THE WASHINGTON FORECLOSURE FAIRNESS ACT HOMEOWNERS MEDIATION PROGRAM

What is foreclosure mediation?

Mediation is a process where the mediator assists the Homeowner and the Lender to reach a fair, voluntary, and negotiated agreement. A mediator is not a judge. Foreclosure mediation programs have proven effective in reducing foreclosures.

Who is covered by the new Foreclosure Fairness Act Mediation Program?

Homeowners are covered if they are in owner-occupied properties and have either: (1) received a Notice of Default ***on or before*** the effective date of the Act and their house has not yet been sold at foreclosure sale; or (2) after the effective date, have not yet received the Notice of Trustee's Sale. Any lender or servicer who did 250 or more foreclosure sales in Washington during the previous year is covered. The Act is effective on July 22, 2011. The Department of Commerce will administer the Mediation Program.

How does a Homeowner request mediation?

Foreclosure mediation can only be requested by a housing counselor or an attorney on behalf of a Homeowner.

How much will participating in foreclosure mediation cost?

The Homeowner and the Lender shall each pay a $200 fee for the mediation. The fee must be paid prior to the mediation.

Timeline for the Foreclosure Mediation Program.

Step 1

- Lender must notify Homeowner by letter and telephone of the right to a 60-day opportunity for an in-person meeting before Lender records a Notice of Default.
- The Notice must also indicate the Homeowner's right to request mediation through a housing counselor or attorney. Mediation may be requested up until the Notice of Trustee Sale is issued.

Step 2

- Mediation is requested ONLY by a housing counselor or attorney sending in a request for mediation to the Department of Commerce. The Homeowner does not have to establish or prove reasons for the request.

Step 3

- Within 10 days of receiving the request for mediation, the Department will notify all parties that mediation has been requested and select a mediator.
- The Department will notify the parties of the list of documents that must be provided for the mediation.

Step 4

- The mediation will be scheduled no later than 45 days after the mediator is selected, unless otherwise agreed.
- The mediator will set a time, date and place for the mediation 15 days before the mediation session.
- The Homeowner may be represented by an attorney or other advocate such as a housing counselor.
- The Lender must have a person with authority to modify the loan or negotiate an agreement either at the mediation or available by telephone.

Step 5

- At least 10 days prior to mediation session:
  - Homeowner shall prepare and exchange with the Lender: a financial statement with current and future income information, debts and obligations, and last 2 years of tax returns.
  - Lender shall prepare and exchange with the Homeowner: loan balance, an itemized list of fees and charges, payment history, net present value and loan modification inputs, and other required documents.

Step 6

- At the mediation, both the Homeowner and the Lender have an obligation to participate in good faith.
- The mediator will encourage the parties to examine all options, including loan modification, to avoid foreclosure.
- Within 7 days after mediation, the mediator shall make a written certification of the results of the mediation and whether the parties participated in good faith.

Step 7

- The parties either come to an agreement (a loan modification or other alternative) or the parties do not come to an agreement , and the foreclosure process will proceed.
- If the Lender does not mediate in good faith, the Homeowner may enjoin the foreclosure sale in court.

Department of Commerce

Innovation is in our nature. www.commerce.wa.gov/foreclosures

www.wshfc.org
WASHINGTON STATE
HOUSING FINANCE COMMISSION

Timeline prepared by Bruce D. Neas, Columbia Legal Services - Made possible by a grant from the Institute for Foreclosure Legal Assistance

Washington State Foreclosure Fairness Act

Reaching Resolutions with Washington's Foreclosure Mediation Program

➤ The Foreclosure Mediation Program was created during the 2011 legislative session to provide homeowner foreclosure assistance. State law now requires lenders to notify borrowers prior to foreclosure of the availability of foreclosure prevention counseling and the potential for mediation. Foreclosure mediation is intended to provide a non-judicial process conducted by a neutral third party (the mediator) who will assure each party is heard fully and fairly and to reach a resolution if possible.

➤ Foreclosure mediation begins July 22, 2011. **Homeowners who wish to participate in mediation must be referred by a housing counselor or an attorney.** To participate in this program homeowners should seek housing counseling or an attorney immediately, particularly if they received a Notice of Trustee's Sale before July 22, 2011 and the home has not yet been sold *or* if after July 22, 2011 the homeowner has not yet received a Notice of Trustee's Sale.

➤ **Contact a FREE housing counselor** by calling Washington State's homeownership information hotline at 1-877-894-HOME (1-877-894-4663) or visiting http://www.wshfc.org/buyers/counseling.htm or http://www.hud.gov/offices/hsg/sfh/hcc/hcs.cfm?webListAction=search&searchstate=WA. Foreclosure counseling helps homeowners understand all of their options and determine the best course of action.

➤ **Contact an attorney** at CLEAR, the statewide civil legal aid hotline for assistance and referrals to other housing counselors and attorneys by calling toll-free 1-888-201-1014 or online at http://nwjustice.org/what-clear.

➤ The notice form to refer borrowers to mediation will be made available to attorneys and housing counselors one to two weeks prior to the program activation date of July 22, 2011.

➤ Prior to mediation, both the homeowner and lender must pay a $200 fee for the mediation.

➤ The mediator will provide a list of documents required of both the homeowner and lender to bring to the mediation for review by the mediator.

➤ The lender is required to provide a person authorized to make decisions regarding home mortgages for mediation, though that person is not required to be in the room physically.

➤ Get more information on foreclosure assistance and the Foreclosure Fairness Act Mediation Program at www.commerce.wa.gov/foreclosures, www.homeownership.wa.gov