



General Assembly

January Session, 2015

Raised Bill No. 7031

LCO No. 5269



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

AN ACT CONCERNING THE ESTABLISHMENT OF A PILOT PROGRAM FOR THE MEDIATION OF CONDOMINIUM-RELATED DISPUTES.

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

1 Section 1. (NEW) (*Effective October 1, 2015*) (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 probate judges to determine the
18 administrative regions that shall participate in the pilot program. The
19 pilot program shall mediate disputes between unit owners and an
20 association relating to the application or interpretation of an
21 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 such notification, the Probate Court Administrator shall assign the
39 matter to a special assignment probate judge, appointed pursuant to
40 section 45a-79b of the general statutes, as amended by this act, who
41 possesses demonstrated expertise in mediation of disputes.

42 (e) The court shall set a time and place for a mediation session and
43 shall give notice by regular mail of the session to each unit owner and
44 the association identified in the request for mediation and to such
45 other persons as the court determines. The special assignment probate

46 judge shall attempt to mediate a voluntary resolution of the dispute
47 between the unit owner and a representative of the association. A unit
48 owner or representative of the association may withdraw from
49 mediation at any time during the process after providing notice to all
50 persons participating in the mediation and the special assignment
51 probate judge. In addition, the special assignment probate judge may
52 terminate the mediation upon finding that further efforts to mediate
53 the dispute would be futile. If a resolution of the dispute is achieved,
54 the special assignment probate judge shall assist in the preparation of a
55 written agreement, setting forth the specific terms of the agreement.
56 The written agreement shall be signed by the unit owner, a
57 representative of the association and the special assignment probate
58 judge. Compliance with the terms of the written agreement by the unit
59 owner and the association shall be deemed an obligation imposed by
60 the provisions of chapter 825 or 828 of the general statutes, as the case
61 may be, and the unit owner or the association may bring an action in
62 the Superior Court to enforce the terms of the agreement.

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

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

77 (h) The mediation pilot program established pursuant to this section
78 shall terminate on September 30, 2018.

79 Sec. 2. Section 45a-79b of the general statutes is repealed and the
80 following is substituted in lieu thereof (*Effective October 1, 2015*):

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

93 (b) Subject to the approval of the Chief Court Administrator, the
94 Probate Court Administrator shall fix the compensation of special
95 assignment probate judges appointed pursuant to this section. Such
96 compensation shall, on the order of the Probate Court Administrator,
97 be paid from the Probate Court Administration Fund established
98 under section 45a-82. [Such] Notwithstanding the provisions of section
99 45a-95a, such compensation, including compensation that a special
100 assignment probate judge receives as a judge of probate of the district
101 to which the judge was elected, shall not exceed the [compensation
102 provided for a judge of probate under subdivision (4) of subsection (a)
103 of section 45a-95a] maximum total compensation received by a
104 workers' compensation commissioner under section 31-277. A special
105 assignment probate judge shall have such benefits as may inure to him
106 or her as a judge of probate and shall receive no additional benefits,
107 except compensation provided under this subsection and retirement
108 benefits calculated in accordance with sections 45a-34 to 45a-54,
109 inclusive.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2015</i>	New section
Sec. 2	<i>October 1, 2015</i>	45a-79b

JUD *Joint Favorable*