



General Assembly

Amendment

January Session, 2015

LCO No. 7273



Offered by:

REP. LESSER, 100th Dist.
SEN. WINFIELD, 10th Dist.
SEN. MARTIN, 31st Dist.
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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 Section 49-31k of the general statutes is repealed and the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 (1) "Mortgagor" means: (A) The owner-occupant of one-to-four
6 family residential real property located in this state, which is the
7 primary residence of such owner-occupant, who is also the borrower
8 under a mortgage encumbering such residential real property, or if not
9 the borrower under such a mortgage, is a permitted successor-in-
10 interest, except an heir or occupying nonowner of a property
11 encumbered by a reverse annuity mortgage, [which is the primary
12 residence of such owner-occupant,] or (B) a religious organization that

13 is (i) the owner of real property located in this state, and (ii) the
14 borrower under a mortgage encumbering such real property;

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

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

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

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

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

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

39 (8) "Ability to mediate" means an exhibition on the part of the
40 relevant person of a willingness, including a reasonable ability, to
41 participate in the mediation process in a manner consistent with the
42 objectives of the mediation program and in conformity with any

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

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

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

73 (a) Prior to July 1, [2016] 2019: (1) Any action for the foreclosure of a
74 mortgage on residential real property with a return date during the
75 period from July 1, 2008, to June 30, 2009, inclusive, shall be subject to

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

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

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

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

104 (4) No foreclosure mediation request form may be submitted to the
105 court under this subsection on or after July 1, [2016] 2019.

106 (5) If at any time on or after July 1, 2008, but prior to July 1, [2016]

107 2019, the court determines that the notice requirement of subdivision
108 (1) of this subsection has not been met, the court may, upon its own
109 motion or upon the written motion of the mortgagor, issue an order
110 that no judgment may enter for fifteen days during which period the
111 mortgagor may submit a foreclosure mediation request form to the
112 court.

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

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

131 (c) (1) Prior to July 1, [2016] 2019, when a mortgagee commences an
132 action for the foreclosure of a mortgage on residential real property
133 with a return date on or after July 1, 2009, or, with respect to real
134 property owned by a religious organization, a return date on or after
135 October 1, 2011, the mortgagee shall give notice to the mortgagor of
136 the foreclosure mediation program established in section 49-31m by
137 attaching to the front of the writ, summons and complaint that is
138 served on the mortgagor: (A) A copy of the notice of foreclosure
139 mediation, in such form as the Chief Court Administrator prescribes,

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

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

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

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

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

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

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

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

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

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

374 (6) Notwithstanding any provision of the general statutes or any
375 rule of law, prior to July 1, [2016] 2019, (A) for the period of time which
376 shall not exceed eight months from the return date, the mortgagor
377 shall be permitted to file an answer, special defenses or counterclaims,
378 but no mortgagee or mortgagor shall make any motion, request or
379 demand with respect to the other, except those motions, requests or

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

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

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

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

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

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

440 (2) The first mediation session shall be held not later than fifteen
441 business days after the court sends notice to all parties that a
442 foreclosure mediation request form has been submitted to the court.
443 The mortgagor and mortgagee shall appear in person at each
444 mediation session and shall have the ability to mediate, except that (A)
445 if a party is represented by counsel, the party's counsel may appear in

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

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

516 that decision, (xi) whether the mortgagee has complied with the time
517 frames set forth in this subdivision for responding to requests for
518 decisions, (xii) if a subsequent mediation session is expected to occur, a
519 general description of the expectations for such subsequent session
520 and for the parties prior to such subsequent session and, if not
521 otherwise addressed in the report, whether the parties satisfied the
522 expectations set forth in previous reports, and (xiii) a determination of
523 whether the parties will benefit from further mediation. The mediator
524 shall deliver a copy of such report to each party to the mediation when
525 the mediator files the report. The parties shall have the opportunity to
526 submit their own supplemental information following the filing of the
527 report, provided such supplemental information shall be submitted
528 not later than five business days following the receipt of the mediator's
529 report. Any request by the mortgagee to the mortgagor for additional
530 or updated financial documentation shall be made in writing. The
531 court may impose sanctions on any party or on counsel to a party if
532 such party or such counsel engages in intentional or a pattern or
533 practice of conduct during the mediation process that is contrary to the
534 objectives of the mediation program. Any sanction that is imposed
535 shall be proportional to the conduct and consistent with the objectives
536 of the mediation program. Available sanctions shall include, but not be
537 limited to, terminating mediation, ordering the mortgagor or
538 mortgagee to mediate in person, forbidding the mortgagee from
539 charging the mortgagor for the mortgagee's attorney's fees, awarding
540 attorney's fees, and imposing fines. In the case of egregious
541 misconduct, the sanctions shall be heightened. The court shall not
542 award attorney's fees to any mortgagee for time spent in any
543 mediation session if the court finds that such mortgagee has failed to
544 comply with this subdivision, unless the court finds reasonable cause
545 for such failure.

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

550 mediation, the mediation period shall continue.

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

555 (5) The Chief Court Administrator shall establish policies and
556 procedures to implement this subsection. Such policies and procedures
557 shall, at a minimum, provide that the mediator shall advise the
558 mortgagor at the first meeting required by subdivision (4) of
559 subsection (c) of section 49-311, as amended by this act, that a judgment
560 of strict foreclosure or foreclosure by sale may cause the mortgagor to
561 lose the residential real property to foreclosure.

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

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

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

576 (9) (A) The mediation period shall conclude following the third
577 mediation session or if more than seven months have elapsed since the
578 return date. Not later than fifteen days following the conclusion of the
579 mediation period, and any extended mediation sessions held in
580 accordance with this subdivision, any party may move for, or the

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

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

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

613 (10) For any case pending as of October 1, 2013, in which mediation

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

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

637 (2) The mortgagor and mortgagee shall appear in person at each
638 mediation session and shall have the ability to mediate, except that (A)
639 if a party is represented by counsel, the party's counsel may appear in
640 lieu of the party to represent the party's interests at the mediation,
641 provided the party has the ability to mediate, the mortgagor attends
642 the first mediation session in person and the party is available (i)
643 during the mediation session by telephone, and (ii) to participate in the
644 mediation session by speakerphone, provided an opportunity is
645 afforded for confidential discussions between the party and party's
646 counsel, (B) following the initial mediation session, if there are two or

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

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

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

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

745 (4) If the mediation period concludes and certain issues have not
746 been resolved pursuant to the mediation, the mediator may refer the
747 mortgagor to any appropriate community-based services that are
748 available in the judicial district, but any such referral shall not cause a
749 delay in the mediation process.

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

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

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

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

774 (9) (A) The mediation period shall conclude following the third
775 mediation session or if more than seven months have elapsed since the
776 return date. Not later than fifteen days following the conclusion of the
777 mediation period, and any subsequent extended mediation sessions
778 held in accordance with this subdivision, any party may move for, or
779 the mediator may request, an extension of the mediation period. The
780 court shall grant only one additional mediation session per motion or
781 request upon a finding that it is highly probable the parties will reach

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

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

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

812 (10) For any case pending as of October 1, 2013, in which mediation
813 is ongoing, (A) if three or fewer sessions have been held, such case
814 shall be treated as if no sessions have been held as of said date for

815 purposes of subdivision (9) of this subsection, and (B) if four or more
816 sessions have been held, then any party or the mediator may move to
817 terminate the mediation period or extend such period in accordance
818 with subdivision (9) of this subsection and, if no such motion to extend
819 is made, the mediation period shall conclude after the third mediation
820 session occurring after October 1, 2013.

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

836 (2) Not later than [February 14, 2015] March 1, 2016, and by March
837 first each year thereafter until March 1, 2019, inclusive, the Chief Court
838 Administrator shall submit, in accordance with the provisions of
839 section 11-4a, to the joint standing committee of the General Assembly
840 having cognizance of matters relating to [banks] banking, a summary
841 of the reports submitted from July 1, 2013, to December [31, 2014]
842 thirty-first of the immediately preceding year, inclusive, pursuant to
843 subdivision (2) of subsections (b) and (c) of this section. The detailed
844 data points for such summary, including data to be collected but not
845 reported, shall be developed by the Chief Court Administrator in
846 consultation with representatives from the Governor's office, the
847 Department of Banking, the banking industry and consumer

848 advocates.

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

851 The foreclosure mediation program established pursuant to section
852 49-31m shall be funded within available appropriations and available
853 until June 30, [2016] 2019. The size of such program shall be
854 determined by available funding and the number and need of
855 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