

**Proposed Substitute
Bill No. 5567**

LCO No. 3243

**AN ACT CONCERNING ALTERNATIVES TO FORECLOSURES, THE
FORECLOSURE MEDIATION PROGRAM, AND THE MORTGAGOR IN
GOOD STANDING STATUTES.**

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

1 Section 1. (NEW) (*Effective from passage*) For purposes of this section
2 and sections 2 to 6, inclusive, of this act:

3 (1) "Mortgage" has the same meaning as provided in section 49-24a
4 of the general statutes, as amended by this act;

5 (2) "Mortgagee" has the same meaning as provided in section 49-24a
6 of the general statutes, as amended by this act;

7 (3) "Mortgagor" has the same meaning as provided in section 49-24a
8 of the general statutes, as amended by this act;

9 (4) "Residential real property" has the same meaning as provided in
10 section 49-24a of the general statutes, as amended by this act;

11 (5) "Senior lien" means the first security interest placed upon a
12 property to secure payment of a debt or performance of an obligation
13 before one or more junior liens;

14 (6) "Junior lien" means a security interest placed upon a property to

15 secure payment of a debt or performance of an obligation after a senior
16 lien is placed on such property, but shall not include a mechanic's
17 liens, as defined in section 49-33 of the general statutes;

18 (7) "Lienholder" means a person who holds a security interest in real
19 property; and

20 (8) "Underwater mortgage" means a mortgage where the debt
21 associated with such mortgage, along with any senior lien, exceeds the
22 fair market value of the mortgaged property as determined by a court
23 in accordance with sections 4 and 5 of this act.

24 Sec. 2. (NEW) (*Effective from passage*) Notwithstanding any provision
25 of the general statutes, any underwater mortgage on residential real
26 property may be modified, and the principal balance increased by the
27 amount of accrued interest, fees and costs allowed by law, without the
28 consent of the holders of junior encumbrances and without loss of
29 priority for the full amount of the loan modified, provided such
30 modification is approved by the court through entry of a judgment of
31 loss mitigation in accordance with sections 3 to 5, inclusive, of this act.

32 Sec. 3. (NEW) (*Effective from passage*) A mortgagor of an underwater
33 mortgage may elect to transfer the subject property to a mortgagee in
34 satisfaction of the mortgagor's obligation to the mortgagee by agreeing
35 to transfer such property in a record executed by both parties. Any
36 transfer agreement shall: (1) Transfer to the mortgagee all interests in
37 the property except for the interests reserved to the mortgagor in the
38 transfer agreement or the interests held by more senior mortgagees or
39 lienholders; (2) discharge the mortgage; and (3) contemplate the
40 termination of any other interest in the property subordinate to that of
41 the lienholder party to the transfer agreement following a court's entry
42 of a judgment of loss mitigation under sections 4 and 5 of this act.

43 Sec. 4. (NEW) (*Effective from passage*) A mortgagee or mortgagor may
44 file a motion for judgment of loss mitigation in an existing foreclosure
45 case following a modification under section 2 of this act or execution of
46 an agreement under section 3 of this act. Upon motion of the

47 mortgagee or mortgagor and with the consent of the counterparty, the
48 court, after notice and hearing, may render a judgment of loss
49 mitigation approving the modification or transfer. Such judgment shall
50 be a final judgment for purposes of appeal. The only issues at such
51 hearing shall be (1) a finding of the fair market value of the residential
52 property, which may be determined by an appraisal, conducted by a
53 court-appointed disinterested real estate appraiser, (2) a finding of the
54 fair market value of any priority liens on such property, (3) the
55 mortgagor's debt, (4) whether the mortgage is an underwater
56 mortgage, and (5) whether the contemplated transaction was agreed to
57 in good faith and for the purposes of mitigation the losses such
58 mortgagor and mortgagee would incur through a judgment of
59 foreclosure. If the court renders a judgment of loss mitigation,
60 immediately after the expiration of any applicable appeal period or
61 after the disposition of such an appeal that affirms the judgment, then
62 either, as applicable (A) the mortgage held by the mortgagee shall be
63 increased as contemplated in such judgment and any junior
64 lienholder's lien shall be deemed subordinated to such mortgage, in
65 the same order as existed prior to the subordination, or (B) the transfer
66 contemplated in the transfer agreement shall be effectuated. The
67 mortgagor and mortgagee shall, thirty days after the modification or
68 transfer, submit the judgment of loss mitigation to the town clerk for
69 recording in accordance with title 7 of the general statutes.

70 Sec. 5. (NEW) (*Effective from passage*) If the court does not enter a
71 judgment of loss mitigation, then the modification or transfer
72 contemplated by the mortgagor and mortgagee under section 2 or 3 of
73 this act shall not be consummated. In the event of such nonentry, (1)
74 the mortgagor may, if eligible, petition for inclusion in the foreclosure
75 mediation program set forth in sections 49-31k to 49-31o, inclusive, of
76 the general statutes, provided the mortgagor did not substantially
77 contribute to the events leading to such denial or circumstances and in
78 order to grant such petition the court shall (A) give consideration to
79 any testimony or affidavits the parties may submit in support of or in
80 opposition to such petition, and (B) find that (i) such petition is not
81 motivated primarily by a desire to delay entry of a judgment of

82 foreclosure, and (ii) it is highly probable the parties will reach an
83 agreement through mediation, and (2) the mortgagee shall have the
84 right to request the entry of a judgment of foreclosure in accordance
85 with the other provisions of law, including the provisions governing
86 strict foreclosure.

87 Sec. 6. (NEW) (*Effective from passage*) Nothing in sections 2 to 5,
88 inclusive, of this act shall be construed as eliminating the debt or any
89 judgment associated with an affected junior lien.

90 Sec. 7. Subsection (a) of section 49-24b of the general statutes is
91 repealed and the following is substituted in lieu thereof (*Effective from*
92 *passage*):

93 (a) On and after January 1, 2015, a mortgagee who desires to
94 foreclose upon a mortgage encumbering residential real property of a
95 mortgagor shall give notice to the mortgagor by registered or certified
96 mail, postage prepaid, at the address of the residential real property
97 that is secured by such mortgage, in accordance with the relevant
98 notice provisions of this chapter and chapter 134. No such mortgagee
99 may commence a foreclosure of a mortgage prior to mailing such
100 notice. Such notice shall advise the mortgagor of his or her
101 delinquency or other default under the mortgage and that the
102 mortgagor has the option to contact the mortgagee to discuss whether
103 the property may, by mutual consent of the mortgagee and mortgagor,
104 be marketed for sale pursuant to a listing agreement established in
105 accordance with section 49-24d. Such notice shall also advise the
106 mortgagor (1) of the mailing address, telephone number, facsimile
107 number and electronic mail address that should be used to contact the
108 mortgagee; (2) of a date not less than sixty days after the date of such
109 notice by which the mortgagor must initiate such contact, with
110 contemporaneous confirmation in writing of the election to pursue
111 such option sent to the designated mailing address or electronic mail
112 address of the mortgagee; (3) that the mortgagor should contact a real
113 estate agent licensed under chapter 392 to discuss the feasibility of
114 listing the property for sale pursuant to the foreclosure by market sale

115 process; (4) that, if the mortgagor and mortgagee both agree to proceed
116 with further discussions concerning an acceptable listing agreement,
117 the mortgagor must first permit an appraisal to be obtained in
118 accordance with section 49-24c for purposes of verifying eligibility for
119 foreclosure by market sale; (5) that the appraisal will require both an
120 interior and exterior inspection of the property; (6) that the terms and
121 conditions of the listing agreement, including the duration and listing
122 price, must be acceptable to both the mortgagee and mortgagor; (7)
123 that the terms and conditions of any offer to purchase, including the
124 purchase price and any contingencies, must be acceptable to both the
125 mortgagor and mortgagee; (8) that if an acceptable offer is received,
126 the mortgagor will sign an agreement to sell the property through a
127 foreclosure by market sale; and (9) in bold print and at least ten-point
128 font, that if the mortgagor consents to a foreclosure by market sale, the
129 mortgagor will not be eligible for foreclosure mediation in any type of
130 foreclosure action that is commenced following the giving of such
131 consent. The notice provided under this subsection may be combined
132 with and delivered at the same time as any other notice required by
133 subsection (a) of section 8-265ee or federal law. Should the mortgagor
134 and mortgagee by their mutual consent choose to enter into
135 discussions regarding the possibility of marketing the property
136 pursuant to a listing agreement established in accordance with section
137 49-24d, at any point subsequent to the commencement of a foreclosure
138 action, nothing in this section, sections 1 to 6, inclusive, of this act or
139 section 49-24e, as amended by this act, shall be construed as
140 prohibiting the parties from entering into a listing agreement.

141 Sec. 8. Subsections (a) and (b) of section 49-24e of the general
142 statutes are repealed and the following is substituted in lieu thereof
143 (*Effective from passage*):

144 (a) If a mortgagor executes a listing agreement that is acceptable to
145 both the mortgagee and mortgagor pursuant to section 49-24d and
146 receives an offer to purchase the residential real property that
147 encompasses a price, terms and conditions that are acceptable to both
148 the mortgagor and the mortgagee, the mortgagor shall execute a

149 contract for sale with the purchaser that shall reflect the agreed-upon
150 price, terms and conditions and be contingent upon the completion of
151 the foreclosure by market sale in accordance with sections 49-24 to 49-
152 24g, inclusive, as amended by this act, and sections 49-26 to 49-28,
153 inclusive, [and 49-31t.] If an offer is received, but is unacceptable to
154 the mortgagee, the mortgagee shall provide the mortgagor with
155 written notice of its decision and, without limiting the breadth of its
156 discretion, a general explanation of the reason or reasons for such
157 decision. Such notice shall not be required in instances where the offer
158 is unacceptable to the mortgagor. The mortgagor shall, not later than
159 five days after the date of the execution of the purchase and sale
160 contract, provide the mortgagee with a copy of such contract along
161 with written documentation, in a form and substance acceptable to the
162 mortgagee, evidencing the mortgagor's consent to the filing of a
163 motion for judgment of foreclosure by market sale.

164 (b) Unless otherwise prohibited by applicable law, not later than
165 thirty days after the receipt of such contract and the documentation
166 evidencing consent, or not later than thirty days after the satisfaction
167 or expiration of any contingencies in the contract that must either have
168 been satisfied or expired before the foreclosure action may be
169 commenced to consummate the sale, whichever thirty-day time frame
170 is later, the mortgagee shall commence a foreclosure by writ, summons
171 and complaint. Any such complaint shall claim, in the prayer for relief,
172 a foreclosure of the mortgage pursuant to sections 49-24 to 49-24g,
173 inclusive, as amended by this act, and sections 49-26 to 49-28,
174 inclusive, [and 49-31t,] and shall contain a copy of the contract between
175 the mortgagor and the purchaser as well as a copy of the appraisal
176 obtained pursuant to section 49-24c. If the mortgagee has already
177 commenced a foreclosure action at the time of such receipt, satisfaction
178 or expiration, then, not later than thirty days after the latest of such
179 receipt, satisfaction or expiration, the mortgagee shall make a motion
180 for judgment of foreclosure by market sale in accordance with the
181 provisions of section 49-24f and attach the contract and appraisal to the
182 motion. No mortgagee may require the employ or use of a particular
183 list of persons licensed under chapter 392 as a condition of approval of

184 an offer. No mortgagee may require the use of an auction or other
185 alternative method of sale as a condition of approval of an offer once
186 the listing agreement required pursuant to section 49-24d has been
187 executed by the mortgagor. Nothing in this section shall be construed
188 as requiring either the mortgagee or mortgagor to approve any offer
189 that is made pursuant to this section.

190 Sec. 9. Section 49-24 of the general statutes is repealed and the
191 following is substituted in lieu thereof (*Effective from passage*):

192 All liens and mortgages affecting real property may, on the written
193 motion of any party to any suit relating thereto, be foreclosed (1) by a
194 decree of sale instead of a strict foreclosure at the discretion of the
195 court before which the foreclosure proceedings are pending, or (2)
196 with respect to mortgages, as defined in section 49-24a, as amended by
197 this act, that are a first mortgage against the property, by a judgment of
198 foreclosure by market sale upon the written motion of the mortgagee,
199 as defined in section 49-24a, as amended by this act, and with consent
200 of the mortgagor, as defined in section 49-24a, as amended by this act,
201 in accordance with sections 49-24a to 49-24g, inclusive, as amended by
202 this act, and sections 49-26 to 49-28, inclusive, [, and 49-31t.]

203 Sec. 10. Section 49-24a of the general statutes is repealed and the
204 following is substituted in lieu thereof (*Effective from passage*):

205 For purposes of a foreclosure by market sale in accordance with this
206 section [,] and sections 49-24b to 49-24g, inclusive, as amended by this
207 act: [, and section 49-31t:]

208 (1) "Mortgage" means a mortgage deed, deed of trust or other
209 equivalent consensual security interest on residential real property
210 securing a loan made primarily for personal, family or household
211 purposes that is first in priority over any other mortgages or liens
212 encumbering the residential real property, except those liens that are
213 given priority over a mortgage pursuant to state or federal law;

214 (2) "Mortgagee" means the owner or servicer of the debt secured by

215 a mortgage;

216 (3) "Mortgagor" means the owner-occupant of residential real
217 property located in this state who is also the borrower under the loan
218 that is secured by a mortgage, other than a reverse annuity mortgage,
219 encumbering such residential real property that is the primary
220 residence of such owner-occupant, where the amount due on such
221 mortgage loan, including accrued interest, late charges and other
222 amounts secured by the mortgage, when added to amounts for which
223 there is a prior lien by operation of law, exceeds the appraised value of
224 the property; and

225 (4) "Residential real property" means a one-to-four-family dwelling
226 occupied as a residence by a mortgagor.

227 Sec. 11. Subsection (b) of section 49-24b of the general statutes is
228 repealed and the following is substituted in lieu thereof (*Effective from*
229 *passage*):

230 (b) At any time after the date provided in the notice required under
231 subsection (a) of this section, the foreclosure of the mortgagor's
232 mortgage may continue without any further restriction or requirement,
233 provided the mortgagee files an affidavit with the court stating that the
234 notice provisions of said subsection have been complied with and that
235 either the mortgagor failed to confirm his or her election in accordance
236 with said subsection by the date disclosed in the notice or that
237 discussions were initiated, but (1) the mortgagee and mortgagor were
238 unable to reach a mutually acceptable agreement to proceed; (2) based
239 on the appraisal obtained pursuant to section 49-24c, the property does
240 not appear to be subject to a mortgage that is eligible for foreclosure by
241 market sale; (3) the mortgagor did not grant reasonable interior access
242 for the appraisal required by section 49-24c; (4) the mortgagee and
243 mortgagor were unable to reach an agreement as to a mutually
244 acceptable listing agreement pursuant to section 49-24d; (5) a listing
245 agreement was executed, but no offers to purchase were received; (6)
246 an offer or offers were received, but were unacceptable to either or
247 both the mortgagee and mortgagor; or (7) other circumstances exist

248 that would allow the mortgagee or mortgagor to elect not to proceed
249 with a foreclosure by market sale pursuant to sections 49-24 to 49-24g,
250 inclusive, as amended by this act, and sections 49-26 to 49-28,
251 inclusive, [and 49-31t,] or that would otherwise make the mortgage
252 ineligible for foreclosure by market sale. The affidavit required by this
253 subsection may be combined with the affidavit required by subsection
254 (b) of section 8-265ee.

255 Sec. 12. Section 49-31e of the general statutes is repealed and the
256 following is substituted in lieu thereof (*Effective from passage*):

257 [(a)] In an action by a lender for the foreclosure of a mortgage of
258 residential real property, [such lender shall give notice to the
259 homeowner of the availability of the provisions of sections 49-31d to
260 49-31i, inclusive, at the time the action is commenced.

261 (b) A homeowner who is given notice of the availability of the
262 provisions of sections 49-31d to 49-31i, inclusive, must] the
263 homeowner shall make application for protection from foreclosure,
264 [within] under the provisions of sections 49-31d to 49-31i, inclusive,
265 not later than twenty-five days [of] after the return day.

266 [(c) No judgment foreclosing the title to real property by strict
267 foreclosure or by a decree of sale shall be entered unless the court is
268 satisfied from pleadings or affidavits on file with the court that notice
269 has been given to the homeowner against whom the foreclosure action
270 is commenced of the availability of the provisions of sections 49-31d to
271 49-31i, inclusive.

272 (d) If a homeowner against whom the foreclosure action is
273 commenced was not given notice of the availability of the provisions of
274 sections 49-31d to 49-31i, inclusive, at the time the action was
275 commenced, and such homeowner was eligible to apply for protection
276 from foreclosure at such time, the court, upon its own motion or upon
277 the written motion of such homeowner, may issue an order staying the
278 foreclosure action for fifteen days during which period the homeowner
279 may apply to the court for protection from foreclosure by submitting

280 an application together with a financial affidavit as required by
281 subsection (a) of section 49-31f.]

282 Sec. 13. Section 49-22 of the general statutes is repealed and the
283 following is substituted in lieu thereof (*Effective from passage*):

284 (a) In any action brought for the foreclosure of a mortgage or lien
285 upon land, or for any equitable relief in relation to land, the plaintiff
286 may, in his complaint, demand possession of the land, and the court
287 may, if it renders judgment in his favor and finds that he is entitled to
288 the possession of the land, issue execution of ejectment, commanding
289 the officer to eject the person or persons in possession of the land no
290 fewer than five business days after the date of service of such
291 execution and to put in possession thereof the plaintiff or the party to
292 the foreclosure entitled to the possession by the provisions of the
293 decree of said court, provided no execution shall issue against any
294 person in possession who is not a party to the action except a
295 transferee or lienor who is bound by the judgment by virtue of a lis
296 pendens. The officer shall eject the person or persons in possession and
297 may remove such person's possessions and personal effects and
298 deliver such possessions and effects to the place of storage designated
299 by the chief executive officer of the town for such purposes.

300 (b) Before any such removal, the state marshal charged with
301 executing upon the ejectment shall give the chief executive officer of
302 the town twenty-four hours notice of the ejectment, stating the date,
303 time and location of such ejectment as well as a general description, if
304 known, of the types and amount of property to be removed from the
305 land and delivered to the designated place of storage. [Before] At least
306 five business days before giving such notice to the chief executive
307 officer of the town, the state marshal shall use reasonable efforts to
308 locate and notify the person or persons in possession of the date and
309 time such ejectment is to take place and of the possibility of a sale
310 pursuant to subsection (c) of this section and shall provide clear
311 instructions as to how and where such person or persons may reclaim
312 any possessions and personal effects removed and stored pursuant to

313 this section, including a telephone number that such person or persons
314 may call to arrange release of such possessions and personal effects.

315 (c) Whenever a mortgage or lien upon land has been foreclosed and
316 execution of ejectment issued, and the possessions and personal effects
317 of the person in possession thereof are removed by a state marshal
318 under this section, such possessions and effects shall be delivered by
319 such marshal to the designated place of storage. Such removal,
320 delivery and storage shall be at the expense of such person. If the
321 possessions and effects are not reclaimed by such person and the
322 expense of the storage is not paid to the chief executive officer within
323 fifteen days after such ejectment, the chief executive officer shall sell
324 the same at public auction, after using reasonable efforts to locate and
325 notify such person of the sale and after posting notice of the sale for
326 one week on the public signpost nearest to the place where the
327 ejectment was made, if any, or at some exterior place near the office of
328 the town clerk. The chief executive officer shall deliver to such person
329 the net proceeds of the sale, if any, after deducting a reasonable charge
330 for storage of such possessions and effects. If such person does not
331 demand the net proceeds within thirty days after the sale, the chief
332 executive officer shall turn over the net proceeds of the sale to the town
333 treasury.

334 Sec. 14. Subdivision (4) of subsection (c) of section 49-311 of the 2016
335 supplement to the general statutes is repealed and the following is
336 substituted in lieu thereof (*Effective from passage*):

337 (4) Upon receipt of the mortgagor's appearance and foreclosure
338 mediation certificate forms, and provided the court confirms the
339 defendant in the foreclosure action is a mortgagor and that said
340 mortgagor has sent a copy of the mediation certificate form to the
341 plaintiff, the court shall assign the case to mediation and issue notice of
342 such assignment to all appearing parties, which notice shall include an
343 electronic mail address for all communications related to the
344 mediation. The court shall issue such notice not earlier than the date
345 five business days after the return date or by the date three business

346 days after the date on which the court receives the mortgagor's
347 appearance and foreclosure mediation certificate forms, whichever is
348 later, except that if the court does not receive the appearance and
349 foreclosure mediation certificate forms from the mortgagor by the date
350 fifteen days after the return date for the foreclosure action, the court
351 shall not assign the case to mediation. Promptly upon receipt of the
352 notice of assignment, but not later than the thirty-fifth day following
353 the return date, the mortgagee or its counsel shall deliver to the
354 mediator, via the electronic mail address provided for communications
355 related to the mediation, and to the mortgagor, via first class, priority
356 or overnight mail, (A) an account history identifying all credits and
357 debits assessed to the loan account and any related escrow account in
358 the immediately preceding twelve-month period and an itemized
359 statement of the amount required to reinstate the mortgage loan with
360 accompanying information, written in plain language, to explain any
361 codes used in the history and statement which are not otherwise self-
362 explanatory, (B) the name, business mailing address, electronic mail
363 address, facsimile number and direct telephone number of an
364 individual able to respond with reasonable adequacy and promptness
365 to questions relative to the information submitted to the mediator
366 pursuant to this subdivision, and any subsequent updates to such
367 contact information, which shall be provided reasonably promptly to
368 the mediator via the electronic mail address provided for
369 communication related to the mediation, (C) current versions of all
370 reasonably necessary forms and a list of all documentation reasonably
371 necessary for the mortgagee to evaluate the mortgagor for common
372 alternatives to foreclosure that are available through the mortgagee, if
373 any, (D) a copy of the note and mortgage, including any agreements
374 modifying such documents, (E) summary information regarding the
375 status of any pending foreclosure avoidance efforts being undertaken
376 by the mortgagee, and (F) [a copy of any loss mitigation affidavit filed
377 with the court, and (G)] at the mortgagee's option, (i) the history of
378 foreclosure avoidance efforts with respect to the mortgagor, (ii)
379 information regarding the condition of mortgaged property, and (iii)
380 such other information as the mortgagee may determine is relevant to

381 meeting the objectives of the mediation program. Following the
382 mediator's receipt of such information, the court shall assign a
383 mediator to the mediation and schedule a meeting with the mediator
384 and [the mortgagor] all relevant mortgagors and shall endeavor to
385 hold such meeting on or prior to the forty-ninth day following the
386 return date. The notice of such meeting shall instruct the mortgagor to
387 complete the forms prior to the meeting and to furnish such forms
388 together with the documentation contained in the list, as provided by
389 the mortgagee following the filing of the foreclosure mediation
390 certificate, at the meeting. At such meeting, the mediator shall review
391 such forms and documentation with the mortgagor, along with the
392 information supplied by the mortgagee, in order to discuss the options
393 that may be available to the mortgagor, including any community-
394 based resources, and assist the mortgagor in completing the forms and
395 furnishing the documentation necessary for the mortgagee to evaluate
396 the mortgagor for alternatives to foreclosure. The mediator may elect
397 to schedule subsequent meetings with the mortgagor and determine
398 whether any mortgagor may be excused from an in-person appearance
399 at such subsequent meeting. The mediator may excuse any mortgagor
400 from attending such meeting or any subsequent meetings, provided
401 the mortgagor shows cause for nonattendance. Such cause may
402 include, but is not limited to, the mortgagor no longer owning the
403 home pursuant to a judgment of marital dissolution and related
404 transfer via deed or no longer residing in the home. As soon as
405 practicable, but in no case later than the eighty-fourth day following
406 the return date, or the extended deadline if such an extended deadline
407 is established pursuant to this subdivision, the mediator shall facilitate
408 and confirm the submission by the mortgagor of the forms and
409 documentation to the mortgagee's counsel via electronic means and, at
410 the mortgagee's election, directly to the mortgagee per the mortgagee's
411 instruction, and determine, based on the participating mortgagor's
412 attendance at the meetings and the extent the mortgagor completed the
413 forms and furnished the documentation contemplated in this
414 subdivision, or failed to perform such tasks through no material fault
415 of the mortgagee, and file a report with the court indicating, (I)

416 whether mediation shall be scheduled with the mortgagee, (II) whether
417 the mortgagor attended scheduled meetings with the mediator, (III)
418 whether the mortgagor fully or substantially completed the forms and
419 furnished the documentation requested by the mortgagee, (IV) the
420 date on which the mortgagee supplied the forms and documentation,
421 and (V) any other information the mediator determines to be relevant
422 to the objectives of the mediation program. The mediator may file, and
423 the court may grant, a motion for extension of the premediation period
424 beyond the eighty-fourth day following the return date if good cause
425 can be shown for such an extension. Any such motion shall be filed,
426 with a copy simultaneously sent to the mortgagee and as soon as
427 practicable to the mortgagor, not later than the eighty-fourth day
428 following the return date. The mortgagee and mortgagor shall each
429 have five business days from the day the motion was filed to file an
430 objection or supplemental papers, and the court shall issue its ruling,
431 without a hearing, not later than ten business days from the date the
432 motion was filed. If the court determines that good cause exists for an
433 extension, the court shall therewith establish an extended deadline so
434 that the premediation period shall end as soon thereafter as may be
435 practicable, but not later than thirty-five days from the date of the
436 ruling, taking into account the complexity of the mortgagor's financial
437 circumstances, the mortgagee's documentation requirements, and the
438 timeliness of the mortgagee's and mortgagor's compliance with their
439 respective premediation obligations. If the court denies the mediator's
440 motion, the extended deadline for purposes of this subdivision shall be
441 three days after the court rules on the motion. No meeting or
442 communication between the mediator and mortgagor under this
443 subdivision shall be treated as an impermissible ex parte
444 communication. If the mediator determines that the mortgagee shall
445 participate in mediation, the court shall promptly issue notice to all
446 parties of such determination and schedule a mediation session
447 between the mortgagee and [mortgagor] relevant mortgagors in
448 accordance with subsection (c) of section 49-31n to be held not later
449 than five weeks following the submission to the mortgagee of the
450 forms and documentation contemplated in this subdivision. The

451 mediator may excuse any mortgagor from attending the mediation
452 session or subsequent meetings, provided cause is shown for
453 nonattendance. Such cause may include, but is not limited to, the
454 mortgagor no longer owning the home pursuant to a judgment of
455 marital dissolution and related transfer via deed or no longer residing
456 in the home. If the mediator determines that no sessions between the
457 mortgagee and mortgagor shall be scheduled, the court shall promptly
458 issue notice to all parties regarding such determination and mediation
459 shall be terminated. Any mortgagor wishing to contest such
460 determination shall petition the court and show good cause for
461 reinclusion in the mediation program, including, but not limited to, a
462 material change in financial circumstances or a mistake or
463 misunderstanding of the facts by the mediator.

464 Sec. 15. Subdivision (2) of subsection (b) of section 49-31n of the
465 2016 supplement to the general statutes is repealed and the following
466 is substituted in lieu thereof (*Effective from passage*):

467 (2) The first mediation session shall be held not later than fifteen
468 business days after the court sends notice to all parties that a
469 foreclosure mediation request form has been submitted to the court.
470 The mortgagor and mortgagee shall appear in person at each
471 mediation session and shall have the ability to mediate, except that (A)
472 if a party is represented by counsel, the party's counsel may appear in
473 lieu of the party to represent the party's interests at the mediation,
474 provided the party has the ability to mediate, [the mortgagor attends
475 the first mediation session in person,] and the party is available (i)
476 during the mediation session by telephone, and (ii) to participate in the
477 mediation session by speakerphone, provided an opportunity is
478 afforded for confidential discussions between the party and party's
479 counsel, (B) following the initial mediation session, if there are two or
480 more mortgagors who are self-represented, only one mortgagor shall
481 be required to appear in person at each subsequent mediation session
482 unless good cause is shown, provided the other mortgagors are
483 available (i) during the mediation session, and (ii) to participate in the
484 mediation session by speakerphone, [and] (C) if a party suffers from a

485 disability or other significant hardship that imposes an undue burden
486 on such party to appear in person, the mediator may grant permission
487 to such party to participate in the mediation session by telephone, and
488 (D) a mortgagor may be excused from appearing at the mediation
489 session if cause is shown that the presence of such mortgagor is not
490 needed to further the interests of mediation. Such cause may include,
491 but is not limited to, the mortgagor no longer owning the home
492 pursuant to a judgment of marital dissolution and related transfer via
493 deed or no longer residing in the home. A mortgagor's spouse, who is
494 not a mortgagor but who lives in the subject property, may appear at
495 each mediation session, provided all appearing mortgagors consent, in
496 writing, to such spouse's appearance or such spouse shows good cause
497 for his or her appearance and the mortgagors consent in writing to the
498 disclosure of nonpublic personal information to such spouse. If the
499 mortgagor has submitted a complete package of financial
500 documentation in connection with a request for a particular
501 foreclosure alternative, the mortgagee shall have thirty-five days from
502 the receipt of the completed package to respond with a decision and, if
503 the decision is a denial of the request, provide the reasons for such
504 denial. If the mortgagor has, in connection with a request for a
505 foreclosure alternative, submitted a financial package that is not
506 complete, or if the mortgagee's evaluation of a complete package
507 reveals that additional information is necessary to underwrite the
508 request, the mortgagee shall request the missing or additional
509 information within a reasonable period of time of such evaluation. If
510 the mortgagee's evaluation of a complete package reveals that
511 additional information is necessary to underwrite the request, the
512 thirty-five-day deadline for a response shall be extended but only for
513 so long as is reasonable given the timing of the mortgagor's submission
514 of such additional information and the nature and context of the
515 required underwriting. Not later than the third business day after each
516 mediation session held on or after June 18, 2013, the mediator shall file
517 with the court a report indicating, to the extent applicable, (i) the
518 extent to which each of the parties complied with the requirements set
519 forth in this subdivision, including the requirement to engage in

520 conduct that is consistent with the objectives of the mediation program
521 and to possess the ability to mediate, (ii) whether the mortgagor
522 submitted a complete package of financial documentation to the
523 mortgagee, (iii) a general description of the foreclosure alternative
524 being requested by the mortgagor, (iv) whether the mortgagor has
525 previously been evaluated for similar requests, whether prior to
526 mediation or in mediation, and, if so, whether there has been any
527 apparent change in circumstances since a decision was made with
528 respect to that prior evaluation, (v) whether the mortgagee has
529 responded to the mortgagor's request for a foreclosure alternative and,
530 if so, a description of the response and whether the mediator is aware
531 of any material reason not to agree with the response, (vi) whether the
532 mortgagor has responded to an offer made by the mortgagee on a
533 reasonably timely basis, and if so, an explanation of the response, (vii)
534 whether the mortgagee has requested additional information from the
535 mortgagor and, if so, the stated reasons for the request and the date by
536 which such additional information shall be submitted so that
537 information previously submitted by the mortgagor, to the extent
538 possible, may still be used by the mortgagee in conducting its review,
539 (viii) whether the mortgagor has supplied, on a reasonably timely
540 basis, any additional information that was reasonably requested by the
541 mortgagee, and, if not, the stated reason for not doing so, (ix) if
542 information provided by the mortgagor is no longer current for
543 purposes of evaluating a foreclosure alternative, a description of the
544 out-of-date information and an explanation as to how and why such
545 information is no longer current, (x) whether the mortgagee has
546 provided a reasonable explanation of the basis for a decision to deny a
547 request for a loss mitigation option or foreclosure alternative and
548 whether the mediator is aware of any material reason not to agree with
549 that decision, (xi) whether the mortgagee has complied with the time
550 frames set forth in this subdivision for responding to requests for
551 decisions, (xii) if a subsequent mediation session is expected to occur, a
552 general description of the expectations for such subsequent session
553 and for the parties prior to such subsequent session and, if not
554 otherwise addressed in the report, whether the parties satisfied the

555 expectations set forth in previous reports, and (xiii) a determination of
556 whether the parties will benefit from further mediation. The mediator
557 shall deliver a copy of such report to each party to the mediation when
558 the mediator files the report. The parties shall have the opportunity to
559 submit their own supplemental information following the filing of the
560 report, provided such supplemental information shall be submitted
561 not later than five business days following the receipt of the mediator's
562 report. Any request by the mortgagee to the mortgagor for additional
563 or updated financial documentation shall be made in writing. The
564 court may impose sanctions on any party or on counsel to a party if
565 such party or such counsel engages in intentional or a pattern or
566 practice of conduct during the mediation process that is contrary to the
567 objectives of the mediation program. Any sanction that is imposed
568 shall be proportional to the conduct and consistent with the objectives
569 of the mediation program. Available sanctions shall include, but not be
570 limited to, terminating mediation, ordering the mortgagor or
571 mortgagee to mediate in person, forbidding the mortgagee from
572 charging the mortgagor for the mortgagee's attorney's fees, awarding
573 attorney's fees, and imposing fines. In the case of egregious
574 misconduct, the sanctions shall be heightened. The court shall not
575 award attorney's fees to any mortgagee for time spent in any
576 mediation session if the court finds that such mortgagee has failed to
577 comply with this subdivision, unless the court finds reasonable cause
578 for such failure.

579 Sec. 16. Sections 49-31t and 49-31u of the general statutes are
580 repealed. (*Effective from passage*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>from passage</i>	New section
Sec. 5	<i>from passage</i>	New section
Sec. 6	<i>from passage</i>	New section

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Sec. 7	<i>from passage</i>	49-24b(a)
Sec. 8	<i>from passage</i>	49-24e(a) and (b)
Sec. 9	<i>from passage</i>	49-24
Sec. 10	<i>from passage</i>	49-24a
Sec. 11	<i>from passage</i>	49-24b(b)
Sec. 12	<i>from passage</i>	49-31e
Sec. 13	<i>from passage</i>	49-22
Sec. 14	<i>from passage</i>	49-311(c)(4)
Sec. 15	<i>from passage</i>	49-31n(b)(2)
Sec. 16	<i>from passage</i>	Repealer section