



FORECLOSURE MEDIATION PROGRAMS FUNDING EXECUTIVE SUMMARY

This summary is up-to-date as of January 26, 2011.

RSI reviewed 24 foreclosure mediation programs. Some were statewide (Connecticut; Delaware; Florida; Indiana; Iowa; Maine; Maryland; New Hampshire; New Jersey; New York; Ohio; Vermont). Many were localized (Boston, MA; Washington D.C.; Douglas County, CO; Franklin County, OH; Hawaii 3rd Cir.; Jefferson County, KY; Milwaukee, WI New Mexico 1st & 13th Cir.; Providence, RI; Will County, IL;), but few localized programs (Cook County, IL; Philadelphia, PA) have high case volumes.

PROGRAM REQUIREMENTS

Housing counselors are valuable tools for homeowners to learn about mortgage language, plan their financial future, and communicate with lenders. Attorneys, too, may be valuable resources for homeowners to meet with before or during the foreclosure process. An attorney can screen for defenses, explain the legal process, and advocate for the homeowner in legal proceedings with the lender.

Foreclosure mediation programs vary in terms of whether they provide or require that homeowners be assisted by housing counselors or lawyers. Some programs do not require the borrower meet with either a housing counselor or an attorney before or during the mediation (Connecticut; D.C.; Florida; Hawaii 3rd Cir.; Maryland; New Hampshire; Ohio; Vermont).

Some require only housing counseling (Delaware; Maine; Boston, MA; New Mexico 1st & 13th Cir.; Providence, RI). A borrower meeting with a housing counselor increases by 1.7 times their likelihood of curing foreclosure.¹ Some programs fund counselors, but most rely on existing counseling centers to handle more clients or apply independently for funding. Recently, the U.S. government allocated millions of dollars for counseling organizations.²

Few programs offer borrowers legal counsel (Indiana; Iowa; Jefferson County, KY [on day of mediation]; New York; Franklin County, OH), and even fewer require the borrower be represented in mediation and provide that representation (Cook County, IL; New Jersey; Philadelphia, PA). Philadelphia's program, the first large-scale foreclosure mediation offering, relies on attorneys to counsel and represent borrowers. Judge Rizzo believes attorney representation leads to a high agreement rate (46%).³ Some programs fund legal aid or pro bono trainings, but none pay attorneys directly.

PROGRAM PAYMENTS

Almost all programs pay mediators (Douglas County, CO; Connecticut; D.C.; Florida; Will County, IL; Indiana; Iowa; Maine; Maryland; Boston, MA; Nevada; New

¹ Doug Robinson, *National Foreclosure Mitigation Counseling Program Helps Homeowners Save More Than \$6,000 Annually*, NEIGHBORHOODWORKS AM., Dec. 20, 2010, <http://www.nw.org/network/newsroom/pressReleases/2010/netNews122010.asp>.

² Memo from U.S. Dept. Housing & Urban Dev. to all CDBG Grantees & all CPD Field Directors, Nov. 19, 2010, http://www.hud.gov/offices/cpd/communitydevelopment/programs/pdf/housing_counseling.pdf.

³ Amaris Elliott-Engel, *Pa. Courts Pursuing Conciliation for Foreclosures*, LAW.COM, Aug. 21, 2008, <http://www.law.com/jsp/law/LawArticleFriendly.jsp?id=1202423950217>.



Hampshire; New York; Franklin County, OH; Philadelphia, PA; Providence, RI; Vermont). Payments range from \$1000 (maximum in D.C.) to \$150 (Will County, IL) to \$50/hour (Iowa). A few programs do not pay mediators anything (Cook County, IL; Jefferson County, KY).

Some programs do not require payments from borrowers (Connecticut; Cook County, IL; Florida; Will County, IL; Iowa; Maine; Providence, RI; Vermont). Some require fees from both lender and borrower, respectively (D.C. [\$300 filing, \$50 mediation]; Maryland [\$300 filing, \$50 mediation]; Boston, MA [mediation fee, \$75]; Nevada [\$200 mediation, \$200 mediation]; New Mexico [\$250 mediation, \$250 mediation]; Milwaukee, WI [\$100 program, \$100 program]).⁴

PROGRAM FUNDING

Some programs' funding relies on mediation or filing fees (Florida; Will County, IL; Indiana; Maryland; Boston, MA; Nevada; Providence, RI; Vermont). State housing or banking authorities fund some (Connecticut [State Banking Fund]; New York State [Division of Housing & Community Renewal]). Others receive city (Philadelphia, PA), county (Cook County, IL), or state (New Jersey) appropriations. Most have diversified funding sources (Douglas County, CO [State Division of Housing & Urban Development, federal grant]; Iowa [Attorney General, federal grant, lender mediation fee]; Jefferson County, KY [private foundation, state grant]; Maine [Maine Revenue Service, court filing and fees]; New Hampshire [New Hampshire Housing Finance Authority, New Hampshire Charitable Foundation, private trust]; New Mexico [Court budget, mediation fees]; Franklin County, OH [delinquent tax/assessment collection, State Treasurer, State Prosecutor, community partner grant, Community Development Block Grant]; Milwaukee, WI [State Department of Justice, program fees]).

⁴ Programs that require borrowers and/or lenders to pay for mediation experience fewer participants and, subsequently, fewer agreements. Florida's statewide program requires lenders to pay up to \$750. Although Florida had over 460,000 foreclosure filings in 2009, only 3,341 mediations were scheduled, with 768 ending in an agreement. Harriet Johnson Brackey, *Florida Foreclosures Soar*, SUN SENTENTIAL, Feb. 19, 2010, http://blogs.trb.com/business/columnists/brackey/blog/2010/02/_the_story_is_no.html. Similarly, Maine's program charges lenders \$350 to participate in the mandatory program, yet had only 39 agreements in 300 mediations. Tux Terkel, *Maine Avoids Brunt of Foreclosure Crisis*, KENNEBEC J., Oct. 13, 2010, <http://www.kjonline.com/news/Maine-Foreclosure-crisis-impact-attorneys-banks-freeze.html>. Maryland's program charges \$300 for lenders and \$50 for borrowers to participate. It received only 130 mediation requests out of 55,629 foreclosures. Haley Peterson, *Md. Foreclosure Mediation in Low Demand*, WASH. EXAM., Oct. 11, 2010, <http://washingtonexaminer.com/local/maryland/md-foreclosure-mediation-low-demand>.