

NEW JERSEY FORECLOSURE MEDIATION

New Jersey Courts

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Administrative Office of the Courts
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Introduction

New Jersey faces an unprecedented increase in mortgage foreclosures. The high incidence of foreclosures has had negative financial and social effect on many of New Jersey's communities, with social dislocation, declining housing values, neighborhood blight, homelessness, and a general decline in neighborhood morale and safety.

Court-referred mediation is one important method to foster an open and effective channel of communication between homeowners and lenders. Foreclosure mediation introduces a neutral third party to assist lenders and defaulting homeowners in reaching a satisfactory resolution to their dispute.

Mediation can result in homeowner-mortgagors staying in their homes and affords lenders the opportunity to avoid foreclosure costs and carrying charges and reduce the number of non-performing loans in their portfolio.

The New Jersey Superior Court's Foreclosure Mediation Program is focused on encouraging homeowners to get professional help.

To increase the likelihood that foreclosure mediation is successful, homeowners will be required to provide financial information and documents. This assures that homeowners requesting mediation will arrive at the mediation session with relevant information.

Foreclosure mediation will encourage lenders and loan servicers to identify alternatives to foreclosure and to be flexible in modifying loans in such a way that will benefit homeowners while protecting investors' interests.

Description of New Jersey Judiciary's Foreclosure Mediation Program

Mediation will be available to homeowners who have filed an answer and are contesting the foreclosure as well as to homeowners who fail to make a formal appearance and whose cases are uncontested. Foreclosure mediation may be requested up to 60 days after the service of the summons and complaint. Thereafter, homeowners will only be allowed into the program by a judge after a motion on notice demonstrating exceptional circumstances exists.

An individual homeowner-borrower can participate in the Court's free foreclosure mediation program if the following eligibility conditions are met: (1) the property is an owner-occupied one- to three- family residential property; (2) the property is the homeowner-borrower's primary residence; and (3) the homeowner-borrower is the borrower on the mortgage loan being foreclosed.

To participate in the Court's foreclosure mediation program an individual homeowner-borrower must complete and return the Foreclosure Mediation Financial Worksheet and the Borrower Instructions Mediation Request Statement along with supporting documents.

If a non-answering homeowner returns to the court a Foreclosure Mediation Financial Worksheet and Borrower Instructions Mediation Request Statement, mediation will be scheduled. The plaintiff can continue to proceed to finalize the action by asking for a foreclosure judgment and writ, notwithstanding a request by an answering or non-answering homeowner for mediation.

When homeowners file answers, judges may order mediation as part of the case management conference.

To encourage the greatest participation, no fee will be charged for mediation.

Mediation proceedings will be held at the courthouse in the county of venue. Foreclosure mediation will be available to homeowners of one- to three-family residential properties. The property in foreclosure must be the primary residence of the homeowner and the homeowner must be the borrower.

The notification process will start with mortgage foreclosure actions filed on or after April 1, 2013. The notice will announce:

- Free foreclosure mediation
- Request for mediation will not stop the progress of foreclosure actions
- Mediation will be scheduled when a complete Foreclosure Mediation Financial Worksheet and a Borrower Instructions Mediation Request Statement form are returned to the Administrative Office of the Courts (AOC).
- Additional forms and information are available on the Judiciary's Web site, njcourts.com.

Notices of Mediation Availability

The notice of the mediation program will be served with the summons and complaint.

The Borrower Instructions Mediation Request Statement form will include a certification to be signed by the homeowner that the property is a one- to three- family residence that is the homeowner's primary residence and finally, the homeowner is the borrower.

Event-Triggering Mediation

A Foreclosure Mediation Financial Worksheet and Borrower Instructions Mediation Request Statement form that are returned to the AOC's Office of Foreclosure by an individual will trigger the process of scheduling mediation. The worksheet will set out the basic biographical information about the homeowner along with assets, income and monthly expenses. Attached to the worksheet will be tax returns, pay stubs, bank statements, and any additional information pertinent to why the delinquency developed.

Mediation Schedule

Vicinage staff will schedule mediation within 90 days of the receipt of the financial worksheet by the Office of Foreclosure. At least 45 days notice of the mediation date will be provided.

Mediation Logistics

Mediation will take place in county courthouses. Special needs such as interpreters or handicapped access must be communicated to the county where the mediation will occur.

The AOC's Office of Foreclosure will forward the financial worksheets (with attachments - tax returns, wage statements, *et cetera*) to the appropriate county of venue and the plaintiffs' attorneys.

The notice of mediation will advise the plaintiff's attorney and homeowner of the date, time and location of the mediation. It will inform the homeowner that he/she may bring an attorney. It will inform the plaintiff's attorney that a representative of the plaintiff-lender or the lender's servicing company with authority to reach a mutually acceptable agreement must be present or available by telephone. Plaintiffs' attorneys must confer with the lender or lender's servicer in advance of the mediation session.

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