made such a motion or request, whether the loan at issue was serviced by a third party, the judicial district in which the mediation took place and whether the mortgagor was self-represented.

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(2) Not later than February 14, 2015, the Chief Court Administrator shall submit, in accordance with the provisions of section 11-4a, to the joint standing committee of the General Assembly having cognizance of matters relating to banks, a summary of the reports submitted from July 1, 2013, to December 31, 2014, inclusive, pursuant to subdivision (2) of subsections (b) and (c) of this section. The detailed data points for such summary, including data to be collected but not reported, shall be developed by the Chief Court Administrator in consultation with representatives from the Governor's office, the banking industry and consumer advocates.

Sec. 5. (NEW) (*Effective July 15, 2013*) (a) In a foreclosure action, the mortgagee may, notwithstanding any other law or rule to the contrary, file a motion for judgment of foreclosure simultaneously with a motion for default for failure to appear, if such mortgagee proves, by clear and convincing evidence and the use of a proper affidavit, that the real property that is the subject of the foreclosure action is not occupied by a mortgagor, tenant or other occupant and not less than three of the following conditions exist:

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

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

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

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

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

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

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

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

Approved June 18, 2013