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NEW LAW REGARDING CT MEDIATIONS AND THE FORECLSOURE PROCESS

Shb 6255, An Act Concerning Homeowner Protection Rights expands the scope of Connecticut's existing Foreclosure Mediation Program. One part of the expansion allows for mediation sessions to address the disposition of property through means other than foreclosure, such as short sales, deeds in lieu and assignment of law days.

Generally, the bill identifies that the objectives of the program requires parties to attend foreclosure mediation sessions who have the ability to mediate which has been defined as a general willingness and ability to participate in the mediation process.

One major change in the subject bill is that a premediation process will be implemented by the Courts. This process will be where the mediator and the mortgagor must meet initially prior to any foreclosure mediation held between the mediator, mortgagor, mortgagee and its counsel. The purpose of the pre-mediation meeting between the mediator and the mortgagor is to assist the mortgagor in collecting, documenting and providing all information needed for a full review of circumstances for loss mitigation options.

In order to make premediation a productive process, the servicer must deliver to the mediator via email and to the borrower via first class mail the following items prior to the first premediation session:

1. Account history identifying all credits/debits/escrow (12 months);
2. Itemized reinstatement with explanation of any codes;
3. Name, business mailing address, email address, fax number, direct number of loss mitigator assigned to the file;
4. All necessary forms and a list of all documents needed for mortgagee to evaluate mortgagor for common alternatives to foreclosure;
5. Copy of the note and the mortgage;
6. Summary regarding the status of any pending foreclosure efforts being undertaken by the mortgagee;
7. A copy of the FLMA filed with the Court;
8. The history of the foreclosure avoidance efforts with respect to the defendants as well as information regarding the condition of the mortgaged premises and such other information that will be relevant to meet to the objectives of the mediation program.

Additionally, the bill requires that the Court hold a hearing after the third mediation session and after each subsequent session to determine the status of the case and why resolution has not been achieved.

All mortgagees, investors and servicers must be prepared for an increase in the number of hearings with evidentiary overtones that will not only require documentary evidence but possible testimony as well. This will unfortunately increase the costs of foreclosure actions going forward depending on what type of evidence will have to be presented.

Under the law, no judgment may enter in a matter where mediation has taken place up and until the court denies an extension request and terminates the mediation or the mediation period expires.

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