



General Assembly

January Session, 2019

***Raised Bill No. 6996***

LCO No. 3521



Referred to Committee on BANKING

Introduced by:  
(BA)

***AN ACT EXTENDING THE FORECLOSURE MEDIATION PROGRAM.***

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

1 Section 1. Section 49-31l of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) Prior to July 1, [2019] 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  
7 the foreclosure of a mortgage on (A) residential real property with a  
8 return date during the period from July 1, 2009, to June 30, [2019] 2023,  
9 inclusive, or (B) real property owned by a religious organization with a  
10 return date during the period from October 1, 2011, to June 30, [2019]  
11 2023, inclusive, shall be subject to the provisions of subsection (c) of  
12 this section.

13 (b) (1) Prior to July 1, [2019] 2023, when a mortgagee commences an  
14 action for the foreclosure of a mortgage on residential real property  
15 with a return date during the period from July 1, 2008, to June 30, 2009,

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

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

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

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

36 (5) If at any time on or after July 1, 2008, but prior to July 1, [2019]  
37 2023, the court determines that the notice requirement of subdivision  
38 (1) of this subsection has not been met, the court may, upon its own  
39 motion or upon the written motion of the mortgagor, issue an order  
40 that no judgment may enter for fifteen days during which period the  
41 mortgagor may submit a foreclosure mediation request form to the  
42 court.

43 (6) Notwithstanding any provision of the general statutes or any  
44 rule of law to the contrary, prior to July 1, [2019] 2023, no judgment of  
45 strict foreclosure nor any judgment ordering a foreclosure sale shall be  
46 entered in any action subject to the provisions of this subsection and  
47 instituted by the mortgagee to foreclose a mortgage on residential real

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

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

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

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

114 (2) The court shall issue a notice of foreclosure mediation described  
115 in subdivision (3) of this subsection to the mortgagor not later than the

116 date three business days after the date the mortgagee returns the writ  
117 to the court.

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

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

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

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

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



254 whether mediation shall be scheduled with the mortgagee, (II) whether  
255 the mortgagor attended scheduled meetings with the mediator, (III)  
256 whether the mortgagor fully or substantially completed the forms and  
257 furnished the documentation requested by the mortgagee, (IV) the  
258 date on which the mortgagee supplied the forms and documentation,  
259 and (V) any other information the mediator determines to be relevant  
260 to the objectives of the mediation program. The mediator may file, and  
261 the court may grant, a motion for extension of the premediation period  
262 beyond the eighty-fourth day following the return date if good cause  
263 can be shown for such an extension. Any such motion shall be filed,  
264 with a copy simultaneously sent to the mortgagee and as soon as  
265 practicable to the mortgagor, not later than the eighty-fourth day  
266 following the return date. The mortgagee and mortgagor shall each  
267 have five business days from the day the motion was filed to file an  
268 objection or supplemental papers, and the court shall issue its ruling,  
269 without a hearing, not later than ten business days from the date the  
270 motion was filed. If the court determines that good cause exists for an  
271 extension, the court shall therewith establish an extended deadline so  
272 that the premediation period shall end as soon thereafter as may be  
273 practicable, but not later than thirty-five days from the date of the  
274 ruling, taking into account the complexity of the mortgagor's financial  
275 circumstances, the mortgagee's documentation requirements, and the  
276 timeliness of the mortgagee's and mortgagor's compliance with their  
277 respective premediation obligations. If the court denies the mediator's  
278 motion, the extended deadline for purposes of this subdivision shall be  
279 three days after the court rules on the motion. No meeting or  
280 communication between the mediator and mortgagor under this  
281 subdivision shall be treated as an impermissible ex parte  
282 communication. If the mediator determines that the mortgagee shall  
283 participate in mediation, the court shall promptly issue notice to all  
284 parties of such determination and schedule a mediation session  
285 between the mortgagee and all mortgagors who are relevant and  
286 necessary to the mediation and to any agreement being contemplated  
287 in connection with the mediation, in accordance with subsection (c) of  
288 section 49-31n, as amended by this act, to be held not later than five

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

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

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

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

349 (7) With respect to foreclosure actions with a return date during the  
350 period from July 1, 2011, to June 30, [2019] 2023, inclusive,  
351 notwithstanding any provision of the general statutes or any rule of  
352 law to the contrary, the mortgagee shall be permitted following the  
353 eight-month or fifteen-day period described in subdivision (6) of this  
354 subsection, to simultaneously file, as applicable, (A) a motion for  
355 default, and (B) a motion for judgment of strict foreclosure or a motion  
356 for judgment of foreclosure by sale with respect to the mortgagor in

357 the foreclosure action.

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

361 Sec. 2. Section 49-31n of the general statutes is repealed and the  
362 following is substituted in lieu thereof (*Effective from passage*):

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

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

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

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

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

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

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

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

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

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

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

518 (7) Foreclosure mediation request forms shall not be accepted by the  
519 court under this subsection on or after July 1, [2019] 2023, and the  
520 foreclosure mediation program shall terminate when all mediation has  
521 concluded with respect to any applications submitted to the court prior  
522 to July 1, [2019] 2023.

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



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

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

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

557 (C) To determine whether to extend mediation, the court may

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

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

576 (c) (1) For any action for the foreclosure of a mortgage on residential  
577 real property with a return date during the period from July 1, 2009, to  
578 June 30, [2019] 2023, inclusive, or for any action for the foreclosure of a  
579 mortgage on real property owned by a religious organization with a  
580 return date during the period from October 1, 2011, to June 30, [2019]  
581 2023, inclusive, the mediation period under the foreclosure mediation  
582 program established in section 49-31m shall commence when the court  
583 sends notice to each appearing party scheduling the first foreclosure  
584 mediation session. The mediation period shall conclude not later than  
585 the conclusion of the third mediation session between the mortgagor  
586 and mortgagee or seven months after the return date, whichever is  
587 earlier, except that the court may, in its discretion, for good cause  
588 shown, upon the motion of any party or request by the mediator,  
589 extend the mediation period subject to the provisions of subdivision  
590 (9) of this subsection or shorten the mediation period.

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

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

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

696 award attorney's fees to any mortgagee for time spent in any  
697 mediation session if the court finds that such mortgagee has failed to  
698 comply with this subdivision, unless the court finds reasonable cause  
699 for such failure.

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

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

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

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

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

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

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

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

761 place.

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

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

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



794 was serviced by a third party, the judicial district in which the  
 795 mediation took place and whether the mortgagor was self-represented.

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

808 Sec. 3. Section 49-31v of the general statutes is repealed and the  
 809 following is substituted in lieu thereof (*Effective from passage*):

810 The foreclosure mediation program established pursuant to section  
 811 49-31m shall be funded within available appropriations and available  
 812 until June 30, [2019] 2023. The size of such program shall be  
 813 determined by available funding and the number and need of  
 814 participants in such program.

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

**Statement of Purpose:**

To extend the foreclosure mediation program until June 30, 2021.

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