



Senate

General Assembly

File No. 248

January Session, 2021

Substitute Senate Bill No. 891

Senate, April 1, 2021

The Committee on Banking reported through SEN. KASSER of the 36th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE EZEQUIEL SANTIAGO FORECLOSURE MEDIATION PROGRAM AND OTHER ALTERNATIVES TO FORECLOSURE.

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 Section 49-311 of the general statutes is repealed and the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, 2021*):

3 [(a) Prior to July 1, 2023: (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 the
7 foreclosure of a mortgage on (A) residential real property with a return
8 date during the period from July 1, 2009, to June 30, 2023, inclusive, or
9 (B) real property owned by a religious organization with a return date
10 during the period from October 1, 2011, to June 30, 2023, inclusive, shall
11 be subject to the provisions of subsection (c) of this section.

12 (b) (1) Prior to July 1, 2023, when a mortgagee commences an action

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

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

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

33 (4) No foreclosure mediation request form may be submitted to the
34 court under this subsection on or after July 1, 2023.

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

41 (6) Notwithstanding any provision of the general statutes or any rule
42 of law to the contrary, prior to July 1, 2023, no judgment of strict
43 foreclosure nor any judgment ordering a foreclosure sale shall be
44 entered in any action subject to the provisions of this subsection and

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

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

59 [(c) (1) Prior to July 1, 2023, when a] (a) Any mortgagee that
60 commences an action for the foreclosure of a mortgage on residential
61 real property with a return date on or after July 1, 2009, or, with respect
62 to real property owned by a religious organization, a return date on or
63 after October 1, 2011, [the mortgagee] shall give notice to the mortgagor
64 of the Ezequiel Santiago Foreclosure Mediation Program established
65 pursuant to section 49-31m by attaching to the front of the writ,
66 summons and complaint that is served on the mortgagor: [(A)] (1) A
67 copy of the notice of foreclosure mediation, in such form as the Chief
68 Court Administrator prescribes, [(B)] (2) a copy of the foreclosure
69 mediation certificate form described in [subdivision (3) of this]
70 subsection (c) of this section, in such form as the Chief Court
71 Administrator prescribes, [(C)] (3) a blank appearance form, in such
72 form as the Chief Court Administrator prescribes, [(D)] (4) with respect
73 to an action for the foreclosure of a mortgage on residential real property
74 with a return date on or after October 1, 2011, to September 30, 2013,
75 inclusive, a mediation information form and a notice containing contact
76 information for authority-approved consumer credit counseling
77 agencies, which form and notice shall be in such form as the Chief Court
78 Administrator prescribes, and which form shall be designed to elicit

79 current financial information and such other nonfinancial information
80 from the mortgagor as the Chief Court Administrator, in consultation
81 with representatives from the banking industry and consumer
82 advocates, determines will further the objectives of the mediation
83 program. The Chief Court Administrator shall develop a premediation
84 review protocol pursuant to which the mediator shall request that any
85 documents submitted to the mediator for initial review that are
86 incomplete, contain errors or are likely to be found unacceptable by the
87 mortgagee be completed or corrected and that the completed or
88 corrected documents be resubmitted to the mediator for review. Such
89 premediation review, including any recommendations to complete or
90 correct documents, shall not be construed to be the practice of law on
91 behalf of any party to the mediation or the provision of legal advice by
92 the mediator. The instructions to the mediation information form shall
93 explain that the completed mediation information form, along with
94 accompanying documentation reasonably requested from the
95 mortgagor by way of such instructions, shall be delivered to the
96 mortgagee's counsel not later than fifteen business days prior to the date
97 of the initial mediation session, as identified in the notice provided
98 pursuant to [subdivision (2) of subsection (c)] subsection (a) of section
99 49-31n, as amended by this act, and [(E)] (5) for an action to foreclose a
100 mortgage on residential real property with a return date on or after
101 October 1, 2013, the mediation information form shall instruct the
102 mortgagor as to the objectives of the mediation program, explain the
103 preliminary process of meeting with the mediator as described in
104 [subdivision (4) of this subsection] subsection (d) of this section, instruct
105 the mortgagor to begin gathering financial documentation commonly
106 used in foreclosure mediation for use in meeting with the mediator and
107 in mediation, and include a notice containing contact information for
108 authority-approved consumer counseling agencies, which shall be in
109 such form as the Chief Court Administrator prescribes. The content of
110 the mediation information form shall be designed by the Chief Court
111 Administrator in consultation with representatives from the banking
112 industry and consumer advocates.

113 [(2)] (b) The court shall issue a notice of foreclosure mediation

114 described in [subdivision (3)] subsection (c) of this [subsection] section
115 to the mortgagor not later than the date three business days after the
116 date the mortgagee returns the writ to the court.

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

149 mortgagee of such spouse's or former spouse's nonpublic personal
150 financial information to any other person who is obligated as a borrower
151 on the note, to the extent the mortgagee has such information, and [(B)]
152 (2) any other person who is a mortgagor provides consent to the full
153 disclosure by the mortgagee of such person's nonpublic personal
154 financial information to such spouse or former spouse, to the extent the
155 mortgagee has such information. If a foreclosure mediation certificate is
156 not submitted by a mortgagor, other than a spouse or former spouse
157 claiming to be a permitted successor-in-interest, the court shall confirm,
158 in lieu of the requirements of [subparagraph (B) of this subdivision]
159 subdivision (2) of this subsection, that the foreclosure mediation
160 certificate submitted by the spouse or former spouse contains a
161 statement, signed by the spouse or former spouse, certifying that all
162 persons who are obligated on the note have otherwise given
163 documentation to the mortgagee which allows for the full disclosure by
164 the mortgagee of such person's nonpublic personal information to the
165 spouse or former spouse, to the extent the mortgagee has such
166 information. Such a certification may be rebutted conclusively by the
167 mortgagee if the mortgagee submits a written statement to the court in
168 which the mortgagee certifies that, based upon reasonable belief, the
169 mortgagee does not possess such documentation.

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

184 to mediation. Promptly upon receipt of the notice of assignment, but not
185 later than the thirty-fifth day following the return date, the mortgagee
186 or its counsel shall deliver to the mediator, via the electronic mail
187 address provided for communications related to the mediation, and to
188 the mortgagor, via first class, priority or overnight mail, [(A)] (1) an
189 account history identifying all credits and debits assessed to the loan
190 account and any related escrow account in the immediately preceding
191 twelve-month period and an itemized statement of the amount required
192 to reinstate the mortgage loan with accompanying information, written
193 in plain language, to explain any codes used in the history and statement
194 which are not otherwise self-explanatory, [(B)] (2) the name, business
195 mailing address, electronic mail address, facsimile number and direct
196 telephone number of an individual able to respond with reasonable
197 adequacy and promptness to questions relative to the information
198 submitted to the mediator pursuant to this subdivision, and any
199 subsequent updates to such contact information, which shall be
200 provided reasonably promptly to the mediator via the electronic mail
201 address provided for communication related to the mediation, [(C)] (3)
202 current versions of all reasonably necessary forms and a list of all
203 documentation reasonably necessary for the mortgagee to evaluate the
204 mortgagor for common alternatives to foreclosure that are available
205 through the mortgagee, if any, [(D)] (4) a copy of the note and mortgage,
206 including any agreements modifying such documents, [(E)] (5)
207 summary information regarding the status of any pending foreclosure
208 avoidance efforts being undertaken by the mortgagee, [(F)] (6) a copy of
209 any loss mitigation affidavit filed with the court, [and (G)] (7) at the
210 mortgagee's option, [(i) the history of foreclosure avoidance efforts with
211 respect to the mortgagor, (ii)] (A) information regarding the condition
212 of mortgaged property, and [(iii)] (B) such other information as the
213 mortgagee may determine is relevant to meeting the objectives of the
214 mediation program, and (8) the history of foreclosure avoidance efforts
215 with respect to the mortgagor, including, without limitation, a
216 description of the efforts made by the mortgagee to provide the
217 mortgagor any loss mitigation option or foreclosure alternative,
218 including those required or made available pursuant to any order,

219 directive or regulation issued or any voluntary program announced by
220 any governmental authority in response to COVID-19 during the public
221 health and civil preparedness emergencies declared by the Governor on
222 March 10, 2020, or any extension of such declarations. For the purposes
223 of this subsection, "COVID-19" means the respiratory disease
224 designated by the World Health Organization on February 11, 2020, as
225 coronavirus 2019, and any related mutation thereof recognized by the
226 World Health Organization as a communicable respiratory disease.
227 Following the mediator's receipt of such information, the court shall
228 assign a mediator to the mediation and schedule a meeting with the
229 mediator and all mortgagors who are relevant and necessary to the
230 mediation and to any agreement being contemplated in connection with
231 the mediation and shall endeavor to hold such meeting on or prior to
232 the forty-ninth day following the return date. The notice of such meeting
233 shall instruct the mortgagor to complete the forms prior to the meeting
234 and to furnish such forms together with the documentation contained
235 in the list, as provided by the mortgagee following the filing of the
236 foreclosure mediation certificate, at the meeting. At such meeting, the
237 mediator shall review such forms and documentation with the
238 mortgagor, along with the information supplied by the mortgagee, in
239 order to discuss the options that may be available to the mortgagor,
240 including any community-based resources, and assist the mortgagor in
241 completing the forms and furnishing the documentation necessary for
242 the mortgagee to evaluate the mortgagor for alternatives to foreclosure.
243 The mediator may elect to schedule subsequent meetings with the
244 mortgagor and determine whether any mortgagor may be excused from
245 an in-person appearance at such subsequent meeting. The mediator may
246 excuse any mortgagor from attending such meeting or any subsequent
247 meetings, provided the mortgagor shows good cause for
248 nonattendance. Such good cause may include, but is not limited to, the
249 mortgagor no longer owning the home pursuant to a judgment of
250 marital dissolution and related transfer via deed, or no longer residing
251 in the home and not being a necessary party to any agreement being
252 contemplated in connection with the mediation. As soon as practicable,
253 but in no case later than the eighty-fourth day following the return date,

254 or the extended deadline if such an extended deadline is established
255 pursuant to this subdivision, the mediator shall facilitate and confirm
256 the submission by the mortgagor of the forms and documentation to the
257 mortgagee's counsel via electronic means and, at the mortgagee's
258 election, directly to the mortgagee per the mortgagee's instruction, and
259 determine, based on the participating mortgagor's attendance at the
260 meetings and the extent the mortgagor completed the forms and
261 furnished the documentation contemplated in this subdivision, or failed
262 to perform such tasks through no material fault of the mortgagee, and
263 file a report with the court indicating, [(I)] (A) whether mediation shall
264 be scheduled with the mortgagee, [(II)] (B) whether the mortgagor
265 attended scheduled meetings with the mediator, [(III)] (C) whether the
266 mortgagor fully or substantially completed the forms and furnished the
267 documentation requested by the mortgagee, [(IV)] (D) the date on which
268 the mortgagee supplied the forms and documentation, and [(V)] (E) any
269 other information the mediator determines to be relevant to the
270 objectives of the mediation program. The mediator may file, and the
271 court may grant, a motion for extension of the premediation period
272 beyond the eighty-fourth day following the return date if good cause
273 can be shown for such an extension. Any such motion shall be filed, with
274 a copy simultaneously sent to the mortgagee and as soon as practicable
275 to the mortgagor, not later than the eighty-fourth day following the
276 return date. The mortgagee and mortgagor shall each have five business
277 days from the day the motion was filed to file an objection or
278 supplemental papers, and the court shall issue its ruling, without a
279 hearing, not later than ten business days from the date the motion was
280 filed. If the court determines that good cause exists for an extension, the
281 court shall therewith establish an extended deadline so that the
282 premediation period shall end as soon thereafter as may be practicable,
283 but not later than thirty-five days from the date of the ruling, taking into
284 account the complexity of the mortgagor's financial circumstances, the
285 mortgagee's documentation requirements, and the timeliness of the
286 mortgagee's and mortgagor's compliance with their respective
287 premediation obligations. If the court denies the mediator's motion, the
288 extended deadline for purposes of this subdivision shall be three days

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

315 [(5)] (e) Notwithstanding the provisions of this [subsection] section,
316 the court may refer a foreclosure action brought by a mortgagee to the
317 Ezequiel Santiago Foreclosure Mediation Program established pursuant
318 to section 49-31m at any time, for good cause shown, provided the
319 mortgagor has filed an appearance in said action and further provided
320 the court shall, not later than the date three business days after the date
321 on which it makes such referral, send a notice to each appearing party
322 assigning the case to mediation and requiring the parties to participate
323 in the premediation process described in [subdivision (4) of this]

324 subsection (d) of this section, with the court establishing deadlines to
325 ensure that the premediation process is to be completed by the parties
326 as expeditiously as the circumstances warrant and permit. When
327 determining whether good cause exists, the court shall consider whether
328 the parties are likely to benefit from mediation and, in the case of a
329 referral after prior attempts at mediation have been terminated, whether
330 there has been a material change in circumstances.

331 [(6)] (f) Notwithstanding any provision of the general statutes or any
332 rule of law, [prior to July 1, 2023, (A)] (1) for the period of time which
333 shall not exceed eight months from the return date, the mortgagor shall
334 be permitted to file an answer, special defenses or counterclaims, but no
335 mortgagee or mortgagor shall make any motion, request or demand
336 with respect to the other, except those motions, requests or demands
337 that relate to the mediation program described in section 49-31m and
338 the mediation sessions held pursuant to such program, provided [(i)]
339 (A) a mortgagor seeking to contest the court's jurisdiction may file a
340 motion to dismiss and the mortgagee may object to such motion to
341 dismiss in accordance with applicable law and the rules of the courts,
342 and [(ii)] (B) if the mortgagor elects to make any other motion, request
343 or demand with respect to the mortgagee, the eight-month limit shall no
344 longer apply to either party; and [(B)] (2) no judgment of strict
345 foreclosure nor any judgment ordering a foreclosure sale shall be
346 entered in any action subject to the provisions of this subsection and
347 instituted by the mortgagee to foreclose a mortgage on residential real
348 property or real property owned by a religious organization unless: [(i)]
349 (A) The mediation period set forth in subsection [(c)] (a) of section 49-
350 31n, as amended by this act, has expired or has otherwise terminated,
351 whichever is earlier, and, if fewer than eight months has elapsed from
352 the return date at the time of termination, fifteen days have elapsed
353 since such termination and any pending motion or request to extend the
354 mediation period has been heard and denied by the court, or [(ii)] (B)
355 the mediation program is not otherwise required or available. Nothing
356 in this subdivision shall affect any motion made or any default or
357 judgment entered on or before June 30, 2011.

358 [(7)] (g) With respect to foreclosure actions with a return date [during
359 the period from] on or after July 1, 2011, [to June 30, 2023, inclusive,]
360 notwithstanding any provision of the general statutes or any rule of law
361 to the contrary, the mortgagee shall be permitted following the eight-
362 month or fifteen-day period described in [subdivision (6) of this]
363 subsection (f) of this section, to simultaneously file, as applicable, [(A)]
364 (1) a motion for default, and [(B)] (2) a motion for judgment of strict
365 foreclosure or a motion for judgment of foreclosure by sale with respect
366 to the mortgagor in the foreclosure action.

367 [(8)] (h) None of the mortgagor's or mortgagee's rights in the
368 foreclosure action shall be waived by participation in the Ezequiel
369 Santiago Foreclosure Mediation Program.

370 Sec. 2. Section 49-31n of the general statutes is repealed and the
371 following is substituted in lieu thereof (*Effective October 1, 2021*):

372 [(a) Prior to July 1, 2023: (1) Any action for the foreclosure of a
373 mortgage on residential real property with a return date during the
374 period from July 1, 2008, to June 30, 2009, inclusive, shall be subject to
375 the provisions of subsection (b) of this section, and (2) any action for the
376 foreclosure of a mortgage on (A) residential real property with a return
377 date during the period from July 1, 2009, to June 30, 2023, inclusive, or
378 (B) real property owned by a religious organization with a return date
379 during the period from October 1, 2011, to June 30, 2023, inclusive, shall
380 be subject to the provisions of subsection (c) of this section.

381 (b) (1) For any action for the foreclosure of a mortgage on residential
382 real property with a return date during the period from July 1, 2008, to
383 June 30, 2009, inclusive, the mediation period under the Ezequiel
384 Santiago Foreclosure Mediation Program established pursuant to
385 section 49-31m shall commence when the court sends notice to each
386 appearing party that a foreclosure mediation request form has been
387 submitted by a mortgagor to the court, which notice shall be sent not
388 later than three business days after the court receives a completed
389 foreclosure mediation request form. The mediation period shall
390 conclude not later than the conclusion of the third mediation session

391 between the mortgagor and mortgagee or seven months after the return
392 date, whichever is earlier, except that the court may, in its discretion, for
393 good cause shown, upon the motion of any party or the mediator,
394 extend the mediation period subject to the provisions of subdivision (9)
395 of this subsection or shorten the mediation period.

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

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

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

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

506 (3) If the mediator reports to the court that the parties will not benefit
507 from further mediation, the mediation period shall terminate
508 automatically. If the mediator reports to the court after the first or
509 second mediation session that the parties may benefit from further
510 mediation, the mediation period shall continue.

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

515 (5) The Chief Court Administrator shall establish policies and
516 procedures to implement this subsection. Such policies and procedures
517 shall, at a minimum, provide that the mediator shall advise the
518 mortgagor at the first meeting required by subdivision (4) of subsection
519 (c) of section 49-31/ that a judgment of strict foreclosure or foreclosure
520 by sale may cause the mortgagor to lose the residential real property to
521 foreclosure.

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

524 (7) Foreclosure mediation request forms shall not be accepted by the
525 court under this subsection on or after July 1, 2023, and the Ezequiel
526 Santiago Foreclosure Mediation Program shall terminate when all
527 mediation has concluded with respect to any applications submitted to

528 the court prior to July 1, 2023.

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

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

557 (B) The mediation period may be extended for one additional
558 mediation session without a hearing held pursuant to this subdivision
559 provided all parties to the mediation agree that such parties would
560 benefit from such a session and, in consultation with the mediator,

561 establish an expeditious deadline for such session to take place.

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

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

581 [(c) (1)] (a) For any action for the foreclosure of a mortgage on
582 residential real property with a return date [during the period from] on
583 or after July 1, 2009, [to June 30, 2023, inclusive,] or for any action for the
584 foreclosure of a mortgage on real property owned by a religious
585 organization with a return date [during the period from] on or after
586 October 1, 2011, [to June 30, 2023, inclusive,] the mediation period under
587 the Ezequiel Santiago Foreclosure Mediation Program established
588 pursuant to section 49-31m shall commence when the court sends notice
589 to each appearing party scheduling the first foreclosure mediation
590 session. The mediation period shall conclude not later than the
591 conclusion of the third mediation session between the mortgagor and
592 mortgagee or seven months after the return date, whichever is earlier,
593 except that the court may, in its discretion, for good cause shown, upon

594 the motion of any party or request by the mediator, extend the
595 mediation period subject to the provisions of [subdivision (9) of this
596 subsection] subsection (h) of this section or shorten the mediation
597 period.

598 [(2)] (b) The mortgagor and mortgagee shall appear in person at each
599 mediation session and shall have the ability to mediate, except that [(A)]
600 (1) if a party is represented by counsel, the party's counsel may appear
601 in lieu of the party to represent the party's interests at the mediation,
602 provided the party has the ability to mediate and the party is available
603 [(i)] (A) during the mediation session by telephone, and [(ii)] (B) to
604 participate in the mediation session by speakerphone, provided an
605 opportunity is afforded for confidential discussions between the party
606 and party's counsel, [(B)] (2) following the initial mediation session, if
607 there are two or more mortgagors who are self-represented, only one
608 mortgagor shall be required to appear in person at each subsequent
609 mediation session unless good cause is shown, provided the other
610 mortgagors are available [(i)] (A) during the mediation session, and [(ii)]
611 (B) to participate in the mediation session by speakerphone, [(C)] (3) if a
612 party suffers from a disability or other significant hardship that imposes
613 an undue burden on such party to appear in person, the mediator may
614 grant permission to such party to participate in the mediation session
615 by telephone, and [(D)] (4) a mortgagor may be excused from appearing
616 at the mediation session if cause is shown that the presence of such
617 mortgagor is not needed to further the interests of mediation. Such
618 cause may include, but is not limited to, the mortgagor no longer
619 owning the home pursuant to a judgment of marital dissolution and
620 related transfer via deed or no longer residing in the home or not being
621 a necessary party to any agreement being contemplated in connection
622 with the mediation. A mortgagor's spouse, who is not a mortgagor but
623 who lives in the subject property, may appear at each mediation session,
624 provided all appearing mortgagors consent, in writing, to such spouse's
625 appearance or such spouse shows good cause for his or her appearance
626 and the mortgagors consent, in writing, to the disclosure of nonpublic
627 personal information to such spouse. If the mortgagor has submitted a
628 complete package of financial documentation in connection with a

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

664 additional information shall be submitted so that information
665 previously submitted by the mortgagor, to the extent possible, may still
666 be used by the mortgagee in conducting its review, [(viii)] (H) whether
667 the mortgagor has supplied, on a reasonably timely basis, any
668 additional information that was reasonably requested by the mortgagee,
669 and, if not, the stated reason for not doing so, [(ix)] (I) if information
670 provided by the mortgagor is no longer current for purposes of
671 evaluating a foreclosure alternative, a description of the out-of-date
672 information and an explanation as to how and why such information is
673 no longer current, [(x)] (J) with respect to any foreclosure action filed on
674 the basis of a default by the mortgagor during (i) the public health and
675 civil preparedness emergencies declared by the Governor on March 10,
676 2020, or any extension of such declarations, or (ii) the period of time that
677 any order, directive or regulation issued, or any voluntary program
678 announced, by any governmental authority related to COVID-19, as
679 defined in subsection (d) of section 49-31l, as amended by this act, is in
680 effect, whether the mortgagee has, in good faith, offered the mortgagor
681 a loss mitigation option or alternative to foreclosure related to COVID-
682 19, (K) whether the mortgagee has provided a reasonable explanation of
683 the basis for a decision to deny a request for a loss mitigation option or
684 foreclosure alternative and whether the mediator is aware of any
685 material reason not to agree with that decision, [(xi)] (L) whether the
686 mortgagee has complied with the time frames set forth in this
687 subdivision for responding to requests for decisions, [(xii)] (M) if a
688 subsequent mediation session is expected to occur, a general description
689 of the expectations for such subsequent session and for the parties prior
690 to such subsequent session and, if not otherwise addressed in the report,
691 whether the parties satisfied the expectations set forth in previous
692 reports, and [(xiii)] (N) a determination of whether the parties will
693 benefit from further mediation. The mediator shall deliver a copy of
694 such report to each party to the mediation when the mediator files the
695 report. The parties shall have the opportunity to submit their own
696 supplemental information following the filing of the report, provided
697 such supplemental information shall be submitted not later than five
698 business days following the receipt of the mediator's report. Any

699 request by the mortgagee to the mortgagor for additional or updated
700 financial documentation shall be made in writing. The court may
701 impose sanctions on any party or on counsel to a party if such party or
702 such counsel engages in intentional or a pattern or practice of conduct
703 during the mediation process that is contrary to the objectives of the
704 mediation program. Any sanction that is imposed shall be proportional
705 to the conduct and consistent with the objectives of the mediation
706 program. Available sanctions shall include, but not be limited to,
707 terminating mediation, ordering the mortgagor or mortgagee to
708 mediate in person, forbidding the mortgagee from charging the
709 mortgagor for the mortgagee's attorney's fees, awarding attorney's fees,
710 and imposing fines. In the case of egregious misconduct, the sanctions
711 shall be heightened. The court shall not award attorney's fees to any
712 mortgagee for time spent in any mediation session if the court finds that
713 such mortgagee has failed to comply with this subdivision, unless the
714 court finds reasonable cause for such failure.

715 [(3)] (c) If the mediator reports to the court that the parties will not
716 benefit from further mediation, the mediation period shall terminate
717 automatically. If the mediator reports to the court after the first or
718 second mediation session that the parties may benefit from further
719 mediation, the mediation period shall continue.

720 [(4)] (d) If the mediation period concludes and certain issues have not
721 been resolved pursuant to the mediation, the mediator may refer the
722 mortgagor to any appropriate community-based services that are
723 available in the judicial district, but any such referral shall not cause a
724 delay in the mediation process.

725 [(5)] (e) The Chief Court Administrator shall establish policies and
726 procedures to implement this [subsection] section. Such policies and
727 procedures shall, at a minimum, provide that the mediator shall advise
728 the mortgagor at the first meeting required by [subdivision (4) of
729 subsection (c)] subsection (d) of section 49-31l, as amended by this act,
730 that: [(A)] (1) Such mediation does not suspend the mortgagor's
731 obligation to respond to the foreclosure action beyond the limited time

732 frame described in [subdivision (6) of subsection (c)] subsection (f) of
733 section 49-31l, as amended by this act; and [(B)] (2) a judgment of strict
734 foreclosure or foreclosure by sale may cause the mortgagor to lose the
735 residential real property or real property owned by a religious
736 organization to foreclosure.

737 [(6)] (f) In no event shall any determination issued by a mediator
738 under this program form the basis of an appeal of any foreclosure
739 judgment.

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

744 [(8)] (g) At any time during the mediation period, the mediator may
745 refer a mortgagor who is the owner-occupant of one-to-four family
746 residential real property to the mortgage assistance programs, except
747 that any such referral shall not prevent a mortgagee from proceeding to
748 judgment when the conditions specified in [subdivision (6) of
749 subsection (c)] subsection (f) of section 49-31l, as amended by this act,
750 have been satisfied.

751 [(9) (A)] (h) (1) The mediation period shall conclude following the
752 third mediation session or if more than seven months have elapsed since
753 the return date. Not later than fifteen days following the conclusion of
754 the mediation period, and any subsequent extended mediation sessions
755 held in accordance with this subdivision, any party may move for, or
756 the mediator may request, an extension of the mediation period. The
757 court shall grant only one additional mediation session per motion or
758 request upon a finding that it is highly probable the parties will reach
759 an agreement through mediation. The court may also grant one
760 additional mediation session per motion or request upon a finding that
761 any party has engaged, either intentionally or by a pattern or practice,
762 in conduct that is contrary to the objectives of the mediation program.
763 The court shall make its ruling not later than twenty days after the filing
764 of such motion or request, and no judgment of strict foreclosure or any

765 judgment ordering a foreclosure sale shall be entered until [(i)] (A) the
766 court denies the motion or request, or [(ii)] (B) the conclusion of the
767 subsequent extended mediation session, except as provided in
768 [subparagraph (B) of this] subdivision (2) of this subsection. Upon the
769 grant of an additional mediation session following the proper finding,
770 the court shall establish a reasonably expeditious deadline for such
771 subsequent extended mediation session to occur. Such extended
772 mediation period shall conclude following such subsequent extended
773 mediation session.

774 [(B)] (2) The mediation period may be extended for one additional
775 mediation session without a hearing held pursuant to this subdivision
776 provided all parties to the mediation agree that such parties would
777 benefit from such a session and, in consultation with the mediator,
778 establish a reasonably expeditious deadline for such session to take
779 place.

780 [(C)] (3) To determine whether to extend mediation, the court may
781 consider all matters that have arisen in the mediation, including, but not
782 limited to, the number of motions to extend mediation, the reasons for
783 which an agreement has not been reached, the objectives of the
784 mediation program, the extent to which the parties will benefit from
785 further mediation, the reports submitted by the mediator, papers
786 submitted in connection with any motion, and any supplemental
787 reports submitted by a party. The court shall articulate its reasons in the
788 order granting or denying any such motion or request to extend
789 mediation.

790 [(10)] (i) For any case pending as of October 1, 2013, in which
791 mediation is ongoing, [(A)] (1) if three or fewer sessions have been held,
792 such case shall be treated as if no sessions have been held as of said date
793 for purposes of [subdivision (9) of this] subsection (h) of this section,
794 and [(B)] (2) if four or more sessions have been held, then any party or
795 the mediator may move to terminate the mediation period or extend
796 such period in accordance with [subdivision (9) of this] subsection (h) of
797 this section and, if no such motion to extend is made, the mediation

798 period shall conclude after the third mediation session occurring after
799 October 1, 2013.

800 [(d) (1) Not later than February 14, 2014, the Chief Court
801 Administrator shall submit, in accordance with the provisions of section
802 11-4a, to the joint standing committee of the General Assembly having
803 cognizance of matters relating to banking, a summary regarding the
804 mediation program and a general summary of the data collected in the
805 reports submitted pursuant to subdivision (2) of subsections (b) and (c)
806 of this section from July 1, 2013, to December 31, 2013, inclusive. Such
807 summaries shall include, but not be limited to, the aggregate data
808 regarding the number of cases in mediation, the number of mediation
809 sessions held, the number of agreements reached before the conclusion
810 of the mediation period, the number of motions or requests for an
811 extension or continuance and the identity of the party that made such a
812 motion or request, whether the loan at issue was serviced by a third
813 party, the judicial district in which the mediation took place and
814 whether the mortgagor was self-represented.

815 (2) Not later than March 1, 2021, and March 1, 2023, the Chief Court
816 Administrator shall submit, in accordance with the provisions of section
817 11-4a, to the joint standing committee of the General Assembly having
818 cognizance of matters relating to banking, a summary of the reports
819 submitted from July 1, 2013, to December thirty-first of the immediately
820 preceding year, inclusive, pursuant to subdivision (2) of subsections (b)
821 and (c) of this section. The detailed data points for such summary,
822 including data to be collected but not reported, shall be developed by
823 the Chief Court Administrator in consultation with representatives from
824 the Governor's office, the Department of Banking, the banking industry
825 and consumer advocates.]

826 Sec. 3. Subdivisions (8) and (9) of section 49-31k of the general statutes
827 are repealed and the following is substituted in lieu thereof (*Effective*
828 *October 1, 2021*):

829 (8) "Ability to mediate" means an exhibition on the part of the
830 relevant person of a willingness, including a reasonable ability, to

831 participate in the mediation process in a manner consistent with the
832 objectives of the mediation program and in conformity with any
833 obligations imposed in accordance with [subdivision (2) of subsection
834 (b) or (c), as applicable, of] section 49-31n, as amended by this act,
835 including, but not limited to, a willingness and reasonable ability to
836 respond to questions and specify or estimate when particular decisions
837 will be made or particular information will be furnished and, with
838 respect to the mortgagee, a reasonable familiarity with the loan file, any
839 loss mitigation options that are available to the mortgagor and the
840 material issues raised in prior mediation sessions. Reasonable
841 familiarity with such material issues may be achieved by becoming
842 reasonably familiar with the mediator reports submitted in accordance
843 with [subdivision (4) of subsections (b) and (c)] subsection (d) of section
844 49-31n, as amended by this act, to the extent such reports are available;

845 (9) "Permitted successor-in-interest" means a person who is a
846 defendant in a foreclosure action with a return date on or after October
847 1, 2015, and either (A) the former spouse of a decedent-mortgagor, who
848 acquired sole title to the residential real property by virtue of a transfer
849 from the decedent-mortgagor's estate or by virtue of the death of the
850 decedent-mortgagor where title was held as joint tenants or tenants in
851 the entirety, or (B) the spouse or former spouse of a mortgagor or former
852 mortgagor who (i) acquired title to the residential real property by
853 virtue of a transfer from such mortgagor or former mortgagor where
854 such transfer resulted from a court decree dissolving the marriage, a
855 legal separation agreement or a property settlement agreement
856 incidental to such a decree or separation agreement, and (ii) ensures that
857 all necessary consents to the disclosure of nonpublic personal financial
858 information have been provided to the mortgagee in accordance with
859 [subdivision (3) of] subsection (c) of section 49-31l, as amended by this
860 act.

861 Sec. 4. Subsection (a) of section 49-31r of the general statutes is
862 repealed and the following is substituted in lieu thereof (*Effective October*
863 *1, 2021*):

864 (a) A mortgagee, as defined in section 49-8a, shall include the form
865 promulgated by the Judicial Branch, in accordance with [subdivision (3)
866 of] subsection (c) of section 49-31l, as amended by this act, concerning
867 notice of community-based resources to parties involved in foreclosure
868 mediation with any notice to a mortgagor, as defined in said section 49-
869 8a, of an intent to accelerate the mortgage loan.

870 Sec. 5. Section 49-31v of the general statutes is repealed and the
871 following is substituted in lieu thereof (*Effective October 1, 2021*):

872 The Ezequiel Santiago Foreclosure Mediation Program established
873 pursuant to section 49-31m shall be funded within available
874 appropriations, [and available until June 30, 2023.] The size of such
875 program shall be determined by available funding and the number and
876 need of participants in such program.

877 Sec. 6. Section 8-265cc of the general statutes is repealed and the
878 following is substituted in lieu thereof (*Effective October 1, 2021*):

879 As used in this section and sections [8-265cc] 8-265dd to 8-265kk,
880 inclusive, as amended by this act, and section 11 of this act:

881 (1) "Aggregate family income" means the total income of persons
882 residing in the same household as the [mortgagor] homeowner and any
883 other resident of the household declared by the [mortgagor]
884 homeowner as a dependent for federal tax purposes, from whatever
885 source derived, including, but not limited to, pensions, annuities,
886 retirement benefits and Social Security benefits, provided the authority
887 may exclude from income (A) reasonable allowances for dependents,
888 (B) reasonable allowances for medical expenses, (C) all or any part of the
889 earnings of gainfully employed minors or family members other than
890 the chief wage earner, (D) income not regularly received, and (E) such
891 other expenses as the authority may allow;

892 (2) "Authority" means the Connecticut Housing Finance Authority
893 created under section 8-244;

894 (3) "Mortgage" means a mortgage deed or other instrument which

895 constitutes a first or second consensual lien, [on one-to-four family
896 owner-occupied residential real property located in this state, including,
897 but not limited to, a single-family unit in a common interest community]
898 including a reverse mortgage or a home equity conversion mortgage, on
899 residential real property;

900 (4) "Mortgagee" means the original lender under a mortgage, or its
901 agents, successors, or assigns;

902 (5) "Mortgagor" means [the owner-occupant of a one-to-four family
903 residential real property located in this state, including, but not limited
904 to, a single family unit in a common interest community,] a homeowner
905 who is also the borrower under a mortgage encumbering such real
906 property;

907 (6) "Housing expense" means the sum of the [mortgagor's]
908 homeowner's monthly maintenance expense in a common interest
909 community, utility expense, heating expense, hazard insurance
910 payment, taxes and required mortgage payment, including escrows;

911 (7) "Financial hardship due to circumstances beyond the
912 [mortgagor's] homeowner's control" means a significant reduction of
913 aggregate family household income or increase in expenses which
914 reasonably cannot be or could not have been alleviated by the
915 liquidation of assets by the [mortgagor] homeowner as determined by
916 the Connecticut Housing Finance Authority, including, but not limited
917 to, a reduction resulting from (A) (i) unemployment or
918 underemployment of one or more of the [mortgagors] homeowners; (ii)
919 a loss, reduction or delay in receipt of such federal, state or municipal
920 benefits as Social Security, supplemental security income, public
921 assistance and government pensions; (iii) a loss, reduction or delay in
922 receipt of such private benefits as pension, disability, annuity or
923 retirement benefits; (iv) divorce or a loss of support payments; (v)
924 disability, illness or death of a [mortgagor] homeowner; or (B) (i) a
925 significant increase in the dollar amount of the periodic payments
926 required by the [mortgage] homeowner; (ii) an unanticipated rise in
927 housing expenses; or (iii) expenses related to the disability, illness or

928 death of a member of the [mortgagor's] homeowner's family, but does
929 not include expenses related to the accumulation of credit or installment
930 debt incurred for recreational or nonessential items prior to the
931 occurrence of the alleged circumstances beyond the [mortgagor's]
932 homeowner's control in an amount that would have caused the
933 [mortgagor's] homeowner's total debt service to exceed sixty per cent of
934 aggregate family income at that time;

935 (8) "Consumer credit counseling agency" means a nonprofit
936 corporation or governmental agency located in this state which has been
937 designated by the authority to provide homeowners' emergency
938 mortgage assistance program counseling. A qualified consumer credit
939 counseling agency must either be certified as a housing counseling
940 agency by the federal Department of Housing and Urban Development
941 or otherwise determined accepted by the authority;

942 (9) "Foreclosure mediation program" means the Ezequiel Santiago
943 Foreclosure Mediation Program established pursuant to section 49-31m;
944 [and]

945 (10) "Periodic payments" means principal, interest, taxes, insurance
946 and, if applicable, condominium fees;

947 (11) "Lien" means debt secured by a lien on residential real property
948 pursuant to section 7-239, 7-254, 7-258 or 47-258 or chapter 205;

949 (12) "Lienholder" means the original lienor of a lien, or its agents,
950 successors or assigns;

951 (13) "Homeowner" means the owner-occupant of residential real
952 property; and

953 (14) "Residential real property" means a one-to-four family owner-
954 occupied residential real estate located in this state, including, but not
955 limited to, a single-family unit in a common interest community.

956 Sec. 7. Section 8-265dd of the general statutes is repealed and the
957 following is substituted in lieu thereof (*Effective October 1, 2021*):

958 (a) Not later than January 1, 1994, the authority shall establish, within
959 available funds, a program to provide emergency mortgage assistance
960 payments to [mortgagors] homeowners who are mortgagors in
961 accordance with the provisions of sections 8-265cc to 8-265kk, inclusive,
962 as amended by this act. On and after July 1, 2021, the program shall,
963 within available funds, provide emergency lien assistance payments to
964 homeowners in accordance with the provisions of said sections. Any
965 necessary and related administrative and operational expenses incurred
966 by the authority in implementing the program may be paid from funds
967 made available for the program.

968 (b) Notwithstanding any provision of the general statutes, or any rule
969 of law to the contrary, on and after July 1, 2008, no judgment of strict
970 foreclosure nor any judgment ordering a foreclosure sale shall be
971 entered in any action instituted by the mortgagee to foreclose a
972 mortgage commenced on or after said date, for the foreclosure of an
973 eligible mortgage unless (1) notice to [the mortgagor] the homeowner
974 who is a mortgagor has been given by the mortgagee in accordance with
975 section 8-265ee, as amended by this act, and the time for response has
976 expired, and (2) a determination has been made on the [mortgagor's]
977 homeowner's application for emergency mortgage assistance payments
978 in accordance with section 8-265ff, as amended by this act, or the
979 applicable time periods set forth in sections 8-265cc to 8-265kk,
980 inclusive, as amended by this act, have expired, whichever is earlier. For
981 purposes of this section and sections 8-265ee to 8-265kk, inclusive, as
982 amended by this act, an "eligible mortgage" is a mortgage which satisfies
983 the standards contained in subdivisions (1), (7) and (9) to (12), inclusive,
984 of subsection (e) of section 8-265ff, as amended by this act.

985 Sec. 8. Section 8-265ee of the general statutes is repealed and the
986 following is substituted in lieu thereof (*Effective October 1, 2021*):

987 (a) On and after July 1, 2008, a mortgagee who desires to foreclose
988 upon a mortgage which satisfies the standards contained in
989 subdivisions (1), (9), (10) and (11) of subsection (e) of section 8-265ff, as
990 amended by this act, shall give notice to [the mortgagor] each

991 homeowner who is a mortgagor by registered, or certified mail, postage
992 prepaid at the address of the property which is secured by the mortgage.
993 No such mortgagee may commence a foreclosure of a mortgage prior to
994 mailing such notice. Such notice shall advise the [mortgagor]
995 homeowner of his delinquency or other default under the mortgage and
996 shall state that the [mortgagor] homeowner has sixty days from the date
997 of such notice in which to (1) have a face-to-face meeting, telephone or
998 other conference acceptable to the authority with the mortgagee or a
999 face-to-face meeting with a consumer credit counseling agency to
1000 attempt to resolve the delinquency or default by restructuring the loan
1001 payment schedule or otherwise, and (2) contact the authority, at an
1002 address and phone number contained in the notice, to obtain
1003 information and apply for emergency mortgage assistance payments if
1004 the [mortgagor] homeowner and mortgagee are unable to resolve the
1005 delinquency or default.

1006 (b) Except in cases in which the mortgagee refuses to meet with the
1007 [mortgagor] homeowner, if the [mortgagor] homeowner fails to meet
1008 with the mortgagee or comply with any of the time limitations specified
1009 in the notice as provided in subsection (a) of this section, or if the
1010 [mortgagor's] homeowner's application is not filed by the date thirty
1011 days after the date of any default in payment under an agreement as
1012 provided in subsection (c) of this section or if the [mortgagor's]
1013 homeowner's application for emergency mortgage assistance payments
1014 is not approved by the date thirty calendar days after the date of receipt
1015 of the [mortgagor's] homeowner's application in accordance with the
1016 provisions of section 8-265ff, as amended by this act, the foreclosure of
1017 the [mortgagor's] homeowner's mortgage may, at any time thereafter,
1018 except as provided in subsection (e) of this section, continue without any
1019 further restriction or requirement under the provisions of sections 8-
1020 265cc to 8-265kk, inclusive, as amended by this act, provided the
1021 mortgagee files an affidavit with the court stating the notice provisions
1022 of subsection (a) of this section have been complied with and that either
1023 the [mortgagor] homeowner failed to meet with the mortgagee or failed
1024 to comply with all of the time limitations specified in the notice as
1025 provided in subsection (a) of this section or that the [mortgagor's]

1026 homeowner's application for emergency assistance payments was not
1027 approved by the date thirty calendar days after the date of receipt of the
1028 [mortgagor's] homeowner's application, or that a determination of
1029 ineligibility was made.

1030 (c) If, after a face-to-face meeting, telephone or other conference
1031 acceptable to the authority, as provided in subsection (a) of this section,
1032 the [mortgagor] homeowner and the mortgagee reach an agreement to
1033 resolve the delinquency or default and, because of financial hardship
1034 due to circumstances beyond the [mortgagor's] homeowner's control,
1035 the [mortgagor] homeowner is unable to fulfill the obligations of the
1036 agreement, the [mortgagor] homeowner may apply to the authority for
1037 emergency mortgage assistance payments under sections 8-265cc to 8-
1038 265kk, inclusive, as amended by this act, by the date thirty days after the
1039 date of any default in payment under the agreement. The mortgagee
1040 shall not be required to send any additional notice to the [mortgagor]
1041 homeowner other than the notice required under subsection (a) of this
1042 section.

1043 (d) Nothing in sections 8-265cc to 8-265kk, inclusive, as amended by
1044 this act, shall prevent a [mortgagor] homeowner from exercising rights
1045 that may exist under the foreclosure mediation program and those
1046 rights may be exercised concurrently with the rights afforded under
1047 sections 8-265cc to 8-265kk, inclusive, as amended by this act, provided
1048 the exercise of rights under the foreclosure mediation program shall not
1049 cause a delay in the determination under subsection (e) of section 8-
1050 265ff, as amended by this act. Nothing in sections 8-265cc to 8-265kk,
1051 inclusive, as amended by this act, shall prevent a [mortgagor]
1052 homeowner from applying or reapplying and being considered for
1053 emergency mortgage assistance if such [mortgagor] homeowner is
1054 referred to the emergency mortgage assistance program by the
1055 foreclosure mediation program.

1056 Sec. 9. Section 8-265ff of the general statutes is repealed and the
1057 following is substituted in lieu thereof (*Effective October 1, 2021*):

1058 (a) (1) Any [mortgagor] homeowner who is a mortgagor may apply

1059 for emergency mortgage assistance payments under sections 8-265cc to
1060 8-265kk, inclusive, as amended by this act, if [such mortgagor (1)] (A)
1061 such homeowner (i) has received notice of intent to foreclose as
1062 provided in section 8-265ee, as amended by this act, [or (2) (A)] (ii) is
1063 sixty days or more delinquent on a mortgage, or [(B) such mortgagor]
1064 (iii) anticipates that he or she will be sixty days or more delinquent on a
1065 mortgage based on financial hardship beyond such [mortgagor's]
1066 homeowner's control, provided the authority determines that such
1067 [mortgagor] homeowner will be so delinquent, or (B) the homeowner's
1068 mortgage is in forbearance.

1069 (2) Any homeowner may apply for emergency lien assistance
1070 payments under sections 8-265cc to 8-265kk, inclusive, as amended by
1071 this act, if such homeowner (A) has received notice of the lienholder's
1072 intent to foreclose the lien, (B) is sixty days or more delinquent on the
1073 debt secured by a lien, or (C) anticipates that he or she will be sixty days
1074 or more delinquent on the debt secured by a lien based on financial
1075 hardship beyond such homeowner's control, provided the authority
1076 determines that such homeowner will be so delinquent.

1077 (3) As part of the application process, the authority may refer the
1078 applicant to a counseling agency approved by the United States
1079 Department of Housing and Urban Development.

1080 (b) If the [mortgagor] homeowner applies for emergency mortgage or
1081 lien assistance payments under sections 8-265cc to 8-265kk, inclusive, as
1082 amended by this act, the authority shall, no later than eight business
1083 days after the date of receipt of such application, notify all of the
1084 mortgagees and lienholders listed on the application holding a
1085 mortgage or lien on the [mortgagor's] homeowner's real property.

1086 (c) The [mortgagor] homeowner shall apply for a loan on the form
1087 provided by the authority. The [mortgagor] homeowner shall complete
1088 and sign the application subject to the penalty for false statement under
1089 section 53a-157b.

1090 (d) The [mortgagor] homeowner shall provide the authority with full

1091 disclosure of all assets and liabilities, whether singly or jointly held, and
1092 all household income regardless of source. For purposes of this
1093 subsection, both of the following are included as assets:

1094 (1) The sum of the household's savings and checking accounts,
1095 market value of stocks, bonds and other securities, other capital
1096 investments, pensions and retirement funds valued in an amount
1097 greater than one hundred thousand dollars, personal property and
1098 equity in real property including the subject mortgage or lien property.
1099 Income derived from family assets shall be considered as income. Equity
1100 is the difference between the market value of the property and the total
1101 outstanding principal of any loans secured by the property and other
1102 liens.

1103 (2) Lump-sum additions to family assets such as inheritances, capital
1104 gains, insurance payments included under health, accident, hazard or
1105 workers' compensation policies and settlements, verdicts or awards for
1106 personal or property losses or transfer of assets without consideration
1107 within one year of the time of application. Pending claims for such items
1108 must be identified by the homeowner as contingent assets.

1109 (e) The authority shall make a determination of eligibility for
1110 emergency mortgage or lien assistance payments by the date thirty
1111 calendar days after the date [of receipt of the mortgagor's] the
1112 homeowner's application is received by the authority. During said
1113 thirty-day period no judgment of strict foreclosure or any judgment
1114 ordering foreclosure by sale shall be entered in any action for the
1115 foreclosure of any mortgage or lien any mortgagee or lienholder holds
1116 on the [mortgagor's] homeowner's real property, except that such
1117 prohibition on the entry of judgment shall not apply to a foreclosure
1118 action commenced by a lienholder. No emergency mortgage or lien
1119 assistance payments may be provided unless the authority finds that:

1120 (1) The real property securing the mortgage [is a one-to-four family
1121 owner-occupied residence, including, but not limited to, a single family
1122 unit in a common interest community,] or underlying the lien is
1123 residential real property that is the principal residence of the [mortgagor

1124 and is located in this state] homeowner;

1125 (2) Payments, including amounts for taxes and insurance payments,
1126 including mortgage insurance, or for charges, assessments and fees
1127 associated with a condominium or common interest community, as such
1128 terms are defined in section 47-202, or any combination of such
1129 payments, whether or not such payments are made into escrow or
1130 impound accounts as reserves, owed by the [mortgagor] homeowner
1131 under any mortgage or lien on such real property have been delinquent
1132 and the mortgagee, taxing authority, [or] unit owners association or
1133 lienholder has indicated to the [mortgagor] homeowner its intention to
1134 foreclose;

1135 (3) The [mortgagor] homeowner is a resident of this state and is
1136 suffering financial hardship which renders the [mortgagor] homeowner
1137 unable to correct the delinquency or delinquencies within a reasonable
1138 time and make full mortgage payments or payments on the debt secured
1139 by the lien. For the purposes of subdivision (7) of this subsection, in
1140 order to determine whether the financial hardship is due to
1141 circumstances beyond the [mortgagor's] homeowner's control, the
1142 authority may consider information regarding the [mortgagor's]
1143 homeowner's employment, credit history and current and past
1144 household income, assets, total debt service, net worth, eligibility for
1145 other types of assistance and any other criteria or related factors it deems
1146 necessary and relevant;

1147 (4) There is a reasonable prospect that [the mortgagor] (A) a
1148 homeowner who applies for emergency mortgage assistance payments
1149 will be able to resume full mortgage payments on the original, modified
1150 or refinanced mortgage within sixty months after the beginning of the
1151 period in which emergency mortgage assistance payments are provided
1152 in accordance with a written plan formulated or approved by the
1153 authority and pay the mortgage in full in level monthly payments of
1154 principal and interest, subject only to payment changes as provided in
1155 the mortgage, by its maturity date, and (B) a homeowner who applies
1156 for emergency lien assistance payments will be able to resume regular

1157 payments to the lienholder for the tax, water, assessment or usage
1158 charges underlying the lien after payment by the authority of
1159 emergency lien assistance payments;

1160 (5) The [mortgagor] homeowner has applied to the authority for
1161 emergency mortgage or lien assistance payments on an application form
1162 prescribed by the authority which includes a financial statement
1163 disclosing all assets and liabilities of the [mortgagor] homeowner,
1164 whether singly or jointly held, and all household income regardless of
1165 source;

1166 (6) Based on the financial statement, the [mortgagor] homeowner has
1167 insufficient household income or net worth to correct the delinquency
1168 or delinquencies within a reasonable period of time and make full
1169 mortgage payments or regular payments to the lienholder for the tax,
1170 water, assessment or usage charges underlying the lien;

1171 (7) There is a reasonable prospect that the [mortgagor] homeowner,
1172 as determined by the authority, will be able to repay the emergency
1173 mortgage or lien assistance within a reasonable amount of time under
1174 the terms of section 8-265hh, as amended by this act, including through
1175 a refinancing of the mortgage, and the authority finds that, except for
1176 the current delinquency, [the mortgagor] any homeowner who is a
1177 mortgagor has had a favorable residential mortgage credit history for
1178 the previous two years or period of ownership, whichever is less. For
1179 the purposes of this subdivision, if a [mortgagor] homeowner has been
1180 more than thirty days in arrears four or more times on a residential
1181 mortgage within the previous year, the [mortgagor] homeowner shall
1182 be ineligible for emergency mortgage assistance payments unless the
1183 [mortgagor] homeowner can demonstrate that the prior delinquency
1184 was the result of financial hardship due to circumstances beyond the
1185 [mortgagor's] homeowner's control. In making a determination under
1186 this subsection, the authority may consider information regarding the
1187 structure of the mortgage, its repayment schedule, the length of time the
1188 [mortgagor] homeowner has lived in his or her home, and any other
1189 relevant factors or criteria it deems appropriate;

1190 (8) The mortgagee or lienholder is not otherwise prevented by law
1191 from foreclosing upon the mortgage;

1192 (9) The [mortgagor] homeowner has not mortgaged the real property
1193 for commercial or business purposes;

1194 (10) The [mortgagor] homeowner has not previously received
1195 emergency mortgage or lien assistance payments from the authority,
1196 provided a [mortgagor] homeowner who has previously received such
1197 payments shall be eligible to reapply if the [mortgagor] homeowner has
1198 reinstated the mortgage or the debt underlying the lien and the
1199 [mortgagor] homeowner shall not have been delinquent for at least six
1200 consecutive months immediately following such reinstatement;

1201 (11) The [mortgagor] homeowner is not in default under the
1202 mortgage except for the monetary delinquency referred to in
1203 subdivision (2) of this subsection; and

1204 (12) The [mortgagor] homeowner meets such other procedural
1205 requirements as the authority may establish, provided the authority
1206 shall not prohibit a homeowner from participating in the program solely
1207 on the basis that the homeowner received a discharge of debt through a
1208 bankruptcy filing and did not reaffirm such debt.

1209 Sec. 10. Section 8-265gg of the general statutes is repealed and the
1210 following is substituted in lieu thereof (*Effective October 1, 2021*):

1211 (a) If the authority approves a [mortgagor] homeowner for mortgage
1212 assistance under the provisions of section 8-265ff, as amended by this
1213 act, the authority shall make monthly emergency mortgage assistance
1214 payments directly to each mortgagee secured by the [mortgagor's]
1215 homeowner's real property for a period not to exceed sixty months,
1216 either consecutively or nonconsecutively, except no such payments shall
1217 be made after sixty months have passed since the date of the initial
1218 payment. The total monthly payment made by the authority, to or on
1219 behalf of a [mortgagor] homeowner under subsection (c) of this section,
1220 shall be not more than twenty-eight per cent of one hundred forty per

1221 cent of annual area median income, as published by the United States
1222 Department of Housing and Urban Development, divided by twelve.
1223 Upon receipt of payment in full from a [mortgagor] homeowner of the
1224 monthly amount established under subsection (b) of this section, the
1225 authority shall pay to each mortgagee the full amount then due to the
1226 mortgagee pursuant to the terms of the mortgage without regard to any
1227 acceleration under the mortgage. Such payments shall include, but not
1228 be limited to, principal, interest, taxes, assessments and insurance
1229 premiums. The initial payment made by the authority to each
1230 mortgagee may be an amount which pays all arrearages and pays
1231 reasonable costs and reasonable attorney's fees incurred by the
1232 mortgagee in connection with foreclosure of the mortgage.

1233 (b) A [mortgagor] homeowner on whose behalf the authority is
1234 making emergency mortgage assistance payments shall, during the
1235 period in which such assistance is provided, make monthly payments
1236 to the authority in lieu of the [mortgagor's] homeowner's monthly
1237 mortgage payments. Such payments to the authority shall be in an
1238 amount which will cause the [mortgagor's] homeowner's total housing
1239 expense to be less than or equal to thirty-five per cent of the
1240 [mortgagor's] homeowner's aggregate family income. The [mortgagor]
1241 homeowner shall make such payments to the authority not later than
1242 seven days before each mortgage payment is due to the mortgagee.

1243 (c) The amount by which the emergency mortgage assistance
1244 payments made by the authority to the mortgagee exceeds the payments
1245 made by the [mortgagor] homeowner to the authority shall be a loan in
1246 that amount made by the authority to the [mortgagor] homeowner. Any
1247 such loan shall be evidenced by such documents as the authority may
1248 require and shall be subject to repayment with interest and secured as
1249 provided in section 8-265hh, as amended by this act.

1250 (d) The authority shall establish procedures for periodic review of the
1251 [mortgagor's] homeowner's financial circumstances for the purpose of
1252 determining the necessity for continuation, termination or adjustment
1253 of the amount of emergency mortgage assistance payments or

1254 adjustment of the payments by the [mortgagor] homeowner pursuant
1255 to subsection (b) of this section. Payments shall be discontinued when
1256 the authority determines that, due to changes in the [mortgagor's]
1257 homeowner's financial condition, the payments are no longer necessary
1258 in accordance with the standards contained in section 8-265ff, as
1259 amended by this act, or the [expiration of the] sixty-month period of [a
1260 mortgagor] eligibility for such payments under subsection (e) of section
1261 8-265ff, as amended by this act, has expired, whichever is sooner, and a
1262 foreclosure of the [mortgagor's] homeowner's mortgage may, at any
1263 time thereafter, proceed without further restriction or requirement
1264 under sections 8-265cc to 8-265hh, inclusive, as amended by this act. The
1265 authority may adjust payments by the [mortgagor] homeowner
1266 pursuant to subsection (b) of this section based on a review under this
1267 subsection.

1268 (e) If the [mortgagor] homeowner fails to pay to the authority any
1269 amounts due under subsection (b) of this section within seven days of
1270 the date due to the authority, the authority shall review the
1271 [mortgagor's] homeowner's financial circumstances to determine
1272 whether the delinquency is the result of additional financial hardship
1273 due to circumstances beyond the [mortgagor's] homeowner's control. If
1274 the delinquency is not the result of additional financial hardship due to
1275 circumstances beyond the [mortgagor's] homeowner's control in the
1276 [mortgagor's] homeowner's financial circumstances, the authority shall
1277 terminate emergency mortgage assistance payments and the foreclosure
1278 of the [mortgagor's] homeowner's mortgage may, at [anytime] any time
1279 thereafter, continue without any further restriction or requirement
1280 under sections 8-265cc to 8-265kk, inclusive, as amended by this act. If
1281 the delinquency is the result of a change in the [mortgagor's]
1282 homeowner's financial circumstances, the authority may modify the
1283 [mortgagor's] homeowner's required monthly payments to the
1284 authority.

1285 (f) If any mortgagee scheduled to receive payments from the
1286 authority under the provisions of sections 8-265cc to 8-265kk, inclusive,
1287 as amended by this act, fails to receive the full amount of such payment

1288 from the authority within thirty days of the scheduled due date, or if the
1289 [mortgagor] homeowner fails to observe and perform all of the terms,
1290 covenants and conditions of the mortgage, the mortgagee shall provide
1291 a fifteen-day notice to the authority and the foreclosure of the
1292 [mortgagor's] homeowner's mortgage may, at any time thereafter,
1293 proceed without any further restriction or requirement under sections
1294 8-265cc to 8-265kk, inclusive, as amended by this act.

1295 Sec. 11. (NEW) (*Effective October 1, 2021*) (a) If the authority approves
1296 a homeowner for emergency lien assistance under the provisions of
1297 section 8-265ff of the general statutes, as amended by this act, the
1298 authority shall make emergency lien assistance payments directly to
1299 each lienholder secured by the homeowner's real property for the full
1300 amount due and payable to the lienholder under the lien. Such payment
1301 may be in an amount which pays all arrearages and pays reasonable
1302 costs and reasonable attorney's fees incurred by the lienholder in
1303 connection with the foreclosure of the lien.

1304 (b) The amount of the emergency lien assistance payments made by
1305 the authority to the lienholder shall be a loan in that amount made by
1306 the authority to the homeowner. Any such loan shall be evidenced by
1307 such documents as the authority may require and shall be subject to
1308 repayment with interest and secured as provided in section 8-265hh of
1309 the general statutes, as amended by this act.

1310 (c) If any lienholder scheduled to receive payments from the
1311 authority under the provisions of sections 8-265cc to 8-265kk, inclusive,
1312 of the general statutes, as amended by this act, fails to receive the full
1313 amount of such payment from the authority within thirty days of the
1314 scheduled due date, or if the homeowner fails to observe and perform
1315 all of the terms, covenants and conditions of lien, the lienholder shall
1316 provide a fifteen-day notice to the authority and the foreclosure of the
1317 lien may, at any time thereafter, proceed without any further restriction
1318 or requirement under sections 8-265cc to 8-265kk, inclusive, of the
1319 general statutes, as amended by this act.

1320 Sec. 12. Section 8-265hh of the general statutes is repealed and the

1321 following is substituted in lieu thereof (*Effective October 1, 2021*):

1322 (a) Upon approval of emergency mortgage or lien assistance
1323 payments, the authority shall enter into an agreement with the
1324 [mortgagor] homeowner for repayment of all such assistance with
1325 interest as provided in this section. The agreement shall provide for
1326 monthly payments by the [mortgagor] homeowner after emergency
1327 mortgage or lien assistance payments have ended and shall be subject
1328 to the following provisions:

1329 (1) If the [mortgagor's] homeowner's total housing expense,
1330 including projected repayments for [mortgage] assistance under this
1331 section, is greater than thirty-five per cent of the [mortgagor's]
1332 homeowner's aggregate family income, repayment of the emergency
1333 mortgage or lien assistance payments shall be deferred until such total
1334 housing expense, including projected repayments for [mortgage]
1335 assistance under this section, is less than or equal to thirty-five per cent
1336 of such aggregate family income;

1337 (2) If repayment of emergency mortgage or lien assistance payments
1338 is not made by the date the mortgage is paid in full, the [mortgagor]
1339 homeowner shall make monthly payments to the authority in an
1340 amount not less than the monthly mortgage payment until such
1341 assistance is repaid;

1342 (3) Interest shall accrue on all emergency mortgage and lien
1343 assistance payments made by the authority at a rate based upon the cost
1344 of funds to the state periodically determined by the State Treasurer in
1345 consultation with the authority. Interest shall start to accrue whenever
1346 the [mortgagor] homeowner is required to commence repayment under
1347 this section.

1348 (b) Repayment of amounts owed to the authority from a [mortgagor]
1349 homeowner under the provisions of sections 8-265cc to 8-265kk,
1350 inclusive, as amended by this act, shall be secured by a mortgage on the
1351 [mortgagor's] homeowner's real property, provided said mortgage shall
1352 not be deemed to take priority over any other mortgage or lien in effect

1353 against such property on the date the emergency mortgage is recorded.
1354 The authority may allow subordination of its mortgage if such
1355 subordination is required to permit the [mortgagor] homeowner to
1356 obtain a home improvement loan for repairs necessary to preserve the
1357 property.

1358 (c) The authority shall establish written procedures for periodic
1359 review of the [mortgagor's] homeowner's financial circumstances to
1360 determine the amounts of repayment required under this section.

1361 (d) All moneys received by the authority from [mortgagors]
1362 homeowners for repayment of emergency mortgage or lien assistance
1363 payments shall be paid to the authority, deposited in such funds or
1364 accounts as the authority may establish from time to time for such
1365 purpose and be used solely for the purposes of the program established
1366 pursuant to sections 8-265cc to 8-265kk, inclusive, as amended by this
1367 act.

1368 (e) Any [mortgagor] homeowner who misrepresents any financial or
1369 other pertinent information in conjunction with the filing of an
1370 application for emergency mortgage or lien assistance or modification
1371 of such assistance, may be denied assistance and required to
1372 immediately repay any amount of assistance already made. The
1373 mortgagee or lienholder may, at any time thereafter, take any legal
1374 action to enforce the mortgage or lien without further restrictions or
1375 requirements.

1376 (f) The authority may take any action it deems appropriate to recover
1377 emergency mortgage or lien assistance when the [mortgagor]
1378 homeowner fails to repay such assistance under the terms and
1379 conditions established under this section.

1380 Sec. 13. Section 8-265ii of the general statutes is repealed and the
1381 following is substituted in lieu thereof (*Effective October 1, 2021*):

1382 The Connecticut Housing Finance Authority shall adopt procedures
1383 in accordance with section 1-121 to implement the provisions of sections

1384 8-265cc to 8-265hh, inclusive, as amended by this act. Such procedures
1385 shall include the establishment of a process for notification to eligible
1386 [mortgagors] homeowners of the availability of funds under sections 8-
1387 265cc to 8-265kk, inclusive, as amended by this act, and for notification
1388 to the mortgagee or lienholder that an application has been received by
1389 or on behalf of the [mortgagor] homeowner and of the authority's
1390 determination of eligibility.

1391 Sec. 14. Section 8-265kk of the general statutes is repealed and the
1392 following is substituted in lieu thereof (*Effective October 1, 2021*):

1393 (a) If the authority determines that additional funding sources are
1394 necessary to provide emergency mortgage or lien assistance payments
1395 to homeowners in accordance with sections 8-265cc to 8-265kk,
1396 inclusive, as amended by this act, the authority may, in consultation
1397 with the State Treasurer, the Comptroller, representatives from
1398 Connecticut-based banks and a state banking industry association,
1399 establish as part of the emergency mortgage and lien assistance program
1400 a component program that shall be operated by the authority in
1401 collaboration with Connecticut-based banks and that may include, but
1402 need not be limited to, loan guarantees. Any loan issued under such
1403 component program shall be used for the purposes described in sections
1404 8-265cc to 8-265kk, inclusive, as amended by this act. The authority shall
1405 notify the State Treasurer of the authority's intention to establish a
1406 component program prior to establishing such program and the State
1407 Treasurer shall (1) advise the authority as to the state's ability to provide
1408 loan guarantees under such program, and (2) recommend guidelines for
1409 such guarantees. For purposes of this subsection, "Connecticut-based
1410 banks" means banks and out-of-state banks, each as defined in section
1411 36a-2, having deposit-taking branches in the state.

1412 (b) If funds are not available to provide emergency mortgage or lien
1413 assistance payments to [mortgagors] homeowners in accordance with
1414 sections 8-265cc to 8-265kk, inclusive, as amended by this act, the
1415 authority shall notify all mortgagees and lienholders and shall not
1416 accept applications for emergency mortgage or lien assistance payment.

1417 Upon receipt of such notice from the authority and until mortgagees and
 1418 lienholders receive a further notice from the authority that such funds
 1419 are again available and applications for [emergency mortgage] such
 1420 assistance payments are again being accepted by the authority: (1)
 1421 Mortgagees may commence foreclosure actions without first providing
 1422 the notice set forth in subsection (a) of section 8-265ee, as amended by
 1423 this act; and (2) the foreclosure of mortgages and liens by mortgagees or
 1424 lienholders may continue without any further restriction or requirement
 1425 under the provisions of sections 8-265cc to 8-265kk, inclusive, as
 1426 amended by this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2021	49-31l
Sec. 2	October 1, 2021	49-31n
Sec. 3	October 1, 2021	49-31k(8) and (9)
Sec. 4	October 1, 2021	49-31r(a)
Sec. 5	October 1, 2021	49-31v
Sec. 6	October 1, 2021	8-265cc
Sec. 7	October 1, 2021	8-265dd
Sec. 8	October 1, 2021	8-265ee
Sec. 9	October 1, 2021	8-265ff
Sec. 10	October 1, 2021	8-265gg
Sec. 11	October 1, 2021	New section
Sec. 12	October 1, 2021	8-265hh
Sec. 13	October 1, 2021	8-265ii
Sec. 14	October 1, 2021	8-265kk

Statement of Legislative Commissioners:

In Section 2(b)(2), "with respect to any foreclosure action filed on the basis of a default by the mortgagor during (I) the public health and civil preparedness emergencies declared by the Governor on March 10, 2020, or any extension of such declarations, or (II) the period of time that any order, directive or regulation issued or any voluntary program announced by any governmental authority related to COVID-19, as defined in subsection (d) of section 49-31l, as amended by this act, is in effect, whether the mortgagee has, in good faith, offered the mortgagor a loss mitigation option or alternative to foreclosure related to COVID-19, (xi)" was deleted to conform with the changes being made in Section

2, the brackets around "(xi)", "(xii)" and "(xiii)" were deleted to conform with the changes being made in Section 2, and "(xii)", "(xiii)" and "(xiv)" were deleted to conform with the changes being made in Section 2.

BA *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 22 \$	FY 23 \$
Judicial Dept.	BF - Cost	None	None
Treasurer, Debt Serv.	GF - Potential Cost	See Below	See Below
CHFA	Other - Cost	See Below	See Below

Note: BF=Banking Fund; GF=General Fund

Municipal Impact: None

Explanation

The bill removes the sunset provision of the Ezequiel Santiago Foreclosure Mediation Program, currently scheduled to end June 30, 2023, and results in a cost in FY 24 (and ongoing in the outyears subject to inflation) of \$2.2 million for 10 staff members.

The bill expands the existing Emergency Mortgage Assistance Program (EMAP), administered by the Connecticut Housing Finance Authority (CHFA), to aid homeowners under additional circumstances with mortgage relief and establishes a new emergency lien assistance component to the program.¹ These expansions are anticipated to result in greater annual EMAP costs to CHFA and therefore faster draw down of CHFA's existing EMAP funding.

EMAP is partially funded through General Obligation (GO) bond funds. As of March 1, 2021, unallocated bond balance available to the

¹ EMAP provides assistance in the form of a 30-year, fixed-rate loan for eligible homeowners. Repayment of such loans provides funding for additional lending.

program is \$5 million. The bill does not change GO bond authorizations relevant to the program. Future General Fund debt service costs may be incurred sooner under the bill to the degree that it causes authorized GO bond funds to be expended more rapidly than they otherwise would have been.

Depending on demand for the emergency lien assistance program specifically, the bill may result in greater annual EMAP administration costs for CHFA, such as costs for a new staff person, which would be funded from EMAP program funds.

If CHFA determines that additional EMAP funding is necessary, the bill allows CHFA to develop a component loan program operated in collaboration with Connecticut-based banks, which may impact the rate of expenditure of existing EMAP funding. It is anticipated that expenditure requirements for CHFA under such a program (e.g. providing loan guarantees) would be lower than under EMAP, so to the extent it is used, this provision of the bill may offset some of the higher annual EMAP costs discussed above. It is not anticipated that such a program would result in state costs beyond the funds already authorized for EMAP.

The Out Years

State Impact:

Agency Affected	Fund-Effect	FY 24 \$	FY 25 \$	FY 26 \$
Judicial Dept. (JUD95000)	BF - Cost	2.2 million	2.3 million	2.3 million
Treasurer, Debt Serv. (OTT14100)	GF - Potential Cost	See Below	See Below	See Below
CHFA (HFA19600)	Other - Cost	See Below	See Below	See Below

Note: BF=Banking Fund; GF=General Fund

Municipal Impact: None

The annualized ongoing fiscal impact identified above would continue into the future subject to available funding, program demand and the terms of any bonds issued.

Sources: Connecticut Housing Finance Authority

OLR Bill Analysis**sSB 891****AN ACT CONCERNING THE EZEQUIEL SANTIAGO FORECLOSURE MEDIATION PROGRAM AND OTHER ALTERNATIVES TO FORECLOSURE.****SUMMARY**

This bill makes permanent the Ezequiel Santiago Foreclosure Mediation Program (see BACKGROUND). Current law sunsets the program on June 30, 2023. The bill also (1) requires mortgagees and mediators to include information about COVID-19 related foreclosure alternatives in certain existing reports, (2) repeals a requirement that the Chief Court Administrator report on the program to the Banking Committee by March 1, 2023, and (3) repeals obsolete provisions related to the program.

The bill also establishes an emergency lien assistance program, within the Connecticut Housing Finance Authority's (CHFA) Emergency Mortgage Assistance Program (EMAP), to provide loans to homeowners who are facing foreclosure due to liens from:

1. municipal water or sewer charges,
2. municipal tax debt, or
3. condominium or common interest association assessments and fines.

It expands the existing EMAP program by allowing homeowners to apply for and receive emergency mortgage assistance payments if (1) their mortgage is in forbearance or (2) they are facing foreclosure or delinquency on a reverse mortgage or home equity conversion mortgage (HECM), under the same eligibility standards as under current law for the program. For both EMAP and the new emergency

lien assistance payments program, the bill prohibits CHFA from disqualifying applicants solely because they previously discharged debt through bankruptcy and did not reaffirm it.

Lastly, the bill allows CHFA to establish a component loan program with Connecticut-based banks, which may include loan guarantees, if it determines additional funding is necessary for emergency payments under the above programs.

The bill also makes minor, technical, and conforming changes.

EFFECTIVE DATE: October 1, 2021

§§ 6-14 — EMERGENCY LIEN ASSISTANCE PAYMENTS

Beginning July 1, 2021, the bill requires CHFA to, within available funds, provide emergency lien assistance payments to homeowners. As under the EMAP program, a “homeowner” is the owner-occupant of one-to-four family residential real estate, including individual common interest association units. Under the bill, a “lien” is a lien on real property due to debt from municipal tax, water, or sewer charges or condominium or common interest association assessments and fines.

Under the bill, as under existing law for the EMAP program, any necessary and related administrative and operation expenses CHFA incurs implementing the program can be paid out from program funds.

The bill incorporates emergency lien assistance payments into CHFA’s EMAP program, including by applying similar review and application procedures. In a few cases, it is unclear the extent to which certain EMAP provisions apply to the new lien program, as described below.

Applications

The bill allows homeowners to apply for emergency lien assistance payments if (1) they have received notice of a lienholder’s intent to foreclose; or (2) they are 60 days or more delinquent on the debt secured by the lien, or they anticipate that they will be based on financial

hardship beyond their control (i.e., a significant reduction of aggregate family household income or increase in expenses that could not be alleviated by liquidating assets), as CHFA determines.

Homeowners must apply for a loan on a form CHFA provides and complete and sign the application under penalty of false statement. (By law, false statement is a class A misdemeanor, punishable by up to one year in prison, a fine of up to \$2,000, or both (CGS § 53a-157b).)

Homeowners must also disclose all (1) assets and liabilities, whether singly or jointly held, and (2) household income from all sources, according to the same calculations and procedures as individuals applying for EMAP. Thus, assets include the sum of savings and checking accounts, stocks, bonds, securities, capital investments, pensions and retirement funds valued at more than \$100,000, personal property, real property equity (including the property subject to the lien), and lump sum additions, such as inheritances and insurance payments.

Approval Process and Foreclosure Exception

As with existing EMAP applications, CHFA must determine an individual's eligibility for emergency lien assistance payments within 30 days of receiving the application. However, the bill does not prevent a lienholder from foreclosing during this period, as existing law does for EMAP applicants.

Presumably, as applicable to lien applications, the bill prohibits CHFA from providing emergency lien assistance payments unless it finds that the homeowner's principal residence is the real property securing the lien and the homeowner:

1. is delinquent on the applicable fees or taxes, and the lienholder intends to foreclose;
2. is a Connecticut resident suffering financial hardship and unable to make payments on the debt;

3. has a reasonable prospect of resuming regular payments to the lienholder after getting emergency lien assistance payments;
4. applied for assistance and disclosed all necessary assets and liabilities, as described above;
5. has insufficient income or net worth, based on their financial statement, to make regular payments to the lienholder;
6. has a reasonable prospect of repaying the emergency lien assistance within a reasonable amount of time;
7. has not mortgaged the real property for commercial or business purposes;
8. has not previously received CHFA lien assistance, unless they have reinstated the underlying debt and have not been delinquent for at least the following six consecutive months; and
9. is not in default under their mortgage for reasons other than payment delinquency.

CHFA must also find that the (1) homeowner meets any other procedural requirements it establishes and (2) lienholder is not otherwise prevented by law from foreclosing.

Notification to Lienholders

The bill requires CHFA, within eight business days of receiving an application, to notify all lienholders listed on the application.

Emergency Lien Payment Loans

For approved applications, the bill requires CHFA to make emergency lien assistance payments directly to the lienholder for the full amount due on each eligible lien secured by the homeowner's real property. The payment amount may include all arrearages and reasonable costs and attorney's fees incurred by the lienholder and related to any foreclosure action.

Any amount CHFA pays to a lienholder becomes a loan made by CHFA to the homeowner. It must be evidenced by any documents CHFA requires and is subject to repayment and interest under the same terms as EMAP loans (i.e., interest is based upon the cost of the funds to the state determined by the treasurer, in consultation with CHFA). Interest accrues when repayment is required to begin.

Repayment

The bill requires CHFA to enter into an agreement with an approved applicant for monthly loan repayments, including interest, after the emergency payments end. However, if a homeowner's total housing expenses, including projected repayments, is greater than 35% of their aggregate family income, the bill defers repayment until the ratio falls below that threshold.

The bill, presumably, requires homeowners to make monthly payments to the authority in at least the amount they would have paid towards liens. By law, EMAP requires homeowners to make monthly payments of at least the amount they would have paid towards the mortgage.

As with EMAP loans, the authority must establish written procedures to periodically review a homeowner's financial circumstances to determine repayment amounts.

Loans Secured by Lien

Repayment under the bill is secured by a mortgage on the homeowner's real property, but it does not take priority over any other mortgages or liens in effect when it is recorded. As with EMAP loans, CHFA may subordinate a lien assistance loan if it is required for the homeowner to obtain a home improvement loan to preserve the property.

Misrepresentation and Failure to Receive Funds

As with existing EMAP procedures, any emergency lien assistance applicant that misrepresents financial or pertinent information may be denied assistance and required to immediately pay back the loan in full.

Additionally, a lienholder may foreclose after providing CHFA 15 days' notice if:

1. they do not receive the full amount of an emergency lien assistance payment from CHFA within 30 days of its scheduled due date, or
2. the homeowner fails to observe the lien's terms, covenants, and conditions.

In both these circumstances, a lienholder may proceed with enforcement or foreclosure actions, as applicable, without further restriction or requirement.

Inadequate Funding

As with EMAP, if there is inadequate funding for emergency lien assistance payments, the bill (1) requires CHFA to notify lienholders and stop accepting applications and (2) allows lien foreclosures to proceed normally.

§ 14 — COMPONENT LOAN PROGRAM

The bill allows CHFA to establish a component loan program in collaboration with Connecticut-based banks if it determines that additional funding is needed for emergency mortgage or lien payments under the EMAP or lien programs described above. It must do so in consultation with the treasurer, comptroller, representatives from Connecticut-based banks, and a state banking industry association.

The component program may include loan guarantees. Under the bill, loans issued through the component program must be used to provide emergency mortgage or lien assistance payments.

CHFA must notify the treasurer of its intent to establish this component program, and the treasurer must (1) advise CHFA on the state's ability to provide loan guarantees and (2) recommend loan guarantee guidelines.

Under the bill, a Connecticut-based bank is a bank or out-of-state

bank that has deposit-taking branches in Connecticut.

§§ 1-5 — EZEQUIEL SANTIAGO FORECLOSURE MEDIATION PROGRAM

Reporting Requirement Repealed

The bill eliminates a requirement that the chief court administrator submit a report to the Banking Committee by March 1, 2023, summarizing mediation session details and outcomes.

Mortgagee Reports

Existing law requires the mortgagee to provide certain information to the mortgagor and mediator within a specified deadline prior to mediation. As part of this, current law gives the mortgagee the option to include a history of its foreclosure avoidance efforts with respect to the mortgagor.

The bill instead makes this mandatory. It requires this information to include a description of the mortgagee's efforts to provide the mortgagor any loss mitigation options or foreclosure alternatives, including those required or made voluntarily available by any governmental authority in response to the COVID-19 public health and civil preparedness emergencies declared by the governor.

Mediator Reports

By law, a mediator must file a report with the court after each mediation session containing certain information, such as the extent to which the mortgagee and mortgagor are complying with the program's requirements and a general description of the foreclosure alternative the mortgagor is requesting.

The bill adds additional reporting requirements for foreclosure actions filed due to a mortgagor's default during (1) the COVID-19 public health and civil preparedness emergencies declared by the Governor or (2) the time that any governmental COVID-19 related order, directive, or regulation, or voluntary program is in effect. During this period, the report must include whether the mortgagee has, in good faith, offered the mortgagor a COVID-19 related loss mitigation option

or foreclosure alternative.

BACKGROUND

Ezequiel Santiago Foreclosure Mediation Program

By law, this program brings together judicial branch mediators; lenders; and borrowers or owner-occupants, as applicable. If an eligible borrower or owner-occupant files an appearance and requests mediation, the lender must participate. It is available to (1) owner-occupants of one- to four-family residential real property who use it as their primary residence and (2) religious organizations. The property must be in Connecticut, and the owner-occupant must be either the borrower under a mortgage on the property or a permitted successor-in-interest (i.e., someone who, among other things, has title to the property due to certain events such as divorce or the borrower's death).

COMMITTEE ACTION

Banking Committee

Joint Favorable Substitute

Yea 13 Nay 5 (03/17/2021)