

CALIFORNIA

Cal. Civ. Code § 2923.5 and §§ 2923.52-53.

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<ul style="list-style-type: none"> - Covered loans: Residential mortgages made from Jan. 1, 2003 to December 31, 2007. - Duration of program: Sept. 6, 2008 to Jan.1, 2013. - Basic framework: Thirty days before filing notice of default (initial step in non judicial foreclosure), lender must attempt to contact borrower to explore options to avoid foreclosure. - Stay of proceedings: 30 day wait period before lender may begin non judicial foreclosure. - Eligibility for participation: Automatic. Borrower does not have to take any specific action in order to participate. - Time frame: Lender can file notice of default either 30 days after made contact with borrower or 30 days after made “due diligence” attempt to contact borrower. 	<ul style="list-style-type: none"> - Appearance: Program does not require a formal mediation session. - Produce documents/complete forms: No requirement - Proof of standing: No requirement - Produce loan modification/NPV analysis: No requirement - Specific options to consider: Statute requires only that lender attempt to contact borrower “in order to assess the borrower’s financial situation and explore options for the borrower to avoid foreclosure.” - Make proposal: No requirement - Good faith requirement/consequences of bad faith: None. Lender required only to file certification that it contacted 	<ul style="list-style-type: none"> - Produce documents/complete forms: No requirement - Make proposal: No requirement. - Work with housing counselor: No requirement. Borrower receives toll-free number for housing counselor. - Payment for costs: No costs involved. 	<ul style="list-style-type: none"> - Funding: None - Outreach component: None - Volunteer attorney component: None - Limited attorney appearance allowed: No court appearance involved. - Junior lienholder involvement: None - Data collection on results/modifications: none - Restrictions on lender’s fee shifting to homeowner: none - Comment: A separate Cal. statute adds a 90-day delay after notice of default filed and before sale. (Cal. Civ. Code § 2923.52-53 effective May 21, 2009 to Jan. 1, 2011 for first lien residential mortgage recorded Jan. 1, 2003 to Jan. 1, 2008). Applies only to lenders

CALIFORNIA

Cal. Civ. Code § 2923.5 and §§ 2923.52-53.

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
- Mediator: None	borrower or attempted with “due diligence” to contact borrower - Payment for costs: No costs involved		not exempted by State’s Commissioner of Corporations. Commissioner may exempt servicers/lenders who are considered to have loan modification systems that meet criteria under statute. Standard exempts most servicers/lenders. With respect to non-exempt lenders, statute creates no homeowner remedies for lender non compliance.

CONNECTICUT

Conn. Gen. Stat. Ann. § 8-265ee

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>- Covered loans: Mortgages secured by one to four family residential properties subject to foreclosure. Must be primary residence of borrower.</p> <p>- Duration of program: Initially July 1, 2008 to July 1, 2010. By legislation signed June 9, 2010 program extended to July 1, 2012</p> <p>- Basic framework: Lender must serve homeowner with a notice that mediation is available, a form to determine the homeowner's eligibility and an appearance form along with summons and complaint.</p> <p>- Stay of proceedings: Entry of judgment stayed pending mediation, but all other litigation continues including obligation to file answer. Mediator can terminate mediation at first session or any later session if decides parties would not benefit from further</p>	<p>- Appearance: Mortgagee attorney in phone or electronic contact with lender representative with authority to settle must appear for each session.</p> <p>- Produce documents/complete forms: None</p> <p>- Proof of standing: None required.</p> <p>- Produce loan modification/NPV analysis: None</p> <p>- Specific options to consider: "mediation shall address all issues of foreclosure, including but not limited to, reinstatement of the mortgage, assignment of law days, assignment of sale date, restructuring of the mortgage debt and foreclosure by decree of sale."</p> <p>- Make proposal: Not specified</p>	<p>- Appearance: All borrowers must appear for each session.</p> <p>- Produce documents/complete forms: State judicial office instructions state that borrower must bring to mediation proof of income if employed, list of expenses, and copies of completed applications for state mortgage financial assistance.</p> <p>- Make proposal: No Requirement.</p> <p>- Work with housing counselor: Encouraged but not required</p> <p>- Payment for costs: Parties do not pay costs for mediation</p>	<p>- Funding: In 2008 legislature appropriated \$3 million for Judicial Branch to establish foreclosure mediation program in each of state's 13 judicial districts.</p> <p>- Outreach component: No</p> <p>- Voluntary attorney component: Several organizations run limited pro bono referral systems, no formal connection to mediation program.</p> <p>- Limited attorney appearance allowed: Yes</p> <p>- Junior lienholder involvement: No requirement.</p> <p>- Data collection on results/modifications: Judicial branch tracks numbers of cases in which mediations requested, mediations completed, and general categories of dispositions, including loan</p>

CONNECTICUT

Conn. Gen. Stat. Ann. § 8-265ee

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>mediation. Mediation period is 60 days from return date of summons. Court may extend for additional 30 days.</p> <p>- Eligibility for participation: For cases filed after July 1, 2009, court issues notice of mediation not later than three business days after return of service of complaint. Borrower must then file appearance and certificate of eligibility with court not more than 15 days after return date of summons, unless time extended by court. Court at its discretion may also refer a case to mediation at any time.</p> <p>- Time frame: Unless court does not timely receive borrower's certificate and appearance, not later than 5 business days after return date court sends notice scheduling first session . Period for mediation may run up to 60 days from return date of summons, subject to additional</p>	<p>- Good faith requirement/consequences of bad faith: Not specified in statute. State court instructions refer to obligation of lender to "bargain in good faith"</p> <p>- Payment for costs: Parties do not pay costs for mediation.</p>		<p>modifications.</p> <p>- Restrictions on lender's fee shifting to homeowner: None, but court can bar attorney's fees shifting if servicer failed to comply with appearance requirements without good cause or otherwise without good cause did not comply with mediation rules.</p> <p>- Statute amended May 2009 to schedule mediation automatically if borrower sends in eligibility form.</p>

CONNECTICUT

Conn. Gen. Stat. Ann. § 8-265ee

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>30 days by court order. Court may continue sessions at request of parties or mediator, up to 90 days total.</p> <p>- Mediator: Mediators are judicial branch employees.</p>			

DELAWARE

Administrative Directive No. 2009 - 3 of President Judge of Superior Court

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>- Covered loans: Loans for owner occupied properties of one to four units.</p> <p>- Duration of program: Order dated August 31, 2009.</p> <p>- Basic framework: Upon initiation of a foreclosure action, servicer must post and mail notice of eligibility for program together with intake forms to homeowner.</p> <p>- Stay of proceedings: Entry of</p>	<p>- Appearance: Representative of servicer who has settlement authority must attend or be available by phone.</p> <p>- Produce documents/complete forms: Both parties submit preliminary position paper to mediator one day in advance of mediation.</p> <p>- Proof of standing: No requirement</p>	<p>- Produce documents/complete forms: Borrower must complete and execute under penalty of perjury a detailed Universal Intake Form with financial data and loan history data. Guidelines include extensive list of documents on checklist for homeowner to provide to counselor.</p> <p>- Make proposal: Both parties submit preliminary position</p>	<p>- Funding: None</p> <p>- Outreach component: No formal component. Notice of program contains hotline information.</p> <p>- Volunteer attorney component: Program involves volunteer attorneys to serve as mediators.</p> <p>- Limited attorney appearance allowed: No court appearance involved.</p>

DELAWARE

Administrative Directive No. 2009 - 3 of President Judge of Superior Court

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>judgment stayed for at least 60 days if homeowner qualifies for mediation by submitting a settlement proposal meeting program guidelines.</p> <p>- Eligibility for participation: Homeowner must submit a completed intake form to HUD- certified counselor and Volunteer Legal Services program within 15 day of receipt of receipt of forms. As condition to mediation, counselor must certify that homeowner can qualify for affordable loan modification (payments not more than 38% of gross monthly income, term not over 40 years, interest rate at least 2%). Counselor submits proposal to lender and volunteer attorney for homeowner.</p> <p>- Time frame: If servicer appears for one mediation session, mediation will be continued only if servicer agrees.</p>	<p>- Produce loan modification/NPV analysis: No requirement</p> <p>- Specific options to consider: Presumably servicer must respond to proposal from counselor/homeowner.</p> <p>- Make proposal: Both parties submit preliminary position paper to mediator one day in advance of mediation.</p> <p>- Good faith requirement/consequences of bad faith: None.</p> <p>- Payment for costs: No costs involved</p>	<p>paper to mediator one day in advance of mediation.</p> <p>- Work with housing counselor: Completion of forms with counselor is eligibility requirement for mediation program.</p> <p>- Payment for costs: No costs involved.</p>	<p>- Junior lienholder involvement: None</p> <p>- Data collection on results/modifications: Settlements are to be reduced to writing. Mediator submits general ADR evaluation form to Legal Aid Society. Legal Aid maintains data on numbers of settlements, workouts, participating homeowners, appearances, number of workouts that avoided loss of homes.</p> <p>- Restrictions on lender's fee shifting to homeowner: none</p> <p>Comment: Delaware has enacted a program to provide financial assistance with mortgage payments (DEMAP), and eligibility for benefits under this program can be considered in context of mediations.</p>

DELAWARE

Administrative Directive No. 2009 - 3 of President Judge of Superior Court

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
- Mediator: Parties who cannot resolve foreclosure through negotiations must appear before mediator.			

FLORIDA Programs Administered by Collins Center, Implementing Fla, Supreme Court Order No. : 1st JUDICIAL CIRCUIT (Santa Rosa, Okaloosa, Walton counties), 10th JUDICIAL CIRCUIT (Hardee, Highlands, Polk counties), 11th JUDICIAL CIRCUIT (Miami Dade County), 12th JUDICIAL CIRCUIT (DeSoto, Manatee, Sarasota counties), 14th JUDICIAL CIRCUIT (Bay, Calhoun, Gulf, Holmes, Jackson, Washington counties), 19th JUDICIAL CIRCUIT (Indian River, Martin, Okochobeee, St. Lucie counties)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>(Note: This description on this page is based upon 11th Judicial Circuit’s Admin. Order 10-03-A1, effective Mar. 29, 2010, which is substantially same as orders in effect for programs administered by the Collins Center in other judicial circuits).</p> <p>- Covered loans: Mortgages secured by property that has been granted homestead real estate tax exemption and origination of loan subject to TILA.</p> <p>- Duration of program: Circuit courts instituted these programs since early 2010 pursuant to Fla. Supreme Court’s Report and Recommendations 09-54 (Dec. 28, 2009).</p> <p>- Basic framework: Upon filing, a judicial foreclosure action</p>	<p>- Appearance: When filing foreclosure complaint lender must designate an “authorized representative” with full authority to settle, who will appear at mediation sessions. Lender’s representative and attorney must attend sessions, but lender’s representative may exercise option to appear by “communication equipment.” If appear by communication equipment, representative must be available at all times during mediation. Lender may authorize its attorney to sign documents for lender. Court may impose sanctions, including dismissal of action of attorney or representative fail to appear. Program manager may file motion with court to enforce program requirements.</p>	<p>- Appearance: Homeowner must attend mediation. Housing counselor may attend with borrower. Court may impose sanctions on borrower, borrower’s attorney for failure to appear.</p> <p>- Produce documents/complete forms: Borrower’s financial disclosure statement is to be sent to IT platform 30 days before initial mediation session. If requesting loan modification borrower must complete detailed income and expense forms, provide hardship statement.</p> <p>- Make proposal: No requirement</p> <p>- Work with housing counselor: Borrower’s failure to work with</p>	<p>- Funding: No specific state or local funding</p> <p>- Outreach component: Upon receiving notice of filing program manager (Collins Center) attempts to contact borrower to provide information and assistance for participation in mediation program.</p> <p>- Volunteer attorney component: Program manager to advise homeowners about availability of pro bono programs.</p> <p>- Limited attorney appearance allowed: Administrative orders specifically provide for limited attorney appearance, but borrower attorney must attend sessions.</p>

FLORIDA Programs Administered by Collins Center, Implementing Fla, Supreme Court Order No. : 1st JUDICIAL CIRCUIT (Santa Rosa, Okaloosa, Walton counties), 10th JUDICIAL CIRCUIT (Hardee, Highlands, Polk counties), 11th JUDICIAL CIRCUIT (Miami Dade County), 12th JUDICIAL CIRCUIT (DeSoto, Manatee, Sarasota counties), 14th JUDICIAL CIRCUIT (Bay, Calhoun, Gulf, Holmes, Jackson, Washington counties), 19th JUDICIAL CIRCUIT (Indian River, Martin, Okochobee, St. Lucie counties)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>involving residential property is referred automatically to mediation. In these circuits the Collins Center for Public Policy, Inc. (a private nonprofit entity) has been designated the mediation program manager. Before plaintiff may obtain default or summary judgment or proceed to trial, parties must have complied with mediation process, or homeowner must have waived or dropped out of process. Parties' information is uploaded to secure internet information platform to be available to mediator and both parties before sessions. Foreclosure may proceed if a mediator's report indicates impasse reached at session or if notice of borrower non participation filed. Plaintiff's attorney prepares and files certification of compliance with mediation process.</p>	<ul style="list-style-type: none"> - Produce Documents: Borrower may request certain documents from lender 25 days prior to session. Lender to submit to IT platform at least 5 days before session. Borrower may request: evidence of standing, payment history, net present value information, and the most current appraisal available to lender. - Proof of standing: Prior to session borrower may request "documentary evidence that the Plaintiff is the owner and holder in due course of the note and mortgage sued upon." - Produce loan modification/NPV analysis: Prior to session borrower may request a "statement of the plaintiff's position on the present net present value of the mortgage loan." 	<p>housing counselor is cause for terminating case from mediation program.</p> <p>- Payment for costs: Lender pays mediation costs in advance. Court can tax costs to borrower as part of judgment if plaintiff prevails.</p>	<ul style="list-style-type: none"> - Junior lienholder involvement: Junior lienholder may appear at mediation by representative with full authority and with counsel. - Data collection on results/modifications: Program Manager to make periodic reports to chief judge regarding participant satisfaction, status of cases. - Restrictions on lender's fee shifting to homeowner: The court can tax mediation fee as a cost in a final judgment. No restriction on attorney's fees shifting to borrower.

FLORIDA Programs Administered by Collins Center, Implementing Fla, Supreme Court Order No. : 1st JUDICIAL CIRCUIT (Santa Rosa, Okaloosa, Walton counties), 10th JUDICIAL CIRCUIT (Hardee, Highlands, Polk counties), 11th JUDICIAL CIRCUIT (Miami Dade County), 12th JUDICIAL CIRCUIT (DeSoto, Manatee, Sarasota counties), 14th JUDICIAL CIRCUIT (Bay, Calhoun, Gulf, Holmes, Jackson, Washington counties), 19th JUDICIAL CIRCUIT (Indian River, Martin, Okochobee, St. Lucie counties)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>- Stay of proceedings: No entry of default or summary judgment entered until mediation completed and result transmitted to presiding judge. Participation in mediation does not stay time to file answer.</p> <p>- Eligibility for Participation Homeowners receiving foreclosure summons and complaint are eligible automatically. To remain in program borrower must respond to program manager solicitation within 30 days of filing of eligible action. In addition, homeowner will be dropped from participation if does not consult with housing counselor and complete disclosure forms prior to a session. Parties may also elect to participate in pre-suit mediation.</p>	<p>- Specific options to consider: No requirement.</p> <p>- Make proposal: No requirement.</p> <p>- Good faith requirement/consequences of bad faith: None</p> <p>- Payment for costs: Lender must pay \$750 fee to Collins Center upon filing complaint. \$400 goes toward cost of program, including outreach and counseling, and \$350 for mediator for up to two sessions. Program fees may be taxed as a cost in a final judgment. Fees may be refunded if no mediation takes place due to settlement before session or borrower dropped from program.</p>		

FLORIDA Programs Administered by Collins Center, Implementing Fla, Supreme Court Order No. : 1st JUDICIAL CIRCUIT (Santa Rosa, Okaloosa, Walton counties), 10th JUDICIAL CIRCUIT (Hardee, Highlands, Polk counties), 11th JUDICIAL CIRCUIT (Miami Dade County), 12th JUDICIAL CIRCUIT (DeSoto, Manatee, Sarasota counties), 14th JUDICIAL CIRCUIT (Bay, Calhoun, Gulf, Holmes, Jackson, Washington counties), 19th JUDICIAL CIRCUIT (Indian River, Martin, Okochobee, St. Lucie counties)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>- Time Frame Mediations are to be completed within 60-120 days of filing of foreclosure complaint.</p> <p>- Mediator Unless parties select own mediator, mediators are assigned from panel of Florida Supreme Court mediators who have received training in mediating foreclosures.</p>			

ILLINOIS (Cook County)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>- Covered loans: Loan must be secured by borrower's residence; may be single-family home, single-family condominium, or apartment building with four or fewer units.</p> <p>- Duration of program: Effective April 12, 2010 under Cook County Circuit Court Chancery Division General Administrative Order No. 2010-01 (April 8, 2010).</p> <p>- Basic framework: For all residential foreclosures, case management conference scheduled 60 days from time of filing complaint. At conference, borrower, after consultation with housing counselor and pro bono attorney, may submit written motion for referral of case to mediation. Notice of mediation program contained in summons and in order for scheduling conference.</p> <p>- Stay of proceedings:</p>	<p>- Appearance: Under court's general mediation rule (Rule 21) all parties are required to be present at the mediation, unless waived by court. "At foreclosure mediation sessions, the lender and/or servicer, the plaintiff's counsel, defendant, defendant's counsel, and the mediator will participate in the mediation. Whether the lender/servicer will be allowed to appear by phone instead of in person is at the discretion of each judge." (Court FAQ p. 6).</p> <p>- Produce documents/complete forms: Mediation referral order and mediator can require written summaries from parties ten days prior to first session. Court and mediator can set other requirements on a case by case basis.</p> <p>- Proof of standing: No requirement in program rules.</p> <p>- Produce loan modification/NPV analysis: Not specifically, but court's</p>	<p>- Appearance: Homeowner must appear, unless appearance waived by court.</p> <p>- Produce documents/complete forms: No express requirement, although mediator or mediation referral order may set requirements.</p> <p>- Make proposal: No requirement.</p> <p>- Work with housing counselor: Program requires initial consultation and review with housing counselor for preparation of application for mediation.</p> <p>- Payment for costs: No costs for borrower</p>	<p>- Funding: 3.5 million dollars funding allocated for program beginning April 2010.</p> <p>- Outreach component: Yes, community organizations in various parts of County perform outreach to encourage homeowners to participate in program.</p> <p>- Volunteer attorney component: Under program framework, after meeting with housing counselor borrower meets with attorney to prepare motion to request mediation. At a later case management call, case may also be assigned to pro bono attorney for litigation or for representation through mediation. Mediation referral order may also address attorney referral.</p> <p>- Limited attorney appearance allowed: Yes, specifically permitted under program guidelines.</p> <p>- Junior lienholder</p>

ILLINOIS (Cook County)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>Borrowers must have filed appearance and responsive pleading, or leave to file same, before filing motion for referral to mediation. “Program is designed to work within the time frames set forth in the Illinois Mortgage Foreclosure Law, 735 ILCS 5/15-1101, <i>et seq.</i>, and not to interfere with the statutorily available time limits (e.g. redemption date, etc.) for minimal impact to both sides in the foreclosure action.” (Court’s FAQ, p. 4)</p> <p>- Eligibility for participation: Residents of Cook County, Illinois who have received summons and complaint in judicial foreclosure. Borrower must appear for 60-day case management conference, consult with housing counselor and pro bono attorney on site, enter formal appearance in case, and file motion requesting referral to mediation. Borrowers may also apply for</p>	<p>mediation referral order can designate particular HAMP issue to be mediated.</p> <p>- Specific options to consider: The court’s form mediation referral order includes reference to status of HAMP application and may designate the HAMP-related issues to be addressed in mediation. Role of mediator is “to facilitate the communication between the parties to help determine if mutually acceptable resolution is possible.” (Court FAQ p. 6).</p> <p>- Make proposal: No specific requirement, but court can direct parties to mediate issues related to HAMP application..</p> <p>- Good faith requirement/consequences of bad faith: No requirement.</p> <p>- Payment for costs: No charge if Center for Conflict Resolution mediator used. Otherwise, parties may be required to pay for a mediator</p>		<p>involvement: No requirement.</p> <p>- Data collection on results/modifications: No</p> <p>- Restrictions on lender’s fee shifting to homeowner: No.</p>

ILLINOIS (Cook County)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>mediation independently of case management conference by meeting with counselor and attorney and submitting request to court before or after case management conference date. Judge ultimately has discretion to approve or deny motion to refer to mediation. Judge has discretion to refer to mediation after default and entry of judgment.</p> <p>- Time frame: Consistent with court's general mediation Rule 21, a post-mediation status hearing is set 12 weeks after entry of mediation referral order. Order referring to mediation may be extended for good cause. Court must enter post-mediation status order before case returned to trial schedule or set for default or summary judgment.</p> <p>- Mediator: Parties may agree to mediator or court will assign one (from Center for Conflict Resolution) at a 21-day status hearing after entry of order to</p>	<p>they jointly select.</p>		

ILLINOIS (Cook County)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
refer to mediation. Mediator qualifications are contained in Cook County Chancery Rule 21.08.			

INDIANA (Senate Enrolled Act No. 492)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>- Covered loans: First lien residential mortgages</p> <p>- Duration of program: Effective July 1, 2009, including cases filed before that date if judgment not entered.</p> <p>- Basic framework: Along with complaint lender must serve borrower with notice of right to participate in a settlement conference.</p> <p>- Stay of proceedings: No judgment of foreclosure may issue unless homeowner received notice and did not contact court within 30 days to schedule conference, or conference concluded without settlement.</p> <p>- Eligibility for participation: Within 30 days of receiving notice homeowner must notify court of intent to participate in a conference. Notice of right to conference need not be sent if the loan was subject of a prior agreement under the settlement</p>	<p>- Appearance: An attorney for the lender must attend the settlement conference and an authorized representative must be available by phone during the conference. The court at its discretion may order that any party to the foreclosure action appear at or participate in a conference. Lender must ensure that any person representing it at a settlement conference or in any negotiations with the debtor has authority to make agreements. The parties may present court with stipulation to have conference by phone.</p> <p>- Produce documents/complete forms: Lender must bring to settlement conference a copy of the original note and mortgage, a payment record substantiating the default, an itemization of all amounts claimed due, and any other documents the court determines are needed.</p> <p>- Proof of standing: Not required, but lender to bring to</p>	<p>- Appearance: Homeowner must appear. An attorney or housing counselor may appear by phone. Parties may stipulate to have conference by phone.</p> <p>- Produce documents/complete forms: Borrower must bring to settlement conference documentation of current and projected future income, expenses, assets, and liabilities, including documentation of employment history, plus any other documentation the court determines is needed for the homeowner to engage in good faith negotiations.</p> <p>- Make proposal: No requirement.</p> <p>- Work with housing counselor: Statute requires that notice of settlement conference encourage the homeowner to contact a housing counselor before date of conference, and provides contact information for counselors.</p>	<p>- Funding: Limited funding through increased complaint filing fee.</p> <p>- Outreach component: No specific program.</p> <p>- Volunteer attorney component: No specific related program.</p> <p>- Limited attorney appearance allowed: Not specified.</p> <p>- Junior lienholder involvement: No requirement.</p> <p>- Data collection on results/modifications: No</p> <p>- Restrictions on lender's fee shifting to homeowner: No.</p>

INDIANA (Senate Enrolled Act No. 492)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>procedure and debtor defaulted. The court may also exempt a case if it finds that a conference would “be of limited value based on the result of a prior loss mitigation effort between the creditor and the debtor”.</p> <p>- Time frame: The notice from court orders lender and borrower to conduct conference on or before a specified date. Date must be not less than 25 days after the date of notice or later than 60 days after the date of the notice. Court may order reconvening of conference at any time before judgment entered.</p> <p>- Mediator: Participation by judicial officer in conference not required.</p>	<p>settlement conference a “copy of the original note and mortgage.”</p> <p>- Produce loan modification/NPV analysis: Not required.</p> <p>- Specific options to consider: No specific options, other than stated statutory purpose of conference as to attempt to negotiate a foreclosure prevention agreement.</p> <p>- Make proposal: No specific requirement.</p> <p>- Good faith requirement/consequences of bad faith: No requirement.</p> <p>- Payment for costs: Statute adds a \$450 court filing fee for mortgage foreclosure action filed after effective date until Jan. 1, 2013, with fees to be used for home ownership education.</p>	<p>- Payment for costs: No costs for borrower</p>	

INDIANA (Supervised Pilot Programs)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>- Covered loans: First lien residential mortgages (same as under regular statutory program, I.C. 32-30-10.5)</p> <p>- Duration of program: These are pilot programs implemented in several counties: Allen (Fort Wayne), St. Joseph (South Bend), Marion (Indianapolis), Lake (East Chicago), and Madison counties. Earliest programs began in February 2010 (Allen County) and St. Joseph County (April 2010), and plan is to expand and possibly make supervised settlement conference structure statewide in 2011. Local orders have varying expiration dates.</p> <p>- Basic framework: Mortgage Foreclosure Trial Court Assistance Project (MFTCAP) created by courts, state agencies and non profits to enhance foreclosure conference system set up as of July 2009 under I.C. 32-30-10.5. In pilot</p>	<p>- Appearance: Authorized representative of lender and attorney must attend the settlement conference unless court has permitted appearance by phone. Court can impose sanctions for non appearance.</p> <p>- Produce documents/complete forms: After telephone conference, facilitator issues scheduling order for conference which lists documents lender must provide within a set time, e.g. two weeks, before conference. For lender these can include copies of PSA agreements alleged to limit loan modifications, copies of HAMP notifications and NPV calculations, information on applicable government regulations, and description of loss mitigation options available. Under statute, lender must bring to settlement conference a copy of the original note and mortgage, a payment record substantiating the default, an itemization of all amounts claimed due, and any</p>	<p>- Appearance: Parties and their attorneys must appear in person unless court has permitted phone appearances.</p> <p>- Produce documents/complete forms: In scheduling order the court or facilitator may order homeowner to produce in advance of conference all financial information required to determine eligibility for loan modification, including pay stubs, tax returns, budget information, and hardship letter.</p> <p>- Make proposal: No requirement.</p> <p>- Work with housing counselor: Statute requires that notice of settlement conference and pre-conference phone calls encourage the homeowner to contact a housing counselor before date of conference. Written notice provides contact information for counselors.</p> <p>- Payment for costs: No costs</p>	<p>- Funding: Some funding through increased complaint filing fee.</p> <p>- Outreach component: Depending on county, court staff or facilitators may contact borrowers who have not responded to initial 30-day notice and offer participation (e.g. St. Joseph and Marion counties) or issue notice directing homeowners to contact court for phone conference (Allen County).</p> <p>- Volunteer attorney component: A goal of the Mortgage Foreclosure Trial Court Assistance Project is to facilitate coordination with pro bono attorney programs to assist borrowers in conferences. Portion of \$50 filing fee increase to go toward reimbursement of expenses of pro bono attorneys.</p> <p>- Limited attorney appearance allowed: Attorneys may be designated by court to assist</p>

INDIANA (Supervised Pilot Programs)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>programs, unlike under regular statutory program, courts and facilitators play a role in setting up and managing conferences. Typically there are pre-conference telephone conferences at which a facilitator determines what documents are needed by each party and schedules times for production before formal conference.</p> <p>- Stay of proceedings: As under statutory procedures, no judgment of foreclosure may issue unless homeowner received notice and did not contact court within 30 days to schedule conference, did not appear for conference, or conference concluded without settlement.</p> <p>- Eligibility for participation: Local programs set procedures for notifying homeowners of opportunity to participate and. Response times may be flexible, and court may contact</p>	<p>other documents the court determines are needed.</p> <p>- Proof of standing: Not required for conference, but lender to bring to settlement conference a “copy of the original note and mortgage.”</p> <p>- Produce loan modification/NPV analysis: Court or facilitator may require in scheduling order that NPV calculation and related HAMP notices be produced before conference.</p> <p>- Specific options to consider: No specific options, other than stated statutory purpose of conference as to attempt to negotiate a foreclosure prevention agreement. In scheduling order court may require that lender produce loss mitigation guidelines for review at conference.</p> <p>- Make proposal: No specific requirement.</p>	<p>for borrower</p>	<p>homeowner in preparing for conference and to appear with homeowner at conference.</p> <p>- Junior lienholder involvement: No requirement.</p> <p>- Data collection on results/modifications: Pilot programs are required to submit a Data Collection form to state project manager within 30 days of conference, with follow-up form to be submitted if settlement not complete until after 30 days. The form requires a summary of outcome.</p> <p>- Restrictions on lender’s fee shifting to homeowner: No.</p>

INDIANA (Supervised Pilot Programs)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>borrowers directly and offer participation.</p> <p>- Time frame: Local courts or facilitators give orders for production of documents and schedule conference dates, often for groups of cases to be supervised by one facilitator. Conferences may be continued or rescheduled if a party is not prepared.</p> <p>- Mediator: A facilitator supervises the conference. A local program coordinator appoints facilitators who set pre-conference guidelines and ensure homeowner can make informed decisions. Facilitators must be attorneys or judicial official (commissioner, magistrate, retired judge).</p>	<p>- Good faith requirement/consequences of bad faith: No requirement.</p> <p>- Payment for costs: \$50 added to court filing fee for mortgage foreclosure, with fees to be used for facilitators, coordinators, and pro bono attorney expenses.</p>		

KENTUCKY
JEFFERSON COUNTY / LOUISVILLE (Admin. order 2009-03-30)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>- Covered loans: Loans secured by owner occupied properties.</p> <p>- Duration of program: Order establishing Residential Foreclosure Conciliation Program issued March 30, 2009, to become effective for all county judges as of July 1, 2009.</p> <p>- Basic framework: Conciliation conferences scheduled before master commissioner under court's general Rule 16 authority. Notice of conference issued for each residential foreclosure filed. Date set, and borrower informed of actions must take to keep date (attend clinic and work with counselor). Borrower must file certificate</p>	<p>- Appearance: Lender or authorized representative must appear.</p> <p>- Produce documents/complete forms: No requirement.</p> <p>- Proof of standing: No specific requirement.</p> <p>- Produce loan modification/NPV analysis: No specific requirement.</p> <p>- Specific options to consider: General purpose of conference is to explore the possibility of a settlement before sale.</p> <p>- Make proposal: No requirement.</p> <p>- Good faith requirement/consequences of</p>	<p>- Appearance: Borrower must appear for conference.</p> <p>- Produce documents/complete forms: Must attend a free foreclosure clinic at Legal Aid office and must complete a financial packet with housing counselor and provide it to lender.</p> <p>- Make proposal: No requirement.</p> <p>- Work with housing counselor: Must meet with housing counselor, complete and return a financial packet to lender.</p> <p>- Payment for costs: No cost to homeowner</p>	<p>- Funding: No specific appropriation.</p> <p>- Outreach component: Yes. \$69,000 grant from Americorps to local Legal Aid organization to fund door to door outreach.</p> <p>- Volunteer attorney component: Active volunteer attorney and legal aid participation.</p> <p>- Limited attorney appearance allowed: Yes</p> <p>- Junior lienholder involvement: Permitted to participate in the conferences.</p> <p>- Data collection on results/modifications: Not implemented at this time.</p>

KENTUCKY

JEFFERSON COUNTY / LOUISVILLE (Admin. order 2009-03-30)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>of compliance with court at least two weeks before conference date in order to have conference.</p> <p>- Stay of proceedings: No stay of proceedings. Conference set for date before sale.</p> <p>- Eligibility for participation: Borrowers must certify compliance with counseling and clinic attendance requirements.</p> <p>- Time frame: Conference scheduled before sale date.</p> <p>- Mediator: Master commissioner of court</p>	<p>bad faith: No specific requirement.</p> <p>- Payment for costs: No cost for participants.</p>		<p>- Restrictions on lender's fee shifting to homeowner: No.</p>

MAINE (14 Maine Rev. Stat. Ann. § 6321-A (LD 14818))

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>- Covered loans: Mortgages related to properties that are owner occupied 1-4 units, primary residence of owner-occupant.</p> <p>- Duration of program: Applies to all covered loans as of January 1, 2010. Beginning July 1, 2009 program applicable at courts' discretion. Program subject to report and legislative review by Feb. 15, 2013.</p> <p>- Basic framework: Notice of opportunity for mediation attached to foreclosure complaint along with sample answer. By filing answer or entering appearance, borrower sets case for mediation.</p> <p>- Stay of proceedings: For cases filed after January 1, 2010, if borrower makes timely request for mediation, no judgment may be entered until mediation report completed.</p> <p>- Eligibility for participation:</p>	<p>- Appearance: Lender's counsel must attend mediation session along with lender representative who has authority to agree to a proposed settlement, loan modification or dismissal. Lender may participate by telephone or electronic means as long as its representative has authority to agree to a proposed settlement.</p> <p>- Produce documents/complete forms: Rules pending.</p> <p>- Proof of standing: Not a specific requirement for mediation. Statute applicable to foreclosure actions in general provides that in commencing a foreclosure action plaintiff "shall certify proof of ownership of the mortgage note and produce evidence of the mortgage note, mortgage and all assignments and endorsement of the mortgage note and mortgage." 14 M.R.S.A. §6321</p> <p>- Produce loan</p>	<p>- Appearance: Borrower must appear for mediation session. May appear with attorney.</p> <p>- Produce documents/complete forms: Financial statements or other information must be made available "as necessary."</p> <p>- Make proposal: Parties must address alternatives to foreclosure indicated in statute, but no specific requirement to make proposal.</p> <p>- Work with housing counselor: Mediator may refer borrower to housing counselor at any time.</p> <p>- Payment for costs: Borrower not required to pay costs of mediation</p>	<p>- Funding: Legislation authorizes funding of \$974,108 for 2009-2010, including funding for court staff to implement a statewide hotline to facilitate homeowners' communication with housing counselors, and an outreach and homeowner education program. Foreclosure mediation fund established from fees collected from foreclosure filings.</p> <p>- Outreach component: Legislation establishing mediation program provides funding for outreach programs.</p> <p>- Volunteer attorney component: Pro bono program is coordinated with mediation.</p> <p>- Limited attorney appearance allowed: Rule under consideration.</p> <p>- Junior lienholder involvement: Mediator may include in process any entity deemed necessary for effective mediation.</p>

MAINE (14 Maine Rev. Stat. Ann. § 6321-A (LD 14818))

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>Case is referred to mediation upon borrower's filing an answer, entering appearance, or returning notice requesting mediation.</p> <p>- Time frame: No judgment may be entered until certification given that mediation completed.</p> <p>- Mediator: Court assigns mediators who have met basic training requirements; may be active retired judges.</p>	<p>modification/NPV analysis: Mediations must use the calculations, assumptions and forms that are established by the FDIC and published in its program guide. The mediator's report at conclusion of each mediation must show that the parties completed the NPV worksheet under the FDIC loan modification program. If the foreclosure was not settled or dismissed, the report must include the outcome of the NPV worksheet.</p> <p>- Specific options to consider: Mediation "must address all issues of foreclosure, including but not limited to reinstatement of the mortgage, modification of the loan and restructuring of the mortgage debt." Parties must use the FDIC loan modification calculation to determine feasibility of an affordable loan modification.</p> <p>- Make proposal: Must address alternatives to foreclosure indicated in statute, but no</p>		<p>- Data collection on results/modifications: Statute requires annual report to legislative committees on performance of the program, including the numbers of homeowners notified of mediation, the number who attend mediation, and the number who receive legal counseling or legal assistance. Each annual report must include available data on the results of the mediation process, including the number of loans restructured, the number of principal write-downs, interest rate reductions, and the number of homeowners who default on mortgages within one year after restructuring.</p> <p>- Restrictions on lender's fee shifting to homeowner: Fee shifting not prohibited</p>

MAINE (14 Maine Rev. Stat. Ann. § 6321-A (LD 14818))

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
	<p>specific requirement to make proposal.</p> <p>- Good faith requirement/consequences of bad faith: Parties and attorneys must “make a good faith effort to mediate all issues. Court may impose sanctions if any party or attorney fails to attend or to make a good faith effort to mediate. In report of mediation to court, mediator must indicate that a party failed to negotiate in good faith.</p> <p>- Payment for costs: Statute provides that fees will be set, to be charged to lender upon the filing of a foreclosure complaint.</p>		

MARYLAND House Bill 472 (Chapter 485)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
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MARYLAND House Bill 472 (Chapter 485)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>-Covered Loans: Loans in foreclosure secured by property with four or fewer dwelling units, of which the borrower resides in one.</p> <p>-Duration of program: Applies prospectively to cases in which order to docket or foreclosure complaint filed after July 1, 2010.</p> <p>- Basic Framework: The statute inserts a loss mitigation review process within framework of the state’s existing non-judicial foreclosure procedures. As the first step in the pre-existing foreclosure process the lender must serve the borrower with a notice of intent to foreclose. This notice must be served at least 90 days after default and 45 days before the lender files with the court an “order to docket” or foreclosure complaint. Under the mediation law the lender must serve the</p>	<p>Appearance: The lender or a representative of the lender must be present for mediation, have authority to settle, or be able readily to contact a person with authority to settle.</p> <p>-Produce documents/complete forms: The statute includes a form for the final and preliminary loss mitigation affidavits the lender must file with the court and serve upon the borrower before a sale may take place. The Maryland Commissioner of Financial Regulation (part of Maryland Department of Labor, Licensing, and Regulation) has authority to revise these forms. The statute further authorizes the Commissioner to adopt regulations instructing parties to provide specific documents and other information in connection with foreclosure mediation. By</p>	<p>Appearance: The borrower must be present for a mediation session and may be accompanied by a housing counselor or attorney.</p> <p>Produce Documents/Complete Forms: The Request for Foreclosure Mediation Form requires that the borrower respond to six questions and state current household income. Regulations promulgated by the Commissioner of Financial Regulation may set additional documentation requirements for borrowers.</p> <p>Make Proposal: All mediation rights are premised on the borrower’s having submitted a loss mitigation application meeting the lender’s requirements.</p> <p>Work with housing counselor: The loss mitigation application served with the notice of intent to foreclose urges the borrower</p>	<p>Funding: The bill directs that funds collected from increased filing fees be used for a Housing Counseling and Foreclosure Mediation Fund that will cover costs to courts for the program. The fund will also cover data collection efforts.</p> <p>Outreach: The legislation does not specify or fund specific outreach efforts.</p> <p>Volunteer Attorney Component: The mediation bill does not provide for a volunteer attorney component. However, various programs under the state’s Hope Initiative maintain an active pro bono attorney referral network for homeowners facing foreclosure.</p> <p>Limited attorney appearance allowed: Not applicable because foreclosures are primarily non judicial.</p> <p>Junior lienholder</p>

MARYLAND House Bill 472 (Chapter 485)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>borrower with a loss mitigation application along with the notice of intent to foreclose. With this application the borrower requests that the servicer review his or her eligibility for any loss mitigation program applicable to the loan. If the lender proceeds to begin a foreclosure action by filing an order to docket, the lender must also file a final or preliminary loss mitigation affidavit. The final affidavit describes the outcome of the loss mitigation review, while the preliminary affidavit indicates that the review is ongoing and a final affidavit will be filed later. Along with the final loss mitigation affidavit the borrower receives a notice of right to request mediation within 15 days. If the borrower requests mediation, a foreclosure sale must be delayed until at least fifteen days after the date of the mediation hearing or the filing date of the mediator’s report. Borrowers who disagree with a</p>	<p>regulation, the Commissioner may require that the documents and information be provided no later than 20 days before the scheduled mediation date.</p> <p>-Proof of standing: The mediation statute does not create new requirements for the foreclosing entity to establish standing. The existing statutory requirements for the notice of intent to foreclose include required documentation establishing enforcement rights.</p> <p>- Produce loan modification/NPV analysis: At foreclosure mediation, “the parties and the mediator shall address loss mitigation programs that may be applicable to the loan secured by the mortgage or deed of trust that is the subject of the foreclosure action.” The loss mitigation application must include some</p>	<p>to work with a housing counselor. A counselor may appear with the borrower at a session. Work with a housing counselor is not a pre-condition to participation in mediation.</p> <p>Payment for Costs: The borrower must submit a \$50 fee along with the request for mediation. The statute provides for reduction or waiver of the fee upon application by a low-income borrower.</p>	<p>involvement: No</p> <p>Data Collection on results/modification: Certain designated funds from the filing fee increases are to be used for data tracking.</p> <p>Restriction on lender’s fees shifting to homeowner: none</p>

MARYLAND House Bill 472 (Chapter 485)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>mediation decision may seek a stay of the sale in the courts.</p> <p>Stay of Proceedings: A foreclosure sale cannot take place until after service of the final loss mitigation affidavit (45 days after service of the final affidavit if provided with the order to docket or 30 days after service of a final affidavit if served after a preliminary affidavit). If mediation is requested, the sale cannot occur until after either the mediation report has been filed or a mediation session held.</p> <p>Eligibility for Participation: Borrower must make a timely request for mediation after receiving a final loss mitigation affidavit.</p> <p>Time Frame: Mediation to be completed within 60 days from the date the court transmits mediation request to the Office of Administrative Hearings. For good cause the Office of</p>	<p>description of the eligibility requirements for loss mitigation options applicable to the loan. The form loss mitigation affidavits promulgated thus far do not require documents or information detailing specific grounds for denial of a loss mitigation option. A requirement to show a net present value analysis was stricken from the Bill before final enactment.</p> <p>-Specific options to consider: At mediation the parties must address the loss mitigation options “applicable to the loan.” The parties must evaluate whether the borrower qualifies for a loan modification and any other loss mitigation option. Loss mitigation programs are defined as an option that avoids foreclosure through loan modification, simplifies “relinquishment of</p>		

MARYLAND House Bill 472 (Chapter 485)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>Administrative Hearings may extend the time for completing mediation for an additional period not exceeding 30 days.</p> <p>Mediator: The state’s Office of Administrative Hearings conducts mediations. This unit of state government manages hearings and appeals involving various state agencies, including driver’s license suspensions and discrimination claims.</p>	<p>ownership of the property,” or “lessens the harmful impact of foreclosure on the mortgagor.”</p> <p>-Make proposal: The lender must consider the borrower for loss mitigation options applicable to the loan.</p> <p>-Good faith requirement/consequences of bad faith: The statute does not create a specific good faith requirement.</p> <p>- Payment for costs: As a means to cover program costs, an additional \$300 has been added to the cost of filing an order to docket.</p>		

MASSACHUSETTS (Chapter 258 of the Acts of 2010) M.G.L.A. 244 § 35A

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>- Covered loans: Loans made primarily for personal, family or household purposes secured wholly or partially by a mortgage on residential property. Property must have accommodations for four or less separate households and be primary residence of borrower.</p> <p>- Duration of program: Effective for notices of right to cure served beginning August 7, 2010.</p> <p>- Basic framework: Statute increases borrower's time period to exercise right to cure default from 90 to 150 days. However, period reduced back to 90 days if lender certifies attempted in good faith to confer with borrower about loan modification.</p> <p>- Stay of proceedings: Massachusetts is a non judicial foreclosure state. The right to cure period delays scheduling a non judicial foreclosure sale.</p>	<p>- Appearance: No requirement for lender/servicer to appear for conference or mediation. To shorten cure period, lender must confer in person or by phone with borrower or borrower's representative. The lender's representative who confers with the borrower must have authority to modify the loan.</p> <p>- Produce documents/complete forms: Lender certifying good faith effort to confer must file with land court and give homeowner and commissioner of division of banks an affidavit stating time and place of meetings, relief offered the borrower, a summary of the creditor's net present value analysis and applicable inputs of the analysis and certification that any modification or option offered complies with current federal law or policy. Documentation of good faith efforts to consider loan modification options must be provided to borrower ten days</p>	<p>- Appearance: Borrower who does not respond within 30 days to communication from lender offering a loan modification is deemed to have rejected it and is limited to 90 day cure period.</p> <p>- Produce documents/complete forms: No requirement under statute</p> <p>- Make proposal: No requirement.</p> <p>- Work with housing counselor: Not required, but lender may satisfy conference requirement by conferring with housing counselor representing borrower.</p> <p>- Payment for costs: No costs for borrower</p>	<p>- Funding: Not a funded conference program.</p> <p>- Outreach component: No specific program.</p> <p>- Volunteer attorney component: No specific related program.</p> <p>- Limited attorney appearance allowed: Not a judicial foreclosure.</p> <p>- Junior lienholder involvement: No requirement.</p> <p>- Data collection on results/modifications: No</p> <p>- Restrictions on lender's fee shifting to homeowner: Under cure provision, borrower cannot be required to pay any attorney's fee, charge, or penalty attributable to cure of default prior to acceleration (except late fees). Acceleration can only occur after the applicable notice period.</p>

MASSACHUSETTS (Chapter 258 of the Acts of 2010) M.G.L.A. 244 § 35A

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>- Eligibility for participation: The law creates an incentive for lender and borrower to confer; no requirement for a formal conference or mediation. The provision for a 150-day cure period applies to an individual homeowner once every three years. A borrower who does not respond to a lender's written communication about a conference within 30 days is deemed to have waived the 150-day cure period and is limited to 90 days to cure as under prior law. A lender who does not make good faith effort to have loss mitigation conference must adhere to 150-day delay before can proceed to sale.</p> <p>- Time frame: To shorten cure period to less than 150 days, lender must file and serve affidavit of good faith attempt to confer with borrower about loan modification.</p>	<p>prior to a conference.</p> <p>- Proof of standing: Not required as part of conference option, but representative of the mortgagee who participate in conference must have authority to modify the mortgage.</p> <p>- Produce loan modification/NPV analysis: The certification filed to shorten the cure period must include a summary of the net present value analysis with appropriate inputs, including HAMP inputs if applicable.</p> <p>- Specific options to consider: Lender must consider borrower's income and circumstances, net present value of foreclosure and non foreclosure options,</p> <p>- Make proposal: In order to shorten cure period lender must engage in good faith effort to negotiate a commercially reasonable alternative to foreclosure</p>		

MASSACHUSETTS (Chapter 258 of the Acts of 2010) M.G.L.A. 244 § 35A

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>- Mediator: The law does not require conferences or mediations supervised by a third party.</p>	<p>- Good faith requirement/consequences of bad faith: Lender must either make good faith effort to negotiate and agree upon a commercially reasonable alternative to foreclosure, or wait for 150-day cure period to expire before proceeding with sale.</p> <p>- Payment for costs: No costs for procedures under the law.</p>		

MICHIGAN (2009 Enrolled House Bills Nos. 4453, 4454, 4455)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>- Covered loans: Properties claimed as principal residence (defined as exempt principal residence under state property tax provision).</p> <p>- Duration of program: Law effective July 5, 2009. Applicable to cases in which first notice of foreclosure published within two years of effective date.</p> <p>- Basic framework: Lender must give written notice to borrower before initiating foreclosure by advertisement proceeding with foreclosure by sale. Notice must designate a contact person authorized to modify loan. Lender is prohibited from foreclosing by advertising for 90 days from date of notice is mailed if borrower requests meeting with designated contact person. Borrower must request meeting</p>	<p>- Appearance: Statute provides that “meeting and any later meetings shall be held at a time and place that is convenient to all parties, or in the county where the property is situated.” Statute silent on whether all parties can agree to allow an appearance by phone.</p> <p>- Produce documents/complete forms: Lender must give borrower copy of calculations used to determine eligibility for loan modification.</p> <p>- Proof of standing: Under the existing foreclosure by advertisement statute, a party has standing to foreclose if 1)the foreclosing party is the record holder of the mortgage, and 2) the foreclosing party is either the owner of the indebtedness, or the owner of an interest in the indebtedness secured by the mortgage or the</p>	<p>- Appearance: Statute provides that “meeting and any later meetings shall be held at a time and place that is convenient to all parties, or in the county where the property is situated.” Appears to require in person meeting.</p> <p>- Produce documents/complete forms: Lender can request from borrower any documents it deems necessary to determine eligibility for modification, and borrower must provide them.</p> <p>- Make proposal: Borrower must provide information to be used for consideration of loan modification.</p> <p>- Work with housing counselor: Initial notice to borrower of right to request meeting gives list of housing counselors. Borrower must contact housing counselor from the list within</p>	<p>- Funding: No state funding.</p> <p>- Outreach component: Legislation does not specify or pay for any outreach effort.</p> <p>- Volunteer attorney component: Initial notice of right to meeting contains the telephone numbers of the state bar of Michigan’s lawyer referral service and the local legal aid office.</p> <p>- Limited attorney appearance allowed: Not applicable because foreclosures are non judicial.</p> <p>- Junior lienholder involvement: No</p> <p>- Data collection on results/modifications: None</p> <p>- Restrictions on lender’s fee shifting to homeowner: None</p>

MICHIGAN (2009 Enrolled House Bills Nos. 4453, 4454, 4455)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>within 14 days of date notice is mailed. Within same period borrower must also contact a housing counselor. The counselor notifies designated lender representative of request and sets up meeting to attempt to work out a loan modification. This is not a mediation program but is a 90-day pre-foreclosure work out/negotiation period. Therefore, no mediator involved.</p> <p>- Stay of proceedings: If borrower requested meeting within 14 days, lender cannot initiate the foreclosure by advertisement proceedings until 90 days after the notice is mailed. If meeting produced finding of eligibility for loan modification and lender refused to implement the modification, the lender must proceed through judicial foreclosure. If meeting shows borrower not eligible for modification or if borrower offered modification under appropriate program and</p>	<p>servicer.</p> <p>- Produce loan modification/NPV analysis: Loan modification analysis yes, NPV analysis, no.</p> <p>- Specific options to consider: Lender must work with borrower to determine whether borrower qualifies for loan modification. Lender must use a loan modification program or process that meets statutory criteria. These criteria include targeting a housing-related debt to income ratio of 38%, interest rate reduction, extension of the amortization period, and deferral of a portion of principal balance. Loans related to GSEs and governmental units may be reviewed using the program's own loan modification guidelines. Parties may stipulate to other loss mitigation strategies and other modification programs. Borrower has right to receive copy of calculations used to</p>	<p>14 days after notice mailed. Counselor gives lender written notice that borrower has contacted a counselor. Counselor may appear with borrower at meeting</p> <p>- Payment for costs: There is no mediation in this program</p>	

MICHIGAN (2009 Enrolled House Bills Nos. 4453, 4454, 4455)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>borrower refused offer, lender may foreclose by advertisement.</p> <p>- Eligibility for participation: Within 14 days of when pre-foreclosure notice sent, borrower must make timely request for meeting with the designated contact person, and contact counselor.</p> <p>- Time frame: Ninety day period to consider modification.</p> <p>- Mediator: Not a mediation program, but is a 90-day pre-foreclosure work out/negotiation period. Therefore, no mediator involved</p>	<p>determine eligibility for loan modification, including receipt of copy of the program, process or guidelines used.</p> <p>- Make proposal: Lender must conduct review for loan modification under statutory criteria, if the process does not result in an agreement to modify the loan</p> <p>- Good faith requirement/consequences of bad faith: If lender fails to send notice of opportunity for meeting and proceeds to foreclose by advertisement, the borrower may bring an action to enjoin the non judicial foreclosure in the circuit court and convert the foreclosure to a judicial foreclosure. If lender proceeds with non judicial foreclosure without conducting appropriate review for loan modification, borrower may file action in court to convert case to judicial foreclosure.</p>		

MICHIGAN (2009 Enrolled House Bills Nos. 4453, 4454, 4455)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
	<p>- Payment for costs: There is no mediation in this program.</p>		

NEVADA (2009 enacted Assembly Bill 149)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>- Covered loans: Any trust agreement that concerns owner occupied housing (primary residence). Noncommercial lenders <i>not</i> excluded.</p> <p>- Duration of program: Effective for notices of default and election to sell recorded on or after July 1, 2009. Optional for cases in which notice pre-dates effective date.</p> <p>- Basic framework: Trustee may not exercise power of sale unless it served grantor or person who holds title of record with notice that may elect to enter into mediation. Borrower must return this notice to trustee and mediation administrator within thirty days of service. Matter referred to mediation when notice of election received. Judicial officer or designee conducts mediation. Foreclosing trustee must record certification that mediation is completed before it may proceed with sale.</p>	<p>- Appearance: Lender or representative must attend mediation. If representative attends in place of lender, representative must have authority to negotiate a loan modification on behalf of the beneficiary of the deed of trust or have access at all times during mediation to a person with authority. If approved by mediator for good cause lender representative may appear by phone.</p> <p>- Produce documents/complete forms: Beneficiary of deed of trust must produce current appraisal and prepare an estimate of the “short sale” value of the property which may be considered if loan not modified. Documents designated by mediator to be produced ten days prior to session.</p> <p>- Proof of standing: Beneficiary of deed of trust must bring to the mediation the original or</p>	<p>- Appearance: Borrower (grantor or person who holds title of record) or representative must attend mediation session. Sale may proceed if borrower fails to appear. If approved by mediator for good cause borrower may appear by phone.</p> <p>- Produce documents/complete forms: Borrower must prepare a financial statement, Housing Affordability Worksheet, on forms provided by Supreme Court rule.</p> <p>- Make proposal: Both parties must submit confidential non binding proposal for resolving the foreclosure to the mediator.</p> <p>- Work with housing counselor: Borrower receives information about local housing counseling agency with initial notice sent by lender. Work with counselor not required.</p> <p>- Payment for costs: Total fee of not more than \$400 may be</p>	<p>- Funding: Program self-funded through fees. \$50 added to fee for recording notice of default. \$400 fee paid by parties compensates mediator.</p> <p>- Outreach component: It is anticipated that free community classes will be offered to homeowners.</p> <p>- Volunteer attorney component: No</p> <p>- Limited attorney appearance allowed: Foreclosures are non judicial.</p> <p>- Junior lienholder involvement: By statute notice is given to all interested parties who may choose to send a participant.</p> <p>- Data collection on results/modifications: Mediator Statement will capture some data, but details not specified.</p> <p>- Restrictions on lender’s fee</p>

NEVADA (2009 enacted Assembly Bill 149)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>Mediation will not be required if trustee provides affidavit that borrower did not return election form in timely fashion or that borrower signed waiver form. Program rules also provide for petition for judicial enforcement upon expiration of period for a temporary modification agreement to be made permanent. (Nev. Supreme Court Foreclosure Mediation Rule 10)</p> <p>- Stay of proceedings: Proceedings are non judicial. Sale may not take place until trustee records a certification from mediation administrator indicating that mediation has been completed. Servicer must also refrain from proceeding with sale if petition for judicial review of mediation decision pending.</p> <p>- Eligibility for participation: Within 30 days of receiving it, borrower must return to the trustee an election of mediation form. Sale may proceed if</p>	<p>certified copies of the deed of trust, the mortgage note and each assignment of the deed of trust, the mortgage note, and each assignment of the deed of trust and the mortgage note. Supreme Court rule defines requirements for certification of loan documents and lost note verification.</p> <p>- Produce loan modification/NPV analysis: Must produce some documentation of a method of analysis for review of loan modification. Documentation provided confidentially to mediator only.</p> <p>- Specific options to consider: Lender must review for loan modification and provide some evidence of method of evaluation.</p> <p>- Make proposal: Both parties must prepare and submit to the mediator a confidential and non binding proposal. Lender must also provide “under</p>	<p>charged, to be shared equally by the parties. Borrower must pay \$200 to trustee in order to implement election to participate in mediation.</p>	<p>shifting to homeowner: None</p>

NEVADA (2009 enacted Assembly Bill 149)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>trustee certifies that borrower did not return form within 30 days. Rules state that mediation shall take place within 135 days following receipt of borrower’s required documents and fee.</p> <p>- Time frame: Unless extended by the presiding mediator, the mediation must take place within 90 days of the recording of the notice of default. Mediation to commence no later than 10 days prior to the 90th day after service of the notice of default. Process designed to be completed within the normal statutory 90 day pre-sale period. Continuance granted only for “extraordinary circumstances.”</p> <p>- Mediator: The Supreme Court by rule establishes procedure for appointment of a Mediation Administrator who appoints and supervises mediators. Attorneys who meet training requirements may be appointed as mediators. Parties</p>	<p>confidential cover” to the mediator the evaluative methodology” used in determining the eligibility or non eligibility of the borrower for a loan modification.</p> <p>- Good faith requirement/consequences of bad faith: If lender or representative fails to attend the mediation, fails to participate in the mediation in good faith, does not bring required documents to establish standing, or does not have authority to modify loan or access at all times to person with authority to modify, the mediator <i>shall</i> prepare and submit to the Mediation Administrator a petition and recommendation for the imposition of sanctions. Upon review District Court may order sanctions it deems appropriate, “including, without limitation, requiring a loan modification in the manner determined proper by the court.” In issuing a</p>		

NEVADA (2009 enacted Assembly Bill 149)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
may seek judicial review of mediation “for limited purposes of determining bad faith, enforcing agreements made between the parties within the program, including temporary modification agreements, and determining sanctions.”	certification terminating mediation because the parties could not resolve the matter, the mediator must include determination that the parties acted in good faith. - Payment for costs: Total fee of not more than \$400 may be charged, to be shared equally by the parties. Each party must pay nonrefundable \$200 share in entering mediation process.		

NEW JERSEY

(Program of the New Jersey Judiciary January 2009)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>- Covered loans: 1-3 unit owner occupied properties (primary residence of borrower)</p> <p>- Duration of program: Effective Jan. 5, 2009</p> <p>- Basic framework: Notice of right to request mediation is served with summons and complaint. Homeowner contacts hotline, is referred to housing counselor, completes financial forms and provides documents. Mediation scheduled when forms and documentation from borrower complete. State Administrative Office of Courts sends mediation information to local court for scheduling.</p> <p>- Stay of proceedings: Stay not automatic. Homeowner must request stay by motion to sheriff or to court. Judgment can be entered and sale occur if no stay of proceedings in</p>	<p>- Appearance: Lender attorney must appear. Lender representative with authority to settle must be available by phone. Lender's attorney must confer with lender's representative before session.</p> <p>- Produce documents/complete forms: No requirement</p> <p>- Proof of standing: No requirement</p> <p>- Produce loan modification/NPV analysis: No requirement.</p> <p>- Specific options to consider: No requirement.</p> <p>- Make proposal: No requirement</p> <p>- Good faith requirement/consequences of bad faith: No specific requirement.</p>	<p>- Appearance: Borrower must appear.</p> <p>- Produce documents/complete forms: Borrower must complete and return mediation request statement and financial worksheet. Must complete mediation recommendation form with counselor, including statements of assets, income, expenses, tax return, pay stubs, and bank records.</p> <p>- Make proposal: Borrower to complete a foreclosure mediation recommendation statement with counselor.</p> <p>- Work with housing counselor: Program refers borrowers to housing counselors and relies heavily upon them. Program rule is being changed to require work with counselors.</p> <p>- Payment for costs: No costs for mediation</p>	<p>- Funding: Legislature appropriated \$12 million to support program. This funds pro bono attorneys and mediators. A related Housing Assistance and Recovery Program appropriated funds for reporting requirements.</p> <p>- Outreach component: None specified.</p> <p>- Volunteer attorney component: State program funds pro bono attorneys for eligible borrowers. Professional conduct rules for conflicts relaxed to further participation by pro bono attorneys.</p> <p>- Limited attorney appearance allowed: Yes</p> <p>- Junior lienholder involvement: No.</p> <p>- Data collection on results/modifications: Housing counselors report data on</p>

NEW JERSEY

(Program of the New Jersey Judiciary January 2009)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>effect.</p> <p>- Eligibility for participation: Homeowner must request mediation by submitting a form and providing financial information. Forms to request mediation sent to homeowner three times: with summons and complaint, 60 days after service of summons and complaint, and when motion for judgment filed.</p> <p>- Time frame: Homeowner can request mediation up to time of foreclosure sale. Session to be scheduled within 90 day of receipt of financial information from homeowner.</p> <p>- Mediator: Attorney volunteers who have 18 hours of mediation training.</p>	<p>- Payment for costs: No costs for mediation</p>		<p>resolution of cases from mediation: number of cases, settlements, types of resolutions. Data kept by Attorney General's Office and N.J. Housing Mortgage Finance Agency.</p> <p>- Restrictions on lender's fee shifting to homeowner: None</p> <p>- Restrictions on waiver of homeowner claims: No</p>

NEW MEXICO

(Program of First Judicial District, Santa Fe, Admin Order 2009-00001)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>- Covered loans: Mortgages secured by 1-4 unit owner occupied properties.</p> <p>- Duration of program: Administrative Order of April 30, 2009, modified July 8, 2009.</p> <p>- Basic framework: Program administered as part of court's ADR system. Homeowner may request mediation at any time while case is pending.</p> <p>- Stay of proceedings: No automatic stay of proceedings. Homeowner may ask for stay of time to answer or stay of other proceedings, but stay must be ordered by court.</p> <p>- Eligibility for participation: Lender serves notice of availability of mediation with summons and complaint. Borrower must complete and file "Request for Mortgage Foreclosure Mediation."</p>	<p>- Appearance: Lender must designate person with authority to settle. Parties who do not reside in state or have a business presence in state may appear by phone.</p> <p>- Produce documents/complete forms: Lender must complete information form, which lists loan data and options to be considered. Must provide completed lender information sheet to homeowner and mediator ten working days before a session. Form includes post-origination assignment information, including information on unfiled assignments, TILA and HUD 1 documents, any notices required under mortgage, the identity of person with settlement authority, investor settlement guidelines and information, and payment history. Form lists the options, including loan modification, that lender will consider.</p>	<p>- Appearance: Borrower must appear in person.</p> <p>- Produce documents/complete forms: Homeowner must complete, but not file, homeowner information data form. Form includes financial information and reason for default.</p> <p>- Make proposal: No requirement.</p> <p>- Work with housing counselor: The notice served with summons and complaint refers borrowers to housing counselors. Borrower must consult with housing counselor not less than ten work days before session</p> <p>- Payment for costs: No costs for participation.</p>	<p>- Funding: No funding from state or local government. Program administered with existing court staff.</p> <p>- Outreach component: No specific program.</p> <p>- Volunteer attorney component: Network available for pro bono referrals.</p> <p>- Limited attorney appearance allowed: Policy not yet adopted.</p> <p>- Junior lienholder involvement: No provision.</p> <p>- Data collection on results/modifications: Data collection system is under consideration.</p> <p>- Restrictions on lender's fee shifting to homeowner: None</p>

NEW MEXICO

(Program of First Judicial District, Santa Fe, Admin Order 2009-00001)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>- Time frame: Session to convene within 30 days of referral order. There is not a time limit on submission of request for mediation.</p> <p>- Mediator: assigned under ADR system.</p>	<p>- Proof of standing: On required pre-mediation information sheet lender must describe post origination assignments, including unfiled assignments. Under initial court rule, at least ten work days before session lender must provide electronic copies of the note and any and all subsequent assignments providing a clear chain of title to the subject note and mortgage, a listing of all payments made under the note, and a reinstatement amount. This rule is under revision.</p> <p>- Produce loan modification/NPV analysis: No requirement.</p> <p>- Specific options to consider: No requirement.</p> <p>- Make proposal: Lender must indicate prior to mediation the options it will consider.</p> <p>- Good faith</p>		

NEW MEXICO

(Program of First Judicial District, Santa Fe, Admin Order 2009-00001)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
	<p>requirement/consequences of bad faith: Administrative Order states: "Violation of this Administrative Order or the referral Order, including but not limited to failure to provide the required information and failure to schedule and attend a scheduled mediation session, may result in imposition of sanctions, including but not limited to denial of remedies both equitable and/or legal, monetary penalties, assessment of costs, preclusion of evidence, dismissal, or default. Lack of settlement authority is not a defense to the imposition of sanctions for failure to negotiate."</p> <p>- Payment for costs: No costs to parties.</p>		

NEW YORK (N.Y.C.P.L.R. § 3408)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>- Covered loans: Statute initially applied only to certain “high cost” and subprime home loans as defined by N.Y. Real Property Actions and Procedure Laws § 1304 and made between Jan. 1, 2003 and Sept. 1, 2008. By amendment effective Feb. 13, 2010, the conference requirement applies to all residential foreclosures. Borrower must reside in property.</p> <p>- Duration of program: Mandatory conferences effective for filings starting Jan. 1, 2009 (90 day lag due to new notice requirement). Homeowners with pending foreclosures as of September 1, 2008 had opportunity to request conference.</p> <p>- Basic framework: Not a mediation program. Homeowner with covered mortgage notified with summons and complaint of date, time, and place of a</p>	<p>- Appearance: Foreclosing plaintiff must appear in person, by conference call, or by counsel fully authorized to settle.</p> <p>- Produce documents/complete forms: The 2010 amendments to the conference statute require courts to notify servicer of documents it must produce for conference. These include payment history, cure and payoff amounts, and the mortgage and note.</p> <p>- Proof of standing: Under RPAPL § 1302, limited to “high cost” and “subprime” home loans as defined by N.Y. Banking Law §§ 6-1 and 6-m, plaintiff must aver that it owns and holds note and mortgage or has been delegated authority by owner to foreclose. The 2010 amendments require plaintiff who is not the owner of the mortgage and note to provide the name, address and phone number of legal owner of the</p>	<p>- Appearance: Borrower must appear for conference.</p> <p>- Produce documents/complete forms: Borrower must bring income and expense documentation, tax return, loan resolution proposals and any information from previous workout attempts.</p> <p>- Make proposal: Borrower is to bring “loan resolution proposals” to conference.</p> <p>- Work with housing counselor: No requirement. The 2010 amendments to conference statute establish a system for notification to housing counselors who can then contact borrowers to offer assistance.</p> <p>- Payment for costs: No cost to parties</p>	<p>- Funding: Yes In 2008 the state allocated \$25 million to provide direct assistance to homeowners to prevent foreclosure, including services related to settlement conferences.</p> <p>- Outreach component: No</p> <p>- Volunteer Attorney component: No. However if homeowners appears pro se, court may appoint counsel..</p> <p>- Limited attorney appearance allowed: Yes</p> <p>- Junior lienholder involvement: No</p> <p>- Data collection on results/modifications: The 2010 amendments and Court Administrator rules effective Feb. 2010 require annual reporting to Governor and legislature on conference participation and appearances.</p>

NEW YORK (N.Y.C.P.L.R. § 3408)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>mandatory settlement conference with court CPLR § 3408.</p> <p>- Stay of proceedings: Regulation promulgated by Chief Administrative Judge provides that “motions shall be held in abeyance while settlement conferences are being held.”</p> <p>- Eligibility for participation: Conferences are scheduled automatically. Borrower does not have to request conference.</p> <p>- Time frame: Conference must be held within 60 days after filing proof of service of summons and complaint. Parties may agree to adjournment beyond 60 days. Court sends parties notice of date.</p> <p>- Mediator: Not specified; may be judge, referee, clerk or court personnel.</p>	<p>mortgage and note.</p> <p>- Produce loan modification/NPV analysis: No requirement.</p> <p>- Specific options to consider: No specific requirement, but general statutory purpose is to have parties see whether they can “reach a mutually agreeable resolution to help defendant avoid losing his or her home.” N.Y. Banking Dept. Regulations Part 419, effective Oct. 1, 2010, set out extensive requirements for servicers regarding loss mitigation and consideration of borrowers for loan modifications.</p> <p>- Make proposal: Only general statutory purpose, quoted above.</p> <p>- Good faith requirement/consequences of bad faith: The 2010 amendments to conference statute require parties to “negotiate in good faith to</p>		<p>- Restrictions on lender’s fee shifting to homeowner: The 2010 amendments prohibit a party to a foreclosure action from charging the other party for any cost, including attorney’s fees, for its appearance or participation in settlement conference.</p> <p>- Restrictions on waiver of homeowner claims: No</p>

NEW YORK (N.Y.C.P.L.R. § 3408)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
	<p>reach a mutually agreeable resolution, including a loan modification, if possible.” The N.Y. Banking Dept. Regulations Part 419 also impose a duty of good faith and fair dealing on servicers in connection with loss mitigation, consideration of loan modifications, and other servicer duties.</p> <p>- Payment for costs: No cost to parties.</p>		

OHIO

Cuyahoga County (Cleveland)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>- Covered loans: All foreclosures, but not tax sales.</p> <p>- Duration of program: County court program began in June 2008</p> <p>- Basic framework: Notice of availability of mediation served with summons and complaint. Notice gives information about local housing counseling network. Court reviews request for mediation and refers cases it deems appropriate to mediation. Pre-mediation conference set, questionnaires prepared.</p> <p>- Stay of proceedings: If case approved for mediation, will be stay of proceedings for 60 days. Mediator/court may extend stay until referral to mediation terminates.</p> <p>- Eligibility for participation: Homeowner must request mediation and court must</p>	<p>- Appearance: Lender counsel and representative of lender with settlement authority must appear in person for formal mediation session but (not for initial pre-mediation session)</p> <p>- Produce documents/complete forms: Court provides a “lender form” to be completed, which includes payment history, evidence that entity foreclosing is the holder of the note and mortgage, and disclose assignments or state reason documents not available. Lenders may substitute own form for court’s standard form.</p> <p>- Proof of standing: Court’s model lender form requires evidence that plaintiff is the holder of the note and mortgage and evidence of assignments. However, lenders may use own alternative forms.</p> <p>- Produce loan</p>	<p>- Appearance: Borrower must appear.</p> <p>- Produce documents/complete forms: Borrower must complete homeowner form and produce financial documents</p> <p>- Make proposal: No requirement.</p> <p>- Work with housing counselor: Counselor involvement encouraged but not required.</p> <p>- Payment for costs: No cost for mediation.</p>	<p>- Funding: No specifically directed state or local funding.</p> <p>- Outreach component: No</p> <p>- Volunteer attorney component: There is limited pro bono involvement.</p> <p>- Limited attorney appearance allowed: Yes.</p> <p>- Junior lienholder involvement: No</p> <p>- Data collection on results/modifications: Program has form for participant quality evaluation. Collects general statistical data, but not specific type of outcome.</p> <p>- Restrictions on lender’s fee shifting to homeowner: None.</p>

OHIO

Cuyahoga County (Cleveland)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>approve referral after review.</p> <p>- Time frame: Homeowner may request mediation at any time prior to judgment.</p> <p>- Mediator: Typically a magistrate or other court designated mediator.</p>	<p>modification/NPV analysis: No requirement</p> <p>- Specific options to consider: Lenders may use own loss mitigation models, or can use the court's form. No obligation to consider specific options.</p> <p>- Make proposal: No specific requirement.</p> <p>- Good faith requirement/consequences of bad faith: Dismissal is sanction if lender or representative does not appear.</p> <p>- Payment for costs: No costs for mediation.</p>		

OHIO

Franklin County (Columbus)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<ul style="list-style-type: none"> - Covered loans: Residential properties. - Duration of program: County court program began November 2008. - Basic framework: Court sends mediation request packet to homeowner along with summons and complaint. Borrower may request mediation. Borrower must meet with housing counselor and prepare financial documentation. - Stay of proceedings: Requesting mediation extends time to file answer for sixty days. If referral implemented, then proceedings stayed until referral to mediation terminates. - Eligibility for participation: Homeowners not in foreclosure may request mediation. Housing counselors may refer 	<ul style="list-style-type: none"> - Appearance: Lender's counsel must appear in person. - Produce documents/complete forms: No requirement. - Proof of standing: No requirement. - Produce loan modification/NPV analysis: No requirement. - Specific options to consider: No requirement. - Make proposal: No requirement. - Good faith requirement/consequences of bad faith: None. Lender's failure to appear may lead to dismissal. - Payment for costs: No charge to parties for mediation 	<ul style="list-style-type: none"> - Appearance: Homeowner must appear. May appear with attorney - Produce documents/complete forms: Must prepare financial information packet with housing counselor - Make proposal: No requirement. - Work with housing counselor: Homeowner must meet with housing counselor to prepare and submit financial packet. - Payment for costs: No charge to parties for mediation 	<ul style="list-style-type: none"> - Funding: \$450,000 designated by county commissioners to support mediation program. - Outreach component: Significant media presence, but no coordinated door to door outreach. - VIP component: Over 200 attorneys have signed up for pro bono representation. - Limited attorney appearance allowed: Yes - Junior lienholder involvement: No. - Data collection on results/modifications: None released to date. - Restrictions on lender's fee shifting to homeowner: No.

OHIO

Franklin County (Columbus)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>cases not yet in litigation.</p> <p>- Time frame: Borrower has 28 days from receipt of summons to request mediation.</p> <p>- Mediator: Court contracts with individual mediators who have met training requirement; need not be attorneys.</p>			

OHIO**Lucas County (Toledo)**

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<ul style="list-style-type: none"> - Covered loans: Residential dwellings, can include some rental units. - Duration of program: County court program began in Spring 2008. - Basic framework: Along with summons and complaint homeowner receives notice that may request mediation. Must fill out request form and return it to court. - Stay of proceedings: If homeowner returns form requesting mediation, period to answer extended 28 days. Court will not rule on motions for judgment if mediation proceeding. Homeowners who have not filed answers must move for stay. - Eligibility for participation: Homeowners who make timely request. 	<ul style="list-style-type: none"> - Appearance: Lender attorney and client can appear by phone. Lender representative must have authority to appear and settle case. - Produce documents/complete forms: No requirement. - Proof of standing: No requirement. - Produce loan modification/NPV analysis: No requirement. - Specific options to consider: No requirement. - Make proposal: No requirement. - Good faith requirement/consequences of bad faith: No requirement. - Payment for costs: No cost to parties. 	<ul style="list-style-type: none"> - Appearance: Homeowner and attorney for homeowner must appear in person if mediation session set. - Produce documents/complete forms: No requirement. - Make proposal: No requirement. - Work with housing counselor: Not requirement. - Payment for costs: No costs to parties. 	<ul style="list-style-type: none"> - Funding: No state or local government funding; funded in part from increased filing fees for foreclosure complaints. - Outreach component: No formal program. Summons refers homeowner to counseling and pro bono options. - Volunteer attorney component: Court actively seeks pro bono counsel to represent homeowners in mediation. - Limited attorney appearance allowed: Yes - Junior lienholder involvement: No - Data collection on results/modifications: No - Restrictions on lender's fee shifting to homeowner: No

OHIO
Lucas County (Toledo)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>- Time frame: Once referred to mediation, flexible depending on needs of case.</p> <p>- Mediator: Court's magistrate acts as mediator</p>			

OHIO
Summit County (Akron)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<ul style="list-style-type: none"> - Covered loans: - Duration of program: Order of May 1, 2008, applicable to cases prospectively - Basic framework: With summons and complaint court sends notice explaining need to answer. Cases with answers filed are reviewed for referral for a settlement conference with magistrate. Based on conference, magistrate may refer case to court's ADR process for full mediation conference. - Stay of proceedings: Stay of entry of judgment pending referral. - Eligibility for participation: Referrals to mediation are subject to court approval. - Time frame: Flexible, depending on need of ADR. 	<ul style="list-style-type: none"> - Appearance: Must appear personally or by telephone/electronic means with authorized representative. - Produce documents/complete forms: - Proof of standing: Court's certificate of readiness rule requires production of copies of assignments made since origination, declaration of custody and control of the original note and mortgage and availability of documents for inspection upon order of the court. All assignments and name changes of foreclosing entity must bear date prior to the filing date of the complaint. - Produce loan modification/NPV analysis: No requirement. - Specific options to consider: Not required. 	<ul style="list-style-type: none"> - Appearance: Borrower must appear. - Produce documents/complete forms: Not required. - Make proposal: Not required. - Work with housing counselor: Not required. - Payment for costs: Not required. 	<ul style="list-style-type: none"> - Funding: No specific funding for program, uses existing court resources. - Outreach component: No specific program. - Volunteer attorney component: Formal notices from court refer borrower to legal aid. - Limited attorney appearance allowed: Yes. - Junior lienholder involvement: No. - Data collection on results/modifications: No. - Restrictions on lender's fee shifting to homeowner: No.

OHIO
Summit County (Akron)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
- Mediator: Court's magistrate serves as mediator.	- Make proposal: No specific requirement. - Good faith requirement/consequences of bad faith: No requirement. - Payment for costs: No costs for parties		

OREGON (Enrolled Senate Bill 628)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>- Covered loans: Properties subject to residential trust deed. Exempts properties secured by a trust deed held or funded by a governmental agency.</p> <p>- Duration of program: Effective for notices of sale sent on or after 60th day following the effective date of law (June 29, 2009).</p> <p>- Basic framework: On or before date notice of sale served, trustee must serve borrower with notice of the possibility of a loan modification, the availability of housing counseling, and a "Modification Request Form." Borrower may request loan modification and meeting with lender representative to discuss a modification. To request modification borrower must fill out and mail form to lender within 30 days of date of notice. Lender must process request for modification in good faith. Must notify borrower of decision within 45</p>	<p>- Appearance: No requirement for personal appearances. Contact with borrower or borrower's representative may be by phone or other electronic means.</p> <p>- Produce documents/complete forms: Lender must describe in a recorded affidavit how it complied with obligation to review request for loan modification. However, lender need not provide review for borrowers it determines in good faith are not eligible for a loan modification.</p> <p>- Proof of standing: No requirement.</p> <p>- Produce loan modification/NPV analysis: No specific requirement to produce an analysis, but must describe in affidavit how it complied with obligation to review request for modification.</p> <p>- Specific options to consider: Lender to consider borrower</p>	<p>- Appearance: If meeting takes place, homeowner may appear in person, by phone, or by electronic communication.</p> <p>- Produce documents/complete forms: Homeowner must provide financial information as requested by lender.</p> <p>- Make or respond to proposals: Homeowner must request loan modification, supply financial information.</p> <p>- Work with housing counselor: Not required, but encouraged</p> <p>- Payment for costs: Parties not required to pay costs</p>	<p>- Funding: Bill authorizes use of funds from state's <i>Countrywide</i> settlement to pay for housing counseling related to this law.</p> <p>- Outreach component: Community groups will be providing outreach.</p> <p>- Volunteer attorney component: Required notices to homeowners at commencement of foreclosure include referral information for pro bono attorney assistance.</p> <p>- Limited attorney appearance allowed: These are non judicial foreclosure proceedings</p> <p>- Junior lienholder involvement: Not specifically designated to receive notices.</p> <p>- Data collection on results/modifications: System to collect data on affidavits of compliance is in development.</p> <p>- Restrictions on lender's fee</p>

OREGON (Enrolled Senate Bill 628)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>days of receiving request.</p> <p>- Stay of proceedings: On or before date of sale the trustee must receive and record lender's affidavit stating how it complied with the modification review obligation.</p> <p>- Eligibility for participation: Only borrowers who fill out and timely return modification request form have right to procedures. Lender has no obligation to follow these statutory procedures for a meeting and review of a loan modification if it "determines in good faith, after considering the most current financial information the borrower provides, that the borrower is not eligible for a loan modification."</p> <p>- Time frame: Lender to reply to request for loan modification within 45 days of receiving request.</p> <p>- Mediator: No provision for</p>	<p>for loan modification, but may consider under any system, so long as it has determined in good faith that the borrower is not eligible.</p> <p>- Make proposal: Lender must respond to borrower's timely request for a loan modification unless it has previously found borrower ineligible for a modification.</p> <p>- Good faith requirement/consequences of bad faith: Lender must review borrower's information supporting request for loan modification in good faith.</p> <p>- Payment for costs: No costs associated with review.</p>		<p>shifting to homeowner: No</p>

OREGON (Enrolled Senate Bill 628)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
mediator			

PENNSYLVANIA

Allegheny County (Pittsburgh) Admin. Order AD-2008-535

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>- Covered loans: Owner occupied residential properties</p> <p>- Duration of program: Applicable to new cases filed after Jan. 12, 2009.</p> <p>- Basic framework: Lender serves borrower with notices indicating a hotline number along with complaint. With help of housing counselor homeowner submits to the court a certification of participation in conciliation.</p> <p>- Stay of proceedings: The filing of a conciliation participation request stays foreclosure for up to 90 days.</p> <p>- Eligibility for participation: Borrower must return participation form within 20 days of receipt. May also call court to indicate election to participate.</p> <p>- Time frame: Conciliation</p>	<p>- Appearance: Representative of lender who has authority to modify mortgage and enter into other agreements must be available by phone for session.</p> <p>- Produce documents/complete forms: No requirement.</p> <p>- Proof of standing: No requirement.</p> <p>Produce loan modification/NPV analysis: No requirement.</p> <p>Specific options to consider: No requirement.</p> <p>- Make proposal: Lender must evaluate and respond to borrower's proposal before or at conciliation conference.</p> <p>- Good faith requirement/consequences of bad faith: Failure of lender or of lender's representative with requisite authority to appear for</p>	<p>- Appearance: Borrower must appear.</p> <p>- Produce documents/complete forms: Must submit financial documents and proposal.</p> <p>- Make proposal: Yes. Borrower works with housing counselor to submit proposal prior to mediation.</p> <p>- Work with housing counselor: Borrower must work with housing counselor and submit financial information and proposal. The notice served on borrower with initial court papers includes referral information for housing counselors. Must submit to the court a certificate of participation with housing counselor.</p> <p>- Payment for costs: No charges to participate in conciliation program</p>	<p>- Funding: Program operates with existing court and agency resources and volunteers.</p> <p>- Outreach component: No formal program.</p> <p>- Volunteer attorney component: Yes.</p> <p>- Limited attorney appearance allowed: Yes.</p> <p>- Junior lienholder involvement: Not required.</p> <p>- Data collection on results/modifications: No.</p> <p>- Restrictions on lender's fee shifting to homeowner: No</p>

PENNSYLVANIA

Allegheny County (Pittsburgh) Admin. Order AD-2008-535

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
sessions set on regular basis with presiding judge present. - Mediator: Judges preside over conciliation conferences.	conciliation conference may result in rescheduling the conference and/or further postponement of sheriff sale. - Payment for costs: No charge to participants.		

PENNSYLVANIA Bucks County (Admin. Order 55)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<ul style="list-style-type: none"> - Covered loans: Owner occupied residential dwellings - Duration of program: August 2009 through December 2010. (Order published July 2, 2009, effective 30 days later). - Basic framework: “Urgent Notice” served with complaint directs homeowner to contact court designated hotline for housing counseling and legal assistance. Notice includes request for a conciliation conference. Homeowner must call hotline within ten days in order to participate in a conciliation conference. Court issues Order for Conference upon hotline’s receipt of borrower request. Lender filing complaint must indicate whether property is owner occupied and file certification that it served notice of conciliation conference option. - Stay of proceedings: Order for Conference stays 	<ul style="list-style-type: none"> - Appearance: Representative of lender or investor who has actual authority to modify mortgage, enter into alternative payment agreements, or otherwise resolve the action must be present at the conciliation conference. - Produce documents/complete forms: No specific requirement. - Proof of standing: No requirement. - Produce loan modification/NPV analysis: No requirement. - Specific options to consider: If borrower and housing counselor have submitted proposal prior to session, lender must evaluate and respond to proposal. - Make proposal: No requirement. - Good faith 	<ul style="list-style-type: none"> - Appearance: Judicial foreclosure may proceed after 30 days if borrower does not appear at conciliation conference. - Produce documents/complete forms: Borrower must submit supporting documentation along with any proposal to lender. - Make proposal: Homeowner may request that housing counselor or pro bono attorney submit proposal to lender at least two weeks before scheduled conference. - Work with housing counselor: Notice directs homeowner to schedule appointment with housing counselor. Must request conciliation conference through housing counselor and consult with housing counselor before conference. - Payment for costs: No charges or fees for program. 	<ul style="list-style-type: none"> - Funding: Operations paid with existing county court funds - Outreach component: No specific door to door outreach program. - VIP component: Program operates in conjunction with pro bono attorney referral system. - Limited attorney appearance allowed: Not specified. - Junior lienholder involvement: Not specified. - Data collection on results/modifications: No specified system. - Restrictions on lender’s fee shifting to homeowner: No.

PENNSYLVANIA Bucks County (Admin. Order 55)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>proceedings in the case until at least 20 days following the conciliation conference.</p> <p>- Eligibility for participation: Homeowner must make request for conciliation to designated hotline within ten days of receipt of notice of option.</p> <p>- Time frame: At conclusion of conference moderator may issue a recommendation memorializing the results or schedule future deadlines where appropriate. Court may issue order based on recommendation.</p> <p>Mediator: Judge pro tem appointed by court, including retired judge.</p>	<p>requirement/consequences of bad faith: Failure of lender or representative to appear for conference may result in rescheduling of conference or postponement of sheriff's sale upon application of borrower.</p> <p>- Payment for costs: No charges or fees for program.</p>		

PENNSYLVANIA

Philadelphia County Joint General Court Regulation No. 2008-01

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>- Covered loans: Loans secured by “residential premises,” defined as real property of not more than four units occupied by the owner as the owner’s principal residence.</p> <p>- Duration of program: Initial judicial order April 16, 2008, establishes Residential Mortgage Foreclosure Diversion Pilot Program until December 31, 2009.</p> <p>- Basic framework: Conciliation session set automatically when foreclosing plaintiff lists on a civil court cover sheet that the property is owner-occupied. The designation triggers a case management order.</p> <p>- Stay of proceedings: Sheriff sale stayed until conciliation session. If agreement not reached at session, order can issue setting an additional session and continuing stay. If no settlement or if no</p>	<p>- Appearance: Lender attorney must appear. Lender/servicer may appear by phone.</p> <p>- Produce documents/complete forms: No requirement.</p> <p>- Proof of standing: No requirement.</p> <p>- Produce loan modification/NPV analysis: No requirement.</p> <p>- Specific options to consider: No requirement.</p> <p>- Make proposal: Must review borrower’s proposal and decide whether to accept it.</p> <p>- Good faith requirement/consequences of bad faith: No requirement.</p> <p>- Payment for costs: No costs for participants.</p>	<p>- Appearance: Homeowner must appear for conciliation session.</p> <p>- Produce documents/complete forms: Program anticipates homeowner will work with housing counselor and produce financial information and records, including a proposal to settle case.</p> <p>- Make proposal: Homeowner expected to make proposal before conciliation session. According to Joint General Court Regulation, conciliation session shall address whether homeowner has attorney; whether homeowner met with housing counseling agency; whether counseling agency prepared an assessment or report of available loan work out; homeowner’s income and expense information; employment status; applications for homeowner financial assistance programs; the need for further conciliation</p>	<p>- Funding: Local government entities fund hotline, outreach, and counselors.</p> <p>- Outreach component: City agency funding supports outreach by community groups.</p> <p>- Volunteer attorney component: At initial conciliation conference session court will attempt to assign pro bono counsel for unrepresented homeowner. Attorney referrals also made before session for homeowners who contact hotline.</p> <p>- Limited attorney appearance allowed: Yes</p> <p>- Junior lienholder involvement: Not required.</p> <p>- Data collection on results/modifications: Data maintained on number of cases that qualified for program, appearances by homeowner for conciliation session, some</p>

PENNSYLVANIA

Philadelphia County Joint General Court Regulation No. 2008-01

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>continuance date set, lender can proceed with the foreclosure. Entry of default judgment stayed until after date of conciliation conference.</p> <p>- Eligibility for participation: All owner occupied residential properties subject to foreclosure automatically scheduled for conciliation conference.</p> <p>- Time frame: For cases filed after July 1, 2008, case management order to schedule a conference within 30 to 45 days after the filing of the complaint.</p> <p>- Mediator: A judge or an attorney designated by court as a “judge pro temp” presides over a conciliation session.</p>		<p>conferences and “any other relevant issue.”</p> <p>- Work with housing counselor: Homeowner is expected to work with housing counselor to complete and share financial documents and proposals prior to conciliation session.</p> <p>- Payment for costs: The parties do not pay costs to participate in program.</p>	<p>general data on nature of resolutions of cases.</p> <p>- Restrictions on lender’s fee shifting to homeowner: no</p>

PENNSYLVANIA

Northampton County (Easton/Bethlehem) Admin. Order March 2009

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>- Covered loans: Loans secured by owner occupied residential properties subject to foreclosure.</p> <p>- Duration of program: Order in effect from March 2009 through December 2009.</p> <p>- Basic framework: For a property the lender identifies as owner-occupied, case management order served with complaint. Order schedules a conciliation conference within 90 days of the filing of the complaint.</p> <p>- Stay of proceedings: Homeowner's participation in procedures under Administrative Order results in stay of proceedings, including stay of obligation to file answer. Default judgment may not be entered until after attendance at conference and generation of a conciliation conference order.</p>	<p>- Appearance: Representative of lender or investor who has actual authority to modify mortgage, to enter into alternative payment agreements, or otherwise resolve the action must be present at conciliation conference.</p> <p>- Produce documents/complete forms: Not required.</p> <p>Proof of standing: Not required.</p> <p>Produce loan modification/NPV analysis: Not required</p> <p>- Specific options to consider: Lender must evaluate and respond to homeowner's proposal at the conciliation conference.</p> <p>- Make proposal: Not required (must respond to borrower's proposal).</p>	<p>- Appearance: Borrower must attend conciliation conference.</p> <p>- Produce documents/complete forms: No cost requirement.</p> <p>- Make proposal: Conciliation conference to address issues including whether homeowner met with housing counselor or attorney, whether has prepared an assessment and report on a loan workout, and data on homeowner's income, expenses, and employment.</p> <p>- Work with housing counselor: Case scheduling order requires borrower to call and meet with a housing counselor or pro bono attorney; provide financial and employment information; formulate proposal prior to conciliation session. Order states: "Failure to cooperate with the housing counselor shall result in the cancellation of the conciliation conference."</p>	<p>- Funding: Funded through county court resources.</p> <p>- Outreach component: No specific program.</p> <p>- VIP component: Notices and counseling encourage contact with pro bono counsel</p> <p>- Limited attorney appearance allowed: Yes</p> <p>- Junior lienholder involvement: No</p> <p>- Data collection on results/modifications: No.</p> <p>- Restrictions on lender's fee shifting to homeowner: No</p>

PENNSYLVANIA

Northampton County (Easton/Bethlehem) Admin. Order March 2009

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>- Eligibility for participation: Conciliation conference scheduled for all residential properties, but “failure to cooperate with the housing counselor shall result in the cancellation of the conciliation conference.” No later than two weeks prior to conference borrower must file certification stating met with housing counselor and will submit proposal for settlement before date of conference.</p> <p>- Time frame: Conference scheduled within 90 days after the filing of the complaint. Continuances not granted.</p> <p>- Mediator: Conference to be conducted “by a judge pro tem, or one who possesses experience in the subject matter.”</p>	<p>- Good faith requirement/consequences of bad faith: No, but failure of lender to appear at conference with authorized representative may result in rescheduling of the conference or postponement of sheriff sale upon application of borrower.</p> <p>- Payment for costs: No cost charged to parties.</p>	<p>- Payment for costs: Parties do not pay costs</p>	

RHODE ISLAND (City of Providence)

Providence Code sections 13-213 through 13-217

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>- Covered loans: Loans secured by owner occupied properties, not more than four units. Includes condominiums and co-op units. Rhode Island lender servicing its own mortgages need only certify it has a loss mitigation program similar to FHA's.</p> <p>- Duration of program: Effective 30 days after passage of ordinance on August. 25, 2009.</p> <p>- Basic framework: Simultaneously with sending notice of intent to foreclose to homeowner, servicer must file copy of notice with City's Recorder of Deeds. A "loan/mortgage conciliation conference coordinator" (a housing counselor) then schedules a conference no later than 21 days after issuance of the notice of intent. The counselor indicates location of conference. Scheduling is automatic. (Note: in a decision</p>	<p>- Appearance: Servicer may participate by phone.</p> <p>- Produce documents/complete forms: No requirement</p> <p>- Proof of standing: No requirement</p> <p>- Produce loan modification/NPV analysis: No requirement</p> <p>- Specific options to consider: To satisfy good faith requirement, servicer must make effort to renegotiate loan to avoid foreclosure.</p> <p>- Make proposal: No requirement</p> <p>- Good faith requirement/consequences of bad faith: Counselor must certify that servicer made good faith effort to reach settlement, including re-negotiating terms of the loan, before certifies conciliation complete.</p>	<p>- Produce documents/complete forms: Borrower must provide financial and employment information to the counselor, must complete application and proposal with counselor.</p> <p>- Make proposal: Homeowner must prepare proposal with housing counselor and submit to servicer.</p> <p>- Work with housing counselor: Borrower assigned a housing counselor before conference session. Borrower must cooperate with counselor in providing information and making proposal for conference.</p> <p>- Payment for costs: No costs involved.</p>	<p>- Funding: None</p> <p>- Outreach component: None</p> <p>- Volunteer attorney component: None</p> <p>- Limited attorney appearance allowed: No court appearance involved.</p> <p>- Junior lienholder involvement: None</p> <p>- Data collection on results/modifications: none</p> <p>- Restrictions on lender's fee shifting to homeowner: none</p>

RHODE ISLAND (City of Providence)

Providence Code sections 13-213 through 13-217

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>dated May 17, 2010 a Rhode Island Superior Court held that the Ordinance's restrictions on land records filings exceeded home rule authority of municipality).</p> <p>- Stay of proceedings: Conciliation counselor gives servicer certification conference is complete, and certification must be filed in land records. Certification of compliance issued if homeowner does not appear, respond to requests for information, or otherwise cooperate with counselor. Certification of compliance issued if no resolution after servicer made good faith effort to re-negotiate loan at conference.</p> <p>- Eligibility for participation: Automatic. Borrowers who work with counselor to prepare information and appear for conference are eligible.</p>	<p>- Payment for costs: No costs involved</p>		

RHODE ISLAND (City of Providence)

Providence Code sections 13-213 through 13-217

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>- Time frame: Conciliation conference must be completed within 60 days of the initial notice of intent to foreclose.</p> <p>- Mediator: A housing counselor coordinates and facilitates the conciliation process.</p>			

VERMONT House Bill 590

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>Covered loans: Applies to foreclosure actions involving loans subject to federal HAMP guidelines. Must be residential property of four units or less that is occupied by the owner as principal residence.</p> <p>Duration of program: Effective for judicial foreclosure actions filed beginning July 1, 2010. Upon request of a party,</p>	<p>Appearance: A mortgagee or servicing agent who has authority to agree to a proposed settlement, loan modification, or dismissal must appear along with counsel. A servicer representative who is present must have real time access to the borrower's account information and records relating to consideration of loss mitigation options, including the</p>	<p>Appearance: The mortgagor must appear for mediation. Counsel for the borrower may also appear.</p> <p>Produce Documents/Complete Forms: The borrower must make a good faith effort to provide the mediator 20 days before the first mediation session (or within a time determined by the</p>	<p>Funding: Bill does not refer to any state funding</p> <p>Outreach component: Not specifically addressed in legislation</p> <p>Volunteer attorney component: The initial notice to homeowner of the availability of mediation gives contact information for legal services.</p>

VERMONT House Bill 590

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>court has discretion to order mediation for foreclosure actions filed prior to statute’s effective date as long as request made at least 30 days before end of post-judgment redemption period.</p> <p>Basic Framework: Notice of right to request mediation and form for request are served with summons and complaint. Vermont foreclosure law provides generally for a six-month period of redemption after entry of a judgment of foreclosure. Foreclosure actions may conclude either by sale of the property or through a “strict foreclosure” effective after expiration of the redemption period. The court must refer the case to mediation if the borrower enters an appearance or requests mediation within four months after the entry of judgment. An approved mediator supervises compliance with document production and other participant</p>	<p>ability and authority to perform HAMP-related calculations. In lieu of a servicer’s personal appearance the mediator may allow the servicer’s representative to participate by telephone or videoconferencing.</p> <p>Produce documents/complete forms: The servicer must produce for the mortgagor and mediator documentation of its consideration of all applicable loss mitigation options, including the data used in and the outcome of any HAMP-related net present value calculation. If the servicer claims that a pooling and servicing agreement prohibits modification, the servicer must produce a copy of the agreement.</p> <p>Proof of standing: Amendments to Vermont’s judicial mortgage foreclosure Rule 80.1, enacted</p>	<p>mediator) information on household income and other information required by HAMP. During mediation the borrower must cooperate in good faith under the direction of the mediator to produce any information needed to permit the mediation process to function effectively.</p> <p>Make Proposal: Borrower is not required to make specific proposals, but must submit information needed for HAMP determination.</p> <p>Work with Housing Counselor: Not required</p> <p>Payment for costs: Borrower is not required directly to pay for costs of the mediator. If a foreclosure judgment is entered the servicer may recover one-half of the costs it paid for the mediator to the extent there is a surplus after the sale of the</p>	<p>Limited attorney appearance allowed: Not addressed in legislation</p> <p>Junior lienholder involvement: No</p> <p>Data Collection on results/modification: None</p> <p>Restrictions on lender’s fee shifting to homeowner: The servicer is prohibited from shifting its attorney’s fees or travel costs related to mediation to the borrower. If a foreclosure judgment is entered, the servicer may assess no more than one-half of the costs of the mediator to the borrower, and only to the extent there is a surplus after the sale of the property.</p>

VERMONT House Bill 590

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>requirements. As part of mediation, the mortgagee must provide information on its review of the borrower for a HAMP loan modification. At the conclusion of mediation, the mediator issues a report to the court indicating the status of the parties' compliance with their obligations. The court may impose sanctions upon finding that a servicer failed to comply with its loan modification and loss mitigation review obligations.</p> <p>Stay of proceedings: Participation in mediation does not stay the running of the post-judgment redemption period. Unless the mortgagee agrees, mediation must be completed by the end of the redemption period.</p> <p>Eligibility for participation: The program applies to borrowers named as defendants</p>	<p>simultaneously with the mediation law, require that the plaintiff in a foreclosure action “attach to the complaint copies of the original note and mortgage deed and proof of ownership thereof, including copies of all original endorsements and assignments of the note and mortgage deed.” In addition, “[t]he plaintiff shall plead in its complaint that the originals are in the possession and control of the plaintiff or that the plaintiff is otherwise entitled to enforce the mortgage note pursuant to the Uniform Commercial Code.”</p> <p>Produce Loan modification/NPV analysis: During mediation, a servicer must produce documentation of its HAMP NPV analysis, including the data used in and the outcome of the calculation.</p> <p>Specific options to consider: In</p>	<p>property.</p>	

VERMONT House Bill 590

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>in judicial foreclosure actions. Borrowers must enter an appearance or request mediation within four months of entry of a foreclosure judgment. If a judgment has been entered, the court has some discretion either to decline to order mediation or to shorten the time during which the borrower can request mediation after entry of judgment. Upon a servicer's motion the court may also find that a servicer is not required to participate in mediation. To obtain this exemption the servicer must file a motion that establishes that it has complied with applicable HAMP requirements and support the motion with a sworn affidavit that includes the calculations and inputs used for the HAMP review. The affidavit must demonstrate that the servicer met with the borrower in person or made reasonable attempts to do so.</p>	<p>addition to its HAMP loan modification review the servicer must show that it considered other loss mitigation options available for the loan, including reinstatement, forbearance, and short sale.</p> <p>Make proposal: In requiring a servicer to review the borrower's eligibility under the HAMP guidelines, the statute incorporates the HAMP requirement that the servicer review the borrower for all loss mitigation options.</p> <p>Good faith: The servicer as well as the borrower are required to cooperate in good faith under the mediator's direction to conduct the loss mitigation reviews required under the law. The parties must cooperate "so as to permit the mediation process to function effectively." The mediator's report must indicate whether the</p>		

VERMONT House Bill 590

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>Time Frame: The program is generally designed so that mediation takes place before expiration of the post-judgment redemption period, with a court authorized to exercise discretion to decline to refer a case to mediation for cause.</p> <p>Mediator. Mediators must be licensed attorneys who have taken a specialized continuing legal education course in foreclosure prevention or loss mitigation.</p>	<p>parties made a good faith effort to mediate. The court may impose sanctions, including prohibition of sale, if it makes a determination of non-compliance with servicer obligations.</p> <p>Payment for costs: The servicer must pay for the costs of mediation. Servicers are expressly prohibited from shifting costs of the servicer's or mortgagee's attorney's fees or travel costs related to the mediation. The servicer may require the borrower to pay up to one-half of the costs of the mediator if judgment in foreclosure is granted, but only to the extent there is a surplus after the sale of the property.</p>		