

## **Mortgage Foreclosure Frequently Asked Questions**

Modified: October 6, 2010

### **1. Who is eligible for the program?**

All residential mortgage foreclosures filed in the Will County Circuit Court after August 1, 2010 will be reviewed for the program. Commercial or industrial foreclosures are not eligible for this program. Unfortunately, matters filed prior to August 1, 2010 are not included in this program although the defendant (borrower) may work with their lender towards a modification of their load while the matter is pending before the Court.

### **2. How is this program funded? Will I pay a fee for mediation services?**

The program is funded through a \$150 filing fee which is paid by the lender (plaintiff) in foreclosures filed after August 1, 2010. The borrower is not required to pay a fee associated with this program. No tax dollars are utilized to fund this program.

### **3. How many foreclosures are currently being filed in Will County?**

In 2010 we are projecting between 7,000 – 7,500 foreclosures being filed.

### **4. Where do the mediations take place?**

Mediations take place at the Court Annex Building, 57 N. Ottawa, 3<sup>rd</sup> Floor (Ottawa Side), Joliet.

Please be advised that cell phones with cameras or other recording devices are not allowed into the building. Additionally, mace, knives or anything that Court Security deems may be used as a weapon may not be brought into the building. There are no facilities to hold prohibited items in the Court Annex building.

### **5. What is the mediator's role in this process?**

The mediator is an impartial representative of the Court who is there to facilitate a possible settlement between the parties. They may also discuss other options beyond a modification of the mortgage. They are prohibited from providing legal advice and will suggest that you consult with an attorney if you have specific legal questions.

**6. Will there be an interpreter available at the mediation who can speak Spanish?**

Foreclosures are civil actions and therefore interpreters will not be supplied by the Court. If you have trouble speaking or understanding the English language you should bring someone with you who can interpret for you.

**7. What are the steps in mediation?**

Cases are evaluated initially via the questionnaire that was provided with your summons. The questionnaire will give the mediator basic financial information so that an initial determination can be made as to the likelihood that a loan modification may be made. If a loan modification is unlikely, other options may be discussed at this time. In the event that there is a reasonable possibility that your financial situation may allow some sort of agreement between yourself and the lender, the case will be continued to a later date pending your completion of more detailed paperwork for evaluation by the lender.

**8. How long does the mediation process take?**

It is the goal of this program to complete the mediation process within 3 months although in certain cases the timeframe may be longer due to the large number of foreclosures being filed.

**9. How is my case scheduled for mediation?**

The mediation is scheduled between 42 – 60 days from the date that the foreclosure is filed. You will receive the mediation date when you receive your Summons and Initial Questionnaire.

**10. What if I don't / cannot show up for mediation? What if the lender does not show up?**

You should make every effort to show up at the mediation if you would like to take advantage of this program. The large caseload and limited facilities do not allow for a procedure to call and reschedule mediation. If you do not show up for the mediation, the Court will be notified of same and it will be assumed that you choose not to participate in the program. At that point, you must request permission from the Court to reschedule mediation. Leave to reschedule may or may not be granted at that point.

Lenders who fail to show up or participate in good faith shall be subject to sanction(s) by the Court.

**11. What can I expect when I show up?**

Participants in the mediation process will remain in a room until their case is called by the mediator. When the case is called, the borrower should bring their completed questionnaire form with them for the mediator to review. A representative from the lender will also be available to review the information. Potential resolutions to the foreclosure actions may also be discussed and when appropriate a matter may be continued to a future date to allow time for both parties to look into potential solutions.

**12. How should I prepare for the mediation?**

Participants should at a minimum bring a completed questionnaire with them to the mediation. They may also consider bringing other supporting financial documents to use in support of the information provided in the questionnaire. You may also bring an attorney to represent you although an attorney is not required to participate in the mediation process.

**13. Who may attend the mediation with me?**

Those listed on the mortgage should attend the mediation. If you have trouble communicating in the English language you may also wish to bring along a family member or friend capable of interpreting for you. You may (but are not required) to bring an attorney to represent or advise you regarding these matters as the mediator is prohibited from providing legal advice.

When at all possible, other family members not involved in the mortgage such as children should be left home. Mediations are conducted in Court facilities with limited space that are not set up to accommodate children.

**14. What criteria will the mediator evaluate my case?**

Mediators will evaluate your assets, liabilities, income, equity, outstanding debt and any other criteria that may be appropriate to facilitate a loan modification. In many cases, a borrowers debt ratio may not allow a loan modification. When the mediator

determines that there is not a reasonable possibility of reaching a loan modification solution, they may suggest other remedies.

**15. Who are the mediators?**

The mediators who have been assigned by the Court are Retired Judges or Attorneys who have familiarity and expertise with the foreclosure process. Generally they have been involved with hundreds or thousands of foreclosure or deficiency matters during the course of their careers.

**16. What are the possible remedies available through this process?**

The most desirable remedy is a loan modification whereby the terms of a loan can be extended to allow for a smaller, more manageable payment. Other remedies might include consent judgments or deed in lieu of foreclosure. Every matter is unique and some remedies may be more appropriate than others.

**17. What is the objective of the program?**

Simply stated, this program is designed to assist homeowners who are interested in attempting to keep their homes. In the event that a borrower's financial circumstances do not allow this, there may be other resolutions which may "shortcut" the foreclosure process and allow individuals to go on with their lives.