



General Assembly

Amendment

February Session, 2018

LCO No. 5598



Offered by:

REP. LESSER, 100th Dist.

SEN. WINFIELD, 10th Dist.

To: Subst. House Bill No. 5495

File No. 324

Cal. No. 220

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

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

3 "Section 1. Section 49-31l of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective October 1, 2018*):

5 (a) Prior to July 1, [2019] 2023: (1) Any action for the foreclosure of a
6 mortgage on residential real property with a return date during the
7 period from July 1, 2008, to June 30, 2009, inclusive, shall be subject to
8 the provisions of subsection (b) of this section, and (2) any action for
9 the foreclosure of a mortgage on (A) residential real property with a
10 return date during the period from July 1, 2009, to June 30, [2019] 2023,
11 inclusive, or (B) real property owned by a religious organization with a
12 return date during the period from October 1, 2011, to June 30, [2019]
13 2023, inclusive, shall be subject to the provisions of subsection (c) of

14 this section.

15 (b) (1) Prior to July 1, [2019] 2023, when a mortgagee commences an
16 action for the foreclosure of a mortgage on residential real property
17 with a return date during the period from July 1, 2008, to June 30, 2009,
18 inclusive, the mortgagee shall give notice to the mortgagor of the
19 foreclosure mediation program established in section 49-31m by
20 attaching to the front of the foreclosure complaint that is served on the
21 mortgagor: (A) A copy of the notice of the availability of foreclosure
22 mediation, in such form as the Chief Court Administrator prescribes,
23 and (B) a foreclosure mediation request form, in such form as the Chief
24 Court Administrator prescribes.

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

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

36 (4) No foreclosure mediation request form may be submitted to the
37 court under this subsection on or after July 1, [2019] 2023.

38 (5) If at any time on or after July 1, 2008, but prior to July 1, [2019]
39 2023, the court determines that the notice requirement of subdivision
40 (1) of this subsection has not been met, the court may, upon its own
41 motion or upon the written motion of the mortgagor, issue an order
42 that no judgment may enter for fifteen days during which period the
43 mortgagor may submit a foreclosure mediation request form to the
44 court.

45 (6) Notwithstanding any provision of the general statutes or any
46 rule of law to the contrary, prior to July 1, [2019] 2023, no judgment of
47 strict foreclosure nor any judgment ordering a foreclosure sale shall be
48 entered in any action subject to the provisions of this subsection and
49 instituted by the mortgagee to foreclose a mortgage on residential real
50 property unless: (A) Notice to the mortgagor has been given by the
51 mortgagee in accordance with subdivision (1) of this subsection and
52 the time for submitting a foreclosure mediation request form has
53 expired and no foreclosure mediation request form has been
54 submitted, or if such notice has not been given, the time for submitting
55 a foreclosure mediation request form pursuant to subdivision (2) or (3)
56 of this subsection has expired and no foreclosure mediation request
57 form has been submitted, or (B) the mediation period set forth in
58 subsection (b) of section 49-31n, as amended by this act, has expired or
59 has otherwise terminated, whichever is earlier.

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

63 (c) (1) Prior to July 1, [2019] 2023, when a mortgagee commences an
64 action for the foreclosure of a mortgage on residential real property
65 with a return date on or after July 1, 2009, or, with respect to real
66 property owned by a religious organization, a return date on or after
67 October 1, 2011, the mortgagee shall give notice to the mortgagor of
68 the foreclosure mediation program established in section 49-31m by
69 attaching to the front of the writ, summons and complaint that is
70 served on the mortgagor: (A) A copy of the notice of foreclosure
71 mediation, in such form as the Chief Court Administrator prescribes,
72 (B) a copy of the foreclosure mediation certificate form described in
73 subdivision (3) of this subsection, in such form as the Chief Court
74 Administrator prescribes, (C) a blank appearance form, in such form as
75 the Chief Court Administrator prescribes, (D) with respect to an action
76 for the foreclosure of a mortgage on residential real property with a
77 return date on or after October 1, 2011, to September 30, 2013,
78 inclusive, a mediation information form and a notice containing

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

114 Administrator in consultation with representatives from the banking
115 industry and consumer advocates.

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

120 (3) The notice of foreclosure mediation shall instruct the mortgagor
121 to file the appearance and foreclosure mediation certificate forms with
122 the court not later than the date fifteen days from the return date for
123 the foreclosure action. With respect to actions with a return date
124 during the period from October 1, 2011, to September 30, 2013,
125 inclusive, such notice shall remind the mortgagor to deliver the
126 completed mediation information form and the accompanying
127 documentation described in subdivision (1) of this subsection and
128 encourage such delivery in advance of the required date. With respect
129 to actions with a return date during the period from October 1, 2013, to
130 June 30, [2019] 2023, inclusive, such notice shall instruct the mortgagor
131 to begin gathering financial information commonly used in foreclosure
132 mediation for use in meeting with the mediator and in mediation. The
133 mediation information form and accompanying documentation shall
134 not, without the explicit written instruction of the mortgagor, be
135 publicly available. Such notice of foreclosure mediation shall be
136 accompanied by materials from the Department of Banking, as
137 prescribed by the Chief Court Administrator, which shall describe the
138 community-based resources available to the mortgagor, including
139 authority-approved housing counseling agencies that may assist with
140 preparation for mediation and application for mortgage assistance
141 programs. The foreclosure mediation certificate form shall require the
142 mortgagor to provide sufficient information to permit the court to
143 confirm that the defendant in the foreclosure action is a mortgagor,
144 and to certify that said mortgagor has sent a copy of the mediation
145 certificate form to the plaintiff in the action. With respect to actions
146 with a return date on or after October 1, 2015, in order to ensure that
147 all necessary consents to the disclosure of nonpublic personal financial

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

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

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

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

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

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

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

321 case of a referral after prior attempts at mediation have been
322 terminated, whether there has been a material change in
323 circumstances.

324 (6) Notwithstanding any provision of the general statutes or any
325 rule of law, prior to July 1, [2019] 2023, (A) for the period of time which
326 shall not exceed eight months from the return date, the mortgagor
327 shall be permitted to file an answer, special defenses or counterclaims,
328 but no mortgagee or mortgagor shall make any motion, request or
329 demand with respect to the other, except those motions, requests or
330 demands that relate to the mediation program described in section 49-
331 31m and the mediation sessions held pursuant to such program,
332 provided (i) a mortgagor seeking to contest the court's jurisdiction may
333 file a motion to dismiss and the mortgagee may object to such motion
334 to dismiss in accordance with applicable law and the rules of the
335 courts, and (ii) if the mortgagor elects to make any other motion,
336 request or demand with respect to the mortgagee, the eight-month
337 limit shall no longer apply to either party; and (B) no judgment of strict
338 foreclosure nor any judgment ordering a foreclosure sale shall be
339 entered in any action subject to the provisions of this subsection and
340 instituted by the mortgagee to foreclose a mortgage on residential real
341 property or real property owned by a religious organization unless: (i)
342 The mediation period set forth in subsection (c) of section 49-31n, as
343 amended by this act, has expired or has otherwise terminated,
344 whichever is earlier, and, if fewer than eight months has elapsed from
345 the return date at the time of termination, fifteen days have elapsed
346 since such termination and any pending motion or request to extend
347 the mediation period has been heard and denied by the court, or (ii)
348 the mediation program is not otherwise required or available. Nothing
349 in this subdivision shall affect any motion made or any default or
350 judgment entered on or before June 30, 2011.

351 (7) With respect to foreclosure actions with a return date during the
352 period from July 1, 2011, to June 30, [2019] 2023, inclusive,
353 notwithstanding any provision of the general statutes or any rule of
354 law to the contrary, the mortgagee shall be permitted following the

355 eight-month or fifteen-day period described in subdivision (6) of this
356 subsection, to simultaneously file, as applicable, (A) a motion for
357 default, and (B) a motion for judgment of strict foreclosure or a motion
358 for judgment of foreclosure by sale with respect to the mortgagor in
359 the foreclosure action.

360 (8) None of the mortgagor's or mortgagee's rights in the foreclosure
361 action shall be waived by participation in the foreclosure mediation
362 program.

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

365 (a) Prior to July 1, [2019] 2023: (1) Any action for the foreclosure of a
366 mortgage on residential real property with a return date during the
367 period from July 1, 2008, to June 30, 2009, inclusive, shall be subject to
368 the provisions of subsection (b) of this section, and (2) any action for
369 the foreclosure of a mortgage on (A) residential real property with a
370 return date during the period from July 1, 2009, to June 30, [2019] 2023,
371 inclusive, or (B) real property owned by a religious organization with a
372 return date during the period from October 1, 2011, to June 30, [2019]
373 2023, inclusive, shall be subject to the provisions of subsection (c) of
374 this section.

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

387 any party or the mediator, extend the mediation period subject to the
388 provisions of subdivision (9) of this subsection or shorten the
389 mediation period.

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

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

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

491 shall be proportional to the conduct and consistent with the objectives
492 of the mediation program. Available sanctions shall include, but not be
493 limited to, terminating mediation, ordering the mortgagor or
494 mortgagee to mediate in person, forbidding the mortgagee from
495 charging the mortgagor for the mortgagee's attorney's fees, awarding
496 attorney's fees, and imposing fines. In the case of egregious
497 misconduct, the sanctions shall be heightened. The court shall not
498 award attorney's fees to any mortgagee for time spent in any
499 mediation session if the court finds that such mortgagee has failed to
500 comply with this subdivision, unless the court finds reasonable cause
501 for such failure.

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

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

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

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

520 (7) Foreclosure mediation request forms shall not be accepted by the
521 court under this subsection on or after July 1, [2019] 2023, and the
522 foreclosure mediation program shall terminate when all mediation has

523 concluded with respect to any applications submitted to the court prior
524 to July 1, [2019] 2023.

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

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

554 (B) The mediation period may be extended for one additional
555 mediation session without a hearing held pursuant to this subdivision

556 provided all parties to the mediation agree that such parties would
557 benefit from such a session and, in consultation with the mediator,
558 establish an expeditious deadline for such session to take place.

559 (C) To determine whether to extend mediation, the court may
560 consider all matters that have arisen in the mediation, including, but
561 not limited to, the number of motions to extend mediation, the reasons
562 for which an agreement has not been reached, the objectives of the
563 mediation program, the extent to which the parties will benefit from
564 further mediation, the reports submitted by the mediator, papers
565 submitted in connection with any motion, and any supplemental
566 reports submitted by a party. The court shall articulate its reasons in
567 the order granting or denying any such motion or request to extend
568 mediation.

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

578 (c) (1) For any action for the foreclosure of a mortgage on residential
579 real property with a return date during the period from July 1, 2009, to
580 June 30, [2019] 2023, inclusive, or for any action for the foreclosure of a
581 mortgage on real property owned by a religious organization with a
582 return date during the period from October 1, 2011, to June 30, [2019]
583 2023, inclusive, the mediation period under the foreclosure mediation
584 program established in section 49-31m shall commence when the court
585 sends notice to each appearing party scheduling the first foreclosure
586 mediation session. The mediation period shall conclude not later than
587 the conclusion of the third mediation session between the mortgagor
588 and mortgagee or seven months after the return date, whichever is

589 earlier, except that the court may, in its discretion, for good cause
590 shown, upon the motion of any party or request by the mediator,
591 extend the mediation period subject to the provisions of subdivision
592 (9) of this subsection or shorten the mediation period.

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

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

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

693 mediation program. Available sanctions shall include, but not be
694 limited to, terminating mediation, ordering the mortgagor or
695 mortgagee to mediate in person, forbidding the mortgagee from
696 charging the mortgagor for the mortgagee's attorney's fees, awarding
697 attorney's fees, and imposing fines. In the case of egregious
698 misconduct, the sanctions shall be heightened. The court shall not
699 award attorney's fees to any mortgagee for time spent in any
700 mediation session if the court finds that such mortgagee has failed to
701 comply with this subdivision, unless the court finds reasonable cause
702 for such failure.

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

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

713 (5) The Chief Court Administrator shall establish policies and
714 procedures to implement this subsection. Such policies and procedures
715 shall, at a minimum, provide that the mediator shall advise the
716 mortgagor at the first meeting required by subdivision (4) of
717 subsection (c) of section 49-311, as amended by this act, that: (A) Such
718 mediation does not suspend the mortgagor's obligation to respond to
719 the foreclosure action beyond the limited time frame described in
720 subdivision (6) of subsection (c) of section 49-311, as amended by this
721 act; and (B) a judgment of strict foreclosure or foreclosure by sale may
722 cause the mortgagor to lose the residential real property or real
723 property owned by a religious organization to foreclosure.

724 (6) In no event shall any determination issued by a mediator under

725 this program form the basis of an appeal of any foreclosure judgment.

726 (7) The foreclosure mediation program shall terminate when all
727 mediation has concluded with respect to any foreclosure action with a
728 return date during the period from July 1, 2009, to June 30, [2019] 2023,
729 inclusive.

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

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

758 shall conclude following such subsequent extended mediation session.

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

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

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

784 (d) (1) Not later than February 14, 2014, the Chief Court
785 Administrator shall submit, in accordance with the provisions of
786 section 11-4a, to the joint standing committee of the General Assembly
787 having cognizance of matters relating to banking, a summary
788 regarding the mediation program and a general summary of the data
789 collected in the reports submitted pursuant to subdivision (2) of

790 subsections (b) and (c) of this section from July 1, 2013, to December
791 31, 2013, inclusive. Such summaries shall include, but not be limited to,
792 the aggregate data regarding the number of cases in mediation, the
793 number of mediation sessions held, the number of agreements reached
794 before the conclusion of the mediation period, the number of motions
795 or requests for an extension or continuance and the identity of the
796 party that made such a motion or request, whether the loan at issue
797 was serviced by a third party, the judicial district in which the
798 mediation took place and whether the mortgagor was self-represented.

799 (2) Not later than March 1, 2016, and by March first each year
800 thereafter until March 1, [2019] 2023, inclusive, the Chief Court
801 Administrator shall submit, in accordance with the provisions of
802 section 11-4a, to the joint standing committee of the General Assembly
803 having cognizance of matters relating to banking, a summary of the
804 reports submitted from July 1, 2013, to December thirty-first of the
805 immediately preceding year, inclusive, pursuant to subdivision (2) of
806 subsections (b) and (c) of this section. The detailed data points for such
807 summary, including data to be collected but not reported, shall be
808 developed by the Chief Court Administrator in consultation with
809 representatives from the Governor's office, the Department of Banking,
810 the banking industry and consumer advocates.

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

813 The foreclosure mediation program established pursuant to section
814 49-31m shall be funded within available appropriations and available
815 until June 30, [2019] 2023. The size of such program shall be
816 determined by available funding and the number and need of
817 participants in such program.

818 Sec. 4. Subdivision (5) of subsection (b) of section 36a-486 of the 2018
819 supplement to the general statutes is repealed and the following is
820 substituted in lieu thereof (*Effective October 1, 2018*):

821 (5) On and after January 1, 2018, no person shall, directly or

822 indirectly, act as a lead generator without first obtaining a license
823 under section 36a-489, unless such person is exempt from licensure.
824 The following persons shall be exempt from licensure as a lead
825 generator:

826 (A) Any bank, out-of-state bank, Connecticut credit union, federal
827 credit union or out-of-state credit union, provided such bank or credit
828 union is federally insured;

829 (B) Any wholly owned subsidiary of any such bank or credit union;

830 (C) Any operating subsidiary where each owner of such operating
831 subsidiary is wholly owned by the same such bank or credit union;

832 (D) Any person licensed as a mortgage lender, mortgage
833 correspondent lender or mortgage broker in this state, provided such
834 exemption shall not be effective during any period in which the license
835 of such person is suspended;

836 (E) A consumer reporting agency, as defined in Section 603 (f) of the
837 Fair Credit Reporting Act, 15 USC 1681a, as amended from time to
838 time; [and]

839 (F) An employee of a person licensed as a lead generator or exempt
840 from licensure as a lead generator, while engaged in lead generator
841 activities on behalf of such person; [.] and

842 (G) An individual employed by an affiliate of a bank or credit union
843 exempt pursuant to subparagraph (A) of this subdivision, who is
844 registered or licensed with a state or federal regulator to engage in
845 securities brokerage, investment advisory or insurance sales activities
846 and performs lead generation activities that are solely incidental to
847 such regulated activities when directing a consumer or transferring a
848 lead to such bank or credit union. For purposes of this subparagraph,
849 "affiliate" means any company that controls, is controlled by or is
850 under common control with a bank or credit union exempt pursuant to
851 subparagraph (A) of this subdivision."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2018</i>	49-31 <i>l</i>
Sec. 2	<i>October 1, 2018</i>	49-31 <i>n</i>
Sec. 3	<i>October 1, 2018</i>	49-31 <i>v</i>
Sec. 4	<i>October 1, 2018</i>	36a-486(b)(5)