

# Lawmakers Seeking to Make New Jersey's Foreclosure Mediation Program Permanent

by Dan Brecher on November 7, 2012

The New Jersey Legislature is currently considering a bill that would codify the New Jersey's Foreclosure Mediation Program, and dedicate monies from foreclosure filing fees and fines to fund the program on a permanent basis.

The Foreclosure Mediation Program was established in 2009 by the New Jersey Judiciary in response to the rapid increase in residential foreclosures. Sponsors of the bill want to make sure the program continues by establishing it by statute.

Under the proposed bill (AB 3396), a court may order mediation whenever a homeowner-borrower files an answer to a foreclosure complaint. Alternatively, the homeowner-borrower may initiate the process for scheduling mediation by submitting a mediation request to the court. When requesting mediation post-judgment, the homeowner-borrower may seek to stay the sheriff's sale.

The bill requires lenders to have a representative attend the mediation session, either in person or by telephone, who has authority to reach a mutually acceptable loan modification, loan workout, refinancing agreement, or other resolution. If either party fails to attend a mediation session or make a good faith effort to mediate, courts will have the authority to penalize the party through reasonable attorney's fees and litigation expenses, or through any other sanction the court deems appropriate.

To fund the program, the fee for filing a foreclosure action would increase from \$200 to \$250, with the additional \$50 going to the fund. Any civil penalties collected under the law, as well as any interest accrued, would also be deposited into the fund.

At this point, it is unclear whether the bill will become law. Although the judiciary supports the legislation, there is currently no companion bill in the New Jersey Senate.

If you have any questions about the proposed legislation or would like to discuss how it may impact your operations, please contact me, Dan Brecher, or the Scarinci Hollenbeck attorney with whom you work.