

# Residential Mortgage Foreclosure Mediation Program Homeowner FAQ's

## General Information

### **What is Mediation?**

The Kane County Foreclosure Mediation Program provides a unique opportunity to aid Homeowners in crisis. Mediation is a process where a neutral third party, a trained mediator, helps Homeowners and Lenders communicate to explore the available options. While not every Mediation results in the Homeowner remaining in the home, the process can give Homeowners an opportunity to speak directly with a representative of their lending institution and may generate options for resolving the foreclosure, including possible loan modification and other available options. All discussions are kept confidential.

### **Who is eligible for the Residential Mortgage Foreclosure Mediation Program?**

A Homeowner (Defendant) is eligible for the Residential Mortgage Foreclosure Mediation Program if the following criteria are met:

- Owner of a one-to-six unit family residential property or condominium unit;
- Current, or previous resident with the right to return, in the property as the primary residence;
- Borrower on the mortgage, or as otherwise permitted by order of the judge presiding; and
- The foreclosure action has been filed on or after January 01, 2014.

### **How does the Homeowner start participation in the program?**

- Contact the Program Coordinator and cooperate with the Initial Phone Conference
- File an Appearance with Clerk of the Circuit Court.

### **How can the Program Coordinator be contacted?**

The Kane County Residential Mortgage Foreclosure Program office is located in room 432 of the Kane County Courthouse, 100 South Third Street, Geneva, Illinois 60134. The Program is administered by the Program Coordinator Kevin Malone, who can be reached at **630-444-3128**, and the Foreclosure Mediation Paralegal Faviola Guzman (bilingual Spanish speaker), who can be reached at **630-444-3129**. For general information please email:

**KaneForeclosureMediation@co.kane.il.us** or visit our website:

[www.illinois16thjudicialcircuit.org/foreclosureMediation](http://www.illinois16thjudicialcircuit.org/foreclosureMediation)

### **What is an *Appearance*?**

An *Appearance* is an official court form filed with the Clerk of the Circuit Court which allows a party (Plaintiff or Defendant), or their lawyer, to speak to the judge in court about the case. The *Appearance* also notifies the Court and the opposing party of the correct mailing address and other contact information for the filing party.

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## **When should I file an *Appearance*?**

An *Appearance* must be filed by the Homeowner(s) in order to participate in the Mediation Program. The *Appearance* should be filed within the first 45 days after service of the Summons and Complaint. The Introductory Phone Conference may proceed prior to the filing of an *Appearance* but the Pre-Screening Phase under the Program cannot be completed unless an *Appearance* is filed. **Failure to file an *Appearance* may result in termination from the Program.**

## **Where can I file the *Appearance*?**

An *Appearance* can be filed with the Clerk of the Circuit Court located at 540 South Randall Road, St. Charles, Illinois 60174 or at the Geneva Courthouse 100 S. Third Street, Geneva, Illinois 60134 in room 160. For more information you can call the Clerk at (630) 232-3413 or visit: [www.cic.co.kane.il.us](http://www.cic.co.kane.il.us)

There is a filing fee for an *Appearance*. If you are unable to pay the fees, costs, and charges, you may ask the court to allow you to proceed without paying the fees. See the Clerk for an *Application for Waiver of Court Fees form*, complete the form, and file it with the Clerk.

## **Must I file an Answer or other responsive pleading if I am participating in the Mediation Program?**

No. The Homeowner is not required to file an Answer or other responsive pleading unless the case is terminated from the Mediation Program without a resolution. If terminated, the case will proceed in court and the Homeowner is allowed 28 days to file an Answer or other pleading with the Clerk of the Circuit Court.

## **What is the *Homeowner Questionnaire & Checklist* that is attached to the Summons?**

This is an internal document for the Kane County Residential Mortgage Foreclosure Mediation Program designed to collect important information for the program as well as to guide Homeowners in collecting the important documents necessary to enter into Mediation. Completion of this document is required for the case to proceed to Mediation. A HUD-approved Housing Counselor may aid the Homeowner in the completion of the *Homeowners Questionnaire & Checklist*. **The completed document must be returned to Program Coordinator.**

***Do NOT file the Homeowner Questionnaire & Checklist with the Clerk of the Circuit Court.***

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## **Introductory Phone Conference and Pre-Screening Phase**

### **Who participates in the Introductory Phone Conference?**

The Homeowner and Program Coordinator participate in the Introductory Conference.

### **What is the Introductory Phone Conference?**

The Introductory Phone Conference is a discussion either by telephone or in person between the Homeowner and the Program Coordinator explaining the Mediation Program, process, and scheduling.

### **How is the Introductory Phone Conference scheduled?**

The Homeowner must call or visit the Program Coordinator to start the Introductory Phone Conference. A reminder notice will be sent 14 days after service of Summons if the Homeowner has not yet contacted the Program Coordinator.

### **Why is the Introductory Phone Conference necessary?**

The purpose of the Introductory Phone Conference is to:

1. Confirm the Homeowner's eligibility for Mediation.
2. Explain the Residential Foreclosure Mediation Program timeline and the required steps the Homeowner must take.
3. Receive instruction to begin the Pre-screening Phase, starting with referral to a HUD-approved Housing Counselor who will work with the Homeowner on completing the *Homeowner's Questionnaire & Checklist* and all financial paperwork required by the Lender. There is no fee for this assistance. A Homeowner may choose to work alone in the Pre-screening Phase.

### **What is the Pre-screening Phase?**

The Pre-screening Phase is designed as an opportunity for the Homeowner to gather information for exchange with the Lender, and for the Homeowner to work with a HUD-approved Housing Counselor to explore options and prepare a loan modification packet, where appropriate.

### **Who participates in the Pre-screening Phase?**

The Homeowner, along with a HUD-approved Housing Counselor if the Homeowner accepts the no-fee referral, participates in the Pre-screening Phase.

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## **How does the Pre-screening Phase work?**

If the Homeowner chooses not to work with a HUD-approved Housing Counselor, it will be the responsibility of the Homeowner to contact the Lender and solicit a Request for Modification Assistance (RMA) packet or any other paperwork required by the Lender. The Homeowner will then be solely responsible for completing this documentation, and the Homeowner Questionnaire & Checklist.

If the Homeowner cooperates with the no-fee referral to the HUD-approved Housing Counselor, the Homeowner will learn about available options and will be provided with the Request for Modification Assistance (RMA) packet or any other financial packets required by the Lender. HUD-approved Housing Counselors work with Servicers and Lenders to verify the documents that must be submitted and confirm that Servicers and Lenders have received what they need. The HUD-approved Housing Counselor will also assist the Homeowner in the completion of the *Homeowner Questionnaire & Checklist*.

**Do NOT file the *Homeowner Questionnaire & Checklist* with the Clerk of the Circuit Court.**

**The completed document must be returned to Program Coordinator**

It is anticipated that the Pre-screening Phase will be completed within 30 days of the Introductory Phone Conference.

**Failure to successfully complete the Pre-screening Phase will result in termination from the Program.**

## **What if the Homeowner needs more time to submit the appropriate documents to the Lender?**

The Program Coordinator may approve an additional 30 days for the Homeowner to collect and submit all documents to the Lender. If the Homeowner has not submitted all appropriate documents after the 30 day extension, the Program Coordinator will file a Report of Mediation with the Court which may result in termination from the Mediation Program.

## **I have filed for bankruptcy, what happens now?**

You will be asked during your Introductory Phone Conference if you have filed for bankruptcy. This inquiry will help the Program better provide you with necessary deadlines and direct you to legal resources if necessary. If you are thinking about filing for bankruptcy let the Program know as soon as you file. If your case is in active bankruptcy proceedings, your foreclosure case will be placed on hold until bankruptcy is completed. Once discharged, it will then resume at the point when notification of bankruptcy was received by the Program. You or the bank's lawyer must notify the Program of discharge and provide a courtesy copy of the discharge order. Upon completion of bankruptcy, the Program can inform you on how to proceed with participation in the Mediation Program.

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## **Pre-Mediation and Mediation Session**

### **What is Pre-Mediation?**

For good cause shown on motion of a party to the Court, or in the discretion of the Program Coordinator, a "Pre-mediation Session" may be held. A Mediator will conduct this session with the all parties present; Homeowner and defense lawyer, if any, plaintiff's lawyer, and plaintiff representative with full settlement authority must participate. If a meeting is required the Program Coordinator will contact you with instructions along with a meeting time and place.

### **How is the Mediation Session scheduled?**

The Program Coordinator will be responsible for scheduling all Mediation Sessions and approving additional Mediation Sessions. The Program Coordinator will attempt to coordinate the most convenient scheduling options possible. It is a goal of the Mediation Program to limit the number of follow-up sessions needed. Therefore, a Mediation Session will be scheduled only when both parties can effectively discuss outcomes. If a Mediation Session must be rescheduled the Program Coordinator should be notified as soon as possible and absolutely no later than 24 hours in advance. Failure by either party to provide timely notification may result in a Report of Mediation recommending termination.

### **Where will the Mediation Session take place?**

Mediation Sessions will be held in the Foreclosure Mediation Program office in room 432 of the Kane County Courthouse, 100 South Third Street, Geneva, Illinois 60134  
Within the Mediation Session Room, seating is limited, so children and spectators are discouraged from attending.

### **How long will the Mediation Session last?**

Mediation Sessions are scheduled for 90 minutes. If additional time is needed, an additional Mediation Session may be scheduled.

### **Who participates in the Mediation Session?**

Attendance and good faith participation is required at all Pre-Mediation Meetings and Mediation Sessions by the Homeowner(s) and lawyer, if any; and the lawyer for the Plaintiff Lender/Service along with a Plaintiff's representative with full settlement authority either in person or by teleconference.

### **What information will the Mediator have prior to the Mediation Session?**

The Program Coordinator and Mediator will have the basic case information and the *Homeowner Questionnaire & Checklist*, but no financial records. It is helpful for all the parties to bring all relevant financial documents to the Mediation Session.

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## **Mediation Program Conclusion**

### **When is the case over?**

Upon completion of the Mediation Session(s), the Program Coordinator and Mediator must file a Report on Mediation with the Court indicating either that:

1. an agreement has been reached; or
2. no agreement has been reached, and the Program Coordinator recommends
  - a. termination of Mediation ; or
  - b. any other remedy per the Program Coordinator's recommendation.

Any agreement reached must be recorded in a written Memorandum of Agreement and made available to the Court. If terminated from Mediation without agreement, the case may resume before the Court.

## **IMPORTANT CONTACT INFORMATION**

Residential Mortgage Foreclosure Mediation Program  
100 S. Third Street  
room 432  
Geneva, IL 60134  
Program Coordinator: 630-444-3128  
Email: KaneForeclosureMediation@co.kane.il.us

Kane County Circuit Clerk  
540 S. Randall Road  
St. Charles, IL 60174  
(630) 232-3413  
[www.cic.co.kane.il.us](http://www.cic.co.kane.il.us)

Or

Kane County Geneva Courthouse  
100 S. Third Street  
room 160  
Geneva, IL 60134