



General Assembly

February Session, 2018

**Raised Bill No. 391**

LCO No. 1612



Referred to Committee on BANKING

Introduced by:  
(BA)

***AN ACT ELIMINATING THE REQUIREMENT THAT A MORTGAGOR REPRESENTED BY COUNSEL ATTEND THE FIRST FORECLOSURE MEDIATION SESSION IN PERSON.***

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

1 Section 1. Subdivision (2) of subsection (c) of section 49-31n of the  
2 general statutes is repealed and the following is substituted in lieu  
3 thereof (*Effective October 1, 2018*):

4 (2) The mortgagor and mortgagee shall appear in person at each  
5 mediation session and shall have the ability to mediate, except that (A)  
6 if a party is represented by counsel, the party's counsel may appear in  
7 lieu of the party to represent the party's interests at the mediation,  
8 provided the party has the ability to mediate [, the mortgagor attends  
9 the first mediation session in person] and the party is available (i)  
10 during the mediation session by telephone, and (ii) to participate in the  
11 mediation session by speakerphone, provided an opportunity is  
12 afforded for confidential discussions between the party and party's  
13 counsel, (B) following the initial mediation session, if there are two or  
14 more mortgagors who are self-represented, only one mortgagor shall  
15 be required to appear in person at each subsequent mediation session

16 unless good cause is shown, provided the other mortgagors are  
17 available (i) during the mediation session, and (ii) to participate in the  
18 mediation session by speakerphone, (C) if a party suffers from a  
19 disability or other significant hardship that imposes an undue burden  
20 on such party to appear in person, the mediator may grant permission  
21 to such party to participate in the mediation session by telephone, and  
22 (D) a mortgagor may be excused from appearing at the mediation  
23 session if cause is shown that the presence of such mortgagor is not  
24 needed to further the interests of mediation. Such cause may include,  
25 but is not limited to, the mortgagor no longer owning the home  
26 pursuant to a judgment of marital dissolution and related transfer via  
27 deed or no longer residing in the home or not being a necessary party  
28 to any agreement being contemplated in connection with the  
29 mediation. A mortgagor's spouse, who is not a mortgagor but who  
30 lives in the subject property, may appear at each mediation session,  
31 provided all appearing mortgagors consent, in writing, to such  
32 spouse's appearance or such spouse shows good cause for his or her  
33 appearance and the mortgagors consent, in writing, to the disclosure of  
34 nonpublic personal information to such spouse. If the mortgagor has  
35 submitted a complete package of financial documentation in  
36 connection with a request for a particular foreclosure alternative, the  
37 mortgagee shall have thirty-five days from the receipt of the completed  
38 package to respond with a decision and, if the decision is a denial of  
39 the request, provide the reasons for such denial. If the mortgagor has,  
40 in connection with a request for a foreclosure alternative, submitted a  
41 financial package that is not complete, or if the mortgagee's evaluation  
42 of a complete package reveals that additional information is necessary  
43 to underwrite the request, the mortgagee shall request the missing or  
44 additional information within a reasonable period of time of such  
45 evaluation. If the mortgagee's evaluation of a complete package reveals  
46 that additional information is necessary to underwrite the request, the  
47 thirty-five-day deadline for a response shall be extended but only for  
48 so long as is reasonable given the timing of the mortgagor's submission  
49 of such additional information and the nature and context of the  
50 required underwriting. Not later than the third business day after each

51 mediation session, the mediator shall file with the court a report  
52 indicating, to the extent applicable, (i) the extent to which each of the  
53 parties complied with the requirements set forth in this subdivision,  
54 including the requirement to engage in conduct that is consistent with  
55 the objectives of the mediation program and to possess the ability to  
56 mediate, (ii) whether the mortgagor submitted a complete package of  
57 financial documentation to the mortgagee, (iii) a general description of  
58 the foreclosure alternative being requested by the mortgagor, (iv)  
59 whether the mortgagor has previously been evaluated for similar  
60 requests, whether prior to mediation or in mediation, and, if so,  
61 whether there has been any apparent change in circumstances since a  
62 decision was made with respect to that prior evaluation, (v) whether  
63 the mortgagee has responded to the mortgagor's request for a  
64 foreclosure alternative and, if so, a description of the response and  
65 whether the mediator is aware of any material reason not to agree with  
66 the response, (vi) whether the mortgagor has responded to an offer  
67 made by the mortgagee on a reasonably timely basis, and if so, an  
68 explanation of the response, (vii) whether the mortgagee has requested  
69 additional information from the mortgagor and, if so, the stated  
70 reasons for the request and the date by which such additional  
71 information shall be submitted so that information previously  
72 submitted by the mortgagor, to the extent possible, may still be used  
73 by the mortgagee in conducting its review, (viii) whether the  
74 mortgagor has supplied, on a reasonably timely basis, any additional  
75 information that was reasonably requested by the mortgagee, and, if  
76 not, the stated reason for not doing so, (ix) if information provided by  
77 the mortgagor is no longer current for purposes of evaluating a  
78 foreclosure alternative, a description of the out-of-date information  
79 and an explanation as to how and why such information is no longer  
80 current, (x) whether the mortgagee has provided a reasonable  
81 explanation of the basis for a decision to deny a request for a loss  
82 mitigation option or foreclosure alternative and whether the mediator  
83 is aware of any material reason not to agree with that decision, (xi)  
84 whether the mortgagee has complied with the time frames set forth in  
85 this subdivision for responding to requests for decisions, (xii) if a



