



General Assembly

February Session, 2018

Raised Bill No. 5495

LCO No. 1529



Referred to Committee on BANKING

Introduced by:
(BA)

AN ACT REMOVING THE SUNSET DATE FOR THE FORECLOSURE MEDIATION PROGRAM.

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

1 Section 1. Section 49-311 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2018*):

3 (a) [Prior to July 1, 2019:] (1) Any action for the foreclosure of a
4 mortgage on residential real property with a return date during the
5 period from July 1, 2008, to June 30, 2009, inclusive, shall be subject to
6 the provisions of subsection (b) of this section, and (2) any action for
7 the foreclosure of a mortgage on (A) residential real property with a
8 return date [during the period from] after July 1, 2009, [to June 30,
9 2019, inclusive,] or (B) real property owned by a religious organization
10 with a return date [during the period from] after October 1, 2011, [to
11 June 30, 2019, inclusive,] shall be subject to the provisions of subsection
12 (c) of this section.

13 (b) (1) [Prior to July 1, 2019, when] When a mortgagee commences
14 an action for the foreclosure of a mortgage on residential real property

15 with a return date during the period from July 1, 2008, to June 30, 2009,
16 inclusive, the mortgagee shall give notice to the mortgagor of the
17 foreclosure mediation program established in section 49-31m by
18 attaching to the front of the foreclosure complaint that is served on the
19 mortgagor: (A) A copy of the notice of the availability of foreclosure
20 mediation, in such form as the Chief Court Administrator prescribes,
21 and (B) a foreclosure mediation request form, in such form as the Chief
22 Court Administrator prescribes.

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

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

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

36 [(5)] (4) If at any time on or after July 1, 2008, [but prior to July 1,
37 2019,] the court determines that the notice requirement of subdivision
38 (1) of this subsection has not been met, the court may, upon its own
39 motion or upon the written motion of the mortgagor, issue an order
40 that no judgment may enter for fifteen days during which period the
41 mortgagor may submit a foreclosure mediation request form to the
42 court.

43 [(6)] (5) Notwithstanding any provision of the general statutes or
44 any rule of law to the contrary, [prior to July 1, 2019,] no judgment of
45 strict foreclosure nor any judgment ordering a foreclosure sale shall be
46 entered in any action subject to the provisions of this subsection and

47 instituted by the mortgagee to foreclose a mortgage on residential real
48 property unless: (A) Notice to the mortgagor has been given by the
49 mortgagee in accordance with subdivision (1) of this subsection and
50 the time for submitting a foreclosure mediation request form has
51 expired and no foreclosure mediation request form has been
52 submitted, or if such notice has not been given, the time for submitting
53 a foreclosure mediation request form pursuant to subdivision (2) or (3)
54 of this subsection has expired and no foreclosure mediation request
55 form has been submitted, or (B) the mediation period set forth in
56 subsection (b) of section 49-31n has expired or has otherwise
57 terminated, whichever is earlier.

58 [(7)] (6) None of the mortgagor's or mortgagee's rights in the
59 foreclosure action shall be waived by the mortgagor's submission of a
60 foreclosure mediation request form to the court.

61 (c) (1) [Prior to July 1, 2019, when] When a mortgagee commences
62 an action for the foreclosure of a mortgage on residential real property
63 with a return date on or after July 1, 2009, or, with respect to real
64 property owned by a religious organization, a return date on or after
65 October 1, 2011, the mortgagee shall give notice to the mortgagor of
66 the foreclosure mediation program established in section 49-31m by
67 attaching to the front of the writ, summons and complaint that is
68 served on the mortgagor: (A) A copy of the notice of foreclosure
69 mediation, in such form as the Chief Court Administrator prescribes,
70 (B) a copy of the foreclosure mediation certificate form described in
71 subdivision (3) of this subsection, in such form as the Chief Court
72 Administrator prescribes, (C) a blank appearance form, in such form as
73 the Chief Court Administrator prescribes, (D) with respect to an action
74 for the foreclosure of a mortgage on residential real property with a
75 return date on or after October 1, 2011, to September 30, 2013,
76 inclusive, a mediation information form and a notice containing
77 contact information for authority-approved consumer credit
78 counseling agencies, which form and notice shall be in such form as
79 the Chief Court Administrator prescribes, and which form shall be
80 designed to elicit current financial information and such other

81 nonfinancial information from the mortgagor as the Chief Court
82 Administrator, in consultation with representatives from the banking
83 industry and consumer advocates, determines will further the
84 objectives of the mediation program. The Chief Court Administrator
85 shall develop a premediation review protocol pursuant to which the
86 mediator shall request that any documents submitted to the mediator
87 for initial review that are incomplete, contain errors or are likely to be
88 found unacceptable by the mortgagee be completed or corrected and
89 that the completed or corrected documents be resubmitted to the
90 mediator for review. Such premediation review, including any
91 recommendations to complete or correct documents, shall not be
92 construed to be the practice of law on behalf of any party to the
93 mediation or the provision of legal advice by the mediator. The
94 instructions to the mediation information form shall explain that the
95 completed mediation information form, along with accompanying
96 documentation reasonably requested from the mortgagor by way of
97 such instructions, shall be delivered to the mortgagee's counsel not
98 later than fifteen business days prior to the date of the initial mediation
99 session, as identified in the notice provided pursuant to subdivision (2)
100 of subsection (c) of section 49-31n, and (E) for an action to foreclose a
101 mortgage on residential real property with a return date on or after
102 October 1, 2013, the mediation information form shall instruct the
103 mortgagor as to the objectives of the mediation program, explain the
104 preliminary process of meeting with the mediator as described in
105 subdivision (4) of this subsection, instruct the mortgagor to begin
106 gathering financial documentation commonly used in foreclosure
107 mediation for use in meeting with the mediator and in mediation, and
108 include a notice containing contact information for authority-approved
109 consumer counseling agencies, which shall be in such form as the
110 Chief Court Administrator prescribes. The content of the mediation
111 information form shall be designed by the Chief Court Administrator
112 in consultation with representatives from the banking industry and
113 consumer advocates.

114 (2) The court shall issue a notice of foreclosure mediation described

115 in subdivision (3) of this subsection to the mortgagor not later than the
116 date three business days after the date the mortgagee returns the writ
117 to the court.

118 (3) The notice of foreclosure mediation shall instruct the mortgagor
119 to file the appearance and foreclosure mediation certificate forms with
120 the court not later than the date fifteen days from the return date for
121 the foreclosure action. With respect to actions with a return date
122 during the period from October 1, 2011, to September 30, 2013,
123 inclusive, such notice shall remind the mortgagor to deliver the
124 completed mediation information form and the accompanying
125 documentation described in subdivision (1) of this subsection and
126 encourage such delivery in advance of the required date. With respect
127 to actions with a return date [during the period from] after October 1,
128 2013, [to June 30, 2019, inclusive,] such notice shall instruct the
129 mortgagor to begin gathering financial information commonly used in
130 foreclosure mediation for use in meeting with the mediator and in
131 mediation. The mediation information form and accompanying
132 documentation shall not, without the explicit written instruction of the
133 mortgagor, be publicly available. Such notice of foreclosure mediation
134 shall be accompanied by materials from the Department of Banking, as
135 prescribed by the Chief Court Administrator, which shall describe the
136 community-based resources available to the mortgagor, including
137 authority-approved housing counseling agencies that may assist with
138 preparation for mediation and application for mortgage assistance
139 programs. The foreclosure mediation certificate form shall require the
140 mortgagor to provide sufficient information to permit the court to
141 confirm that the defendant in the foreclosure action is a mortgagor,
142 and to certify that said mortgagor has sent a copy of the mediation
143 certificate form to the plaintiff in the action. With respect to actions
144 with a return date on or after October 1, 2015, in order to ensure that
145 all necessary consents to the disclosure of nonpublic personal financial
146 information have been provided to the mortgagee, such that a spouse
147 may be considered a permitted successor-in-interest, the court shall
148 confirm that the foreclosure mediation certificate submitted by (A) the

149 spouse or former spouse provides consent to the full disclosure by the
150 mortgagee of such spouse's or former spouse's nonpublic personal
151 financial information to any other person who is obligated as a
152 borrower on the note, to the extent the mortgagee has such
153 information, and (B) any other person who is a mortgagor provides
154 consent to the full disclosure by the mortgagee of such person's
155 nonpublic personal financial information to such spouse or former
156 spouse, to the extent the mortgagee has such information. If a
157 foreclosure mediation certificate is not submitted by a mortgagor,
158 other than a spouse or former spouse claiming to be a permitted
159 successor-in-interest, the court shall confirm, in lieu of the
160 requirements of subparagraph (B) of this subdivision, that the
161 foreclosure mediation certificate submitted by the spouse or former
162 spouse contains a statement, signed by the spouse or former spouse,
163 certifying that all persons who are obligated on the note have
164 otherwise given documentation to the mortgagee which allows for the
165 full disclosure by the mortgagee of such person's nonpublic personal
166 information to the spouse or former spouse, to the extent the
167 mortgagee has such information. Such a certification may be rebutted
168 conclusively by the mortgagee if the mortgagee submits a written
169 statement to the court in which the mortgagee certifies that, based
170 upon reasonable belief, the mortgagee does not possess such
171 documentation.

172 (4) Upon receipt of the mortgagor's appearance and foreclosure
173 mediation certificate forms, and provided the court confirms the
174 defendant in the foreclosure action is a mortgagor and that said
175 mortgagor has sent a copy of the mediation certificate form to the
176 plaintiff, the court shall assign the case to mediation and issue notice of
177 such assignment to all appearing parties, which notice shall include an
178 electronic mail address for all communications related to the
179 mediation. The court shall issue such notice not earlier than the date
180 five business days after the return date or by the date three business
181 days after the date on which the court receives the mortgagor's
182 appearance and foreclosure mediation certificate forms, whichever is

183 later, except that if the court does not receive the appearance and
184 foreclosure mediation certificate forms from the mortgagor by the date
185 fifteen days after the return date for the foreclosure action, the court
186 shall not assign the case to mediation. Promptly upon receipt of the
187 notice of assignment, but not later than the thirty-fifth day following
188 the return date, the mortgagee or its counsel shall deliver to the
189 mediator, via the electronic mail address provided for communications
190 related to the mediation, and to the mortgagor, via first class, priority
191 or overnight mail, (A) an account history identifying all credits and
192 debits assessed to the loan account and any related escrow account in
193 the immediately preceding twelve-month period and an itemized
194 statement of the amount required to reinstate the mortgage loan with
195 accompanying information, written in plain language, to explain any
196 codes used in the history and statement which are not otherwise self-
197 explanatory, (B) the name, business mailing address, electronic mail
198 address, facsimile number and direct telephone number of an
199 individual able to respond with reasonable adequacy and promptness
200 to questions relative to the information submitted to the mediator
201 pursuant to this subdivision, and any subsequent updates to such
202 contact information, which shall be provided reasonably promptly to
203 the mediator via the electronic mail address provided for
204 communication related to the mediation, (C) current versions of all
205 reasonably necessary forms and a list of all documentation reasonably
206 necessary for the mortgagee to evaluate the mortgagor for common
207 alternatives to foreclosure that are available through the mortgagee, if
208 any, (D) a copy of the note and mortgage, including any agreements
209 modifying such documents, (E) summary information regarding the
210 status of any pending foreclosure avoidance efforts being undertaken
211 by the mortgagee, (F) a copy of any loss mitigation affidavit filed with
212 the court, and (G) at the mortgagee's option, (i) the history of
213 foreclosure avoidance efforts with respect to the mortgagor, (ii)
214 information regarding the condition of mortgaged property, and (iii)
215 such other information as the mortgagee may determine is relevant to
216 meeting the objectives of the mediation program. Following the
217 mediator's receipt of such information, the court shall assign a

218 mediator to the mediation and schedule a meeting with the mediator
219 and all mortgagors who are relevant and necessary to the mediation
220 and to any agreement being contemplated in connection with the
221 mediation and shall endeavor to hold such meeting on or prior to the
222 forty-ninth day following the return date. The notice of such meeting
223 shall instruct the mortgagor to complete the forms prior to the meeting
224 and to furnish such forms together with the documentation contained
225 in the list, as provided by the mortgagee following the filing of the
226 foreclosure mediation certificate, at the meeting. At such meeting, the
227 mediator shall review such forms and documentation with the
228 mortgagor, along with the information supplied by the mortgagee, in
229 order to discuss the options that may be available to the mortgagor,
230 including any community-based resources, and assist the mortgagor in
231 completing the forms and furnishing the documentation necessary for
232 the mortgagee to evaluate the mortgagor for alternatives to
233 foreclosure. The mediator may elect to schedule subsequent meetings
234 with the mortgagor and determine whether any mortgagor may be
235 excused from an in-person appearance at such subsequent meeting.
236 The mediator may excuse any mortgagor from attending such meeting
237 or any subsequent meetings, provided the mortgagor shows good
238 cause for nonattendance. Such good cause may include, but is not
239 limited to, the mortgagor no longer owning the home pursuant to a
240 judgment of marital dissolution and related transfer via deed, or no
241 longer residing in the home and not being a necessary party to any
242 agreement being contemplated in connection with the mediation. As
243 soon as practicable, but in no case later than the eighty-fourth day
244 following the return date, or the extended deadline if such an extended
245 deadline is established pursuant to this subdivision, the mediator shall
246 facilitate and confirm the submission by the mortgagor of the forms
247 and documentation to the mortgagee's counsel via electronic means
248 and, at the mortgagee's election, directly to the mortgagee per the
249 mortgagee's instruction, and determine, based on the participating
250 mortgagor's attendance at the meetings and the extent the mortgagor
251 completed the forms and furnished the documentation contemplated
252 in this subdivision, or failed to perform such tasks through no material

253 fault of the mortgagee, and file a report with the court indicating, (I)
254 whether mediation shall be scheduled with the mortgagee, (II) whether
255 the mortgagor attended scheduled meetings with the mediator, (III)
256 whether the mortgagor fully or substantially completed the forms and
257 furnished the documentation requested by the mortgagee, (IV) the
258 date on which the mortgagee supplied the forms and documentation,
259 and (V) any other information the mediator determines to be relevant
260 to the objectives of the mediation program. The mediator may file, and
261 the court may grant, a motion for extension of the premediation period
262 beyond the eighty-fourth day following the return date if good cause
263 can be shown for such an extension. Any such motion shall be filed,
264 with a copy simultaneously sent to the mortgagee and as soon as
265 practicable to the mortgagor, not later than the eighty-fourth day
266 following the return date. The mortgagee and mortgagor shall each
267 have five business days from the day the motion was filed to file an
268 objection or supplemental papers, and the court shall issue its ruling,
269 without a hearing, not later than ten business days from the date the
270 motion was filed. If the court determines that good cause exists for an
271 extension, the court shall therewith establish an extended deadline so
272 that the premediation period shall end as soon thereafter as may be
273 practicable, but not later than thirty-five days from the date of the
274 ruling, taking into account the complexity of the mortgagor's financial
275 circumstances, the mortgagee's documentation requirements, and the
276 timeliness of the mortgagee's and mortgagor's compliance with their
277 respective premediation obligations. If the court denies the mediator's
278 motion, the extended deadline for purposes of this subdivision shall be
279 three days after the court rules on the motion. No meeting or
280 communication between the mediator and mortgagor under this
281 subdivision shall be treated as an impermissible *ex parte*
282 communication. If the mediator determines that the mortgagee shall
283 participate in mediation, the court shall promptly issue notice to all
284 parties of such determination and schedule a mediation session
285 between the mortgagee and all mortgagors who are relevant and
286 necessary to the mediation and to any agreement being contemplated
287 in connection with the mediation, in accordance with subsection (c) of

288 section 49-31n, to be held not later than five weeks following the
289 submission to the mortgagee of the forms and documentation
290 contemplated in this subdivision. The mediator may excuse any
291 mortgagor from attending the mediation session or subsequent
292 meetings, provided good cause is shown for nonattendance. Such good
293 cause may include, but is not limited to, the mortgagor no longer
294 owning the home pursuant to a judgment of marital dissolution and
295 related transfer via deed, no longer residing in the home or not being a
296 necessary party to any agreement being contemplated in connection
297 with the mediation. If the mediator determines that no sessions
298 between the mortgagee and mortgagor shall be scheduled, the court
299 shall promptly issue notice to all parties regarding such determination
300 and mediation shall be terminated. Any mortgagor wishing to contest
301 such determination shall petition the court and show good cause for
302 reinclusion in the mediation program, including, but not limited to, a
303 material change in financial circumstances or a mistake or
304 misunderstanding of the facts by the mediator.

305 (5) Notwithstanding the provisions of this subsection, the court may
306 refer a foreclosure action brought by a mortgagee to the foreclosure
307 mediation program at any time, for good cause shown, provided the
308 mortgagor has filed an appearance in said action and further provided
309 the court shall, not later than the date three business days after the date
310 on which it makes such referral, send a notice to each appearing party
311 assigning the case to mediation and requiring the parties to participate
312 in the premediation process described in subdivision (4) of this
313 subsection, with the court establishing deadlines to ensure that the
314 premediation process is to be completed by the parties as
315 expeditiously as the circumstances warrant and permit. When
316 determining whether good cause exists, the court shall consider
317 whether the parties are likely to benefit from mediation and, in the
318 case of a referral after prior attempts at mediation have been
319 terminated, whether there has been a material change in
320 circumstances.

321 (6) Notwithstanding any provision of the general statutes or any

322 rule of law, [prior to July 1, 2019,] (A) for the period of time which
323 shall not exceed eight months from the return date, the mortgagor
324 shall be permitted to file an answer, special defenses or counterclaims,
325 but no mortgagee or mortgagor shall make any motion, request or
326 demand with respect to the other, except those motions, requests or
327 demands that relate to the mediation program described in section 49-
328 31m and the mediation sessions held pursuant to such program,
329 provided (i) a mortgagor seeking to contest the court's jurisdiction may
330 file a motion to dismiss and the mortgagee may object to such motion
331 to dismiss in accordance with applicable law and the rules of the
332 courts, and (ii) if the mortgagor elects to make any other motion,
333 request or demand with respect to the mortgagee, the eight-month
334 limit shall no longer apply to either party; and (B) no judgment of strict
335 foreclosure nor any judgment ordering a foreclosure sale shall be
336 entered in any action subject to the provisions of this subsection and
337 instituted by the mortgagee to foreclose a mortgage on residential real
338 property or real property owned by a religious organization unless: (i)
339 The mediation period set forth in subsection (c) of section 49-31n has
340 expired or has otherwise terminated, whichever is earlier, and, if fewer
341 than eight months has elapsed from the return date at the time of
342 termination, fifteen days have elapsed since such termination and any
343 pending motion or request to extend the mediation period has been
344 heard and denied by the court, or (ii) the mediation program is not
345 otherwise required or available. Nothing in this subdivision shall affect
346 any motion made or any default or judgment entered on or before June
347 30, 2011.

348 (7) With respect to foreclosure actions with a return date [during the
349 period from] after July 1, 2011, [to June 30, 2019, inclusive,]
350 notwithstanding any provision of the general statutes or any rule of
351 law to the contrary, the mortgagee shall be permitted following the
352 eight-month or fifteen-day period described in subdivision (6) of this
353 subsection, to simultaneously file, as applicable, (A) a motion for
354 default, and (B) a motion for judgment of strict foreclosure or a motion
355 for judgment of foreclosure by sale with respect to the mortgagor in

356 the foreclosure action.

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

360 Sec. 2. Section 49-31n of the general statutes is repealed and the
361 following is substituted in lieu thereof (*Effective October 1, 2018*):

362 (a) [Prior to July 1, 2019:] (1) Any action for the foreclosure of a
363 mortgage on residential real property with a return date during the
364 period from July 1, 2008, to June 30, 2009, inclusive, shall be subject to
365 the provisions of subsection (b) of this section, and (2) any action for
366 the foreclosure of a mortgage on (A) residential real property with a
367 return date [during the period from] after July 1, 2009, [to June 30,
368 2019, inclusive,] or (B) real property owned by a religious organization
369 with a return date [during the period from] after October 1, 2011, [to
370 June 30, 2019, inclusive,] shall be subject to the provisions of subsection
371 (c) of this section.

372 (b) (1) For any action for the foreclosure of a mortgage on residential
373 real property with a return date during the period from July 1, 2008, to
374 June 30, 2009, inclusive, the mediation period under the foreclosure
375 mediation program established in section 49-31m shall commence
376 when the court sends notice to each appearing party that a foreclosure
377 mediation request form has been submitted by a mortgagor to the
378 court, which notice shall be sent not later than three business days after
379 the court receives a completed foreclosure mediation request form. The
380 mediation period shall conclude not later than the conclusion of the
381 third mediation session between the mortgagor and mortgagee or
382 seven months after the return date, whichever is earlier, except that the
383 court may, in its discretion, for good cause shown, upon the motion of
384 any party or the mediator, extend the mediation period subject to the
385 provisions of subdivision [(9)] (8) of this subsection or shorten the
386 mediation period.

387 (2) The first mediation session shall be held not later than fifteen

388 business days after the court sends notice to all parties that a
389 foreclosure mediation request form has been submitted to the court.
390 The mortgagor and mortgagee shall appear in person at each
391 mediation session and shall have the ability to mediate, except that (A)
392 if a party is represented by counsel, the party's counsel may appear in
393 lieu of the party to represent the party's interests at the mediation,
394 provided the party has the ability to mediate, and the party is available
395 (i) during the mediation session by telephone, and (ii) to participate in
396 the mediation session by speakerphone, provided an opportunity is
397 afforded for confidential discussions between the party and party's
398 counsel, (B) following the initial mediation session, if there are two or
399 more mortgagors who are self-represented, only one mortgagor shall
400 be required to appear in person at each subsequent mediation session
401 unless good cause is shown, provided the other mortgagors are
402 available (i) during the mediation session, and (ii) to participate in the
403 mediation session by speakerphone, (C) if a party suffers from a
404 disability or other significant hardship that imposes an undue burden
405 on such party to appear in person, the mediator may grant permission
406 to such party to participate in the mediation session by telephone, and
407 (D) a mortgagor may be excused from appearing at the mediation
408 session if good cause is shown that the presence of such mortgagor is
409 not needed to further the interests of mediation. Such good cause may
410 include, but is not limited to, the mortgagor no longer owning the
411 home pursuant to a judgment of marital dissolution and related
412 transfer via deed, no longer residing in the home or not being a
413 necessary party to any agreement being contemplated in connection
414 with the mediation. A mortgagor's spouse, who is not a mortgagor but
415 who lives in the subject property, may appear at each mediation
416 session, provided all appearing mortgagors consent, in writing, to such
417 spouse's appearance or such spouse shows good cause for his or her
418 appearance and the mortgagors consent in writing to the disclosure of
419 nonpublic personal information to such spouse. If the mortgagor has
420 submitted a complete package of financial documentation in
421 connection with a request for a particular foreclosure alternative, the
422 mortgagee shall have thirty-five days from the receipt of the completed

423 package to respond with a decision and, if the decision is a denial of
424 the request, provide the reasons for such denial. If the mortgagor has,
425 in connection with a request for a foreclosure alternative, submitted a
426 financial package that is not complete, or if the mortgagee's evaluation
427 of a complete package reveals that additional information is necessary
428 to underwrite the request, the mortgagee shall request the missing or
429 additional information within a reasonable period of time of such
430 evaluation. If the mortgagee's evaluation of a complete package reveals
431 that additional information is necessary to underwrite the request, the
432 thirty-five-day deadline for a response shall be extended but only for
433 so long as is reasonable given the timing of the mortgagor's submission
434 of such additional information and the nature and context of the
435 required underwriting. Not later than the third business day after each
436 mediation session held on or after June 18, 2013, the mediator shall file
437 with the court a report indicating, to the extent applicable, (i) the
438 extent to which each of the parties complied with the requirements set
439 forth in this subdivision, including the requirement to engage in
440 conduct that is consistent with the objectives of the mediation program
441 and to possess the ability to mediate, (ii) whether the mortgagor
442 submitted a complete package of financial documentation to the
443 mortgagee, (iii) a general description of the foreclosure alternative
444 being requested by the mortgagor, (iv) whether the mortgagor has
445 previously been evaluated for similar requests, whether prior to
446 mediation or in mediation, and, if so, whether there has been any
447 apparent change in circumstances since a decision was made with
448 respect to that prior evaluation, (v) whether the mortgagee has
449 responded to the mortgagor's request for a foreclosure alternative and,
450 if so, a description of the response and whether the mediator is aware
451 of any material reason not to agree with the response, (vi) whether the
452 mortgagor has responded to an offer made by the mortgagee on a
453 reasonably timely basis, and if so, an explanation of the response, (vii)
454 whether the mortgagee has requested additional information from the
455 mortgagor and, if so, the stated reasons for the request and the date by
456 which such additional information shall be submitted so that
457 information previously submitted by the mortgagor, to the extent

458 possible, may still be used by the mortgagee in conducting its review,
459 (viii) whether the mortgagor has supplied, on a reasonably timely
460 basis, any additional information that was reasonably requested by the
461 mortgagee, and, if not, the stated reason for not doing so, (ix) if
462 information provided by the mortgagor is no longer current for
463 purposes of evaluating a foreclosure alternative, a description of the
464 out-of-date information and an explanation as to how and why such
465 information is no longer current, (x) whether the mortgagee has
466 provided a reasonable explanation of the basis for a decision to deny a
467 request for a loss mitigation option or foreclosure alternative and
468 whether the mediator is aware of any material reason not to agree with
469 that decision, (xi) whether the mortgagee has complied with the time
470 frames set forth in this subdivision for responding to requests for
471 decisions, (xii) if a subsequent mediation session is expected to occur, a
472 general description of the expectations for such subsequent session
473 and for the parties prior to such subsequent session and, if not
474 otherwise addressed in the report, whether the parties satisfied the
475 expectations set forth in previous reports, and (xiii) a determination of
476 whether the parties will benefit from further mediation. The mediator
477 shall deliver a copy of such report to each party to the mediation when
478 the mediator files the report. The parties shall have the opportunity to
479 submit their own supplemental information following the filing of the
480 report, provided such supplemental information shall be submitted
481 not later than five business days following the receipt of the mediator's
482 report. Any request by the mortgagee to the mortgagor for additional
483 or updated financial documentation shall be made in writing. The
484 court may impose sanctions on any party or on counsel to a party if
485 such party or such counsel engages in intentional or a pattern or
486 practice of conduct during the mediation process that is contrary to the
487 objectives of the mediation program. Any sanction that is imposed
488 shall be proportional to the conduct and consistent with the objectives
489 of the mediation program. Available sanctions shall include, but not be
490 limited to, terminating mediation, ordering the mortgagor or
491 mortgagee to mediate in person, forbidding the mortgagee from
492 charging the mortgagor for the mortgagee's attorney's fees, awarding

493 attorney's fees, and imposing fines. In the case of egregious
494 misconduct, the sanctions shall be heightened. The court shall not
495 award attorney's fees to any mortgagee for time spent in any
496 mediation session if the court finds that such mortgagee has failed to
497 comply with this subdivision, unless the court finds reasonable cause
498 for such failure.

499 (3) If the mediator reports to the court that the parties will not
500 benefit from further mediation, the mediation period shall terminate
501 automatically. If the mediator reports to the court after the first or
502 second mediation session that the parties may benefit from further
503 mediation, the mediation period shall continue.

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

508 (5) The Chief Court Administrator shall establish policies and
509 procedures to implement this subsection. Such policies and procedures
510 shall, at a minimum, provide that the mediator shall advise the
511 mortgagor at the first meeting required by subdivision (4) of
512 subsection (c) of section 49-311 that a judgment of strict foreclosure or
513 foreclosure by sale may cause the mortgagor to lose the residential real
514 property to foreclosure.

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

517 [(7) Foreclosure mediation request forms shall not be accepted by
518 the court under this subsection on or after July 1, 2019, and the
519 foreclosure mediation program shall terminate when all mediation has
520 concluded with respect to any applications submitted to the court prior
521 to July 1, 2019.]

522 [(8)] (7) At any time during the mediation period, the mediator may
523 refer a mortgagor who is the owner-occupant of one-to-four family

524 residential real property to the mortgage assistance programs, except
525 that any such referral shall not prevent a mortgagee from proceeding
526 to judgment when the conditions specified in subdivision (6) of
527 subsection (b) of section 49-311 have been satisfied.

528 [(9)] (8) (A) The mediation period shall conclude following the third
529 mediation session or if more than seven months have elapsed since the
530 return date. Not later than fifteen days following the conclusion of the
531 mediation period, and any extended mediation sessions held in
532 accordance with this subdivision, any party may move for, or the
533 mediator may request, an extension of the mediation period. The court
534 shall grant only one additional mediation session per motion or
535 request upon a finding that it is highly probable the parties will reach
536 an agreement through mediation. The court may also grant one
537 additional mediation session per motion or request upon a finding that
538 any party has engaged, either intentionally or by a pattern or practice,
539 in conduct that is contrary to the objectives of the mediation program.
540 The court shall make its ruling not later than twenty days after the
541 filing of such motion or request, and no judgment of strict foreclosure
542 or any judgment ordering a foreclosure sale shall be entered until (i)
543 the court denies the motion or request, or (ii) the conclusion of the
544 extended mediation session, except as provided in subparagraph (B) of
545 this subdivision. Upon the grant of an additional mediation session
546 following the proper finding, the court shall establish an expeditious
547 deadline for such extended mediation session to occur. Such extended
548 mediation period shall conclude following such extended mediation
549 session.

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

555 (C) To determine whether to extend mediation, the court may
556 consider all matters that have arisen in the mediation, including, but

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

565 [(10)] (9) For any case pending as of October 1, 2013, in which
566 mediation is ongoing, (A) if three or fewer sessions have been held,
567 such case shall be treated as if no sessions have been held as of said
568 date for purposes of subdivision [(9)] (8) of this subsection, and (B) if
569 four or more sessions have been held, then any party or the mediator
570 may move to terminate the mediation period or extend such period in
571 accordance with subdivision [(9)] (8) of this subsection and, if no such
572 motion to extend is made, the mediation period shall conclude after
573 the third mediation session occurring after October 1, 2013.

574 (c) (1) For any action for the foreclosure of a mortgage on residential
575 real property with a return date [during the period from] after July 1,
576 2009, [to June 30, 2019, inclusive,] or for any action for the foreclosure
577 of a mortgage on real property owned by a religious organization with
578 a return date [during the period from] after October 1, 2011, [to June
579 30, 2019, inclusive,] the mediation period under the foreclosure
580 mediation program established in section 49-31m shall commence
581 when the court sends notice to each appearing party scheduling the
582 first foreclosure mediation session. The mediation period shall
583 conclude not later than the conclusion of the third mediation session
584 between the mortgagor and mortgagee or seven months after the
585 return date, whichever is earlier, except that the court may, in its
586 discretion, for good cause shown, upon the motion of any party or
587 request by the mediator, extend the mediation period subject to the
588 provisions of subdivision [(9)] (8) of this subsection or shorten the
589 mediation period.

590 (2) The mortgagor and mortgagee shall appear in person at each
591 mediation session and shall have the ability to mediate, except that (A)
592 if a party is represented by counsel, the party's counsel may appear in
593 lieu of the party to represent the party's interests at the mediation,
594 provided the party has the ability to mediate, the mortgagor attends
595 the first mediation session in person and the party is available (i)
596 during the mediation session by telephone, and (ii) to participate in the
597 mediation session by speakerphone, provided an opportunity is
598 afforded for confidential discussions between the party and party's
599 counsel, (B) following the initial mediation session, if there are two or
600 more mortgagors who are self-represented, only one mortgagor shall
601 be required to appear in person at each subsequent mediation session
602 unless good cause is shown, provided the other mortgagors are
603 available (i) during the mediation session, and (ii) to participate in the
604 mediation session by speakerphone, (C) if a party suffers from a
605 disability or other significant hardship that imposes an undue burden
606 on such party to appear in person, the mediator may grant permission
607 to such party to participate in the mediation session by telephone, and
608 (D) a mortgagor may be excused from appearing at the mediation
609 session if cause is shown that the presence of such mortgagor is not
610 needed to further the interests of mediation. Such cause may include,
611 but is not limited to, the mortgagor no longer owning the home
612 pursuant to a judgment of marital dissolution and related transfer via
613 deed or no longer residing in the home or not being a necessary party
614 to any agreement being contemplated in connection with the
615 mediation. A mortgagor's spouse, who is not a mortgagor but who
616 lives in the subject property, may appear at each mediation session,
617 provided all appearing mortgagors consent, in writing, to such
618 spouse's appearance or such spouse shows good cause for his or her
619 appearance and the mortgagors consent, in writing, to the disclosure of
620 nonpublic personal information to such spouse. If the mortgagor has
621 submitted a complete package of financial documentation in
622 connection with a request for a particular foreclosure alternative, the
623 mortgagee shall have thirty-five days from the receipt of the completed
624 package to respond with a decision and, if the decision is a denial of

625 the request, provide the reasons for such denial. If the mortgagor has,
626 in connection with a request for a foreclosure alternative, submitted a
627 financial package that is not complete, or if the mortgagee's evaluation
628 of a complete package reveals that additional information is necessary
629 to underwrite the request, the mortgagee shall request the missing or
630 additional information within a reasonable period of time of such
631 evaluation. If the mortgagee's evaluation of a complete package reveals
632 that additional information is necessary to underwrite the request, the
633 thirty-five-day deadline for a response shall be extended but only for
634 so long as is reasonable given the timing of the mortgagor's submission
635 of such additional information and the nature and context of the
636 required underwriting. Not later than the third business day after each
637 mediation session, the mediator shall file with the court a report
638 indicating, to the extent applicable, (i) the extent to which each of the
639 parties complied with the requirements set forth in this subdivision,
640 including the requirement to engage in conduct that is consistent with
641 the objectives of the mediation program and to possess the ability to
642 mediate, (ii) whether the mortgagor submitted a complete package of
643 financial documentation to the mortgagee, (iii) a general description of
644 the foreclosure alternative being requested by the mortgagor, (iv)
645 whether the mortgagor has previously been evaluated for similar
646 requests, whether prior to mediation or in mediation, and, if so,
647 whether there has been any apparent change in circumstances since a
648 decision was made with respect to that prior evaluation, (v) whether
649 the mortgagee has responded to the mortgagor's request for a
650 foreclosure alternative and, if so, a description of the response and
651 whether the mediator is aware of any material reason not to agree with
652 the response, (vi) whether the mortgagor has responded to an offer
653 made by the mortgagee on a reasonably timely basis, and if so, an
654 explanation of the response, (vii) whether the mortgagee has requested
655 additional information from the mortgagor and, if so, the stated
656 reasons for the request and the date by which such additional
657 information shall be submitted so that information previously
658 submitted by the mortgagor, to the extent possible, may still be used
659 by the mortgagee in conducting its review, (viii) whether the

660 mortgagor has supplied, on a reasonably timely basis, any additional
661 information that was reasonably requested by the mortgagee, and, if
662 not, the stated reason for not doing so, (ix) if information provided by
663 the mortgagor is no longer current for purposes of evaluating a
664 foreclosure alternative, a description of the out-of-date information
665 and an explanation as to how and why such information is no longer
666 current, (x) whether the mortgagee has provided a reasonable
667 explanation of the basis for a decision to deny a request for a loss
668 mitigation option or foreclosure alternative and whether the mediator
669 is aware of any material reason not to agree with that decision, (xi)
670 whether the mortgagee has complied with the time frames set forth in
671 this subdivision for responding to requests for decisions, (xii) if a
672 subsequent mediation session is expected to occur, a general
673 description of the expectations for such subsequent session and for the
674 parties prior to such subsequent session and, if not otherwise
675 addressed in the report, whether the parties satisfied the expectations
676 set forth in previous reports, and (xiii) a determination of whether the
677 parties will benefit from further mediation. The mediator shall deliver
678 a copy of such report to each party to the mediation when the mediator
679 files the report. The parties shall have the opportunity to submit their
680 own supplemental information following the filing of the report,
681 provided such supplemental information shall be submitted not later
682 than five business days following the receipt of the mediator's report.
683 Any request by the mortgagee to the mortgagor for additional or
684 updated financial documentation shall be made in writing. The court
685 may impose sanctions on any party or on counsel to a party if such
686 party or such counsel engages in intentional or a pattern or practice of
687 conduct during the mediation process that is contrary to the objectives
688 of the mediation program. Any sanction that is imposed shall be
689 proportional to the conduct and consistent with the objectives of the
690 mediation program. Available sanctions shall include, but not be
691 limited to, terminating mediation, ordering the mortgagor or
692 mortgagee to mediate in person, forbidding the mortgagee from
693 charging the mortgagor for the mortgagee's attorney's fees, awarding
694 attorney's fees, and imposing fines. In the case of egregious

695 misconduct, the sanctions shall be heightened. The court shall not
696 award attorney's fees to any mortgagee for time spent in any
697 mediation session if the court finds that such mortgagee has failed to
698 comply with this subdivision, unless the court finds reasonable cause
699 for such failure.

700 (3) If the mediator reports to the court that the parties will not
701 benefit from further mediation, the mediation period shall terminate
702 automatically. If the mediator reports to the court after the first or
703 second mediation session that the parties may benefit from further
704 mediation, the mediation period shall continue.

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

710 (5) The Chief Court Administrator shall establish policies and
711 procedures to implement this subsection. Such policies and procedures
712 shall, at a minimum, provide that the mediator shall advise the
713 mortgagor at the first meeting required by subdivision (4) of
714 subsection (c) of section 49-31l that: (A) Such mediation does not
715 suspend the mortgagor's obligation to respond to the foreclosure
716 action beyond the limited time frame described in subdivision (6) of
717 subsection (c) of section 49-31l; and (B) a judgment of strict foreclosure
718 or foreclosure by sale may cause the mortgagor to lose the residential
719 real property or real property owned by a religious organization to
720 foreclosure.

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

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

727 [(8)] (7) At any time during the mediation period, the mediator may
728 refer a mortgagor who is the owner-occupant of one-to-four family
729 residential real property to the mortgage assistance programs, except
730 that any such referral shall not prevent a mortgagee from proceeding
731 to judgment when the conditions specified in subdivision (6) of
732 subsection (c) of section 49-311 have been satisfied.

733 [(9)] (8) (A) The mediation period shall conclude following the third
734 mediation session or if more than seven months have elapsed since the
735 return date. Not later than fifteen days following the conclusion of the
736 mediation period, and any subsequent extended mediation sessions
737 held in accordance with this subdivision, any party may move for, or
738 the mediator may request, an extension of the mediation period. The
739 court shall grant only one additional mediation session per motion or
740 request upon a finding that it is highly probable the parties will reach
741 an agreement through mediation. The court may also grant one
742 additional mediation session per motion or request upon a finding that
743 any party has engaged, either intentionally or by a pattern or practice,
744 in conduct that is contrary to the objectives of the mediation program.
745 The court shall make its ruling not later than twenty days after the
746 filing of such motion or request, and no judgment of strict foreclosure
747 or any judgment ordering a foreclosure sale shall be entered until (i)
748 the court denies the motion or request, or (ii) the conclusion of the
749 subsequent extended mediation session, except as provided in
750 subparagraph (B) of this subdivision. Upon the grant of an additional
751 mediation session following the proper finding, the court shall
752 establish a reasonably expeditious deadline for such subsequent
753 extended mediation session to occur. Such extended mediation period
754 shall conclude following such subsequent extended mediation session.

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

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

771 [(10)] (9) For any case pending as of October 1, 2013, in which
772 mediation is ongoing, (A) if three or fewer sessions have been held,
773 such case shall be treated as if no sessions have been held as of said
774 date for purposes of subdivision [(9)] (8) of this subsection, and (B) if
775 four or more sessions have been held, then any party or the mediator
776 may move to terminate the mediation period or extend such period in
777 accordance with subdivision [(9)] (8) of this subsection and, if no such
778 motion to extend is made, the mediation period shall conclude after
779 the third mediation session occurring after October 1, 2013.

780 (d) (1) Not later than February 14, 2014, the Chief Court
781 Administrator shall submit, in accordance with the provisions of
782 section 11-4a, to the joint standing committee of the General Assembly
783 having cognizance of matters relating to banking, a summary
784 regarding the mediation program and a general summary of the data
785 collected in the reports submitted pursuant to subdivision (2) of
786 subsections (b) and (c) of this section from July 1, 2013, to December
787 31, 2013, inclusive. Such summaries shall include, but not be limited to,
788 the aggregate data regarding the number of cases in mediation, the
789 number of mediation sessions held, the number of agreements reached
790 before the conclusion of the mediation period, the number of motions
791 or requests for an extension or continuance and the identity of the
792 party that made such a motion or request, whether the loan at issue
793 was serviced by a third party, the judicial district in which the
794 mediation took place and whether the mortgagor was self-represented.

795 (2) Not later than March 1, 2016, and by March first each year
796 thereafter, [until March 1, 2019, inclusive,] the Chief Court
797 Administrator shall submit, in accordance with the provisions of
798 section 11-4a, to the joint standing committee of the General Assembly
799 having cognizance of matters relating to banking, a summary of the
800 reports submitted from July 1, 2013, to December thirty-first of the
801 immediately preceding year, inclusive, pursuant to subdivision (2) of
802 subsections (b) and (c) of this section. The detailed data points for such
803 summary, including data to be collected but not reported, shall be
804 developed by the Chief Court Administrator in consultation with
805 representatives from the Governor's office, the Department of Banking,
806 the banking industry and consumer advocates.

807 Sec. 3. Section 49-31v of the general statutes is repealed and the
808 following is substituted in lieu thereof (*Effective October 1, 2018*):

809 The foreclosure mediation program established pursuant to section
810 49-31m shall be funded within available appropriations. [and available
811 until June 30, 2019.] The size of such program shall be determined by
812 available funding and the number and need of participants in such
813 program.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2018</i>	49-31l
Sec. 2	<i>October 1, 2018</i>	49-31n
Sec. 3	<i>October 1, 2018</i>	49-31v

Statement of Purpose:

To make the foreclosure mediation program permanent.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]