



THE CHALLENGE OF ESTABLISHING THE NEVADA FORECLOSURE MEDIATION PROGRAM

BY BILL GANG, PUBLIC INFORMATION OFFICER, NEVADA SUPREME COURT

Operating at breakneck speed, the Nevada Supreme Court has set the formal rules that will launch the Nevada Foreclosure Mediation Program. The program was established by Assembly Bill 149 in the last days of the 2009 legislative session, to provide an opportunity for homeowners to save their houses.

The Nevada Supreme Court unanimously adopted the rules on June 30, just a day before the legislation went into effect. The first mediations are expected to occur in August.

The new rules and other information about the Foreclosure Mediation Program are available on the Supreme Court website: www.nevadajudiciary.us. Click on the foreclosure mediation link on the home page, found on the far right-hand side of the black navigation bar.

The Administrative Office of the Courts is overseeing the program and has been in the process of hiring staff, finding facilities, obtaining furniture and establishing training programs for the numerous mediators that are expected to be needed. Former casino executive Verise Campbell has been hired as the Nevada Foreclosure Mediation Program administrator to oversee the legislatively created project. Veteran mediator Kathryn Ely has been hired as mediation supervisor to help coordinate the selection and training of the numerous mediators expected to be needed.

More than 400 attorneys and trained mediators have offered to become part of the program. Initially, however, the program is expected to utilize senior judges and Supreme Court settlement judges, all of whom have already received extensive mediation training.

Nevada averages about 7,600 foreclosures a month, with the vast majority in Clark County.

“Many Nevadans are losing their homes to foreclosure,” said Chief Justice James W. Hardesty. “I believe that through this new law and our mediations, we are going to save some homes and, at the same time, help ease the burden for some lenders.”

The Supreme Court began working to expedite the mediation program even before AB149 was passed.

“We knew that the bill likely would pass and we knew that the time frame would be short for creating a system to handle what may be an overwhelming number of cases,” Hardesty said. “The Supreme Court proactively took steps to prepare for what is now a reality.”

The Supreme Court held public hearings about the proposed rules on June 16 in the Carson City courtroom, and on June 26 in the Las Vegas courtroom. Each hearing was videoconferenced to the other courtroom, and interested individuals could testify from either location. The hearings were also webcast live over the Supreme Court website; audio files of the hearings remain available on the foreclosure mediation webpage, on the website, www.nevadajudiciary.us.

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[us](#). In addition to direct testimony, the Supreme Court accepted written comments about the draft rules.

Under the Supreme Court Rules, the homeowner must submit copies of financial records and indicate the amount of a mortgage payment that could be made if a loan modification could be reached. Lenders must submit documents indicating current appraisals of a home’s value and estimates of what it could sell for in a so-called short

sale. Lenders must have someone either at the mediation, or available, with the authority to modify a loan and provide the original or certified copies of the mortgage note, deed of trust and any assignments of the mortgage note or deed of trust.

The rules require that the parties in a mediation act in “good faith.” While the program

will offer homeowners the opportunity to sit down with their lenders and try to solve their mutual predicament, mediation will not be the solution for everyone and some homes, inevitably, will be lost to foreclosure.

According to the Supreme Court Rules, mediation generally will not delay the foreclosure process. Mediations must be scheduled within 90 days so, if they are not

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successful, lenders may proceed with foreclosures within the current statutory time frame.

AB149 only affects single-family, owner-occupied housing in Nevada and currently applies only to foreclosure notices (formally known as Notice of Default and Election to Sell) filed on or after July 1, 2009. The bill gives borrowers 30 days to seek mediation of a mortgage loan once a foreclosure has been filed. Lenders must participate in mediations.

A request form and easy-to-understand instructions will accompany the foreclosure notices when they are served. That form, along with other forms and information, is available on the Supreme Court website.

The Administrative Office of the Courts has established a hotline phone number for questions about the

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program. You can contact Sheila MacDonald at (775) 687-9816, or foreclose@nvcourts.nv.gov.

The chief justice emphasized that the foreclosure mediation program is self-funded through

fees and will not require the expenditure of any taxpayer dollars. Lenders pay a fee for filing a foreclosure notice, which is used to fund administrative costs of the program. Homeowners and lenders will share the \$400 costs for the mediators, with each party paying \$200 prior to the mediation. **NL**

BILL GANG is public information officer for the Nevada Supreme Court. Prior to joining the court in 2000, he was a reporter for the Las Vegas Sun who covered the courts for 12 years.