

Philadelphia's Residential Mortgage Foreclosure Diversion Program

A Model Local / State Foreclosure
Prevention Program

Court Order

- Applies to owner occupied housing
- Requires a conciliation conference 30 to 45 days from the filing
- Requires the attendance of the defendant and the servicer (servicer may participate by phone)
- Requires defendant to call the save your home hotline, to cooperate with counselor, and to attend conference

How it Works

Homeowner notified when complaint is filed. By mail, and through door to door outreach. Provided contact information for hotline /counselor.

Conciliation conference is scheduled.

Homeowner/ counselor submit proposal 10 days before conference.

Lawyers for homeowners - volunteer plus legal services -present for conferences.

Can resolve in advance of conference, or at conference. Can request hearing with JPT if no resolution.

In practice where cases not resolved at first conference either reschedule second conference swiftly, or postpone foreclosure action further and schedule additional conference.

From April to July: 552 homes scheduled for Sheriff's sale referred to the program.

230 were removed from foreclosure pipeline altogether.

200 had planned sale postponed.

Without 'stick' of foreclosure postponement...

Study of 26 pools of subprime mortgages originated in 2005 and 2006: 106,000 loans

Over study period(July 2007-June 2008): 4,342 modifications (numbers rose over time). 19,911 foreclosures started, 8,327 properties foreclosed.

In the aggregate, modifications did not reduce debt. Only 1.4% of mods decreased principal by more than 1%. 54% resulted in payment decreases. 23% resulted in increases, 23% in no change in payments. (share with decreases did go up over time)

(a) General rule.--Except where exclusive original jurisdiction of an action or proceeding is by statute or by general rule adopted pursuant to section 503 (relating to reassignment of matters) vested in another court of this Commonwealth, the courts of common pleas shall have, **subject to section 5112 (relating to mortgage foreclosures)**, unlimited original jurisdiction of all actions and proceedings, including all actions and proceedings heretofore cognizable by law or usage in the courts of common pleas.

5112 Mortgage foreclosures.

- (a) **Scope.--This section applies to every action arising out of a default on a mortgage on owner-occupied residential property.**
- (b) **Conciliation conference.--Before commencing an action referred to in subsection (a), the plaintiff must do all of the following: (1) Notify the defendant of: (i) the Refinance to an Affordable Loan (REAL) Program of the Pennsylvania Housing Finance Agency; and (ii) the Homeowners' Equity Recovery Opportunity Loan (HERO) Program of the agency (2) Participate in a conciliation conference with the defendant approved by the agency. (c) Proof.--A statement from the agency is required to establish compliance with subsection (b).**

Is it legal?

Yes!

1934 Blaisdell case provided constitutional support for moratoriums and other protections during the depression; follow up 1937 case affirming state rights to regulate foreclosure process.

MN statute requiring mandatory mediation on farm power of sale foreclosures challenged on constitutional grounds and upheld in 1986