

Mediation lets lenders, borrowers negotiate

By **KIMBERLY MILLER**

Palm Beach Post Staff Writer

Updated: 9:12 p.m. Wednesday, July 7, 2010

Posted: 3:25 p.m. Wednesday, July 7, 2010

Beginning Monday, Palm Beach County homeowners facing foreclosure will be guaranteed a chance to negotiate a different ending with their lenders as the courts try to reduce a foreclosure overload.

All foreclosures filed on or after Monday are subject to a new state Supreme Court order requiring mediation on homesteaded properties before a foreclosure hearing is held.

The mediations, which will be managed by the Palm Beach County Bar Association, are supposed to give owners and lenders a chance to see whether an alternative to foreclosure, such as a loan modification, deed in lieu of foreclosure or short sale, is an option.

If so, the foreclosure exits the court system, alleviating an estimated 52,000-case backlog.

The mediation is free for borrowers, who will have to meet with a financial counselor and provide tax and paycheck stubs before the session. Borrowers also can opt out of the mediation.

Lenders are charged a fee of \$750 per case, which pays for the counselor, mediator and administrative costs of the program.

The fee is based on the assumption that a successful mediation can be accomplished in one two-hour session.

"Hopefully, this will help find a solution that everyone feels is more satisfying," said Meredith Trim, director of the mediation program for the bar association. "The idea is to give the borrowers and lenders a chance to meet and work it out."

Judges often hear from borrowers that they have been unable to reach bank representatives, that they speak with a different person every time or that their paperwork is repeatedly lost.

Lenders complain borrowers ignore them or turn in wrong or incomplete paperwork.

The mediation is supposed to streamline communication, with both lender and borrower requesting documents up front through the mediator.

"A lot of times we try to contact the borrower and they don't want to talk to us and it's adversarial," said Phil Gross, a principal with the Miami-based Yale Mortgage Corp., which tries to do mediation before filing for foreclosure. "But when they see a letter from a mediator, they'll usually contact the mediator."

Gross said about 75 percent of his mediation sessions are successful, usually resulting in a year of reduced mortgage payments.

The process for the mandatory program doesn't begin until a foreclosure is filed. The mediator then contacts the borrower. A mediation session cannot be scheduled earlier than 60 days or later than 120 days after the filing.

Not everyone is optimistic the program will solve the foreclosure crisis.

Hobe Sound attorney Trent Steele does foreclosure mediations in the 19th Circuit Court, which includes Martin and St. Lucie counties. The 19th Circuit began requiring mediations this year.

"I have been very frustrated with the process," Steele said.

"In my opinion, the lenders have no motivation to settle."

Lenders also have their concerns.

Anthony DiMarco, executive vice president for government affairs for the Florida Bankers Association, said bankers worry that the mediation will become a way for borrowers to further stall the process.

"If we can have meaningful information exchange, then we're all for it," DiMarco said. "If it's just a delaying tactic, it's not helpful."

Find this article at:

<http://www.palmbeachpost.com/money/real-estate/mediation-lets-lenders-borrowers-negotiate-790387.html>