

HOUSE BILL 1288

N1

2lr3258
CF SB 786

By: **Delegate Carter**

Introduced and read first time: February 15, 2012

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Foreclosure Prevention and Neighborhood Stabilization Act of 2012**

3 FOR the purpose of requiring a secured party to file a certain request for foreclosure
4 mediation; repealing a certain provision of law providing for a waiver of a
5 certain filing fee; repealing a certain provision of law requiring a copy of a
6 certain request to be mailed to a certain person; requiring the court to stay
7 foreclosure proceedings until the conclusion of foreclosure mediation under
8 certain circumstances; repealing a certain provision authorizing the secured
9 party to file a motion to strike a certain request; authorizing the mortgagor or
10 grantor to waive the right to participate in foreclosure mediation in a certain
11 manner; requiring the court to appoint a mediator with certain qualifications;
12 requiring the parties to split the cost of foreclosure mediation; requiring a
13 certain mediator to be paid a certain fee; authorizing the court to extend the
14 time for completing the foreclosure mediation under certain circumstances;
15 limiting the period for which an extension may be granted under certain
16 circumstances; requiring a certain notice including certain information to be
17 sent to certain parties; requiring certain parties to provide certain information
18 and documents; requiring certain parties to be present at the foreclosure
19 mediation; authorizing a foreclosure mediation to be conducted in a certain
20 manner; authorizing the mediator to schedule more than one mediation session;
21 requiring the mediator to address certain issues during the foreclosure
22 mediation; requiring certain parties to negotiate in good faith; authorizing a
23 mediator to take certain actions if the mediator determines that any party is not
24 acting in good faith; requiring the Department of Housing and Community
25 Development to establish and maintain a Foreclosed Property Registry;
26 requiring a certain person to register certain residential property with the
27 registry; requiring the registration to include certain information; requiring a
28 certain person to notify the registry of a certain purchase at a foreclosure sale;
29 establishing a penalty for a violation of certain provisions of this Act;
30 establishing a certain tax credit for the purchase of residential property in a
31 certain community; defining a certain term; altering a certain definition;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 making conforming changes; and generally relating to foreclosure mediation, a
 2 registry for foreclosed property, and tax credits for homes in foreclosure
 3 hotspots.

4 BY repealing and reenacting, with amendments,
 5 Article – Real Property
 6 Section 7–105.1
 7 Annotated Code of Maryland
 8 (2010 Replacement Volume and 2011 Supplement)

9 BY adding to
 10 Article – Real Property
 11 Section 14–126(d)
 12 Annotated Code of Maryland
 13 (2010 Replacement Volume and 2011 Supplement)

14 BY adding to
 15 Article – Tax – Property
 16 Section 9–110
 17 Annotated Code of Maryland
 18 (2007 Replacement Volume and 2011 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article – Real Property**

22 7–105.1.

23 (a) (1) In this section the following words have the meanings indicated.

24 (2) “Final loss mitigation affidavit” means an affidavit that:

25 (i) Is made by a person authorized to act on behalf of a secured
 26 party of a mortgage or deed of trust on owner–occupied residential property that is the
 27 subject of a foreclosure action;

28 (ii) Certifies the completion of the final determination of loss
 29 mitigation analysis in connection with the mortgage or deed of trust; and

30 (iii) If denied, provides an explanation for the denial of a loan
 31 modification or other loss mitigation.

32 (3) “Foreclosure mediation” means a conference at which the parties in
 33 a foreclosure action, their attorneys, additional representatives of the parties, or a
 34 combination of those persons appear before an impartial individual to discuss the

1 positions of the parties in an attempt to reach agreement on a loss mitigation program
2 for the mortgagor or grantor.

3 (4) “Housing counseling services” means assistance provided to
4 mortgagors or grantors by nonprofit and governmental entities that are identified on a
5 list maintained by the Department of Housing and Community Development.

6 (5) “Loss mitigation analysis” means an evaluation of the facts and
7 circumstances of a loan secured by owner–occupied residential property to determine:

8 (i) Whether a mortgagor or grantor qualifies for a loan
9 modification; and

10 (ii) If there will be no loan modification, whether any other loss
11 mitigation program may be made available to the mortgagor or grantor.

12 (6) “Loss mitigation program” means an option in connection with a
13 loan secured by owner–occupied residential property that:

14 (i) Avoids foreclosure through loan modification or other
15 changes to existing loan terms that are intended to allow the mortgagor or grantor to
16 stay in the property;

17 (ii) Avoids foreclosure through a short sale, deed in lieu of
18 foreclosure, or other alternative that is intended to simplify the mortgagor’s or
19 grantor’s relinquishment of ownership of the property; or

20 (iii) Lessens the harmful impact of foreclosure on the mortgagor
21 or grantor.

22 (7) “Owner–occupied residential property” means residential property
23 [in]:

24 (I) IN which at least one unit is occupied by an individual who:

25 [(i)] 1. Has an ownership interest in the property; and

26 [(ii)] 2. Uses the property as the individual’s primary
27 residence; AND

28 (II) THAT HAS NOT BEEN VACANT FOR MORE THAN 30 DAYS.

29 (8) “Preliminary loss mitigation affidavit” means an affidavit that:

1 (i) Is made by a person authorized to act on behalf of a secured
2 party of a mortgage or deed of trust on owner-occupied residential property that is the
3 subject of a foreclosure action;

4 (ii) Certifies the status of an incomplete loss mitigation analysis
5 in connection with the mortgage or deed of trust; and

6 (iii) Includes reasons why the loss mitigation analysis is
7 incomplete.

8 (9) "Residential property" means real property improved by four or
9 fewer single family dwelling units that are designed principally and are intended for
10 human habitation.

11 (b) (1) Except as provided in paragraph (2) of this subsection, an action to
12 foreclose a mortgage or deed of trust on residential property may not be filed until the
13 later of:

14 (i) 90 days after a default in a condition on which the mortgage
15 or deed of trust provides that a sale may be made; or

16 (ii) 45 days after the notice of intent to foreclose required under
17 subsection (c) of this section is sent.

18 (2) (i) The secured party may petition the circuit court for leave to
19 immediately commence an action to foreclose the mortgage or deed of trust if:

20 1. The loan secured by the mortgage or deed of trust was
21 obtained by fraud or deception;

22 2. No payments have ever been made on the loan
23 secured by the mortgage or deed of trust;

24 3. The property subject to the mortgage or deed of trust
25 has been destroyed; or

26 4. The default occurred after the stay has been lifted in a
27 bankruptcy proceeding.

28 (ii) The court may rule on the petition with or without a
29 hearing.

30 (iii) If the petition is granted, the action may be filed at any time
31 after a default in a condition on which the mortgage or deed of trust provides that a
32 sale may be made and the secured party need not send the written notice of intent to
33 foreclose required under subsection (c) of this section.

1 (c) (1) Except as provided in subsection (b)(2)(iii) of this section, at least
2 45 days before the filing of an action to foreclose a mortgage or deed of trust on
3 residential property, the secured party shall send a written notice of intent to foreclose
4 to the mortgagor or grantor and the record owner.

5 (2) The notice of intent to foreclose shall be sent:

6 (i) By certified mail, postage prepaid, return receipt requested,
7 bearing a postmark from the United States Postal Service; and

8 (ii) By first-class mail.

9 (3) A copy of the notice of intent to foreclose shall be sent to the
10 Commissioner of Financial Regulation.

11 (4) The notice of intent to foreclose shall:

12 (i) Be in the form that the Commissioner of Financial
13 Regulation prescribes by regulation; and

14 (ii) Contain:

15 1. The name and telephone number of:

16 A. The secured party;

17 B. The mortgage servicer, if applicable; and

18 C. An agent of the secured party who is authorized to
19 modify the terms of the mortgage loan;

20 2. The name and license number of the Maryland
21 mortgage lender and mortgage originator, if applicable;

22 3. The amount required to cure the default and reinstate
23 the loan, including all past due payments, penalties, and fees;

24 4. A statement recommending that the mortgagor or
25 grantor seek housing counseling services;

26 5. The telephone number and the Internet address of
27 nonprofit and government resources available to assist mortgagors and grantors facing
28 foreclosure, as identified by the Commissioner of Financial Regulation;

29 6. An explanation of the Maryland foreclosure process
30 and time line, as prescribed by the Commissioner of Financial Regulation; and

1 7. Any other information that the Commissioner of
2 Financial Regulation requires by regulation.

3 (5) For an owner-occupied residential property, the notice of intent to
4 foreclose shall be accompanied by:

5 (i) A loss mitigation application:

6 1. For loss mitigation programs that are applicable to
7 the loan secured by the mortgage or deed of trust that is the subject of the foreclosure
8 action; or

9 2. If the secured party does not have its own loss
10 mitigation application, in the form prescribed by the Commissioner of Financial
11 Regulation;

12 (ii) Instructions for completing the loss mitigation application
13 and a telephone number to call to confirm receipt of the application;

14 (iii) A description of the eligibility requirements for the loss
15 mitigation programs offered by the secured party that may be applicable to the loan
16 secured by the mortgage or deed of trust that is the subject of the foreclosure action;
17 and

18 (iv) An envelope addressed to the person responsible for
19 conducting loss mitigation analysis on behalf of the secured party for the loan secured
20 by the mortgage or deed of trust that is the subject of the foreclosure action.

21 (6) For a property that is not an owner-occupied residential property,
22 the notice of intent to foreclose shall be accompanied by:

23 (i) A written notice of the determination that the property is
24 not owner-occupied residential property; and

25 (ii) A telephone number to call to contest that determination.

26 (d) An order to docket or a complaint to foreclose a mortgage or deed of trust
27 on residential property **OR A REQUEST BY A SECURED PARTY FOR FORECLOSURE**
28 **MEDIATION** shall:

29 (1) Include:

30 (i) If applicable, the license number of:

31 1. The mortgage originator; and

32 2. The mortgage lender; and

1 (ii) An affidavit stating:

2 1. The date on which the default occurred and the
3 nature of the default; and

4 2. If applicable, that:

5 A. A notice of intent to foreclose was sent to the
6 mortgagor or grantor in accordance with subsection (c) of this section and the date on
7 which the notice was sent; and

8 B. At the time the notice of intent to foreclose was sent,
9 the contents of the notice of intent to foreclose were accurate; and

10 (2) Be accompanied by:

11 (i) The original or a certified copy of the mortgage or deed of
12 trust;

13 (ii) A statement of the debt remaining due and payable
14 supported by an affidavit of the plaintiff or the secured party or the agent or attorney
15 of the plaintiff or secured party;

16 (iii) A copy of the debt instrument accompanied by an affidavit
17 certifying ownership of the debt instrument;

18 (iv) If applicable, the original or a certified copy of the
19 assignment of the mortgage for purposes of foreclosure or the deed of appointment of a
20 substitute trustee;

21 (v) If any defendant is an individual, an affidavit that is in
22 compliance with § 521 of the Servicemembers Civil Relief Act, 50 U.S.C. App. § 501 et
23 seq.;

24 (vi) If applicable, a copy of the notice of intent to foreclose;

25 (vii) In addition to any other filing fees required by law, a filing
26 fee in the amount of \$300; and

27 (viii) 1. If the loss mitigation analysis has been completed
28 subject to subsection (e) of this section, a final loss mitigation affidavit in the form
29 prescribed by regulation adopted by the Commissioner of Financial Regulation; and

30 2. If the loss mitigation analysis has not been completed,
31 a preliminary loss mitigation affidavit in the form prescribed by regulation adopted by
32 the Commissioner of Financial Regulation.

1 (d-1) Notwithstanding any other law, the court may not accept a lost note
2 affidavit in lieu of a copy of the debt instrument required under subsection (d)(2)(iii) of
3 this section, unless the affidavit:

4 (1) Identifies the owner of the debt instrument and states from whom
5 and the date on which the owner acquired ownership;

6 (2) States why a copy of the debt instrument cannot be produced; and

7 (3) Describes the good faith efforts made to produce a copy of the debt
8 instrument.

9 (e) Only for purposes of a final loss mitigation affidavit that is filed with an
10 order to docket or complaint to foreclose, a loss mitigation analysis is not considered
11 complete if the reason for the denial or determination of ineligibility is due to the
12 inability of the secured party to:

13 (1) Establish communication with the mortgagor or grantor; or

14 (2) Obtain all documentation and information necessary to conduct the
15 loss mitigation analysis.

16 (f) (1) A copy of the order to docket or complaint to foreclose on
17 residential property and all other papers filed with it in the form and sequence as
18 prescribed by regulations adopted by the Commissioner of Financial Regulation,
19 accompanied by the documents required under paragraphs (2), (3), and (4) of this
20 subsection, shall be served on the mortgagor or grantor by:

21 (i) Personal delivery of the papers to the mortgagor or grantor;
22 or

23 (ii) Leaving the papers with a resident of suitable age and
24 discretion at the mortgagor's or grantor's dwelling house or usual place of abode.

25 (2) The service of documents under paragraph (1) of this subsection
26 shall be accompanied by a separate, clearly marked notice, in the form prescribed by
27 regulation adopted by the Commissioner of Financial Regulation, that states:

28 (i) The significance of the order to docket or a complaint to
29 foreclose; and

30 (ii) The options for the mortgagor or grantor to take, including
31 housing counseling and financial assistance resources the mortgagor or grantor may
32 consult.

1 (3) If the order to docket or complaint to foreclose is accompanied by a
2 preliminary loss mitigation affidavit, the service of documents under paragraph (1) of
3 this subsection shall be accompanied by a loss mitigation application form and any
4 other supporting documents as prescribed by regulation adopted by the Commissioner
5 of Financial Regulation.

6 (4) If the order to docket or complaint to foreclose is accompanied by a
7 final loss mitigation affidavit and concerns owner-occupied residential property, the
8 service of documents under paragraph (1) of this subsection shall be accompanied by a
9 request for foreclosure mediation form and any other supporting documents as
10 prescribed by regulation adopted by the Commissioner of Financial Regulation.

11 (5) If at least two good faith efforts to serve the mortgagor or grantor
12 under paragraph (1) of this subsection on different days have not succeeded, the
13 plaintiff may effect service by:

14 (i) Filing an affidavit with the court describing the good faith
15 efforts to serve the mortgagor or grantor; and

16 (ii) 1. Mailing a copy of all the documents required to be
17 served under paragraph (1) of this subsection by certified mail, return receipt
18 requested, and first-class mail to the mortgagor's or grantor's last known address and,
19 if different, to the address of the residential property subject to the mortgage or deed
20 of trust; and

21 2. Posting a copy of all the documents required to be
22 served under paragraph (1) of this subsection in a conspicuous place on the residential
23 property subject to the mortgage or deed of trust.

24 (6) The individual making service of documents under this subsection
25 shall file proof of service with the court in accordance with the Maryland Rules.

26 (g) (1) If the order to docket or complaint to foreclose is accompanied by a
27 preliminary loss mitigation affidavit, the secured party, at least 30 days before the
28 date of a foreclosure sale, shall:

29 (i) File with the court a final loss mitigation affidavit in the
30 form prescribed by regulation adopted by the Commissioner of Financial Regulation;
31 and

32 (ii) Send to the mortgagor or grantor by first class and by
33 certified mail:

34 1. A copy of the final loss mitigation affidavit; and

35 2. A request for foreclosure mediation form and
36 supporting documents as provided under subsection (f)(4) of this section.

1 (2) A final loss mitigation affidavit shall be filed under this subsection
2 no earlier than 28 days after the order to docket or complaint to foreclose is served on
3 the mortgagor or grantor.

4 (h) (1) (i) In a foreclosure action on owner-occupied residential
5 property, the [mortgagor or grantor may] **SECURED PARTY SHALL** file with the court
6 a completed request for foreclosure mediation [not later than]:

7 1. [If the final loss mitigation affidavit was delivered
8 along with service of the copy of the order to docket or complaint to foreclose under
9 subsection (f) of this section, 25 days after that service on the mortgagor or grantor]
10 **30 DAYS AFTER A DEFAULT IN A CONDITION ON WHICH A MORTGAGE OR DEED**
11 **OF TRUST ON RESIDENTIAL PROPERTY PROVIDES THAT A SALE MAY BE MADE; or**

12 2. [If the final loss mitigation affidavit was mailed as
13 provided in subsection (g) of this section, 25 days after the mailing of the final loss
14 mitigation affidavit] **AT THE TIME THE SECURED PARTY FILES AN ACTION TO**
15 **FORECLOSE A MORTGAGE OR DEED OF TRUST ON RESIDENTIAL PROPERTY.**

16 (ii) [1.] A request for foreclosure mediation shall be
17 accompanied by a filing fee of \$50.

18 [2. The court may reduce or waive the filing fee under
19 subparagraph 1 of this subparagraph if the mortgagor or grantor is eligible for a
20 reduction or waiver under the Maryland Legal Services guidelines.

21 (iii) The mortgagor or grantor shall mail a copy of the request for
22 foreclosure mediation to the secured party's foreclosure attorney.]

23 [(2) (i) The secured party may file a motion to strike the request for
24 foreclosure mediation in accordance with the Maryland Rules.

25 (ii) The motion to strike must be accompanied by an affidavit
26 that sets forth the reasons why foreclosure mediation is not appropriate.

27 (iii) The secured party shall mail a copy of the motion to strike
28 and the accompanying affidavit to the mortgagor or grantor.

29 (iv) There is a presumption that a mortgagor or grantor is
30 entitled to foreclosure mediation unless good cause is shown why foreclosure
31 mediation is not appropriate.

32 (3) (i) The mortgagor or grantor may file a response to the motion
33 to strike within 15 days.

1 (ii) The mortgagor or grantor shall mail a copy of the response
2 to the foreclosure attorney.

3 (iii) If the court grants the motion to strike, the court shall
4 instruct the Office of Administrative Hearings to cancel any scheduled mediation.]

5 **(2) IF FORECLOSURE MEDIATION IS NOT CONDUCTED BEFORE A**
6 **SECURED PARTY FILES AN ACTION TO FORECLOSE A MORTGAGE OR DEED OF**
7 **TRUST, THE COURT SHALL STAY THE FORECLOSURE PROCEEDINGS UNTIL THE**
8 **CONCLUSION OF THE FORECLOSURE MEDIATION.**

9 **(3) THE MORTGAGOR OR GRANTOR MAY WAIVE THE RIGHT TO**
10 **PARTICIPATE IN MEDIATION BY SUBMITTING A WRITTEN WAIVER TO THE COURT**
11 **BEFORE THE FIRST MEDIATION SESSION.**

12 (i) (1) Within 5 days after receipt of a request for foreclosure mediation,
13 the court shall [transmit the request to the Office of Administrative Hearings for
14 scheduling] **APPOINT A MEDIATOR WHO IS:**

15 **(I) AN ADMINISTRATIVE LAW JUDGE WITH THE OFFICE OF**
16 **ADMINISTRATIVE HEARINGS;**

17 **(II) AN ATTORNEY ADMITTED TO THE BAR IN THE STATE;**
18 **OR**

19 **(III) AN INDIVIDUAL AFFILIATED WITH A LOCAL OR**
20 **NATIONAL MEDIATION ASSOCIATION WHOM THE COURT FINDS DEMONSTRATES**
21 **SUFFICIENT KNOWLEDGE OF REAL PROPERTY LAW, MORTGAGE FINANCING,**
22 **APPLICABLE FEDERAL, STATE, AND LOCAL LAW, AND INDIVIDUAL DEBT**
23 **MANAGEMENT.**

24 **(2) (I) THE COST OF MEDIATION SHALL BE SPLIT JOINTLY**
25 **BETWEEN THE SECURED PARTY AND THE MORTGAGOR OR GRANTOR.**

26 **(II) A MEDIATOR THAT IS NOT EMPLOYED BY THE STATE**
27 **SHALL BE PAID A MEDIATION FEE SET ANNUALLY BY THE OFFICE OF**
28 **ADMINISTRATIVE HEARINGS.**

29 **[(2)] (3) (i) Within 60 days after [transmittal of] the SECURED**
30 **PARTY FILES A request for foreclosure mediation, the [Office of Administrative**
31 **Hearings] COURT-APPOINTED MEDIATOR shall conduct a foreclosure mediation.**

32 **(ii) [For good cause, the Office of Administrative Hearings] IF**
33 **THE SECURED PARTY FAILS TO SUBMIT THE INFORMATION REQUIRED UNDER**

1 PARAGRAPH (4) OF THIS SUBSECTION WITHIN 14 DAYS AFTER REQUESTING
2 FORECLOSURE MEDIATION, THE COURT may extend the time for completing the
3 foreclosure mediation [for a period not exceeding 30 days or, if all parties agree, for a
4 longer period of time].

5 (III) IF THE HOLDERS OF SUBORDINATE INTERESTS ARE NOT
6 NOTIFIED OF THE MEDIATION PROCEEDINGS UNDER PARAGRAPH (4) OF THIS
7 SUBSECTION, THE COURT SHALL EXTEND THE TIME FOR COMPLETING THE
8 FORECLOSURE MEDIATION FOR A PERIOD NOT EXCEEDING 60 DAYS.

9 (4) (I) IMMEDIATELY AFTER ORDERING FORECLOSURE
10 MEDIATION, THE COURT SHALL SEND NOTICE TO THE MORTGAGOR OR
11 GRANTOR OF:

12 1. THE MORTGAGOR'S OR GRANTOR'S RIGHTS WITH
13 REGARD TO FORECLOSURE MEDIATION UNDER THIS SECTION, INCLUDING THE
14 RIGHT TO WAIVE MEDIATION UNDER SUBSECTION (H) OF THIS SECTION AND A
15 DESCRIPTION IN CLEAR AND CONSPICUOUS LANGUAGE OF THE CONSEQUENCES
16 OF WAIVING PARTICIPATION IN THE FORECLOSURE MEDIATION;

17 2. A LIST OF HOUSING COUNSELING SERVICES; AND

18 3. A BRIEF DESCRIPTION OF THE LAW GOVERNING
19 MORTGAGES AND REAL PROPERTY APPLICABLE IN THE MORTGAGOR'S OR
20 GRANTOR'S JURISDICTION.

21 [(3)] (II) The [Office of Administrative Hearings]
22 COURT-APPOINTED MEDIATOR shall send notice of the scheduled foreclosure
23 mediation [to the]:

24 1. IMMEDIATELY TO THE foreclosure attorney, the
25 secured party, and the mortgagor or grantor; AND

26 2. WITHIN 14 DAYS AFTER THE MEDIATOR IS
27 APPOINTED, TO ANY HOLDER OF A SUBORDINATE INTEREST ON THE PROPERTY.

28 [(4)] (5) The notice from the [Office of Administrative Hearings]
29 COURT-APPOINTED MEDIATOR shall:

30 (i) Include instructions regarding the documents and
31 information, as required by regulations adopted by the Commissioner of Financial
32 Regulation, that must be provided by each party to the other party and to the
33 mediator, INCLUDING:

1 **1. FOR THE SECURED PARTY, THE INFORMATION**
2 **REQUIRED TO BE FILED WITH THE COURT UNDER SUBSECTION (D) OF THIS**
3 **SECTION; AND**

4 **2. FOR THE HOLDERS OF SUBORDINATE INTERESTS,**
5 **THE ORIGINAL OR A CERTIFIED COPY OF THE LIEN INSTRUMENT AND A**
6 **STATEMENT OF THE DEBT REMAINING DUE AND PAYABLE SUPPORTED BY AN**
7 **AFFIDAVIT OF THE HOLDER; and**

8 (ii) Require the information and documents to be provided:

9 **1. BY THE SECURED PARTY, no later than [20] 14 days**
10 **[before the scheduled date of] AFTER the foreclosure mediation IS ORDERED; AND**

11 **2. BY THE HOLDERS OF SUBORDINATE INTERESTS,**
12 **NO LATER THAN 21 DAYS AFTER THE FORECLOSURE MEDIATION IS ORDERED.**

13 (j) (1) At a foreclosure mediation:

14 (i) The mortgagor or grantor, **OR A REPRESENTATIVE WITH**
15 **AUTHORITY TO ACT ON BEHALF OF THE MORTGAGOR OR GRANTOR,** shall be
16 present;

17 (ii) The mortgagor or grantor may be accompanied by a housing
18 counselor and may have legal representation;

19 (iii) The secured party, or a representative of the secured party,
20 shall be present; and

21 (iv) Any representative of the secured party must have the
22 authority to settle the matter or be able to readily contact a person with authority to
23 settle the matter.

24 **(2) WITH THE CONSENT OF BOTH THE MORTGAGOR OR GRANTOR**
25 **AND THE SECURED PARTY, A FORECLOSURE MEDIATION MAY BE CONDUCTED BY**
26 **TELECONFERENCE, VIDEOCONFERENCE, OR OTHER REMOTE MEETING**
27 **TECHNOLOGY.**

28 **(3) THE COURT-APPOINTED MEDIATOR MAY SCHEDULE MORE**
29 **THAN ONE MEDIATION SESSION.**

30 **[(2)] (4) At the foreclosure mediation, the parties and the**
31 **COURT-APPOINTED mediator shall address:**

1 **(I) AT THE START OF THE FIRST MEETING,** loss mitigation
2 programs that may be applicable to the loan secured by the mortgage or deed of trust
3 that is the subject of the foreclosure action;

4 **(II) THE MORTGAGOR'S OR GRANTOR'S OPTIONS UNDER**
5 **FEDERAL AND STATE LAW, INCLUDING ASSISTANCE THROUGH FEDERAL AND**
6 **STATE PROGRAMS;**

7 **(III) THE ECONOMIC CONSEQUENCES TO THE MORTGAGOR**
8 **OR GRANTOR OF EACH COURSE OF ACTION DISCUSSED UNDER ITEMS (I) AND (II)**
9 **OF THIS PARAGRAPH;**

10 **(IV) THE MOST RECENT ASSESSED VALUE OF THE**
11 **PROPERTY, ACCORDING TO THE STATE DEPARTMENT OF ASSESSMENTS AND**
12 **TAXATION; AND**

13 **(V) ANY SUBORDINATE INTERESTS IN THE PROPERTY AND**
14 **THE ECONOMIC CONSEQUENCES TO THE MORTGAGOR OR GRANTOR WITH**
15 **RESPECT TO THE SUBORDINATE INTERESTS OF ALTERING THE MORTGAGE OR**
16 **DEED OF TRUST ON THE PROPERTY, SELLING THE PROPERTY, OR ALLOWING**
17 **THE FORECLOSURE TO PROCEED.**

18 **[(3)] (5)** The [Office of Administrative Hearings]
19 **COURT-APPOINTED MEDIATOR** shall file a report with the court that states the
20 outcome of the [request for] foreclosure mediation within the earlier of:

21 (i) 7 days after a foreclosure mediation is held; or

22 (ii) The end of the 60-day mediation period specified in
23 subsection [(i)(2)] **(I)(3)** of this section, plus any extension granted by the [Office of
24 Administrative Hearings] **COURT OR THE COURT-APPOINTED MEDIATOR.**

25 **[(4)] (6)** Except for a request for postponement or a failure to appear,
26 the rules of procedure for contested cases of the Office of Administrative Hearings do
27 not govern a foreclosure mediation conducted by the Office.

28 **(7) (I) THE SECURED PARTY AND THE MORTGAGOR OR**
29 **GRANTOR SHALL NEGOTIATE IN GOOD FAITH DURING THE FORECLOSURE**
30 **MEDIATION.**

31 **(II) IF THE COURT-APPOINTED MEDIATOR DETERMINES**
32 **THAT ANY PARTY IS NOT ACTING IN GOOD FAITH DURING THE FORECLOSURE**
33 **MEDIATION, THE COURT-APPOINTED MEDIATOR MAY SUSPEND THE**
34 **FORECLOSURE MEDIATION PROCESS AND REFER THE MATTER TO THE COURT**

1 **TO APPOINT ANOTHER MEDIATOR WHO SHALL RESTART THE FORECLOSURE**
2 **MEDIATION WITHIN 2 WEEKS AFTER THE SUSPENSION.**

3 (k) (1) If the parties do not reach an agreement at the foreclosure
4 mediation, or the 60-day mediation period expires without an extension granted by
5 the [Office of Administrative Hearings] **COURT OR THE COURT-APPOINTED**
6 **MEDIATOR**, the foreclosure attorney may schedule the foreclosure sale.

7 (2) (i) Subject to subparagraphs (ii), (iii), and (iv) of this
8 paragraph, the mortgagor or grantor may file a motion to stay the foreclosure sale.

9 (ii) A motion to stay under this paragraph shall be filed within
10 15 days after:

11 1. The date the foreclosure mediation is held; or

12 2. If no foreclosure mediation is held, the date the Office
13 of Administrative Hearings files its report with the court.

14 (iii) A motion to stay under this paragraph must allege specific
15 reasons why loss mitigation should have been granted.

16 (3) Nothing in this subtitle precludes the mortgagor or grantor from
17 pursuing any other remedy or legal defense available to the mortgagor or grantor.

18 (l) A foreclosure sale of residential property may not occur until:

19 (1) If the residential property is not owner-occupied residential
20 property, at least 45 days after service of process is made under subsection (f) of this
21 section;

22 (2) If the residential property is owner-occupied residential property
23 and foreclosure mediation is not held, the later of:

24 (i) At least 45 days after service of process that includes a final
25 loss mitigation affidavit made under subsection (f) of this section; or

26 (ii) At least 30 days after a final loss mitigation affidavit is
27 mailed under subsection (g) of this section; and

28 (3) If the residential property is owner-occupied residential property
29 and foreclosure mediation is requested, at least 15 days after:

30 (i) The date the foreclosure mediation is held; or

31 (ii) If no foreclosure mediation is held, the date the Office of
32 Administrative Hearings files its report with the court.

1 (m) Notice of the time, place, and terms of a foreclosure sale shall be
2 published in a newspaper of general circulation in the county where the action is
3 pending at least once a week for 3 successive weeks, the first publication to be not less
4 than 15 days before the sale and the last publication to be not more than 1 week before
5 the sale.

6 (n) (1) The mortgagor or grantor of residential property has the right to
7 cure the default by paying all past due payments, penalties, and fees and reinstate the
8 loan at any time up to 1 business day before the foreclosure sale occurs.

9 (2) The secured party or an authorized agent of the secured party
10 shall, on request, provide to the mortgagor or grantor or the mortgagor's or grantor's
11 attorney within a reasonable time the amount necessary to cure the default and
12 reinstate the loan and instructions for delivering the payment.

13 (o) An action for failure to comply with the provisions of this section shall be
14 brought within 3 years after the date of the order ratifying the sale.

15 (p) Revenue collected from the filing fees required under subsections
16 (d)(2)(vii) and (h)(1)(ii) of this section shall be distributed to the Housing Counseling
17 and Foreclosure Mediation Fund established under § 4-507 of the Housing and
18 Community Development Article.

19 14-126.

20 **(D) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE**
21 **THE MEANINGS INDICATED.**

22 **(II) "REGISTRY" MEANS THE FORECLOSED PROPERTY**
23 **REGISTRY ESTABLISHED UNDER PARAGRAPH (2) OF THIS SUBSECTION.**

24 **(III) "RESIDENTIAL PROPERTY" HAS THE MEANING STATED**
25 **IN § 7-105.1 OF THIS ARTICLE.**

26 **(2) THE DEPARTMENT OF HOUSING AND COMMUNITY**
27 **DEVELOPMENT SHALL ESTABLISH AND MAINTAIN A FORECLOSED PROPERTY**
28 **REGISTRY.**

29 **(3) (I) AFTER COMMENCEMENT OF AN ACTION TO FORECLOSE**
30 **A LIEN ON RESIDENTIAL PROPERTY, A PERSON AUTHORIZED TO MAKE A SALE**
31 **OF THE PROPERTY UNDER § 7-105.1 OF THIS ARTICLE SHALL REGISTER THE**
32 **PROPERTY WITH THE REGISTRY.**

1 **(II) A REGISTRATION UNDER THIS PARAGRAPH SHALL**
2 **INCLUDE:**

3 **1. IDENTIFICATION OF THE PROPERTY BY STREET**
4 **ADDRESS AND TAX ACCOUNT NUMBER; AND**

5 **2. INFORMATION ON WHETHER THE PROPERTY IS**
6 **VACANT, IF KNOWN.**

7 **(4) THE DEPARTMENT MAY REQUIRE A PERSON REGISTERING A**
8 **FORECLOSED PROPERTY UNDER THIS SUBSECTION TO PAY A REGISTRATION**
9 **FEE NOT EXCEEDING \$35 FOR EACH PROPERTY.**

10 **(5) A PERSON AUTHORIZED TO MAKE A SALE OF RESIDENTIAL**
11 **PROPERTY SHALL IMMEDIATELY NOTIFY THE REGISTRY AFTER THE**
12 **RESIDENTIAL PROPERTY IS PURCHASED AT A FORECLOSURE SALE.**

13 **(6) A PERSON WHO VIOLATES THIS SUBSECTION IS SUBJECT TO A**
14 **CIVIL FINE NOT EXCEEDING \$200.**

15 **Article – Tax – Property**

16 **9–110.**

17 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**
18 **MEANINGS INDICATED.**

19 **(2) “FORECLOSURE HOTSPOT” MEANS A COMMUNITY**
20 **DESIGNATED ON A QUARTERLY BASIS BY THE OFFICE OF POLICY, PLANNING,**
21 **AND RESEARCH IN THE DEPARTMENT OF HOUSING AND COMMUNITY**
22 **DEVELOPMENT BASED ON THE NUMBER OF FORECLOSURE EVENTS DURING THE**
23 **PREVIOUS QUARTER.**

24 **(3) “RESIDENTIAL PROPERTY” MEANS REAL PROPERTY**
25 **IMPROVED BY FOUR OR FEWER SINGLE FAMILY DWELLING UNITS THAT ARE**
26 **DESIGNED PRINCIPALLY AND ARE INTENDED FOR HUMAN HABITATION.**

27 **(B) THERE SHALL BE A ONE–TIME PROPERTY TAX CREDIT OF \$10,000**
28 **GRANTED UNDER THIS SECTION AGAINST THE PROPERTY TAX IMPOSED ON THE**
29 **PURCHASE OF RESIDENTIAL PROPERTY IN A FORECLOSURE HOTSPOT IF THE**
30 **PROPERTY IS TO BE USED AS THE PURCHASER’S PRIMARY RESIDENCE.**

1 **(C) (1) ON OR BEFORE OCTOBER 1 OF THE TAXABLE YEAR FOR**
2 **WHICH PROPERTY TAX RELIEF UNDER THIS SECTION IS SOUGHT, A PURCHASER**
3 **OF RESIDENTIAL PROPERTY IN A FORECLOSURE HOTSPOT MAY APPLY TO THE**
4 **DEPARTMENT FOR THE PROPERTY TAX CREDIT.**

5 **(2) AN APPLICATION UNDER THIS SUBSECTION SHALL BE MADE**
6 **ON THE FORM THAT THE DEPARTMENT PROVIDES.**

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2012.