

## CONNECTICUT

Conn. Gen. Stat. Ann. § 8-265ee

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>- <b>Covered loans:</b> Mortgages secured by one to four family residential properties subject to foreclosure. Must be primary residence of borrower.</p> <p>- <b>Duration of program:</b> Initially July 1, 2008 to July 1, 2010. Legislation extended in 2010, and in July 2011, program extended to July 1, 2014</p> <p>- <b>Basic framework:</b> 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>- <b>Stay of proceedings:</b> Under 2011 amendments to mediation statute, mortgagor and mortgagee may not make any motions (except jurisdictional challenges) for eight months after return date of complaint, except motions related to mediation. Mediator can terminate mediation at first</p>	<p>- <b>Appearance:</b> Mortgagee attorney in phone or electronic contact with lender representative with authority to settle must appear for each session.</p> <p>- <b>Produce documents/complete forms:</b> At least fifteen days before first session, lender must provide a twelve month account history and authorized representative contact information in writing. Either party's failure to produce documents for the first session is not a ground for terminating mediation.</p> <p>- <b>Proof of standing:</b> None required.</p> <p>- <b>Produce loan modification/NPV analysis:</b> None</p> <p>- <b>Specific options to consider:</b> "mediation shall address all issues of foreclosure, including but not limited to, reinstatement of the mortgage, assignment of</p>	<p>- <b>Appearance:</b> All borrowers must appear for first session. One appears for subsequent sessions</p> <p>- <b>Produce documents/complete forms:</b> 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. Amendments to statute in 2011 specify service of list of documents that borrower must submit at least fifteen days before initial mediation session.</p> <p>- <b>Make proposal:</b> No Requirement.</p> <p>- <b>Work with housing counselor:</b> Encouraged but not required. Notice forms to homeowners required under 2011 amendments to statute require additional information about housing counselor referrals.</p>	<p>- <b>Funding:</b> In 2008 legislature appropriated \$3 million for Judicial Branch to establish foreclosure mediation program in each of state's 13 judicial districts.</p> <p>- <b>Outreach component:</b> No</p> <p>- <b>Voluntary attorney component:</b> Several organizations run limited pro bono referral systems, no formal connection to mediation program.</p> <p>- <b>Limited attorney appearance allowed:</b> Yes</p> <p>- <b>Junior lienholder involvement:</b> No requirement.</p> <p>- <b>Data collection on results/modifications:</b> Judicial branch tracks numbers of cases in which mediations requested, mediations completed, and general categories of dispositions, including loan modifications.</p>

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<p>session or any later session if decides parties would not benefit from further mediation. Mediation period is 60 days from return date of summons. Court may extend for additional 30 days.</p> <p><b>- Eligibility for participation:</b> 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><b>- Time frame:</b> 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 . After October 1, 2011, first session to be not later than 35 days after courts</p>	<p>law days, assignment of sale date, restructuring of the mortgage debt and foreclosure by decree of sale.”</p> <p><b>- Make proposal:</b> Not specified</p> <p><b>- Good faith requirement/consequences of bad faith:</b> Not specified in statute. State court instructions refer to obligation of lender to “bargain in good faith”</p> <p><b>- Payment for costs:</b> Parties do not pay costs for mediation.</p>	<p><b>- Payment for costs:</b> Parties do not pay costs for mediation</p>	<p><b>- Restrictions on lender's fee shifting to homeowner:</b> 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>

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<p>sends first notice. Period for mediation may run up to 60 days from return date of summons, subject to additional 30 days by court order. Court may continue sessions at request of parties or mediator, up to 90 days total.</p> <p>- <b>Mediator:</b> 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>- <b>Covered loans:</b> Loans for owner occupied properties of one to four units.</p> <p>- <b>Duration of program:</b> Order dated August 31, 2009.</p> <p>- <b>Basic framework:</b> Upon initiation of a foreclosure action, servicer must post and mail notice of eligibility for program together with intake forms to homeowner.</p> <p>- <b>Stay of proceedings:</b> Entry of judgment stayed for at least 60 days if homeowner qualifies for mediation by submitting a settlement proposal meeting program guidelines.</p> <p>- <b>Eligibility for participation:</b> 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</p>	<p>- <b>Appearance:</b> Representative of servicer who has settlement authority must attend or be available by phone.</p> <p>- <b>Produce documents/complete forms:</b> Both parties submit preliminary position paper to mediator one day in advance of mediation.</p> <p>- <b>Proof of standing:</b> No requirement</p> <p>- <b>Produce loan modification/NPV analysis:</b> No requirement</p> <p>- <b>Specific options to consider:</b> Presumably servicer must respond to proposal from counselor/homeowner.</p> <p>- <b>Make proposal:</b> Both parties submit preliminary position paper to mediator one day in advance of mediation.</p> <p>- <b>Good faith</b></p>	<p>- <b>Produce documents/complete forms:</b> 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>- <b>Make proposal:</b> Both parties submit preliminary position paper to mediator one day in advance of mediation.</p> <p>- <b>Work with housing counselor:</b> Completion of forms with counselor is eligibility requirement for mediation program.</p> <p>- <b>Payment for costs:</b> No costs involved.</p>	<p>- <b>Funding:</b> None</p> <p>- <b>Outreach component:</b> No formal component. Notice of program contains hotline information.</p> <p>- <b>Volunteer attorney component:</b> Program involves volunteer attorneys to serve as mediators.</p> <p>- <b>Limited attorney appearance allowed:</b> No court appearance involved.</p> <p>- <b>Junior lienholder involvement:</b> None</p> <p>- <b>Data collection on results/modifications:</b> 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</p>

## DELAWARE

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

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>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>- <b>Time frame:</b> If servicer appears for one mediation session, mediation will be continued only if servicer agrees.</p> <p>- <b>Mediator:</b> Parties who cannot resolve foreclosure through negotiations must appear before mediator.</p>	<p><b>requirement/consequences of bad faith:</b> None.</p> <p>- <b>Payment for costs:</b> No costs involved</p>		<p>homes.</p> <p>- <b>Restrictions on lender's fee shifting to homeowner:</b> none</p> <p><b>Comment:</b> 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>

**DISTRICT OF COLUMBIA, D.C. Code § 42-815, et seq.**

<b>Eligibility Procedures</b>	<b>Lender Obligations</b>	<b>Borrower Obligations</b>	<b>Other Comments</b>
<p><b>Covered loans:</b> Loans used to acquire or refinance property with four or fewer single family dwellings, including condominium or cooperative units, at least one of which is principal residence of borrower</p> <p><b>Duration:</b> Effective March 12, 2011, no sunset specified.</p> <p><b>Basic framework:</b> The program operates under authority of the D.C. Department of Insurance, Securities, and Banking. The Department promulgates the program’s rules and develops its forms. A “Mediation Administrator” is designated by the Department. Borrower receives notice of right to opt in to mediation with notice of default. If a borrower elects to participate, lender must engage in loss mitigation negotiations with borrower. The Mediation Administrator also sends a copy of the opt-in notice to borrower. Valid non-judicial foreclosure sale cannot take place unless lender has obtained mediation</p>	<p><b>Appearance:</b> Lender or a representative must attend mediation. Representative must have authority to approve loss mitigation options or have access at all times during the mediation to a person with this authority.</p> <p><b>Produce Documents:</b> Five days prior to mediation lender must provide Mediation Administrator with payment history, itemization of amounts claimed, results of loss mitigation analysis, a true copy of the mortgage, including the mortgage note or agreement, every assignment of the mortgage, and evidence proving that the lender has standing to commence foreclosure against the borrower. Lender must provide information on the location of the note, a copy of the pooling and servicing agreement, documents substantiating any claim that the borrower is not eligible for a loss mitigation option, and any other information required under the</p>	<p><b>Appearance:</b> Borrower or representative must attend mediation. If borrower fails to attend a session without good cause, no later than 10 days after session Mediation Administrator must issue Mediation Certificate to lender.</p> <p><b>Produce Documents:</b> Borrower will be considered to have waived mediation if within 30 days of mailing of notice of default borrower does not return mediation election form and \$50 fee to Mediation Administrator and return completed loss litigation application to lender. Borrower must bring tax returns and income documentation to mediation.</p> <p><b>Make proposal:</b> Borrower must submit application for loss mitigation, required documents, and negotiate in good faith.</p> <p><b>Work with housing counselor:</b> Department’s notice forms served with notice of default include housing counselor</p>	<p><b>Funding:</b> Act authorizes creation of Foreclosure Mediation Fund to be used solely to pay costs of the mediation program.</p> <p><b>Outreach component:</b> Not addressed in law or rules.</p> <p><b>Volunteer attorney:</b> No formal affiliation or arrangement, not addressed in law.</p> <p><b>Limited attorney Appearance:</b> Not applicable, non-judicial foreclosure</p> <p><b>Junior lienholder:</b> Not addressed.</p> <p><b>Data collection:</b> Mediation reports to contain detailed information on loss mitigation analyses, but considered confidential.</p> <p><b>Restrictions on lender’s fees shifting:</b> Attorney’s fees shifting not addressed. Mediation fee of \$300 recoverable by lender only if</p>

**DISTRICT OF COLUMBIA, D.C. Code § 42-815, et seq.**

<b>Eligibility Procedures</b>	<b>Lender Obligations</b>	<b>Borrower Obligations</b>	<b>Other Comments</b>
<p>certificate from Mediation Administrator. The mediator makes a recommendation to Mediation Administrator as to whether a certificate permitting foreclosure should issue. If the Mediation Administrator finds the parties negotiated in good faith and could not reach agreement, the certificate issues. A certificate also issues if borrower does not timely request mediation in manner required by the law (including payment of fee and submission of loss mitigation application to lender) or does not appear for mediation. A foreclosure sale conducted in violation of the law is void.</p> <p><b>Stay of proceedings:</b> Procedures are non-judicial. Validity of sale depends upon lender recording notice of default with mediation notice and a Mediation Certificate.</p> <p><b>Eligibility:</b> Borrower receives notice of right to opt in to mediation with notice of default. Borrower must request</p>	<p>Department’s rules. Penalty of \$500 may be imposed for failure to produce required documents</p> <p><b>Proof of standing:</b> Lender or representative must bring to mediation “a true copy of the mortgage, including the mortgage note or agreement, every assignment of the mortgage, evidence proving that the lender has standing to commence foreclosure against the borrower, and any other information required pursuant to the rules” of the program.</p> <p><b>Produce loan modification/NPV analysis:</b> As required element of good faith lender must bring to mediation documentation of its loan modification analysis, including data inputs and results of the FDIC loan mod in a box calculation.</p> <p><b>Make proposal:</b> Along with notice of default lender must provide borrower with an application form for loss mitigation and a description of</p>	<p>information, but consultation with housing counselor not required for mediation.</p> <p><b>Payment for costs:</b> Borrower must pay \$50 with mediation application.</p>	<p>surplus from foreclosure sale.</p> <p><b>Comment:</b> Law provides for judicial enforcement of mediation settlement agreements by either party. Penalty of \$1,000 to be assessed against lender who breaches terms of agreement.</p>

**DISTRICT OF COLUMBIA, D.C. Code § 42-815, et seq.**

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>mediation, submit loss mitigation application to lender, and pay \$50 mediation fee within 30 days of receipt of notice of default. Mediation administrator can issue Mediation Certificate to lender if application and fee not received within 45 days of service of notice of default.</p> <p><b>Time frame:</b> First mediation session set no later than 45 days after lender mails notice of default. Mediation must be completed within 90 days of mailing of notice of default, although period can be extended for additional 30 days by mutual consent of parties.</p> <p><b>Mediator:</b> Commissioner to establish procedures for appointment, training, and compensation of mediators.</p>	<p>eligibility requirements for all the lender’s loss mitigation programs. Good faith participation in mediation defined as evaluation of the borrower’s eligibility for all alternatives to foreclosure and offer to borrower of a loan modification with the best terms for which the borrower is eligible. Lender must provide written explanation of any rejected proposal.</p> <p><b>Good faith:</b> Lack of good faith may be found based upon failure to bring documents related to loan, standing, or loss mitigation analysis, including FDIC loan modification calculation. Lender must evaluate for all options and offer modifications for which borrower eligible. Superior court may impose penalties of \$500 for failure to participate in good faith.</p> <p><b>Payment for costs:</b> Lender must pay \$300 mediation fee upon filing notice of default. Lender can recover fee as cost from sale if surplus, but not if deficiency.</p>		

**FLORIDA Programs Administered by Collins Center, Implementing Fla, Supreme Court Order No. : 1st JUDICIAL CIRCUIT ( Santa Rosa, Okaloosa, Walton counties), 10<sup>th</sup> JUDICIAL CIRCUIT (Hardee, Highlands, Polk counties), 11<sup>th</sup> JUDICIAL CIRCUIT (Miami Dade County), 12<sup>th</sup> JUDICIAL CIRCUIT (DeSoto, Manatee, Sarasota counties), 14<sup>th</sup> JUDICIAL CIRCUIT (Bay, Calhoun, Gulf, Holmes, Jackson, Washington counties), 19<sup>th</sup> 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 11<sup>th</sup> 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>- <b>Covered loans:</b> Mortgages secured by property that has been granted homestead real estate tax exemption and origination of loan subject to TILA.</p> <p>- <b>Duration of program:</b> Circuit courts instituted these programs since early 2010 pursuant to Fla. Supreme Court's Report and Recommendations 09-54 (Dec. 28, 2009).</p> <p>- <b>Basic framework:</b> Upon filing, a judicial foreclosure action involving residential property is referred</p>	<p>- <b>Appearance:</b> 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>- <b>Produce Documents:</b> Borrower may request certain documents from lender 25 days</p>	<p>- <b>Appearance:</b> 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>- <b>Produce documents/complete forms:</b> 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>- <b>Make proposal:</b> No requirement</p> <p>- <b>Work with housing counselor:</b> Borrower's failure to work with housing counselor is cause for</p>	<p>- <b>Funding:</b> No specific state or local funding</p> <p>- <b>Outreach component:</b> 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>- <b>Volunteer attorney component:</b> Program manager to advise homeowners about availability of pro bono programs.</p> <p>- <b>Limited attorney appearance allowed:</b> Administrative orders specifically provide for limited attorney appearance, but borrower attorney must attend sessions.</p> <p>- <b>Junior lienholder involvement:</b> Junior lienholder</p>

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Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>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> <p>- <b>Stay of proceedings:</b> No entry of default or summary judgment</p>	<p>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.</p> <p>- <b>Proof of standing:</b> 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."</p> <p>- <b>Produce loan modification/NPV analysis:</b> Prior to session borrower may request a "statement of the plaintiff's position on the present net present value of the mortgage loan."</p> <p>- <b>Specific options to consider:</b> No requirement.</p> <p>- <b>Make proposal:</b> No</p>	<p>terminating case from mediation program.</p> <p>- <b>Payment for costs:</b> Lender pays mediation costs in advance. Court can tax costs to borrower as part of judgment if plaintiff prevails.</p>	<p>may appear at mediation by representative with full authority and with counsel.</p> <p>- <b>Data collection on results/modifications:</b> Program Manager to make periodic reports to chief judge regarding participant satisfaction, status of cases.</p> <p>- <b>Restrictions on lender's fee shifting to homeowner:</b> The court can tax mediation fee as a cost in a final judgment. No restriction on attorney's fees shifting to borrower.</p>

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

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>entered until mediation completed and result transmitted to presiding judge. Participation in mediation does not stay time to file answer.</p> <p><b>- Eligibility for Participation</b> 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><b>- Time Frame</b> Mediations are to be completed within 60-120 days of filing of foreclosure complaint.</p>	<p>requirement.</p> <p><b>- Good faith requirement/consequences of bad faith:</b> None</p> <p><b>- Payment for costs:</b> 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>		

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Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>- <b>Mediator</b> Unless parties select own mediator, mediators are assigned from panel of Florida Supreme Court mediators who have received training in mediating foreclosures.</p>			

**HAWAII Act 48, S.B. No. 651, amending Haw. Rev. Stat. § 667-1**

<b>Eligibility Procedures</b>	<b>Lender Obligations</b>	<b>Borrower Obligations</b>	<b>Other Comments</b>
<p><b>Eligibility Procedures</b>  <b>Covered loans:</b> Applies to non-judicial foreclosures where the owner of an interest in the property subject to the mortgage has resided in the property as primary residence continuously for at least 200 days before notice of default served.</p> <p><b>Duration:</b> Mediation program to be operative no later than October 1, 2011 and to sunset September 30, 2014.</p> <p><b>Basic framework:</b> Applicable to non-judicial foreclosures, it is a dispute resolution program run by state’s Department of Commerce and Consumer Affairs with assistance from state judiciary. Notice of default served by lender informs borrower of option to participate in mediation. Copy of notice also served by Department. Borrower must elect to participate within thirty days of Department’s mailing of notice. If borrower elects mediation, lender must participate. Lender</p>	<p><b>Appearance:</b> Lender representative must have authority to modify loan or have direct access at all times to individual with this authority. Parties must appear in person unless granted exception for good cause to appear by telephone or other communication medium.</p> <p><b>Produce Documents:</b> At least 15 days before session lender must provide Department and borrower with documents showing authority to enforce debt and records confirming default</p> <p><b>Proof of standing:</b> The documents lender must provide 15 days before mediation include a “copy of the promissory note, signed by the mortgagor, including any endorsements, allonges, amendments, or riders to the note evidencing the mortgage debt” and copy of the mortgage and other documents evidencing the mortgagee’s right to</p>	<p><b>Produce Documents:</b> At least 15 days before mediation session borrower must produce financial and income documentation, records of past loan modification activity, and certification of housing counseling. Sanctions for unjustified non-compliance with requirements can include removal of the stay or a fine of up to \$1,5000.</p> <p><b>Make proposal:</b> Not specifically addressed.</p> <p><b>Work with housing counselor:</b> Notice of option to elect mediation informs borrowers they must consult with housing counselor at least 30 days before first mediation session. Borrower must provide certification of compliance with this requirement.</p> <p><b>Payment for costs:</b> Borrower must pay program fee of \$300 at time of election to participate in mediation.</p>	<p><b>Funding:</b> Parties pay fees of \$300 each. Additional fees of \$250 and \$100 are collected from lenders when they record foreclosure notices and sale notices. These funds pay for mediations and for dedicated foreclosure dispute resolution fund.</p> <p><b>Outreach component:</b> Not specifically provided for.</p> <p><b>Volunteer attorney:</b> Not specifically provided for.</p> <p><b>Limited attorney Appearance:</b> The mediation statute applies to non-judicial foreclosures.</p> <p><b>Junior lienholder:</b> Junior lienholders may not initiate non-judicial foreclosure while proceedings are stayed during a mediation involving first mortgagee.</p> <p><b>Data collection:</b> Not specified.</p> <p><b>Restrictions on lender’s fees shifting:</b> Not addressed in</p>

**HAWAII Act 48, S.B. No. 651, amending Haw. Rev. Stat. § 667-1**

<b>Eligibility Procedures</b>	<b>Lender Obligations</b>	<b>Borrower Obligations</b>	<b>Other Comments</b>
<p>may proceed with non-judicial foreclosure if borrower does not make timely election. There must be at least one formal session of up to three hours duration, with option for one additional session. Mediation must conclude within 60 days from the first scheduled meeting. Mediator may extend the period. Sanction for lender's unjustified non-compliance with program rules can include continued stay of foreclosure proceedings.</p> <p><b>Stay of proceedings:</b> The notice of opening of a mediation case operates as a stay of foreclosure proceedings, and the notice of mediation election may be recorded in land records. If parties comply with mediation requirements and do not reach agreement, the foreclosure time frame, including period for cure, resumes from point where it was when borrower elected mediation. Stay is lifted if parties' agreement allows foreclosure. Stay remains in</p>	<p>foreclose.</p> <p><b>Produce loan modification/NPV analysis:</b> The mediation must include use of the calculations of the FDIC loan modification program.</p> <p><b>Make proposal:</b> Must provide FDIC NPV analysis. Purpose of mediation is "to attempt to negotiate an agreement that avoids foreclosure or mitigates damages in cases where foreclosure is unavoidable."</p> <p><b>Good faith:</b> Report may indicate noncompliance with requirements of program if lender does not participate with authorized representative, fails to provide required information or documents, or otherwise refuses to cooperate in dispute resolution.</p> <p><b>Payment for costs:</b> Lender must pay \$250 to a dedicated foreclosure dispute resolution fund when serves foreclosure notice. If borrower elects</p>		<p>statute</p> <p><b>Comments:</b> Violation of mediation statute constitutes violation of state's UDAP statute. Settlement agreements "shall be a contract between the parties and shall be enforceable in a private contract action in a court of appropriate jurisdiction." A different portion of same Bill allows an owner-occupant mortgagor to seek conversion of non-judicial to judicial foreclosure by filing petition with circuit court within 30 days of receipt of foreclosure notice. This option is not available if the borrower elects mediation.</p>

**HAWAII Act 48, S.B. No. 651, amending Haw. Rev. Stat. § 667-1**

<b>Eligibility Procedures</b>	<b>Lender Obligations</b>	<b>Borrower Obligations</b>	<b>Other Comments</b>
<p>effect if mediator determines lender failed to comply with program rules without justification.</p> <p><b>Eligibility:</b> In order to participate, homeowner must submit election form, certify occupancy of property, and pay \$300 program fee to Department within 30 days of Department’s mailing of notice of election form.</p> <p><b>Time frame:</b> Department opens case within twenty days of receipt of borrower’s election. Initial session scheduled no less than 30 days and no more than 60 days from case opening unless parties agree otherwise.</p> <p><b>Mediator:</b> Mediators must have some knowledge and training in relevant areas in order to effectuate the law</p>	<p>mediation, lender must pay \$300 program fee to Department.</p>		

**ILLINOIS (Cook County)**

<b>Eligibility Procedures</b>	<b>Lender Obligations</b>	<b>Borrower Obligations</b>	<b>Other Comments</b>
<p>- <b>Covered loans:</b> 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>- <b>Duration of program:</b> Effective April 12, 2010 under Cook County Circuit Court Chancery Division General Administrative Order No. 2010-01 (April 8, 2010).</p> <p>- <b>Basic framework:</b> 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>- <b>Stay of proceedings:</b></p>	<p>- <b>Appearance:</b> 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>- <b>Produce documents/complete forms:</b> 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>- <b>Proof of standing:</b> No requirement in program rules.</p> <p>- <b>Produce loan modification/NPV analysis:</b></p>	<p>- <b>Appearance:</b> Homeowner must appear, unless appearance waived by court.</p> <p>- <b>Produce documents/complete forms:</b> No express requirement, although mediator or mediation referral order may set requirements.</p> <p>- <b>Make proposal:</b> No requirement.</p> <p>- <b>Work with housing counselor:</b> Program requires initial consultation and review with housing counselor for preparation of application for mediation.</p> <p>- <b>Payment for costs:</b> No costs for borrower</p>	<p>- <b>Funding:</b> 3.5 million dollars funding allocated for program beginning April 2010.</p> <p>- <b>Outreach component:</b> Yes, community organizations in various parts of County perform outreach to encourage homeowners to participate in program.</p> <p>- <b>Volunteer attorney component:</b> 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>- <b>Limited attorney appearance allowed:</b> Yes, specifically permitted under program guidelines.</p> <p>- <b>Junior lienholder</b></p>

**ILLINOIS (Cook County)**

<b>Eligibility Procedures</b>	<b>Lender Obligations</b>	<b>Borrower Obligations</b>	<b>Other Comments</b>
<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><b>- Eligibility for participation:</b> 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 mediation independently of case management conference by meeting with counselor and</p>	<p>Not specifically, but court’s mediation referral order can designate particular HAMP issue to be mediated.</p> <p><b>- Specific options to consider:</b> 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><b>- Make proposal:</b> No specific requirement, but court can direct parties to mediate issues related to HAMP application..</p> <p><b>- Good faith requirement/consequences of bad faith:</b> No requirement.</p> <p><b>- Payment for costs:</b> No charge if Center for Conflict Resolution mediator used. Otherwise, parties may be required to pay for a mediator they jointly select.</p>		<p><b>involvement:</b> No requirement.</p> <p><b>- Data collection on results/modifications:</b> No</p> <p><b>- Restrictions on lender’s fee shifting to homeowner:</b> No.</p>

**ILLINOIS (Cook County)**

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>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>- <b>Time frame:</b> 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>- <b>Mediator:</b> 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 refer to mediation. Mediator qualifications are contained in Cook County Chancery Rule 21.08.</p>			

## INDIANA (Supervised Pilot Programs)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>- <b>Covered loans:</b> First lien residential mortgages (same as under regular statutory program, I.C. 32-30-10.5)</p> <p>- <b>Duration of program:</b> 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>- <b>Basic framework:</b> 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 programs, unlike under regular statutory program, courts and</p>	<p>- <b>Appearance:</b> 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>- <b>Produce documents/complete forms:</b> 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>- <b>Appearance:</b> Parties and their attorneys must appear in person unless court has permitted phone appearances.</p> <p>- <b>Produce documents/complete forms:</b> 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>- <b>Make proposal:</b> No requirement.</p> <p>- <b>Work with housing counselor:</b> 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>- <b>Funding:</b> Some funding through increased complaint filing fee.</p> <p>- <b>Outreach component:</b> 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>- <b>Volunteer attorney component:</b> 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>- <b>Limited attorney appearance allowed:</b> Attorneys may be designated</p>

## INDIANA (Supervised Pilot Programs)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>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>- <b>Stay of proceedings:</b> 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>- <b>Eligibility for participation:</b> Local programs set procedures for notifying homeowners of opportunity to participate and. Response times may be flexible, and court may contact borrowers directly and offer participation.</p> <p>- <b>Time frame:</b> Local courts or</p>	<p>other documents the court determines are needed.</p> <p>- <b>Proof of standing:</b> Not required for conference, but lender to bring to settlement conference a “copy of the original note and mortgage.”</p> <p>- <b>Produce loan modification/NPV analysis:</b> Court or facilitator may require in scheduling order that NPV calculation and related HAMP notices be produced before conference.</p> <p>- <b>Specific options to consider:</b> 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>- <b>Make proposal:</b> No specific requirement.</p> <p>- <b>Good faith</b></p>	<p>- <b>Payment for costs:</b> No costs for borrower</p>	<p>by court to assist homeowner in preparing for conference and to appear with homeowner at conference.</p> <p>- <b>Junior lienholder involvement:</b> No requirement.</p> <p>- <b>Data collection on results/modifications:</b> 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>- <b>Restrictions on lender’s fee shifting to homeowner:</b> No.</p>

**INDIANA (Supervised Pilot Programs)**

<b>Eligibility Procedures</b>	<b>Lender Obligations</b>	<b>Borrower Obligations</b>	<b>Other Comments</b>
<p>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>- <b>Mediator:</b> 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><b>requirement/consequences of bad faith:</b> No requirement.</p> <p>- <b>Payment for costs:</b> \$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>- <b>Covered loans:</b> Loans secured by owner occupied properties.</p> <p>- <b>Duration of program:</b> Order establishing Residential Foreclosure Conciliation Program issued March 30, 2009, to become effective for all county judges as of July 1, 2009.</p> <p>- <b>Basic framework:</b> 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 of compliance with court at least two weeks before conference date in order to have conference.</p>	<p>- <b>Appearance:</b> Lender or authorized representative must appear.</p> <p>- <b>Produce documents/complete forms:</b> No requirement.</p> <p>- <b>Proof of standing:</b> No specific requirement.</p> <p>- <b>Produce loan modification/NPV analysis:</b> No specific requirement.</p> <p>- <b>Specific options to consider:</b> General purpose of conference is to explore the possibility of a settlement before sale.</p> <p>- <b>Make proposal:</b> No requirement.</p> <p>- <b>Good faith requirement/consequences of bad faith:</b> No specific requirement.</p>	<p>- <b>Appearance:</b> Borrower must appear for conference.</p> <p>- <b>Produce documents/complete forms:</b> 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>- <b>Make proposal:</b> No requirement.</p> <p>- <b>Work with housing counselor:</b> Must meet with housing counselor, complete and return a financial packet to lender.</p> <p>- <b>Payment for costs:</b> No cost to homeowner</p>	<p>- <b>Funding:</b> No specific appropriation.</p> <p>- <b>Outreach component:</b> Yes. \$69,000 grant from Americorps to local Legal Aid organization to fund door to door outreach.</p> <p>- <b>Volunteer attorney component:</b> Active volunteer attorney and legal aid participation.</p> <p>- <b>Limited attorney appearance allowed:</b> Yes</p> <p>- <b>Junior lienholder involvement:</b> Permitted to participate in the conferences.</p> <p>- <b>Data collection on results/modifications:</b> Not implemented at this time.</p> <p>- <b>Restrictions on lender's fee shifting to homeowner:</b> No.</p>

**KENTUCKY**

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

<b>Eligibility Procedures</b>	<b>Lender Obligations</b>	<b>Borrower Obligations</b>	<b>Other Comments</b>
<p>- <b>Stay of proceedings:</b> No stay of proceedings. Conference set for date before sale.</p> <p>- <b>Eligibility for participation:</b> Borrowers must certify compliance with counseling and clinic attendance requirements.</p> <p>- <b>Time frame:</b> Conference scheduled before sale date.</p> <p>- <b>Mediator:</b> Master commissioner of court</p>	<p>- <b>Payment for costs:</b> No cost for participants.</p>		

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

<b>Eligibility Procedures</b>	<b>Lender Obligations</b>	<b>Borrower Obligations</b>	<b>Other Comments</b>
<p>- <b>Covered loans:</b> Mortgages related to properties that are owner occupied 1-4 units, primary residence of owner-occupant.</p> <p>- <b>Duration of program:</b> 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>- <b>Basic framework:</b> 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>- <b>Stay of proceedings:</b> 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>- <b>Eligibility for participation:</b> Case is referred to mediation upon borrower's filing an</p>	<p>- <b>Appearance:</b> 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>- <b>Produce documents/complete forms:</b> Rules pending.</p> <p>- <b>Proof of standing:</b> 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>- <b>Produce loan modification/NPV analysis:</b></p>	<p>- <b>Appearance:</b> Borrower must appear for mediation session. May appear with attorney.</p> <p>- <b>Produce documents/complete forms:</b> Financial statements or other information must be made available "as necessary."</p> <p>- <b>Make proposal:</b> Parties must address alternatives to foreclosure indicated in statute, but no specific requirement to make proposal.</p> <p>- <b>Work with housing counselor:</b> Mediator may refer borrower to housing counselor at any time.</p> <p>- <b>Payment for costs:</b> Borrower not required to pay costs of mediation</p>	<p>- <b>Funding:</b> 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>- <b>Outreach component:</b> Legislation establishing mediation program provides funding for outreach programs.</p> <p>- <b>Volunteer attorney component:</b> Pro bono program is coordinated with mediation.</p> <p>- <b>Limited attorney appearance allowed:</b> Rule under consideration.</p> <p>- <b>Junior lienholder involvement:</b> Mediator may include in process any entity deemed necessary for effective mediation.</p> <p>- <b>Data collection on</b></p>

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

<b>Eligibility Procedures</b>	<b>Lender Obligations</b>	<b>Borrower Obligations</b>	<b>Other Comments</b>
<p>answer, entering appearance, or returning notice requesting mediation.</p> <p>- <b>Time frame:</b> No judgment may be entered until certification given that mediation completed.</p> <p>- <b>Mediator:</b> Court assigns mediators who have met basic training requirements; may be active retired judges.</p>	<p>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>- <b>Specific options to consider:</b> 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>- <b>Make proposal:</b> Must address alternatives to foreclosure indicated in statute, but no specific requirement to make proposal.</p>		<p><b>results/modifications:</b> 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>- <b>Restrictions on lender’s fee shifting to homeowner:</b> Fee shifting not prohibited</p>

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

<b>Eligibility Procedures</b>	<b>Lender Obligations</b>	<b>Borrower Obligations</b>	<b>Other Comments</b>
	<p>- <b>Good faith requirement/consequences of bad faith:</b> 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>- <b>Payment for costs:</b> 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)**

<b>Eligibility Procedures</b>	<b>Lender Obligations</b>	<b>Borrower Obligations</b>	<b>Other Comments</b>
<p><b>-Covered loans:</b> Loans in foreclosure secured by property with four or fewer dwelling units, of which the borrower resides in one.</p> <p><b>-Duration of program:</b> Applies prospectively to cases in which order to docket or foreclosure complaint filed after July 1, 2010.</p> <p><b>- Basic framework:</b> 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 borrower with a loss mitigation application along with the notice of intent to foreclose. With this</p>	<p><b>Appearance:</b> 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><b>-Produce documents/complete forms:</b> 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 regulation, the Commissioner may require that the documents</p>	<p><b>Appearance:</b> The borrower must be present for a mediation session and may be accompanied by a housing counselor or attorney.</p> <p><b>Produce Documents/Complete Forms:</b> 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><b>Make proposal:</b> All mediation rights are premised on the borrower’s having submitted a loss mitigation application meeting the lender’s requirements.</p> <p><b>Work with housing counselor:</b> The loss mitigation application served with the notice of intent to foreclose urges the borrower to work with a housing counselor. A counselor may appear with the borrower at a</p>	<p><b>Funding:</b> 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><b>Outreach:</b> The legislation does not specify or fund specific outreach efforts.</p> <p><b>Volunteer attorney component:</b> 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><b>Limited attorney appearance allowed:</b> Not applicable because foreclosures are primarily non judicial.</p> <p><b>Junior lienholder involvement:</b> No</p> <p><b>Data Collection on</b></p>

**MARYLAND House Bill 472 (Chapter 485)**

<b>Eligibility Procedures</b>	<b>Lender Obligations</b>	<b>Borrower Obligations</b>	<b>Other Comments</b>
<p>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 mediation decision may seek a stay of the sale in the courts.</p> <p><b>Stay of proceedings:</b> A foreclosure sale cannot take place until after service of the final loss mitigation affidavit (45</p>	<p>and information be provided no later than 20 days before the scheduled mediation date.</p> <p><b>-Proof of standing:</b> 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><b>- Produce loan modification/NPV analysis:</b> 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 description of the eligibility requirements for loss mitigation options applicable to the loan. The form loss mitigation affidavits promulgated thus far do not</p>	<p>session. Work with a housing counselor is not a pre-condition to participation in mediation.</p> <p><b>Payment for costs:</b> 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><b>results/modification:</b> Certain designated funds from the filing fee increases are to be used for data tracking.</p> <p><b>Restriction on lender’s fees shifting to homeowner:</b> none</p>

**MARYLAND House Bill 472 (Chapter 485)**

<b>Eligibility Procedures</b>	<b>Lender Obligations</b>	<b>Borrower Obligations</b>	<b>Other Comments</b>
<p>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><b>Eligibility for Participation:</b> Borrower must make a timely request for mediation after receiving a final loss mitigation affidavit.</p> <p><b>Time Frame:</b> 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 Administrative Hearings may extend the time for completing mediation for an additional period not exceeding 30 days.</p> <p><b>Mediator:</b> The state’s Office of Administrative Hearings conducts mediations. This unit of state government manages hearings and appeals involving</p>	<p>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><b>-Specific options to consider:</b> 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 ownership of the property,” or “lessens the harmful impact of foreclosure on the mortgagor.”</p> <p><b>-Make proposal:</b> The lender must consider the borrower for loss mitigation options applicable to the loan.</p> <p><b>-Good faith</b></p>		

**MARYLAND House Bill 472 (Chapter 485)**

<b>Eligibility Procedures</b>	<b>Lender Obligations</b>	<b>Borrower Obligations</b>	<b>Other Comments</b>
<p>various state agencies, including driver's license suspensions and discrimination claims.</p>	<p><b>requirement/consequences of bad faith:</b> The statute does not create a specific good faith requirement.</p> <p><b>- Payment for costs:</b> As a means to cover program costs, an additional \$300 has been added to the cost of filing an order to docket.</p>		

**NEVADA (2009 enacted Assembly Bill 149)**

<b>Eligibility Procedures</b>	<b>Lender Obligations</b>	<b>Borrower Obligations</b>	<b>Other Comments</b>
<p>- <b>Covered loans:</b> Any trust agreement that concerns owner occupied housing (primary residence). Noncommercial lenders <i>not</i> excluded.</p> <p>- <b>Duration of program:</b> 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>- <b>Basic framework:</b> 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. Mediation will not be required if trustee provides affidavit that borrower did not return election</p>	<p>- <b>Appearance:</b> 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>- <b>Produce documents/complete forms:</b> 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>- <b>Proof of standing:</b> Beneficiary of deed of trust must bring to the mediation the original or certified copies of the deed of trust, the mortgage note and each assignment of the</p>	<p>- <b>Appearance:</b> 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>- <b>Produce documents/complete forms:</b> Borrower must prepare a financial statement, Housing Affordability Worksheet, on forms provided by Supreme Court rule.</p> <p>- <b>Make proposal:</b> Both parties must submit confidential non binding proposal for resolving the foreclosure to the mediator.</p> <p>- <b>Work with housing counselor:</b> Borrower receives information about local housing counseling and other referrals for foreclosure assistance with initial notice sent by lender. Work with counselor not required.</p> <p>- <b>Payment for costs:</b> Total fee of not more than \$400 may be</p>	<p>- <b>Funding:</b> Program self-funded through fees. \$50 added to fee for recording notice of default. \$400 fee paid by parties compensates mediator.</p> <p>- <b>Outreach component:</b> It is anticipated that free community classes will be offered to homeowners.</p> <p>- <b>Volunteer attorney component:</b> Legislation approved in 2011 (Assembly Bill 259) applies a portion of court filing fees, plus \$5 of each fee for recording notice of default to be submitted to a program for legal services for low income residents.</p> <p>- <b>Limited attorney appearance allowed:</b> Foreclosures are non judicial.</p> <p>- <b>Junior lienholder involvement:</b> By statute notice is given to all interested parties who may choose to send a participant.</p> <p>- <b>Data collection on results/modifications:</b></p>

**NEVADA (2009 enacted Assembly Bill 149)**

<b>Eligibility Procedures</b>	<b>Lender Obligations</b>	<b>Borrower Obligations</b>	<b>Other Comments</b>
<p>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><b>- Stay of proceedings:</b> 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><b>- Eligibility for participation:</b> Within 30 days of receiving it, borrower must return to the trustee an election of mediation form. Sale may proceed if 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</p>	<p>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><b>- Produce loan modification/NPV analysis:</b> Must produce some documentation of a method of analysis for review of loan modification. Documentation provided confidentially to mediator only.</p> <p><b>- Specific options to consider:</b> Lender must review for loan modification and provide some evidence of method of evaluation.</p> <p><b>- Make proposal:</b> Both parties must prepare and submit to the mediator a confidential and non binding proposal. Lender must also provide "under 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>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>Mediator Statement will capture some data, but details not specified.</p> <p><b>- Restrictions on lender's fee shifting to homeowner:</b> None</p>

**NEVADA (2009 enacted Assembly Bill 149)**

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>documents and fee.</p> <p>- <b>Time frame:</b> 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 90<sup>th</sup> 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>- <b>Mediator:</b> 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 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.”</p>	<p>- <b>Good faith requirement/consequences of bad faith:</b> 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 certification terminating mediation because the parties could not resolve the matter, the mediator must include determination that the parties acted in good faith.</p> <p>- <b>Payment for costs:</b> Total fee of not more than \$400 may be</p>		

**NEVADA (2009 enacted Assembly Bill 149)**

<b>Eligibility Procedures</b>	<b>Lender Obligations</b>	<b>Borrower Obligations</b>	<b>Other Comments</b>
	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>- <b>Covered loans:</b> 1-3 unit owner occupied properties (primary residence of borrower)</p> <p>- <b>Duration of program:</b> Effective Jan. 5, 2009</p> <p>- <b>Basic framework:</b> 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>- <b>Stay of proceedings:</b> 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 effect.</p> <p>- <b>Eligibility for participation:</b> Homeowner must request</p>	<p>- <b>Appearance:</b> 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>- <b>Produce documents/complete forms:</b> No requirement</p> <p>- <b>Proof of standing:</b> No requirement</p> <p>- <b>Produce loan modification/NPV analysis:</b> No requirement.</p> <p>- <b>Specific options to consider:</b> No requirement.</p> <p>- <b>Make proposal:</b> No requirement</p> <p>- <b>Good faith requirement/consequences of bad faith:</b> No specific requirement.</p> <p>- <b>Payment for costs:</b> No costs for mediation</p>	<p>- <b>Appearance:</b> Borrower must appear.</p> <p>- <b>Produce documents/complete forms:</b> 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>- <b>Make proposal:</b> Borrower to complete a foreclosure mediation recommendation statement with counselor.</p> <p>- <b>Work with housing counselor:</b> Program refers borrowers to housing counselors and relies heavily upon them. Program rule is being changed to require work with counselors.</p> <p>- <b>Payment for costs:</b> No costs for mediation</p>	<p>- <b>Funding:</b> 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>- <b>Outreach component:</b> None specified.</p> <p>- <b>Volunteer attorney component:</b> State program funds pro bono attorneys for eligible borrowers. Professional conduct rules for conflicts relaxed to further participation by pro bono attorneys.</p> <p>- <b>Limited attorney appearance allowed:</b> Yes</p> <p>- <b>Junior lienholder involvement:</b> No.</p> <p>- <b>Data collection on results/modifications:</b> Housing counselors report data on resolution of cases from mediation: number of cases, settlements, types of resolutions. Data kept by</p>

## NEW JERSEY

(Program of the New Jersey Judiciary January 2009)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>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>- <b>Time frame:</b> 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>- <b>Mediator:</b> Attorney volunteers who have 18 hours of mediation training.</p>			<p>Attorney General's Office and N.J. Housing Mortgage Finance Agency.</p> <p>- <b>Restrictions on lender's fee shifting to homeowner:</b> None</p> <p>- <b>Restrictions on waiver of homeowner claims:</b> No</p>

## NEW MEXICO

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

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>- <b>Covered loans:</b> Mortgages secured by 1-4 unit owner occupied properties.</p> <p>- <b>Duration of program:</b> Administrative Order of April 30, 2009, modified July 8, 2009.</p> <p>- <b>Basic framework:</b> Program administered as part of court's ADR system. Homeowner may request mediation at any time while case is pending.</p> <p>- <b>Stay of proceedings:</b> 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>- <b>Eligibility for participation:</b> Lender serves notice of availability of mediation with summons and complaint. Borrower must complete and file "Request for Mortgage Foreclosure Mediation."</p> <p>- <b>Time frame:</b> Session to convene within 30 days of</p>	<p>- <b>Appearance:</b> 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>- <b>Produce documents/complete forms:</b> 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>- <b>Proof of standing:</b> On</p>	<p>- <b>Appearance:</b> Borrower must appear in person.</p> <p>- <b>Produce documents/complete forms:</b> Homeowner must complete, but not file, homeowner information data form. Form includes financial information and reason for default.</p> <p>- <b>Make proposal:</b> No requirement.</p> <p>- <b>Work with housing counselor:</b> 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>- <b>Payment for costs:</b> No costs for participation.</p>	<p>- <b>Funding:</b> No funding from state or local government. Program administered with existing court staff.</p> <p>- <b>Outreach component:</b> No specific program.</p> <p>- <b>Volunteer attorney component:</b> Network available for pro bono referrals.</p> <p>- <b>Limited attorney appearance allowed:</b> Policy not yet adopted.</p> <p>- <b>Junior lienholder involvement:</b> No provision.</p> <p>- <b>Data collection on results/modifications:</b> Data collection system is under consideration.</p> <p>- <b>Restrictions on lender's fee shifting to homeowner:</b> None</p>

## NEW MEXICO

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

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>referral order. There is not a time limit on submission of request for mediation.</p> <p>- <b>Mediator:</b> assigned under ADR system.</p>	<p>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>- <b>Produce loan modification/NPV analysis:</b> No requirement.</p> <p>- <b>Specific options to consider:</b> No requirement.</p> <p>- <b>Make proposal:</b> Lender must indicate prior to mediation the options it will consider.</p> <p>- <b>Good faith requirement/consequences of bad faith:</b> Administrative Order states: "Violation of this Administrative Order or the</p>		

## NEW MEXICO

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

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
	<p>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>- <b>Payment for costs:</b> No costs to parties.</p>		

**NEW YORK (N.Y.C.P.L.R. § 3408)**

<b>Eligibility Procedures</b>	<b>Lender Obligations</b>	<b>Borrower Obligations</b>	<b>Other Comments</b>
<p>- <b>Covered loans:</b> 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>- <b>Duration of program:</b> 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>- <b>Basic framework:</b> Not a mediation program. Homeowner with covered mortgage notified with summons and complaint of date, time, and place of a mandatory settlement conference with court</p>	<p>- <b>Appearance:</b> Foreclosing plaintiff must appear in person, by conference call, or by counsel fully authorized to settle.</p> <p>- <b>Produce documents/complete forms:</b> 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>- <b>Proof of standing:</b> 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 mortgage and note.</p>	<p>- <b>Appearance:</b> Borrower must appear for conference.</p> <p>- <b>Produce documents/complete forms:</b> Borrower must bring income and expense documentation, tax return, loan resolution proposals and any information from previous workout attempts.</p> <p>- <b>Make proposal:</b> Borrower is to bring “loan resolution proposals” to conference.</p> <p>- <b>Work with housing counselor:</b> 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>- <b>Payment for costs:</b> No cost to parties</p>	<p>- <b>Funding:</b> 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>- <b>Outreach component:</b> No</p> <p>- <b>Volunteer attorney component:</b> No. However if homeowners appears pro se, court may appoint counsel..</p> <p>- <b>Limited attorney appearance allowed:</b> Yes</p> <p>- <b>Junior lienholder involvement:</b> No</p> <p>- <b>Data collection on results/modifications:</b> The 2010 amendments and Court Administrator rules effective Feb. 2010 require annual reporting to Governor and legislature on conference participation and appearances.</p> <p>- <b>Restrictions on lender’s fee shifting to homeowner:</b> The</p>

**NEW YORK (N.Y.C.P.L.R. § 3408)**

<b>Eligibility Procedures</b>	<b>Lender Obligations</b>	<b>Borrower Obligations</b>	<b>Other Comments</b>
<p>CPLR § 3408.</p> <p><b>- Stay of proceedings:</b> Regulation promulgated by Chief Administrative Judge provides that “motions shall be held in abeyance while settlement conferences are being held.”</p> <p><b>- Eligibility for participation:</b> Conferences are scheduled automatically. Borrower does not have to request conference.</p> <p><b>- Time frame:</b> 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><b>- Mediator:</b> Not specified; may be judge, referee, clerk or court personnel.</p>	<p><b>- Produce loan modification/NPV analysis:</b> No requirement.</p> <p><b>- Specific options to consider:</b> 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><b>- Make proposal:</b> Only general statutory purpose, quoted above.</p> <p><b>- Good faith requirement/consequences of bad faith:</b> The 2010 amendments to conference statute require parties to “negotiate in good faith to reach a mutually agreeable resolution, including a loan modification, if possible.” The</p>		<p>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><b>- Restrictions on waiver of homeowner claims:</b> No</p>

**NEW YORK (N.Y.C.P.L.R. § 3408)**

<b>Eligibility Procedures</b>	<b>Lender Obligations</b>	<b>Borrower Obligations</b>	<b>Other Comments</b>
	<p>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>- <b>Payment for costs:</b> No cost to parties.</p>		

**OHIO**  
**Cuyahoga County (Cleveland)**

<b>Eligibility Procedures</b>	<b>Lender Obligations</b>	<b>Borrower Obligations</b>	<b>Other Comments</b>
<p>- <b>Covered loans:</b> All foreclosures, but not tax sales.</p> <p>- <b>Duration of program:</b> County court program began in June 2008</p> <p>- <b>Basic framework:</b> 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>- <b>Stay of proceedings:</b> 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>- <b>Eligibility for participation:</b> Homeowner must request mediation and court must approve referral after review.</p> <p>- <b>Time frame:</b> Homeowner</p>	<p>- <b>Appearance:</b> 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>- <b>Produce documents/complete forms:</b> 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>- <b>Proof of standing:</b> 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>- <b>Produce loan modification/NPV analysis:</b> No requirement</p>	<p>- <b>Appearance:</b> Borrower must appear.</p> <p>- <b>Produce documents/complete forms:</b> Borrower must complete homeowner form and produce financial documents</p> <p>- <b>Make proposal:</b> No requirement.</p> <p>- <b>Work with housing counselor:</b> Counselor involvement encouraged but not required.</p> <p>- <b>Payment for costs:</b> No cost for mediation.</p>	<p>- <b>Funding:</b> No specifically directed state or local funding.</p> <p>- <b>Outreach component:</b> No</p> <p>- <b>Volunteer attorney component:</b> There is limited pro bono involvement.</p> <p>- <b>Limited attorney appearance allowed:</b> Yes.</p> <p>- <b>Junior lienholder involvement:</b> No</p> <p>- <b>Data collection on results/modifications:</b> Program has form for participant quality evaluation. Collects general statistical data, but not specific type of outcome.</p> <p>- <b>Restrictions on lender’s fee shifting to homeowner:</b> None.</p>

**OHIO**

**Cuyahoga County (Cleveland)**

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

**OHIO**  
**Franklin County (Columbus)**

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

**OHIO**  
**Franklin County (Columbus)**

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

**OHIO**  
**Lucas County (Toledo)**

<b>Eligibility Procedures</b>	<b>Lender Obligations</b>	<b>Borrower Obligations</b>	<b>Other Comments</b>
<p>- <b>Covered loans:</b> Residential dwellings, can include some rental units.</p> <p>- <b>Duration of program:</b> County court program began in Spring 2008.</p> <p>- <b>Basic framework:</b> Along with summons and complaint homeowner receives notice that may request mediation. Must fill out request form and return it to court.</p> <p>- <b>Stay of proceedings:</b> 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.</p> <p>- <b>Eligibility for participation:</b> Homeowners who make timely request.</p> <p>- <b>Time frame:</b> Once referred to mediation, flexible depending on needs of case.</p>	<p>- <b>Appearance:</b> Lender attorney and client can appear by phone. Lender representative must have authority to appear and settle case.</p> <p>- <b>Produce documents/complete forms:</b> No requirement.</p> <p>- <b>Proof of standing:</b> No requirement.</p> <p>- <b>Produce loan modification/NPV analysis:</b> No requirement.</p> <p>- <b>Specific options to consider:</b> No requirement.</p> <p>- <b>Make proposal:</b> No requirement.</p> <p>- <b>Good faith requirement/consequences of bad faith:</b> No requirement.</p> <p>- <b>Payment for costs:</b> No cost to parties.</p>	<p>- <b>Appearance:</b> Homeowner and attorney for homeowner must appear in person if mediation session set.</p> <p>- <b>Produce documents/complete forms:</b> No requirement.</p> <p>- <b>Make proposal:</b> No requirement.</p> <p>- <b>Work with housing counselor:</b> Not requirement.</p> <p>- <b>Payment for costs:</b> No costs to parties.</p>	<p>- <b>Funding:</b> No state or local government funding; funded in part from increased filing fees for foreclosure complaints.</p> <p>- <b>Outreach component:</b> No formal program. Summons refers homeowner to counseling and pro bono options.</p> <p>- <b>Volunteer attorney component:</b> Court actively seeks pro bono counsel to represent homeowners in mediation.</p> <p>- <b>Limited attorney appearance allowed:</b> Yes</p> <p>- <b>Junior lienholder involvement:</b> No</p> <p>- <b>Data collection on results/modifications:</b> No</p> <p>- <b>Restrictions on lender's fee shifting to homeowner:</b> No</p>

**OHIO**  
**Lucas County (Toledo)**

<b>Eligibility Procedures</b>	<b>Lender Obligations</b>	<b>Borrower Obligations</b>	<b>Other Comments</b>
- <b>Mediator:</b> Court's magistrate acts as mediator			

**OHIO**  
**Summit County (Akron)**

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>- <b>Covered loans:</b></p> <p>- <b>Duration of program:</b> Order of May 1, 2008, applicable to cases prospectively</p> <p>- <b>Basic framework:</b> 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.</p> <p>- <b>Stay of proceedings:</b> Stay of entry of judgment pending referral.</p> <p>- <b>Eligibility for participation:</b> Referrals to mediation are subject to court approval.</p> <p>- <b>Time frame:</b> Flexible, depending on need of ADR.</p> <p>- <b>Mediator:</b> Court's magistrate serves as mediator.</p>	<p>- <b>Appearance:</b> Must appear personally or by telephone/electronic means with authorized representative.</p> <p>- <b>Produce documents/complete forms:</b></p> <p>- <b>Proof of standing:</b> 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.</p> <p>- <b>Produce loan modification/NPV analysis:</b> No requirement.</p> <p>- <b>Specific options to consider:</b> Not required.</p> <p>- <b>Make proposal:</b> No specific requirement.</p>	<p>- <b>Appearance:</b> Borrower must appear.</p> <p>- <b>Produce documents/complete forms:</b> Not required.</p> <p>- <b>Make proposal:</b> Not required.</p> <p>- <b>Work with housing counselor:</b> Not required.</p> <p>- <b>Payment for costs:</b> Not required.</p>	<p>- <b>Funding:</b> No specific funding for program, uses existing court resources.</p> <p>- <b>Outreach component:</b> No specific program.</p> <p>- <b>Volunteer attorney component:</b> Formal notices from court refer borrower to legal aid.</p> <p>- <b>Limited attorney appearance allowed:</b> Yes.</p> <p>- <b>Junior lienholder involvement:</b> No.</p> <p>- <b>Data collection on results/modifications:</b> No.</p> <p>- <b>Restrictions on lender's fee shifting to homeowner:</b> No.</p>

**OHIO**  
**Summit County (Akron)**

<b>Eligibility Procedures</b>	<b>Lender Obligations</b>	<b>Borrower Obligations</b>	<b>Other Comments</b>
	<p>- <b>Good faith requirement/consequences of bad faith:</b> No requirement.</p> <p>- <b>Payment for costs:</b> No costs for parties</p>		

**PENNSYLVANIA**

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

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

**PENNSYLVANIA**

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

<b>Eligibility Procedures</b>	<b>Lender Obligations</b>	<b>Borrower Obligations</b>	<b>Other Comments</b>
- <b>Mediator:</b> Judges preside over conciliation conferences.	conference and/or further postponement of sheriff sale. - <b>Payment for costs:</b> No charge to participants.		

**PENNSYLVANIA**

**Philadelphia County Joint General Court Regulation No. 2008-01**

<b>Eligibility Procedures</b>	<b>Lender Obligations</b>	<b>Borrower Obligations</b>	<b>Other Comments</b>
<p>- <b>Covered loans:</b> 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>- <b>Duration of program:</b> Initial judicial order April 16, 2008, establishes Residential Mortgage Foreclosure Diversion Pilot Program until December 31, 2009.</p> <p>- <b>Basic framework:</b> 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>- <b>Stay of proceedings:</b> 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 continuance date set, lender can</p>	<p>- <b>Appearance:</b> Lender attorney must appear. Lender/servicer may appear by phone.</p> <p>- <b>Produce documents/complete forms:</b> No requirement.</p> <p>- <b>Proof of standing:</b> No requirement.</p> <p>- <b>Produce loan modification/NPV analysis:</b> No requirement.</p> <p>- <b>Specific options to consider:</b> No requirement.</p> <p>- <b>Make proposal:</b> Must review borrower’s proposal and decide whether to accept it.</p> <p>- <b>Good faith requirement/consequences of bad faith:</b> No requirement.</p> <p>- <b>Payment for costs:</b> No costs for participants.</p>	<p>- <b>Appearance:</b> Homeowner must appear for conciliation session.</p> <p>- <b>Produce documents/complete forms:</b> Program anticipates homeowner will work with housing counselor and produce financial information and records, including a proposal to settle case.</p> <p>- <b>Make proposal:</b> 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>- <b>Funding:</b> Local government entities fund hotline, outreach, and counselors.</p> <p>- <b>Outreach component:</b> City agency funding supports outreach by community groups.</p> <p>- <b>Volunteer attorney component:</b> 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>- <b>Limited attorney appearance allowed:</b> Yes</p> <p>- <b>Junior lienholder involvement:</b> Not required.</p> <p>- <b>Data collection on results/modifications:</b> Data maintained on number of cases that qualified for program, appearances by homeowner for conciliation session, some general data on nature of</p>

**PENNSYLVANIA**

**Philadelphia County Joint General Court Regulation No. 2008-01**

<b>Eligibility Procedures</b>	<b>Lender Obligations</b>	<b>Borrower Obligations</b>	<b>Other Comments</b>
<p>proceed with the foreclosure. Entry of default judgment stayed until after date of conciliation conference.</p> <p><b>- Eligibility for participation:</b> All owner occupied residential properties subject to foreclosure automatically scheduled for conciliation conference.</p> <p><b>- Time frame:</b> 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><b>- Mediator:</b> 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><b>- Work with housing counselor:</b> Homeowner is expected to work with housing counselor to complete and share financial documents and proposals prior to conciliation session.</p> <p><b>- Payment for costs:</b> The parties do not pay costs to participate in program.</p>	<p>resolutions of cases.</p> <p><b>- Restrictions on lender’s fee shifting to homeowner:</b> no</p>

**PENNSYLVANIA**

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

<b>Eligibility Procedures</b>	<b>Lender Obligations</b>	<b>Borrower Obligations</b>	<b>Other Comments</b>
<p>- <b>Covered loans:</b> Loans secured by owner occupied residential properties subject to foreclosure.</p> <p>- <b>Duration of program:</b> Order in effect from March 2009 through December 2009.</p> <p>- <b>Basic framework:</b> 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>- <b>Stay of proceedings:</b> 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>- <b>Eligibility for participation:</b> Conciliation conference scheduled for all residential</p>	<p>- <b>Appearance:</b> 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>- <b>Produce documents/complete forms:</b> Not required.</p> <p><b>Proof of standing:</b> Not required.</p> <p><b>Produce loan modification/NPV analysis:</b> Not required</p> <p>- <b>Specific options to consider:</b> Lender must evaluate and respond to homeowner's proposal at the conciliation conference.</p> <p>- <b>Make proposal:</b> Not required (must respond to borrower's proposal).</p> <p>- <b>Good faith requirement/consequences of</b></p>	<p>- <b>Appearance:</b> Borrower must attend conciliation conference.</p> <p>- <b>Produce documents/complete forms:</b> No cost requirement.</p> <p>- <b>Make proposal:</b> 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>- <b>Work with housing counselor:</b> 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>- <b>Payment for costs:</b> Parties do not pay costs</p>	<p>- <b>Funding:</b> Funded through county court resources.</p> <p>- <b>Outreach component:</b> No specific program.</p> <p>- VIP component: Notices and counseling encourage contact with pro bono counsel</p> <p>- <b>Limited attorney appearance allowed:</b> Yes</p> <p>- <b>Junior lienholder involvement:</b> No</p> <p>- <b>Data collection on results/modifications:</b> No.</p> <p>- <b>Restrictions on lender's fee shifting to homeowner:</b> No</p>

**PENNSYLVANIA**

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

<b>Eligibility Procedures</b>	<b>Lender Obligations</b>	<b>Borrower Obligations</b>	<b>Other Comments</b>
<p>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>- <b>Time frame:</b> Conference scheduled within 90 days after the filing of the complaint. Continuances not granted.</p> <p>- <b>Mediator:</b> Conference to be conducted “by a judge pro tem, or one who possesses experience in the subject matter.”</p>	<p><b>bad faith:</b> 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>- <b>Payment for costs:</b> No cost charged to parties.</p>		

## RHODE ISLAND (City of Providence)

Providence Code sections 13-213 through 13-217

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>- <b>Covered loans:</b> 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>- <b>Duration of program:</b> Effective 30 days after passage of ordinance on August. 25, 2009.</p> <p>- <b>Basic framework:</b> 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 dated May 17, 2010 a Rhode Island Superior Court held that the Ordinance's restrictions on land records filings exceeded home rule</p>	<p>- <b>Appearance:</b> Servicer may participate by phone.</p> <p>- <b>Produce documents/complete forms:</b> No requirement</p> <p>- <b>Proof of standing:</b> No requirement</p> <p>- <b>Produce loan modification/NPV analysis:</b> No requirement</p> <p>- <b>Specific options to consider:</b> To satisfy good faith requirement, servicer must make effort to renegotiate loan to avoid foreclosure.</p> <p>- <b>Make proposal:</b> No requirement</p> <p>- <b>Good faith requirement/consequences of bad faith:</b> 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>- <b>Payment for costs:</b> No costs involved</p>	<p>- <b>Produce documents/complete forms:</b> Borrower must provide financial and employment information to the counselor, must complete application and proposal with counselor.</p> <p>- <b>Make proposal:</b> Homeowner must prepare proposal with housing counselor and submit to servicer.</p> <p>- <b>Work with housing counselor:</b> Borrower assigned a housing counselor before conference session. Borrower must cooperate with counselor in providing information and making proposal for conference.</p> <p>- <b>Payment for costs:</b> No costs involved.</p>	<p>- <b>Funding:</b> None</p> <p>- <b>Outreach component:</b> None</p> <p>- <b>Volunteer attorney component:</b> None</p> <p>- <b>Limited attorney appearance allowed:</b> No court appearance involved.</p> <p>- <b>Junior lienholder involvement:</b> None</p> <p>- <b>Data collection on results/modifications:</b> none</p> <p>- <b>Restrictions on lender's fee shifting to homeowner:</b> none</p>

## RHODE ISLAND (City of Providence)

Providence Code sections 13-213 through 13-217

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>authority of municipality).</p> <p>- <b>Stay of proceedings:</b> 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>- <b>Eligibility for participation:</b> Automatic. Borrowers who work with counselor to prepare information and appear for conference are eligible.</p> <p>- <b>Time frame:</b> Conciliation conference must be completed within 60 days of the initial notice of intent to foreclose.</p> <p>- <b>Mediator:</b> A housing counselor coordinates and facilitates the conciliation process.</p>			

**VERMONT House Bill 590**

<b>Eligibility Procedures</b>	<b>Lender Obligations</b>	<b>Borrower Obligations</b>	<b>Other Comments</b>
<p><b>Covered loans:</b> 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><b>Duration of program:</b> Effective for judicial foreclosure actions filed beginning July 1, 2010. Upon request of a party, 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><b>Basic Framework:</b> 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</p>	<p><b>Appearance:</b> 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 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><b>Produce documents/complete forms:</b> 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</p>	<p><b>Appearance:</b> The mortgagor must appear for mediation. Counsel for the borrower may also appear.</p> <p><b>Produce Documents/Complete Forms:</b> 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 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><b>Make proposal:</b> Borrower is not required to make specific proposals, but must submit information needed for HAMP determination.</p> <p><b>Work with housing counselor:</b> Not required</p>	<p><b>Funding:</b> Bill does not refer to any state funding</p> <p><b>Outreach component:</b> Not specifically addressed in legislation</p> <p><b>Volunteer attorney component:</b> The initial notice to homeowner of the availability of mediation gives contact information for legal services.</p> <p><b>Limited attorney appearance allowed:</b> Not addressed in legislation</p> <p><b>Junior lienholder involvement:</b> No</p> <p><b>Data Collection on results/modification:</b> None</p> <p><b>Restrictions on lender's fee shifting to homeowner:</b> 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-</p>

**VERMONT House Bill 590**

<b>Eligibility Procedures</b>	<b>Lender Obligations</b>	<b>Borrower Obligations</b>	<b>Other Comments</b>
<p>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 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><b>Stay of proceedings:</b> 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</p>	<p>servicing agreement prohibits modification, the servicer must produce a copy of the agreement.</p> <p><b>Proof of standing:</b> Amendments to Vermont's judicial mortgage foreclosure Rule 80.1, enacted 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><b>Produce loan modification/NPV analysis:</b> During mediation, a servicer must produce documentation of</p>	<p><b>Payment for costs:</b> 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 property.</p>	<p>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**

<b>Eligibility Procedures</b>	<b>Lender Obligations</b>	<b>Borrower Obligations</b>	<b>Other Comments</b>
<p>period.</p> <p><b>Eligibility for participation:</b> The program applies to borrowers named as defendants 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</p>	<p>its HAMP NPV analysis, including the data used in and the outcome of the calculation.</p> <p><b>Specific options to consider:</b> In 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><b>Make proposal:</b> 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><b>Good faith:</b> 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</p>		

**VERMONT House Bill 590**

<b>Eligibility Procedures</b>	<b>Lender Obligations</b>	<b>Borrower Obligations</b>	<b>Other Comments</b>
<p>do so.</p> <p><b>Time Frame:</b> 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><b>Mediator.</b> Mediators must be licensed attorneys who have taken a specialized continuing legal education course in foreclosure prevention or loss mitigation.</p>	<p>report must indicate whether the 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><b>Payment for costs:</b> 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>		

**WASHINGTON STATE SSHB 1362, Chapter 58 (“Foreclosure Fairness Act”),  
amending Rev. Code Wash. § 61.24, et seq.**

<b>Eligibility Procedures</b>	<b>Lender Obligations</b>	<b>Borrower Obligations</b>	<b>Other Comments</b>
<p><b>Covered loans:</b> Applies to properties consisting “solely of a single-family residence, a residential condominium unit, or a residential cooperative unit.” The statute exempts from mediation requirement federally insured depository institutions that certify they did not foreclose upon more than 250 residential properties in state over past calendar year.</p> <p><b>Duration:</b> Signed into law April 14, 2011, effective July 22, 2011. Sunset not included.</p> <p><b>Basic framework:</b> State Department of Commerce implements mediation program, with authority to promulgate rules and create forms. Under pre-existing state law (RCW § 61.24.031) 30 days before sending the notice of default (the first step in non-judicial foreclosure), the lender must give borrower notice of a right to meet and confer with the lender to consider loss mitigation options. If the</p>	<p><b>Appearance:</b> A person with authority to agree to a resolution, including a loan modification, must be present either in person, by telephone, or by video conference during the mediation session.</p> <p><b>Produce Documents:</b> Lender given notice at least 15 days before session that must provide listed documents to mediator. These documents include: account status records, itemization of charges, proof of standing to foreclose, all borrower-related and mortgage - related input data used for any net present value analysis, an explanation regarding any denial of a loss mitigation option, the most recent appraisal, and the portion of any pooling and servicing agreement alleged to restrict loan modifications.</p> <p><b>Proof of standing:</b> Lender must provide for mediation copies of the note, deed of trust, and proof that the entity claiming to be the beneficiary is the owner of any</p>	<p><b>Appearance:</b> Borrower must appear for session.</p> <p><b>Produce Documents:</b> Borrower violates duty to mediate in good faith if fails to provide documents for income, debts and obligations, and tax returns to beneficiary and mediator as directed. A finding of borrower bad faith is ground for allowing sale to proceed.</p> <p><b>Make proposal:</b> Not specifically addressed.</p> <p><b>Work with housing counselor:</b> Borrower must consult with housing counselor or attorney in order to be referred to mediation.</p> <p><b>Payment for costs:</b> Borrower can be required to pay up to \$200 as portion of mediator’s fee prior to mediation.</p>	<p><b>Funding:</b> Mediators may charge a fee of up to \$400 for a mediation session of up to three hours (cost split by parties). Lenders are assessed \$250 for each property for which a notice of default is filed, with the revenue from the assessments apportioned to housing counselors, legal aid, and costs of mediation program.</p> <p><b>Outreach component:</b> Not addressed in statute</p> <p><b>Volunteer attorney:</b> Portion of proceeds from notice recording assessments goes toward legal aid.</p> <p><b>Limited attorney Appearance:</b> Not applicable as is non judicial foreclosure</p> <p><b>Junior lienholder:</b> Not addressed in Act.</p> <p>Data collection: The statute directs housing counselors to submit data to the Department of Commerce on outcomes of the</p>

**WASHINGTON STATE SSHB 1362, Chapter 58 (“Foreclosure Fairness Act”),  
amending Rev. Code Wash. § 61.24, et seq.**

<b>Eligibility Procedures</b>	<b>Lender Obligations</b>	<b>Borrower Obligations</b>	<b>Other Comments</b>
<p>borrower requests a meeting, the notice of default cannot be served for 90 days. Negotiations and a meeting are to take place during this time. The borrower may participate in the negotiations with a housing counselor or attorney. The lender must certify due diligence compliance with this “meet and confer” requirement before serving the notice of default. A notice of foreclosure sale may be recorded 30 days after service of the notice of default. The notice of sale schedules the sale at least 90 days in the future.</p> <p>Under the Foreclosure Fairness Act, a housing counselor or attorney assisting the borrower in the pre-foreclosure negotiations may determine that a case is appropriate for mediation and refer the borrower to mediation. The referral must be made to the Department of Commerce before a notice of sale has been recorded. Within a week after the mediation session, the mediator provides a mediation certificate. If the</p>	<p>promissory note secured by the deed of trust. The “proof” may be in the form of a verified certification from a servicer.</p> <p><b>Produce loan modification/NPV analysis:</b> Prior to mediation lender must provide documentation of a net present value analysis, including the result and debtor and loan-based inputs. Calculation must be under either the HAMP guidelines or the FDIC loan mod in a box spreadsheet. The mediator’s report must describe the net present value test used and include a copy of the inputs and the result expressed in a dollar amount.</p> <p><b>Make proposal:</b> The parties must address the issues of foreclosure, including the borrower’s financial circumstances, a net present value analysis, as well as any other applicable loss mitigation guidelines for federally insured loans.</p> <p><b>Good faith:</b> Statute defines</p>		<p>cases they handle. The Department of Commerce is to report annually to the legislature beginning in December 2012 on the performance of the mediation program, the numbers participating, the outcomes, including elements of loan modifications, and defaults after mediation agreements.</p> <p><b>Restrictions on lender’s fees shifting:</b> Not addressed in Act.</p> <p><b>Comments:</b> The Foreclosure Fairness Act declares a failure to comply with the good faith requirements of mediation statute to be a UDAP violation. The Act provides a safe harbor for servicers who modify loans based on positive net present value test results.</p>

**WASHINGTON STATE SSHB 1362, Chapter 58 (“Foreclosure Fairness Act”),  
amending Rev. Code Wash. § 61.24, et seq.**

<b>Eligibility Procedures</b>	<b>Lender Obligations</b>	<b>Borrower Obligations</b>	<b>Other Comments</b>
<p>mediation did not produce a settlement, the certificate will state whether the lender participated in good faith. Once the certificate issues, the lender may proceed to record the notice of sale. If the mediator did not certify the lender’s good faith, the borrower may go to court to enjoin the foreclosure sale. The mediator’s bad faith finding “constitutes a defense to the nonjudicial foreclosure action.” Proceeding to foreclosure despite a positive net present value outcome for modification also constitutes a basis to enjoin foreclosure.</p> <p><b>Stay of proceedings:</b> Lender may issue notice of default despite referral to mediation, but may not record notice of sale until mediation concluded.</p> <p><b>Eligibility:</b> Borrower must be referred to mediation by a housing counselor or attorney.</p> <p><b>Time frame:</b> Within ten days of receipt of mediation referral Department of Commerce</p>	<p>violation of duty to mediate in good faith to include: failure to timely participate with authorized representative; failure to produce the lender documents described above; and a demand for waiver of future claims as condition to modification.</p> <p><b>Payment for costs:</b> Lender can be required to pay up to \$200 as portion of mediator fee before scheduled session.</p>		

**WASHINGTON STATE SSHB 1362, Chapter 58 (“Foreclosure Fairness Act”),  
amending Rev. Code Wash. § 61.24, et seq.**

<b>Eligibility Procedures</b>	<b>Lender Obligations</b>	<b>Borrower Obligations</b>	<b>Other Comments</b>
<p>notifies parties of documents to be produced. A session is to take place within 45 days of receipt of referral, unless parties agree otherwise. Within seven business days after the conclusion of the mediation session, the mediator must send certification to Department and the Trustee of results of mediation, including finding of whether parties participated in good faith.</p> <p><b>Mediator:</b> May be attorney, housing counselor, retired judge, or employee/volunteer working with a local Dispute Resolution Center. The latter are court-sponsored programs providing alternative dispute resolution services in a variety of areas. Mediators must participate in a specific foreclosure mediation training program.</p>			