



General Assembly

Amendment

January Session, 2015

LCO No. 7397



Offered by:

REP. LESSER, 100th Dist.
SEN. WINFIELD, 10th Dist.
SEN. MARTIN, 31st Dist.
REP. SIMANSKI, 62nd Dist.

To: Subst. House Bill No. 6752

File No. 117

Cal. No. 93

"AN ACT EXTENDING THE FORECLOSURE MEDIATION PROGRAM."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 49-31k of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective July 1, 2015*):

5 As used in this section and sections 49-31l to 49-31o, inclusive, and
6 section 49-31s:

7 (1) "Mortgagor" means: (A) The owner-occupant of one-to-four
8 family residential real property located in this state, which is the
9 primary residence of such owner-occupant, who is also the borrower
10 under a mortgage encumbering such residential real property, or if not
11 the borrower under such a mortgage, is a permitted successor-in-

12 interest, except an heir or occupying nonowner of a property
13 encumbered by a reverse annuity mortgage, [which is the primary
14 residence of such owner-occupant,] or (B) a religious organization that
15 is (i) the owner of real property located in this state, and (ii) the
16 borrower under a mortgage encumbering such real property;

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

19 (3) "Mortgagee" means the owner or servicer of the debt secured by
20 a mortgage on residential real property or real property owned by a
21 religious organization securing a loan made primarily for personal,
22 family, religious or household purposes that is the subject of a
23 foreclosure action;

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;

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

41 (8) "Ability to mediate" means an exhibition on the part of the

42 relevant person of a willingness, including a reasonable ability, to
43 participate in the mediation process in a manner consistent with the
44 objectives of the mediation program and in conformity with any
45 obligations imposed in accordance with subdivision (2) of subsection
46 (b) or (c), as applicable, of section 49-31n, including, but not limited to,
47 a willingness and reasonable ability to respond to questions and
48 specify or estimate when particular decisions will be made or
49 particular information will be furnished and, with respect to the
50 mortgagee, a reasonable familiarity with the loan file, any loss
51 mitigation options that are available to the mortgagor and the material
52 issues raised in prior mediation sessions. Reasonable familiarity with
53 such material issues may be achieved by becoming reasonably familiar
54 with the mediator reports submitted in accordance with subdivision
55 (4) of subsections (b) and (c) of section 49-31n, to the extent such
56 reports are available.

57 (9) "Permitted successor-in-interest" means a person who is a
58 defendant in a foreclosure action with a return date on or after October
59 1, 2015, and either (A) the former spouse of a decedent-mortgagor,
60 who acquired sole title to the residential real property by virtue of a
61 transfer from the decedent-mortgagor's estate or by virtue of the death
62 of the decedent-mortgagor where title was held as joint tenants or
63 tenants in the entirety, or (B) the spouse or former spouse of a
64 mortgagor or former mortgagor who (i) acquired title to the residential
65 real property by virtue of a transfer from such mortgagor or former
66 mortgagor where such transfer resulted from a court decree dissolving
67 the marriage, a legal separation agreement or a property settlement
68 agreement incidental to such a decree or separation agreement, and (ii)
69 ensures that all necessary consents to the disclosure of nonpublic
70 personal financial information have been provided to the mortgagee in
71 accordance with subdivision (3) of subsection (c) of section 49-31l, as
72 amended by this act.

73 Sec. 2. Section 49-31l of the general statutes is repealed and the
74 following is substituted in lieu thereof (*Effective July 1, 2015*):

75 (a) Prior to July 1, [2016] 2019: (1) Any action for the foreclosure of a
76 mortgage on residential real property with a return date during the
77 period from July 1, 2008, to June 30, 2009, inclusive, shall be subject to
78 the provisions of subsection (b) of this section, and (2) any action for
79 the foreclosure of a mortgage on (A) residential real property with a
80 return date during the period from July 1, 2009, to June 30, [2016] 2019,
81 inclusive, or (B) real property owned by a religious organization with a
82 return date during the period from October 1, 2011, to June 30, [2016]
83 2019, inclusive, shall be subject to the provisions of subsection (c) of
84 this section.

85 (b) (1) Prior to July 1, [2016] 2019, when a mortgagee commences an
86 action for the foreclosure of a mortgage on residential real property
87 with a return date during the period from July 1, 2008, to June 30, 2009,
88 inclusive, the mortgagee shall give notice to the mortgagor of the
89 foreclosure mediation program established in section 49-31m by
90 attaching to the front of the foreclosure complaint that is served on the
91 mortgagor: (A) A copy of the notice of the availability of foreclosure
92 mediation, in such form as the Chief Court Administrator prescribes,
93 and (B) a foreclosure mediation request form, in such form as the Chief
94 Court Administrator prescribes.

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

102 (3) The court may grant a mortgagor permission to submit a
103 foreclosure mediation request form and file an appearance after the
104 fifteen-day period established in subdivision (2) of this subsection, for
105 good cause shown.

106 (4) No foreclosure mediation request form may be submitted to the

107 court under this subsection on or after July 1, [2016] 2019.

108 (5) If at any time on or after July 1, 2008, but prior to July 1, [2016]
109 2019, the court determines that the notice requirement of subdivision
110 (1) of this subsection has not been met, the court may, upon its own
111 motion or upon the written motion of the mortgagor, issue an order
112 that no judgment may enter for fifteen days during which period the
113 mortgagor may submit a foreclosure mediation request form to the
114 court.

115 (6) Notwithstanding any provision of the general statutes or any
116 rule of law to the contrary, prior to July 1, [2016] 2019, no judgment of
117 strict foreclosure nor any judgment ordering a foreclosure sale shall be
118 entered in any action subject to the provisions of this subsection and
119 instituted by the mortgagee to foreclose a mortgage on residential real
120 property unless: (A) Notice to the mortgagor has been given by the
121 mortgagee in accordance with subdivision (1) of this subsection and
122 the time for submitting a foreclosure mediation request form has
123 expired and no foreclosure mediation request form has been
124 submitted, or if such notice has not been given, the time for submitting
125 a foreclosure mediation request form pursuant to subdivision (2) or (3)
126 of this subsection has expired and no foreclosure mediation request
127 form has been submitted, or (B) the mediation period set forth in
128 subsection (b) of section 49-31n, as amended by this act, has expired or
129 has otherwise terminated, whichever is earlier.

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

133 (c) (1) Prior to July 1, [2016] 2019, when a mortgagee commences an
134 action for the foreclosure of a mortgage on residential real property
135 with a return date on or after July 1, 2009, or, with respect to real
136 property owned by a religious organization, a return date on or after
137 October 1, 2011, the mortgagee shall give notice to the mortgagor of
138 the foreclosure mediation program established in section 49-31m by

139 attaching to the front of the writ, summons and complaint that is
140 served on the mortgagor: (A) A copy of the notice of foreclosure
141 mediation, in such form as the Chief Court Administrator prescribes,
142 (B) a copy of the foreclosure mediation certificate form described in
143 subdivision (3) of this subsection, in such form as the Chief Court
144 Administrator prescribes, (C) a blank appearance form, in such form as
145 the Chief Court Administrator prescribes, (D) with respect to an action
146 for the foreclosure of a mortgage on residential real property with a
147 return date on or after October 1, 2011, to September 30, 2013,
148 inclusive, a mediation information form and a notice containing
149 contact information for authority-approved consumer credit
150 counseling agencies, which form and notice shall be in such form as
151 the Chief Court Administrator prescribes, and which form shall be
152 designed to elicit current financial information and such other
153 nonfinancial information from the mortgagor as the Chief Court
154 Administrator, in consultation with representatives from the banking
155 industry and consumer advocates, determines will further the
156 objectives of the mediation program. The Chief Court Administrator
157 shall develop a premediation review protocol pursuant to which the
158 mediator shall request that any documents submitted to the mediator
159 for initial review that are incomplete, contain errors or are likely to be
160 found unacceptable by the mortgagee be completed or corrected and
161 that the completed or corrected documents be resubmitted to the
162 mediator for review. Such premediation review, including any
163 recommendations to complete or correct documents, shall not be
164 construed to be the practice of law on behalf of any party to the
165 mediation or the provision of legal advice by the mediator. The
166 instructions to the mediation information form shall explain that the
167 completed mediation information form, along with accompanying
168 documentation reasonably requested from the mortgagor by way of
169 such instructions, shall be delivered to the mortgagee's counsel not
170 later than fifteen business days prior to the date of the initial mediation
171 session, as identified in the notice provided pursuant to subdivision (2)
172 of subsection (c) of section 49-31n, as amended by this act, and (E) for
173 an action to foreclose a mortgage on residential real property with a

174 return date on or after October 1, 2013, the mediation information form
175 shall instruct the mortgagor as to the objectives of the mediation
176 program, explain the preliminary process of meeting with the
177 mediator as described in subdivision (4) of this subsection, instruct the
178 mortgagor to begin gathering financial documentation commonly used
179 in foreclosure mediation for use in meeting with the mediator and in
180 mediation, and include a notice containing contact information for
181 authority-approved consumer counseling agencies, which shall be in
182 such form as the Chief Court Administrator prescribes. The content of
183 the mediation information form shall be designed by the Chief Court
184 Administrator in consultation with representatives from the banking
185 industry and consumer advocates.

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

190 (3) The notice of foreclosure mediation shall instruct the mortgagor
191 to file the appearance and foreclosure mediation certificate forms with
192 the court not later than the date fifteen days from the return date for
193 the foreclosure action. With respect to actions with a return date [on or
194 after] during the period from October 1, 2011, to September 30, 2013,
195 inclusive, such notice shall remind the mortgagor to deliver the
196 completed mediation information form and the accompanying
197 documentation described in subdivision (1) of this subsection and
198 encourage such delivery in advance of the required date. With respect
199 to actions with a return date [on or after] during the period from
200 October 1, 2013, to June 30, [2016] 2019, inclusive, such notice shall
201 instruct the mortgagor to begin gathering financial information
202 commonly used in foreclosure mediation for use in meeting with the
203 mediator and in mediation. The mediation information form and
204 accompanying documentation shall not, without the explicit written
205 instruction of the mortgagor, be publicly available. Such notice of
206 foreclosure mediation shall be accompanied by materials from the

207 Department of Banking, as prescribed by the Chief Court
208 Administrator, which shall describe the community-based resources
209 available to the mortgagor, including authority-approved housing
210 counseling agencies that may assist with preparation for mediation
211 and application for mortgage assistance programs. The foreclosure
212 mediation certificate form shall require the mortgagor to provide
213 sufficient information to permit the court to confirm that the defendant
214 in the foreclosure action is a mortgagor, and to certify that said
215 mortgagor has sent a copy of the mediation certificate form to the
216 plaintiff in the action. With respect to actions with a return date on or
217 after October 1, 2015, in order to ensure that all necessary consents to
218 the disclosure of nonpublic personal financial information have been
219 provided to the mortgagee, such that a spouse may be considered a
220 permitted successor-in-interest, the court shall confirm that the
221 foreclosure mediation certificate submitted by (A) the spouse or former
222 spouse provides consent to the full disclosure by the mortgagee of
223 such spouse's or former spouse's nonpublic personal financial
224 information to any other person who is obligated as a borrower on the
225 note, to the extent the mortgagee has such information, and (B) any
226 other person who is a mortgagor provides consent to the full
227 disclosure by the mortgagee of such person's nonpublic personal
228 financial information to such spouse or former spouse, to the extent the
229 mortgagee has such information. If a foreclosure mediation certificate
230 is not submitted by a mortgagor, other than a spouse or former spouse
231 claiming to be a permitted successor-in-interest, the court shall
232 confirm, in lieu of the requirements of subparagraph (B) of this
233 subdivision, that the foreclosure mediation certificate submitted by the
234 spouse or former spouse contains a statement, signed by the spouse or
235 former spouse, certifying that all persons who are obligated on the
236 note have otherwise given documentation to the mortgagee which
237 allows for the full disclosure by the mortgagee of such person's
238 nonpublic personal information to the spouse or former spouse, to the
239 extent the mortgagee has such information. Such a certification may be
240 rebutted conclusively by the mortgagee if the mortgagee submits a
241 written statement to the court in which the mortgagee certifies that,

242 based upon reasonable belief, the mortgagee does not possess such
243 documentation.

244 (4) Upon receipt of the mortgagor's appearance and foreclosure
245 mediation certificate forms, and provided the court confirms the
246 defendant in the foreclosure action is a mortgagor and that said
247 mortgagor has sent a copy of the mediation certificate form to the
248 plaintiff, the court shall assign the case to mediation and issue notice of
249 such assignment to all appearing parties, which notice shall include an
250 electronic mail address for all communications related to the
251 mediation. The court shall issue such notice not earlier than the date
252 five business days after the return date or by the date three business
253 days after the date on which the court receives the mortgagor's
254 appearance and foreclosure mediation certificate forms, whichever is
255 later, except that if the court does not receive the appearance and
256 foreclosure mediation certificate forms from the mortgagor by the date
257 fifteen days after the return date for the foreclosure action, the court
258 shall not assign the case to mediation. Promptly upon receipt of the
259 notice of assignment, but not later than the thirty-fifth day following
260 the return date, the mortgagee or its counsel shall deliver to the
261 mediator, via the electronic mail address provided for communications
262 related to the mediation, and to the mortgagor, via first class, priority
263 or overnight mail, (A) an account history identifying all credits and
264 debits assessed to the loan account and any related escrow account in
265 the immediately preceding twelve-month period and an itemized
266 statement of the amount required to reinstate the mortgage loan with
267 accompanying information, written in plain language, to explain any
268 codes used in the history and statement which are not otherwise self-
269 explanatory, (B) the name, business mailing address, electronic mail
270 address, facsimile number and direct telephone number of an
271 individual able to respond with reasonable adequacy and promptness
272 to questions relative to the information submitted to the mediator
273 pursuant to this subdivision, and any subsequent updates to such
274 contact information, which shall be provided reasonably promptly to
275 the mediator via the electronic mail address provided for

276 communication related to the mediation, (C) current versions of all
277 reasonably necessary forms and a list of all documentation reasonably
278 necessary for the mortgagee to evaluate the mortgagor for common
279 alternatives to foreclosure that are available through the mortgagee, if
280 any, (D) a copy of the note and mortgage, including any agreements
281 modifying such documents, (E) summary information regarding the
282 status of any pending foreclosure avoidance efforts being undertaken
283 by the mortgagee, (F) a copy of any loss mitigation affidavit filed with
284 the court, and (G) at the mortgagee's option, (i) the history of
285 foreclosure avoidance efforts with respect to the mortgagor, (ii)
286 information regarding the condition of mortgaged property, and (iii)
287 such other information as the mortgagee may determine is relevant to
288 meeting the objectives of the mediation program. Following the
289 mediator's receipt of such information, the court shall assign a
290 mediator to the mediation and schedule a meeting with the mediator
291 and the mortgagor and shall endeavor to [schedule] hold such meeting
292 on or prior to the forty-ninth day following the return date. The notice
293 of such meeting shall instruct the mortgagor to complete the forms
294 prior to the meeting and to furnish such forms together with the
295 documentation contained in the list, as provided by the mortgagee
296 following the filing of the foreclosure mediation certificate, at the
297 meeting. At such meeting, the mediator shall review such forms and
298 documentation with the mortgagor, along with the information
299 supplied by the mortgagee, in order to discuss the options that may be
300 available to the mortgagor, including any community-based resources,
301 and assist the mortgagor in completing the forms and furnishing the
302 documentation necessary for the mortgagee to evaluate the mortgagor
303 for alternatives to foreclosure. The mediator may elect to schedule
304 subsequent meetings with the mortgagor and determine whether any
305 mortgagor may be excused from an in-person appearance at such
306 subsequent meeting. As soon as practicable, but in no case later than
307 the eighty-fourth day following the return date, or the extended
308 deadline if such an extended deadline is established pursuant to this
309 subdivision, the mediator shall facilitate and confirm the submission
310 by the mortgagor of the forms and documentation to the mortgagee's

311 counsel via electronic means and, at the mortgagee's election, directly
312 to the mortgagee per the mortgagee's instruction, and determine,
313 based on the mortgagor's attendance at the meetings and the extent the
314 mortgagor completed the forms and furnished the documentation
315 contemplated in this subdivision, or failed to perform such tasks
316 through no material fault of the mortgagee, and file a report with the
317 court indicating, (I) whether mediation shall be scheduled with the
318 mortgagee, (II) whether the mortgagor attended scheduled meetings
319 with the mediator, (III) whether the mortgagor fully or substantially
320 completed the forms and furnished the documentation requested by
321 the mortgagee, (IV) the date on which the mortgagee supplied the
322 forms and documentation, and (V) any other information the mediator
323 determines to be relevant to the objectives of the mediation program.
324 The mediator may file, and the court may grant, a motion for extension
325 of the premediation period beyond the eighty-fourth day following the
326 return date if good cause can be shown for such an extension. Any
327 such motion shall be filed, with a copy simultaneously sent to the
328 mortgagee and as soon as practicable to the mortgagor, not later than
329 the eighty-fourth day following the return date. The mortgagee and
330 mortgagor shall each have five business days from the day the motion
331 was filed to file an objection or supplemental papers, and the court
332 shall issue its ruling, without a hearing, not later than ten business
333 days from the date the motion was filed. If the court determines that
334 good cause exists for an extension, the court shall therewith establish
335 an extended deadline so that the premediation period shall end as
336 soon thereafter as may be practicable, but not later than thirty-five
337 days from the date of the ruling, taking into account the complexity of
338 the mortgagor's financial circumstances, the mortgagee's
339 documentation requirements, and the timeliness of the mortgagee's
340 and mortgagor's compliance with their respective premediation
341 obligations. If the court denies the mediator's motion, the extended
342 deadline for purposes of this subdivision shall be three days after the
343 court rules on the motion. No meeting or communication between the
344 mediator and mortgagor under this subdivision shall be treated as an
345 impermissible ex parte communication. If the mediator determines

346 that the mortgagee shall participate in mediation, the court shall
347 promptly issue notice to all parties of such determination and schedule
348 a mediation session between the mortgagee and mortgagor in
349 accordance with subsection (c) of section 49-31n, as amended by this
350 act, to be held not later than five weeks following the submission to the
351 mortgagee of the forms and documentation contemplated in this
352 subdivision. If the mediator determines that no sessions between the
353 mortgagee and mortgagor shall be scheduled, the court shall promptly
354 issue notice to all parties regarding such determination and mediation
355 shall be terminated. Any mortgagor wishing to contest such
356 determination shall petition the court and show good cause for
357 reinclusion in the mediation program, including, but not limited to, a
358 material change in financial circumstances or a mistake or
359 misunderstanding of the facts by the mediator.

360 (5) Notwithstanding the provisions of this subsection, the court may
361 refer a foreclosure action brought by a mortgagee to the foreclosure
362 mediation program at any time, for good cause shown, provided the
363 mortgagor has filed an appearance in said action and further provided
364 the court shall, not later than the date three business days after the date
365 on which it makes such referral, send a notice to each appearing party
366 assigning the case to mediation and requiring the parties to participate
367 in the premediation process described in subdivision (4) of this
368 subsection, with the court establishing deadlines to ensure that the
369 premediation process is to be completed by the parties as
370 expeditiously as the circumstances warrant and permit. When
371 determining whether good cause exists, the court shall consider
372 whether the parties are likely to benefit from mediation and, in the
373 case of a referral after prior attempts at mediation have been
374 terminated, whether there has been a material change in
375 circumstances.

376 (6) Notwithstanding any provision of the general statutes or any
377 rule of law, prior to July 1, [2016] 2019, (A) for the period of time which
378 shall not exceed eight months from the return date, the mortgagor

379 shall be permitted to file an answer, special defenses or counterclaims,
380 but no mortgagee or mortgagor shall make any motion, request or
381 demand with respect to the other, except those motions, requests or
382 demands that relate to the mediation program described in section 49-
383 31m and the mediation sessions held pursuant to such program,
384 provided (i) a mortgagor seeking to contest the court's jurisdiction may
385 file a motion to dismiss and the mortgagee may object to such motion
386 to dismiss in accordance with applicable law and the rules of the
387 courts, and (ii) if the mortgagor elects to make any other motion,
388 request or demand with respect to the mortgagee, the eight-month
389 limit shall no longer apply to either party; and (B) no judgment of strict
390 foreclosure nor any judgment ordering a foreclosure sale shall be
391 entered in any action subject to the provisions of this subsection and
392 instituted by the mortgagee to foreclose a mortgage on residential real
393 property or real property owned by a religious organization unless: (i)
394 The mediation period set forth in subsection (c) of section 49-31n, as
395 amended by this act, has expired or has otherwise terminated,
396 whichever is earlier, and, if fewer than eight months has elapsed from
397 the return date at the time of termination, fifteen days have elapsed
398 since such termination and any pending motion or request to extend
399 the mediation period has been heard and denied by the court, or (ii)
400 the mediation program is not otherwise required or available. Nothing
401 in this subdivision shall affect any motion made or any default or
402 judgment entered on or before June 30, 2011.

403 (7) With respect to foreclosure actions with a return date [on or
404 after] during the period from July 1, 2011, to June 30, [2016] 2019,
405 inclusive, notwithstanding any provision of the general statutes or any
406 rule of law to the contrary, the mortgagee shall be permitted following
407 the eight-month or fifteen-day period described in subdivision (6) of
408 this subsection, to simultaneously file, as applicable, (A) a motion for
409 default, and (B) a motion for judgment of strict foreclosure or a motion
410 for judgment of foreclosure by sale with respect to the mortgagor in
411 the foreclosure action.

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

415 Sec. 3. Section 49-31n of the general statutes is repealed and the
416 following is substituted in lieu thereof (*Effective July 1, 2015*):

417 (a) Prior to July 1, [2016] 2019: (1) Any action for the foreclosure of a
418 mortgage on residential real property with a return date during the
419 period from July 1, 2008, to June 30, 2009, inclusive, shall be subject to
420 the provisions of subsection (b) of this section, and (2) any action for
421 the foreclosure of a mortgage on (A) residential real property with a
422 return date during the period from July 1, 2009, to June 30, [2016] 2019,
423 inclusive, or (B) real property owned by a religious organization with a
424 return date during the period from October 1, 2011, to June 30, [2016]
425 2019, inclusive, shall be subject to the provisions of subsection (c) of
426 this section.

427 (b) (1) For any action for the foreclosure of a mortgage on residential
428 real property with a return date during the period from July 1, 2008, to
429 June 30, 2009, inclusive, the mediation period under the foreclosure
430 mediation program established in section 49-31m shall commence
431 when the court sends notice to each appearing party that a foreclosure
432 mediation request form has been submitted by a mortgagor to the
433 court, which notice shall be sent not later than three business days after
434 the court receives a completed foreclosure mediation request form. The
435 mediation period shall conclude not later than the conclusion of the
436 third mediation session between the mortgagor and mortgagee or
437 seven months after the return date, whichever is earlier, except that the
438 court may, in its discretion, for good cause shown, upon the motion of
439 any party or the mediator, extend the mediation period subject to the
440 provisions of subdivision (9) of this subsection or shorten the
441 mediation period.

442 (2) The first mediation session shall be held not later than fifteen
443 business days after the court sends notice to all parties that a

444 foreclosure mediation request form has been submitted to the court.
445 The mortgagor and mortgagee shall appear in person at each
446 mediation session and shall have the ability to mediate, except that (A)
447 if a party is represented by counsel, the party's counsel may appear in
448 lieu of the party to represent the party's interests at the mediation,
449 provided the party has the ability to mediate, the mortgagor attends
450 the first mediation session in person, and the party is available (i)
451 during the mediation session by telephone, and (ii) to participate in the
452 mediation session by speakerphone, provided an opportunity is
453 afforded for confidential discussions between the party and party's
454 counsel, (B) following the initial mediation session, if there are two or
455 more mortgagors who are self-represented, only one mortgagor shall
456 be required to appear in person at each subsequent mediation session
457 unless good cause is shown, provided the other mortgagors are
458 available (i) during the mediation session, and (ii) to participate in the
459 mediation session by speakerphone, and (C) if a party suffers from a
460 disability or other significant hardship that imposes an undue burden
461 on such party to appear in person, the mediator may grant permission
462 to such party to participate in the mediation session by telephone. A
463 mortgagor's spouse, who is not a mortgagor but who lives in the
464 subject property, may appear at each mediation session, provided all
465 appearing mortgagors consent, in writing, to such spouse's appearance
466 or such spouse shows good cause for his or her appearance and the
467 mortgagors consent in writing to the disclosure of nonpublic personal
468 information to such spouse. If the mortgagor has submitted a complete
469 package of financial documentation in connection with a request for a
470 particular foreclosure alternative, the mortgagee shall have thirty-five
471 days from the receipt of the completed package to respond with a
472 decision and, if the decision is a denial of the request, provide the
473 reasons for such denial. If the mortgagor has, in connection with a
474 request for a foreclosure alternative, submitted a financial package that
475 is not complete, or if the mortgagee's evaluation of a complete package
476 reveals that additional information is necessary to underwrite the
477 request, the mortgagee shall request the missing or additional
478 information within a reasonable period of time of such evaluation. If

479 the mortgagee's evaluation of a complete package reveals that
480 additional information is necessary to underwrite the request, the
481 thirty-five-day deadline for a response shall be extended but only for
482 so long as is reasonable given the timing of the mortgagor's submission
483 of such additional information and the nature and context of the
484 required underwriting. Not later than the third business day after each
485 mediation session held on or after June 18, 2013, the mediator shall file
486 with the court a report indicating, to the extent applicable, (i) the
487 extent to which each of the parties complied with the requirements set
488 forth in this subdivision, including the requirement to engage in
489 conduct that is consistent with the objectives of the mediation program
490 and to possess the ability to mediate, (ii) whether the mortgagor
491 submitted a complete package of financial documentation to the
492 mortgagee, (iii) a general description of the foreclosure alternative
493 being requested by the mortgagor, (iv) whether the mortgagor has
494 previously been evaluated for similar requests, whether prior to
495 mediation or in mediation, and, if so, whether there has been any
496 apparent change in circumstances since a decision was made with
497 respect to that prior evaluation, (v) whether the mortgagee has
498 responded to the mortgagor's request for a foreclosure alternative and,
499 if so, a description of the response and whether the mediator is aware
500 of any material reason not to agree with the response, (vi) whether the
501 mortgagor has responded to an offer made by the mortgagee on a
502 reasonably timely basis, and if so, an explanation of the response, (vii)
503 whether the mortgagee has requested additional information from the
504 mortgagor and, if so, the stated reasons for the request and the date by
505 which such additional information shall be submitted so that
506 information previously submitted by the mortgagor, to the extent
507 possible, may still be used by the mortgagee in conducting its review,
508 (viii) whether the mortgagor has supplied, on a reasonably timely
509 basis, any additional information that was reasonably requested by the
510 mortgagee, and, if not, the stated reason for not doing so, (ix) if
511 information provided by the mortgagor is no longer current for
512 purposes of evaluating a foreclosure alternative, a description of the
513 out-of-date information and an explanation as to how and why such

514 information is no longer current, (x) whether the mortgagee has
515 provided a reasonable explanation of the basis for a decision to deny a
516 request for a loss mitigation option or foreclosure alternative and
517 whether the mediator is aware of any material reason not to agree with
518 that decision, (xi) whether the mortgagee has complied with the time
519 frames set forth in this subdivision for responding to requests for
520 decisions, (xii) if a subsequent mediation session is expected to occur, a
521 general description of the expectations for such subsequent session
522 and for the parties prior to such subsequent session and, if not
523 otherwise addressed in the report, whether the parties satisfied the
524 expectations set forth in previous reports, and (xiii) a determination of
525 whether the parties will benefit from further mediation. The mediator
526 shall deliver a copy of such report to each party to the mediation when
527 the mediator files the report. The parties shall have the opportunity to
528 submit their own supplemental information following the filing of the
529 report, provided such supplemental information shall be submitted
530 not later than five business days following the receipt of the mediator's
531 report. Any request by the mortgagee to the mortgagor for additional
532 or updated financial documentation shall be made in writing. The
533 court may impose sanctions on any party or on counsel to a party if
534 such party or such counsel engages in intentional or a pattern or
535 practice of conduct during the mediation process that is contrary to the
536 objectives of the mediation program. Any sanction that is imposed
537 shall be proportional to the conduct and consistent with the objectives
538 of the mediation program. Available sanctions shall include, but not be
539 limited to, terminating mediation, ordering the mortgagor or
540 mortgagee to mediate in person, forbidding the mortgagee from
541 charging the mortgagor for the mortgagee's attorney's fees, awarding
542 attorney's fees, and imposing fines. In the case of egregious
543 misconduct, the sanctions shall be heightened. The court shall not
544 award attorney's fees to any mortgagee for time spent in any
545 mediation session if the court finds that such mortgagee has failed to
546 comply with this subdivision, unless the court finds reasonable cause
547 for such failure.

548 (3) If the mediator reports to the court that the parties will not
549 benefit from further mediation, the mediation period shall terminate
550 automatically. If the mediator reports to the court after the first or
551 second mediation session that the parties may benefit from further
552 mediation, the mediation period shall continue.

553 (4) If the mediation period concludes and certain issues have not
554 been resolved pursuant to the mediation, the mediator may refer the
555 mortgagor to any appropriate community-based services that are
556 available.

557 (5) The Chief Court Administrator shall establish policies and
558 procedures to implement this subsection. Such policies and procedures
559 shall, at a minimum, provide that the mediator shall advise the
560 mortgagor at the first meeting required by subdivision (4) of
561 subsection (c) of section 49-31l, as amended by this act, that a judgment
562 of strict foreclosure or foreclosure by sale may cause the mortgagor to
563 lose the residential real property to foreclosure.

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

566 (7) Foreclosure mediation request forms shall not be accepted by the
567 court under this subsection on or after July 1, [2016] 2019, and the
568 foreclosure mediation program shall terminate when all mediation has
569 concluded with respect to any applications submitted to the court prior
570 to July 1, [2016] 2019.

571 (8) At any time during the mediation period, the mediator may refer
572 a mortgagor who is the owner-occupant of one-to-four family
573 residential real property to the mortgage assistance programs, except
574 that any such referral shall not prevent a mortgagee from proceeding
575 to judgment when the conditions specified in subdivision (6) of
576 subsection (b) of section 49-31l, as amended by this act, have been
577 satisfied.

578 (9) (A) The mediation period shall conclude following the third

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

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

605 (C) To determine whether to extend mediation, the court may
606 consider all matters that have arisen in the mediation, including, but
607 not limited to, the number of motions to extend mediation, the reasons
608 for which an agreement has not been reached, the objectives of the
609 mediation program, the extent to which the parties will benefit from
610 further mediation, the reports submitted by the mediator, papers
611 submitted in connection with any motion, and any supplemental

612 reports submitted by a party. The court shall articulate its reasons in
613 the order granting or denying any such motion or request to extend
614 mediation.

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

624 (c) (1) For any action for the foreclosure of a mortgage on residential
625 real property with a return date during the period from July 1, 2009, to
626 June 30, [2016] 2019, inclusive, or for any action for the foreclosure of a
627 mortgage on real property owned by a religious organization with a
628 return date during the period from October 1, 2011, to June 30, [2016]
629 2019, inclusive, the mediation period under the foreclosure mediation
630 program established in section 49-31m shall commence when the court
631 sends notice to each appearing party scheduling the first foreclosure
632 mediation session. The mediation period shall conclude not later than
633 the conclusion of the third mediation session between the mortgagor
634 and mortgagee or seven months after the return date, whichever is
635 earlier, except that the court may, in its discretion, for good cause
636 shown, upon the motion of any party or request by the mediator,
637 extend the mediation period subject to the provisions of subdivision
638 (9) of this subsection or shorten the mediation period.

639 (2) The mortgagor and mortgagee shall appear in person at each
640 mediation session and shall have the ability to mediate, except that (A)
641 if a party is represented by counsel, the party's counsel may appear in
642 lieu of the party to represent the party's interests at the mediation,
643 provided the party has the ability to mediate, the mortgagor attends
644 the first mediation session in person and the party is available (i)

645 during the mediation session by telephone, and (ii) to participate in the
646 mediation session by speakerphone, provided an opportunity is
647 afforded for confidential discussions between the party and party's
648 counsel, (B) following the initial mediation session, if there are two or
649 more mortgagors who are self-represented, only one mortgagor shall
650 be required to appear in person at each subsequent mediation session
651 unless good cause is shown, provided the other mortgagors are
652 available (i) during the mediation session, and (ii) to participate in the
653 mediation session by speakerphone, and (C) if a party suffers from a
654 disability or other significant hardship that imposes an undue burden
655 on such party to appear in person, the mediator may grant permission
656 to such party to participate in the mediation session by telephone. A
657 mortgagor's spouse, who is not a mortgagor but who lives in the
658 subject property, may appear at each mediation session, provided all
659 appearing mortgagors consent, in writing, to such spouse's appearance
660 or such spouse shows good cause for his or her appearance and the
661 mortgagors consent, in writing, to the disclosure of nonpublic personal
662 information to such spouse. If the mortgagor has submitted a complete
663 package of financial documentation in connection with a request for a
664 particular foreclosure alternative, the mortgagee shall have thirty-five
665 days from the receipt of the completed package to respond with a
666 decision and, if the decision is a denial of the request, provide the
667 reasons for such denial. If the mortgagor has, in connection with a
668 request for a foreclosure alternative, submitted a financial package that
669 is not complete, or if the mortgagee's evaluation of a complete package
670 reveals that additional information is necessary to underwrite the
671 request, the mortgagee shall request the missing or additional
672 information within a reasonable period of time of such evaluation. If
673 the mortgagee's evaluation of a complete package reveals that
674 additional information is necessary to underwrite the request, the
675 thirty-five-day deadline for a response shall be extended but only for
676 so long as is reasonable given the timing of the mortgagor's submission
677 of such additional information and the nature and context of the
678 required underwriting. Not later than the third business day after each
679 mediation session, the mediator shall file with the court a report

680 indicating, to the extent applicable, (i) the extent to which each of the
681 parties complied with the requirements set forth in this subdivision,
682 including the requirement to engage in conduct that is consistent with
683 the objectives of the mediation program and to possess the ability to
684 mediate, (ii) whether the mortgagor submitted a complete package of
685 financial documentation to the mortgagee, (iii) a general description of
686 the foreclosure alternative being requested by the mortgagor, (iv)
687 whether the mortgagor has previously been evaluated for similar
688 requests, whether prior to mediation or in mediation, and, if so,
689 whether there has been any apparent change in circumstances since a
690 decision was made with respect to that prior evaluation, (v) whether
691 the mortgagee has responded to the mortgagor's request for a
692 foreclosure alternative and, if so, a description of the response and
693 whether the mediator is aware of any material reason not to agree with
694 the response, (vi) whether the mortgagor has responded to an offer
695 made by the mortgagee on a reasonably timely basis, and if so, an
696 explanation of the response, (vii) whether the mortgagee has requested
697 additional information from the mortgagor and, if so, the stated
698 reasons for the request and the date by which such additional
699 information shall be submitted so that information previously
700 submitted by the mortgagor, to the extent possible, may still be used
701 by the mortgagee in conducting its review, (viii) whether the
702 mortgagor has supplied, on a reasonably timely basis, any additional
703 information that was reasonably requested by the mortgagee, and, if
704 not, the stated reason for not doing so, (ix) if information provided by
705 the mortgagor is no longer current for purposes of evaluating a
706 foreclosure alternative, a description of the out-of-date information
707 and an explanation as to how and why such information is no longer
708 current, (x) whether the mortgagee has provided a reasonable
709 explanation of the basis for a decision to deny a request for a loss
710 mitigation option or foreclosure alternative and whether the mediator
711 is aware of any material reason not to agree with that decision, (xi)
712 whether the mortgagee has complied with the time frames set forth in
713 this subdivision for responding to requests for decisions, (xii) if a
714 subsequent mediation session is expected to occur, a general

715 description of the expectations for such subsequent session and for the
716 parties prior to such subsequent session and, if not otherwise
717 addressed in the report, whether the parties satisfied the expectations
718 set forth in previous reports, and (xiii) a determination of whether the
719 parties will benefit from further mediation. The mediator shall deliver
720 a copy of such report to each party to the mediation when the mediator
721 files the report. The parties shall have the opportunity to submit their
722 own supplemental information following the filing of the report,
723 provided such supplemental information shall be submitted not later
724 than five business days following the receipt of the mediator's report.
725 Any request by the mortgagee to the mortgagor for additional or
726 updated financial documentation shall be made in writing. The court
727 may impose sanctions on any party or on counsel to a party if such
728 party or such counsel engages in intentional or a pattern or practice of
729 conduct during the mediation process that is contrary to the objectives
730 of the mediation program. Any sanction that is imposed shall be
731 proportional to the conduct and consistent with the objectives of the
732 mediation program. Available sanctions shall include, but not be
733 limited to, terminating mediation, ordering the mortgagor or
734 mortgagee to mediate in person, forbidding the mortgagee from
735 charging the mortgagor for the mortgagee's attorney's fees, awarding
736 attorney's fees, and imposing fines. In the case of egregious
737 misconduct, the sanctions shall be heightened. The court shall not
738 award attorney's fees to any mortgagee for time spent in any
739 mediation session if the court finds that such mortgagee has failed to
740 comply with this subdivision, unless the court finds reasonable cause
741 for such failure.

742 (3) If the mediator reports to the court that the parties will not
743 benefit from further mediation, the mediation period shall terminate
744 automatically. If the mediator reports to the court after the first or
745 second mediation session that the parties may benefit from further
746 mediation, the mediation period shall continue.

747 (4) If the mediation period concludes and certain issues have not

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

752 (5) The Chief Court Administrator shall establish policies and
753 procedures to implement this subsection. Such policies and procedures
754 shall, at a minimum, provide that the mediator shall advise the
755 mortgagor at the first meeting required by subdivision (4) of
756 subsection (c) of section 49-31l, as amended by this act, that: (A) Such
757 mediation does not suspend the mortgagor's obligation to respond to
758 the foreclosure action beyond the limited time frame described in
759 subdivision (6) of subsection (c) of section 49-31l, as amended by this
760 act; and (B) a judgment of strict foreclosure or foreclosure by sale may
761 cause the mortgagor to lose the residential real property or real
762 property owned by a religious organization to foreclosure.

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

765 (7) The foreclosure mediation program shall terminate when all
766 mediation has concluded with respect to any foreclosure action with a
767 return date during the period from July 1, 2009, to June 30, [2016] 2019,
768 inclusive.

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

776 (9) (A) The mediation period shall conclude following the third
777 mediation session or if more than seven months have elapsed since the
778 return date. Not later than fifteen days following the conclusion of the

779 mediation period, and any subsequent extended mediation sessions
780 held in accordance with this subdivision, any party may move for, or
781 the mediator may request, an extension of the mediation period. The
782 court shall grant only one additional mediation session per motion or
783 request upon a finding that it is highly probable the parties will reach
784 an agreement through mediation. The court may also grant one
785 additional mediation session per motion or request upon a finding that
786 any party has engaged, either intentionally or by a pattern or practice,
787 in conduct that is contrary to the objectives of the mediation program.
788 The court shall make its ruling not later than twenty days after the
789 filing of such motion or request, and no judgment of strict foreclosure
790 or any judgment ordering a foreclosure sale shall be entered until (i)
791 the court denies the motion or request, or (ii) the conclusion of the
792 subsequent extended mediation session, except as provided in
793 subparagraph (B) of this subdivision. Upon the grant of an additional
794 mediation session following the proper finding, the court shall
795 establish a reasonably expeditious deadline for such subsequent
796 extended mediation session to occur. Such extended mediation period
797 shall conclude following such subsequent extended mediation session.

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

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

812 the order granting or denying any such motion or request to extend
813 mediation.

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

823 (d) (1) Not later than February 14, 2014, the Chief Court
824 Administrator shall submit, in accordance with the provisions of
825 section 11-4a, to the joint standing committee of the General Assembly
826 having cognizance of matters relating to [banks] banking, a summary
827 regarding the mediation program and a general summary of the data
828 collected in the reports submitted pursuant to subdivision (2) of
829 subsections (b) and (c) of this section from July 1, 2013, to December
830 31, 2013, inclusive. Such summaries shall include, but not be limited to,
831 the aggregate data regarding the number of cases in mediation, the
832 number of mediation sessions held, the number of agreements reached
833 before the conclusion of the mediation period, the number of motions
834 or requests for an extension or continuance and the identity of the
835 party that made such a motion or request, whether the loan at issue
836 was serviced by a third party, the judicial district in which the
837 mediation took place and whether the mortgagor was self-represented.

838 (2) Not later than [February 14, 2015] March 1, 2016, and by March
839 first each year thereafter until March 1, 2019, inclusive, the Chief Court
840 Administrator shall submit, in accordance with the provisions of
841 section 11-4a, to the joint standing committee of the General Assembly
842 having cognizance of matters relating to [banks] banking, a summary
843 of the reports submitted from July 1, 2013, to December [31, 2014]
844 thirty-first of the immediately preceding year, inclusive, pursuant to

845 subdivision (2) of subsections (b) and (c) of this section. The detailed
 846 data points for such summary, including data to be collected but not
 847 reported, shall be developed by the Chief Court Administrator in
 848 consultation with representatives from the Governor's office, the
 849 Department of Banking, the banking industry and consumer
 850 advocates.

851 Sec. 4. Section 49-31v of the general statutes is repealed and the
 852 following is substituted in lieu thereof (*Effective July 1, 2015*):

853 The foreclosure mediation program established pursuant to section
 854 49-31m shall be funded within available appropriations and available
 855 until June 30, [2016] 2019. The size of such program shall be
 856 determined by available funding and the number and need of
 857 participants in such program."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2015</i>	49-31k
Sec. 2	<i>July 1, 2015</i>	49-31l
Sec. 3	<i>July 1, 2015</i>	49-31n
Sec. 4	<i>July 1, 2015</i>	49-31v